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Hate Crimes on Digital Platforms and New Media: Constitutional and Legal Regulation under Jordanian Legislation

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Abstract

Objectives: The study aimed to discuss hate crimes and their introduction within the framework of the Jordanian Cybercrime Law No. 17 of 2023, as well as to address the amendment of certain related provisions to clearly define the legal terms associated with this crime.

Methodology: The study adopted a descriptive approach by exploring the concept of hate crimes, and an analytical approach by examining the legal texts regulating these crimes. Additionally, the study employed a deductive approach to derive conclusions and recommendations based on the analysis of legal texts and legislative trends, proposing legal solutions that ensure a balance between combating hate crimes and protecting freedom of opinion and expression.

Results: The study concluded several findings, most notably that the Jordanian legislator introduced a provision in the Cybercrime Law No. 17 of 2023 addressing hate crimes committed through digital and electronic platforms without clearly defining the concept of such crimes. Additionally, society lacks sufficient awareness about hate crimes, their dangers, and the negative consequences they entail.

Conclusion: The study recommended the necessity of amending the text of Article 17 of the Jordanian Cybercrime Law and clearly defining the acts that constitute this crime. It also emphasized the importance of raising public awareness about the dangers of inciting racial and sectarian strife through the Internet, considering it an important step to be achieved through schools, universities, and discussion forums.

Keywords: Hate crimes, constitutional regulation, legal regulation, Jordanian legislation, digital platforms.

جرائم الكراهية عبر المنصات الرقمية والإعلام الجديد: التنظيم الدستوري والقانوني في التشريع الأردني

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ملخّص

الأهداف: هدفت الدراسة إلى مناقشة جرائم الكراهية واستحداثها في إطار نصوص قانون الجرائم الإلكترونية الأردني رقم 17 لسنة 2023 وتعديل بعض النصوص المتعلقة بها لضبط المصطلحات القانونية المتعلقة بهذه الجريمة بشكل واضح.

المنهجية: اعتمدت الدراسة المنهج الوصفي عبر البحث في مفهوم جرائم الكراهية، والمنهج التحليلي عبر تحليل النصوص القانونية الناظمة لها، كما اعتمدت الدراسة المنهج الاستنباطي لاستخلاص استنتاجات وتوصيات قائمة على تحليل النصوص القانونية والاتجاهات التشريعية، واقتراح حلول قانونية تحقق التوازن بين مكافحة جرائم الكراهية وحماية حرية الرأي والتعبير.

النتائج: خلصت الدراسة إلى عدة نتائج أبرزها أن استحدث المشرع الأردني نصاً في قانون الجرائم الإلكترونية رقم 17 لسنة 2023 والذي ينص على جرائم الكراهية التي ترتكب من خلال المنصات الرقمية والإلكترونية، من دون أن يحدد مفهوم هذه الجريمة، كما يفتقر المجتمع إلى وعي كافٍ حول جرائم الكراهية وخطورتها، والآثار السلبية الناجمة عنها.

الخلاصة: أوصت الدراسة بضرورة تعديل نص المادة 17 من قانون الجرائم الإلكترونية الأردني وتحديد الأفعال المكونة لهذه الجريمة بشكل واضح، ونشر الوعي المجتمعي حول خطورة إثارة النعرات العنصرية والطائفية عبر الشبكة العنكبوتية ما يعد خطوة مهمة وذلك من خلال المدرسة والجامعة والحلقات النقاشية.

الكلمات الدالة: جرائم الكراهية، التنظيم الدستوري، التنظيم القانوني، التشريع الأردني، المنصات الرقمية.

Introduction

With the rapid advancements in the modern world and the remarkable proliferation of digital platforms, social media, and modern communication systems, numerous instances of hate speech have emerged. A significant number of individuals promoting hate speech in Arab societies generally perceive it as an exercise of their right to freedom of expression and belief. They argue that this "constitutionally guaranteed" right is an inherent part of their freedom.

The figures released by the Cybercrime Unit in Jordan, affiliated with the Public Security Directorate, indicate that through monitoring and tracking social media platforms, the Unit was able to refer 244 cases of publishing hate speech and inciting strife to the judiciary in 2024 **(Public Security Directorate, Jordan 2024).**

However, such acts are classified as crimes under legal provisions, particularly the Jordanian Cybercrimes Law No. 17 of 2023, which explicitly addresses acts of hate speech. Yet, the law does not provide a clear definition of hate speech, leading to overlaps with other crimes, such as the dissemination of rumors, defamation, and slander.

The gravity of such crimes lies in the fact that individuals behind them may be supported by external entities or terrorist organizations targeting national security. Consequently, the Jordanian legislator has included explicit provisions criminalizing "hate speech" and incitement to racial and sectarian discord. However, as noted, the legislator has left several contentious issues unresolved, such as failing to define hate crimes clearly and distinguishing them from other crimes.

