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Criminal and Civil Liability for Hate Crimes Committed via Digital Platforms and Modern Media in Jordanian Legislation

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Abstract

Research objectives: This study aimed to analyze the provisions of the Jordanian Cybercrime Law No. 17 of 2023 about hate crimes and their consistency and clarity with the general provisions of the Penal Code and other relevant legislations. It also aimed to suggest amendments to facilitate the regulation of the extensive legal terminology used in regard to the media in this context, especially the use of modern media.

Methods: The study uses a descriptive-analytical method, which involve presentation of the concept of hate crimes from the angle of law and analysis of the legal texts. It also analyzed the judicial precedents and legal opinions applicable to these kinds of offenses, besides explaining the civil liability that may follow a criminal offense.

Conclusions: The findings of the study led to the conclusion that there is no definite definition of hate crime in the Jordanian Cybercrime Law. The absence of definition can result in various interpretations or applications of elements pertaining to the criminalization of hate speech in Law No. 17 of 2023.

Recommendations: The study recommended a number of amendments to current laws, the most prominent of which was the addition of a definition of hate crimes to Article 2 of the Jordanian Cybercrime Law. It also recommended to establish clear legal boundaries to the scope of criminalization, striking a balance between combating hate speech and freedom of opinion and expression, in line with constitutional guarantees and international covenants and standards.

Keywords: Freedom of expression, criminal legislation, digital media, online platforms, hate crimes.

المسؤولية الجزائية والمدنية عن جرائم الكراهية عبر المنصات الرقمية ووسائل الإعلام الحديث في التشريع الأردني

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ملخّص

الأهداف: هدفت الدراسة إلى بحث النصوص القانونية المتعلقة بجرائم الكراهية في قانون الجرائم الإلكترونية الأردني رقم 17 لسنة 2023، ومدى وضوحها وتوافقها مع القواعد العامة في قانون العقوبات والتشريعات ذات العلاقة واقتراح التعديلات اللازمة التي تسهم في ضبط المصطلحات القانونية الواسعة في هذا الإطار في ظل انتشار وسائل الإعلام الحديث.

المنهجية: اعتمدت الدراسة المنهج الوصفي – التحليلي؛ حيث عرضت للمفاهيم القانونية لجرائم الكراهية، وحللت النصوص القانونية ذات العلاقة، مع الاستفادة من الاجتهادات القضائية والآراء الفقهية ذات الصلة، فضلاً عن بيان المسؤولية المدنية المترتبة على هذا النوع من الجرائم إلى جانب المسؤولية الجزائية.

النتائج: خلصت الدراسة إلى أن قانون الجرائم الإلكترونية الأردني لم يتضمن تعريفاً محدداً وواضحاً لجرائم الكراهية، ما يمكن أن يؤدي إلى تباين التفسير القانونية عند التطبيق العملي للنصوص التي تجرم من أفعال بث الكراهية وفقاً لأحكام قانون الجرائم الإلكترونية الأردني رقم 17 لسنة 2023.

الخلاصة: أوصت الدراسة بالعديد من التوصيات أبرزها تعديل نص المادة 2 من قانون الجرائم الإلكترونية الأردني بحيث يتضمن تعريفاً محدداً لجرائم الكراهية، كما أوصت بوضع ضوابط قانونية محددة لضبط نطاق التجريم، لتحقيق التوازن بين مكافحة خطاب الكراهية وحماية حرية الرأي والتعبير وفق الضمانات الدستورية وتلك الواردة في العهود والمعايير الدولية.

الكلمات الدالة: جرائم الكراهية، حرية الرأي والتعبير، التشريعات الجزائية، الإعلام الرقمي، المنصات الإلكترونية.

Introduction

The spread of "hate crimes" and discourse which fuels waves of violence" is a burden on Arab societies and the world generally. The phenomenon has been worsened with the spread of digital platforms, social media and intelligent systems and the growing electronic communication. Some of these platforms are also used externally by those claiming to represent "national opposition," which may be sponsored by international organizations seeking to undermine regions or countries, or linked to groups that are terrorists (Zhang & Luo, 2018).

This issue has been more and more recognized as urgent. Eighty percent of the population in the European Union (EU) have experienced hate speech online and 40 percent have felt attacked or threatened through Social Network Sites (Gagliardone et al., 2015).

