



المؤتمر العربي الثاني للأراضي

Second Arab Land
Conference

22-24 FEBRUARY 2021
CAIRO, EGYPT

Name of the Session [Example Technical session 1: Technologies and Smart Solutions: Enhancing Land Management, Land Development and Construction]

Title of the Paper: The exclusion of women from inheritance in Jordan. Social pressure, lack of land registration and subdivision, live donations.

Date: 15-2-2021

Author(s): Dr. Myriam Ababsa, Ifpo French Institute for the Near East.
m.ababsa@ifporient.org

Keywords:

Land tenure, inheritance, social pressure, live donations, land subdivisions.

Executive summary

A patriarchal pattern of power dominates both inheritance and property in Jordan. This pattern affects women, but also the youth - which is much less studied. While the inheritance rights of women are formally enshrined in the constitution, in Islamic law (Sharia), female heirs continue to face social pressure to renounce their rights in favor of male heirs. Only one fourth of Jordanian women entitled to property inheritance receive it fully. Elder sons decide of the fate of the father, not always following the Sharia law. 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.

However, positive trends are appearing with the mobilisation of women's rights activists, and the fact that women are less renouncing to their rights. In 2020, a fifth of heirs fully relinquished their inheritance rights through the process of *takharruj*, the voluntary "opting out" of their rights (exclusion), according to the Sharia court¹. It is a positive reduction from a third of cases in 2014. Records do not specify their gender, but survey evidence shows most of those who requested exclusion were women. However, it would be good to also study youth exclusion by older brothers.

Besides social pressure, women are deprived of their inheritance in several other ways. The most common is the absence of subdivision of land, sometimes over decades, in order not to pay any taxes (division of *ifraz* taxes) and to counter land fragmentation. This often happens with agricultural land, but also with family-owned buildings. The law does not oblige to register each housing unit in a building. Land and property are not formally registered. Between 2004 and 2015, one million new housing units were built in Jordan (Census 2004 and 2015). 37% of them only were built with a proper permit and 30% were regularized several years after their building. A third were built without permits.

Another usual way to deprive women from inheritance is donation to male heirs before the father's death. In most cases male heirs give symbolic gifts to women, called *badal* or *takrim*, 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 and ICF 2013, Jordan Population and Family Health Survey 2012). This is similar to Egypt (4%, Lebanon 3%). Figures are different when considering only registered land and apartments at the Jordanian Department of Land and Survey: respectively 20.2% and 24.7% belong to women (DLS 2015).

In comparison, women owned 22.5 percent of securities, whether bonds, shares, or options in 2011 (DOS and KVINFO 2012). Husbands often register apartments and securities in the name of their wives to protect their assets from creditors, if their business goes bankrupt.

¹ Jordan Supreme Sharia Court, Statistical Report 2020,
<https://sjd.gov.jo/EchoBusV3.0/SystemAssets/PDFs/AR/2020.pdf>

However, women's rights activists are active in Jordan. In 2011, they succeeded in amending the Jordanian Personal Status Law n° 36 of 2010 by working with the Shari'a Supreme Court (Qadi al- Quda), the highest religious and legal institution in Jordan. They managed to obtain a mandatory period of three months after the death of the owner, before any transaction can occur (either exclusion or power of attorney (waqāla)). 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.

However, the adoption of the new Real Estate Law 2019 - conversion of *miri* land into *mulk* and cancellation of *miri* category- has a negative impact on women property, as land is not inherited equally between men and women (as it was the case for *miri*, pastoral land to which customary law '*urf* still applied).

Table of content

The first section of this article focuses on the evolution of the legal framework that governs inheritance and land property in Jordan. The second section examines the pressures exerted on women to waive their inheritance rights. The third section analyses the advocacy work conducted by women's rights organisations within the framework of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Introduction / background of the content

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. The 2020 World Economic Forum report on gender gaps ranks Jordan 145th among 153 countries in women's economic opportunities, well below many other middle-income countries. This is even more striking that Jordanians are well educated (ranked 81th on educational attainment). A key element relies in the lack of women economic participation (only 15.1% have a salary) (WEF, GGGR 2020).

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. 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.

