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Tribal Law at the Crossroads of Modernity: A Study on Jordanian Attitudes towards Jalwa

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Tribal Law at the Crossroads of Modernity: A Study on Jordanian Attitudes towards *Jalwa*

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Abstract

This research aims to examine Jordanian attitudes towards the tribal law practice of *Jalwa* and its recent reform. The study specifically focuses on the role of modernization in shaping these attitudes. Historical literature and social constructivist theories are used to inform and contextualize this approach. To measure modernization's impact, a two-dimensional framework was developed that compares opinions across generations (isolating change over time) and across region of upbringing (change over space). Subsequently, there are two hypotheses guiding this research. The first argues that youth see *jalwa* less favorably than the older generation and thus lend greater support to the reform. The second argues that citizens who grew up in urban areas see *jalwa* less favorably than those from rural areas, also making them more likely to support the reform. The results of this study do not support the first hypothesis but do support the second. These findings suggest that the impact of modernization in the context of *jalwa* reform may be more apparent across space than across time. The paper explores the significant practical and theoretical implications of these findings while taking into consideration underlying themes within the research. Ultimately, this study chronicles Jordan's journey towards reconciling tribal traditions in the 21st century.

Keywords: ethnicity, development studies, law

Introduction:

At the drop of a *shabriyah* knife, three generations of family flee their homes. As they move farther away, they fade into the darkness of the night. With nothing more than a few clothes and some loose cash, they must take refuge in an enemy tribes' land. It is there that they establish a new life. Because they are unable to return to their old village, children drop out of school and adults quit their jobs. They can only come back to their homes once an *atwa* (a peace agreement) is made, which can take months, years, or forever. This is their punishment for being related to a person who committed a serious crime. This is the Jordanian tribal practice, *jalwa*.

However, *jalwa* is much more than the frightening story illustrated above. It is a practice that is credited for saving hundreds of lives every year. It is a tradition that has protected vulnerable relatives of the wrongdoer's family from revenge killing for centuries, well before Jordanian state was established in 1946. *Jalwa* restores peace in communities and creates space for psychological healing. The practice contains moral lessons on respect, self-awareness, and the value of life. The tribal tradition has deterred violent crimes for years, making Jordan a very safe country. So how does one reconcile the cost and the benefits of this controversial tradition?

This research paper explores the aforementioned question, examining Jordanians attitudes towards *jalwa*. My interest in studying tribal law arose after taking a Middle Eastern Politics class with Dr. Katherine Carroll, who has worked extensively in the field. She framed the field's importance within the context of American intervention in the Middle East and how the lack of knowledge regarding tribal law hurt efforts abroad. She made clear that western political actors often overlook tribal law but it is critical to

understand because it can foster more effective cross-cultural exchanges and international policy decisions. When I eventually came to Jordan, I conducted preliminary research on Jordanian tribal law and found a series of fascinating news articles speaking on *jalwa*. I then had the great opportunity to discuss the practice with a Sheikh from the southern badia (a rural area in Jordan). This ultimately solidified my interest in pursuing the topic as independent research.

The study specifically focuses on how this practice is seen in the context of Jordan's modernization. With increasing urban populations, ethnic diversification, western-style education, and technology that connects the globe, the country today is far from the nomadic, tribal society it was just a few decades ago. This has had a major impact on legal practices here. One result was the establishment of Jordan civil courts in 1951 and the formal abolition of tribal law a couple decades later in 1976. While most of tribal law is no longer practiced, the procedure of *jalwa* still continues, applying only to the crimes of murder, rape, and assault with a deadly weapon. The intention behind allowing *jalwa* practices to continue was to ease tensions between people of the same tribe or people that live in the same area.

Societal transformation has now even encroached on the use of *jalwa*. Historically, the practice mandated that all those related to the 5th paternal grandfather of the criminal would have to leave their homes. In 2016, the Jordanian government amended the *Crime Prevention Law*, so that three generations of family would participate in *jalwa* (Halasa, 2016). Then in early April 2018, when this project started, another law passed reforming the practice so that only the immediate family would be displaced (Ardaniat, 2018). When

this occurred, it became clear to me that the relationship between modernity and tribalism is a lasting area of negotiation in Jordanian society.

Encouraged to learn what sparked the recent changes and how people thought about it, I shifted the focus of my research to capture how people thought about the tribal law reform while it was happening. Subsequently, the paper discusses a developing nation's complicated journey towards modernity through the lens of traditional legal practices. The study measures the impact of modernization by breaking the term down into two dimensions: generational and regional. These dimensions were carefully chosen based on their respective units of measurement, time and space. Indeed, modernization can occur over time, where normative structures are present in one generation but not the next. Modernization can also occur over space, where one region is more developed than another. The regional variable measures whether participants' hometown is rural or urban; the focus is on hometown because the formative years of perceptual development occur in childhood. Analyzing perceptions according to these dimensions allows us to find and compare opinion patterns that are rooted in societal transformation. Broadly, this structure highlights the varied manifestation of modernization in Jordan.

Ultimately, this research is important because it is critical to understand how countries like Jordan can forge policies and political agendas that help modernize society while staying true to traditional practices. Indeed, many developing nations across the world are tasked with this same challenge of balancing the old and the new. This study gives insight on how Jordan has managed this challenge and how citizens feel about it. The data presented in this study is particularly valuable for Jordanians because it displays a variety of local opinions, some of which would never be heard in important political

meetings. Having a citizen-based orientation, the study highlights numerous considerations that may aid future policymaking processes and allow for more informed decision-making. Furthermore, this research is beneficial to academic literature because, unlike most papers, the sharp focus on *jalwa* provides an in-depth analysis of the practice and the public's opinion of its reform.

Hypotheses:

There are two main hypotheses guiding this research:

1. The younger generation will view *jalwa* less favorably than the older generation, and will be more supportive of its reform
2. People from urban areas will view *jalwa* less favorably than people from rural areas, and will be more supportive of its reform

Theoretical Framework:

The theoretical framework guiding this research was social constructivism. The central argument in this theory is that social interactions are critical to all transformation, whether that be the transformation of our worldview or of the world's institutions. This theory was chosen because of its broad application to both the field of political science and psychology. The research topic seeks to bridge these two fields through analyzing the interaction between perception and policy change; thus, I thought it was fitting to use a theory that engages with this relationship. The works of psychologist Lev Vygotsky and political scientists Finnemore and Sikkink are used to discuss the research findings.