In 2020, the Journal of Medical Internet Research published a study of "547,554 tweets related to COVID-19 in the Arab region" (Alshalan et al., 2020, p.12), revealing that "3.2% of these tweets (11,743 tweets) contained hate speech: Of these tweets, 71.4% were classified as low-level hate speech, 25.7% as medium-level hate speech, and 2.9% as high-level hate speech" (Alshalan et al., 2020, p.12).

In Jordan, the legislator has provided explicit provisions criminalizing "hate" and incitement of sectarian and racial strife. However, there remain contentious points. Notably, the legislator has not clearly defined hate crimes or differentiated them from other new crimes that were introduced, such as "character assassination", defamation, slander, and spreading false news.

Article 17 of the Jordanian Cybercrime Law No. 17 of 2023 adds new charges, which reads:

Anyone who intentionally publishes content on the internet, information technology, information systems, websites or social media platforms that may stir discord, cause strife, target social peace, incite hatred, advocate for or justify violence or brutal acts of violence or show contempt for religions will face imprisonment of one to three years or a fine of JD 5,000 to JD 20,000 or both.

So "hate crimes" are broadly defined crimes, lacking in any specific and universal definition. It is frequently used to describe activities that encourage division, racism, sectarianism or regionalism by race, religion, or color. This requires a study of the legal aspects of this crime and its differences from other offenses like character assassination, defamation, slander, and false news, as mentioned in Cybercrime Law No. 17 of 2023, Article 15. It also necessitates an analysis of its meaning as provided in Article 17 of the same law (Al-Raie, 2024).

Articles 4 and 7 of the Jordanian Press and Publications Law make it a crime to promote hatred and racism from the media. Likewise, Article 150 of the Jordanian Penal Code No. 16 of 1960 (amended) criminalizes activities propagating racism, inciting strife and promoting sectarian conflict. The legislator, however, has failed to define or concept hate crimes, although they are criminal acts that must be clearly defined, particularly in view of freedom of expression guaranteed by Article 15 of the Jordanian Constitution.

Many conventions and treaties have been drawn up internationally to fight all forms of racial discrimination and to end hate speech. They include the Universal Declaration of Human Rights, the UN Charter, the Convention Relating to the Status of Refugees 1954, Convention on the Status of Stateless Persons 1951, International Convention on the Elimination of All Forms of Racial Discrimination 1965, the International Covenant on Civil and Political Rights 1966, and others. One of the specific commitments of these agreements is to the protection of societies against crimes that pose threats to the security and stability of societies.

For example, hate crime laws have a long history in the United States, dating back to the American Civil War. It started with the Civil Rights Act of 1871 that was enacted to counter racially motivated crimes that were being perpetrated by groups including the Ku Klux Klan (KKK) (Al-Raie, 2024). Digital hate crimes are a new challenge, with the introduction of the internet. In France, for instance, the 2020 Online Hate Speech Law was set in place to tackle digital violations.

Hate speech can be referred to “Any form of communication, whether verbal, written or behavioral, that attacks or uses derogatory and discriminatory speech directed at a person or group on the basis of identity (religion, ethnicity, national origin, race or colour, gender, other identity markers) in which speech is rooted in intolerance and hatred, and which may result in humiliation, and consequently in divisions” (United Nations, 2019, p.2).

The definition of "hate" is fraught with legal problems, particularly as computer technology continues to grow and information moves quickly with it. The Jordanian Cybercrime Law No. 17 of 2023 is a crucial step to respond to these developments. As previously mentioned, however, words such as "hate" may be subject to interpretation and could cause problems in terms of the scope of the law and confusion between the various crimes.

The study condemns the Jordanian Cybercrime Law No. 17 of 2023 for the lack of clear differentiation between hate crimes and other offences in the definitions set out in Article 2 of the law. This gap will be mapped and explored further with a call to the Jordanian legislator to address this gap in the law, to clarify the difference between defamation, slander, libel and hate crimes and to ensure clarity of the terminology. Furthermore, the study highlights the need to clarify the concepts of “rumor circulation” and “false news” and “fake news”, which are closely linked.

Research Objective

The purpose of this study is to explore the meaning of hate crimes and its laws, and to provide recommendations on the basis of the analysis of the relevant laws and the assessment of the adequacy of these laws to combat hate crimes, especially in view of the absence of a specific definition of hate crimes in the Jordanian Cybercrime Law, which has created a duality in the legal texts and a lack of legal understanding of the scope of the crime.

