

Responses to Information Requests - Immigration and Refugee Board of Canada

26-33 minutes

Jordan and the United Arab Emirates: Treatment of divorced women, including those living with their ex-husband, by family members and society; information on honour-based violence, including state protection (2015-August 2017)

1. Divorced Women

For information on divorce in Jordan and in the United Arab Emirates (UAE), including requirements and procedures, please see Response to Information Request ZZZ105954 of 6 September 2017.

1.1 Jordan

Sources indicate that women in Jordan face legal discrimination in a number of areas, including divorce and child custody (US 3 Mar. 2017a, 34; Freedom House 2016). Human Rights Watch adds that "Jordan's personal status code remains discriminatory, despite a 2010 amendment that included widening women's access to divorce and child custody" (Human Rights Watch 12 Jan. 2017).

The information in the following paragraph was provided by a professor at Georgetown University specializing in gender-based issues in Jordan in correspondence with the Research Directorate::

Treatment of women by family members and society in Jordan "depends on class and region." Historically, "being divorced was stigmatized, and for many communities this continues to be the case." The children of divorced women may also be stigmatized or poorly treated. "[I]n many communities, if a woman is divorced she must return to live in her natal home with a male relative, and in some instances her own family will refuse to allow her to take her children with her, leaving these children vulnerable to abuse" (Professor 28 Aug. 2017).

The information in the following paragraph was provided in correspondence with the Research Directorate by a manager at the Sisterhood is Global Institute/Jordan (SIGI-JO), an independent and not-for-profit NGO established in 1998 that advocates for the rights and empowerment of women and girls in Jordan (SIGI-JO 28 Aug. 2017):

Divorced women experience difficulties within their families "as a result of the prevailing social culture, which has a condemnation and accusation view of divorced women, making their movement restricted and linked to the consent and approval of the family." Divorced women from low-income families may be seen as an "economic burden, especially if they are joined by their children"; this has "catastrophic effects, especially in traditional and rural communities" and/or when they are uneducated and unemployed (SIGI-JO 28 Aug. 2017).

Regarding divorced women living with their ex-husband outside the bonds of marriage, the same source further stated:

SIGI-JO does not have any information about divorcees who live under the same roof with their ex-husbands, as this is contrary to Islamic law, customs and traditions. The most common behavior is that the wife leaves the marital house as soon as the divorce takes place, although the Shari'a allows a divorced woman to stay in the marital home until the end of the "Edda" (the shari'a gives the divorced woman 3 months of Edda where her husband can return to her). However, social customs go toward her leaving her home immediately after divorce. (SIGI-JO 28 Aug. 2017)p>

SIGI-JO also notes that divorced women may be "exposed to a variety of social and family pressures," including:

- Threat of deprivation of children;
- Threat of use of violence if she misbehaves or had a sexual relationship without marriage, or if she had an affair with another man even without any sexual relationship;
- Accusations of bad behaviour and misconduct;
- Extortion in order to seize her salary, inheritance or money;
- Threat of forcing her to marry a person who she does not want to marry, or who is much older than her (coercion to marry);
- Exploitation, especially sexually or financially;
- Threat of forcing her to leave work (if she is working) or education (if she is studying);
- Restricted movement;
- Exposure to social stigma as a divorcee;
- Psychological and emotional stress. (SIGI-JO 28 Aug. 2017)

1.2 United Arab Emirates (UAE)

A 2015 report by the UN Committee on the Elimination of Discrimination Against Women (CEDAW) [1] notes that in the UAE there are "numerous provisions of the Personal Status Law that discriminate against women and girls," including restrictions in the area of divorce (UN 24 Nov. 2015, para. 45). Similarly, a 2014 report by the Social Institutions and Gender Index (SIGI) with the Organisation for Economic Co-operation and Development (OECD) [2] describes the UAE's family code as "[d]iscriminatory" (SIGI 2014b, 1). Citing academic and UNICEF sources, the report explains that while men have the right to "unilaterally" divorce or "repudiate" their wives, women seeking a divorce are limited to a "very narrow range of reasons," or they can forfeit their dowry (SIGI 2014b, 2).

