



Jordan: Tribal law, including whether it allows murder as revenge; whether tribal law overrides the legal justice system, as well as areas it is applied; government protection (1988-May 2013) [JOR104416.E]

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1. Tribal Law

The United Nations Development Fund for Women (UNIFEM) indicated that tribal law in Jordan was abolished in 1975 (UN 2006, 17). Similarly, in correspondence with the Research Directorate, a representative of the Amman law firm Obeidat, Freihat and Hadidi indicated that "tribal laws in general, including without limitations, tribal courts law, were cancelled by virtue of a law enacted specifically for this purpose in 1976," and that all tribal procedures were cancelled by a decision rendered by the Minister of Internal Affairs that same year (Obeidat, Freihat and Hadidi 23 May 2013).

However, the Obeidat, Freihat and Hadidi representative also indicated that "tribal reconciliation or dispute resolution has come to form a prevailing part of the Jordanian culture and customs, despite the fact that it no longer constitutes a part of the Jordanian legal system" (ibid.). In correspondence with the Research Directorate, an Amman lawyer similarly noted that "tribal law does not apply in Jordan in the strict sense of the word, where the positive legislation replaces it," and that tribal "rules" are seen as "customs and traditions ... preferred by most families in Jordan" (Lawyer 20 May 2013). In a telephone interview with the Research Directorate, the Executive President of the Adaleh Center for Human Rights Studies, a non-profit NGO founded in September 2003 in Amman (Adaleh Center for Human Rights Studies n.d.), stated that there is no tribal law, but rather tribal practices (ibid. 16 May 2013). In a 2007 e-mail to the Australia Refugee Review Tribunal, a Senior Lecturer of Middle Eastern and African History at Tel Aviv University who studied Jordanian tribes for over ten years and conducted "a large part" of his research in 1998, referred to "tribal customs" and stated that these customs were still prevalent in Jordan as of 2007 (Australia 26 Sept. 2007).

The Executive President of the Adaleh Center for Human Rights Studies stated that people go to a sheikh, who he described as a tribal judge, for dispute resolution (16 May 2013). According to a 2008 academic article published in the *South Carolina Journal of International Law and Business*, discussing tribal customary law in Jordan, which is attached to this Response, Sheikhs are the leaders of tribes (Furr and Al-Serhan 1 Jan. 2008, 17, 22). The Executive President of the Adaleh Center for Human Rights Studies said that tribal judges are not part of Jordan's legal system, but they resolve disputes related to blood crimes, honour crimes, and many others including conflicts between families and conflicts related to land (Adaleh Center for Human Rights Studies 16 May 2013). He also said that there are written rules and procedures for this dispute resolution process, and that there are administrative procedures in place for honour crimes and blood crimes (murders)

(ibid.). The Amman lawyer also indicated that tribal law is "[s]till applied in certain situations like conciliation, murders and honor crimes (indecent assault, adultery)" (Lawyer 20 May 2013). In correspondence with the Research Directorate, an associate professor of Middle Eastern and refugee studies in the Department of Anthropology at the Western University of Ontario, after consulting a "legal expert," similarly indicated that tribal law applies when "there is a crime or conflict among tribes, for example, if someone kills or dishonors a woman from another tribe" (Associate Professor 19 May 2013). In her 2003 book *Women of Jordan: Islam, Labor, and the Law*, Amira El-Azhary Sonbol states that "tribal law seems to be focused on the control of women and family issues, and it is in this form that it has become an integral part of the legal system in Jordan" (El-Azhary Sonbol 2003, 48).