Article 17 of the Jordanian Cybercrimes Law No. 17 of 2023 introduces this "new" crime, stating:

"Anyone who intentionally uses the information network, information technology, an information system, a website, or a social media platform to publish material that incites sedition, discord, or targets social peace, or promotes hate speech, violence, or religious disdain shall be punished with imprisonment of one to three years or a fine ranging from five thousand (5,000) to twenty thousand (20,000) Jordanian dinars, or both".

Like the Jordanian legislator, the UAE legislator did not provide an explicit and direct definition of hate crimes in Federal Decree-Law No. (34) of 2021 on Combatting Rumors and Cybercrimes. However, it addressed acts falling within this framework implicitly through punitive provisions. The law criminalized the creation or administration of websites or the publication of information that could incite sedition, hatred, racism, sectarianism, or harm national unity and social peace, as stipulated in Article 24. It also imposed stricter penalties on anyone who committed religious offenses or incited religious discrimination or hatred through electronic means, pursuant to Article 37 **(UAE legislation, 2021).**

Therefore, "hate crimes" remain undefined by the Jordanian legislator, creating ambiguity and confusion about what is constitutionally permissible and what is legally criminalized. This necessitates an analysis of this crime, its elements, and its intersections with the concepts of freedom of expression enshrined in the Jordanian Constitution and international covenants, which emphasize that individuals expressing their opinions must adhere to the limits set by law **(Al-Rai, 2024).**

On the international front, international law has prohibited all forms of racial discrimination and hate crimes through various treaties, such as the United Nations Charter, the Universal Declaration of Human Rights, the 1954 Refugee Convention, the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, the 1951 Convention Relating to the Status of Stateless Persons, and the 1966 International Covenant on Civil and Political Rights, among others. These international instruments explicitly aim to protect societies from crimes threatening their security and stability **(Bin Attallah, 2021).**

Hate speech is defined as:

"Any form of communication, whether verbal, written, or behavioral, that attacks or uses derogatory or discriminatory language towards an individual or group based on identity. This includes, but is not limited to, religion, ethnicity, nationality, race, color, origin, gender, or any other identity factors. Such speech stems from and fuels feelings of intolerance and hatred and, in some contexts, can result in humiliation and societal divisions" ***(United Nations, 2019).***

It can be said that the continuous advancement in digital technology has imposed numerous challenges on various aspects of human life, with approximately 5.44 billion people worldwide using the internet. This underscores the crucial role of digital technology in the modern era, as it has become a central factor influencing all dimensions of social, economic, cultural, and scientific life. Since early 2020, digital platforms and new media have faced intense scrutiny due to rising concerns over digital privacy and the dissemination of statements or actions that constitute hate speech. Additionally, many countries have adopted legal frameworks to ensure fair access to the internet **(Al-Kasassbeh, F. and others, 2024)**, especially since victims of hate crimes include various segments of society, including public officials, whose job performance may be affected by such crimes, in addition to constituting an infringement on their privacy. It is as if this is considered part of the right to criticism guaranteed by the press and media, whether in its traditional or new forms **(Alhasan, T. K., Awaisheh, S. M., & Awaisheh, S. M. (2024).**

Given the necessity of defining "hate crimes," particularly in the context of rapid digital advancements and the swift dissemination of information, this study seeks to explore the topic in depth. It focuses on two main areas: the constitutional regulation of freedom of expression and the legal framework governing hate crimes under the Jordanian Cybercrimes Law, which specifically addresses digital platforms and new media systems.

Referring to the statistics and figures provided by the Cybercrime Unit of the Public Security Directorate, a significant increase in cybercrimes has been observed from 2013 until the year before last, with more than twelvefold rise. The numbers indicate that the total number of cybercrimes committed in 2013 was 1,320, while in 2022, the total reached 16,027 crimes **(SIGI, 2023).**

A significant portion of these crimes relates to national security, which consists of two aspects: security and national identity. Security is a fundamental component of all aspects of human life and is linked to various human activities (Baldwin, D. 1997). Meanwhile, national identity is a term used to define a state's self-identity and serves its interests across different fields and sectors, as is the case with hate crimes **(Kettunen, P. 2018).**

Research Problem:

The research problem lies in the legislative ambiguity surrounding hate crimes in Jordan's Cybercrimes Law No. 17 of 2023, as the law lacks a precise and specific definition of these crimes.

This ambiguity leads to an overlap with constitutional rights related to freedom of opinion and expression, raising challenges in balancing the need to combat hate speech while safeguarding fundamental freedoms enshrined in the Jordanian Constitution and international conventions.

This legal uncertainty also creates judicial and enforcement challenges regarding the boundaries of criminalization and the criteria for law enforcement, necessitating an in-depth analytical study to ensure a proper balance between combating hate crimes and protecting constitutional rights.

Research Questions:

- What are the constitutional and international dimensions of freedom of expression?
- How does the Jordanian Constitution and international treaties regulate discrimination and hate crimes?
- What are the elements of hate crimes on digital platforms?
- What are the shortcomings of the Jordanian Cybercrimes Law regarding hate crime provisions?