Further information on the treatment of divorced women in UAE could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2. Honour-Based Violence (HBV) in Jordan

According to Human Rights Watch, approximately 15 to 20 women and girls are killed every year in Jordan by male family members because they are perceived to have broken social codes and thus damaged the family's (Human Rights Watch 27 Oct. 2016).

In January 2016, the same source further stated that

[n]ews reports indicated that at least 10 women and girls were killed by male family members in 2015, including a woman shot four times by her father after leaving her family home and reportedly having a relationship with a man her family refused to let her marry. Authorities arrested her father at the scene. (Human Rights Watch 27 Oct. 2016)

Freedom House similarly reports that "[a]ccording to a local NGO, at least a dozen honor killings took place in 2015, along with several attempts" (Freedom House 2016). The Associated Press (AP) reports that Jordan's main criminal court "dealt with 39 slayings of women in 2015, including nine labeled 'honor crimes'" (AP 24 June 2017). The US Department of State's *Country Reports on Human Rights Practices for 2015* states that, as of October of that year, seven honor crimes were referred to the judicial system and, as of September, 14 potential honour crimes were reported by NGOs (US 13 Apr. 2016, 30).

According to Human Rights Watch, "[t]he Sisterhood is Global [Institute], which tracks women's rights issues in the country, noted a 53 percent rise in [honor] killings in 2016, with 26 'honor' killings" by October of 2016, compared to 17 in 2015 (Human Rights Watch 27 Oct. 2016). *The Guardian* reports that by December 2016, 38 women had been killed in "honour" crimes in 2016 (*The Guardian* 9 Dec. 2016). AP reports that in 2016, 36 women were killed, including eight "honor cases" (AP 24 June 2017). *Country Reports 2016* indicates that up to September 2016, four "honour crimes" were referred to the judicial system, while "NGOs reported 18 potential honor crimes" (US 3 Mar. 2017a, 32).

Sources indicate that many incidents of HBV go unreported (US 3 Mar. 2017a, 32; AP 24 June 2017). Citing Samar Muhareb, a "director of a legal aid group," AP adds that

[c]ommunities prefer to handle such crimes in tribal arbitration to avoid public shame. "Whenever we see informal justice, it's at the expense of women," Muhareb said. (AP 24 June 2017)

Sources have reported the following incidents of HBV in Jordan:

- On April 15, the prosecutor general charged two men with premeditated murder of their female relative in an apparent honor crime. The men were the husband and brother of the victim. The husband confessed to strangling his wife with the assistance of her brother then burning the body. He told investigators he had to kill her to cleanse the family honor because she often left her husband's home without his approval (US 13 Apr. 2016, 30);
- *Country Reports 2015* states that on "May 5, the Supreme Criminal Court prosecutor general charged a man with premeditated murder of his daughter in an apparent honor crime," noting:
The suspect shot his daughter in front of the Marka district officer's office on May 4 after she had gone missing for a year and a half. The individual suspected his daughter had had a romantic relationship outside of marriage, according to government officials and media reports. The district officer had asked the father to come to his office and sign a pledge that he would not harm his daughter so that she could reunite with her family (US 13 Apr. 2016, 30-31);
- The 2015 killing of a 25-year-old divorced woman by her 17-year-old brother in Muwaqqar; official sources stated that "[f]amily honour is the possible reason for this murder," noting that the woman had been divorced for three months (*The Jordan Times* 18 Oct. 2015);
- Human Rights Watch notes that within one week in October 2016, five women were killed in the name of "family honor," including a 36-year-old mother of three who was "reportedly beaten and strangled in her

home just east of Jordan's capital Amman, allegedly at the hands of her ex-husband" and a 20-year-old woman who was shot by her brother "in the town of Madaba after he reportedly discovered that she had a phone that their family didn't know about" (Human Rights Watch 27 Oct. 2016);

- A young woman "was taken into protective custody after being stabbed 17 times by a brother who accused her of bringing 'shame' to the family for running away from an abusive husband" (AP 24 June 2017).

2.1 State Protection

Sources note that "honour" killings tend to receive lenient punishments (Freedom House 2016; *The Jordan Times* 1 Apr. 2017) compared to other types of murders (*The Jordan Times* 1 Apr. 2017).