Research Problem

This study aims to shed light on the problem of the absence of a legal definition for hate crimes in the Cybercrime Law No. 17/2023 in Jordan.

While the law expressly and specifically proscribes certain acts that constitute hate crimes, it does not clearly draw a distinction between hate crimes and defamation, insult, contempt nor the dissemination of false information through the use of digital means and new media. This is particularly apparent in the definition of criminal and civil responsibility in Jordanian law with respect to material and moral damages arising from hate crimes, as opposed to other systems such as the French law..

Research Questions

- What are hate crimes?
- What are the elements of hate crimes?
- What are the shortcomings of the Jordanian Cybercrime Law concerning hate crimes?
- How do hate crimes differ from defamation, slander, and the dissemination of false news?

Importance of Study

The significance of the study lies in the rapidly growing digital platforms, social media, and technological systems that facilitate sharing about individuals, as this sharing can lead to the development of hate crime.

Methodology:

The study was descriptive, which was used to define what hate crimes are and to differentiate it from other types of offences, such as libel, slander, contempt and false news reporting, which are often disseminated online and through contemporary media. It also used the analytical method in order to analyse the relevant legal texts clearly and specifically, in addition to the comparative method by comparing the provisions of Jordanian criminal and civil legislations with French law.

A Discussion on Hate Crimes, the concept of, Part One.A Discussion on Hate Crimes, the concept of, Part One.

Incitement of racial or sectarian discord, promotion of hatred or calls for violence are acts that pose a threat to social

security and peace and are considered hate crimes (United Nations, 2017). Crimes include any act, word, or act of information or opinion that discriminates against persons or groups, on the basis of race, religion, sect, and creed. These actions tend to escalate into social conflicts, hatred, hostility or violence toward some persons or groups. The crimes are called "hate crimes" and are usually committed based on hatred towards a certain social group or prejudice because of race, color or religion. Typically, the perpetrator does not know the victim's name and has no previous animosity against the victim (Munjed, 2017), as mentioned above.

Article 17 of the Cybercrime Law clearly states that such activity is criminal, saying:

As previously mentioned, the person who, intentionally, publishes on the internet or information technology, an information system, a website or a social media platform, content which incites discord, sectarianism, targets social peace, promotes hatred and/or advocates violence and/or its justification, or disrespects religions shall be punished by imprisonment for one to three years or a fine of no more than 5,000 to 20,000 Jordanian Dinars or the concurrent application of both penalties.

As researchers have noted this provision, which punishes several acts, is actually the material element of the following crimes: inciting disorder, endangering social peace, promoting hatred, inciting to violence, justifying violence, or disrespecting a religion.

These ideas are expanded upon, though not precisely defined, in the text, however. For example, all these crimes have an inherent social peace threat. It is thus better to stipulate explicitly the violations of social peace because they cause ambiguity and redundancy. Al-Raie (2024) recommends that the Jordanian legislature clarify the act that constitutes a crime.

These online environments are now rich with opportunities for information dissemination and opinion exchange, especially in today's digital era and the rise of social media platforms. They are also a medium for spreading negative concepts, including racism, sectarianism and the instigation of discord. These crimes manifest adverse impacts on social fabric and national stability, being among the most harmful forms of cybercrime, especially in societies plagued with serious economic and political issues.

Clearly, the promotion of racial and sectarian tensions in any society only increases hatreds and divisions. This creates "toxic" relationships amongst members of the same community that compromise social relations, and endanger communal peace. Hate speech may also lead to violent confrontations, loss of trust and reduce social cohesion and tolerance.

Definitions of Hate Speech

- According to Article 19 of the Camden Principles, hate is a mental state that involves feelings of aversion toward one or more societal components (implicit or explicit) calling for exclusion, expulsion, extermination or reduction in rights and is often accompanied by advocacy of violence (Zakharia, 2017, p.543).
- The International Criminal Tribunal for Rwanda defines hate speech as “a manifestation of discriminatory aggression towards the destruction of human dignity and attacks on groups” (UNESCO, 2015). Likewise, the European Union's Code of Conduct on Countering Online Hate Speech provides a definition of online hate speech as "any conduct that publicly incites violence or hatred against a group of persons or an individual, because of race, colour, religion or ancestry, national origin or ethnicity".
- Hate speech has also been defined as “a form of communication insulting people or groups because of personal traits, ethnic or racial background, ideology, or religion. This phenomenon has grown with widespread internet use, providing extremists and bigots a platform to spread hatred” ***(Nilsen, 2014, p.10).***
- Another definition of hate speech states: “It encompasses offensive, threatening, or harassing language or expressions that undermine an individual or group's dignity, reputation, and societal standing by employing linguistic or visual means that reinforce negative sentiments and stereotypes rooted in characteristics like race, religion, gender, disability, sexual orientation, gender identity expression, and age***” (Nilsen, 2014, p10).***