However, in Jordan, the gender inequality embedded in the inheritance system creates a glass ceiling that hinders the economic and social progress of women. With a third of the

population being poor, inheritance is a strategic issue. As it deals with capital transmission, it is of major importance for women's empowerment. Jordan is a country of (male) landowners. 62.6 percent of heads of household own their apartment, in detail, 80.9% of Jordanians own their apartments (DOS 2016, table 2.2),

Methodology

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. This paper is based on two of my former publications largely quoted (Ababsa 2016, Ababsa 2017).

Section 1 / Women's Islamic Rights to Inheritance and the Civil Law

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 Ottoman Mejelle 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

Women have full legal personality and as such can handle property and conduct financial deals. Women are not deprived from the inheritance of money and shares of companies (*amwal naqdia*). 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. But this is not the case with land, as land is often not registered.

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 1969 (Jansen 1993).

In Jordan, the Shari'a is Applied to Muslims and Christians for Matters of Inheritance

In Jordan, Christians have chosen to apply the Sharia law to matters of inheritance. None of the laws of the eleven Christian churches in Jordan concern the distribution of shares. During the Mandate period, the British administration suggested to apply equal inheritance, as it is practiced by Christians in Lebanon and elsewhere. They refused. Although Christians represent less than 3 percent of Jordan's 10 million inhabitants, they have played prominent roles in Jordan's nation-building. The Christian minority bought large tracts of land, especially buys south of Amman by the Aubjaber, Qawar, and Besharat families in the 1850s (Abujaber 1989). In Jordan, the patriarchal hierarchy is 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.

Legal Procedures and Family Negotiations

The procedure of inheritance itself is conducted by men and, at best, women are consulted. In most cases after the death of the father, heirs gather together in order to decide how the property should be divided before proceeding to the court. Instead of dividing the plot of land according to Shari'a, certain heirs decide to exchange, sell, or even renounce their rights. Women rarely attend these family negotiations. If the land is used for farming, no division occurs and the mush'a system (collective property and right of use by shares) is applied in which earnings from the land are divided between the brothers (Mundy 1996). In such a scenario, no legal transaction occurs. This is very common and has caused women to be deprived of their share of inheritances over decades, as we will see in the next section.

Once the decision has been agreed upon, the family has two options. Either the family can choose to have the decision validated in the civil court, which is a long process potentially lasting from six months to a year and costing thousands of Jordanian dinars (it is calculated as a percentage of the estimated value of the land). The other option, which is much more common, is to go to the Shari'a court and register the familial decision (*al-tasjil al-itifāqīa*), including the various exclusions (*takharruj*) and powers of attorney (*waqalāt*). In most cases, a single male heir will buy the shares of his sisters, in the best cases, with proper compensations (*badal*).

Most family houses are not registered per se; registration is only on the plot of land on which they stand. As a consequence, when the grandfather or the father dies, the heirs gather to decide how to use the house and how to allocate rooms to soon-to-be married children, the mother, or widows of the family.

This is done through a familial agreement. No official division takes place. This is especially common for properties located outside municipal zoned and serviced land boundaries. This absence of division does not occur for properties located within municipal boundaries where land prices rose significantly over the past fifteen years. In cities, most houses and apartments are sold and the shares of each heir are defined by the Shari'a. Women are entitled to specific shares in these cases. But most of the time, negotiations occur within the family in order to find the best way to give better opportunities to sons by taking part of the daughters' shares without depriving them too much. These familial divisions are of crucial importance, as only 41 percent of the housing units built between 2004 and 2015 were built formally with a building permit: on 1,056,889 new housing units, only 432,921 were licensed (Hamilton et al. 2018). In informal settlements in East Amman, the question of transmission and inheritance is crucial, and justifies several technics to register the apartment in order to transmit them to the children (Ababsa, Dupret, and Denis 2012).

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 wealthy traders had managed to amass large areas of land, inequality was much lower than in the rest of the Bilad al-Sham 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.

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 mush'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 (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). 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 mush'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. The 2019 new Real Estate Law allow the land to be further subdivided into 1.5 d, which is bad. It will further increase the urban sprawl and the illegal conversion of rural into residential land.

Section 2 / 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. However, it could be obtained easily by looking at the ID number (male start by 1 and female by 2). 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 of better value, 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 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 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.