Research Importance:

- Distinguishing Between Freedom of Expression and Hate Speech: The study highlights the need to define the boundary between the legitimate right to freedom of opinion and expression and actions that constitute hate speech, posing a threat to societal security and civil peace.
- Assessing Existing Legislation: The study analyzes the adequacy of current laws in addressing digital hate crimes and identifies any legal gaps that may affect their enforcement.
- Proposing Balanced Legal Solutions: The study aims to suggest legislative mechanisms that ensure a proper balance between combating hate crimes and protecting constitutional rights and public freedoms.

Research Objectives:

- The study seeks to establish a precise and clear definition of digital hate crimes within the framework of Jordan's Cybercrimes Law No. 17 of 2023, contributing to the reduction of legislative ambiguity.
- The study aims to assess the extent to which Jordan's Cybercrimes Law aligns with constitutional principles and international standards, while highlighting any legal gaps.
- The study also aims to provide legislative recommendations that would amend or clarify the legal provisions related to digital hate crimes to ensure fair and effective enforcement of the law.
- Additionally, the study seeks to propose legal solutions that achieve a balance between combating hate speech and ensuring that freedom of opinion and expression is not unduly restricted in violation of constitutional rights.

Research Methodology:

This study adopts the descriptive, analytical, and deductive approaches to achieve a comprehensive understanding of digital hate crimes within the framework of Jordanian law, through the following:

- **Descriptive Approach:** Used to define and understand the concept of digital hate crimes and their various dimensions by reviewing legal and international definitions of this crime and analyzing the impact of technological advancements on its spread.
- **Analytical Approach:** Focuses on studying and analyzing the legal provisions stipulated in Jordan's Cybercrimes Law No. 17 of 2023, assessing their consistency with constitutional principles and international conventions, while highlighting any ambiguities or legal gaps that may affect the application of the law.
- **Deductive Approach:** Applied to derive conclusions and recommendations based on the analysis of legal texts and legislative trends, proposing legal solutions that ensure a balance between combating hate crimes and protecting freedom of opinion and expression.

Chapter One: Freedom of Opinion and Expression:

Freedom of opinion and expression is one of the inherent human rights that accompanies an individual from birth until death. It is a cornerstone of advanced nations. Free expression of opinions acts as the lifeline through which societies voice their aspirations, ambitions, and viewpoints in any form, whether through written texts, videos, novels, or artwork.

This freedom represents a vital pillar of liberty and the foundation of democratic governance. Achieving a "free society" necessitates a state free from oppression, suppression, and fear. Hence, freedom of expression serves as the guardian of principles and ideas, preventing external intrusions or intellectual invasions. Societies unable to protect their principles, opinions, and freedom of expression are bound to vanish **(Tamizi, 2023).**

The necessity for freedom of expression has existed across all eras and remains essential for nations and individuals. No one can forget their ability to express opinions and beliefs, especially given today's information explosion and the rapid spread of social media, digital platforms, cloud computing systems, and artificial intelligence technologies. These advancements have facilitated the dissemination of information and strengthened concepts and practices of freedom of opinion and expression. Consequently, the world is continuously evolving its knowledge tools, media, and expression methods to align with modern developments **(Amidi, 2012).**

Although constitutions generally do not define the concept of freedom of opinion and expression, legal scholars have tackled this issue and provided diverse definitions. These definitions vary in perspective, particularly as many states transition from industrial to information-based systems. This transformation has exponentially increased information availability, thereby advancing human thought, which now finds expression through various mediums **(Rustam, 1994).** New media outlets have emerged, creating "information societies" and "knowledge societies".

Some definitions of freedom of opinion and expression include:

1) The individual's right to express their ideas, principles, and beliefs in a manner they see fit, within the boundaries of the law.
2) The ability to freely share and announce one's opinions in a suitable way.

3) The perspective drawn from Article 19 of the Universal Declaration of Human Rights (1948), which defines freedom of opinion as an individual's right to hold ideas without interference, seek, receive, and disseminate information and ideas through any medium, regardless of borders **(Hijazi, 2007).**

The Jordanian Constitution, like other comparative constitutions, guarantees every Jordanian the freedom to express their opinions and beliefs, provided it remains within the boundaries of the law. Article 15/1 of the Jordanian Constitution states: "Freedom of opinion and expression is restricted by the limits of the law." Exceeding these limits leads to chaos and disorder, resulting in undesirable consequences. The role of new media has grown so significantly that individuals often disseminate news before journalists themselves, leading to the emergence of the concept of the "citizen journalist".

While these advancements have numerous benefits in enhancing freedom of expression, they have also increased cybercrimes such as blackmail, spreading rumors, defamation, and slander. Many individuals mistakenly believe such acts fall within their right to free expression. In our interconnected and complex digital world, cybersecurity and protection of electronic systems have become critical. Addressing the dangerous repercussions of cybercrimes on societies, public and private institutions, and individuals requires effective legal measures and robust cybersecurity frameworks. These include protecting data, preventing breaches, detecting threats, and enforcing cybercrime laws effectively **(Al-Rai, 2024).**

Jordan has taken significant steps in this area, being one of the most digitally advanced countries in the region. With its population being active users of digital platforms and social media, the need to regulate digital actions is paramount. Cybercrime Law No. 27 of 2015 was replaced in 2023 with the updated Cybercrime Law No. 17, reflecting efforts to keep pace with technological advancements. This law addresses various offenses, including hate crimes, and aims to distinguish between constitutionally protected freedom of expression and actions that violate legal boundaries.