Sources indicate that in 2009 Jordan created a special tribunal to deal with honour crimes (*The Jordan Times* 1 Dec. 2016; Freedom House 2010, 3; Human Rights Watch 10 Aug. 2009). *Gulf News* a UAE newspaper reports that this tribunal's purpose is to "speed up trials," impose "harsher sentences for perpetrators," and "provide a unified legal reference" (*Gulf News* 29 July 2009). A 2010 report entitled *Women's Rights in the Middle East and North Africa: Progress amid Resistance*, published by Freedom House, notes that "[i]nvestigations into the murders of women have been expanded and handled more seriously" (Husseini 2010, 12). *The Jordan Times* reported in 2016 that, due to the creation of this tribunal, "perpetrators started receiving prison terms ranging from seven-and-a-half-years in prison to life imprisonment," whereas they had previously received three months to two years (*The Jordan Times* 1 Dec. 2016).

Human Rights Watch reports that, as of 2016, "Penal code articles 98 [3] and 340 [4], which allow reduced sentences for perpetrators of 'honor crimes,' remained in force" (Human Rights Watch 12 Jan. 2017). According to AP:

One provision lightens punishment if a man kills his wife or another female relative for allegedly having sex outside marriage. Another article says a convicted killer could receive as little as a year in prison if he acts in a 'state of great fury resulting from an unlawful and dangerous act' by the victim. If the victim's family drops a complaint, even that one-year minimum can be cut in half. Some perpetrators in Jordan have been jailed for as little as six months for killing a daughter or sister. (AP 24 June 2017)

According to the Director General of the Jordanian Women's Union, as cited in a 2016 article in *The Jordan Times*, another clause of the penal code "allows families to drop charges against perpetrators, which leads to reducing the sentence by half" (*The Jordan Times* 1 Dec. 2016). In April 2017, the same source reported that courts "often reduce sentences because the victims' families request leniency. This is usually the case as members of the victim's family are often complicit in 'honour killings'" (*The Jordan Times* 1 Apr. 2017). 1 Apr. 2017). Similarly, *Country Reports 2016* indicates that

when the victim's family chose not to pursue the case, the government completely dismissed proceedings. In 'honor crime' cases, the family of the victim and the family of the alleged perpetrator were often the same, since the perpetrator and victim usually were related. (US 3 Mar. 2017a, 32-33)

However, AP cites a Jordanian judge as saying that "Jordanian courts have imposed harsher punishment for such crimes in recent years; no convicted killer has received a sentence of less than 10 years in prison since

2010" (AP 24 June 2017). The same source quotes the judge as explaining that "[t]he text of the law hasn't changed, but the interpretation has" (AP 24 June 2017).

In a 2017 document submitted to CEDAW's sixth periodic report of Jordan, Jordan states that "[s]entences handed down in honour-motivated homicide cases, where mitigating circumstances were taken into account, have not been less than imprisonment of 10 years according to data derived from court judgments" (Jordan 11 Jan. 2017, 14).

Country Reports 2016 notes that, at Jordan's Supreme Criminal Court, "cases involving honor crimes in recent years routinely imposed prison sentences of up to 15 years to perpetrators of such crimes," but that the "Cassation Court, which reviews the Supreme Criminal Court rulings, generally decreased the sentences by half" (US 3 Mar. 2017a, 32). The same source also states that the "Supreme Criminal Court issued one ruling on an honor crimes case during the year, sentencing a father to one year in prison for killing his daughter" (US 3 Mar. 2017a, 32).

The Jordan Times reports that on 15 March 2017

the Cabinet adopted reforms by the Royal Committee for Developing the Judiciary and Enhancing the Rule of Law to, among other actions, repeal Article 340 of the Penal Code and prohibit the "fit of fury" defence under Article 98 in relation to crimes committed against females to preserve "honour." (*The Jordan Times* 1 Apr. 2017)

The same source also reports that on 21 March 2017, the Court of Cassation issued a "landmark ruling on honour killings," noting that the ruling "doubled the sentences for two brothers who had killed their sister with poison after she fell in love and fled her home, from 7.5 years imprisonment to 15 for one and from 10 years to 20 for the other" (*The Jordan Times* 1 Apr. 2017). The same article quotes Judge Tarawneh of the Court of Cassation as saying that this ruling "will set a precedent" for how similar cases will be handled in the future (*The Jordan Times* 1 Apr. 2017). AP reports that, on 30 July 2017, the lower house of Jordan's parliament closed the "legal loophole that gave judges the discretion to impose light sentences for so-called 'honor crimes'" on the basis of "severe anger" as a "mitigating circumstance for men who kill female relatives in the name of 'family honor'" (AP 30 July 2017).