In the realm of psychology, Lev Vygotsky was a leading thinker of social constructivism. In his book “Mind in Society”(1978), he argues that socialization is critical to cultural development, particularly during childhood. He states that development is first prompted on a social level and then in manifests on an internal, individual level. In the context of my research, Vygotsky’s social constructivism suggests that socialization is key to understanding how people perceive tribal law. The emphasis Vygotsky placed on the formative years of childhood specifically inspired my second hypothesis’ focus on region of upbringing.

Social constructivism can also be applied to the political context through the literature of Finnemore and Sikkink. In their book “International Norm Dynamics and Political Change” (1998), the authors write that a core tenant of their social constructivism is that all key institutions in states are intersubjective norms. This means that institutions exist because people agree that they do, not because they exist ontologically. Acknowledgement and obedience to the institution is what gives the institution itself power. In the context of my research, Finnemore and Sikkink’s theory suggests that tribal law prevails because people continue to believe in it and give authority to the people involved in it.

Literature Review:

To start contextualizing the study, I set out to find literature rooted in societal modernization. This approach was developed based on my theoretical framework, social constructivism, which focuses on the transformation process. The search presented many

books and articles discussing the dramatic demographical shift Jordan has experienced in recent decades. One of the most prominent works in this field was Yoav Alon's "The Making of Jordan: Tribes, Colonialism and the Modern State" (2009). In the book, Alon artfully describes how the area of Transjordan was primarily made up of Bedouin nomads living in rural areas (the *badia*) before the state was created. Society at that time was based on tribal structures that operated under guidance of sheikhs. When the Jordanian state was established, the tribes were strategically absorbed into the political system, becoming some of the kingdom's most loyal followers. Since then, most of the population have become now settled urban-dwellers. In 1960, 49% of Jordan's total population lived in rural areas; as of 2017 that number has decreased to 16% (Hindle, 1964). In addition to this, the protracted conflicts surrounding the country have led to an influx of refugees, making Jordan incredibly diverse. According to a 2016 report from the Department of Statistics, nearly a third of the nation's population are non-Jordanians, not including the Palestinian refugees who were granted citizenship. As a result, Jordan residents are living in a new age, where they interact with a variety of people and plethora of perspectives daily.

This demographic change has shifted academic attention to the relationship between the modern state and the cultural practices that predated it. In her article "Seeking Justice: Tribal Dispute Resolution and Societal Transformation in Jordan" (2014), Dr. Jessica Watkins discusses the impact of modernization on traditional modes of conflict management. She examines how tribal dispute methods have managed to prevail in the state, finding that "it is the interaction of top-down policies and bottom-up practices across multiple spheres that is constantly reinscribing the significance of tribal dispute management in Jordan across various contexts" (p. 2). Highlighting the often-overlooked

role of the state in the preservation of tribal practices, her account describes how the observance of traditions is bilaterally enforced. This nuanced argument hints at the complex relationship between tribalism and modernity.

While state cooperation seems to exist in tribal dispute procedures, people are polarized on whether that is good or bad for the country. In the context of *jalwa*, some legal scholars and Non-Governmental Organizations argue that the practice is harmful and should have no role in the modern state. The Arab Renaissance for Democracy and Development, an NGO headquartered in Amman, takes this particular stance. In an article entitled “AARD- Legal Aid Paper on Tribal Law in Karak”(2016), the organization unequivocally condemns *Jalwa* in response to its usage. AARD argues that *jalwa* is a form of redistributive justice that violates human rights and undermines Jordanian rule of law. The paper also refers to Islamic Sharia law in its condemnation, citing the passage of Surat Al An’am 6:164: ‘No soul earns anything except it is upon itself, and none shall bear the burdens of another.’ This quotation indicates that the collective punishment practiced in *jalwa* through the displacement of generations of family is in opposition with Islamic ethics.

Moderates tend to take a weaker stance against the practice, arguing it is simply phased out. In the article “Tribal Law and Restoring Peace in Society” (2011), author Madalla Alibeli states that the “culture that has supported “*jalwa*” for so long is in rapid decline.” She cites the rise of centralized government, sedentary lifestyle, larger families, and individualistic attitudes as evidence of this claim. This position foresees the impact modernization can have on the future use of *jalwa*.

Still, there are many scholars who argue that tribal practices are beneficial and can even help strengthen the state. In his article “Civil Society, Tribal Process, and Change in

Jordan” (2000), Dr. Richard Antoun argues that tribal conflict resolution practices actually make up the core of Jordanian civil society. These processes are based on norms of cooperation, negotiation, respect and trust instead of impersonal methods of adjudication. He highlights that the western conception of “civil society” has prevented many from understanding the term’s manifestation in the Middle Eastern context. Dr. Antoun also argues that the conflict resolution practices operate in parallel to the Islamic teachings of consultation (*shura*) and consensus (*ijma*).

The Jordanian population also historically supported the integration of tribal and civil law. According to the Governance and Local Development Jordan 2014 Survey, 59% of participants favor a mix of tribal and civil law, compared to 29% who prefer only tribal and a mere 12% who prefer only civil. This indicates strong public approval of the continued usage of tribal law in the modern state. With regard to *jalwa* specifically, the practice often helps to alleviate the pressure on the government and police in peacekeeping efforts. In The Jordan Times, Irbid Police Department Director Brig. Gen. Ali Hamlan discussed how no further injuries were incurred after a murder “because the families of the suspect were evicted to a remote location based on tribal laws [jalwa]” (Lousada, 2017). It is interesting to note that despite prevalent editorial and public support for *jalwa*, there is a lack of scholarly support for the practice (at least in English).

The complex debate on tribal law in Jordan can find theoretical grounding in Max Gluckman’s book *The Judicial Process of the Barotse in Northern Rhodesia* (1955). In this analysis of tribal law in the African context, he argues that the types of social relationships that exist in society shape the legal institutions that are built. In societies where disputants have continuing interaction, like in tribes, negotiated or mediated settlements are more

common. Contrastingly, societies where disputants have loose interaction, like metropolitan cities, tend to abide by adjudication or arbitration methods. Contextualizing Jordanian tribal law in this argument helps to highlight the significant implications of societal modernization and urbanization. Indeed, it prompts questions such as: Can institutions such as *jalwa* endure as social relationships change? Will *jalwa* evolve to accommodate new relationships? Or will it fall apart in favor of a more modern method? These are questions that have guided the framework of this research.

