

Exclusion and Norms: Enforcing Women's Rights to Property in Jordan

Property ownership is a male domain in Jordan, where women are dependent on men for housing. A patriarchal pattern of power dominates both inheritance and property. While the inheritance rights of women are formally enshrined in the constitution, in Islamic law (Sharia), and in the customary law particularly common in the steppe regions, female heirs continue to face social pressure to renounce their rights in favor of male heirs. Most women either do not receive the share of inheritance that the law entitles them to or they are simply denied their right to housing and land.

Jordanian Sharia Court data show that in 2014 a third of heirs fully relinquished their inheritance rights through the process of *takhāruj*, the voluntary “opting out” of their rights (exclusion). Records do not specify their gender, but survey evidence shows most of those who requested *takhāruj* were women. A survey conducted in the Irbid governorate in 2010 by the Jordanian National Forum for Women indicated that 20 percent of women had renounced their inheritance rights and that three-quarters of them had done so willingly. Jordanian women still appear to abide by the belief that they will harm the economic and social status of their brothers if they take up their right to inheritance. These social norms and beliefs have led Jordanian women to internalize and condone the privileges of men in matters of inheritance.

Besides social pressure, women are deprived of their inheritance in several other ways. One takes the form of a donation to male heirs before a person's death. Another is when owners and their male heirs choose to leave a property undivided, which prevents female heirs from using or selling their share for years and even decades. This often happens with agricultural land and family-owned buildings. In most cases male heirs give symbolic gifts to women, called *badal* or *takrīm*, which are worth far less than the value of shares they are legally entitled

to receive. In general, women are kept in the dark about the real value of assets such as land or an apartment.

As a consequence of such cultural norms, only 6.8 percent of ever married women owned their houses and only 7 percent owned land in 2012 (Jordanian Department of Statistics [DOS and ICF 2013]). A recent trend has seen women managing to register residential apartments in their name upon marriage, mainly in the major cities of Amman and Irbid. Women owned 19.5 percent of registered apartments in Jordan in 2014 (HKJ 2014). But since apartments constitute 42 percent of housing units, mainly built as a form of investment, that translates into women owning a mere 10 percent of all apartments. In comparison, women owned 22.5 percent of securities, whether bonds, shares, or options in 2011 (DOS and KVINFORM 2012). Husbands often register apartments and securities in the name of their wives to protect their assets from creditors, if their business goes bankrupt.

Less than 3 percent of Jordanian people are Christian, but historically they have owned large tracts of land and are significant players in the nation. Sharia law has been applied to Christian property inheritance since the Ottoman period in Jordan, and although Christian tradition stipulates that women be granted the same shares as men, Christian deputies have never asked for the inheritance law to be revised.

Women's rights activists have succeeded in amending the Jordanian Personal Status Law No. 36 of 2010 by working with the Sharia Supreme Court (Qādi al-Qudā), the country's highest religious and legal institution. In 2011 seven amendments were made and two articles added: articles 318 and 319 on property and exclusion. The most important amendment introduced a mandatory three months after the death of the owner before either exclusion (*takhāruj*) or power of attorney (*wakāla*) could be invoked. Another amendment stated that an attorney dealing with an estate was under obligation to inform the heirs of all properties included in an inheritance. Another specified that a judge must explain to the heirs the legal consequences of the exclusion of inheritance; this has resulted in judges asking for better education for women so that they can better defend their rights.

The improvement of women's rights to inheritance has been proffered since the 1960s as a solution to poverty and a means of preventing women from falling into destitution. Property rights and security of tenure are basic not only to shelter but also to improvement of livelihoods, economic prosperity, and sustainable development.¹ The United Nations' human settlement program, UN-Habitat, and the Office of the High Commissioner for Human Rights support property rights and the security of tenure under the Right to Adequate Housing Framework. Jordan is working on incentives for better inclusion of women in the economy, and inheritance and property should be a major dimension of this policy.

This chapter applies the conceptual framework for the enforcement of the rule of law to housing and property rights in Jordan, focusing on voluntary and forced exclusions of women from property ownership. The main argument is

that the gender inequality embedded in the inheritance system creates a “glass ceiling” that hinders the economic and social progress of women in Jordan.

Inheritance is one of three pillars of economic independence for women, with dowry and employment. However, in Jordan, these pillars do not stand on solid foundations. A 2010 World Economic Forum report on gender gaps ranks Jordan 120th among 134 countries in women's economic opportunities, well below many other middle-income countries (World Bank 2013a).

Fieldwork for this chapter was conducted in two areas of East Amman, Wadi Abdoun and Jabal Nuzha, in September and October 2015. Interviews with judges of the Sharia Supreme Court, lawyers from women's rights organizations, and lawyers and engineers from the Department of Land and Survey (DLS) and the Housing and the Urban Development Corporation were conducted in October and November of the same year.

The first section of the chapter presents findings on the economic and social context of housing and land fragmentation in Jordan. The second focuses on the evolution of the legal framework governing inheritance and land property in Jordan. The third examines pressures on women to waive their inheritance rights. The final section looks at advocacy work carried out by women's rights organizations guided by the United Nations' Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Women's Islamic Rights to Inheritance

Since the Ottoman Empire (1516–1918), inheritance procedures have been governed by Sharia (Islamic) principles embedded in the customary law of *Liwa Ajlun*, the heart of the region that became the Emirate of Transjordan in 1921. In 1869, these rules were codified by the Ottoman Family of Law (*Al Majelle*). Inheritance, marriage, and divorce today are all governed by personal law on the basis of Islamic principles for Muslims citizens. Jordanian Christians, who share a common culture with Muslims about the importance of acquiring and transferring land, have applied Sharia law to matters of inheritance in their own courts and tribunals for decades.

The Legal Framework for Inheritance

In Jordan the rights of men and women to inheritance are guaranteed by civil law and the personal affairs law. Both are based on the 1869 law that applies Islamic Sharia principles. According to this law, women receive half of their brother's share, but more of their husband's estate: a quarter if the widow had no children and an eighth if she had children. This was decided by the Jordanian Civil Law (Article 1086) and is stated in the last amendment of the Provisional Jordanian Personal Status Law, number 36 of 2010 (see box 5.1).

Non-Muslims are not permitted to inherit from Muslims, which is a reason for some women to convert to Islam. Under Sharia, inheritance cannot pass to a murderer, nor can it go to an individual who has given false testimony that resulted in someone's execution (Jordanian National Forum for Women 2012).

Box 5.1 Inheritance Divisions According to the Qur'an (Sunni Tradition)**Children's shares:**

- If several male and female children survive the deceased, the inheritance is divided according to the rule that a male heir receives twice as much as a female heir.
- If, along with children, the deceased has spouse(s) or parents, they inherit first (according to the proportions stated below). The children receive the rest, with male heirs getting twice as much as females.
- An only child who is male receives the whole inheritable estate. An only child who is female receives half of the inheritable estate.

Parents' shares:

- If the deceased is survived by children, the mother and father of the deceased both receive one-sixth of the estate.
- If the deceased leaves no children, the mother receives one-third and the father two-thirds.
- If the deceased has two or more siblings, the mother receives one-sixth, the father five-sixths, and the siblings are not entitled to anything.

The husband's share:

- If the wife dies and leaves no children, the husband receives half of the estate.
- If the wife dies and is survived by children, the husband receives one-quarter.

The share/shares of the wife/wives

- Note that when more than one wife survives the husband, each wife is entitled to receive an equal share of the following allotments:
- If the husband dies and leaves no children, the wife or wives are entitled to receive one-quarter of the estate.
- If the husband dies and does leave children, the share going to the wife/wives is one-eighth of the estate.

Shares of uterine brothers/sisters:

- If the deceased has one sibling from the same mother, the sibling receives one-sixth of the estate.
- If the deceased has two or more siblings from the same mother, they together receive one-third.

Shares of full or agnatic brothers/sisters:

- If the deceased has brothers/sisters from the same two parents or only the same father, the inheritance is divided according to the rule that brothers receive twice as much as sisters.
- In most cases, the widow receives one-eighth of the estate, the parents of the deceased receive one-sixth each, and the children are entitled to what remains, with male heirs getting twice as much as female heirs.

Source: COHRE 2006, p. 12.

Money and Immovable Properties

Women have full legal personality and as such can handle property and conduct financial deals. This right is given by the Sharia and guaranteed under civil law. An adult woman is not required to have a male guardian over her property and she can buy, sell, lease, mortgage, and grant the power of attorney. The Provisional Jordanian Personal Status Law number 36 of 2010 stipulates in Article 320, "Each of the spouses shall have separate financial liability" (Jordanian National Forum for Women 2012).

Two types of inheritance exist in Jordan: property, which covers land and housing (*amwāl 'aqārāt*), and financial, which covers assets in banks or companies (*amwāl naqdīa*). The Sharia court (*mahkamat al-Shari'a*) grants a share of financial inheritance to all heirs over the age of 18, including women. Each heir receives a check in their name and the inheritance is taxed at 3 percent by the Sharia court. The heir is not able to be excluded from this. In practice women who receive checks are also required to give this money to their mother or their brothers. However, often, they do not comply with this request.

