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***THE LEGAL FOUNDATION FOR THE
PREVENTION OF UNNATURAL SEX
BETWEEN SPOUSES IN JORDANIAN
LAW***

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Abstract

Unnatural sex is an anal one. In other words, it is having sex from the back. It may occur unwillingly when the wife doesn't agree to such mating. Such acts result in various harmful health consequences. It is also prohibited under Islamic law and considered one of the Grievous Sins. So, what is the legal characterization of this act? Is it regarded rape, sexual molestation, unlawful sex or premeditated harm?

This research highlights the legal character of unnatural sex among spouses, its medical, legal, and familial impacts under the provisions of Jordanian Penal Code, and the extent of the criminal responsibility arising out of it.

Keywords: Anal sex; penetration; legal provisions; Criminalization; husband and wife; spouse.

1.0 Introduction

This study examines unnatural sex, namely the anal type. It may be carried out by a husband on his wife without her consent, or on a woman who is willing though unlawfully, to do that or on a girl over 18 years old, be a virgin, divorced woman or a widow. This study explores the topic with all its aspects and legal reverberations.

1.1 Significance and Purpose of the Research: To the knowledge of the researchers, this study is the first of its kind in Jordan. Researching this topic is essential for multiple segments of society, especially judges, lawyers, prosecutors, law school professors and students. Despite the importance of this subject, all that is available on it are a few passing references here and there, therefore, the current study aims to fill in this gap. It sheds light on the meaning of unnatural sex, Islamic ruling of it, its harmful consequences on health, and, most importantly, its proper criminal characterization, putting forward relevant suggestions and recommendations .

1.2 Research Problem: What is the correct criminal characterization of unnatural sex?

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1.3 Research Questions: Is unnatural sex regarded rape, sexual molestation, unlawful mating, premeditated harm or something else? What is the true definition of this act? What are its harmful health consequences? What is Islamic ruling of it?

1.4 Research Methodology: The research adopts the analytical approach, under which relevant legal texts and opinions of Islamic scholars are analyzed.

1.5 Research Plan: This study consists of two sections and a conclusion. The first section explores the nature of unnatural sex. It is divided into three sub-sections: the first is dedicated to defining unnatural sex, the second to its harmful effects, and the third to Islamic ruling relevant to it. The second section is titled **The Criminal Characterization of Unnatural Sex**. It is also divided into three sub-sections: the first of which is entitled **The Extent to which unnatural sex can be considered a lawful act**; the second is the extent to which it can be considered as rape, sexual molestation, unlawful sex, or premeditated harm, and the third includes the researcher's views on the criminal characterization of this act. Finally, the research concludes with results and recommendations.

1.5.1 Nature of Unnatural Sex

Sex that is not done the normal way from the front is considered unnatural or perverted. The researchers will discuss this issue through the following three sections:

1.5.1.1 Definition of unnatural sex

1.5.1.2 Its harmful consequences

1.5.1.3 Islamic ruling pertaining it

1.5.1.1 Definition of unnatural sex

Unnatural sex is defined as a sexual relation between a male and a female, married or otherwise, which involves anal, rather than vaginal, penetration.¹ It is also known as penetration through the anus², abnormal and perverted sex, and anal sex³. It can further be defined as a sexual relation between a man and a woman who is lawful for him or otherwise, in which the man penetrates with his sexual organ , fully or partially, woman's anus, irrespective of ejaculation⁴.

Based on the definitions previously stated, it can be noted that they all confirm that anal sex involves penetration through the anus, not the vagina where natural penetration occurs. Undoubtedly, unnatural sex holds true to its name. It is considered unnatural because it actually is, since it occurs contrary to natural human sex which is vaginal. However, penetrating a female anally is perverted, abnormal and contrary to natural disposition of human nature, henceforth, unnatural.

All in all, as the Jordanian penal legislator hasn't defined unnatural sex, nor has he regulated it with legal provisions that designate it as a distinct criminal offence different from sexual molestation, rape, and premeditated harm crimes, the penal legislator is urged to rectify this issue by criminalizing it with a just punishment that deter the public from such acts. This is due to the frequent

¹ Kirah, Shaoqi. [*Sexual Crimes*], (Cairo: Dar Al-Nahda Al-Arabiya, 2008), 289.