Sources indicate that women considered at risk of honour crimes are often jailed in Jordan (AP 24 June 2017; *The Jordan Times* 1 Apr. 2017; *The Guardian* 9 Dec. 2016). The professor stated that state protections for women at risk of HBV in Jordan are "[n]ot effective at all. Women, and sometimes their children, who are threatened with [HBV] are put in prison for their own protection, and can languish there indefinitely" (Professor 28 Aug. 2017). AP quotes "a senior official in the prison system" as saying that "protective custody is often the only solution," explaining that "authorities imprison the female victim rather than potential perpetrators because there are too many male relatives who might hurt her" (AP 24 June 2017). *The Jordan Times* reports that these "women can end up spending years incarcerated without charge. In some cases, family members pledge not to harm them, only to kill them afterwards" (*The Jordan Times* 1 Apr. 2017). Sources indicate that plans to set up shelters to protect women from HBV have not materialized (*The Jordan Times* 1 Apr. 2017; AP 24 June 2017).

According to media sources, religious authorities have also spoken out against HBV (*The Guardian* 9 Dec. 2016; *The Jordan Times* 1 Dec. 2016). *The Jordan Times* further reports that in 2016 Jordan's Iftaa [Fatwa] Department "issued a fatwa prohibiting the murder of women in the name of family honour," stating that it is

"strictly against Sharia for anyone to kill his female relative claiming family honour" (*The Jordan Times* 1 Dec. 2016). The same article also quotes a cleric from the Iftaa Department as opposing reduced sentences for incidents in which "the victim was a relative" or the crime was based on suspicion (The Jordan Times 1 Dec. 2016). AP reports that the "Islamic Action Front, a group of lawmakers affiliated with the Muslim Brotherhood," voted in favour of the 2017 repeal of the "Marry the Rapist" clause 308 of the penal code, citing religious grounds, noting that "[r]eligious law, or sharia, does not condone protecting rapists" (AP 1 Aug. 2017).

2.2 Civil Society Services

The manager at SIGI-JO notes the role of civil society organizations in providing protection for at-risk women:

[C]ivil society and its diverse organizations constitute a framework of protection for women through spreading human rights concepts, raising awareness of women's issues and freedom, raising the awareness of the local community and pressuring towards developing the legislative and political system, and improving services and programs related to women. (SIGI-JO 28 Aug. 2017)

These initiatives include providing "shelter for women and victims of violence, including sexual violence and death threats"; monthly meetings with "decision makers, official representatives, civil societies, and specialists" to discuss "national and regional policies, legislation, strategies and plans that affect the rights of women and girls"; as well as

services provided by SIGI for Women Victims of Violence and Discrimination, in the field of counseling and providing legal, social and psychological assistance. Branches and networks have been established in various parts of the Kingdom to facilitate access to the services of the Association including the Effat Center, Umm Wasfi Center, Aqaba Office and Rumtha Office. (SIGI-JO 28 Aug. 2017)

3. State Protection and Honour-Based Violence (HBV) in UAE

Information on HBV in the UAE was scarce among sources consulted by the Research Directorate.