Despite the necessity of limiting freedom of expression within the law, overly restrictive measures that stifle expression and hinder the free flow of information should be avoided. The state's objective should be to liberate individuals from fear so they can express themselves freely. Restricting citizens' intellect risks the collapse of the state, which relies on its people, territory, and sovereignty for its existence.

Section One: The Constitutional Regulation of Freedom of Opinion and Expression in Jordan

The Jordanian Constitution explicitly and clearly defines the concept of freedom of opinion and expression, stating:

"The state guarantees freedom of opinion, and every Jordanian has the right to freely express their opinion through speech, writing, photography, and other means of expression, provided they do not exceed the boundaries of the law."

Furthermore, the Constitution outlines and regulates public freedoms within the confines of the law, in Articles 5 through 23. These provisions begin with the regulation of Jordanian nationality and equality among Jordanians in rights and duties. For instance, Article 5 stipulates that "Jordanian nationality shall be determined by law," while Article 6 declares:

1) *"Jordanians are equal before the law, with no discrimination between them in rights and duties based on race, language, or religion".*
2) *"Defending the nation, its land, the unity of its people, and maintaining social peace are sacred duties for every Jordanian".*
3) *"The state guarantees work and education within its capacities and ensures security and equal opportunities for all Jordanians".*
4) *"The family is the foundation of society, based on religion, morality, and patriotism. The law preserves its legal structure and strengthens its bonds and values".*
5) *"The law protects the rights of people with disabilities and enhances their participation and inclusion in various aspects of life. It also safeguards motherhood, childhood, and old age, supports youth, and prevents abuse and exploitation".*
6) *"The state guarantees the empowerment of women, ensuring their active role in building society, promoting equal opportunities based on justice and fairness, and protecting them from all forms of violence and discrimination".*

7) *"The state ensures the promotion of citizenship, tolerance, and the rule of law and, within its capacities, empowers youth to contribute to political, economic, social, and cultural life, while fostering their talents, creativity, and innovation".*

Article 7 further emphasizes that:

1) *"Personal freedom is inviolable".*
2) *"Any violation of public rights, freedoms, or the privacy of Jordanians is a crime punishable by law".*

In the context of freedom of opinion and expression, Article 14 states: "The state shall protect the freedom to practice religions and beliefs in accordance with the prevailing customs of the Kingdom, provided they do not violate public order or morality".

Article 15 elaborates:

1) *"The state guarantees freedom of opinion, and every Jordanian has the right to express their opinion freely through speech, writing, photography, and other means of expression, provided they do not exceed the boundaries of the law".*
2) *"The state guarantees freedom of scientific research and artistic, literary, cultural, and sports creativity, provided they do not conflict with the provisions of the law, public order, or morality".*
3) *"The state guarantees freedom of the press, printing, publishing, and media within the boundaries of the law".*
4) *"Newspapers and media outlets cannot be suspended or have their licenses revoked except by a judicial order in accordance with the law".*
5) *"In cases of martial law or a state of emergency, the law may impose limited censorship on newspapers, publications, media outlets, and communication channels concerning public safety and national defense".*
6) *"The law regulates the monitoring of newspapers' funding sources".*

Article 16 ensures:

1) *"Jordanians have the right to assemble within the boundaries of the law".*
2) *"Jordanians have the right to establish associations, trade unions, and political parties, provided their objectives are lawful, their methods are peaceful, and their regulations do not violate the provisions of the Constitution".*
3) *"The law regulates the formation, monitoring, and funding of associations, unions, and political parties".*

Article 17 affirms: "Jordanians have the right to address public authorities regarding personal matters or issues related to public affairs, in the manner and conditions prescribed by law".

To strengthen freedom of expression, Article 21 states:

1) *"Political refugees shall not be extradited due to their political principles or their defense of freedom".*
2) *"The procedures for extraditing ordinary criminals are determined by international agreements and laws".*

From this, it is evident that the Jordanian Constitution precisely and comprehensively regulates freedom of opinion and expression alongside other public freedoms, subject to legal boundaries. Unrestricted freedom of opinion and expression can lead to chaos and pose a threat to the state's stability. When individuals express opinions without adhering to the law, this can lead to defamation, slander, spreading false rumors, incitement of hate crimes, or even acts of sabotage under the pretext of free expression. Such situations create instability and threaten the state's structure. To prevent these consequences, the law serves as the decisive line between responsible freedom of expression and actions that disrupt public order.