Another major element to take into consideration: the fact that nearly 60 percent of the housing stock is not registered in Jordan. Out of 1,056,889 new housing units produced between 2004 and 2015, only 432,921 were licensed. This explains the difficulties faced by women in inheriting apartments.

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. It is even more difficult for

women to inherit unregistered apartments.

On February 4, 2014 - date of data collection from DLS - , 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) as owners can have multiple plots (table 1). 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.

In 2014, Jordanian women owned 24.7 percent of registered apartments (or 92,760), men owned 70 percent (262,889), and the rest was coowned 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.

Since few women in Jordan own unregistered land and houses, the actual 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.

Table 1. Distribution of Land Property in February 2014

<i>APARTMENT</i>	<i>Muchtarak %</i>	<i>Men %</i>	<i>Women %</i>	<i>Total</i>
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
<i>Kingdom</i>	<i>5.3</i>	<i>70</i>	<i>24.7</i>	<i>375,557</i>

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

Table 2. Distribution of Registered Apartment in February 2014

<i>APARTMENT</i>	<i>Muchtarak %</i>	<i>Men %</i>	<i>Women %</i>	<i>Total</i>
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
<i>Kingdom</i>	<i>5.3</i>	<i>70</i>	<i>24.7</i>	<i>375,557</i>

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

Table 3. Registered versus non registered housing units production (2004-2015)

	Total New Conventional HU (2004- 2015)	Total New Housing Units permitted	Total Housing Units Registered after construction	Total unregistered housing units
Amman	550534	267134	78904	204496
Balqa	39396	16299	25653	-2556
Zarqa	118164	22775	38594	56795
Madaba	17739	4078	7734	5927
Irbid	183799	43486	83660	56653
Mafraq	43007	4540	25073	13394
Jerash	18590	1925	17085	-420
Ajlun	13991	1176	11318	1497
Kerak	25482	6653	15832	2997
Tafila	7735	1620	6503	-388
Maan	14265	4227	6140	3898
Aqaba	24187	14733	3375	6079
Jordan	1056889	388646	319871	348372
%	100.0	36.8	30.3	33.0

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. 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.

Section 3 / Strategies to Deprive Women From Inheritance

Social Pressure to Exclude Women from Property (takharuj)

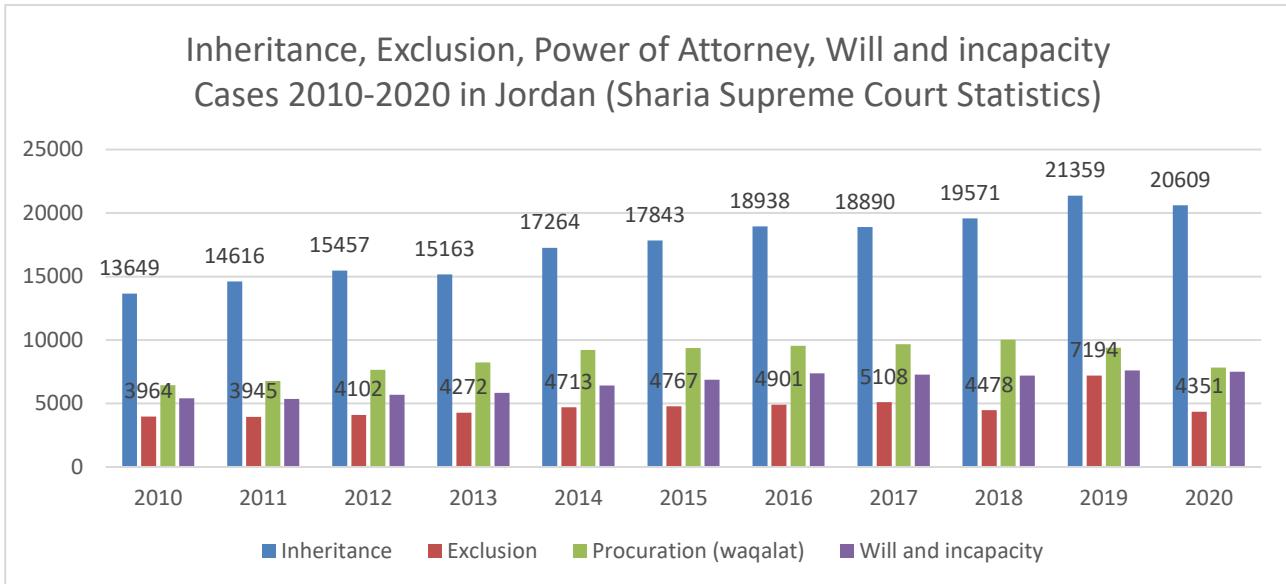
Women did not easily inherit land in Jordan before the 1990s. The patriarchal nature of Jordanian society has pushed women to renounce their inheritance in favor of their brothers or to be “sheikha” (a noble woman) and not utter a word on the matter. Women who refuse to waive their inheritance rights 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 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 takharuj. That applied in 4,713 out of 17,264 inheritance cases (Sharia Supreme Court 2014). Although the gender of those who requested takharuj has not been officially specified, surveys show most were women.