² Abdul Munem, Qadri. [*Familial Crimes*]. (Cairo, Dar Al-Kotob Al-Kanonyiah, 2004), 341.

³ Farooq, Fouad Muntasser. [*Crimes Against Females*], (Cairo: Dar Al-Nahda Al-Arabiya, 2002), 252.

⁴ Luka Babawi, Salwa. [*Anal Sex: Between Permissibility and Prohibition. A Comparative Study with Islamic Laws*], (Alexandria: Moncha'at Al-Maaref, 2007), 46-47.

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occurrences of this act by husbands with their wives or otherwise. The husband more often does not force his wife into it, but tricks her into believing that it is legal. He threatens her to carry it out with another woman than her, and if she rejects, he will divorce her and have a new wife.

Moreover, should a wife engage in unnatural sex with a man other than her husband, the husband cannot legally prosecute her or the person with whom she had it, due to the absence of legal provisions that criminalize their actions and because their actions are not regarded

adultery, rape, sexual molestation, or a breach of the marital bond. For unmarried women, their guardians cannot either prosecute them for performing unnatural sex with men for whom they are unlawful, especially if they are over eighteen years of age. In other words, legislative inadequacies are what prevent the prosecution of perpetrators of this act, despite being identical with adultery when it comes to damaging the honor and dignity of the husband or guardian and defaming the family. Consequently, it will be highly valued if the legislator addresses this issue by enacting laws pertaining it.

1.5.1.2 Its harmful consequences

Unnatural sex, the anal one, results in health-harming effects of which few are summarized below¹:

¹ Abdul Baqi, Mohammed. *[Risks and Harms of Natural and Unnatural Sex]*, (Cairo: Dar Al-Kotob Al-Ilmiyah, 2011), 196 .

Ayoub, Hind. *[Sexual Health Controls]*, (Cairo: Dar Mahmoud, 2014), 211 .

- 1. A short while after a penile-anal sex between a male and a female; the victim suffers from, defecation, muscle contractions, and early signs of hemorrhoids.**
- 2. In case of internal anal ejaculation, the female may get an anal human papillomavirus (HPV) infection, which could lead to anal cancer.**
- 3. The female could develop an anal itching condition.**
- 4. The male could get infected with a type of active and fatal coccus bacteria, known in scientific circles to resist all traditional antibiotics.**
- 5. The penetration could cause an often-deep anal fissure in the female's anus.**
- 6. Anal bleeding.**
- 7. Fecal incontinence for the female.**
- 8. Flatus incontinence for the female, which is embarrassing for her and causes her to isolate herself from people.**
- 9. Severe pain in most of the female's body parts, especially the buttocks, back and head.**

Thus, it is evident from the foregoing how grave and serious are the health consequences of unnatural anal sex. It is an undisputed fact that any act becomes harmful when performed in a manner that is contrary to how it was meant to be performed naturally. For example, God created humans with healthy legs to walk on; however, if they persist on walking on their hands instead of their feet, they damage and impair them because their actions are not natural. The same applies to those who abandon vaginal sex in favor of anal.

1.5.1.3 Islamic ruling pertaining unnatural sex

The Jordanian General Iftaa' Department has explained Islamic ruling for people who perform anal sex with their wives, be it consensual or not, by issuing a Fatwa stating that anal sex with one's wife is prohibited in Islam. It is even considered by Islamic scholars one of the Grievous Sins. In fact, the Pious Ancestors referred to this act, regardless of whether it was consensual on part of the wife or not, as Minor Sodomy; the wife must not obey her husband when solicited for it. Evidence of this are the following authentic Hadiths, "Abu Hurairah narrated that The Prophet, Mohammed , (PBUH) said: 'If anyone ... has sex with his wife through her anus, he has nothing to do with what has been sent down to Muhammad (PBUH),'” narrated by Abu Dawood (Hadith No. 3904); "Ibn Abbas narrated that The Prophet said: 'Allah will not look at a man who enters ... a woman in the behind." Narrated by at-Tirmidhi (1165), who categorized it as Hasan-Gharib¹ (authentic version may be found in Ibn Daqiq Al-Id's Al-Ilmam

