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The Opportunity for Legal Pluralism in Jordan

Riya Jain

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The Opportunity for Legal Pluralism in Jordan

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Abstract

Tribal dispute resolution processes in Jordan have played a pivotal role in conflict management and peacemaking since long before the development of the modern state. Since the establishment of the Hashemite monarchy, however, jurisdiction over certain issues has become unclear and inconsistent, especially with regards to blood crimes and honor crimes. Now, as Jordan evolves into an increasingly heterogeneous society, rule of law development must address the need for fair and culturally sensitive legal institutions. Drawing on formal interviews and secondary source literature, this paper investigates the opportunity for legal pluralism in Jordan and consider possible avenues for reform: reconciliation of the tribal law and civil into one formal legal system or a framework for legal pluralism where tribal law complements civil law. I argue that the space for legal pluralism certainly exists insofar as the formal legal system is greatly reformed to ensure popular legitimacy and insofar as tribes evolve to fill a social role. This paper advances modern rule of law theory and suggests that legal pluralism is not an unfinished stage of legal development. Rather, it is a reality in which state and non-state systems are complementary and mutually reinforcing.

Keywords: law, developmental studies, cultural anthropology

Introduction

Tribal communities in Jordan predate both Islam and the monarchy. Thus, the culture and values of early Bedouin tribes arguably define Jordan as a society better than religion or government. The persistence of Bedouin values and lifestyle across Jordan, even after thousands of years and rapid globalization over the last century, lends some credence to the idea that tribal values are a critical part of Jordanian identity. At the same time, however, Jordan is modernizing and becoming increasingly connected to the rest of the world. Tourism and expatriate rates in Jordan grow every year, and after decades of regional turmoil, Jordan hosts more refugees per capita than any other country. Clearly, the extent to which Jordan can continue its tribal traditions and lifestyle is increasingly threatened, especially with regards to the law.

The legal system in Jordan consists of Sharia law, the formal legal system, and tribal law. For the most part “they exist side by side and govern separate areas of the law. It is at the edges that the jurisdiction is blurred.”¹ Sharia law largely handles cases relating to personal or family matters, like marriage, divorce, custody, and inheritance. It takes authority from Islam, and adheres to principles set out in the Qur’an. The formal legal system has complete jurisdiction over more complex and sophisticated issues such as fraud, taxation, intellectual property, labor, and immigration. The government is far more efficient and has the resources to address these kinds of issues. Tribal law is where the legal system in Jordan begins to break down and where the independence of state institutions is challenged. Some personal and criminal cases can be resolved by tribal leaders or in state courts, so jurisdiction becomes blurry. In this way, tribal law introduces a degree of flexibility in the law and it is in these cracks that human rights and women’s rights are most vulnerable.

Background

In 1921, Abdullah I bin Al-Hussein entered the region of present-day Jordan and accepted a gentlemen’s agreement with the tribal leaders who had been occupying the area. The agreement stipulated that the tribes give Abdullah I the seat to be king in exchange for autonomy. Thus, the Emirate of Trans-Jordan was established as a British protectorate. Prior to 1921, these traditional tribes lived in a harsh desert climate and engaged in seasonal migration

¹ Ann Furr, *Tribal Customary Law in Jordan*, South Carolina Journal of International Law and Business, (2008).

across Jordan, Syria, Iraq, and Palestine. Derived from the Arabic word *badawiyin*, which means “inhabitants of the desert”, Bedouins organized themselves into communal tribes as a method of survival.² During this time, there was little subsistence agriculture and they relied on herds of camel, cattle, and other livestock for all their needs. Weather conditions and the health of their livestock were always undependable, and so it was of paramount importance that tribal members were able to depend on each other. In order to survive, therefore, Bedouins valued social stability over everything else, and the customs and codes they developed in the absence of government, police, prisons, and law reflected this value.

A practice known as *jalwa*, a type of forced migration, became one of the primary ways that tribes dealt with problematic members. In the case of pre-meditated murder, rape, and other serious crimes, the *sheikh*, or tribal leader, will require the perpetrator and 5 generations of his family members to leave the tribe. Their return may be negotiated, or the exile could be permanent. Living in the desert without the support of a tribe or attempting to gain acceptance into another tribe was incredibly dangerous, and so *jalwa* as a punishment was usually reserved for the most grievous crimes. Clearly, being physically or even socially shunned from one’s tribal community carried severe consequences, so traditional customs developed around defending one’s honor, respecting tribal leaders, and avoiding stigma or shame.

As much as *jalwa* serves to punish an individual, this peacekeeping method also protects the perpetrator’s family from revenge killings. In other words, *jalwa* certainly is a punitive measure but at the same time, and perhaps more fundamentally, it prevents any further escalation of tension. It allowed a chance for both parties to calm down and space for a peace agreement to be negotiated. In this way, the practice reveals an essential truth about the Bedouin way of resolving disputes: rather than attribute individual guilt or deliver retribute, “the primary aim is to close a conflict, end social upheaval, and restore social relations.”³ Once again, solidarity is valued above all else. Expressed metaphorically with the image of a camel walking through the desert carrying a load, if someone’s rights have been violated, the camel’s load is imbalanced. An imbalanced camel will have a hard time walking and is destined to die in the desert. In order to rebalance the camel, the violated rights must be rectified, representing a restoration of honor, respect, and stability.

² Furr (2008).

³ Naomi Johnstone, *Tribal Dispute Resolution and Women’s Access to Justice in Jordan*, WANA Institute, (2015).

In the 1930s, due to economic hardships as a result of recurrent droughts, many Bedouins accepted jobs as soldiers in the Desert Patrol Force for the new state of Jordan under British mandate.⁴ Transitioning to salaried work, as well as intense resettlement and modernization policies led by the government in the 1950s and 60s, resulted in increasing sedentism of tribal communities. By the late 1960s, an estimated 3% of the Bedouin population continued to live nomadically in Jordan.⁵ In 1976, the Minister of Internal Affairs cancelled customs, rules, and habits of tribal people in an effort to integrate them into Jordan's formal government institutions.⁶ Political theorists during this time predicted "the role of the tribe would subside almost completely as the state provided more and more direct services."⁷ This proved inaccurate, however, as moving to a sedentary lifestyle did not spell the end of tribalism.