1.1. Tribal Law and the Legal Justice System

Furr and Al-Serhan, authors of the academic article on tribal law in Jordan, indicate that "[t]he formal legal system, Sharia law, and tribal law co-exist in Jordan. 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" (Furr and Al-Serhan 1 Jan. 2008, 22). Furr and Al-Serhan further indicate that in practice the legal system in Jordan "defers" to tribal laws if everyone involved decides to use the tribal system (ibid., 23). Similarly, the associate professor noted that in practice "[t]ribal law overrides Jordan's legal system. If someone is killed and the prosecutor interfered and prosecuted the suspect and brings him to court, the judge will not adjudicate the case until both tribes sign a settlement agreement" (19 May 2013). The Senior Lecturer of Middle Eastern and African History at Tel Aviv University quoted by the Australian Refugee Review Tribunal in 2007 also indicated that

... as far as the role of the state is concerned it should be noted that Jordan tends to respect tribal law and customs and allows much autonomy to its tribes in conducting their own internal affairs. In fact, the Jordanian legal system informally recognises the existence of tribal law side by side with civil law. For instance, a conflict between two families would be dealt with in court but at the same time the families would try to solve their case through tribal processes of conflict resolution (temporary truce, mediation, arbitration, compensation, reconciliation, etc.). (Australia 26 Sept. 2007)

In her 2003 book, Amira El-Azhary Sonbol states that "it is in regards to issues pertaining in particular to women and to committing murder that tribal laws have in fact become the basis of the law in Jordan" (El-Azhary Sonbol 2003, 48). The representative from Obeidat, Freihath and Hadidi indicated that

[a]t present and since the aforementioned law of 1976, there is no official body with the power to decide on criminal incidents/lawsuits except for the Jordanian judicial authority represented by competent courts. The public prosecution is vested with the power and is obliged to commence legal proceedings immediately once informed of an offence unless such procedure is contingent upon the personal complaint of the victim or the injured parties. The powers of the public prosecution are not hindered by this Jordanian custom. ... tribal laws and reconciliations aim at alleviating the problem and the negative social consequences and implications resulting therefrom. (May 2013)

2. Revenge in Tribal Law/Practices

Revenge is part of tribal practices (Adaleh Center for Human Rights Studies 16 May 2013; Lawyer 20 May 2013; Obeidat, Freihaat and Hadidi 23 May 2013). According to the Obeidat, Freihaat and Hadidi representative, "revenge is criminalized in Jordan, and does not constitute a right by virtue of which the avenger is granted any legal protection or special treatment. This, however, does not negate the fact that such crime is committed" (ibid.).

The Executive President of the Adaleh Center for Human Rights Studies noted that it is possible for someone to harm another person for revenge (16 May 2013). The Amman lawyer explained that, under tribal law, a way the family or the tribe of a victim "take revenge from the offender and his family" is to "expel them from their houses and neighborhood. Their properties become unusable and the state does not interfere except through the Administrative Governorate, who just organize this" (ibid.). The Lawyer also indicated that this is "unconstitutional" (ibid.). In addition, he noted that in instances of "murder crimes," the relatives of the "offender" are "vulnerable to this revenge by the relatives of the victim" even if the "chosen person did nothing wrong" (ibid.). The article by Furr and Al-Serhan similarly indicates that in cases following a killing, another member of the family of the perpetrator can be chosen for revenge, and that the tribal law allows for murder as revenge (Furr and Al-Serhan 1 Jan. 2008, 24).

According to the associate professor,

[i]f someone attacks somebody from another tribe, and the person was on his own and chased or sought for revenge by the tribe of the person attacked or killed, then the person may seek protection in another tribe. The term used is 'dakheel' that is the person is metaphorically speaking adopted by that tribe. Therefore, if the tribe continues to pursue the person after he became a dakheel in another tribe and was killed or hurt, it is considered an attack on the whole tribe that accepted to take him in and in a manner of speaking gave him protection. (Associate Professor 19 May 2013)

3. Areas Where Tribal Law is Applied

According to the Executive President of the Adaleh Center for Human Rights Studies, usually tribal judges resolve problems for people in big tribes in rural areas (16 May 2013). He added that although people in Amman "usually" go to court, sometimes residents of Amman who belong to big tribes, for instance from tribes in areas such as Karak, Ma'an, Mafrak or Madaba, prefer to take their problems to tribal judges (Adaleh Center for Human Rights Studies 16 May 2013). Corroborating or additional information on areas where tribal law is applied could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4. Incidents of Tribal Violence

A 2012 article by Al Bawaba News, a news website founded in 2000 covering the Middle East (Al Bawaba n.d.), describing incidents of tribal gang battles in Jebel al Nasir, located in Amman, indicates that the area is a "scene of mass gunfights, Molotov cocktails and burning buildings" (Al Bawaba News 26 Aug. 2012). The same article also mentions that a police station was attacked in Muwaqqar (northwest of Amman) by a tribe, caused by the arrest of one of their family members; no one was charged for the attack (ibid.).