[No. 660/2]); "It was narrated from Khuzaimah bin Thabit that the Messenger of Allah said: 'Allah is not too shy to tell the truth,' three times. 'Do not have sex with women in their buttocks.'" Narrated by Ibn Majah (1924), and there are many other Hadiths. Now, even though the chain of transmission of many of them may be disputed, they are accepted as a whole body of Hadiths. Even Imam Al-Tahawi stated that

¹ Literally: Good-Unfamiliar. This expression was used by at-Tarmidhi as a categorization for Hadiths that are conveyed by one narrator only and not very well-established but authentic enough to be used as religious evidence.

sayings of the Prophet on this subject are frequent in his book *Al-Hawi* (319/9). Therefore, whoever commits this sin must repent, ask for God's forgiveness and resolve not to repeat it. Divorce does not occur as a result, and expiation is not required, for it is usually required with regards to minor sins, not major ones.¹

It is worth noting that the Fatwa above is in concordance with the Islamic Jurisprudence that there is no severe punishment for anal sex with one's wife. This is because sex with one's wife is lawful; the husband has the right to do it with her. Nonetheless, there has been some sort of contradiction when it comes to the characterization of this act. The prevailing views do not regard it as unlawful sex, except for Abu Hanifa who considers it unlawful and liable to discretionary punishment².

2.0 Criminal characterization of unnatural sex.

The Jordanian Penal Code doesn't include any provision that provides insight into criminal characterization of unnatural sex. This poses the question of whether performing this act with one's wife is legal or not, considering she is lawful for him by marriage. If not, with what crime should the perpetrators be charged: rape, sexual molestation, premeditated harm, or unlawful sex?

¹ Fatwa No. 623, dated 21/04/2010, issued by the Iftaa' Committee and revised by His Eminence the Grand Mufti Sheikh Abdul Karim Khasawneh. Published on the official website of the Jordanian General Iftaa' Department (www.aliftaa.jo).

² Odeh, Abdul Kader. *[Islamic Criminal Code Compared to Positive Law]*, Vol. 2, (Cairo, 1968), 353.

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In light of the foregoing and to identify the proper criminal characterization of unnatural sex, this section will be divided into three sub-sections as follows:

2.1 The extent to which unnatural sex can be viewed as a lawful act

2.2 The extent to which it can be viewed as rape, sexual molestation, unlawful sex, or premeditated harm.

2.3 The researcher's views on the criminal characterization of this act.

2.1 The extent to which unnatural sex can be viewed as a lawful act

Considering unnatural sex as a lawful act means that it is neither a crime nor punishable for a husband who forcibly performs it with his wife, due to the lack of legal texts in full force and effect that regard husband-wife unnatural sex as a punishable crime. In addition, the woman involved with him in this act is his wife, so she is lawful for him, and since vaginal sex with one's wife without her consent is not considered an unlawful sex, by analogy, it will still be legal if the sex is anal, for the wife doesn't have to give her consent to such type of sex. But law neither illegalizes nor criminalizes the act. If non-consensual anal sex with one's wife was criminalized, any sexual act performed by a husband on his wife without her consent (e.g., sexual contact, teasing, kissing, cuddling) will also be considered a crime. This is irrational, unreasonable, and defies

the impulse behind marriage¹. Top of that, vaginal sex with one's wife while the husband is under the influence of alcohol or narcotics is not

¹ Mohsin, Ashraf. *[An Explanation of the Penal Code]*, (Cairo: Dar Al-Nahda Al-Arabiya, 2014), 478 .

criminalized, even if it is without her consent, so why should non-consensual anal sex be unnatural?