Today, tribes maintain a very present role in government and society. Tribal leaders hold positions in parliament, the army, the courts, and they routinely advise the King. Tribal law is



Figure 1: North, South, and Middle Badia

widely practiced, though informally, across Jordan and often works with civil courts and public security forces to resolve disputes. Bedouin tribes are divided into three geographic regions as illustrated in Figure 1, the northern badia, middle badia, and southern badia – each with its own norms and reputation. The middle badia is the most urban, wealthy, and educated of the three, and it has the strongest infrastructure and healthcare. Accordingly, the tribes in the

⁴ Furr (2008).

⁵ Johnstone (2015).

⁶ Jessica Watkins, *Seeking Justice: Tribal Dispute Resolution and Societal Transformation in Jordan*, International Journal of Middle East Studies, (2014).

⁷ Johnstone (2015).

middle of Jordan are less traditional, rely on government institutions, and command less respect and authority. The north and south badia are more rural, and tribes here establish social identity. Tribal leaders are strong and well respected, and generally rely less on the government for services. The north and south regions are not completely alike, however. There are more cities in the north, so people are connected to urban life and civil law. Even the villages in the north public institutions, infrastructure, and technology. So while northern tribes are still traditional, they are more cooperative with the government. The south, on the other hand, is more underdeveloped, has less infrastructure and social services. Tribal affiliations are strong and people place high emphasis on traditional values. Tribal leaders in the south are very strong and often more rebellious in nature, because they are less inclined to be subservient to an authority that is the government.

This history is necessary to understand the foundations of tribal values, the way tribal customs reflect those values, and tribes' relationship with the government – all of which affect the efficacy of civil law and the future of legal pluralism in Jordan.

Personal Interest

Drawing on my politics and economics coursework at Johns Hopkins University, I am interested in institutional development and state building as a means to improve quality of life both in the United States and abroad. This top down approach means understanding the ways in which legal, financial, and political institutions affect the day-to-day life of individuals. One recurring issue I have noticed is that global systems are still structured in a neo-colonial way, such that western institutions prescribe western remedies to issues being faced by other parts of the world. Western solutions, however, are built upon an understanding of specifically western culture and relationships which can be radically different from that in other regions.

Academically speaking, I knew this was an issue I wanted to engage with as I conducted my research.

On a personal level, I have been fortunate enough to travel quite to many countries throughout my life; and in each country, I naturally tend to compare cultures and ways of living to the United States. I don't do so from a value-judgement perspective, but simply to understand the possibilities. During my time in Jordan, I saw a very different way of life – one that was more communal, generous, relaxed, and informal. When I visited Petra in the winter, I talked

with a Bedouin man who told me about his upcoming plans to visit his brother in Germany. I was surprised that someone with such global experiences still chooses to live a traditional, tribal lifestyle. After all, Bedouins in Petra and Wadi Rum meet thousands of tourists from all over the world and are no strangers to other cultures. Yet, they live similarly to the way their ancestors did hundreds of years ago.

Inspired by this experience, I chose to study tribal law and civil law in Jordan, whether the former either strengthens or weakens the latter, and the opportunity for stronger legal institutions in Jordan. This research project, therefore, pays a lot of attention to cultural explanations in an effort to potentially challenge conventional wisdom on the ideas of justice and the rule of law, as well as assumptions about western superiority.

Framework

The coexistence of tribal law and civil law in Jordan in its current state fails to establish effective rule of law and fails to protect human rights, drawing the state's most basic sovereignty into question. The purpose of this paper is to analyze their relationship and consider possible avenues for reform: reconciliation of the tribal law and civil into one formal legal system or a framework for legal pluralism where tribal law complements civil law. The paper will be structured in the following manner:

Theme 1: Detractive Elements: This question covers ways in which tribal law hurts or challenges the formal legal system. The more negative elements, the stronger the case for consolidation of formal and informal legal codes.

Theme 2: Additive Elements: This question covers ways in which tribal law adds to, enhances, or complements the formal legal system. The more positive elements, the stronger the opportunity for legal pluralism in Jordan.

Theme 3: A Way Forward: Synthesizing the results from the previous two sections, this theme will explore ideal models for a pluralist framework drawing upon the responses from each participant. These models not only broadly suggest possible ways forward, but also serve as a quasi-barometer of public opinion.

These themes will be examined through political and cultural lenses, which is a departure from mainstream literature which tends to use only one. They will also be applied specifically to the Jordanian context which ought to enrich the limited body of knowledge on the Middle East. The outcome of this research is significant because if it can shed light on the space for legal pluralism, then it can also clear a path for the government, IGOs, NGOs, and other institutes to work towards strengthening the rule of law with careful consideration of the local context.

Terminology

For the sake of understanding, I offer a brief clarification of a few terms:

Tribal law is not a rigorously defined, codified, publicly available body of legal codes. Instead, the term is synonymous with “customary law,” and it describes a set of customs, traditions, beliefs, and practices which are observed, respected, and practiced by people.

Rule of law exists government officials and citizens are bound by and generally abide by the law.

Legal pluralism refers to a context in which multiple legal forms coexist in the same area.

Literature Review

The literature on legal pluralism in the Middle East is fairly small and underdeveloped for at least two reasons. First, tribal law is based on tradition, and therefore is not written down. The technicalities are not well known except for by tribal leaders, making it hard to study especially for western authors. And, much of the writing on the subject focuses on failed states, like Afghanistan and Iraq, which is interesting but not relevant to the Jordanian context or other developing countries. Due to a dearth of information specific to the Middle East, I will instead focus on rule of law literature in general, insofar as it pertains to legal pluralism and developmental states. It is important to note that rule of law theory (much like any theory) cannot be applied blindly and equally across all regions. Local specificity is important because what is relevant to an isolated jungle in South America may be entirely irrelevant to a desert village in Syria. This paper does not provide a universally applicable formula, but rather, aims to create a framework for Jordan which may be useful to consider for other Arab neighbors and developing countries.

The rule of law, a necessary component to any stable and sovereign state, means that “government officials and citizens are bound by and generally abide by the law.”⁸ While necessary, rule of law alone is insufficient to guarantee justice. A law can be bad, unfair, or harsh, but it can still be consistent with the rule of law as long as government officials and citizens abide by it.⁹ Jim Crow-era racial segregation laws are a good example of this. Thus, rule of law operates at two level: it imposes legal limitations on and coordinates the behavior of both government officials and of citizens. In other words, it depends on popular legitimacy and requires buy-in from state officials and society at large. People need to believe that the law is fair and legitimate, in order to respect it. In this way, rule of law is “as much a culture as a set of institutions, as much a matter of the habits, commitments, and beliefs of ordinary people as legal codes.”¹⁰ Understanding this cultural component is critical to developing rule of law in legally pluralistic societies.