Before the 1970s, most Jordanian women could acquire their own assets only through inheritance and dowry (Jansen 1993). The 1970s oil boom opened up the job market for women, making it more possible to obtain financial capital independent of husbands. Women from the Christian minority were disproportionately engaged in economic activity; a third of employed women were Christian in 1969² (Jansen 1993).

Legal Procedures and Family Negotiations

The very procedure of inheritance is dealt with by men, and women are at best consulted. To receive their legal rights, heirs must obtain a medical report attesting to the death of the deceased and the death certificate (*shahadat wafā*) from the Bureau of Civil Affairs (*ahwāl madaniya*). The heirs must then obtain a letter (*kitāb li da'irat al-'arādi*) from the Islamic Tribunal (*mahkamat al-Shari'a*) requesting the DLS to issue a report on the property (*kashaf al-'amlāk*) to them.³ Then, the heirs must return to the Islamic tribunal to obtain the proof of inheritance shares (*huja hasr al-irth*). The next step depends on what plans the heirs have for the properties. If the heirs need to sell, then they must go to each of the registration directorates of the DLS (*mudiriāt tasjil*) in which they own land. Only then can the transfer (*intiqaāl*) and division procedures (*ifrāz*) of the estate start. Each heir then obtains a property deed (*sanad tasjil*) in their own name. The DLS charges a tax of 1 percent of the estimated value of the property.

In most cases after the death of a father, the heirs gather to decide how the property should be divided before going to the court. Instead of dividing the plot of land fairly according to the Sharia, they can decide to exchange, sell, or even renounce their rights. Women rarely attend these family negotiations. If the land is used for farming, no division is made, and the *musha'a* system—in which the earnings from the land are divided between brothers is applied. No legal transaction occurs in such a scenario. This is very common and over the decades has deprived women of their inheritance, as the next section describes.

Once the decision has been agreed, the family has two options. It can choose to have the decision validated in the civil court, in a long process that can take six months to a year and cost thousands of Jordanian dinar (depending on the DLS's estimation of the land value). The other option, which is much more common, is to go to the Sharia court and register the familial decision (*tasjīl al-itifāqīa*), including the various exclusions (*takhāruj*) and powers of attorney (*wakālat*). In most cases, a single male heir will buy the shares of his sisters, in the best case with proper compensation (*badal*).

Most family houses are not registered per se; only the plots of land on which they are built. As a consequence, when a grandfather or father dies, the heirs gather to decide how to use the house, and how to allocate apartments to soon-to-be married children and the father's wife or the widows. This is done through a familial agreement. No legal division of the house takes place. This is especially common for properties located outside municipal zones and serviced-land boundaries. Division usually occurs for properties within municipal boundaries, where land prices have risen significantly in the past 15 years. In cities, houses and apartments are normally sold, and the shares of each heir are defined by the Sharia—with women entitled to specific shares (box 5.1). But most of the time, negotiations are kept in the family to find the best way to give better opportunities to boys by taking part of the daughters' shares, without depriving them too much.

Sharia Is Applied to Muslims and Christians in Matters of Inheritance

Although Christians represent less than 3 percent of Jordan's 9.5 million inhabitants,⁴ they have played prominent roles in Jordan's nation-building. The Christian minority bought large tracts of land, especially south of Amman by the Aubjaber, Qawar, and Besharat families in the 1850s (Abujaber 1989). A quota of nine seats is reserved for Christian representatives in the Jordanian parliament. Christians are under Hashemite protection, which is a way for the king to place himself in the continuity of Islamic rulers.

In Jordan, the patriarchal hierarchy can be considered as much a marker of the Christian communities as it is of the Muslim communities. The cultural norms of both communities keep wealth in the male line of the family and guard against women disseminating it when marrying. Christians and Muslims have adopted similar strategies to keep control of the land. This is increasingly important in an environment in which land fragmentation is increasingly widespread. As a consequence, Christian communities willingly adhere to the Islamic laws on matters of inheritance.⁵ As a judge of the Sharia Supreme Court once remarked, culturally "there is no difference between Christian and Muslim ethnic groups and families in Jordan!" Sharia does in fact protect the rights of Christian girls to a share of inheritance.⁶ "Without Sharia law not a single woman would inherit in Jordan," the judge said.⁷

Christians apply the Sharia law to matters of inheritance, as none of the laws of the eleven Christian churches in Jordan concern the distribution of shares. Through the 1989–91 democratic opening of Jordan new laws were adopted in

response to the more conservative demands of the Muslim brothers. Among these laws, was the Shifting of Immovable Property Law—Qānūn al-Intiqāl No. 4 1991), according to which the Sharia covers both Muslim and non-Muslim in Jordan. No one contested it, as it served both Muslim and Christians male interests over land and property. Christian officials and prominent Jordanian leaders have not openly discussed the issue of inheritance.⁸ Nor has it ever been presented before parliament.

Impact of Land Fragmentation, Urbanization, and Legislation

To better understand the reduced share of women's ownership of housing and land in Jordan, it is important to consider the problem of land fragmentation. This will allow us to better understand the strategies adopted by men to keep control over land and properties.

Customary Law Over Rural and Pastoral Land (mīrī)

Since the Ottoman Empire, and until the 1991 Shifting of Immovable Property Law—Qānūn al-Intiqāl No. 4 1991, two systems of legal rules governed property ownership: the Sharia for private land (*mafrūz*) and the customary law (*'urf*) for rural and pastoral land (*mīrī*). The Ottoman Islamic Land Code of 1858 classified properties into five types: private land (*mulk*), state-owned land (*mīrī*), religious endowment (*waqf*), abandoned land (*matruk*), and barren land (*mawat*). Agricultural private and state-owned land were commonly exploited by men, under the *musha'a* system of collective land use, on a system of rotation. When Transjordan was established, the considerable social control over land was highlighted by the prevalence of the *musha'a* exploitation system.⁹

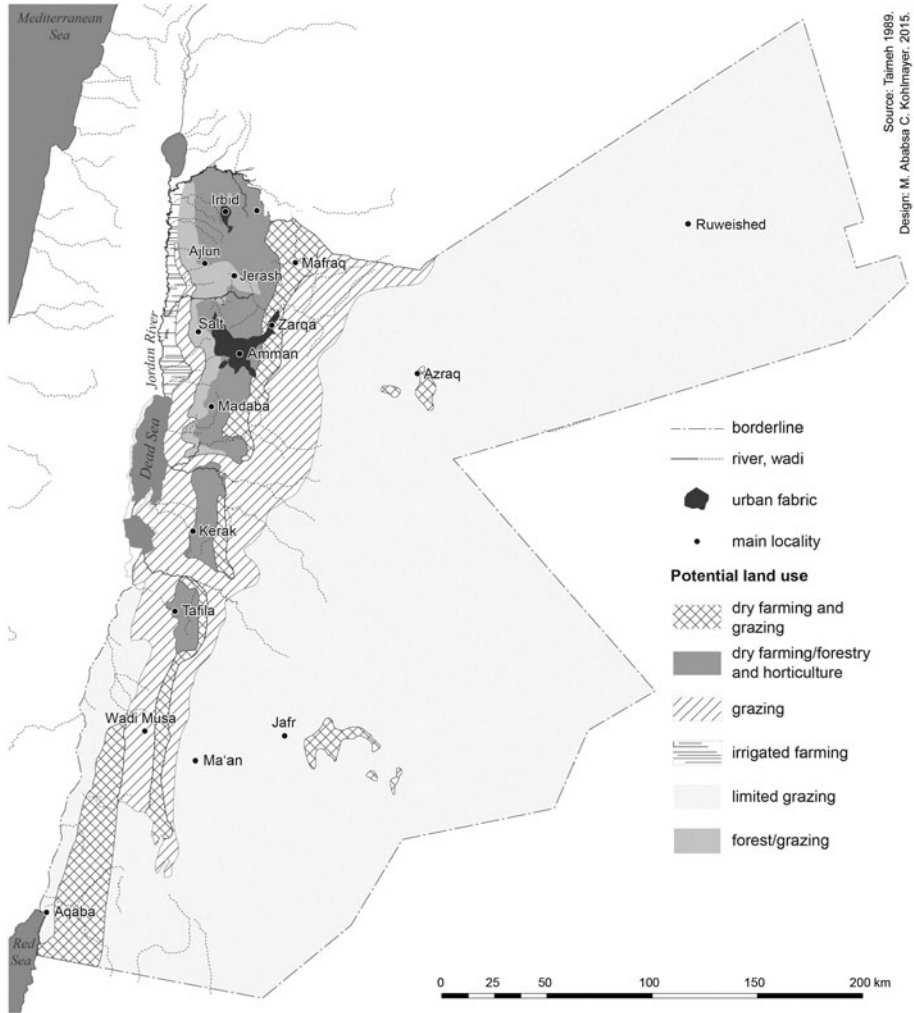
Private property, or *mulk*, was by definition restricted to urban land (land within the municipal boundaries of villages and towns) and to orchards and olive trees. This private land was governed by the Sharia principles of the Civil Code (Mejelle) introduced in 1869. The best agricultural land was mainly under communal exploitation (*musha'a*). Farmers and shepherds had rights of use (*tasarruf*), but the property belonged to the State (*mīrī*). Customs intervened for *mīrī* land and, as a consequence, *tasarruf* rights were inherited equally between men and women (map 5.1).