Media sources report in April 2013 that there has been an increase of "inter-tribal hostilities" and violence at universities across Jordan (*The New York Times* 25 Apr. 2013; *The Daily Star* 23 Apr.

2013). The *New York Times* article indicates that according to the ministry of higher education, "the descent into tribalism threatens to undermine both the rule of law and Jordan's respected academic institutions" (*The New York Times* 25 Apr. 2013). One specific incident occurred at the Mutah University in the southern city of Karak (ibid.; *The Daily Star* 23 Apr. 2013). According to the Lebanese newspaper *Daily Star*, "[t]ribal honor is often linked to females' conduct; fights frequently break out if girls from one tribe are accused of dating males of another tribe" (ibid.).

The *Jordan Times* similarly reports in an April 2010 article that after campus violence that spread to the town of Salt, an "anti-violence code of honour based on tribal ground" was signed by students of the Amman University College (*The Jordan Times* 28 Apr. 2010). Student activists protested against this code, and the National Campaign for Defending Students Rights (Thabahtoon) labelled it as "dangerous" in a letter to the Ministry of Higher Education and Scientific Research (ibid.). The former director of the University of Jordan Centre for Strategic Studies and an anthropologist advocated for the rule of law and de-tribalization in universities (ibid.).

5. State Protection

According to an article published by Reuters in January 2011, "tribal loyalty has for decades underpinned the monarchy and the country's security forces" (13 Jan. 2011). The article further notes that there are Jordanians that say that "the government has willingly accommodated a nationwide resurgence of customary law that allows tribal justice to informally displace civil laws when inter-communal tensions flare in tribal areas" (ibid.). Reuters further states that "prominent state figures including former prime ministers, senior police officers and palace officials ... give their backing to tribal settlements which in some cases rule on expulsion of families, or '*jalwa*,' to avoid tribal revenge" (ibid.).

According to Furr and Al-Serhan,

The police and the court system to the tribal system but with interesting points of cooperation. For instance, if a matter arises in a village concerning the honor of a female, the police will attempt to move her to a safe location so that she does not become the victim of an honor killing. Then, the matter will be resolved within the tribal system. (Furr and Al-Serhan 1 Jan. 2008, 17)

Sources indicate that a person at risk of being a victim of revenge can be put in jail as a protective measure (Lawyer 20 May 2013; Professor 19 May 2013; Human Rights Watch 26 May 2009, 2). The Obeidat, Freiha and Hadidi representative similarly stated that

the competent authorities ... provide protection to those at risk of being a victim of revenge. For example, the competent authority represented by the administrative governor puts those at risk in jail for protection purposes rather than for penalization, so same would be under the protection of the government until referred to the competent court. (23 May 2013)

The Amman lawyer also indicated that the government does provide "some kind of protection as a precautionary measure to prevent any crime from happening," which can include not exposing those involved or placing both parties in jail for "protection" in cases where revenge might be taken (Lawyer 20 May 2013). A 2009 report by Human Rights Watch also noted that those in "protective custody remain detained indefinitely, and have no effective means of challenging their detention"

(May 2009, 2). According to the report, this kind of protective custody has "no legal basis" (ibid., 10).

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

References

Adaleh Center for Human Rights Studies. 16 May 2013. Telephone interview with the Executive President.