Legal pluralism today generally takes the form of cultural, traditional, and religious norms applied by village tribunals alongside formal legal institutions. Colonization in the 18th and 19th centuries were a major source of these types of legal pluralism, because “those transplanting legal templates in other countries assumed that their version was the right or best model”.¹¹ For a long time, scholars followed mainstream development theory and “rule of law orthodoxy” which established that multiple or coexisting legal forms detract from efforts to build rule of law, because undermines state sovereignty, erodes a state’s claim to a monopoly on resolution of legal disputes, impedes effective governance, and subverts the ideals of equality before the law.¹² Many argue that compared to formal institutions, local tribunals are inequitable, inconsistent, and prone to corruption and human rights abuses: they require a lower burden of proof and threshold for evidence, may not conform to norms of due process, are usually dominated by males, might apply harsh punishments, make decisions based on unwritten rules, and so forth.¹³ Thus, many local tribunals “fail the Western tests of legitimacy.”¹⁴ The widely

⁸ Brian Tamanaha, *The Rule of Law and Legal Pluralism in Development*, Washington University in St. Louis School of Law’s Legal Studies Research Paper Series, (2011),

⁹ Tamanaha (2011).

¹⁰ Geoffrey Swenson, *Legal Pluralism in Theory and Practice*, International Studies Review, (2018).

¹¹ Tamanaha (2011).

¹² Swenson (2018).

¹³ Sue Farran, *Is Legal Pluralism an Obstacle to Human Rights? Considerations from the South Pacific*, Journal of Legal Pluralism and Unofficial Law, (2006).

¹⁴ Tamanaha (2011).

accepted solution for the international community has been to almost exclusively “concentrate its legal development activities on the reform of formal justice sector institutions,” in an effort to make them an attractive enough alternative to customary or non-state systems. Moreover, many actors within the international community are only equipped to deal with state institutions or cannot operate outside a normative framework of human rights. The ideal end result for such actors is the eventual fading of legal pluralism as state systems gain prominence and non-state systems lose popular support.¹⁵

Literature recognizing the customary systems as an intelligent accommodation to existing circumstances, as opposed to a defective legal system, is a fairly recent development. Recent authors attempt to consider whether alternative legal forms in situations of legal pluralism might satisfy rule of law functions that failing state legal systems are unable to provide.¹⁶ Tamanaha (2011) summarizes:

“These institutions [customary legal fora] are of the community, closer in derivation and proximity, and hence more accessible to members of the community. Its norms and processes, its modes of decision making, are understood by members of the community. The proceedings are less costly, more timely, and often do not require the intermediation of legal professionals. The decision makers are known to or recognized by the community. Remedies or sanctions issued by decision makers rely upon the acquiescence of the parties and upon community support, which usually necessitates that the result be perceived by the community as acceptable.... A substantial proportion of the populace will not identify with state law—they will not see it as their law, serving their needs.”

In regards to reform, a new perspective on the literature advocates for proper engagement with customary systems, because in certain contexts they can heighten protections for marginalized groups, deliver access to justice for a broader population, and strengthen the rule of law. Recent literature argues that the relationship between coexisting systems can be complementary and mutually reinforcing.

¹⁵ Erica Harper, *Engaging with Customary Justice Systems*, International Development Law Organization, (2011).

¹⁶ Tamanaha (2011).

Methodology

In conducting research for this project, I primarily gathered data in two ways. The first was through secondary source information, such as news articles and academic papers. While most of the readings were dated within the last three to five years, some were up to ten or twenty years old. These papers provided necessary historical context as well as perspective on how culture and public opinion regarding the research topic has changed over time. The second and most significant method of data collection were interviews with relevant individuals in Jordan. The purpose of these interviews was to gain a deeper understanding of the tribal system in Jordan, hear the perspectives of various demographics, as well as challenge some of the ideas presented in the prominent literature.

I conducted eight interviews over two weeks. Participants were chosen based on their relevance to the research topic and found through my personal and professional networks in Jordan. The first interview was with a member of a tribe from the north of Jordan. He lives and works in Amman, but still maintains strong connections to his home village and tribe. The second interview was with Dr. Almadi, a professor of political science at the University of Jordan. Much like the first interviewee, he lives and works in Amman, but returns to his village every weekend and retains his tribe's values. The third interviewee, Dr. Ali, holds a doctorate in commercial law and is a professor of law at a university in Amman. He understands civil law and the legal field more generally in a professional and academic respect. The fourth interview was with Sheikh Talal, the leader of a large tribe in the north of Jordan. As the leader of his tribe, he regularly resolves disputes between members, maintaining stability for over 15,000 people. Sheikh Talal and Dr. Almadi are from the same tribe. The fifth interview was with Ghaith, a student at a private university in Amman. He is Jordanian and belongs to a northern tribe, but his family is quite modern and disconnected from tribal traditions. The sixth interviewee, Doha, is a PhD candidate in law and is part of a tribe from the middle badia, near Amman. The seventh interview was with Ram, a young criminal lawyer at her family's law firm, where she practices alongside her brother and uncle. She is one of the first Jordanians to have done research on this exact topic and is passionate about improving legal justice in Jordan. The eighth and final interview was with Wesam, the founder of a community-based organization called *I'zwa* which means 'solidarity' in her Bedouin language. She views tribal law from a cultural standpoint rather than an academic or professional standpoint. All participants have given their verbal

consent to be a part of this research and to have their real names be used. However, their last names as well as other identifying information have been concealed for their protection and privacy. All interviews were approximately an hour long and conducted in English, except for participant #4 and #7 who required translator. Translation was conducted by a native Arabic speaker.

I would like to draw attention to a couple aspects of the overall research experience which turned out to be quite unique. First, my personal experience – having lived in Jordan for eight months, stayed with two different families, attended a Jordanian university, and travelled to many regions of the country – certainly provided me a nuanced understanding of the different segments in Jordanian society, such as men and women, urban and rural, Jordanian and non-Jordanian, conservative and progressive, among others. For better or worse, it is upon this foundation that my research is built. Second, these interviews were conducted during extraordinary times. Ideally, interviews would have been conducted face-to-face, across a cup of tea in participants’ offices, homes, and villages. However, due to the COVID-19 global health pandemic, I was required to evacuate the country and return back home to the United States. Thus, all interviews were done from the U.S. over video conferencing. While this method may have detracted from the richness of the experience, the quality and veracity of information should not differ in any meaningful way.