Ultimately, this paper takes a fresh approach to understanding the modernization process in Jordan. The research looks at generational and regional perceptions as variables measuring the impact of modernization. Through this lens, the paper captures insights that historic literature has not. It critically integrates local opinions into policy analysis with specificity to *jalwa* that has never been done. Consequently, these results can be used to inform policy decisions both on a local and national level.

Methodology:

Constructing the Focus:

At the outset of this study, the research topic was on youth perceptions of tribal law and its implications on the Jordanian judicial system. The paper initially intended to focus on the youth perspective, as to highlight how reform may be approached in the future. While this was a strong proposal, I soon learned that it did not fully appreciate the current evolving context of tribal law. This was made clear in a visit to a tribal sheikh who discussed the 2016 decision to reform *Jalwa*—a decision I was not previously aware of.

Then Jalwa was reformed again on April 7th 2018, further indicating the developing nature of this practice.

The reform opened up a new area of potential investigation. It enlivened the research with a new goal: to understand the modernization of legal practices as it currently manifests in Jordan. In pursuit of this, I reshaped the research to explore how modernization across time and space can influence attitudes towards *jalwa*. Given the new approach, there are three central questions guiding this research: 1) How do people of different generations and from different regions evaluate the practice of *jalwa*? 2) How do these people perceive the reform and its catalyst? 3) How do they view the future of tribal law? The research will pursue these questions, providing insight on currently- held beliefs in Jordan. By analyzing perceptions on the recent reform, the information presented in this study can guide the content of future policy as well as the process of policymaking. In this way, the research has practical grounding and application to Jordan's evolving context.

Designing the Research:

The structure of this research is based on a thematic approach. The four main themes are extrapolated from the three aforementioned questions. The first two themes are designed to explore the first question, the third theme corresponds to the second question, and the fourth theme to the third question. Thus the four main themes are as follows: 1) *Jalwa* as a peacekeeping mechanism 2) *Jalwa's* humanitarian impact 3) *Jalwa's* reform and reform process 4) The future of tribal law. Structuring the research in this way gives the data collection procedure logical flow while allowing adequate exploration of relevant fields.

The methodology used in this research is composed of two data collection methods: interviews and observations. During the data collection phase, primary emphasis was put on the interviews because this method fosters the obtainment of greater qualitative insights. Because studying perception requires a tool that is equipped to capture full thought processes, a qualitative approach was prioritized. When setting up the interviews, a diverse set of participants was targeted, so that the interview sample could be somewhat representative of the general population. Additionally, I wanted to speak with people who either have an impact on shaping policy or were immediately affected by policy changes. As a result, interviews were pursued with: NGO workers, journalists, tribal sheikhs, members of the Interior Ministry, legal experts, academics, and youth from tribal backgrounds. These specific occupations/ identifiers were selected with the understanding that each may approach the topic of *jalwa* in a different way. The NGO worker may focus on the human rights issues associated with the practice while the interior ministry may focus on the logistical challenges. With these insights, a more comprehensive, holistic view of the tribal tradition could be formulated.

Age and regional upbringing were also used as qualifiers in pursuit of interviewees. I categorized generations based on the classification of youth being between 18-40 years old and older adults being above 40 years old. Managing this age dimension was a bit difficult because I found that many knowledgeable people in tribal law were from the older generation. This was made even more difficult by the fact that I was targeting young Jordanians with a tribal background. Living in Amman, most of the people in my immediate network were Palestinian-Jordanians who have not had direct exposure to *jalwa*. Thus, I had to ask some of my Palestinian friends if they could connect me with Jordanians that

would be willing to meet. The regional upbringing dimension was easier to come by because people from all over Jordan live in or come visit Amman.

Ultimately, I ended up interviewing eight people. I interviewed: a tribal leader, Sheikh Hussein from an important tribe in the southern badia, Mai E'leimat who is the co-founder of a local NGO called Al-Hayat Center, Dr. Awad Al- Laymoon from University of Jordan law school, Dema Aloun who studies criminal law, Governor Turki Akhou Roshida in the Interior Ministry, two young men in the army, and Dr. Bader Al- Madi from University of Jordan sociology department. For privacy purposes, I will not use the name of the tribal leader or the two young men in the army in this paper.

The observation portion of the research was conducted during the interviews and more formally at the Shams Community in Amman. Every week the Shams Community holds "Monday Dialogues" on specific topics; the one I attended was on tribalism. Most of the people who attended the meeting were young locals (with some ex-patriots). This meeting provided great exposure to the youth perspective that was a little more difficult to obtain through interviews. During the discussion, I specifically paid attention to the positive and negative evaluations locals gave to the influence of tribalism in society. Serendipitously, the question of tribal legal practices arose and the responses were very insightful. The observation method was useful because it allowed me to hear which thoughts were naturally salient in people's minds. Analyzing the silence of certain topics and the noise of others provided an indication of what people believed to be important. In this way, the passive role that observation entails allowed me to gain a more authentic understanding of tribal law.

Ethical Considerations:

Ethics is an important concern of any research. It is the job of the researcher to ensure that no participants are harmed during the process. To guarantee this protection, I reflected on ethics at every step of the research, informing everything from the data collection methods used to the wording of questions to how interviews were conducted. With regard to data collection methods, the research was initially going to incorporate surveys in addition to interviews and observations. However, upon careful reflection, I found that surveys could potentially oversimplify people's opinions and leave participants vulnerable to misrepresentation. Political scientists who use surveys for public opinion analysis usually combat this by testing their questions in focus groups and revise them multiple times to ensure validity and reliability. Because the limited time prevented me from doing these steps, I felt that the survey could lead to misleading results and thus I decided not to administer them.

While creating the interview questions, special attention was paid to language. During the preliminary literature review process, I found that many English-speaking sources used the terms "banishment" and "exile" to describe the practice. These words have strong negative connotation, so when developing the questions I made sure to use less-polarizing language like "moving" to make people feel more comfortable answering honestly. In addition to this, questions alternated between positive and negative framing, so that my views wouldn't project onto them.