It is noteworthy that the Jordanian Constitution limits the right to freedom of opinion and expression to Jordanians, unlike the Egyptian Constitution, which extends this right to all individuals residing in Egypt, regardless of nationality. This broader approach by the Egyptian Constitution makes it more inclusive and comprehensive **(Shalabi, 2000).**

Additionally, the Jordanian National Charter of 1991 reiterates the Constitution's principles, stating: "Freedom of thought, opinion, expression, and access to information is a right for citizens, as it is for the press and other national media and communication outlets. This freedom is guaranteed by the Constitution and must not be diminished or violated, **(The Jordanian National Charter, 1991).**

Section Two: Freedom of Opinion and Expression on the International Level

Numerous international covenants, treaties, and charters have affirmed the right to freedom of opinion and expression. They universally recognize every individual's right to hold and express ideas, opinions, and beliefs freely, if these rights are exercised within the boundaries of the law. This principle is enshrined in the 1948 Universal Declaration of Human Rights (UDHR) and the 1966 International Covenant on Civil and Political Rights (ICCPR), both of which provide detailed provisions on the subject.

These international agreements impose certain restrictions on freedom of opinion and expression, particularly to prevent hate crimes. These restrictions stem from the necessity to promote human rights, protect minorities, and prohibit incitement to violence and discrimination. Hate crimes contribute significantly to fueling violence and ethnic or religious discrimination within societies based on national affiliations, emphasizing the need for an international legal framework that compels states to adopt strict measures to prevent such crimes.

The regulation of freedom of opinion and expression on an international level is clearly outlined in Article 19 of the UDHR, which affirms individuals' right to hold opinions without interference and to seek, receive, and impart information and ideas through any media and across any borders. Similarly, Article 19 of the ICCPR underscores the "right of everyone to hold opinions without interference."

The second paragraph of Article 19 further clarifies the scope of freedom of expression, emphasizing the right to seek, receive, and disseminate various types of information and ideas, regardless of boundaries, through written, printed, artistic, or any other chosen medium **(Saqaf, 2005).** However, paragraph three of the same article highlights that the exercise of these rights carries special duties and responsibilities, allowing for certain restrictions. These restrictions must be specifically provided by law and deemed necessary for protecting public order.

Hate crimes, known to undermine public order, are clearly addressed in international agreements that prohibit acts likely to exacerbate violence and hatred within societies. Such actions not only disturb societal harmony but also foster the emergence of organized terrorist groups that exploit societal unrest to propagate dangerous criminal ideologies. This is particularly concerning given the alarming rise in hate crimes globally, which pose significant challenges to modern societies and threaten social unity and civil peace.

The rapid advancement of digital media has exacerbated these challenges, making hate crimes increasingly prevalent and impactful. The widespread use of social media and digital platforms has facilitated the dissemination of hate speech, often with minimal oversight. Algorithms employed by these platforms further complicate matters by amplifying controversial and emotionally charged content, propelling hate speech to the forefront and intensifying its impact.

While artificial intelligence is occasionally utilized to detect and curb hate speech, it can inadvertently contribute to the problem. AI-generated content and technologies like deepfakes can be leveraged to disseminate hatred in more sophisticated and harder-to-trace ways. Recent statistics highlight this troubling trend; for instance, according to a report by the Federal Bureau of Investigation (FBI), the United States recorded over 10,000 hate crimes in 2023—the highest in 12 years. Similarly, in the European Union, 80% of individuals reported encountering racist hate speech online, with 40% feeling attacked or threatened on social networks **(al-Rai, 2024).**

Article 19 of the ICCPR permits states to impose restrictions on expression that incites violence or hatred. Moreover, Article 20 obliges states to prohibit "any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence." Additionally, the International Convention on the Elimination of All Forms of Racial Discrimination mandates that state parties criminalize "the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, and acts intended to provoke hatred among racial groups."

UDHR's Article 7 guarantees equality before the law and equal protection without discrimination, while the European Convention on Human Rights (ECHR) ensures freedom of expression under Article 10, with restrictions to prevent hate incitement. Article 14 of the ECHR further prohibits discrimination based on race, religion, or national origin.

In the Arab world, the 2012 Rabat Plan of Action in Morocco was developed to assist states in distinguishing between lawful expression and illegal incitement to hatred. It outlined six key criteria for determining when speech crosses into

unlawful incitement, including social and political context, the speaker's intent, content and form, the extent of dissemination, and the likelihood of harm.

Furthermore, the Jordanian Court of Cassation ruled in 1991 that local laws prevail unless an international treaty or agreement provides otherwise. In cases of conflict between an international agreement ratified by the court and domestic law, the provisions of the international agreement take precedence **(Jordanian Court of Cassation Decision, 1991).**

This balance between preserving freedom of expression and preventing incitement to hatred underscores the importance of international agreements in addressing these issues while respecting national laws.

Section Two: The Concept of Hate Crimes

There is no unified, globally accepted definition of hate speech that provides clear boundaries or regulations. The lack of consensus on defining hate speech, even in international treaties, creates challenges in determining when it warrants criminalization or punishment. Efforts by the UN Human Rights Council and the United Nations to establish an agreed-upon definition have yet to resolve the issue.