Land Fragmentation

One of the bases of political stability in Jordan is that, contrary to the Arab Republic of Egypt and the Syrian Arab Republic, the country did not undergo any agrarian reform. Instead, small and medium-size holdings were consolidated by land settlement during the British Mandate, while large landholdings were not affected by land reforms (Fischbach 2000). This enabled prominent tribal and urban families to keep and transform their economic power.

Until the growth of industry in the 1960s, the economy was mostly agrarian and Jordanian society consisted of a minority of influential tribal and urban families and a mass of small-scale farmers. Although the well-known sheikhs and

Map 5.1 Jordan Potential Land Use and Urban Extension



wealthy traders had managed to amass large areas of land, inequality was much lower than in the rest of the *Bilād al-Shām* at this time. Only 17 percent of the land was owned within large estates in 1953, in less than 1 percent of the land holdings (table 5.1).

To increase land productivity, the British introduced major land policy and taxation reform in 1927. One of the aims was to replace the communal system of land ownership with private ownership in an attempt to improve crop yields and expand areas planted with fruit trees. Private ownership was believed to give better yields. However, starting from the 1950s plot size, through inheritance, began to shrink. The old system of *musha'a* keeping land in various forms of collective exploitation had worked over decades to prevent plot fragmentation as only shares of the production were divided. From an average size of 40 donums

Table 5.1 Distribution of Land Holding According to the Size, Jordan, 1953

	%	Area (donums)	%	Number
Small properties < 10 ha	21.3	1,334,652	70.4	40,857
Middle properties 10–100 ha	61.9	3,876,408	28.8	16,718
Large properties > 100 ha	16.8	1,054,045	0.8	451
Total	100	6,265,105	100	58,026

Source: Baer (1957), table 11.

(4 hectares) in the 1920s the average plot size had decreased to 10 donums in the 1950s and farmers had to rent their land (Fischbach 2000).

Land fragmentation continues to be a major issue in Jordan. Small properties of less than 10 ha are forming now 41.6 percent of the cultivated land, while medium size properties were reduced by half (61.9 percent in 1953 to 32.4 percent in 2007).¹⁰ Large estates, went down from 451 to 212, but increased the surface farmed over the same period. To counter further land fragmentation, land owners are preferring not to divide the farmed land and pastoral land at the death of a father or even a grandfather. The elder sons agree about the use of the land, and in most of the cases, the *musha'a* collective system of exploitation is then reintroduced within the members of extended families. By law, the minimum plot size for sale purposes was set at 10 donums until 2001, when it was reduced to 4 donums.¹¹

Urban Expansion and Land Speculation

The problem of land fragmentation was partly solved in the cities by modification of the land use, which resulted in rising land values. As a result of the influx of 70,000 Palestinian refugees into Transjordan in 1948—following the establishment of Israel and the rural exodus of farmers whose plots of land were too small to survive on urban growth spiked at the end of the 1940s—the new government of Jordan, assisted by engineers from British Land and Survey, decided to expand municipal boundaries. In 1953 the Law of Converting Land No. 41, which enforced the change of land from *mīrī* to *mulk*, had a positive effect on the price of land within the cities.¹² However, the law harmed women's inheritance rights because it deprived women of equal inheritance rights on former *mīrī* land that was now within municipal boundaries. Women were now entitled to only half the share of their brothers in accordance with Sharia law. "Particularly as towns like Amman expanded into the surrounding farmland, women's inheritance shares in what land they did manage to inherit, shrank" (Fischbach 2000).

Until the 1970s, according to historian Rauf Abujaber, agricultural land was of little value (Abujaber 1989). With the onset of the oil boom and migration of Jordanian engineers to the Gulf, large flows of money started to enter the country. The building of a new airport in 1978 south of Amman had a major influence on the change of land use and economic patterns converting Jordan from an economy based on dry agriculture (wheat and barley) to one using greenhouses to grow vegetables for export to the Gulf markets. From 2000 to 2015, the price

of land south of Amman skyrocketed (from Jordanian dinar (JD) 20,000 per donum to JD100,000 and more) while prices in West Amman can be as high as JD500,000 to JD1 million per donum in commercial areas. For most Transjordanians, wealth is linked to land ownership. In a time when inflation is high because of the influx of Iraqi refugees in 2000 and the current Syrian refugee crisis, efforts have been increased to keep property within the family, thereby affecting women's rights to inheritance.

Jordan is a country of landowners. In 2014, 73.1 percent of households owned their house or apartment and less than a quarter rented (23.1 percent). Most of these landowners have added a second or third floor to their properties and have even built houses for their children. This is the case in particular for Jordanians of Transjordanian origin residing in the cities and villages of Irbid, Salt, Ajlun Madaba, Kerak, Ma'an, and Aqaba governorates. This causes problems for tenants who tend to be in the major cities of Amman, Russeifa, and Zarqa, most of whom are of Palestinian origin. In 2013, among low-income families, 44 percent of Jordanians rented (HKJ 2013). In informal areas, developed as extensions of UNRWA Palestinian camps, more than half of the inhabitants have land tenure as they have bought land on which a house was self-built. In East Amman, the price used to be JD1 per square meter in 1967 (Ababsa 2012). As a result, 59.8 percent of East Amman dwellers on informal areas own land.¹³

The Application of Sharia on the Inheritance of Miri Land (1991)

Over the 1989–91 democratic opening in Jordan, new laws were adopted in response to the more conservative demands of the Muslim brothers. Among these, under the Shifting of Immovable Property Law—Qānūn al-Intiqāl No. 4 1991, major reform of the inheritance procedure was introduced according to which state (*mīrī*) land would no longer be inherited as it had been for centuries equally between men and women. Advocates of women's rights said they had not noticed this clause among several reforms.

Consequently, all agricultural and pasture land since then is subject to the same Sharia divisions as private land (*mulk*) (table 5.2). This had led to the reduction of women's shares in land in ethnic group areas. The land value increase of former pastoral land that became urbanized east of Amman and east of Zarqa especially can explain this major historical change in the inheritance of state land. Hence the share of the inheritance depends on the date of the death of the deceased. If the deceased passed away before March 16, 1991, women are

Table 5.2 Inheritance of *Mulk* and *Miri* Land in Jordan before and after 1991

<i>In Jordan</i>	<i>Before 1991</i>	<i>After 1991 (Qānūn al-Intiqāl No. 4)</i>
Agricultural land (<i>ard mīrī</i>)	Rights of use (<i>tasarruf</i>) are granted equally to men and women = Customary law (<i>'urf</i>)	Sharia law is applied to this land and women start to inherit half of a brother's share
Private property (<i>ard mulk</i>)	Sharia inheritance division rules are applied	Sharia inheritance division rules are applied

Table 5.3 Distribution of Property (*mulk, miri*) by Number of Plots and Area

	<i>Number of plots</i>	<i>%</i>	<i>Area (donums)</i>	<i>%</i>
<i>Mulk</i>	2,356,206	76	10,411,622	90
<i>Miri</i>	727,797	24	1,193,377	10
Total	3,084,003	100	11,604,999	100

Source: Department of Land and Survey database, prepared on request, 8th December 2015.

supposed to receive the same shares are their brothers and if after that date they receive half.¹⁴

In December 2015, registered *miri* land represented a quarter of the plots, but only 10 percent of the land owned by Jordanians (table 5.3).

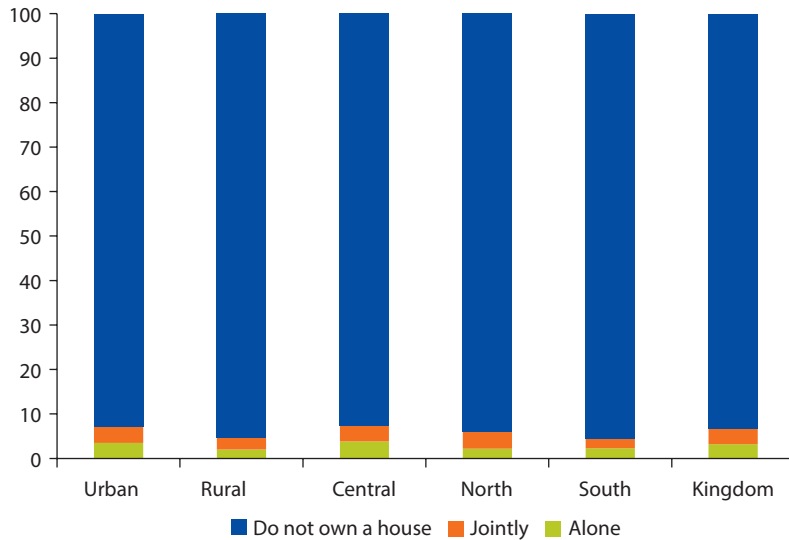
Assessing Women's Ownership of Immovable Property

A wide range of statistics is available for property and housing in Jordan, but it is only recently that gender issues have been taken into consideration. The gender section of the Department of Statistics (DOS) only opened in 2007. The DLS records the gender of the landowners and not that of buyers.¹⁵ The Supreme Sharia Court does not publish data by gender for matters of inheritance exclusion or cases in which the power of attorney is invoked.