The actual interview itself was deeply informed by ethical considerations. Before the interview, I made sure to present my participants the informed consent in both languages, so they could sign whichever one they desired. The informed consent provided a

brief description of the research and stated that their participation was voluntary, and could be terminated at any time. The document also stated that the information provided would be used for research purposes only, and that they had the right to full anonymity if they wished. The form ensured that participants were fully aware, consenting, and protected. To protect the validity of the results, I solicited translators for participants with limited English fluency. This option was utilized when speaking to the tribal leader, the sheikh, and the governor in the Interior Ministry.

Overall Experience/ Obstacles:

Overall my research experience was very positive. The participants were open to voicing their opinions and provided insightful information. At first I was unsure if people were going to be honest with me because I'm American but it was quite contrary. People spoke liberally about their thoughts on the modernization of tribal law and some even discussed the west's influence on this. The main obstacle of the study was locating interview participants. If I wasn't connected with the person through one of my advisors, then it was very difficult to set up a meeting. Fortunately, this obstacle was overcome through constant calls and emails. As previously mentioned, it was also difficult to locate young Jordanians, however, this challenge was made easier once I developed a network at the Shams community.

Results:

Table 1: Overall Participant Data

	P1 Tribal Leader	P2 <i>Sheikh Hussein</i>	P3 <i>Army man</i>	P4 <i>Mai NGO</i>	P5 <i>Governor Turki</i>	P6 <i>Dema Lawyer</i>	P7 <i>Dr. Laymoon</i>	P8 <i>Dr. Al- Madi</i>
Generation (years old)	>40	>40	<40	<40	>40	<40	>40	>40
Region	<i>Urban</i>	<i>Rural</i>	<i>Urban</i>	<i>Urban</i>	<i>Rural</i>	<i>Rural</i>	<i>Urban</i>	<i>Rural</i>
Practice Evaluation	-	+ E	+	-	+	+E	+E	+
Reform Support	+	+	+	-	+	-	+	+

Key:

Practice Evaluation: + = want the practice to continue to some degree
 +E = argued *jalwa* is necessary to keep peace
 - = want the practice to be eliminated

Reform Support: + = supports the recent reform from 3 to 1 generations
 + = against the reform

Thematic Overview:

The information collected from these interviews was quite profound and rich with implications. The broad analysis of the results can be approached through the three main questions. The first question, which centered on the evaluation of *jalwa*, was explored through two themes: peacekeeping and humanitarian impact. The results were just short of a consensus. Seven out of eight interviewees said that *jalwa* was an effective peacekeeping method. All seven argued that it successfully decreases the tension between the victim and perpetrator's family. They also cited that it protects the family from potential revenge killing and deters future crime. The one person who disagreed was Mai E'leimat, the co-founder of Al-Hayat Center. She vehemently condemned *jalwa* as a peacekeeping strategy

and as a practice in general. Mrs. E'leimat argued that it was not effective because it fundamentally undermines rule of law.

There was also general agreement on *jalwa*'s humanitarian impact, excluding Mrs. E'leimat. Contrary to my initial belief, most participants expressed that the social integration of exiled families into new communities and back into old ones (after *atwa*) is relatively smooth. They come into new communities under the protection of the sheikh that oversees that area and the sheikh encourages his people to reach out to the family. In the first few weeks, food, water, and shelter are provided. They are not marginalized because people understand that they are forcibly displaced and it wasn't their immediate fault. Interestingly, the Quran statement that articulates that people should not be judged on the action of others—the same passage that is often used to delegitimize the practice—is a major reason communities are hospitable towards expelled families. This indicates the ambiguous nature of religious justification.

The social reintegration of families into their old tribe is also relatively successful. Most of the participants cited how the family is invited to the sheikh's house upon their return. There, the family is accepted back into the community. Ms. Aloun, who personally experienced *jalwa* due to her uncle's crime, validated this sentiment. In her experience, people want peace in their villages, so they don't actively exclude people. However, this experience may be an outlier because her uncle's crime was considered a justified defense. Other participants, like Dr. Bader Al-Madi mentioned that it might take some time for the family to feel comfortable fully engaging with others again. This is especially true in the case of murder.

The economic integration and reintegration is much more challenging for exiled families. All participants agreed that it is much more difficult for families to economically integrate into new communities now compared to just a few decades ago. Most people have swapped their tents for stone houses, have jobs, and go to school. *Jalwa* forces people to leave their houses and often times their jobs and schools if these activities reside in that particular tribal area. This is particularly difficult for those who have private businesses in their old neighborhood because *jalwa* effectively makes them give up their central source of income. As Dr. Awad Al-Laymoon pointed out, the transition phase is not as difficult for family members who work in the public sector because the government can just transfer their job to another location. In addition to overseeing the displacement process, the governor of the area and the local security agency guide the economic integration process of exiled families. They will help find people new houses, jobs, and schools but the success of this is often dictated by the economic circumstances of the area families are entering. Still, this demonstrates how the state and the tribe work together to facilitate *jalwa*.

While there was consensus that the practice has become more challenging to execute over the years, some people stressed the negative impact while other participants tried to justify it. The people who stressed the negative impact, namely Mrs. E'leimat, stated that *jalwa* violates a number of human rights identified in the 1948 UN Declaration of Human Rights. Removing people from their homes not only violates their right to property but also their right to a quality standard of living, and jeopardizes the right to work and right to education. Those who worked to justify the impact argued that it teaches both the wrongdoer and their family a lesson. Governor Turki Roshida spoke candidly about how *jalwa* helps wrongdoers learn the dangers of selfishness. In his view, (non-revenge) murder

is a selfish act; when committing murder, one is not thinking about anyone else other than his or her own emotional satisfaction. They aren't thinking about what that person means to family and friends. As a result, by displacing the murderer *and* their family, they come to see how their actions affect other people, including the people they love the most. Ms. Aloun, a criminal law student, supports this stance, arguing that murder affects the victim as well as the family they leave behind; consequently, the punishment for the crime should affect the murderer and his or her family. Ms. Aloun added that the harsh consequences of *jalwa* encourage parents to take responsibility for teaching their children morals, so they can prevent this from happening. These two very different interpretations of the humanitarian impact lend themselves to different understandings of how *jalwa* should or should not be reformed.