The Council of Europe's Commissioner for Human Rights defines hate speech as all forms of expression that spread, incite, promote, or justify racial hatred, xenophobia, or intolerance expressed through discrimination and attacks based on ethnicity, including discrimination against minorities and migrants or individuals of migrant origin **(Council of Europe Commissioner for Human Rights).**

Hate crimes, including inciting racial or sectarian strife, promoting hatred, or advocating violence, are considered significant threats to social security and peace. They are defined as "any behavior, statement, or dissemination of information or ideas aimed at discriminating between individuals or groups based on race, religion, sect, or ideology, resulting in social conflicts, fostering hatred or hostility, or inciting violence against certain individuals or groups".

The motivation behind such crimes often stems from hatred toward a specific social group or bias in favor of a particular group based on race, religion, or ethnicity. Generally, the perpetrator does not personally know the victim, and there is no prior animosity between them **(Munjed, 2017).**

According to the Camden Principles, hate is defined as a mental state characterized by intense, irrational hostility, contempt, or resentment directed toward the targeted individual or group, Principle 2/1 of the Camden Principles states that "all nations should adopt legislation to prohibit any incitement to hatred based on national, racial, or religious grounds, as such incitement constitutes a call for discrimination, hostility, or violence." National legal frameworks should explicitly address the following:

- The term "hatred" refers to strong, irrational feelings of disdain, hostility, or violence toward a targeted group.
- "Incitement" implies intent to publicly promote hatred against the targeted group.
- "Advocacy" involves statements about national, racial, or religious groups that pose an imminent risk of discrimination, hostility, or violence against individuals in those groups.
- The positive promotion of the identity of a specific group does not constitute hate speech. States should prohibit the denial or justification of genocide, crimes against humanity, or war crimes only when such statements constitute hate speech.
- States should not prohibit criticism or discussion of ideas, beliefs, ideologies, religions, or religious institutions unless such speech constitutes hate speech as defined in Principle 12/1 **(Zakaria, 2017).**

The International Criminal Tribunal for Rwanda defined hate speech as "a form of discriminatory aggression aimed at destroying human dignity and attacking a group" (UNESCO, 2015). Similarly, the EU Code of Conduct on Countering Illegal Hate Speech Online defines hate speech as "any conduct that publicly incites violence or hatred directed against a group of individuals or an individual based on race, color, religion, ancestry, national, or ethnic origin" **(Wafi, 2020).**

Hate speech can also be described as "speech that insults, threatens, harasses, or undermines the dignity, reputation, and status of an individual or group in society using verbal or visual means that foster negative feelings, attitudes, and

perceptions based on characteristics such as race, religion, gender, disability, sexual orientation, gender identity expression, or age" **(Nilsen, 2014).**

The European Court of Human Rights emphasizes the need to distinguish between hatred and public incitement to hatred, as well as between hate speech and actual harm resulting from discrimination or hostility. It defines hate speech based on the specifics of each case **(Mullen & Leader, 2005).**

Jordanian law explicitly addresses hate crimes in Article 17 of the Cybercrimes Law, which states:

"Anyone who intentionally uses the internet, information technology, information systems, websites, or social media platforms to publish content that stirs strife, promotes division, threatens social peace, incites hatred, advocates violence or justifies it, or shows contempt for religions shall be punished with imprisonment for a term of one to three years or a fine ranging from 5,000 to 20,000 Jordanian dinars, or both" as Mentioned.

This provision criminalizes multiple actions, including incitement to strife or division, threats to social peace, incitement to hatred, advocacy of violence, justification of violence, and contempt for religions. While the text expands the concepts of these crimes, it does not provide precise definitions. For instance, all crimes threaten social peace, yet the legislator explicitly categorized some as targeting social peace, creating overlap and ambiguity in the law. It is recommended that the Jordanian legislator amend the text to clearly define the specific criminalized acts.

1- The physical Element of Hate Crimes

The material element represents the act constituting a crime. In hate crimes, this element involves inciting violence, advocating for it, contempt for religions, or provoking racial and sectarian strife. With technological advancements, the proliferation of digital platforms, and the thriving of social media, these platforms have become fertile ground for disseminating information and exchanging opinions among individuals. However, they can also serve as tools for spreading destructive and negative ideas, such as racism, sectarianism, and instigating divisive rhetoric, which are among the most dangerous cybercrimes. Such acts have a direct negative impact on social cohesion and national stability in any society, especially those already grappling with significant economic and political challenges.

It is evident that provoking racial and sectarian strife in any society can lead to increased hatred and division. These practices create a "sick" environment of hostility and enmity among members of the same community, contributing to the collapse of social relations. The dangers also extend to threatening societal peace, as hate speech can fuel conflicts and violent clashes between community members, further eroding trust, harmony, and tolerance.

Community disputes carry significant risks; hate crimes can escalate into other societal offenses. This is exemplified by Article 150 of the Jordanian Penal Code, which stipulates: "Any writing, speech, or act intended to provoke sectarian or racial strife or incite disputes between sects and the various components of the nation shall be punishable by imprisonment for six months to three years and a fine not exceeding fifty dinars." However, the legislator later explicitly addressed these crimes in Article 17 of the Jordanian Cybercrime Law.