Findings

The interviews were rich with information and cultural insight, that both provided context for and sometimes challenged news articles and studies published online. Each participant provided observations that could often be heard as conversations, sometimes in support of others’ thoughts and sometimes against. The first section will look at the negative question, or in which ways does legal plurality harm rule of law. The second section will examine the positive question. The final section will review their responses in aggregate and consider potential ways forward for future reform efforts. Summaries of participants’ interviews will be interwoven in an effort to keep the semblance of conversation as alive as possible.

Theme 1: The negative question

The largest concerns with the coexistence of tribal law and civil law in Jordan were inconsistency, due process, culture, and human rights.

Inconsistency

All 8 participants agreed that, in one way or another, the current plurality of legal systems led to differences in decision making. Dr. Almadi said that although Jordanian tribes generally have the same values, some are more conservative or progressive. As a result, each tribe has their own norms and reputation. Many others also pointed out that not all tribes are strong nor do all tribal sheikhs have the same regard for tradition. These differences are especially pronounced between urban and rural areas, all well as geographically, between the northern, southern, and middle badia. In effect, one tribe may have very progressive views on women's rights while another may not, leading to differences in how crimes against women are prosecuted. Ram added another layer of complication: tribal law is not well known. It is not written down and there are no historical references. Besides sheikhs and well-respected elders, most tribal people do not know the technicalities of the law either. Lack of information allows for situations where decisions may be made based on personal relationships, reputation, or other motivating factors.

Another area where many interviewees saw inconsistency is the way in which tribal law often influences civil court decisions. They all said that tribal peacemaking procedures always precede civil court proceedings. Dr. Almadi clearly stated that tribal rulings do affect state judges. He explained that a majority of judges will accept whatever *atwa*, or peace agreement, has been reached within a tribe for the sake of social stability, and often this means the judge hands down a reduced sentence. Others were more cautious to admit the extent to which tribes have influence. Sheikh Talal, who has brokered dozens of *atwas*, said assuredly that state courts make the ultimate decision and need not recognize tribal processes. Dr. Ali and Doha both said initially that courts have fully independent and the law is applied equally to everyone without discrimination. Further into the conversation, however, Dr. Ali admitted that the government (more prevalent in the past) pampers tribal leaders by appointing them to official state judge positions in the civil courts. This, he said, gives tribes actual power to make settlements which can result in reduced sentences by maybe 20 or 30 years. Similarly, Doha conceded that a court's penalty can be cut in half in the event of tribal reconciliation. She gave an example of a man in

her tribe who shot his daughter and his daughter's lover, due to an altercation with the lover's father. He was sentenced to 20 years in jail, but the families were able to reach *sulha* within the tribe. Accordingly, the man got his sentenced reduced by half to just 10 years. Dr. Almadi said that the difference can actually be much larger, with the difference being as much as a 15-year sentence instead of a life sentence in the case of murder. Ram concluded quite simply: tribal law is certainly stronger than civil law.

Dr. Almadi addressed a final area of inconsistency, noting that the formal legal system can impose prison sentences, as they are state run facilities, and even the death penalty. The tribal system, on the other hand, has more flexibility in terms of finding solutions to conflicts, using measures like payment of blood money, *jalwa*, and others. He gave an example of how differences in penalty can affect a case: a woman from his tribe is the victim of a crime, and her family is adamant about taking her case through the civil courts. The reason, he explained, is because the family knows that the court will hand down a life sentence, or even the death penalty, to the offender – a far worse punishment in their eyes than if the case is resolved within the tribal system. The fate of victims ought not differ so dramatically based on which legal system resolves their cases.

Due Process

Dr. Ali felt strongly about the lack of accuracy within the tribal legal system. He believes, as a Doctor of Law, that people who have not studied the law should not be able to decide the outcomes of legal cases. Many tribal leaders, he explains, only went to formal schools for 3 to 5 years, are functionally illiterate, but become tribal leaders because their father or grandfather was a prominent, respected individual. Civil court judges, on the other hand, are educated and trained in legal matters and apply the written law in a consistent manner. Dr. Ali furthered that the formal legal system is simply more robust. Civil courts follow proper procedures, lawyers carefully document evidence, and police diligently investigate cases – all in an effort to preserve procedural and substantive due process. The tribal legal system doesn't have the resources to conduct proceedings of similar quality. Ram felt similarly, adding that because the state legal system protects the right to due process, civil courts are able to consistently treat everyone the same.

Human Rights

All eight participants unequivocally agreed that *jalwa* is an outdated and harmful practice. Dr. Bader, among others, expressed concern with the uprooting aspect of *jalwa*. He said that in the past, fleeing the tribe required little more than taking one's tent and animals and leaving. Today, however, people have jobs and business while students attend school and have coursework; to instantaneously move an entire family, numbering in the tens and even hundreds of family members in extreme cases, is a logistical nightmare. Doha primarily took issue with the collective aspect of *jalwa*. She says that only the guilty person should be required to leave because only he bears responsibility for the crime. This practice violates human rights because it imposes a collective punishment which implies collective responsibility. For these reasons, Dr. Ali concluded, "We have to cancel the word *jalwa* from the Jordanian dictionary." Sheikh Talal shared a slightly different perspective. He explained that *jalwa* is not and has never been a punitive measure. The intention is to separate the two parties involved, calm tensions, and prevent revenge killings. It provides a chance for *atwa* and avoids further bloodshed. He believes that *jalwa* should be limited to only fathers and brothers, and in his role as a sheikh, he keeps it from expanding to other relatives. He added, however, that *jalwa* is extremely rare in his tribe.

Ram identified administrative detention as another major human rights issue. She explained that women and girls at risk of being the victim of an honor crime may be jailed, in the same centers as actual criminals, for their own protection. Governors use the 1954 Crime Prevention Law to authorize such detentions, though the law is meant to be applied to "persons who are a danger to others." She described one case where a girl spent 7 to 10 years in jail because her family had threatened to kill her. Ram said that this girl may have been saved from being the victim of an honor killing, but she was also entirely stripped of her freedom for nearly a decade. In other cases, women are imprisoned for much longer, up to 20 or 30 years.¹⁷

Culture

Certain cultural aspects of tribal tradition can interfere with Jordan's legal system. Dr. Almadi explained that reputation is still very important to families as it can dictate social interactions with others. As a result, when it comes to crimes involving honor, especially against women and girls, many families feel pressured to keep the matter private and within the tribe.

¹⁷ Rosie-Lyse Thompson, *Jordanian women imprisoned in name of family honor*, Reuters, (2017).