- The European Court of Human Rights emphasizes the necessity of distinguishing between hate and statements that publicly incite hatred, as well as between hate speech and actual harm caused by discrimination or hostility. Hate speech is a situation-by-situation type of thing, according to the Court (Mullen & Leader, 2005).

Criminal Elements of Hate Crimes

As with other crimes, hate crimes have two components: material and moral – these two will be explored in two subsections. The first subsection discusses the material aspect of offences relating to incitement to racial or sectarian discord, to hatred, to the advocacy of violence or to the violation of respect for religions. In the second part, the moral aspect of these crimes is discussed.

Section 1: The Physical Element of Hate Crimes

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The physical aspect of hate crimes is when someone incites racial or sectarian strife, promotes hatred, advocates violence or expresses contempt for religion through any technological, electronic or information system means. The idea behind these actions is to cause a society to be divided and conflicted (Al-Raie, 2024).

Societal conflicts are a major danger; hate crimes can result in other crimes in society. It is expressed in the Jordanian Penal Code (JPC) Article 150, which reads:

A punishment of imprisonment for six months to three years and a fine of not more than fifty dinars shall be imposed on any writing, speech or act which may lead to sectarian or racial strife or to conflict between the factions and the various elements of the nation.

But, Article 17 of the Jordanian Cybercrime Law explicitly mentions these crimes.

The physical aspect of incitement to racism, sectarianism, hatred, violence or contempt of religions is manifested in the stirring of racial or sectarian divisions, incitement of hatred through technical, electronic or informational systems or disparagement of religions. Such acts are meant to foster division in society.

Conflict in society is a serious concern; hate crimes may increase the risk of other forms of crime in the community. This is echoed in Article 150 of the Jordanian Penal Code which reads:

“Any writing, speech or act which may lead to or instigate sectarian or racial strife or conflict between the sects and various components of the nation shall be punished by imprisonment for a term of between 6 months and 3 years and a fine not exceeding fifty dinars.”.

However, the legislator explicitly addressed these crimes in Article 17 of the Jordanian Cybercrime Law.

As previously noted, such crimes can be associated with other offenses of significant danger to society, potentially leading to additional crimes. The Jordanian Court of Cassation ruled in one case:

*"The acts committed by the defendant (the appellant), which included premeditated planning, calm and deliberate thought, monitoring the victim’s movements, preparing the weapon, and firing several shots at close range resulting in the victim's death, caused panic among citizens present at the time of the crime. The claims of motives to incite sectarian strife and discord within the community, with full knowledge of the elements of the crime, constitute the elements of committing terrorist acts using weapons leading to human death, contrary to Articles (2 and 3/W) and (7/B/1&3) of the Counter-Terrorism Law No. 55 of 2006 and its amendments. This decision is consistent with the judgment that special laws enacted later take precedence over general provisions, such as the Jordanian Penal Code No. 16 of 1960.” (**Qarark, 2017)***

The physical element in the crime of incitement to strife includes writing and publishing on digital platforms with the intention or result of provoking sectarian or racial discord, disrupting national unity, or disturbing harmony among its elements. These actions can take various forms, such as:

- **Writing:** Any content created by the offender on digital platforms or information systems, including drawings, hand-drawn or photographic images, and videos. These are described in the Jordanian Penal Code under public methods in Article 73.
- **Speech:** Verbal communication, such as videos promoting division and hostility among the nation's elements, regardless of where or why they were produced.
- **Broadcasts:** Content shared on smartphone apps and social media platforms.

These are not comprehensive methods, but represent some of them.

Section 2: The Intent Element of Hate Crimes

Hate crimes are deliberate acts in which the intentional actions of an individual are directed towards provoking racism, sectarianism, incitement to violence or contempt of religions, thus leading to societal conflict. The crime of criminal intent is one in which the perpetrator intends to commit the crime as described by law in Article 63 of the Penal Code. There are two elements to criminal intent: knowledge and will. The person doing the crime knows what he or she is doing is wrong and that it could lead to a crime, but he or she still deliberately does the act.