A 2016 article by *The National*, a UAE newspaper, quotes legal advocate Yazan Al Rawashdeh as saying that "there has been an increase in murder cases, especially those committed by locals and related to 'honour,'" noting that he had "handled three such cases this year" (*The National* 25 Oct. 2016). According to the same source, recent changes to the penal code include that the "maximum fine for people convicted of crimes has been raised to Dh1 million [\$C337,268.00] from Dh100,000 [\$C33,721.00], and to Dh300,000 [\$C101,271.00] from Dh30,000 [\$C10,121.00] for misdemeanours" (*The National* 25 Oct. 2016). *The National* quotes Mr. Al Rawashdeh as stating "[t]he offender thinks to himself, 'I will spend a few years in prison and then get out or get released by a pardon'" and that "steeper fines would be more effective deterrents" (*The National* 25 Oct. 2016

According to *Country Reports 2016*,

The [UAE] employs judicial supervision for individuals considered at risk from relatives committing honor crimes against or otherwise harming them. Judicial supervision typically included housing individuals to provide for their well-being and for family mediation and reconciliation. (US 3 Mar. 2017b, 10)

Article 334 of the UAE penal code provides the following:

Whoever catches his wife, daughter or sister in the act of adultery, and slaughters her, the adulterer or both of them at once shall be punished by term imprisonment; however, if he assaults her or assaults both of them in a manner that leads to culpable homicide not amounting to murder, or which leads to disability, he shall be punished by detention.

A wife who catches her husband red-handed in an act of adultery in the married house, and kills him at once, or if she kills the adulteress, or if she kills both of them, she shall be punished by term imprisonment; however, if she assaults him or both of them in a manner that leads to death or disability, she shall be punished by detention.

The lawful right of private defense may not be used against anyone who takes advantage of such an excuse. (UAE 1987)

Article 56 of the penal code provides the following:

There shall be no crime if the act occurs by exercising the right of private defense. The right of private defense shall arise if the following conditions are fulfilled:

First: If the defender faces immediate danger of a crime against himself, his property, or the person or property of a third party, or if he believes in the existence of such a danger and his belief is based on reasonable grounds.

Second: If it becomes impossible for a defender to resort to public authorities to prevent the danger in due course of time.

Third: If a defender has no other means to repel such a danger.

Fourth: If defense is necessary to fend off the aggression and is compatible with said aggression. (UAE 1987)

Further information on HBV in the UAE could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] CEDAW was established in 1982 and is "composed of 23 experts on women's issues from around the world" (UN n.d.). The Committee "watches over the progress for women made in those countries that are the States parties to the 1979 Convention on the Elimination of All Forms of Discrimination against Women" and "monitors the implementation of national measures to fulfil this obligation" (UN n.d.).

[2] The OECD "promote[s] policies that will improve the economic and social well-being of people around the world" (OECD n.d.). The Social Institutions and Gender Index (SIGI) considers "variables that combine qualitative and quantitative data" through "information on laws, attitudes and practices" to "show how

discriminatory social institutions can interlock and bind [women] into cycles of poverty and disempowerment" (SIGI n.d.).

[3] *The Telegraph* defines article 98 as a "'crime of passion' defence, which is commonly used and gives reduced sentences to those who claim they commit violence in the fury of the moment" (*The Telegraph* 6 Dec. 2009). *The Arab Weekly* notes that article 98 "uses convoluted terminology and obliges judges to give high regard to extenuating circumstances, such as male fits of rage, when handing down sentences" (*Arab Weekly* 8 May 2015). This article can allow for the penalty to be reduced (*The Jordan Times* 1 Apr. 2017).

[4] According to *The Telegraph*, article 340 "allows an 'in flagrante' defence to a man who kills his wife and her lover if he finds them in bed together" (*The Telegraph* 6 Dec. 2009). According to sources, application of this article is uncommon (*The Telegraph* 6 Dec. 2009; *The Jordan Times* 1 Apr. 2017).

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Additional Sources Consulted

Oral sources: Academics specializing in the Middle East; Dubai Foundation for Women and Children; Jordanian Women's Union; Journalist specializing in HBV; Legal consultants specializing in divorce in the UAE; Researcher specializing in gender and human rights issues; UN - UN Women; Women Union Association (UAE).

Internet sites, including: Al Jazeera; Amnesty International; BBC; eci.net; Emirates News Agency; Factiva; FIDH; Global Science Research Journals; *Haaretz*; *Human Rights Quarterly*; IRIN; Jordan – Department of Statistics; Radio France internationale; Radio Free Europe; Reuters; UAE – Information and Services; United Nations – OHCHR, UNHCR, Refworld, UNICEF.