Civil courts adds more visibility to a case which could ruin a family's reputation. Sheikh Talal said that he prefers to resolve disputes tribally, if possible, to respect the privacy concerns of his members. Ghaith questioned the effect of such pressures on justice, however; if people prefer to take their case to civil courts, issues of privacy, honor, and shame should not be a barrier.

Theme 2: The positive question.

The greatest benefits to the coexistence of tribal law and civil law in Jordan were accessibility, stability, cooperation, and culture.

Stability

Every participant felt that the single most important function that tribal law serves is keeping security. The tribal system does this in many ways. First, it is faster. Many interviewees explained that after a crime takes place, the tribe generally intervenes first to an initial ceasefire and then the matter proceeds to civil courts. Tribes are quick to implement peacekeeping measures and the lack of procedural formality means a resolution can be achieved much faster. Dr. Almadi explained the impact. He said that for as long as the case is open, the victim's family is living in fear. Second, tribes can prevent revenge. Ram explained that courts may be able to imprison the criminal, but it cannot stop the victim's family from seeking revenge. Only tribes have that power. Doha furthered that many Jordanian families are very traditional; they care about their honor and will defend their family name, regardless of the consequences. To not do so would be to appear weak. She referred to the previous example about the man who killed his daughter and his daughter's lover. The lover's father was outraged and attempted to gather people to kill the man. Doha explained that had the tribes and public security not interfered, it would've been war within the tribe. Finally, people in Jordan respect the tribes. For many, the connection is personal, familial, cultural, and religious. Ram said that in big cases like murder, the government actually encourages tribal law to take control because they know Jordanians respect their sheikh more than a civil court judge.

Accessibility

Many interviewees explained that the largest reason Jordanians prefer not to engage with civil law is pragmatic. The tribal system is accessible: it is cheaper as it doesn't require legal fees

and transportation to Amman; it is quicker and can resolve issues in a few weeks or months; it is simpler without complex paperwork and technical language; and, it is physically reachable as tribal networks reach the most rural parts of Jordan. Doha said that if the sheikh is honest, representable, and people respect him, then he can resolve disputes quickly and efficiently. In this way, sheikhs are particularly effective arbitrators. Sheikh Talal agreed, drawing on personal experience. He recounted numerous people who came to him instead of going to civil courts, because they know the tribal process is quicker and less expensive.

Cooperation

Modernizing pressures from Jordanians and the international community have given way to many improvements in tribal and civil law. One change that all participants were happy to see was the limitation of *jalwa*. Due to a 1987 agreement between the state and tribal leaders, the *jalwa* was reduced from extending to five generations of family members to only two. Dr. Ali added that even though relatives with a second degree of kinship can be included, most cases today only require that immediate family members relocate – reflecting the practical difficulties in uprooting entire communities in recent years. Jordan’s public security police are also involved in supervising *atwa* and *jalwa*, demonstrating capacity for positive cooperation between the government and tribes. Other recent legislative changes include abolishing Article 308 of Jordan’s penal code (which allowed rapists to avoid punishment by marrying their victim) in August 2017, as well as amending Article 98 which allowed judges to hand down reduced sentences in cases of crimes against women also in 2017.¹⁸ Ram said that improvements have been made regarding administrative detention of women. Collaboration between civil society organizations and the Jordanian government in 2018 led to the opening of Dar Amneh, an alternative to prisons for women placed under administrative detention.¹⁹ Literally the “house of safety,” Dar Amneh is one of very few facilities across Jordan meant to protect women against misapplication of Jordan’s Crime Prevention law which has yet to be amended. Though it may be slow, cooperation between tribal, state, and civil society institutions certainly is possible and effective.

¹⁸ Gildas Guegnanic et al., *Women Deprived of Liberty: the Case of Jordan*, Amman Center for Human Rights Studies, (2018).

¹⁹ *Jordan: End arbitrary detention of women who disobey male guardians or have unsanctioned relationships*, Amnesty International, (2019).

Culture

When asked about the public opinion on tribal law in Jordan, most concurred that it is viewed favorably. They clarified that people certainly do not agree with every aspect of the tribal system, but when viewed holistically, it is a system that reflects the people themselves. This is where civil courts are missing, according to Sheikh Talal. He believes that law must reflect the culture of the people. Current legal codes, however, are 70% based on French code and 30% on British code. Thus, the formal legal system fails to consider the needs of Jordanian civil society. A 2014 survey conducted by the Program on Governance and Local Development (GLD) quantifies the public sentiment really well. Conducted among 1,4999 Jordanians, the survey found that 29% of participants preferred that tribal law be employed to solve conflicts involving murder, and 59% favored a mix of tribal and civil law. Only 12% of participants wanted the formal court system and government officials to resolve conflicts involving murder.²⁰ Ghaith concurred, explaining that even people who generally disagree with tribal dispute resolution methods still support tribal law when it comes to blood crimes, like murder. Sheikh Talal shared an example that highlights a foundational difference civil law and tribal law. Western legal codes, he says, ascribes guilt to one person and accordingly, punishes only one person. Jordanians, however, are unique for their deep family loyalty. The basic unit of identification in Jordanian civil society is the family. Thus, an injury to one is an injury to all, and therein lies the basis for collective responsibility and collective punishment. Tribal law reflects this reality. In the GLD survey, three-fourths of respondents identified as a member of a tribe, which is a significant majority. Civil law ignores critical parts of their identity, so many feel that tribal law better solves their needs. Ghaith agreed and pointed out that the King and Queen of Jordan are very secular and modern. They were educated outside of Jordan and speak English fluently. Yet, the country is still traditional and conservative, and he believes that is because of tribal influence.

²⁰ Kristen Kao, *Do Jordan's tribes challenge or strengthen the state?* The Washington Post, (2015).

Theme 3: A Way Forward

Clearly, the current state of legal plurality is complicated with many details to consider. To gather a macro-level understanding, each participant was asked to describe the way forward for Jordan’s legal system, taking into consideration the positive and negative aspects of tribal law and civil law. The responses are summarized in Table 1 below:

	Vision	How	Why
Dr. Matruk	1 system; Integrate tribal law	Modernize certain tribal customs. Write down and codify tribal law.	Immigrants and refugees make Jordan a more heterogeneous society in which not all people will have same values; Modernization and urbanization means people are growing distant from customary ways; Thus, the current practice of tribal law unsustainable.
Dr. Bader	1 system; Only civil law	Socialize and educate people. Allow tribes to fill a social role only.	Formal legal insitutions are fairly good compared to Jordan's neighbors; Social contexts have changed such that respect and loyalty to tribes have decreased; Tribes have less power.
Dr. Ali	1 system; Only civil law	Encourage incremental improvements.	Judges are trained in legal affairs; Courts respect and follow due process.
Shiekh Talal	2 systems; Mix	Strengthen civil law significantly.	Tribal law represents Middle Eastern values and culture; Tribal law affords greater proection for women.
Ghaith	1 system; Only civil law	Educate people in the ways civil law can guarantee rights; Address corruption.	Many have lost hope in the formal system and see it as weak representation of justice.
Doha	2 systems; Mix	Modernize certain tribal customs.	Tribal law represents Middle Eastern values and culture; Courts are too weak to keep stability.
Ram	1 system; Mix	Strengthen civil law; Modernize certain tribal customs.	Courts are consisten in their application of justice; Courts are too weak to keep stability.