The second main question of this study centered on how people perceived *jalwa* reform and its process. The participants answered interview questions relating to this theme with incredible diversity. Six of the eight participants supported the recent *jalwa* reform where the government limited the *jalwa* to those of the immediate family. The two who did not had very different reasons for this belief. Ms. Aloun argued that limiting *jalwa* to the immediate family would make the practice ineffective—it would weaken the practice's ability to prevent revenge killings and deter future crimes. She supported the reform from five generations to three because updating the law allows it to remain useful, but she saw the most recent reform as unnecessary and potentially detrimental. Contrastingly, NGO worker Mrs. E'leimat (another female) was against the reform because she is thoroughly against the practice itself and believes passing a civil law defining the scope of the practice legitimizes its usage. The other six participants agreed the reform was

needed but disagreed on what purpose the reform serves. One tribal leader supported the reform as a way to get the public more comfortable with eventually eliminating the practice all together. He argued that *jalwa* should end because it goes against the Quran. Meanwhile, the rest of the participants believed the reform was positive because it made the practice more compatible with modern times.

The consensus among participants broke down further when questions were asked about the catalyst of the reform. Sheikh Hussein, Mrs. E'leimat, the young man in the army said that people pushed for reform because of growing logistical challenges while Governor Turki Roshida and Ms. Aloun pointed to changes in mindset. The tribal leader provided a religious explanation, but this appears to be an outlier because no one I interviewed with or observed at the Shams community brought up religion as a sole justification for eliminating the practice. Thus, the religious explanation can be isolated and focus can instead be put on uncovering the underlying trend among the other explanations. Indeed, although these other reasons seem quite different, a common force shaped them: modernization. The logistical challenges that the three participants cited could be reasonably understood as a result of a new settled lifestyle. As previously mentioned, people no longer live in tents, so it is much harder to find them new places to live. Moreover, there was no formal schooling before and livelihood was based on crops and animals, which were more mobile. Now, these economic aspects are central concerns that tribes and the government must deal with when moving hundreds of people every year. With regard to the change in mindset argument, this can be linked to technological advancements, like transportation. Ms. Aloun articulated that access to transportation has allowed extended families to live far away while still seeing each other once in awhile. This

had led people to conceptualize the family unit as smaller than it previously was. With this new mindset, an increasing number of people wonder why they should be punished for what a distant cousin did. In this way, different manifestations of modernization have encouraged various outlooks on why reform was pushed forth.

When it came to the reform process, the participants who were knowledgeable in the matter agreed. The process was actually somewhat democratic. According to Governor Turki Roshida who played a big role in reform, the tides began to turn when tribal leaders were hearing complaints from their tribal members. A number of tribal leaders brought this to King Abdullah's attention and His Majesty decided to hold a series of meetings about reforming *jalwa*. Attendees ranged from tribal sheiks to government officials to NGOs and media outlets. Almost everyone in meetings agreed that it was time to reform *jalwa* to the nuclear family. Attendees were then encouraged to discuss this topic with their respective networks to gather intelligence on how the general public felt and report back to the group. It was clear that there was a lot of support for the change, so the reform was processed. While no formal vote occurred, the bottom-up influence is indicative of a responsive government. The democratic approach to this reform is supported by this study's findings, where the majority of participants were in support of limiting the practice's scope. Furthermore, the participants agreed that tribal leaders played a large role in mobilizing the reform. Tribal leaders were able to effectively vocalize the people's concerns to the government and the government acted on this knowledge. Most participants stated that NGOs had minimal to no impact on the decision to reform.

The final guiding question of this research related to how people perceive the future of *jalwa* and tribal law. This section first attempted to uncover the potential value of the

traditional practice as the country continues to modernize. Nearly all participants argued that *jalwa* is more than just a practice—it's a representation of tribal virtues and a moral framework. *Jalwa* and tribal law in general is rooted in ideas of respect, peace, understanding, and unity. These concepts help ground the Jordanian community while aiding the preservation of their unique identity as a modern tribal nation. In addition to moralistic benefits, there are practical explanations for keeping *jalwa* alive in the 21st century. As Ms. Aloun articulated, the Jordanian civil legal system is heavily based on the French system; tribal law can fill in areas of civil law that are ineffective due to cultural differences. However, Mrs. E'leimat countered this perspective, denouncing *jalwa* for undermining the state's legitimacy as the sole enforcer of the law. She argued that these practices should not continue within the modern state because they are based on revenge culture; Jordan has evolved enough to govern itself with an updated law. Ultimately, everyone came to the conclusion that the future of tribal law is uncertain.

There does seem to be general trend towards limiting the scope of *jalwa*, but not necessarily eliminating it. Some worry that the growing negative stigma around tribes paired with urbanization and an increasing influence of foreign education will lessen the usage of tribal law. Sheikh Hussein expressed his concern that tribal procedures may disappear because they are not written down, but cited that continued practice is more important to survival than whether processes are transcribed. Others are apprehensive because people are still attached to tribal traditions that unjustly hurt hundreds of people every year. From this research, it would seem that *jalwa* for the nuclear family may stay for quite some time because any more reform (only displacing the perpetrator) would make the practice ostensibly become the civil law, effectively eliminating the tribal traditions.

Unfortunately, only time can tell what will happen to these ancient practices in the modern era.

Generational Dimension: An unexpected finding

Contrary to the initial hypothesis, which argued that youth would view *jalwa* less favorably than older adults, the results suggest that there is no significant difference between how the generations view *jalwa*. Two of the three young people I spoke with were actually in favor of keeping the *jalwa* practice as Jordan continues to modernize. Most of the people I engaged with at the Shams community were in support of it to some degree. Older adults supported *jalwa* at a comparable ratio of four out of five. More shocking is that the only two people who rejected (Mrs. E'leimat and Ms. Aloun) the recent reform were young people. This directly challenges my initial hypothesis. However, it is important to note that their reasons for rejecting the reform were completely different—one strongly opposed the practice and the other strongly supported it. Thus it is hard to make a cohesive argument that youth oppose the reform more than adults.

The overall similarity between the generations with regard to the practice evaluation has many implications. First, it is clear that the progressiveness of the older generation and the conservativeness of the younger were underestimated. When the research began, the reform had not taken place, so I was not aware of the extent to which the older generation was considered progressive. Indeed, the tribal leaders were central mobilizers of the reform process. Attempting to interpret these findings, the argument can be made that because there was no strict conservative ideology to reject, the younger

generation accepted the pace of modernization that the older generation set. Subsequently, there seems to be gradual but cohesive movement towards the modernization of tribal law.