_____. N.d. "About the Center." <http://www.adaleh-center.org/new/index.php?option=com_content&view=article&id=99&Itemid=120&lang=en> [Accessed 28 May 2013]

Al Bawaba. N.d. "The Albawaba Group." <<http://www.albawaba.com/corporate>> [Accessed 29 May 2013]

Al Bawaba News. 26 August 2012. Helen Brooks and Elwan Bader. "The Gangs of Amman: Where Tribes Are More Powerful than the State." (Factiva)

Australia. 26 September 2007. Refugee Review Tribunal (RRT). "RRT Research Response. Research Response Number: JOR32180." <http://www.ecoi.net/file_upload/1930_1292260592_jor32180.pdf> [Accessed 16 May 2013]

The Daily Star [Beirut]. 13 April 2013. Elizabeth Buckner. "Jordan Universities in Crisis as Violence Rises." <<http://www.albawaba.com/editorchoice/jordan-university-violence-486624>> [Accessed 29 May 2013]

El-Azhary Sonbol, Amira. 2003. *Women of Jordan: Islam, Labor, and the Law*. Syracuse, N.Y.: Syracuse University Press.
<http://books.google.ca/books?id=W_62ed13ZHUC&printsec=frontcover&source=gbs_ge_summmary_r&cad=0#v=onepage&q&f=false?> [Accessed 17 May 2013]

Furr, Ann and Muwafaq Al-Serhan. 1 January 2008. "Tribal Customary Law in Jordan." *South Carolina Journal of International Law and Business*. Vol. 4, Issue 2.
<<http://scholarcommons.sc.edu/scjilb/vol4/iss2/3>> [Accessed 16 May 2013]

Human Rights Watch. May 2009. *Guests of the Governor: Administrative Detention Undermines the Rule of Law in Jordan*. <<http://www.hrw.org/sites/default/files/reports/jordan0509web.pdf>> [Accessed 28 May 2013]

The Jordan Times. 28 April 2010. "Honour Codes Addressing Campus Violence on Tribal Basis Irk Advocates of Civil Society." (Factiva)

Lawyer, Amman. 20 May 2013. Correspondence sent to the Research Directorate.

The New York Times. 25 April 2013. Rana F. Sweis. "Tribal Clashes at Universities Add to Tensions in Jordan." (Factiva)

Obeidat, Freihat and Hadidi Law Firm. 23 May 2013. Correspondence from a representative sent to the Research Directorate.

Associate Professor, Department of Anthropology, Western University, London, Ontario. 19 May 2013. Correspondence sent to the Research Directorate.

Reuters. 13 January 2011. Suleiman al-Khalidi. "Tribal Feuds Threaten Jordan's Stability." (Factiva)

United Nations (UN). 2006. Development Fund for Women (UNIFEM). *Towards Political Empowerment for Jordanian Women*. <<http://www.refworld.org/cgi-bin/txis/vtx/rwmain?page=category&category=COI&publisher=UNIFEM&type=&coi=&docid=46cadacc0&skip=0>> [Accessed 17 May 2013]

Additional Sources Consulted

Oral sources: Attempts to contact the following individuals and organizations were unsuccessful within the time constraints of this Response: Amman Center for Human Rights Studies; Arab Organisation for Human Rights in Jordan; Assistant Professor, Socio-cultural Anthropology, American University in Cairo; Embassy of Jordan in Canada; Columbia University Middle East Research Center; King Hussein Foundation's Information and Research Center; Jordan Bar Association; Mutah University Researcher on tribal conflicts; Professor, Political Science, American University in Cairo; Tamkeen; Zikra Initiative. The following individual and organizations were unable to provide information for this Response: Human Rights Lawyer in Amman; Legal Aid Jordan; Associate Research Professor, American University in Cairo; Director of Tamkeem, Daem Observatory for Consultation and Training .

Internet sites, including Al Jazeera; ecoi.net; Factiva; United Nations – Refworld; United States Congressional Research Service.

Attachment

Furr, Ann and Muwafaq Al-Serhan. 1 January 2008. "Tribal Customary Law in Jordan." *South Carolina Journal of International Law and Business*. Vol. 4, Issue 2. <<http://scholarcommons.sc.edu/scjilb/vol4/iss2/3>> [Accessed 27 May 2013]