The material element in the crime of inciting strife is represented by writing and publishing on digital platforms, intending to or resulting in the provocation of sectarian or racial tensions, thereby harming national unity or disrupting harmony among its elements. This activity takes various forms, such as written content—any form of text produced by the perpetrator on digital platforms, new media and information systems. It also includes drawings, hand-drawn images, photographs, films, and other visual content, as these are among the means of public expression mentioned in Article 73 of the Jordanian Penal Code. Additionally, speech, such as oral statements in videos, can incite division and animosity among the nation's members. The place or occasion of publication does not matter, nor does the method of dissemination, whether on smartphone apps or various social media platforms. Upon reviewing these methods, it is evident that they are not exhaustive **(Qararak, 2023).**

These crimes can also coincide with other serious offenses that threaten society and may lead to further criminal acts. The Jordanian Court of Cassation determined that:

"The actions committed by the defendant (the appellant), which involved premeditated planning based on calm and deliberate thought, monitoring the victim's movements, preparing the weapon for the crime, and firing multiple bullets at close range, resulting in the victim's death, caused panic among citizens present during the act. The motives cited were claimed to provoke strife and discord within the community, despite the defendant's full awareness of the criminal elements of their actions. These constitute all the elements and components of committing terrorist acts using weapons that resulted in the death of a person, contrary to the provisions of Articles (2 and 3/w) and (7/b/1 and 3) of the Anti-Terrorism Law No. 55 of 2006 and its amendments, as concluded by the contested decision, not as claimed by the Public Prosecution. The Anti-Terrorism Law No. 55 of 2006 is a specific and subsequent law to the General Penal Code No. 16 of 1960, and the specific, subsequent law restricts the general, prior law and is given precedence in application" **(Qararak, 2017).**

The crime of inciting racial and sectarian strife through digital platforms and new media represents a serious threat to social stability in some countries. However, Jordanians remain committed to protecting their cherished homeland. In this critical political, economic, and social phase, it is essential to apply the Cybercrime Law effectively while fostering societal awareness. The role of individuals in promoting tolerance and patriotism through social media and digital platforms is just as vital as legislative measures in protecting society from discord and disputes, ensuring that the Jordanian community remains cohesive, united, and resilient against attempts to sow division and unrest.

2- The Mental Element of Hate Crimes

The mental element in a crime is one of the essential components for establishing criminal liability. It pertains to the mental and psychological state of the offender at the time the prohibited act is committed. The mental element reflects the extent of the offender's awareness of their actions and their intent to achieve the criminal result. This means that a crime cannot be deemed complete unless there is proof of a psychological connection between the offender and the crime.

The criminal intent, also known as the mens rea, is the direction of the offender’s will towards achieving the criminal outcome, fully aware of all elements of the crime. Criminal intent involves two key components: knowledge and will. Knowledge requires the offender to be fully aware of the nature of their act and its legally prohibited consequences. Will signifies the offender's genuine desire to commit the act and achieve the intended outcome. For instance, if an individual intentionally and premeditatedly kills another person, the mental element is fulfilled through criminal intent.

On the other hand, criminal negligence represents a second form of mental element. It involves carelessness or lack of due diligence, where there is no direct intent to commit the crime, but the offender acts contrary to the required standard of care, resulting in the prohibited outcome. This is often evident in traffic accidents caused by negligence or failure to follow traffic rules.

Thus, the mental element signifies the psychological and intellectual link between the offender and the crime, serving as a fundamental condition for establishing criminal liability. Without proving criminal intent or negligence, behavior cannot be legally classified as a crime, as criminal law does not penalize acts that do not stem from conscious intent or tangible negligence.

Hate crimes fall under the category of intentional crimes, where the offender’s intent is directed towards inciting racism, sectarianism, promoting violence, or disrespecting religions, which leads to creating conflicts within society. Criminal intent, as defined in Article 63 of the Penal Code, refers to the will to commit the crime as defined by law. It consists of two elements: knowledge and will. This means the offender knowingly commits an act despite being aware that it is punishable by law and that its commission would lead to the crime's outcome. Nonetheless, the offender’s will be still directed toward committing the act and achieving the result.

The mental element in the crime of inciting hatred is demonstrated through both general and specific intent. General intent involves the offender committing the act by any means, such as writing, speech, or other actions that harm national unity and social cohesion. For example, inciting religious or sectarian strife is a deliberate crime requiring the offender’s

intent to provoke intolerance and discord among groups, disturbing national unity. The offender's will must also be directed towards accepting this behavior, which constitutes general intent. On the other hand, specific intent requires the offender's will to aim at undermining social peace.