The intent to incite strife has two types, general and specific intent:

General Intent: The conduct of the offender, whether committed by writing, speech, or otherwise, should cause a harm to national unity and social cohesion.

Specific Intent: The perpetrator's goal is to break social peace which is achieved through division and intolerance. It can be difficult to set this intent up. The Amman Magistrates Court ruled in one case:

"In this case, the court finds that the defendant's actions on Twitter under the name (A.A.), where he posted: 'Let's see what you'll do, you sheep herders, you Arab drummers. Without the refugees, you'd still be eating sheep manure thinking it's lentils,' were not proven to have been intended to incite racial strife. Although the court disapproves of the content and condemns the phrases used, it does not find that the post influenced group behavior. Therefore, the elements of the crime are deemed not established." ***(Qarark, 2023)***

Second Chapter: Legal Regulation of Hate Crimes:

The definition of hate crimes in Jordanian legislation has created a number of problems, especially because it is similar to a number of offences that are also provided for in the Jordanian legislation, including defamation, slander and spreading of false information that are explicitly provided for in the latest Cybercrimes Law. In articles dealing with electronic defamation and slander some legal sources have referred to defamation, which comes from the verb shahara, meaning to expose or make known. From a linguistic point of view, it means to be "famous" or "well-known" (Maalouf, 2005). In the legal sense, defamation is defined as the attribution of specific content to a victim, which creates in the public mind a sense of disdain, contempt or aversion (Saqf Al-Hayat 2010).

Defamation is explicitly mentioned in the Jordanian Cybercrimes Law, Article 20:

"If a person publishes something recorded, photographed, or filmed, on an information network, information technology, information system, website or social media platform with the aim to defame, cause harm or to gain any benefit, even if obtained legally, shall be punished upon a complaint with imprisonment for not less than three months nor more than forty months and a fine of not less than twenty thousand Jordanian dinars (20,000 JOD) nor more than forty thousand Jordanian dinars (40,000 JOD)."

Furthermore, Article 20, Paragraph B, stipulates:

"Anyone who uses an information network, information technology, information system, website, or social media platform to fabricate, alter, or manipulate recordings, images, scenes, or videos intended to defame, harm, or obtain any benefit shall be punished with imprisonment for no less than two years and a fine not less than twenty-five thousand Jordanian dinars (25,000 JOD) and not exceeding fifty thousand Jordanian dinars (50,000 JOD)."

To understand the complexity of hate crimes it is important to discuss the differences between hate crimes and other crimes as defined in the Cybercrimes Law in the first section. The second section will discuss the suggested solutions to better regulate the legal framework surrounding hate crimes and a summary of findings and recommendations. Finally, civil remedies for damages arising from hate crimes perpetrated through electronic media will be discussed.

Part One: Differences and Challenges between Defamation and Hate Crimes:

There are many criminal legislations that fail to distinguish between hate crimes, defamation, slander, the spread of false information or reputational harm. But this is not the case in Jordan, where the Jordanian Cybercrimes Law differentiates between these. It does not give a specific definition of "hate" but it does define under the Jordanian Penal Code No. 16 of 1960 and its amendments the defamation and slander. These differences will be explored in greater detail below.

Defamation and slander crimes are among the most prevalent internet crimes, most of the time due to the inappropriate use of technology. This prevalence is due to a range of factors, such as:

1. Platform Accessibility: The internet has an abundance of platforms that can be used to share potentially harmful and/or offensive information, such as social media, blogs, and websites, which are easy to access.

2. Rapid Information Dissemination: Information can be disseminated to a broad audience at low costs in a fairly short period of time, fostering the environment for such crimes to occur.

3. The anonymity of perpetrators: On the internet, it is easier for criminals to remain anonymous and carry out such acts.

4. Digital Oversight: Limited regulation of digital content and difficulties in monitoring and tracking of all digital content.

5. Widespread availability of information: The internet is full of information and data, with legal and technical issues arising.

Enforcement of the legal provisions in the Cybercrimes Law is critical in order to minimize the effects of these crimes. The word for defamation (analogous to slander and libel in many other jurisdictions) is a criminal offence in many countries in the world, including the United States, even those with the highest standards for freedom of speech in Europe and Australia. These laws emphasize distinguishing between public interest criticism and committing defamation crimes (Kostadinov, 2014).

