

From Jordan

Rana Hussein

Last week marked the first anniversary of government-introduced amendments to Article 340 of the Penal Code that scrapped penalty exemptions for killers in what are loosely termed “crimes of honour.” The amendments, which kept reductions for men, entitled women also to benefit from reduced penalties if they committed murder after discovering their husbands had committed adultery.

Activists and lawyers, however, charge that the move made little to no impact on the existing situation because the number of reported honour crimes has remained the same. Killers, they point out, still received lenient sentences - not exceeding one year. Twenty-two people, including seven children and one man, in 17 separate incidents, were murdered in crimes where the perpetrators cited honour as their motive. The victims of such crimes last year numbered 19, according to officials. “We have not felt a substantial change since Article 340 was passed. Having 10 to 15 so-called honour crimes this year is a lot and close to last year’s reported number,” said the head of the Jordan Family Protection Project, Momen Hadidi. In addition, legal experts say courts are still applying Article 98 of the Penal Code, sentencing killers to shorter prison terms even in cases where the perpetrators did not catch their female relatives “in the act”.

Since the law was passed, *The Jordan Times* reported eight cases where the Criminal Court applied Article 98 in the sentencing of killers to prison terms ranging from one month to one year. In four other cases reported by the paper, killers were sentenced between 10 to 15 years after tribunals established they could not benefit from the article, instead convicting them of pre-meditated murder or manslaughter. In almost every case, the family of victims - most often also the family of suspects - drops charges against defendants, immediately halving their sentence.

The History of Article 340

The controversial Article 340 met fierce opposition by conservatives and some Islamists when amendments

were first introduced by the government in 1999, failing to win Lower House approval on two occasions. It was only later passed as a temporary law on Dec. 13, 2001. Opponents to changing 340 - a law originating from Ottoman and Napoleonic codes - accused activists working to scrap it as being “driven by the West to destroy women’s morality and society.”

For their part, activists and lawyers say the wrong article was changed, stressing that the focus should now be on amending or scrapping Article 98 altogether since it is the clause being used to reduce penalties in most all cases. “Changing Article 340 was an indication the government was interested in this topic, but there is an urgent need to amend Article 98, which includes the ‘fit of fury’ clause,” said Hadidi. In some cases, Hadidi added, the fit of fury period granted a killer to kill his victim is “extended ... meaning it is not an instantaneous action by the killers, likely signifying they are not enraged when they commit their crime. And yet they still benefit from the law.”

Article 98 stipulates that a person committing a crime in a fit of fury due to the unlawful action of the victim will receive a reduction in penalty. Becoming pregnant out of wedlock, going out with a strange man, leaving the family’s home for a period, marrying the man of a woman’s choice, and uttering words such as: “This is my life. I am free to do as I choose”, were all considered unlawful and dangerous acts on the part of the victim by courts cited in last year’s verdicts - which then reduced killers’ sentences.

Amendments applied to 340 stipulated: Any man who surprises his wife or any of his female relatives in the act of committing adultery or in an unlawful bed and kills her, the man, or both immediately, or attacks her, or both, in a manner resulting in death, injury or permanent disability, benefits from a reduction in penalty. The second clause stipulates: Also benefiting is the wife who surprises her husband committing adultery at their home or in an unlawful bed, killing him immediately or the woman with him or both or attacking him

or both in a manner resulting in death, injury or permanent disability. "Article 340 speaks to victim/s being caught committing adultery. None of the cases heard in Criminal Court this year match this condition. That is why judges did not apply it in their verdicts," one legal expert pointed out.

Veteran judges and legal experts charged that the previous government "was not serious about the change," amending the wrong article to placate certain parties since 340 has only been used once in court in almost 40 years.

The Value of Article 340

In addition, a political observer explained that when the article was introduced to Parliament it met swift rejection by some deputies because they needed something to object to and this law suited their purposes. "Article 340 was a scapegoat. It was the easiest law to oppose at that time," said the observer, who asked not to be identified.

Human Rights activist Asma Khader agreed, maintaining that changing 340 was considered a symbolic positive change, "but it is not the article that courts are using in their verdicts."

She explained that legislators ignored a proposal suggested by the Royal Commission on Human Rights (RCHR) to lift the minimum punishment in Article 98 to at least five years for killers as one possible solution, as well as banning families from dropping charges against the perpetrators of such crimes. "Although our proposal would have put an end to the reduced sentences killers received in such murders, legislators rejected it. We do not know the reason," said Attorney Reem Abu Hassan.

A legal expert, who also asked not to be identified, said the existence of Article 98 has virtually paralysed Article 340, opening the door for judges to use it, since no murder cases this year represented a clear case of adultery. Further, legal experts said some lawyers advised killers to add new details to their original confession, saying in court: "The victim told them: 'I am free to do what I want,' which enraged them and pushed them to lose control and kill the victim." "Defendants sometimes summon witnesses to testify that the victim had a bad reputation and was engaged in several relationships," the expert added.

Changing the Law

Many experts agree that simply changing the law will

not solve the problem. Psychologist Walid Sarhan argued that changing the law does not necessarily mean changing reality or, more importantly, the mentalities of killers, many of whom have no knowledge of the law. "I am not surprised that nothing has changed since the law was amended. I would be surprised if things changed because these issues are so deeply rooted in people's minds," Sarhan said. Honour crimes are not a new practice, explained Sarhan. It was a practice amongst bedouins in the past because they did not have a legal system. When bedouins moved into the cities they took the practice with them, where it has remained until today.

Sociologist Ibrahim Othman said the cultural heritage of women is such that they are the ones bearing the value of honour. "Their behaviour can threaten their families, while men are allowed to involve themselves in extramarital affairs and their actions are not considered threatening to their own community. They are even considered heroes." "A single [immoral] act by a woman reflects on the majority [of the family] creating cultural and social pressures that force them to rid themselves of those they think caused the shame - even if a rumour," explained Othman. "We need to work on changing people's beliefs. The legal side is not the only solution because of the value system that still dominates," he added.

Interpretations of Sharia

Hadidi, who heads of the National Institute of Forensic Medicine where the victims of these crimes are examined, said changes in the concepts and implementation of Islamic Sharia are necessary. "A person should not take a decision based upon incorrect concepts not related to Sharia," Hadidi explained. Sheikh Hamdi Murad, a moderate religious scholar, agreed saying these crimes are not related to Sharia in any way. "This practice is the result of a deeply rooted tradition falsely attached to Islam," he explained.

Murad cited a Hadith, or saying, by Prophet Mohammad where a man came to the Prophet asking what kind of punishment should be given to him if he finds his wife committing adultery with another man and kills them both. The Prophet said either you bring four witnesses or you will be killed. He repeated this sentence twice, pointed out Murad. "It is clearly noted in the Hadith and the Holy Koran that there must be four witnesses of good reputation to an act of adultery for their testimony to be accepted. If it is proven, it is the ruler who decides punishment - not the individual," the religious scholar concluded.