However, proving such crimes is particularly challenging. For instance, the Amman Magistrate's Court stated in one of its rulings: "In the present case, the court finds, after applying the elements of the crime to the established acts committed by the defendant through their Twitter account (under the name A.A.), where they posted a statement reading (A day will come when you'll see what you'll do, you shepherds of sheep, you Arab fools. If it weren't for refugees, you'd still be eating sheep dung thinking it was lentils), that it is not proven that the defendant posted these statements with the intent to incite racial hatred. Although the court does not approve of or condone the content of the post, it finds that it does not have the effect of inciting group behavior. Therefore, the court concludes that the elements of this crime are not fulfilled in this case" (Qararak, 2023).

3- Legal Challenges in Defining the Legal Framework for Hate Crimes

The cybercrime law suffers from shortcomings and lack of clarity, as it does not define the concept or meaning of hate crimes, even though they overlap with other crimes mentioned in the same law, as well as in the Jordanian Penal Code, the Press and Publications Law, the Jordanian Journalists Syndicate Law, and others **(Abdul Majeed, 1998).** To address these shortcomings, especially in the context of digital platforms and new media, we propose several recommendations to regulate hate crimes in Jordanian legislation and to clearly define their concept as follows:

1. **Defining the Term "Hate Crimes" in Cybercrime Law**

Amend the provisions of the law to explicitly and clearly define the legal term "hate crimes."

2. **Amending and Updating Legal Provisions**

Revise legal texts to ensure the clear protection of individuals' reputations, while distinguishing hate crimes from other offenses such as defamation, slander, libel, the spreading of false information, and character assassination, which is committed through attribution and the assignment of false statements to the victim via electronic means **(Alsaeed, 2002).**

3. **Imposing Specific Legal Provisions on Media Platforms**

Develop penalties specific to media outlets to achieve several objectives: enhancing freedom of opinion and expression by preventing imprisonment of journalists, reducing financial penalties, and raising awareness about the need to avoid committing hate crimes or reputation-related offenses. Notably, many journalists and media professionals lack sufficient legal awareness in their field **(Al-Rai, 2022).**

4. **Educating the Public on Distinctions Between Hate Crimes and Other Offenses**

Raise awareness among the community about the differences between hate crimes and other crimes, clearly delineating the boundaries between them.

5. **Organizing Training Programs for Journalists**

Conduct training sessions for journalists to educate them on the risks of harming individuals in society and committing acts of hate crimes. This should align with the provisions of the cybercrime law while promoting and protecting freedom of opinion and expression, as stipulated in constitutional texts—particularly Article 15, which guarantees every Jordanian the freedom to express their opinion provided it does not exceed legal boundaries.

By implementing these measures, the shortcomings in the Cybercrime Law and other related laws can be addressed. Although the Jordanian Cybercrime Law includes provisions aimed at combating technology-related crimes, it lacks a precise definition of hate crimes, leading to confusion in practical application. Hate crimes can overlap with other offenses mentioned in the same law, such as defamation, incitement, or online abuse.

Furthermore, while the Jordanian Penal Code and the Press and Publications Law include provisions addressing incitement to sectarian or racial discord, they fail to offer a dedicated definition for hate crimes. This absence complicates the judiciaries and society's ability to distinguish between these crimes and other forms of cybercrimes, resulting in inconsistencies in rulings.

This scientific study examined the legal regulation of hate crimes committed through new media and digital platforms under Jordanian penal legislation. It analyzed and studied both the Cybercrime Law and the Penal Code, resulting in several findings and recommendations in this field as follows:

Results:

1) The Jordanian legislator introduced a provision in the Cybercrime Law No. 17 of 2023 addressing hate crimes committed through digital and electronic platforms, without clearly defining the concept of such crimes.
2) Hate crimes differ from many other crimes that are also undefined in the Penal Code, as is the case with other crimes mentioned within it.
3) Society lacks sufficient awareness of hate crimes, their dangers, and the negative consequences they entail. It is essential for media and community institutions to participate in raising awareness about the risks of hate speech and to develop individuals' critical thinking skills to distinguish accurate information from misinformation.

Recommendations:

1) The study recommends amending Article 17 of the Jordanian Cybercrime Law to clearly define the acts constituting hate crimes.
2) The study recommends providing a clear definition of hate crimes by amending Article 2 of the Jordanian Cybercrime Law.
3) The study recommends raising public awareness about the dangers of inciting racial and sectarian discord online. This can be achieved through schools, universities, and community discussion forums. It is also crucial to enhance awareness and educational programs on the safe and positive use of social media platforms, websites, and smart applications, with a focus on promoting the values of fraternity and respect for others.

Conclusion:

This study highlights the need to address the legal and social issues related to digital hate crimes in Jordan, particularly in the absence of a clear definition of such crimes in Cybercrimes Law No. 17 of 2023. It also emphasizes the importance of striking a balance between combating hate speech and protecting freedom of expression through clear legislative amendments that enhance the effectiveness of law enforcement.

Additionally, the study underscores the necessity of raising public awareness about the dangers of hate speech and its negative impacts. This requires an active role from media and educational institutions in promoting a culture of respect, tolerance, and critical thinking. Adopting an integrated legal and awareness-based approach is the most effective way to curb this phenomenon and ensure a safe and balanced digital environment.

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