There are two elements to electronic defamation and slander crimes, the material and the morality. The impact of these will be discussed in individual subsections.

Part 1: The Material Aspect of Defamation and Insult Offences in Electronic Form.

Defamation, as defined in the Jordanian Penal Code is:

Attributing to someone, even doubt or inquiry, that which may damage his good name and dignity or expose him to hatred and contempt of others, whether or not the attributed matter be a punishable offence or not, (Saqf Al-Hayat, 2010, pp 187 - 188).

The material aspect of the defamation offence is the defendant's doing of 'attributing a particular matter' to another person, thereby exposing that person to hatred, contempt and damage to his or her honour, dignity and reputation.

Therefore, electronic defamation can be accomplished by attributing it to the victim via electronic means whether the attacker made it up or simply repeated it from someone else (Saeed, 2002). This is evident in Paragraph (a) of Article 15 of the Jordanian Electronic Crimes Law No. 17 of 2023, which states:

"Any person who knowingly transmits, relays, or publishes through the internet, information technology, information systems, Web site or social media platform information or data that contains false news with respect to national security, social peace, defamation, insult or contempt..."

The victim's name is not required to be mentioned, rather any indication of the victim is sufficient, as stated in the general provisions of the Jordanian Penal Code.

The Zarqa Court of First Instance (as an appellate court) decided:

After examining the case file and the evidence presented by the prosecution including the complainant's testimony, the court found that the testimony reads: "He conducted a live stream on Facebook and insults us, posting defamatory content on his Facebook page." The expert report submitted by the transcription of the recording does not show that the complainant's name, identity, or any clear reference to the complainant was used in the live recording or in the post on his Facebook page. Therefore, the court ruled that the complainant could not be identified in the testimony made by the recording expert, and the court did not see any evidence indicating that the accused mentioned the complainant's name, identity, or could have pointed to her in the live broadcast or the post.

The material element, therefore, is established by sending, retransmitting, or publishing content, whether it is data — meaning raw facts or figures that lack inherent meaning without context and can be numbers, letters, symbols, or qualitative values ***(Laudon, 2019)*** — or information, which refers to processed or interpreted data that gains meaning and can be used for decision-making when organized to reveal relationships and insights ***(Stair, 2020).***

Defamation can also target legal entities. Paragraph (b) of Article 15 specifies that:

The crimes referred to in Paragraph (a) of this Article shall be prosecuted by the Public Prosecution without need for a complaint or a claim of personal rights when the crime is committed against the State authorities, official body or public administration.

To prove the material element of electronic defamation, three elements must be satisfied:

1. Making attributions of harm – attaching allegations or insults to the victim.
2. Clarity of the material attributed: The allegations must be specific, namely consist of clearly defined statements.
3. Attribution via electronic means: The attribution shall be made by any electronic means including computer, internet, information systems or artificial intelligence platforms. Given the pace of technological change, these are only examples and are by no means exhaustive.

The person who commits the defamation may be prosecuted if the defamation is made against a legal person acting on behalf of the state authorities, official bodies or public administrations without a complaint or a claim for personal rights. This is evidence of the Jordanian legislator's precautionary measures against false charges brought against governmental entities.

If it is an insult offense, the attributed material does not have to be specified or defined. There was a concern that such an analysis of the material element for defamation was not needed for insult offenses, but it was decided it would proceed.

Second Section: The Moral Dimension of Defamation and Insult offenses for electronic communication:

In order to satisfy the elements of these offenses, the person accused must have intended to commit the offense, and know that their conduct would violate the victim's reputation, dignity or lead to his or her exposure to hatred or contempt. This intention is reflected in the provisions of Paragraph (a) of the Article 15 of the Jordanian Electronic Crimes Law No. 17 of 2023, which reads as follows: that such laws and ordinances must ensure that the computer system is not misused.

"Any person who deliberately disseminates, retransmits or publishes false news, whether on the internet, information technology, information systems, websites or social media platforms, in relation to the national security, social peace, defamation, insult or contempt..."

The will and knowledge are both required elements of criminal intent. Knowledge is the awareness of the harmer of the defamatory nature of his/her statements and the possible harm to the victim's honor, dignity or reputation, whether for a natural person or a legal person.