Table 1: Models of a Pluralistic System

Five of the interviewees want to see tribal law continue in some capacity either as a separate but complementary legal system or by integrating it into the state legal system. Three participants prefer that civil law assume complete jurisdiction over all legal matters in Jordan. Under this framework, tribes would fill a purely social role, still existing as a unit of identification and organization. Every participant agreed, however, that the civil court system needs to be strengthened significantly before it can replace tribal law and effectively serve the country.

Discussion and Recommendations

In the developing world, an estimated 80-90% of disputes are handled outside of the state justice system.²¹ The percentage in Jordan is likely lower but still very high, proving that there still exists both a preference or need for the informal legal system. It persists for a reason. With regard to all of the participant responses and background literature, it seems clear that Jordanians are not fundamentally opposed to the idea of state imposed justice, nor are they opposed to the concept of rule of law. Perhaps there exists a normative or ethical preference for tribal law, but more likely, the reason for high usage is functional. It addresses their practical needs and it is compatible with their culture. It also addresses the needs of the state, and as a result, it cannot be ignored by international developmental organizations.

At the same time, there are several reasons why the practice of tribal law, in its current state, is unsustainable. First, Jordan in the last decade is experiencing a shift to a more heterogeneous society. Dr. Matruk described the changing demographic due to immigration and refugees inflows from Iraq, Yemen, Sudan, Somalia, and most notably Syria. Depending on the source, estimates claim that refugees account for 10 to 20% of Jordan's population, an exceedingly large proportion for such a small country. Put another way, roughly 1 in every 14 individuals is a refugee.²² Dr. Matruk explained that the tribal system depends on respect for specific values and allegiance to one's community – characteristics which foreigners do not share. Second, international pressure. In an increasingly globalized world, Jordan's internal politics are not only visible on the world stage, but also related to Jordan's relationships with other countries. Aid and developmental support generally come with certain requirements for human rights protections. Third, and most importantly, internal pressure. Urbanization over the last decade has brought individuals from diverse backgrounds into the same city, neighborhood, and apartment building. Similarly, technology is connecting people and spreading information creating networks that could have never existed before. These changes especially affect Jordan's youth as they grow up with new perspectives never before shared by previous generations. The Middle East has seen the impact that grassroots demonstration, specifically during the Arab Spring, can have on political change. Civil society organizations in Jordan will certainly have a great impact on progress.

²¹ Swenson (2018).

²² Elizabeth Turnbull, *Jordan remains second largest refugee host globally* — UNHCR, The Jordan Times, (2019).

With these changes in mind, the space for legal pluralism is shrinking. As the Kingdom presently balances sharp differences between the country's urban and rural areas, it must also work towards developing strong, sustainable state institutions for future success. Simultaneously, tribes ought to increasingly fill a social role as opposed to a political or administrative one. Their position as keepers of culture and tradition in Jordan is incredibly important and should not be threatened; but formal institutions ought to be strengthened to the point where they no longer rely on tribal leaders to carry out functions of the state. Reforming the formal legal system in this way requires "a host of secondary supportive conditions, involving a confluence of social, economic, cultural, and political factors."²³ Critically, these conditions cannot be met in Jordan if rule of law development is conducted the same way it has been, unsuccessfully, in the past – by equating progress with Westernization. Rather than an unfinished stage of legal development, legal pluralism is more aptly viewed as a reality in its own right.²⁴

In order for this to happen, I offer the following recommendations to the government of Jordan:

Enhance state security: Maintaining security is an essential function of a state, and a power which citizens should trust can be properly carried out by their government. Currently, tribes employ *jalwa* (which public security police often facilitate and assist) to separate feuding parties and prevent further bloodshed. Problematically, as most participants explained, this practice severely infringes on the rights of individuals who are in no way involved in the crime, except for a familial relation to the perpetrator. Elderly may be removed from medical treatment or care, student may be forced to drop out of university, business owners and farmers may lose their livelihood.²⁵ In concurrence with the interviewees, the government and tribes should agree to end the practice of *jalwa*. The government ought to provide greater stabilizing measures to fill the security gap such as increased public police presence for the victim's family and strengthen repercussions for revenge-inspired violence. Of course, *jalwa* responds to a security concern as much as it does a cultural one. Thus, the tribe still has a large role to play in calming emotions and mediating peace between families. Critically, this role is social and not one the state can or should play. Ending *jalwa* is uniquely important because the practice undermines the state's

²³ Tamanaha (2011).

²⁴ *Ibid.*

²⁵ Laila Azzeh, *Eviction of entire clan of a murder suspect 'outrageous violation of human rights'*, The Jordan Times, (2016).

legitimacy as the sole enforcer of the law. Loss of legitimacy threatens to weaken every other area in which the state tries to assert power, deteriorating overall rule of law in Jordan.

Strengthen protections for women: Transition towards a secular rights system has meant that protections for women once available at the tribal level have been lost, but at the same time, women cannot readily access justice through the courts.²⁶ Sheikh Talal expressed a similar concern, saying that civil courts would need improve significantly in the area of women's rights before he would feel comfortable letting cases be handled outside his tribe. He explained that in tribal custom, a crime against a woman is considered four crimes. Civil law doesn't view women with the same respect. Until 2017, Jordan's penal code allowed jail time by marrying his victim without the prospect of divorce for at least three years. Though the article 308 is now abolished, Sheikh Talal says that in his experience, honor crimes are rarely punished for more than six months.

Streamline formal processes: Jordanian society clearly values social cohesion. A dispute causes tension, and a length resolution exacerbates it. Tribal law addresses this cultural condition by prioritizing a quick peacemaking process over all else, even due process. While civil courts should not go so far as to ignore due process, the Jordanian government, in collaboration with legal development organizations, should work to make the case management process swift and efficient by increasing the technology and resources available to state courts.