The Jordan Population and Family Health Survey 2012 was the first to include a section on women's ownership of assets. Conducted on a representative sample of 15,190 households and 11,352 ever-married women aged 15–49, it gave for the first time a clear picture of women's property in Jordan. In 2012, only 6.8 percent of married women owned their house (3.2 percent alone and 3.5 percent jointly with men), and only 7 percent owned land (3.3 percent alone and 3.5 percent jointly with men), according to DOS and ICF in 2013. Rural women are keener to own land than urban women (9.3 percent versus 6.4 percent). Women who reside in the north of the country, where agricultural land is considered better quality, and in the south, where the ethnic group community is larger, tend to own more land than those in the central region, where, over the years, agricultural land has become increasingly urbanized (near Amman, Russeifa, and Zarqa, for example).

Rural women are less keen to own their house, as they are most of the time hosted in their husband's family building. Of rural women, 4.6 percent own their house (2 percent alone and 2.6 percent jointly) compared to 7.2 percent of urban women (3.5 percent alone and 3.7 percent jointly). However, women who live in the central region, near to the capital, are more likely to own and co-own their house; 7.4 percent versus 6 percent in the north and 4 percent in the south (figure 5.1).

Women with higher education are three times more likely than women with no education to own land (9.3 percent, 4.9 percent alone, 4.1 percent jointly) and a house (10.7 percent to 4.7 percent alone and 5.9 percent jointly). In the highest wealth quintile, women are five times more keen to own land and house

Figure 5.1 Percentage of Ever-Married Women House-Owners, 2012

Source: DOS and ICF 2013, JPFHS 2012, table 13.5.

than in the lowest quintile: 13.5 percent of women own land (7.3 percent alone and 6 percent jointly) and 15.3 percent own a house (7.4 percent alone and 7.9 jointly) in the highest quintile, versus 3.1 percent owning land and 2.7 percent owning housing in the lowest quintile (DOS and ICF 2013, JPFHS 2012, table 13.5).

The two governorates where women own the most housing units are Amman and Aqaba (9.2 percent and 8.2 percent). This can be explained by these two governorates absorbing the most foreign direct investments in Jordan. As much money is invested in real estate, men prefer to protect their assets by registering them in the names of their wife and daughters. When the assets are of great value, a power of attorney is signed between husband and wife to stipulate that the wife is not allowed to sell the property without her husband's permission. But in most of the cases, men do not even need this legal proof, as it is well understood that they own the properties registered in their wives' name.

It is important to note that the number of housing units recorded by the census of housing and population is more than double the housing units recorded by the DLS (897,401 against 375,557 in 2014). This is because most houses and buildings have not been divided into separate registered units at the death of their owners. As a result, only 42 percent of apartments (or 375,557) are registered by the cadastre as single units. The rest are included in family buildings and are not registered alone (table 5.4). It is even more difficult for women to inherit unregistered apartments.

On February 4, 2014, 2,965,156 plots of land in private property were registered by the cadastre. Men owned 74.8 percent of these plots, with 20.2 percent owned by women; and 5 percent was registered both men and women (*mushtarak*)

Table 5.4 Difference between DLS-Registered Apartments and the DOS Count

<i>Apartment</i>	<i>Registered by DLS 2014</i>	<i>Total apartment (HEIS 2013)</i>	<i>Unregistered apartment</i>	<i>Unregistered (%)</i>
Amman	253,306	442,126	188,820	42.7
Balqa	9,591	49,268	39,677	80.5
Zarqa	25,572	148,300	122,728	82.8
Madaba	3,692	18,673	14,981	80.2
Irbid	57,652	138,593	80,941	58.4
Mafraq	1,260	11,874	10,614	89.4
Jerash	1,620	19,568	17,948	91.7
Ajlun	2,652	16,373	13,721	83.8
Kerak	5,659	18,377	12,718	69.2
Tafila	1,844	7,258	5,414	74.6
Maan	1,825	6,704	4,879	72.8
Aqaba	10,884	20,127	9,243	45.9
<i>Kingdom</i>	<i>375,557</i>	<i>897,401</i>	<i>521,844</i>	<i>58.1</i>

Sources: Department of Land and Survey database prepared on request, November 2015; Department of Statistics. 2015. Household Expenditure and Income Survey 2013, table 1.1.

Table 5.5 Distribution of Land Property in April 2014

<i>LAND</i>	<i>Mushtarak %</i>	<i>Men %</i>	<i>Women %</i>	<i>Total</i>
Irbid	5.8	71.2	23	559,487
Balqa	5	75.3	19.6	151,293
Zarqa	5.1	74.9	20	228,956
Tafila	4.6	78.8	16.6	110,489
Amman	5.2	74.7	20.1	799,238
Aqaba	4.2	77.3	18.5	31,007
Kerak	4.3	78.2	17.5	300,005
Mafraq	4	76.8	19.3	274,543
Jerash	6.1	72.7	21.3	89,110
Ajlun	5.5	69.2	25.4	131,852
Madaba	5.2	74.9	19.9	106,617
Maan	3.9	79.6	16.5	182,559
<i>Kingdom</i>	<i>5</i>	<i>74.8</i>	<i>20.2</i>	<i>2,965,156</i>

Source: Department of Land and Survey database prepared by the IT team on request, November 2015.

as owners can have multiple plots¹⁶ (table 5.5). However, one must keep in mind that no data are provided regarding the area of the plots owned by women. The *mushtarak* category includes in most of the case several persons, brothers and sisters, much more than husbands and wives.

On February 4, 2014, Jordanian women owned 24.7 percent of registered apartments (or 92,760), men owned 70 percent (262,889), and the rest was co-owned by men and women (5.3 percent). But the 92,760 registered apartments owned by women represent only 10.3 percent of apartments in Jordan (table 5.6). Since few women in Jordan own unregistered land and houses, the actual

Table 5.6 Distribution of Registered Apartment in April 2014

APARTMENT	Muchtarak %	Men %	Women %	Total
Irbid	5.3	70.7	24.1	57,652
Balqa	4.6	75.1	20.3	9,591
Zarqa	4.7	70.4	24.9	25,572
Tafila	2.4	82.5	15.1	1,844
Amman	5.5	69.1	25.4	253,306
Aqaba	4.1	72.9	23.1	10,884
Kerak	5.1	74.2	20.7	5,659
Mafraq	2.3	76.3	21.3	1,260
Jerash	6.4	72.3	21.3	1,620
Ajlun	4.1	75.7	20.2	2,652
Madaba	4.6	75.4	20	3,692
Maan	2.8	80.2	17	1,825
Kingdom	5.3	70	24.7	375,557

Source: Department of Land and Survey database prepared on request, November 2015.

percentage of immovable properties owned by women is likely more to be about 10 percent of housing units in Jordan, and not the 20 percent always officially stated.

Co-owning property is a solution to protect women's rights to housing, as they would keep half of the apartment at their husband death. In most cases, this shared property recognizes a woman's contribution to the cost of the purchase, through loans. But the number of cases is very low, at 5.3 percent of registered apartments.

The economic damage inflicted on women in inheritance spills over to other domains of economic empowerment, such as acceding to loans. In Jordan, most microloan borrowers are women (76.4 percent of total loans outstanding), although only 15 percent of them work in the formal sector, and only 21.6 percent work in the informal sector. But they signed contracts for only 44.1 percent of total loans by value in 2013.¹⁷ The explanation of this great difference is given by defenders of women's rights: women are encouraged by their husbands to take loans that they will not benefit from directly. This is why two women out of three who apply for loans are not working, either in the formal or in the informal sector.

Property Transfers to Men, Delay in Subdivision, and Women's Exclusion (takhāruj)

Several methods have been developed to circumvent the laws of inheritance and skew them in favor of men. The most widespread method is to transfer real estate to male family members before the death of the owner. This is considered a sale and can potentially be viewed as an illegitimate transaction (*sūriat al bi'a*). The second way is to delay inheritance divisions, even over decades. The third is social pressure on women to renounce their rights.

Donations to Male Heirs before Death

Donations to sons while the owner is still alive are very common. This is specifically the case when the parents have only daughters to avoid the inheritance going to their own brothers or relatives. According to the DLS database, more than a third (37 percent) of land transactions in 2014 were conducted between close relatives (*usūl wa fughur*); between parents and children, between siblings, between husbands and wives. Over the years more and more sales are within the family: from a quarter of sales in 2005 to more than a third in 2014 (table 5.7). The share of sales between co-owners is also rising (*mushtarak*). DLS data do not show the gender of the buyer; rather, data indicate the widespread culture of selling land before death.