Moreover, if the husband performs natural sex with her without her consent when she suffers from a chronic disease or postpartum or menstrual bleedings, his actions are not considered a crime. Likewise, if the sex was through the anus it should not be considered a crime, even if the wife did not agree. This is because the first case is actually more dangerous and painful for the wife¹. Also, the husband has the right to fully satisfy himself sexually with his wife's body². Plus, as the husband's relationship with his wife is lawful, unnatural sex between them cannot be criminalized, due to the absence of legal provisions related to this issue, and due to the fact that the person with whom the man is performing this act is his wife.

The researchers do not agree with these views because the absence of a distinct legal text criminalizing unnatural sex and punishing the spouse who engages into it does not make it lawful. unnatural sex results in pain, severe health impacts, injuries, etc., and inflicting any of these is criminalized. Therefore, the lack of a legal provision in the Jordanian Penal code about this issue with one's wife without her consent does not necessarily mean it is allowable³.

¹ Abdullah, Hasan. *[An Explanation of the Private Penal Code]*, (Cairo: Dar Al-Nahda Al-Arabiya, 2006), 398 .

² Raghib, Mohammed Attia. *[Sexual Crimes in Egyptian Criminal Code]*, (Cairo,:Dar Al-Nahda Al-Arabiya. 1957), 230.

³ Abu Hujailah, Ali. *[Legal Protection of Honor in Positive and Islamic Laws]*, (Amman: Dar Wael, 2002), 235.

2.2 The extent to which unnatural sex can be viewed as rape, sexual molestation, unlawful sex, or premeditated harm.

What is meant here is that unnatural sex is an unlawful act and a crime. The crime could be rape, sexual molestation, unlawful sex, or premeditated harm. Therefore, to identify the extent to which unnatural sex can be regarded unlawful, all types of sexual deviations need to be tackled separately:

2.2.1 First: rape as unnatural sex:

Rape is defined as a full sex carried out by a man on a non-consenting woman¹; it is the unlawful penile penetration of a female's vagina against her will². The elements of rape are the following:

1. **Physical element:** this refers to the actual sex; a copulation between a man and a woman.³
2. **No-consent element:** fulfilled when the perpetrator engages into sexual intercourse with a woman other than his wife against her will, while she is under physical or moral duress; if she consented as a result of fraud, deception or misinformation

¹ Hosni, Mahmoud Najib. *[An Explanation of the Penal Code – The Private Section]*, (Cairo: Dar Al-Nahda Al-Arabiya, 1986), 527.

² Tantawi, Ibrahim Hamed. *[Honor and Public Modesty Crimes]*, (Cairo: Dar Al-Nahda Al-Arabiya, 2004), 10.

³ Nmour, Mohammed Saeed. *[An Explanation of the Penal Code: The Private Section. Vol.1: Crimes Against Persons]*, (Amman: Dar Al-Thaqafah, 2008), 196.

which nullifies her consent; while she is sleeping, unconscious, unable to make her mind or when she is underage, 18 years old¹

3. Moral element: This looks into the criminal intent in general, which is based on the perpetrator's knowledge and awareness that the female with whom he is performing this act is not his wife ,nor is she consenting to the sex, yet he still commits this act out of his own free will².

By projecting the concept and elements of rape into unnatural sex, it is clear that this act is not rape because, legally, rape cannot be carried out by a husband against his wife. Also, rape involves vaginal sex not anal which is an unnatural kind of copulation.

2.2.2 Second: Unnatural Sex as unlawful sex:

Unlawful sex is defined as a natural sex between a male and a female who are not bound by a marriage contract, in other words, between a man and a woman who is unlawful for him³. It can also be defined as full unlawful copulation between a man and a woman not married to him⁴, or as coitus between a man and a consenting woman other than his wife⁵. By presenting the concept of unlawful sex as unnatural one, this act cannot be considered unlawful because legally, unlawful cannot

¹ See Article 294/1 of the Jordanian Penal Code No. 16, dated 1960.

² Mostafa, Mahmoud Mahmoud. [*An Explanation of the Penal Code: The Private Section*], (Cairo University Press, 1984), 317.

³ Srour, Ahmed Fathi. [*The Penal Code: Private Section*], (Cairo: Dar Al-Nahda Al-Arabiya, 1979), 556.