This knowledge must be real, rather than presumed. The one doing the saying has to have a real understanding that he or she is saying defamatory or insulting things and that such will be the result, whether harm occurs or not. The emphasis is not on harm or damage done, but on the act itself.

For example, the defamatory words may be harmless if the audience believes that the victim is well known in their community or tribe and that the defamatory words are baseless. The perpetrator is still liable because the act of electronic defamation or insult is the offense.

That the wording of this legislation is problematic is noteworthy. The intermingling of defamation, insult and contempt offences in one legal provision and a single punishment is different than the Penal Code, which acts as the general law. The same reasoning with regard to the moral element for defamation is avoided in the case of insult offenses.

Suggesting Solutions to the Legal Structure of Hate Crimes

Given the shortcomings of the Jordanian Cybercrime Law, it may be said that hate crimes perpetrated online, in social media and through New Media outlets are "unclear" in Jordanian Criminal Law. These crimes overlap with other crimes in different laws such as the Press and Publications Law, the Jordanian Journalists Association Law, the Jordanian Penal Code, and other laws concerning publishing and dissemination of information via electronic means.

In light of the above mentioned shortcomings, and to cover the gaps that are specially being felt with respect to digital platforms and New Media, the following proposals are recommended to be included in the Jordanian legislation in order to create a clear definition of the concept of hate crime and regulate it in legislation:

The definition of hate crimes, as espoused in the Cybercrime Law, is first clarified. The definition of hate crimes is first explained in the Cybercrime Law.

This includes making changes to the legislation which defines 'hate crimes' clearly and specifically within the law.

1. Removing the exception for "public communications.

2. Changing the wording of the Exception for Public Communications to: "Public Communications (excluding the Internet)."

This measure has the potential to provide a number of benefits including increased freedom of expression through the abolition of financial penalties and the prohibition of the use of imprisonment against journalists. Furthermore, it would increase awareness of the importance of preventing hate crimes or defamation, especially for those who are not legally aware of the legal implications of their work, many journalists and media workers (Al-Raie, 2022).

3. Modifying and updating legislation

The laws need to be amended to give protection to individuals against defamation which is a distinct crime from libel, slander, contempt, the spreading of false information and character assassination.

4. Educating Society

It is important that public awareness campaigns make it clear that there are differences between a hate crime and other types of crime, defining the boundaries.

The training of journalists and media personnel;

Programs should be designed to raise awareness of risks to journalists and media personnel of defaming people and hate crimes. These programmes should be in accordance with the Cybercrime Law and should highlight the need to protect freedom of expression, which is provided for in the constitution of Jordan, particularly in Article 15, which stipulates that every Jordanian shall have the right to express his opinion freely within the limits of the law.

Journalism and media are common venues for hate crimes. But the problem isn't the shape of the media companies. The main problem, in the view of the researcher, is the people who are publishing, be they journalists or activists in the digital space. In case a journalist commits any such crime in his digital platform such as Facebook, Twitter etc., he is held responsible according to the provisions of the "Press and Publications Law" instead of general laws.

Others hold that such laws are not necessary because these acts are included in general statutory laws like Jordanian Penal Code and Cybercrime Law. Others feel that the provisions of the "Press and Publications Law" should be for application only to journalists and media professionals, irrespective of the media institution they are employed with. They call for tougher monetary sanctions and abolition of imprisonment as a punishment. According to this understanding, journalist will be understood those defined by Jordanian Journalists Association Law and "Press and Publications Law".

Article 18 of the Jordanian Journalists Association Law is applicable in case the offender is not registered as a member of the association, which represents the journalists in Jordan This article states:

- **a.** non-practicing journalists or those not defined by Article 9 of this law are prohibited from corresponding with foreign press outlets or presenting themselves as journalists or using any title that implies such status. Prohibited are use of words or phrases suggesting the journalistic role to advertising, publishing or distribution offices, other than those possessing a press publication license.
- **b.** The Association is responsible for issuing press cards based on its records.
- **c.** Violators of paragraph (a) shall be penalized with a fine ranging from 200 to 500 dinars, imprisonment for a period of one to three months, or both. Offending again will lead to double the penalties

The researcher proposes to revise the "Press and Publications Law" to completely clarify the duties of journalists and also to introduce financial sanctions for the violation of this law. This amendment would reinforce press freedom and provide journalists with a special law to regulate the press and the media profession, called "Press and Publications Law."