The justification commonly asserted for such sales is they confine the family property to male heirs, thereby preventing it from falling into the hands of the husbands of female relatives. Many fathers transfer their properties to their sons while still alive either by donating or selling property to them. Although Islamic laws forbid the transfer of more than a third of possessions before the death of the owner, few adhere to the laws. Indeed, most people give all their possessions and property to their sons—or to their brothers if the father only has daughters. This is the case both for Muslim and for Christian Jordanians: “It is local custom for Christian propertied patriarchs to give their main asset, land, to their sons as *premortem* inheritance, thus effectively disinheriting their daughters,” according to Jansen (1993, 161).

In the case of the sale of possessions between family members, the DLS imposes a registration tax of 1 percent. A donation presents the risk that potential heirs at a later date will question its legality. Hence it is suggested by lawyers that possessions be sold to family members and not donated. As the DLS is only an implementing agency (*dā'ira tanfithīya*) it is unable to intervene even if the decisions infringe on the law.¹⁸ By contrast, only 15.7 percent of registered apartment sales were between family members in 2014, compared to 11.7 percent in 2005, but still low compared to land transactions (table 5.8). This is because registered apartments are built for profit, and their sale is a source of income. It is very likely that part of these apartments were “sold” to wives and children as protection against confiscation in case of bankruptcy.

There are two kinds of collective ownership: *musha'a*, where land is co-owned with other households, although with only one legal title for all the owners;

Table 5.7 Jordan Land Sale Patterns by Family Co-owners or Outsiders, 2005–2014

	2005		2014	
Land sales between co-owners (<i>mushtarak</i>)	2,641	2.8%	6,187	5.9%
Land sales to relatives (<i>usūl wa fughur</i>)	21,858	23.3%	38,926	37.1%
Normal land sales	69,321	73.9%	59,636	56.9%
Total sales	93,820	100%	104,749	100%

Source: Department of Land and Survey database prepared on request November 2015.

Table 5.8 Apartment Sale Patterns by Family Co-owners or Outsiders, 2005–2014

	2005		2014	
Apartment sales between co-owners (<i>mushtarak</i>)	42	0.2%	169	0.4%
Apartment sales to relatives (<i>usūl wa fughur</i>)	2,165	11.7%	6,003	15.7%
Normal apartment sales	16,309	88.1%	32,146	83.9%
Total sales	18,516	100%	38,318	100%

Source: Department of Land and Survey database prepared on request November 2015.

or *mushtarak*, where several individuals buy a plot (most of the time of 250 m²) to be divided up. This type of ownership is common in the informal settlements of East Amman inhabited by Palestinian refugees. Most of the informal settlements in Jordan were upgraded in the 1980s. Most of their inhabitants hold *hujja* contracts, which are common throughout the Middle East. This involves the owner selling his land through the written agreement, the *hujja* (proof), after which the contract is named. This transaction is illegal and is not recognized by the DLS, but it does enable individuals to assert ownership over a property in a court (Razzaz 1991).

The Absence of Estate Division or Its Long Delay

A second technique used to deprive women of their shares in the inheritance is to prolong the time it takes to divide the land of the deceased. This permits the male relatives to organize ways to coerce the women into rejecting their share of the inheritance, providing compensation that falls short of the value of the women's shares in the property.

In 2010 the Jordanian National Forum for Women¹⁹ conducted a major survey on the inheritance practices of women in the Irbid governorate.²⁰ Entitled '*ayn 'ala huqūq* (An Eye on the Rights) the survey was created within the framework of the "Equal Opportunities Support Program for Women and Girls". This survey was funded by the United Nations Population Fund and Oxfam Québec and it received technical assistance from the Jordanian Hashemite Fund for Human Development. The panel size consisted of women between ages 25–50 from 1,372 families distributed in all districts of Irbid governorate.²¹

The survey showed that the principal method used to deprive women of their rights is by forestalling the division of the inheritance between heirs. This is considered a public issue as the division of inheritance can be delayed for several years, which greatly affects women's inheritance rights and consequently their ability to enjoy any inheritance. The study revealed that 34 percent of women residing in the Irbid governorate did not receive their legal rights of inheritance (from 32.5 percent in Ramtha to 60.5 percent in Taybeh)²² because of the absence of division. Indeed, the longer the division of inheritance is delayed, the more likely it is that a woman is deprived of her rights (Al Saheh 2010).

The status quo after the death of an estate owner is well established in matters of agricultural land. It can date back to a grandfather's death (in the 1950s and

even earlier) and can be seen as an indication of the dominant patriarchal pattern of family life, in which everyone is aware of their share in the property. Therefore, official division or documentation is not required. According to a DLS engineer, there is no legal obligation to divide the property, and a familial arrangement will often suffice. This was the case before the British mandate, and these traditional means of controlling land were reinstated once the British left.²³

The division of land or sale of apartment has a cost of 1 percent (*hujr al-ifrāz*) of its DLS-estimated value. Although this sum is low, some heirs would prefer not to pay it. This is particularly true for farmed land, and for apartments inhabited by a single female member (for example, a mother or an unmarried sister of the deceased). However, for the rest of the population, there is a need to sell and divide the estates, in particular for registered apartments that are viewed as investments. In 2004, the number of land divisions (*ifrāz*) was higher (12,615) than the number of inheritance cases (9,823) because of the multiplicity of plots. However, in the same year, the number of land divisions was nine times smaller than that of the 100,780 land sales (table 5.9).

As noticed by a lawyer at the DLS, one should not forget the importance of money compensation (*badal*) to exclusion.²⁴

Social Pressure to Exclude Women from Property (takhāruj)

Women did not easily inherit land in Jordan before the 1990s. The patriarchal nature of Jordanian society has pushed women to renounce their inheritance in favor of their brothers or to be "*sheikha*" (a noble woman) and not utter a word on the matter. Women who refuse to waive their inheritance rights are threatened with abandonment and ostracism, and in the most extreme cases verbal abuse and physical violence. This is true for inheritance but also for all sales of

Table 5.9 Land Sales and Division Inheritance Procedures and Death by Gender, 2004

<i>Governorate</i> 2004	<i>Land sale</i>	<i>Division</i> (<i>ifrāz</i>)	<i>Inheritance</i> and exclusion	<i>Male deaths</i>	<i>Female</i> <i>deaths</i>	<i>Total</i> <i>deaths</i>
Amman	32,989	3,300	2,634	4,735	3,185	7,920
Balqa	5,897	581	602	475	342	817
Zarqa	9,985	939	844	1,314	903	2,217
Madaba	4,044	370	458	261	157	418
Irbid	16,747	4,071	2,114	1,688	1,235	2,923
Mafraq	10,140	1,345	653	381	231	612
Jerash	3,818	316	435	189	150	339
Ajlun	3,788	452	437	156	145	301
Kerak	6,510	726	815	354	272	626
Tafila	1,556	147	172	124	92	216
Maan	3,549	273	485	216	115	331
Aqaba	1,757	95	174	186	105	291
<i>Kingdom</i>	<i>100,780</i>	<i>12,615</i>	<i>9,823</i>	<i>10,079</i>	<i>6,932</i>	<i>17,011</i>

Source: Department of Land and Survey 2004 Yearbook table 48; Department of Statistics, Jordan Housing and Population Census 2004.

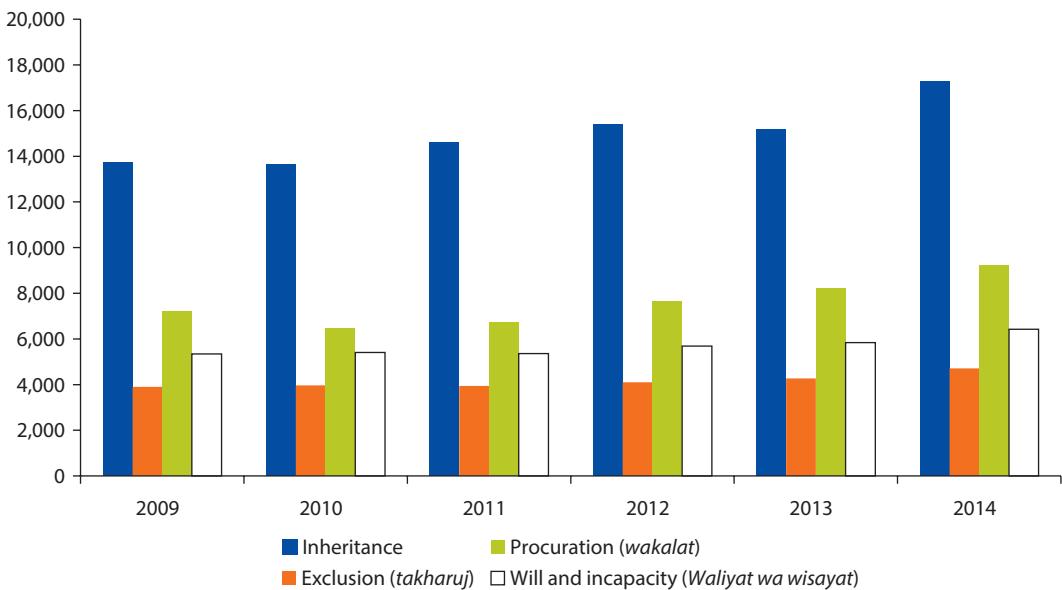
land or apartments, as a transaction cannot be completed without the signature of all co-owners, including women. This is why pressure is often exerted on women either to give up the power of attorney or to renounce their share in a property.