Upon a later meeting, Dr. Bader Al-Madi expressed another reason for the similarity. He stated that the older generation holds a strong influence over the younger one. On a political level, this may be the result of aforementioned governmental structure where the older generation possesses much of the power and dictates norms to the youth. On a familial level, it might be due to the fact young Jordanians continue to live with their families into adulthood and thus are significantly affected by their parents and older relatives. Either way, this perspective engages with the importance of socialization in developing person opinion.

Regional Dimension: A valuable indicator

While the findings did not support the generational hypothesis, they did support the regional one. This hypothesis argued that people who grew up in rural areas would see *jalwa* more favorably than those from the city. The evidence for this claim revealed itself in a number of ways. Quantitatively, two of the participants from rural areas argued *jalwa* was necessary compared to only one from an urban area (demarcated with “E” on table 1). While this may not be numerically significant, six out of the eight participants validated this finding by stating that there was a difference in regional perceptions. The most heavily cited reason for this difference was attachment to tribal traditions. As Constitutional law professor Dr. Awad Al-Laymoon stated, people in the badia tend to be more connected to tribal practices because their lifestyles are more similar to their ancestors than people in the city. Thus, traditions like *jalwa* are afforded significant legitimacy. Some of that

legitimacy of Jordanian tradition is lost in cities like Amman where the majority of the population is Palestinian and tribal practices aren't considered the norm. It is in these cities where dissent against these centuries-old procedures is more common.

This research qualitatively demonstrates this in the comparison between the two tribal leaders I interviewed. The first tribal leader was from a big tribe in an urban area while the second was Sheikh Hussein from an important tribe in the southern badia. The first man, who did not consent to using his name, surprisingly argued in favor of eliminating *jalwa*. He cited *jalwa's* incompatibility with the Quran as the major reason to get rid of the practice. In contrast, Sheikh Hussein lent his support to reforming *jalwa* to ensure its continuance in the future. It is clear that Sheikh Hussein is not willing to throw away traditional practices for religious reasons. Interested by the unexpected opposition, I prompted Sheikh Hussein to speak on the influence of Islam on tribal reform. He stated that it is first important to acknowledge that tribal practices were present long before Islam came to the region. Historically, Islam has had a greater influence on tribal traditions in urban areas because many people in the badia were illiterate and therefore could not read or apply the Quran to their practices. Increased literacy today has allowed Islam-based arguments to grow in prominence all over Jordan but the legacy of illiteracy in rural areas continues to condition the extent to which people from those regions use religion to inform tribal traditions. The comparison between the two sheikhs demonstrates this difference.

Observational Results

The observations collected at the Shams Community' were very helpful in contextualizing *jalwa* within tribal law tradition. Though the event was based on the main

theme of tribalism, the discussion flowed towards tribal law after a question was prompted regarding the subject. An interesting observation that arose from this discussion was the demographical divide between those who supported tribal law and those who didn't. Very clearly it seemed that those who were not from tribal backgrounds were against it while those who were from tribal backgrounds supported it. The arguments that non-tribal people raised were often tied to their exclusion from those traditional procedures. They highlighted that they don't receive the benefits or protections from tribal law that are afforded to their peers. If a state's law is supposed to treat people equally, then having tribal law violated that. This has strong implications as Jordan becomes increasingly more diverse. The future of tribal law is unknown but as modes of transportation continue to advance and contracted conflict continues to push refugees into Jordan, tribal law could fall so out of favor by the general population that it may either become a marginalizing force or be marginalized itself. The best option may be to find ways to better integrate it into the state.

The question that prompted the above observation asked people to explain why they thought tribal law is still used. In response, a variety of reasons were given. One of the most supported ideas among the group was that tribal law is tradition; it is something that has linked generations together for centuries and not many people are willing to fully break that connection. Civil law, on the other hand, is based off of the French system, and thus doesn't offer the same positive association. This sentiment finds literary backing from Martin Krygier in his philosophical paper "Law as Tradition", in which he argues that traditionality is a central feature of effective law. Considering this proposal, the argument

can be made that tribal law and even *jalwa* continues to be used because it embraces a fundamental feature of law that Jordanian civil law does not.

In addition to the data collected at the Shams community, observations were compiled during the interview process. These observations focused on identifying unprompted ideas that continuously arose. The most common unprompted sentiment appeared in the context of the regional dimension. Participants agreed that people from the badia view *jalwa* differently than people from the city but many also went further to speak on the importance of keeping *jalwa* active in the badia. Fascinated by this thought, I continued to engage with it, asking them why they thought this way. Everyone who brought up the topic (Ms. Aloun, Dr. Laymoon, Dr. Bader Al-Madi, and army man) cited that the close continued contact between families in small villages makes violence incredibly likely if a crime is committed. Consequently, *jalwa* mediated by a sheikh is very necessary. This understanding provides evidence for Max Gluckman's argument, which was previously outlined in the literature review. To restate, Gluckman posed the idea that mediation methods are more likely to be used in communities where disputants have continued contact whereas adjudication methods are more likely to be used in metropolitan areas where disputants have loose contact. My observation supports this relationship between social relationships and legal structure by presenting the idea that *jalwa* is seen as more necessary in places where communities have close contact. One of the implications of this is that as Jordan continues to urbanize, traditional legal practices such as *jalwa* will no longer be considered useful.

At the same time, the other prominent observation that arose from interviews was the need to highlight the humanity of tribal law. Four of the eight participants attributed

the effectiveness of tribal law to its treatment of “the human spirit” (as coined by Governor Turki Roshida), arguing that people genuinely *feel* better using it. These participants presented *jalwa* as being deeply rooted in human psychology and possessing high emotional intelligence. The practice, from their account, is based on the basic understanding that people get angry with a person who murdered or raped a relative; it acknowledges that people often want others to feel the pain they are forced to endure. *Jalwa* thus works with human nature and separates those people. As Governor Turki Roshida discussed, when the criminal’s family leaves, the victim’s family regains a sense of power and respect. Then during the *atwa* peace-brokering process, the parties come together with guidance of a sheikh to determine what material amount can fill the emotional void left from not avenging their relative. Once this emotional void is filled, the parties and the larger community can begin to heal. Like Sheikh Hussein said: “tribal law always ends in love and forgiveness.”