Increase access: Legal assistance is currently prohibitively expensive for the majority of Jordanians. The government can make judicial systems accessible by expanding the reach of state justice services, establishing mobile courts, incentivize judges to work in rural areas, subsidize transportation to cities where legal aid is available, and training community-based paralegals to bridge to enhance the quality of justice as well.

Socialization and education: Civil law currently suffers from a perception problem. Ghaith explained that many Jordanians have lost hope in the formal legal system because of long, complicated processes and medium levels of corruption. Often, civil court outcomes are seen as a miscarriage of justice. Dr. Almadi suggests robust programs aimed at rural areas to educate. Fortunately, he doesn't believe this will be difficult as Jordanian society is very well educated.

²⁶ Johnstone (2015).

Additionally, I offer the following recommendations to international organizations, aid agencies, and non-governmental organizations:

Understand the tenets of tribal justice: Tribal law is a peacemaking process, not a punitive one. Justice is achieved only when retribution has been paid, honor has been restored, both parties feel satisfied. Western tribunals focus on the victim: they ascertain his guilt, assess the nature of his crime, and determine a suitable punishment. Justice, therefore, is achieved when the right man is caught and penalized. With Jordanian custom, however, the focus is much larger; it includes the perpetrator, his family, the victim and the victim's family (and in a symbolic sense, the community at large). In so far as all these parties have been affected, they also have a right to be part of the resolution. An unsatisfying resolution, therefore, is what motivates revenge. For outside assistance

Separate human rights failures from "backwards culture" or Islam: A prevalent feature of every interview was an insistence on dispelling misconceptions about Islam and Middle Eastern culture. Tribal customs, they explained, are based in history and not in religion, evidenced by the fact that they are practiced by Druze and Christian communities in the MENA region and they are extremely uncommon in Muslim countries outside MENA.²⁷ Moreover, tribal societies predate Islam. Dr. Ali noted that since advent of Islam, though, the religion has positively influenced tribal culture especially with regards to the treatment women. Dr. Almadi points out two examples, honor killings and "marry-your-rapist" laws. Honor killings, though seen in every region of the world, predominantly occur in Muslim, Hindu, and Sikh communities with the highest rates seen in South Asia, the Middle East and North Africa. However, it is France's 1810 Penal Code created under Napoleon, which allowed the murder of unfaithful women by their husbands but not vice versa, that provided the legal framework for honor killings across the Arab world. Napoleon code inspired Ottoman law, both of which were imposed on countries across the Middle East.²⁸ Moreover, many legal scholars argue that the impact of honor killings on women's rights is not significantly different from that of "crime of passion" laws in the West.

²⁷ Johnstone (2015).

²⁸ Article 308 of Jordan's Penal Code, for example is a remnant of Ottoman code derived from French penal code. France only removed a similar provision in 1994, Greece in 2018, and many other countries still have variations of "marry your rapist" laws including Russia, the Philippines, and Florida and Missouri in the United States.

Conclusion

In many ways, Jordan's struggle is not that different from other countries, and it that regard, much of the analysis and many of the recommendations presented here can be useful to consider in other contexts. From Latin America to Africa to Oceania, legal pluralism is a defining feature of nearly all postcolonial countries attempting to navigate the imprecisely defined jurisdiction of their formal and informal legal systems. Weak institutions, political or ethnic conflict, corruption, and poverty further burdens reform efforts. Fortunately, Jordan's path forward should not be as burdened. Compared to its neighbors and other postcolonial states, Jordanians witness far lower levels of violence and corruption and enjoy relatively high levels of education, female empowerment, and stable institutions. In other ways, however, Jordan's reform efforts need to be uniquely tailored to reflect the country's history, culture, demographics, and values. This paper intentionally covers a lot of ground and attempts to provide significant historical and cultural context. Legal reform intervention often fails because development organizations forget that all institutions, legal or otherwise, require support of the people in order to function. The difference between designing solutions that seem to meet people's needs and ones that actually do is understanding local religious, cultural, geographic, political nuances –a daunting prospect but nonetheless necessary.

The outset of this paper established the legal history of Jordan as it related to the cultural context of the time, the introduction of state governance, and the present-day demographics of tribal communities across the north, south, and middle of Jordan. The paper then attempted to understand rule of law development theory, orthodox and contemporary, as well as the complications that arise when applied to legally pluralistic societies. It then moved into a structured analysis of tribal law and civil law in Jordan, their coexistence and the ways in which each enables and hinder rule of law in Jordan. At the end, Table 1 is presented which summarizes the opportunity for legal pluralism in Jordan. Finally, the paper considers the reality of legal pluralism and offers recommendations to that end. To integrate and institutionalize tribal customary law into Jordan's civil codes requires rigorous, transparent, and continued dialogue between tribal leaders, government officials, developmental organizations, and most of all, the Jordanian people.

Limitations

With the finding and discussion in mind, several limitations present themselves throughout the course of this paper. Perhaps the most significant shortcoming is the method of data collection itself – video conferencing interviews. Although present circumstances prevent any other form of interviews, qualitative research greatly benefits from field-based observations and notes, neither of which can be collected from afar. Specifically, in regard to the interview with Sheikh Talal, it is easy to see how the research could have been enriched had I been able to visit his village, watch how he interacts with the members of his tribe, and see how they respect him. These interactions could reveal a lot power dynamics, social organization, and attitudes towards various community issues – all of which would certainly be relevant to the topic of research. Observations are powerful, too, because they can test the reliability of information as well. What is unspoken and a matter of habit could either contradict or reinforce interview data, both of which would be useful to ascertain.

Additionally, I lacked a few fairly important perspectives. With more time, reaching a larger, more balanced sample size could have been achieved. First, there were more male interviewees than female, which is problematic because large discrepancies exist between men and women in the access to and quality of justice. Interviewing more women could have shed light on issues such as honor killings, representation in court, and the pressures related to shame and honor. Second, all of the interviewees were active participants in the current legal system which implies some level of assent. Hearing from individuals that are a part of non-governmental organizations or non-profits working to improve the system could provide insight on current reform efforts and barriers to progress. This lack of perspective is definitely reflected in the data which thoroughly describes the status quo but doesn't discuss feasible solutions beyond speculation and opinion. Finally, to be complete, this research needs stories from individuals who have been through the legal process themselves, who have faced tribal punishments such as *jalwa*, or have been the victim in cases where the offender received a reduced sentence. These individuals are hard to find due to the privacy and secrecy surrounding criminal cases in Jordan and certainly a situation where in-person meetings could establish more trust than a video call. I had to rely on secondhand accounts and news articles for these kinds of stories, but this perspective is necessary to assess the impact of current legal practices in Jordan.