⁴ Jordanian Court of Cassation, in its penal capacity, ruling No. 739/1997, dated 08/03/1998, Adalah Center publications.

⁵ Abu Hujailah, Ali. Previous source, 35.

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be carried out by a man with his wife. Plus, it only occurs consensually and involves vaginal, rather than anal. Hence, unnatural sex is not an unlawful one.

2.2.3 Third, unnatural sex as sexual molestation:

Sexual molestation can be defined as the grave intentional violation of the victim's modesty through an action performed on his/her body that involves contact with his/her genitals¹. Another definition is that it is a deliberate disgraceful offense to the victim's body against his/her will, which comes into direct contact with his/her genitals².

It consists of a physical element that involves any action against the victim's body and genitals that violates his/her modesty by uncovering and/or coming into direct contact with his/her genitals.

It also has a moral element that looks into the general criminal intent which requires knowledge and will; meaning, the perpetrator knows that his actions attack the victim's dignity, but he still commits them out of his own free will³.

By elaborating on the concept and elements of sexual molestation into unnatural sex, it is clear that such a thing can not be regarded sexual molestation, for if engaging into sex with one's own wife through the anus was to be considered sexual molestation under the pretext that in doing so, the man would be carrying out an act against his wife's body that involves coming into direct contact with her

¹ Hosni, Mahmoud Najib. *[An Explanation of the Penal Code – The Private Section]*, previous source, 545.

² Tantawi, Ibrahim Hamed. Previous source, 64.

³ Nmour, Mohammed Saeed. Previous source, 223 . Also see Articles 296-298 of the Jordanian Penal Code.

genitals, it follows that he will also be committing sexual molestation if he undresses his wife against her will and touches her genitals, or has a sexual interaction with her inside the marital home. This sounds logically illegal.

It is worth mentioning that some views of Islamic jurisprudence¹ which claim that natural sex is the only type of sex permitted to the husband by marriage contract. Hence, if he performs sex with his wife in an unnatural way without her consent, he is charged with sexual molestation. This implies that the husband's right to sex with his wife is restricted to acts that are not harmful to her. Otherwise, all forms of sexual contact by the husband are prohibited. The marriage contract does not permit the husband to engage into anal sex, and his relationship with his wife should be based on respecting her modesty, regardless of any sexual drive .

Other views in Islamic jurisprudence that support considering anal sex without wife's consent as sexual molestation², added that if a

¹ Refer to:

- Abu Amer, Mohammed Zaki. [*Legal Protection of Honor in Modern Legislation*], (Cairo: Al-Faniyah Printing & Publishing, 1985), 105.
- Awad, Awad Mohammed. [Perpetrator and Victim in Carnal Knowledge Crimes: A Comparative Study Between Egyptian and Libyan Laws], *Benghazi University Legal Studies Journal* Vol. 3, (1984): 34.
- Shamsuddin, Ashraf. [Legal Protection of the Right to Safeguarding Honor]. PhD Thesis, Cairo University – Faculty of Law, 1995: 164.

² Refer to:

- Hosni, Mahmoud Najib. [*An Explanation of the Penal Code – The Private Section*], previous source. 385.

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husband had anal sex with the consent of an underage wife, he is still committing sexual molestation because it is still considered non-consensual.

On the basis of what has been clarified above, researchers do not agree with these arguments. In arguing that sex between spouses must not be harmful to the wife, such a jurisprudence has limited harming her to being only through anal sex despite the fact that there are variety of acts that are harmful for her other than anal sex. It could be through vagina during her postpartum or menstrual period or when she is sick or nearing labor. In all these situations, sex harms her so the pretext behind this view is too weak and unsubstantial to justify the consideration of anal sex being a molestation.