If not a member of the association, then general statutory laws, including the Penal Code, Cybercrime Law, Telecommunications Law and other relevant laws should apply. These offences would no longer be classed as media-related offences, be it using a traditional or non-traditional media platform.

The Third Section: Civil Remedies for Damages Caused by a Hate Crime:

The purpose of civil liability is to make a person who has been harmed "whole. This is done by giving the victim compensation for any damage done because of the bad deed done by the wrongdoer. In the legal sense compensation is meant to compensate the injured party for the harm suffered and includes losses incurred and lost opportunities as long as they are directly caused by the harmful act.

In order to receive compensation, three elements must exist: fault, harm and the connection between the harmful act and the resulting damage. Hate crimes may inflict harm upon others, whether it be material or moral. For the purposes of this study, these crimes (which occurred through the use of digital platforms, social media and websites) are considered to be electronic faults, defined as an unlawful act committed by an individual or group in which the medium is a computer or the internet (Al-Masri, 2017).

The key starting point to finding a perpetrator is harm, which is the unquestionable cornerstone of liability. The degree of harm depends on the extent of the harmful action, such as death, harm to honor/dignity, or damage to property.

Therefore, the injured party is entitled to compensation for damage because of the damage suffered, either material or moral (Tmaizi, 2024). The nature of electronic harm is different because of the relationship with current technology and technical needs.

With respect to causation, it means the causal connection between electronic failures and the harm that ensues. This relationship is overcome by the action of a third party, the injured party's negligence or the injured party's own negligence. The process of establishing causation in electronic situations is very complicated, both because of the technical difficulties involved, and because of the difficulty in proving electronic crimes.

There are several reasons why electronic crimes are difficult to detect. They are frequently difficult to detect without technical skills and an offender can have advanced skills to carry out these acts, leaving little trace. Digital tools are also very technical tools that are part of information systems and their use, in order to uncover criminal activities, needs high level tracking techniques.

Electronic crimes can also be committed in one jurisdiction, and then their effects experienced in another jurisdiction, or at a different time which makes it difficult to establish the harm. A large number of crimes occurring with the help of advanced technology can be hard to prove, and a specific set of tools is required for evidence collection. One such system is artificial intelligence, which is being used by countries such as the UAE, the UK, the USA, China and Estonia to address complex digital issues. These systems could investigate, gather evidence and find a wrongdoer without the assistance of people and get exact results.

There is no doubt that if a wrongdoing has occurred and caused harm to another, the injured party is entitled to be compensated. Article 256(1) of the Jordanian Civil Code states that "even if the harmer is not fully capable, he shall still be liable for damages. Important to note is that compensation for harm is different from the criminal punishment that is meted out against hate crimes. The purpose of compensation is to compensate the victim of the harm, and the purpose of criminal penalties is to generally and specifically deter the offender. There is no formula for the assessment of damages and it is left to the discretion of the judge.

Conclusion

The study investigated the legal regulation of the new media and digital platforms hate crimes in Jordanian criminal laws. It also studied the Penal Code and the Cybercrime Law and came up with the following findings and recommendations:

The study explored the relationship between the right to freedom of opinion and expression guaranteed in the Jordanian Constitution and the provisions on hate crimes in the new Cybercrime Law No. 17 of 2023, particularly in light of the high level of technological and electronic progress that has taken place in the world. It also acknowledged the spread of hate crimes via digital channels and news outlets, due to the easy and rapid exchange of information. The study ended with the following findings and recommendations:

Results

1. Jordan's legislature added a section to its Cybercrime Law No. 17 of 2023 to cover hate crimes using digital and electronic means.
2. Although other crimes are available, the Jordanian legislature failed to define the concept of hate crime or distinguish it from other crimes.
3. Hate crimes are not the same as defamation, slander and insult crimes, which are clearly defined in the Penal Code. Jordanian legislator defines defamation, slander and insult crimes in the Jordanian Penal Code.

Recommendations

1. The study calls for the amendment of article (17) from the Jordanian Cybercrime Law, to explicitly define the acts of hate crimes.
2. The study recommends to revise Article 2 of the Jordanian Cybercrime Law to clearly define hate crimes.

The study suggests that the legal framework for hate crimes should be clearer to prevent the confusion between hate crime and other crimes, including defamation, slander, insult, and other crimes of similar or overlapping meaning.

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