Some participants even waged this humanity-based argument to advocate for the effectiveness of tribal law over civil law. Mrs. Aloun was particularly expressive on this topic. She maintained that the criminal code governs on philosophical understandings of right and wrong, taking the feelings of the victim and their family out of the equation. As a result, civil law alone can’t heal a family’s emotional wounds—tribal law is necessary. These observational findings demonstrate the level of respect many people have for traditional conflict management methods. More importantly, they prompt the classic philosophical debate of whether laws should be based on what is understood as human instinct or if they should encourage abstract moral reasoning. Surely, the former may be easier to implement but it may be counter-productive in the development of a modern

state. This philosophic cost-benefit analysis characterizes the dilemma Jordan's leaders face when shaping a vision for the nation's future.

Theoretical Applications and Implications

The findings from this research have strong theoretical implications. Using social constructivism as a guiding framework, the study produces evidence in support of the theory and its emphasis on the transformative effects of social interactions. As previously explained, the theory can be applied to both psychological and political contexts. Thus, I will first examine the implications of this research on a psychological level and then on a political level.

The strain of social constructivism proposed by psychologist Vygotsky put forth the idea that interpersonal engagement shapes concept development. He theorized that socialization is key to understanding how people think. This argument can help explain the different patterns of thought found in this research—namely, the regional dimension. The data indicated that people from the badia view *jalwa* more favorably compared to people from the city. Social constructivism tells us that this difference arose because people in the badia had interactions growing up that fostered positive associations with *jalwa*. These associations can be anything from hearing positive language used to describe the practice to seeing positive effects after *jalwa* happens (in operant conditioning, this is called positive reinforcement). This may not be present for the people who grew up in the city. Indeed, Dr. Awad Al-Laymoon stated that many people in the city can't see positive impacts *jalwa* has on a community because they don't even know how to define who is a part of their community. Without being exposed to the benefits of the practice, people in the city

lack a psychological attachment to *jalwa*. Subsequently, region can greatly influence the socialization process and ultimately perception development.

Vygotsky's social constructivism doesn't have as smooth of an application when explaining the generational dimension. Surely, as Dr. Bader Al- Madi pointed out, older relatives heavily influence how the youth perceive *jalwa*, and in this way, socialization plays a significant role. However, socialization also occurs beyond ones' parents and older relatives. It happens when engaging with peers, when browsing through Facebook feeds, and when reading up on current events. With advances in technology and exposure to people across the globe, there are ideas that are circulating now that didn't exist before. As a result, socialization is time-dependent, and it would then be expected that the younger generation would have a distinct view compared to the older generation. However, this is not the case; the research suggests that generations see *jalwa* more similar than different. If socialization can't fully explain how two different generations can view an issue the same way, then what can? To answer this question, it may be helpful to use a theory based in the institutions generations share.

The political branch of social constructivism proposed is useful in understanding the generational results. Developed in the context of international relations, the theory can be applied domestically through focusing in on one of its core arguments, the life cycle of a norm. The theory breaks down the life cycle into three stages: emergence, cascade, and internalization. Norms are defined as societal expectations that guide how one should think and behave. In recent decades, Jordan has experienced tremendous societal change with the guidance of a new rising norm (emergence stage). This norm is the expression of modernity, a significant expectation that has come to influence everything from policy to

day-to-day interaction. As Governor Turki Roshida discussed, His Majesty, King Abdullah has set this expectation of modernization through his rhetoric and political agenda. Because of the monarchical structure of society, this norm has permeated throughout society across generations (cascade stage). In the context of this study, the argument can be made that the norm of modernity has prompted both generations to see the value in reforming *jalwa*. To be clear, this is not the only norm that guides society; opposing norms such as tribalism interact with rising ideas to shape evolving standards of living. Indeed, many participants cited the dynamic relationship between preserving traditions and adapting to a new order when discussing the reform process. In this way, applying social constructivism on a political level allows us to see how macro-level institutions can mold perceptions in Jordan as well.

Conclusion:

Over the past few decades, Jordan has undergone tremendous modernization. From being a predominantly rural nomadic population to a settled urban one, citizens have embraced a new lifestyle. Today, Jordan boasts one of the most educated populations in the world, let alone the Middle East. Civil society flourishes with a plethora of NGOs, humanitarian organizations, and professional associations. The government has set in action a variety of development initiatives, making the country more industrialized every year. However, these societal changes also have a deep cultural and psychological impact. As society becomes more diverse with refugees and westerners, the negative stigma around tribalism rises. People attack the government's alliance with tribes and the usage of

wasta (familial connections). Citizens debate whether there is room for tribal practices within the modern state. Given these circumstances, Jordan is currently at a crossroads where citizens have to decide the fate of the traditions that have kept them alive for centuries.

This study tackled the issue of modernization through the lens of tribal law reform. The paper specifically examined attitudes towards the tribal practice of *jalwa*, which displaces the criminal's family after they commit a serious crime (murder, rape, or assault with a weapon). Data was also collected on attitudes towards the recent reform of *jalwa*, whereby only the immediate family can be displaced. The results were examined using two dimensions: a generational and regional comparison. The study proposed two initial hypotheses relating to these dimensions. First, the younger generation would view *jalwa* less favorably compared to the older generation and would be more in favor of the reform; second, people who grew up in urban areas would view *jalwa* less favorably than people from rural areas and would be more in favor of the reform. The results did not support the first hypothesis, as there was no significant difference between how the young participants viewed *jalwa* versus the old participants. But the results did support the second hypothesis; not only did people who grew up in rural areas view *jalwa* more favorably but the majority of the participants (rural and urban) advocated for keeping *jalwa* active in rural regions. These findings indicate that, in the context of *jalwa*, modernization in Jordan has had a greater psychological impact across space than across time.

Study Limitations:

There were a few major limitations in this research project. The first and the largest limitation was time. Because there was only four weeks to complete this project, the sample size was smaller than desired. Eight people are clearly not numerically representative of the population of Jordan. To combat this, I initially planned to administer a survey allowing me to gather more perspectives; however, surveys can be problematic as previously discussed. Indeed, the results validated the decision to exclude surveys. For instance, if a questionnaire was given to Mai E'leimat that asked whether she supports the reform, she would say no, and I would assume that she is in support of the practice as it was before the reform. However, the truth is that she strongly opposes the practice and the reform because it legitimizes the practice in civil law. Consequently, skipping the surveys was definitely for the best but it is still important to acknowledge that because of the small sample size, this research cannot be taken to represent the whole Jordanian population. It can, though, be used as an indication of various patterns and trends.