In 2020, this number has been reduced to only a fifth of all cases: 4351 on 20609 cases (fig. 1). This is a net reduction of cases from 2014, and could be seen as a positive effect of the introduction of a three months mandatory period of no transaction after a death.

Figure 1:



We must note that a third of cases are will and incapacity cases: when it is considered that a heir is too old or mentally unable to receive his share.

Donations to Male Heirs Prior to Death

Donations to sons while the owner is still alive are very common. This is specifically the case when parents only have daughters, as a way to avoid the inheritance going to their brothers or relatives.

In order to assess this social trend, I have asked DLS to provide me with tables concerning the land and apartments sales over a decade according to two categories: when a registration tax of 1% was applied (to sales within family members) and when registration tax was of 9% (sales to others). It constitutes original data about the sale trends.

According to the DLS database, more than a third (37 percent) of the land transactions in 2014 were conducted between close relatives (*usūl wa-fughūr*) (i.e., between parents and children, between siblings, between husband and wife). Over the years, the trend is that more and more sales are made within the family: from a quarter of the sales in 2005 to more than a third in 2014 (table 4). The share of sales between co-owners (*mushtarak*) is also rising.

Table 4: The Evolution of Land Sale patterns (within members of the family, co-owners or outsiders) from 2005 to 2014 in Jordan

	2005		2014
Land sale between co-owners (<i>mushtarak</i>)	2641	2.8 %	6187
Land sale to relatives (' <i>usūl fughur</i>)	21858	23.3 %	38926
Normal land sale	69321	73.9 %	59636
Total sales	93820	100 %	104749

(Department of Land and Survey Database prepared by the IT team on request November 2015)

Table 5: The Evolution of Apartment Sale patterns (within members of the family, co-owners or outsiders) from 2005 to 2014 in Jordan

	2005		2014
Apartment sale between co-owners (<i>mushtarak</i>)	42	0.2%	169
Apartment sale to relatives (' <i>usūl fughur</i>)	2165	11.7 %	6003
Normal apartment sale	16309	88.1 %	32146
Total sales	18516	100 %	38318

(Department of Land and Survey Database prepared by the IT team on request November 2015)

Unfortunately, the DLS did not provide indications regarding the gender of the buyer. It could be possible as the ID is registered (and start by 1 for male and 2 for female).

This increase in sale to family members is an indication of the widespread culture of selling land prior to death.

The justification commonly asserted is that it will keep the family property within the sphere of male heirs, thereby preventing it from falling into the hands of the husbands of the female relatives. Many fathers transfer their properties to their sons while still alive either by donating the property or selling it to them. Although Islamic jurisprudence forbids the transfer of more than a third of one's possessions prior to the death of the owner, there are few who adhere to these laws (COHRE 2006). Indeed, the majority give all of their

possessions and property to their sons, or their brothers if the father only has daughters. This is the case both for Muslim and 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" (Jansen 1993, 161).

Donations present the risk that potential heirs will call into question, at a later date, the legality of the donation. Hence, it is always suggested that possessions be sold to family members and not donated. As the Department of Land and Survey is only an implementing agency (*da'irat tanfithi*), it is unable to intervene with respect to the decisions made even if the decisions infringe upon the law. By contrast, 15.7 percent of registered apartments were sold between family members in 2014 which represents a percentage in evolution as compared to the 11.7 percent for 2005, but which is still low when compared to land transactions (table 3). This is due to the fact that 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 in order to protect them from any fiscal confiscation in case of bankruptcy.