It is noteworthy that the Jordanian Court of Cassation has ruled against regarding anal sex between spouses as rape or sexual molestation, holding that Article 290 of the Penal Code is not applicable to husbands who have sex contrary to nature with their wives. Its applicability is restricted to sexual molestation crimes committed by a

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- Tantawi, Ibrahim Hamed. Previous Source. 85.
 - Al-Nimr, Yazan. [*Honor Crimes in the Egyptian Penal Code*], (Cairo: Arab Encyclopedia House, 1984), 312 .
 - Al-Thahabi, Edward Ali. [*Sex Crimes*], (Cairo: Al-Raaye Printing & Publishing, 1997), 132 .
 - Mohsin, Abdul-Aziz. [*Legal Protection of Honor in Islamic and Positive Laws: A Comparative Study*], (Cairo: Dar Al-Nahda Al-Arabiya, 1989), 320 .

person against another while they are not bound together by marriage¹.

Clearly, this ruling is consistent with what we have concluded.

2.2.4 Four, unnatural sex as premeditated harm

Premeditated harm may be a felony, depending on its consequences. However, be it a felony or a misdemeanor, the physical element of premeditated harm consists of battering, wounding and injury². The first can be defined as any act that damages the tissues of the human body without teasing them, such as pushing, pressing or striking. Battering may be direct (e.g., kicking or punching) or indirect (when the perpetrator uses a tool such as club, rock, hammer, etc.). On the other hand, wounding is when the body tissues tear due to the damage inflicted upon them³. This could be done with a sharp object or with teeth, fingernails, etc. Injury is any act that damages the human body, but cannot be classified as battering or wounding. Examples are exposing a person to harmful or burning solar radiation, foul odors, or toxic or harmful vapors. By projecting the concept of wounding under premeditated harm into unnatural sex, it can be argued that penetrating a woman through the anus by her husband without her consent makes this act a premeditated harm crime in the form of wounding if it results in an injury. If it doesn't, it can be considered battering since it damages the tissues of her body, particularly, anal tissues.

¹ Jordanian Court of Cassation, in its penal capacity, ruling No. 60/1954, dated 01/01/1954, Adalah Center publications.

² See Articles 333-353 of the Jordanian Penal Code.

³ Al-Saeed, Kamel. *[An Explanation of the Penal Code: Crimes Against Persons – A Comparative Study]*, 5th ed. (Amman: Dar Al-Thaqafa, 2001), 68 .

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Therefore, it can be said that whenever unnatural sex is carried out by a husband on his wife without her consent which results in damaging or tearing her body tissues, this act is considered premeditated harm, as long as there is no legal provision enacted for unnatural sex. Even punishment of such a crime is lenient; it is no more than one year of incarceration or a fine of one hundred Jordanian dinars¹.

It is worth mentioning that criminal conciliation courts consider anal sex with a non-consenting woman premeditated harm².

3.1 Researchers' views on the criminal characterization of unnatural sex

Before plunging into researchers' views on criminal characterization of unnatural sex, the following points should be noted:

First, A man may catch his wife in the act of anal sex with another man, or the wife and the man with whom she had anal sex may admit the act.

Second: A woman may catch her husband in the act of anal sex with another woman; the husband and the woman he had sex with may admit having unnatural sex, with him as well.

Third: A virgin, widow, or divorcee may be caught in the act of having anal sex.

In this case, from a legal perspective, the husband cannot prosecute his wife or the man with whom she engaged in anal unlawful sex, since it is not considered as such; as the unlawful only be

¹ See Article 2 of the Jordanian Penal Code.

² Article 334 of the Penal Code.

applicable in their case if the penetration was genital, i.e., through the vagina not the anus.

The same goes for the wife, in that whenever her husband has anal sex with a woman other than her, she cannot prosecute them for unlawful sex, as their actions are not legally regarded so. The husband also cannot prosecute whoever has unnatural sex with his consenting wife for sexual molestation, rape, or breaching the marital bond, especially if the wife was over eighteen years of age, not suffering from any physical, psychological or mental impairment or disability, and was penetrated with her full consent. This is because the elements of rape, sexual molestation and breaching of the marital bond do not apply at all to unnatural sex.

Moreover, due to the lack of legal provisions allowing him or her to do so, the guardian of a virgin, widow or divorcee cannot prosecute her or the man who had anal sex with her if she is over eighteen years of age and does not suffer from any physical, psychological or mental impairment or disability, as the act was done with her full consent.