Future Research

This paper covers a fairly broad topic, leaving ample room for further research. To address the limitations of this study, future academics might want to utilize a more anecdotal approach to hear the experiences of individuals who have been part of the tribal or formal legal system as a victim, perpetrator, or family member. Another approach is to collect public opinion data across various demographics such as gender, age, education, and geographic area. Still, another approach could involve a case study analysis of past disputes to identify trends and relationships in the dispute resolution process.

Many subthemes presented within this paper could be explored further. The practice of *jalwa* is quite unique to Jordanian society and warrants further study in order to better understand its dual role as both a punitive and peacemaking tool for tribes. Its continued usage over centuries of growth is evidence of a deeply rooted dependence on tribal resolution methods. Another area which warrants further examination is the relationship between tribes and the government, exploring the way in which they compete, support, and rely on each other. Future research could also look at women's rights: differences in protection under tribal law and civil law, mitigated sentencing for crimes against women, ease of access to legal recourse, social pressures and issues of honor, the influence of Islam on tribal custom regarding women, administrative detention, and honor crimes.

Finally, several cross-sectional themes would be fascinating to study in a comparative context, such as the concept of revenge and retributive justice, collective responsibility and collective punishment, tribal kinship and organization, honor crimes and perception of women, and the culture of shame, honor, and privacy. Each area could be studied across time, religions, ethnicities, and geographic regions.

References

Primary Sources:

Sources include each of the eight participants who interviewed for the purpose of this paper.

Secondary Sources:

Azzeh, Laila. 2016. *Eviction of entire clan of a murder suspect 'outrageous violation of human rights'*. The Jordan Times. Retrieved from: <https://www.jordantimes.com/news/local/eviction-entire-clan-murder-suspect-outrageous-violation-human-rights%E2%80%99>

Farran, Sue. 20016. *Is Legal Pluralism an Obstacle to Human Rights? Considerations from the South Pacific*. Abingdon: Journal of Legal Pluralism and Unofficial Law.

Furr, Ann. 2008. *Tribal Customary Law in Jordan*. Columbia: South Carolina Journal of International Law and Business.

Guegnanic, Gildas, Madeleine Cravens, and Lisa Mascheroni. 2018. *Women Deprived of Liberty: the Case of Jordan*. Amman: Amman Center for Human Rights Studies.

Harper, Erica. 2011. *Engaging with Customary Justice Systems*. Rome: International Development Law Organization.

Johnstone, Naomi. 2015. *Tribal Dispute Resolution and Women's Access to Justice in Jordan*. Amman: WANA Institute.

Jordan: End arbitrary detention of women who disobey male guardians or have unsanctioned relationships. 2019. Amnesty International. Retrieved from: <https://www.amnesty.org/en/latest/news/2019/10/jordan-end-arbitrary-detention-of-women-who-disobey-male-guardians-or-have-unsanctioned-relationships/>

Kao, Kristen. 2015. *Do Jordan's tribes challenge or strengthen the state?* The Washington Post. Retrieved from: <https://www.washingtonpost.com/news/monkey-cage/wp/2015/05/28/do-jordans-tribes-challenge-or-strengthen-the-state/>

Lousada, Lily. 2016. *Tribal Customary Law in Jordan: Sign of a weak state or opportunity for legal pluralism?* The Huffington Post. Retrieved from: https://www.huffpost.com/entry/tribal-customary-law-in-j_b_10448880?guccounter=1

- Swenson, Geoffrey. 2018. *Legal Pluralism in Theory and Practice*. Oxford: International Studies Review.
- Tamanaha, Brian. 2011. *The Rule of Law and Legal Pluralism in Development*. St. Louis: Washington University in St. Louis School of Law's Legal Studies Research Paper Series.
- Thompson, Rosie-Lyse. 2017. *Jordanian women imprisoned in name of family honor*, Reuters. Retrieved from: <https://www.reuters.com/article/us-jordan-women-prison/jordanian-women-imprisoned-in-name-of-family-honor-idUSKCN1AW0IO>
- Turnbull, Elizabeth. 2019. *Jordan remains second largest refugee host globally — UNHCR*. The Jordan Times. Retrieved from: <https://www.jordantimes.com/news/local/jordan-remains-second-largest-refugee-host-globally-%E2%80%94-unhcr>
- Watkins, Jessica. 2014. *Seeking Justice: Tribal Dispute Resolution and Societal Transformation in Jordan*. Cambridge: International Journal of Middle East Studies.

Appendices

Appendix A: Interview Questions

Q1: What jurisdiction does tribal law have? Which kinds of disputes does tribal law tend to settle?

Q2: Are there differences, geographically, in terms of the influence of tribal law? How is tribal law practiced differently in cities, like Amman and Irbid, versus in rural areas and villages?

Q3: Under what circumstances is tribal law most effective, meaning the resolution satisfies both parties?

Q4: Does tribal law protect human rights?

Q5: Does civil law protect human rights?

Q6: Do what extent are women involved in cases against them?

Q7: Could you describe cases where a dispute could be settled through civil courts, but it was instead settled privately between tribes?

Q8: Could you describe situations where a case went through civil court but the outcome was in some way influenced by concepts of tribal justice?

Q9: Tell me about recent efforts (past two decades) to formally merge government authority and tribal codes.

Q10: Who or what is the greatest barrier to further progress?

Q11: To provide consistent and accessible justice, in your opinion and based on your experience, how should Jordan's legal systems operate or be improved?

Q12: To get a sense of public opinion, do Jordanians believe tribal law is fair and positive? Do people want reform towards civil law?

Q13: Does the changing demographic of Jordan due to refugees inflows concern you insofar as it affects the strength of tribes?

Q14: Some argue that that tribal power opens flexibility in the legal system. So, court rulings go from firm decision to negotiation, and this constitutes a degradation of the rule of law. Do you agree? Or is there a way that tribal power actually strengthens the rule of law?

Appendix B: Participant Consent

In lieu of written consent forms, the researcher has a record of the verbal consent given by each participant.

Appendix C: Access, Use, and Publication Consent



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Student Name: Riya Jain

Email Address: rjain18@jhu.edu

Title of ISP/FSP/Internship: The Opportunity for Legal Pluralism in Jordan

Program and Term/Year: Jordan: Geopolitics, International Relations, and the Future of the Middle East (JOR), Spring 2020.

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