The problem of conversion of *miri* land to *mulk* (in 1953 and in 2019)

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 *mi'-ri'* to *mulk*, had a positive effect on the price of land within the cities. However, the law harmed women's inheritance rights because it deprived women of equal inheritance rights on former *mi'-ri'* 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).

The adoption of the new 2019 Real Estate Law is also detrimental to women property shares. *Miri* category is now abolished. So women can not inherit equally pastoral land that has been informally built and occupied, as it used to be the case.

Section 4 / Mobilization for the Implementation of Women's Inheritance

It seems that women in Amman are more eager to defend their inheritance rights as they are more aware of their rights and, for a high number among them, are working. As noticed by Mrs. L. A., lawyer at the Department of Land and Surveys, one should not forget the importance of money compensation (*badal*) to exclusion.

There is significant pressure exerted on women who do not agree with decisions that were made in order to dissuade them from taking the matter to court. This action is further

supported by an unwritten social norm which condemns taking a lawsuit out 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 (Prettitore 2013 a and b). In cases where a woman would go to court, she must have financial assets to do so as court costs in Jordan reach 8 percent of the value of the claim, which is higher than in all other Middle East countries.

Women must be supported by relatives since in the Shari'a 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" (Naffa et al. 2007). Yet, 70 percent of cases assisted by the Justice Center for Legal Aid (JCLA), Jordan's largest legal aid provider, are at the request of women.

Mobilization for the Implementation of Women's Inheritance

Women's rights activists have to find ways of action within the framework of Shari'a which constitutes a red line in Jordanian conservative society. In this context, their successes are even more remarkable. In 2009, they managed to obtain the right for women to choose their residence.

In 2010, women's rights activists succeeded in amending the aforementioned law by working with the Supreme Shari'a Court (Qadi al-Quda) the highest religious and legal institution in Jordan. As a result, in 2011, seven amendments to the Jordanian Personal Status Law n° 36 of 2010 were made and Articles 318 and 319 on property and exclusion were introduced.

The first introduced a mandatory period of three months after the death of the owner before either exclusion (takharruj 'āmm, takharruj khāṣṣ) or power of attorney (waqāla) can be invoked. This amendment was adopted in order to give time to women before declaring the rejection of their 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 whilst 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. The fourth amendment states that the attorney is under obligation to inform the heirs of all the properties included in the inheritance. The sixth amendment prohibits invoking the power of attorney (waqāla) during the three months after the death of the owner. All these measures were taken in order to protect the rights of the heirs, especially the rights of women.

Conclusion

In Jordan, land is the major source of family wealth for large segments of the society, both in rural areas and within the cities. Traditionally, land has been considered a source of

income for men with which they take care of their family.

Men are reluctant to give land shares to female children who, once married, will become part of the husband's family. This male line of wealth transmission is true both for private land and agricultural land and for both Muslim and Christian families.

Gender-based restrictions on women's legal capacity and property rights are still prevalent in Jordan. Since the 1960s, the improvement of women's rights on inheritance has been advanced as a solution to poverty and a means of preventing women from falling into a life of destitution. Jordan is working on incentives for better inclusion of women in the economy; inheritance and property should be a major dimension of this policy. Statistics and surveys tend to show a slight improvement in women's inheritance patterns in Jordan over the past twenty-five years. This is due not only to women's increased awareness of their rights but also paradoxically with respect to a stronger Islamic conservatism that encourages men to implement "God's will" with regard to women's rights.

Social norms regarding inheritance are progressively moving. The mobilisation of women activists and the Sharia Supreme Court had a positive effect with the notable reduction of exclusion (*takharuj*) from a third of cases in 2010 to only a fifth in 2020. Enhanced inheritance would help women to break the glass ceiling that constitutes their lack of economic assets. It would improve their capacity to engage in paid activities. This is needed even more so in that Jordan is the second to last country, before Saudi Arabia, in terms of its lack of incentives for women to work (World Bank International Finance Corporation 2013).