According to the Jordanian National Forum for Women 2010 Survey on inheritance in Irbid, 20 percent of women renounced their inheritance rights: 15 percent willingly and 5 percent under pressure (Al Saheh 2010). In 2014 a third of heirs fully renounced their inheritance rights through *takhāruj*. That applied in 4,713 out of 17,264 inheritance cases (Sharia Supreme Court 2014). Although the gender of those who requested *takhāruj* has not been officially specified, surveys show most were women.

Donations of the third of the estate by the deceased (*wisayat*) to heirs and control over invalid heir shares (*waliyat*) were present in 6,425 cases, or 37 percent of all inheritance cases. However, the most impressive figure is the number of procurations asked from the Sharia Supreme Court: 9,208. This is explained by the fact that procurations are not always linked to inheritance, and they can be for other matters. It is interesting to note that over 2009–15, the percentage of each type stays rather stable, showing a constant trend in practices (figure 5.2).

In most governorates, the number of inheritance cases slightly exceeds the number of male deaths, as it includes the inheritance of women who possessed estates. In the major cities, such as Amman, the number of inheritance cases is smaller than the number of male deaths. This is due to the prevalence of

Figure 5.2 Inheritance, Exclusion, Power of Attorney, Will and Incapacity Cases—Sharia Supreme Court in Jordan (2009–14)



Sources: Sharia Supreme Court, Statistical Yearbook 2013 and 2014.

impoverished communities in the cities. In Zarqa, the number of inheritance cases is relatively low too, compared with the number of total deaths. The exclusion from property is high in Amman, Balqa, Madaba, and Maan. Zarqa governorate, which is highly urbanized, poor, and with little agricultural land, has the highest use of procurations and relatively less exclusion from inheritance than other governorates. Wills and incapacity procedures are used in more than half the inheritance cases heard in the governorates of Mafraq and Jerash.

Social Pressures on Women's Inheritance

"With love with will by force" (*fi mahabah fi ghida fi qūwwah*)
you will transfer to your brother!²⁵

"Shame on you! Why do you take from your brother his inheritance?"
(Ajlun governorate)²⁶

Patriarchal norms are so deeply entrenched in Jordanian society that women themselves propagate them. Socially constrained, women believe that they have no right to inherit. The unity of the family and the continued support of its economic base constitute priorities in life and are deemed to be much more important than personal success. A woman who rebels against her brothers risks ostracism, which in turn would risk a damaging emotional and financial toll on her children. In this way, the subordination felt by women is often spread by women themselves, both in Muslim and in Christian families.²⁷

Inheritance Rights Survey Opened a National Debate

The question of women's inheritance became a public debate in 2010 when the Jordanian National Forum for Women published the results of a major survey in several official newspapers (Al Saheh 2010). The survey showed that 74 percent of women who qualified to inherit land in Irbid governorate did not receive their inheritance rights in full. This was the case even as 91 percent of them were aware that these rights are guaranteed to them in accordance with Sharia law (Al Saheh 2010; Jordanian National Forum for Women 2010).

Only 15 percent of the surveyed women willingly gave up their right to inheritance. As for the rest, 34 percent of women in the survey did not receive their inheritance due to the division of the inheritance not taking place; 14 percent received less than what was rightfully theirs; 5 percent were forced to give up their right to inheritance; 4 percent did not receive it due to other problems; and 2 percent gave up their right to inheritance to avoid shame within the ethnic group. Only 26 percent of women in the survey who qualified for an inheritance received it in its totality.

It would appear that mourning is exploited to force women to give up their inheritance rights by invoking *takhāruj* (Al Saheh 2010).

Approximately half of the women (52 percent) who claimed their inheritance rights in the towns and villages of the Irbid governorate faced opposition. For 44 percent of them, this opposition came from their brothers; 22.5 percent

stated that their mothers were the source of opposition; and 16.2 percent claimed that the father had stipulated how the inheritance should be distributed before his death and that within this the daughter should not receive her right to the inheritance (Al Saheh 2010).

Furthermore, the Jordanian National Forum for Women 2010 research indicates that young women were more successful in accessing full inheritance rights than elderly women. The percentage of those who received an incomplete inheritance in ages 45–50 was 18.9 percent, whereas for ages 25–29 it was 11.1 percent. Not one of the young women surveyed renounced their inheritance rights out of fear of bringing shame to their family by disobeying tribal laws. This can be credited to societal development over the past 25 years in general awareness and education, besides the weakening influence of customs and traditions within this age group (Al Saheh 2010).

According to the study, unemployed women are considered the most perspicacious with regard to matters of inheritance, since 37.2 percent of unemployed women received their full rights. Only 26.9 percent of working women received their inheritance in full. The percentage was lower for women who were not active in the economy, at 23.1 percent. This is due to the consideration given by brothers to female family members who lack stable sources of income (Al Saheh 2010).

Marriage status affects the likelihood of receiving full inheritance rights. Of the women who received their full inheritance rights in the 2010 survey, unmarried women represented 37.9 percent, whereas only 24.3 percent were married. Two reasons can explain this. The first is that if an unmarried girl dies all the assets go to her family; the second reason is the commonly held belief that the daughter's husband should not receive the father's inheritance (Al Saheh 2010).

Paradoxically endogamy (40 percent of weddings in Jordan are between first or second cousins) (DOS and ICF 2013) does not guarantee better inheritance opportunities. From the survey, it is evident that women who are related to their husbands are less likely to receive inheritance (24.3 percent against 37.9 percent) whereas 30.5 percent of women who are not related to their husbands realize their inheritance.

The study called for campaigns to increase awareness of the rights to inheritance through various methods, including the use of media channels and cooperation with mosques to emphasize that it is religiously illegitimate to deny women their legal rights. If some contested its methodology, even the most conservative agreed that the recommendations were most valid.²⁸

Social Pressure and Embarrassment

Significant pressure is exerted on women who do not agree with the decisions to dissuade them from taking the matter to court. This action is further supported by an unwritten social norm that condemns taking out a lawsuit against one's brother. Social norms often deter women from seeking justice through the legal system out of fear of being excluded or exposed to physical violence.

Pursuing a legal claim to inheritance is costly and difficult for women if male family members are reluctant to cooperate. When a woman chooses to go to court, she must have financial assets because court costs in Jordan can reach 8 percent of the value of the claim, which is higher than in all other Middle East countries.²⁹

Women must be supported by relatives as in the Sharia court the testimony of two women is equal to that of one man. "The social norms of the Jordanian patriarchy continue to prevail hindering women from practicing their rights on an equal footing with men. This paves the way for rising cases of violence against women," according to the Human Forum for Women's Rights (2007). The Justice Center for Legal Aid, Jordan's largest legal aid provider, reports that 70 percent of the cases it assists are on the request of women.

According to the Statistical Survey on the Volume of Demand for Legal Aid conducted by the DOS with support of the World Bank in 2012, and featuring 10,000 households, women were nearly four times as likely as men to be involved in a dispute about personal status issues—41 percent of women versus 11 percent of men (Prettitore 2013). "Poor women were almost ten times as likely to request counseling for personal status issues. Women are less likely to find amicable solutions for their disputes. Almost 40 percent of men reporting disputes in the LAS solved them amicably, while only just over 30 percent of women were able to do the same. This suggests men may have greater access to informal means of dispute resolution, for example through family and business contacts, and that perhaps women's restricted agency in social, economic and political life reduces their potential networks" (Prettitore 2013).

An educated woman from Al Hisa, a small city in Tafilah governorate, was ostracized by her six brothers when she decided to convince her five sisters to defend their inheritance rights after the death of their father in 2014. The elder son wanted to sell the house where the mother was living, although his father had built a house for each of his sons. The mother was intimidated and did not want to explain to her sons that she would prefer to stay in her house instead of living with one of her stepdaughters. In her words: "They do not want girls to inherit." In response to her daughter's actions, the mother called her to thank her and to confirm her support for her daughter.³⁰

With the advances in education and improved awareness of women's rights examples like this are becoming less common. An example of this is the case of the well-established Christian family of Al Haddadin from which one of Jordan's Chief of Appeal Court came. When Issa Haddadin, a Christian landlord owning estates in Ma'in near Madaba, passed away in 1937 he deprived his daughters from their share of the inheritance. He had one handicapped son and three girls from a first marriage, and one son and one daughter from a second marriage. One of his first three daughters Rahma married Khalil Al Haddadin. When he died in 1994 their seven sons and four daughters received legally their full shares of the inheritance. Each woman received approximately 85 donums.³¹

It seems that women in Amman are more eager to defend their inheritance rights, as they are more aware of them and a high number of them are working.