Fourth: It is not reasonable to view vaginal sex between a wife and a man other than her husband as a defilement of marriage and adultery on her part, whereas anal sex with a man other than her husband isn't either. The same applies to the husband whenever he engages in this act with a woman other than his wife.

We do not see much difference between vaginal and anal unlawful sex: both entail moral decay.

Fifth: It is unreasonable that it is not a defamation of a guardian's honor if a woman under his or her care engages into unnatural sex, whereas, if she has vaginal sex, it is.

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Sixth: Is it unlikely that a woman may have anal sex with a man other than her husband to escape punishment, as her actions cannot be regarded as unlawful? The same goes for a man who does it with a woman other than his wife, and for girls who are of age, widows, and divorcees.

Seventh: Is it, fair and compassionate that a husband who has anal sex with his wife without her consent receives a trivial penalty (i.e., a minor punishment of no more than one year and no less than one week jail, or the judge may only charge him a fine of five to one hundred Jordanian dinars.

Eighth: Viewing the current state of criminal conciliation courts in the Hashemite Kingdom of Jordan, it is rare for the final medico-legal report to include a period of incapacitation that exceeds ten days for a wife who was penetrated anally. Consequently, the judge does not take into account the obscenity and gravity of this act; he only abides by the period of incapacitation. If this period is fewer than ten days, it is inconceivable to have him sentence the husband to more than one-week imprisonment or charge of not more than ten Jordanian dinars¹.

On this subject, the researchers wish to mention that the established penalty of premeditated harm does not achieve the purposes behind punishing the act of unnatural sex.

Ninth: Even though the punishment for unnatural sex is not effective, it is still preferable to leave it unpunishable.

¹ The non-publication of the conciliation court rulings and the private nature of unnatural sex among spouses prevented the obtainment of these rulings and the referencing of their numbers, but this is the situation we currently experience in these courts.

Tenth: In light of the absence of legal provisions that regard unnatural sex an independent, stand-alone crime, it must be regarded a premeditated harm.

Based on all the above, the researchers urge the legislator to:

Deem unnatural sex as an independent, stand-alone crime that can be perpetrated by a husband whenever he does it with his wife against her will , without her consent, or with a woman other than his wife. It can also be perpetrated by a wife who does it with a man other than her husband, and any virgin, divorcee, or widow over eighteen years of age. The punishment for this crime has to be deterrent and preferably the molesters should be imprisoned for not less than three years.

4.0 Conclusion

This study addressed the topic of unnatural sex and came up to the following conclusions:

- 1. Anal sex is the penetration of a woman through her anus, with or without her consent, by her husband or otherwise.**
- 2. Unnatural sex, i.e., anal penetration has various harmful health impacts.**
- 3. Islamic ruling on unnatural sex is that it is prohibited and considered one of the grievous sins. Whoever commits it must repent, ask for God's forgiveness and resolve not to repeat it.**
- 4. Unnatural sex is not considered rape, sexual molestation, unlawful sex, or a breach of the marital bond. Taking into**

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account the current lack of proper legislation, it can be regarded premeditated harm.

5. When a wife has consensual unnatural sex with a man other than her husband, the latter cannot prosecute either of them. When a husband has consensual anal sex with a woman other than his wife, she cannot prosecute either of them. When a consenting woman over eighteen years of age, be she virgin, widow, or divorcee, gets anally penetrated, her guardian cannot prosecute her or the man who did the act ,due to the absence of a legal text criminalizing such an act.

5.0 Recommendations:

The penal legislator is urged to criminalize the act of unnatural sex in distinct independent provisions. These provisions shall define this concept, explain that the crime applies to: a husband who engages with his wife against her will, or with a consenting woman other than his wife, or a wife who does it willingly with any female who carries out this act consensually giving the right to her guardian to prosecute her. The punishment should deter perpetrators of such kind of sex not less than three years in jail . Finally, filed complaints for this act should be accepted and given ruling within three months, but rejected if two years elapsed.

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