Another limitation was my positionality. Positionality refers to how one's social identities can influence their interactions and interpretations. As an American, I am an outsider in this field of study because tribal law, specifically *jalwa*, is very unique to this area. This etic point of view could have subconsciously shaped my interpretation of the results. At the same time, my identity could have conditioned the way the participants engaged with me. Though I did not get this impression, it is certainly possible that my "Americanness" influenced people's willingness to express the full range of their thoughts on this topic. This is important to keep in mind when reading the results of this study.

My limited Arabic skills also posed a challenge during this research process. This did not have a major impact on conducting interviews (outside of the aforementioned positionality aspect) because I had a translator but it did affect the literature review. Most of the papers regarding *jalwa* are in Arabic. Because translation takes a long time, I was only able to translate a few of them. This made the literature review heavily based on a western perspective. However, because the nature of the research was presenting a local Jordanian perspective, I believe the results balanced the literature review. Moreover, coming across this limitation highlights a source of value for the research, in that this is one of very few pieces that English-speakers can read and get a more comprehensive understanding of Jordanian perspectives.

Recommendations for Future Studies:

This research is only a stepping-stone to a plethora of rich future studies. If one wants to continue with this topic, it would be advised to conduct interviews with a larger sample size (assuming more time is allotted). It would also be interesting to make the regional dimension based on where people live now, instead of where they grew up. I did the latter because I wanted to gather information on perception based on a developmental perspective, but if another researcher has more time, then travelling to participants' town could also be beneficial to the research.

A recommendation for future studies that builds off of this one would be to compare the legitimacy of civil law and tribal law. This was a prevalent theme that came up throughout my research, whereby many of the participants argued that tribal law has more

legitimacy. Future research could examine why that belief exists and how the legitimacy of civil law might be improved. This is an important topic because when legal systems are seen as legitimate then enforcement will be much easier and rule of law will be much stronger.

A final recommendation would be to conduct a study comparing American perceptions of human rights to Jordanian perspectives. This was an idea that arose when speaking to one of the tribal leaders about his distrust of foreign powers and NGOs in revising tribal practices. Digressing slightly, he said: “Americans don’t know human rights, Jordanians do. Americans will kill anyone that isn’t western, Jordanians welcome and respect everyone”. I found this comment fascinating because the American government often brands itself to be the world’s protectorate of human rights—a position that gave us power in crafting the UN Declaration of Human Rights and justification for militarily intervening in other countries. Conducting a comparative analysis between the human rights purported by both nations would give valuable insight on how to create international laws rooted in cross-cultural understanding.

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Appendix A

Interview Questions

Interviewee Name:

Circle: Below or Above 40 years old

Hometown:

Theme 1: Peacekeeping

1. Do you think Jalwa is effective in maintaining peace? Why or why not?
2. Do you think jalwa is still necessary to keep peace?
3. What do you believe is the main reason for the support of *Jalwa*?

Theme 2: Humanitarian impact

1. What is the process for the social integration of expelled families into their new communities?
2. How are families economically integrated into new communities?
3. How are expelled families re-integrated to their old communities?

Theme 3: Catalyst of Jalwa Reform

1. Do you support the current Jalwa reform?
2. What do you think has been the major catalyst for Jalwa reform? (Logistical challenges, human rights issues, change in mindset etc.)
3. What has been NGO's role in the reform?
4. What has been tribal leaders' role in reform?
5. What has been the government's role in reform?
6. In your opinion, *who* has made the most impact on reform?

Theme 4: Future of Jalwa

1. Do you think *Jalwa* can serve a beneficial purpose in the modern state? Why or why not?
2. How should the government approach the enforcement of the reform?
 - Should the government legislate *jalwa* reform? Why or why not?
3. How do you see the future of *Jalwa* in Jordan?
4. How do you feel about the modernization of tribal law in general?
5. Do you think there is any regional or generational difference between how people view *jalwa*?

Informed Consent Form
SIT Study Abroad 
a program of World Learning

Title: Generational Perceptions of Tribal Law Reform
Your Name/Homeschool: Danielle Sutton/Vanderbilt University

School for International Training—Jordan: Geopolitics, International Relations, and the Future of the Middle East

1. The purpose of this study is to learn about generational perceptions of tribal law reform in Jordan. This study will focus on the practice of *Jalwa* (the eviction of perpetrators' families) and its recent reform limiting the number of generations displaced from five to three.

2. **Rights Notice**

If at any time, you feel that you are at risk or exposed to unreasonable harm, you may terminate and stop the interview. Please take some time to carefully read the statements provided below.

a. **Privacy** - all information you present in this interview may be recorded and safeguarded. If you do not want the information recorded, you need to let the interviewer know.

b. **Anonymity** - all names in this study will be kept anonymous unless the participant chooses otherwise.

c. **Confidentiality** - all names will remain completely confidential and fully protected by the interviewer. By signing below, you give the interviewer full responsibility to uphold this contract and its contents. The interviewer will also sign a copy of this contract and give it to the participant.

3. **Instructions:**

Please read the following statements carefully and mark your preferences where indicated. Signing below indicates your agreement with all statements and your voluntary participation in the study. Signing below while failing to mark a preference where indicated will be interpreted as an affirmative preference. Please ask the researcher if you have any questions regarding this consent form.

I am aware that this interview is conducted by an independent undergraduate researcher with the goal of producing a descriptive case study on generational perceptions of *Jalwa* reform.

I am aware that the information I provide is for research purposes only. I understand that my responses will be confidential and that my name will not be associated with any results of this study.

I am aware that I have the right to full anonymity upon request, and that upon request the researcher will omit all identifying information from both notes and drafts.

I am aware that I have the right to refuse to answer any question and to terminate my participation at any time, and that the researcher will answer any questions I have about the study.

I am aware of and take full responsibility for any risk, physical, psychological, legal, or social, associated with participation in this study.

I am aware that I will not receive monetary compensation for participation in this study, but a copy of the final study will be made available to me upon request.

I [do / do not] give the researcher permission to use my name and position in the final study.

I [do / do not] give the researcher permission to use my organizational affiliation in the final study.

I [do / do not] give the researcher permission to use data collected in this interview in a later study.

Date:

Participant's Signature:

Participant's Printed Name:

Researcher's Signature:

Thank you for participating!

Questions, comments, complaints, and requests for the final written study can be directed to:

Dr. Raed Al-Tabini, SIT Jordan Academic Director

Email: Raed.alTabini@sit.edu