The Risk of Losing Male Guardianship (qawama)

"Hammāt al-banāt la'l mamāt"

("Taking care of women is a problem until death")

Jordanian misogynistic idiom, November 2015.

Male guardianship of female family members is not only a tradition but is inscribed in the law. According to the Jordanian Personal Status Law No. 36 of 2010 (articles 14 and 15) a male blood relative (*wāli*) has the right to have guardianship of women. If a woman is unmarried and under age 30 or previously was married, she must have a male guardian. Upon marriage a woman is transferred from her father's custody to her husband. In Jordan women's rights to housing continues to be connected to her status as a wife or a daughter. If the father dies the brothers have the right to sell the house in which their mother and sister(s) are living. Consequently, the fate of the women depends on the quality of the relationships that they have with male members of their family. In the event of divorce, a woman only has a right to housing if "she is nursing or has been granted custody of the children" (Al Husseini 2010).

Due to their lack of economic independence, Jordanian divorced or widowed women are in dire straits if they have no family support, or if they have been ostracised while protesting during inheritance. In 2012, half of divorced women had to work. Two-thirds of widows had no other solution than to work, whereas only one-third of widowed men were working. Divorced or widowed women lead 85.7 percent of the poor households headed by women, whereas only 0.6 percent of poor households are headed by divorced or widowed men (DOS and KVINFO 2012, 53).

Mobilization for Enforcing Women's Inheritance Rights

Women's rights activists have to find ways of action within the framework of the Sharia law, which constitutes a red line in Jordan's conservative society. Their success is remarkable. In 2009, they managed to gain the right for women to choose their residence.³² In 2010, women's rights activists succeeded in amending the Jordanian Personal Status Law No. 36 of 2010 by working with the Supreme Sharia Court (Qadi al-Quda), the highest religious and legal institution in Jordan. The result was seven amendments to the law, and the introduction of Articles 318 and 319 on property and exclusion.

Sharia Supreme Court Measures to Protect the Inheritance Rights of Women

The seven amendments to the Personal Law No. 36 of 2010 Articles 318 and 319 were introduced on the demand of the Sharia Supreme Court in 2011.³³ The first set a mandatory period of three months after the death of the owner before either exclusion or power of attorney can be invoked.

The amendment was adopted to give women time before declaring their rejection of inheritance rights. This enables women to deal with the grief caused by the loss of a parent and means that they do not have to concern themselves with making important decisions while in a vulnerable emotional state. This in turn reduces the possibility of women being coerced by their brothers into renouncing their inheritance rights. The second amendment states that judges must inform all heirs of the consequences of exclusion procedures. This has resulted in judges asking for better education for women so that they are able to defend their rights. The fourth amendment states that the attorney is under obligation to inform the heirs of all the properties included in an inheritance. The sixth amendment prohibits invoking the power of attorney (*waqālat*) during the first three months after the death of the owner. All these measures were taken to protect the rights of the heirs, especially the rights of women.³⁴

To limit general exclusion, higher fees were introduced in August 2015. Limited exclusion from inheritance costs only JD10, whereas general exclusion now costs JD15 per heir. Before higher fees were introduced, the fee for exclusion was 2 percent of the amount inherited. However, this resulted in false declarations. When judges wanted to study the inheritance procedure they noticed that it was impossible to have an accurate understanding of inheritance as the financial value of the inherited possessions was severely understated (around JD50 to JD200 on average per case). In order to provide an honest representation of the system of inheritance, heirs are now asked to write the precise amount that they receive.

The Jordanian Civil Law guarantees women financial independence and protects them from coercion. Article 141 guarantees the rejection of deals and contracts that have been reached through coercion. Article 142 provides “special protection to woman in facing their husband who forces them to relinquish rights or property” (Jordanian National Forum for Women 2012).

Another legislative measure is the ability to prevent a sale made by a dying person to an heir unless it is approved by all heirs (Paragraph 1 of Article 544 of the Jordanian Civil Law). To protect all the heirs, paragraph (b) of Article 274 of the Provisional Jordanian Personal Status Law No. 36 of 2010 forbids enforcement of a will that exceeds one-third of the inheritance. However, the problem is that in many cases the donation was made by the elder owner and no action can be taken.

One of the recommendations of the Jordanian National Commission for Women (2010) is to amend Article 279 of the Provisional Jordanian Personal Status Law number 36 of 2010 in order to grant rights to a mandated will to the children of a deceased daughter similar to the right granted to the children of a deceased son. This is a major issue, as not only women are not inheriting, but their children too are deprived of any inheritance. It calls also for a clear statement to regulate “farar divorce,” which is the divorce of a wife incurred by a dying husband in order to deprive his wife of her right to inherit from him when he dies. The statement should allow a wife in such a situation to inherit though divorced by a dying husband (JNCW 2010 p. 28).

Women's rights defenders are also helping women access their full dowries at their husband's death, such as the legal NGO Mizan does.³⁵ Few women are aware of their rights to obtain the remainder of their dowry after the death of their husband before any of the division of inheritance occurs. In Jordan, marriage contracts require two payments: one prior to the wedding (*al-mu'ajal*) and one after the wedding (*al-muajal*). Women often receive this second payment in the eventuality of a divorce. The monetary value of the second payment is often much greater. Lower-middle-class women will be married with 2,500 to 5,000 JD (including gold), which is paid to her before the wedding, and double this amount in the case of divorce. A middle-class woman will agree to marry for a symbolic dinar in gold, but the judge will protect her rights by stipulating an amount in case of divorce (from 5,000 to 15,000 JD and in some cases more).

Conclusion

In Jordan, immovable property is a male domain. Land is the major source of family wealth for large segments of society, both in rural areas and within cities. Traditionally land has been considered a source of income for men with which they take care of their family. Although women's rights to inheritance are guaranteed by Sharia law, men are reluctant to give land shares to female children who will become part of the husband's family once married. This male line of wealth transmission is true both for private land and agricultural land and for both Muslim and Christian families.

Jordan is a conservative country when it comes to women's rights. Most of the rights are indeed written and subject to public debate. But the fact is that women are locked in multilayered structures that reinforce each other in society, patriarchal order, religion, and traditions. Male guardianship (*qawama*) is used as a justification not to give their rights to women because of its high costs.

Property and inheritance rights and practices are revealing social and cultural interactions. They reveal domination patterns that impede women's social participation to the economy. In Jordan, girls are not inheriting property on equal terms with their brothers on the pretext that they will be married and that their husband will have to provide a house. Gender-based restrictions on women's legal capacity and property rights are still prevalent in Jordan. Men have developed strategies not to give women their rights, such as delaying the division of an estate after the death of the father.

In Jordan, the three sources of women's economic autonomy are all restricted. The first with regard to financial value is inheritance. However, as we have seen, several techniques are employed to deprive women of this. The second is the dowry. However, only half is received upon marriage, and the remainder is received at divorce or death. In the worst cases, the husband takes complete control of the dowry, denying the wife access. The third is employment, but the labor participation rate for women in Jordan is one of the lowest in the world, 15 percent in the formal sector and only 22 percent in the informal sector. Furthermore,

women do not have freedom of choice with regard to the sector in which they work. Society in general is accepting of women working in the public sector, but not in the private sector, where she could be exposed to sexual harassment.

Paradoxically the gradual increase in the dominance of conservative religious views in Jordanian society has a positive consequence when it comes to pushing for the implementation of Sharia law in matters of inheritance. Statistics and surveys tend to show a slight improvement in women's inheritance patterns in Jordan over the past 25 years. This is due not only to women's increased awareness of their rights but also to stronger Islamic conservatism that encourages men to implement "God's will" with regard to women's rights. Social norms regarding inheritance are progressively moving in Jordan, but at a slow pace. Enhanced inheritance would help women to break the glass ceiling that limits their economic assets. It would improve their capacity to engage in paid activities. This is even more needed given that Jordan lags behind only Saudi Arabia in its lack of incentives for women to work (World Bank 2013b).