However, the new Real Estate Law 2019 has a negative impact on women land inheritance: *miri* land used to be inherited equally between men and women. But as it is converted into private property (*mulk*), it will reduce the share to women, in application of the Sharia law, but most of all, of the several practices not to give their full share to women.

References

Ababsa, Myriam, 2017 « The Exclusion of Women from Property in Jordan. Inheritance Rights and Practices», *Hawwa*, Volume 15, Issue 1-2, Brill, p. 107-128.

Ababsa, Myriam, 2016, «Exclusion and Norms : Enforcing Women's Rights to Property in Jordan», in Al-Dahdah, Edouard; Corduneanu Huci, Cristina; Raballand, Gael J. R. F.; Sergenti, Ernest John. 2016. *Rules on paper, rules in practice: enforcing laws and policies in the Middle East and North Africa (English)*. Direction in development. Washington, D.C. : World Bank Group.

ABABSA M. (dir), 2013, *Atlas of Jordan. History, Territories and Society. Atlas al Urdunn. Al-tarikh, al-ardh, al-mujtama`*, IFPO, Beyrouth, 485 p. <http://books.openedition.org/ifpo/4560>

ABABSA M., DENIS E., DUPRET B., 2012, *Popular Housing and Urban Land Tenure in the Middle East. Case Studies from Egypt, Syria, Jordan, Lebanon, and Turkey*, The American University in Cairo Press, 352 p.

- Abujaber, Raouf Sa'd. 1989. *Pioneers over Jordan: The Frontier of Settlement in Transjordan, 1850–1914*. London: I. B. Tauris.
- Abu Sneineh, Abdulrahman. 2014. "Disinheritance of Women Legalized." Arab Reporters for Investigative Journalism, Al Ghad. <http://en.arij.net/report/disinheritance-of-women -legalized/>
- Alazzez, Mohannad, 2017, *Women's Right to Inheritance in Jordanian Law: Requirements and Prospects of Change*, Research Paper, Arab Center for Research and Policy Studies, 33 p.
- COHRE (Centre on Housing Rights and Evictions). 2006. In Search of Equality: A Survey of Law and Practice Related to Women's Inheritance Rights in the Middle East and North Africa (MENA) Region. Geneva.
- DOS and ICF (ICF International). 2013. Jordan Population and Family Health Survey 2012. Department of Statistics, Amman; ICF International, Calverton, MD, 350. <https://dhsprogram.com/pubs/pdf/FR282/FR282.pdf>.
- DOS and KVINFO (Danish Center for Research on Women and Gender). 2012. "Woman and Man in Jordan: A Statistical Portrait." The Danish Centre for Information on Gender Equality and Ethnicity, Department of Statistics, Amman, 101.
- Fischbach, Michael R. 2000. State, Society and Land in Jordan. Leiden, The Netherlands: Brill.
- Jansen, Willy. 1993. "Creating Identities: Gender, Religion and Women's Property in Jordan." In Who's Afraid of Femininity? Questions of Identity, edited by M. Brugman, et al., 157–67. Amsterdam: Rodopi.
- JNCW (Jordanian National Commission for Women). 2010. Jordan's Fifth National Periodic Report to the CEDAW Committee—Summary. Jordanian National Commission for Women, Amman, 32. <http://www.women.jo/admin/document/CEDAW%20English.pdf>.
- . 2012. Women's Rights to Inheritance: Realities and Proposed Policies. (In Arabic, p. 21, and in English, p. 28). http://www.johud.org.jo/SystemFiles/SSfile_635143893539732903.pdf.
- Payne, Geoffrey. 1996. *Urban Land Tenure and Property Rights in Developing Countries: A Review of the Literature*. London: Overseas Development Administration, 86.
- Prettitore, Paul. 2013. *Gender and Justice in Jordan: Women, Demand and Access*. World Bank, MENA Knowledge and Learning Quick Notes Series no. 107, 4. Washington, DC: World Bank.
- Razzaz, Omar. 1991. "Law Urban Land Tenure and Property Disputes in Contested Settlements: The Case of Jordan." PhD dissertation, Harvard University.
- Sharia Supreme Court. 2014. Statistical Yearbook 2014: *Dairat Qadi al Quda, Taqrir a Ihsai al Sanawi li 'am, 2014*, 245.