Notes

1. The Global Land Tool Network, facilitated by UN Habitat. <http://www.glt.n.net/index.php/land-tools/cross-cutting-issues/islamic-aspects>.
2. According to a survey conducted by S. J. Nasir: Nasir. 1969. "Working Women in the Changing Society of Jordan." Survey by the Faculty of Arts Journal (Jordan University, Amman) in Jansen 1993, 165. This is important, as most surveys do not include this major religious dimension.
3. This document is issued in one day and costs JD1.5.
4. The total population of Jordan could be as high at 9.5 million people, according to the preliminary results of the National Housing and Population Census 2015, and includes 1.265 million Syrian refugees (639,000 registered by United Nations High Commission for Refugees). Bishop Maroun Lahham, Latin Patriarchal Vicar of Jordan, estimates Christians in Jordan to number about 250,000, in his book *Al-Urdun: Tārikh wa-imān wa-jamāl. Al-niyāba al-batṛiyarkīya al-lātīniya al-'āma fi-l-urdun*, 2015 (Maroun Lahham, *Jordan: History, Faith and Beauty* [2015]).
5. In 1922, British Mandate authorities introduced a provision on inheritance rights for Christians. Inspired by Western civil law, it stipulated that girls and boys should inherit equal shares. The 1951 family law of independent Jordan abolished this text and referred each church to its own canon. However, no church canon provided clauses concerning the distribution of shares of an inheritance, stipulating rather that the civil law of the country should apply (Chatelard 2004).
6. As anthropological works have shown (Chatelard 2004; Jansen 1993), a frequent practice among Muslims and Christians alike is to deprive girls of the half share on inheritance accorded to them under Sharia. Based on e-mail correspondence with Dr. Géraldine Chatelard, social anthropologist, December 1, 2015.
7. Interview with Dr. A. Al Omari, a judge at the Sharia Supreme Court, November 4, 2015.
8. According to Amal Haddadin, lawyer at the Jordanian National Commission for Women and main author of the CEDAW country report on Jordan, November 1, 2015.

9. Communal land exploitation (*musha'a*) represented 82 percent of land in the governorate of Ajlun; 22 percent in Balqa; and 26 percent in Kerak, and did not exist in Ma'an. Privately owned land (*mafrūz*) prevailed in the central regions of Balqa in Kerak and in Ma'an. In general, olive groves and orchards tended to be privately owned. It was the role of the sheikhs to oversee the yearly allocation of *musha'a* land shares (Fischbach 2000, 68).
10. See the DOS, Agriculture Census 2007, table 1.2.
11. Regulation of the size of land divided between co-owners No. 70, 2001. *Nizam al masaha al mafrūza bayn al shuraka*. Some landowners are currently putting pressure on the DLS to have this brought down to 2 donums, which would be an easier plot to sell for building on near the cities and villages.
12. The rulers of the Ottoman Empire, who controlled much of the Middle East during the 19th century, tried to make most of land either *waqf* or *miri*. While this restricted land fragmentation and curbed the powers of large landowners and tribal chiefs, the long-term consequence of the increase of *waqf* land was the immobilization of city land (cited in Payne 1996).
13. See the HUDC 2004, Base line survey, Community Infrastructure Program A.
14. Interview with the head of the DLS Legal Affairs, November 5, 2015.
15. Or they do not provide it to researchers.
16. Data provided to the author by the head of the Information System at the Department of Land and Survey, November 11, 2015.
17. DOS Gender Statistics, given to the author in October 2015.
18. Interview with lawyer H. B., Legal Affairs, Department of Land and Surveys November 5, 2015.
19. The Jordanian National Forum for Women is a nongovernment organization established in 1995 that seeks to advance the position of women in society throughout Jordan. This is achieved through programs intended to raise awareness of the issues faced by women; offering training, capacity-building programs, and other assistance; and establishing projects that encourage the adoption of principles of equality and equal opportunities. Furthermore, the organization strives to find methods to increase women's participation in decisions and to empower them so that they might engage more in public life.
20. The Irbid Governorate in Jordan's northwest has about 1.1 million people.
21. During our visit of the Jordanian National Forum for Women only a two-page leaflet was presented. The following statistics and analysis are translated from an article published in Arabic in the Al Dustour government-owned newspaper on September 26, 2010 (Al Saheh 2010).
22. Ramtha (32.1 percent), Bani 'Ubayd (34 percent), Al Kura (38.3 percent), Al Mazar Al-Shamali (38.6 percent), Bani Kinana (39 percent), and At Tayba (60.5 percent). At Tayba district has the highest score for women's knowledge of their inheritance rights (98 percent) and the highest percentage among districts with women who have not got their inheritance right in the inheritance division (60.5 percent). This demonstrates that the link between a woman's knowledge of the inheritance right and actually achieving her right is not always very strong (Al Saheh 2010).
23. Interview with A. S., head of public relations at the DLS, November 24, 2015. He stated the case of his wife whose grandfather owned 150 donums in the village of Huwwara, near Irbid, shared across three plots of 50 donums each. Her grandfather

- passed away in the 1950s, but only one of the plots was divided and shared out among the children and grandchildren to build their houses. However, the other two plots remained under the control of the elder sons (*musha'a*).
24. Based on an interview with the Department of Land and Surveys, November 24, 2015.
 25. Dr. Abeer Dababneh director of the Center for Women's Studies University of Jordan, October 28, 2015.
 26. "Ayb! Leysh tākḥūdh min wirth akhūk?" is from an interview with a woman from Deir Smadi, October 28, 2015, in the Amman Center for Women Studies.
 27. "The president of the Latin ecclesiastical court in Amman echoed the sentiments of women from Madaba: "Even today among Christians a woman who marries is automatically disinherited and she finds that natural. It is the tradition and people do not question it." (Taken from an interview with Father Ghaleb Bader in 1995 (Abu Sneineh 2014).
 28. Interviews at the Sharia Supreme Court, November 2015.
 29. "Based on the indicator "Enforcement of Contracts" in the World Bank's Doing Business Report 2012, costs as a percentage of the value of the claim are as follows: Jordan–8 percent; Syria–4.5 percent; Lebanon–3 percent; Iraq–2.3 percent; West Bank and Gaza–2.2 percent; and Egypt–1.3 percent" (World Bank 2013a, 79).
 30. Interview at the Jordan National Forum for Women, November 1, 2015.
 31. According to Amal Haddadin, lawyer at the Jordanian National Commission for Women, November 1, 2015.
 32. Women's rights campaigners managed to have the reservation regarding Article 15/4 (which states that "the wife must reside with her husband") of the Convention on the Elimination of All Forms of Violence Against Women (CEDAW) removed in March 2009.
 33. *Ta'limat tanzim wa tasjil hujaj al-takhāruj li sana*, 2011 Official Journal 5067, January 16, 2011.
 34. Interview with Dr. A. Al Omari, judge at the Sharia Supreme Court, November 4, 2015.
 35. Interview with lawyer Eva Abu Halaweh, November 1, 2015.

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DIRECTIONS IN DEVELOPMENT
Public Sector Governance

Rules on Paper, Rules in Practice

*Enforcing Laws and Policies in the
Middle East and North Africa*

Edouard Al-Dahdah, Cristina Corduneanu-Huci, Gael Raballand,
Ernest Sergenti, and Myriam Ababsa

Contents

<i>Foreword</i>		<i>xi</i>
<i>Acknowledgments</i>		<i>xiii</i>
<i>About the Authors</i>		<i>xv</i>
<i>Abbreviations</i>		<i>xvii</i>
	Overview	1
	Introduction	1
	What Is the Rule of Law?	2
	Constraints to the Rule of Law	3
	Contribution of the Volume	5
	Structure of the Volume	6
	Notes	7
	References	8
Chapter 1	Theoretical Framework	9
	Introduction	9
	Institutions as Rules of the Game	10
	From Organizations to Institutions	12
	Institutional Change and Accountability	15
	Enforcement Mechanisms	17
	Policy Implications	20
	Notes	21
	References	21
Chapter 2	The Rule of Law in MENA: Hypotheses and Empirics	23
	Introduction	23
	Hypothesis 1: Political Institutions	25
	Hypothesis 2: Bureaucratic Capacity and Income	30
	Hypothesis 3: Mobilization and Collective Action	36
	Hypothesis 4: Ethnic and Regional Differences	38
	Conclusion	41
	Notes	42
	References	43

Chapter 3	Discretion and Taxability: Enforcing Tax Rules in Morocco	45
	Introduction	45
	Taxation as Rule of Law in Everyday Life	46
	The Political Economy of Taxation	47
	Pockets of Discretion in the Margin between Tax Laws and Implementation	49
	Political Economic Incentives of Tax Enforcement under Capacity Constraints	60
	Conclusion	70
	Notes	71
	References	74
Chapter 4	Discretion and Good Practice: Enforcing Customs Regulations in Tunisia	77
	Introduction	77
	Customs Legal Reforms	78
	Partial and Discretionary Enforcement of Customs Rules	82
	Sources of the Implementation Gap	85
	The Eroding Efficiency of Customs	87
	Notes	89
	References	91
Chapter 5	Exclusion and Norms: Enforcing Women’s Rights to Property in Jordan	93
	Women’s Islamic Rights to Inheritance	95
	Impact of Land Fragmentation, Urbanization, and Legislation	99
	Assessing Women’s Ownership of Immovable Property	103
	Social Pressures on Women’s Inheritance	111
	Mobilization for Enforcing Women’s Inheritance Rights	114
	Conclusion	116
	Notes	117
	References	119
Appendix A	Regional Comparisons Along Eight Dimensions of the WJP Rule of Law Index	123
	Factor 1: Limited Government Powers	123
	Factor 2: Absence of Corruption	124
	Factor 3: Order and Security	125
	Factor 4: Fundamental Rights	127
	Factor 5: Open Government	127
	Factor 6: Regulatory Enforcement	128
	Factors 7 and 8: Access to Civil and Criminal Justice	130
	Summary	132