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Social Justice in Jordan

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Laying a Foundation for Social Justice Discussions in the
Hashemite Kingdom of Jordan

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Introduction

The last half-century has witnessed a dramatic proliferation of literature regarding social justice. Quickly gaining traction, the term has permeated into the vocabulary of the development world, entering organizational dictions and increasingly constituting a key pillar in many NGOs' mandates. The term "social justice," however, has not yet become prevalent in Jordan. It has not been adopted by NGOs or policy research institutions (PRIs) in Jordan and it has neither inserted itself in most Jordanians' vocabularies, nor become a topic of popular discussion. Of course, this terminological absence in no way suggests that the concept of social justice is somehow irrelevant or inapplicable in the Jordanian context. On the contrary, social *in*justice is rampant in the Kingdom, and its prevalence has provoked the emergence of a number of important non-governmental and semi-governmental organizations that are now working towards the rectification of these injustices. Thus, while the term social justice has not yet penetrated the language of Jordanian NGOs and PRIs, many of these organizations are nonetheless engaged in crucial work towards realizing social justice.

Appreciating the important work that is already being done to combat social injustice, this paper is not intended to serve as the genesis for social justice work in Jordan. Instead, it represents the first stage of a larger project in which the Identity Center seeks to introduce the concepts and tools of social justice into the Jordanian lexicon and popular discourse. This introductory paper to social justice in Jordan will serve three purposes: (1) provide a framework and vocabulary for analyzing social injustices in Jordan, (2) lay a foundation for a better understanding of how Jordanians understand social justice and (3) begin to isolate key social justice issues in Jordan. For each objective, a correspondingly numbered section of this paper is dedicated.

Methodology

This paper, and the larger project of which it is part, is chiefly concerned with issues of social injustice in Jordan. To foster innovative research, succeeding stages of this project will primarily rely on primary source information to examine specific cases of social injustice in Jordan. While this introductory paper also focuses on concrete issues in Jordan, it simultaneously functions as a launching point for Identity Center's future work in social justice. To facilitate these tandem goals, the paper contains primary, activity-based research, but also incorporates a significant corpus of secondary literature to both help establish a foundation for further social justice discussions as well as provide a historical and political context atop which specific issues can be more effectively analyzed.

The paper's three above stated objectives each required a different research approach that built upon the preceding one(s). The project began with a protracted period of desk research, which focused on establishing a solid theoretical basis for understanding social justice. While the paper's working definition of social justice relies largely upon a liberal – and perhaps Western – formulation of the term, desk research focused on attaining a more holistic understanding of social justice and competing conceptions of it. Rather than attempting to outline all of these seemingly endless formulations of the concept, however, the paper instead offers a means of analyzing different understandings of social justice. To this end, it presents three key conceptions of justice, which different understandings of social justice blend together in endless permutations. In this way, the paper provides a rubric through which divergent (and sometimes contradictory) understandings of social justice can be discussed without pre-supposing their respective merits.

Laying this comparative framework for examining multiple understandings of social justice was a prerequisite for beginning the next stage of research. Moving beyond pure desk research, Identity Center assembled a focus group in Amman with local development practitioners to discuss their views of social justice as well as best practices for discussing the topic in Jordan. While Identity Center initially intended to hold several subsequent focus groups with experts on social justice, the initial focus group in Amman turned us instead toward assembling more informal discussion groups that would include participants from multiple regions, age groups, backgrounds, and religions, so that we could better understand Jordanian views regarding social justice. As a result, the Identity Center convened four discussion groups in different locales in the Kingdom: Irbid, Karak, Gaza Camp, and Madaba. The first three discussion groups (Irbid, Karak, and Gaza Camp) were conducted with both male and female participants. However, owing to concerns that female participants felt uncomfortable expressing their opinions about issues of inequality between the sexes in a mixed environment, only female participants were invited to the final group (Madaba).

Eschewing a strictly planned focus group format in which the direction of conversation is tightly controlled, we used a more flexible approach in our discussion groups in order to allow participants to steer the dialogues. This method was chosen because we did not want to shape participants' ideas of social justice and social injustice in Jordan before they could present their own views on the topics. Rather than asking very specific and directed questions, therefore, we opened each discussion

group by simply asking participants both to describe what they thought social justice means and to explain why they understand social justice in that why – what were the sources of their conceptualization of the term. Their answers enabled us to concurrently create a mind map of their different explanations of social justice.

We subsequently turned the discussion to Jordan and tangible examples of social injustice in the Kingdom. Yet, because the previous conversations on social justice definitions revealed both a conception of social justice that was in large part predicated on legal justice (a concept discussed below), as well as a wide spectrum of divergent and contradictory understandings of the concept, we did not believe it would be pedagogically useful to ask participants to identity "social injustice" per se. Instead, we asked participants to identify institutions, systems, customs, or traditions that they believed to be systemically unfair, unequal, or unjust. In this way, we hoped to provoke answers that highlighted both situations of social injustice that we had already identified during desk research as well as issues that we had not previously considered.

Despite our attempts to move away from issues of legal injustice, however, participants in the discussion groups nonetheless largely confined their examples of social justice to issues of legal injustice. When they did offer examples of institutions and customs that were systemically unfair, these cases invariably focused on issues that affected each participant on a very personal level. Even though these examples proved helpful in our further efforts to define key social justice issues in Jordan, no example was given by a focus group member that focused on injustices faced by other members of society. In effect, participants did not engage in the abstract process that is necessary for identifying structures that serve to conceal social injustices.

Because participants did not engage in this abstraction, the subsequent task of identifying key social justice issues required a much more involved process than predicted. Following the discussion groups, Identity Center aggregated the different injustices that participants identified as crucial to their own positions and subsequently began to examine each within large contextual frameworks to begin to understand root causes of each issue. While Identity Center continuously held meetings with other NGOs, PRIs, and academics throughout the research process, a more intense series of interviews was conducted following the discussion groups. By interviewing experts as well as individuals directly affected by identified social injustices, we were better able to bring together the issues that were addressed in the discussion groups and further analyze their interconnection.

This process of amalgamation and synthesis pushed Identity Center to focus on four overarching themes of social injustice in Jordan: (1) political inequalities, (2) economic inequalities, (3) gendered inequalities, and (4) citizenship inequalities. Of course, due to the dynamic nature of social justice no work can comprehensively survey key issues. However, these four themes encompass the vast majority of the topics presented in the discussion groups, and it is our hope that a discussion of each will act as a jumping off point for future engagement with social justice issues in Jordan.

Having outlined these issues of social injustice in Jordan and provided a general framework for examining social justice, Identity Center intends this paper to serve as

an introduction to social justice in Jordan. While the introductory overview of justice concepts and social justice literature that is contained in Part I may prove interesting to anybody who is relatively unfamiliar with the concepts, it is also key for understanding the approach that this paper employs throughout. Thus, researchers and social justice practitioners who want to use the latter two parts of the paper as resources for further work and study should see them as being dependent upon the first section and the formulations of key concepts contained therein.

Part I: Defining Social Justice

Is Social Justice a Useful Concept?

Despite the rapid expansion of social justice literature, a specific definition of the term remains elusive. Myriad volumes devoted to discussing issues of social justice proceed without ever bothering to actually define how they are employing "social justice" – assuming for some reason that the term is innately understood. At the same time, countless authors have devoted entire careers to debating inconsequential details of social justice, helping only to push the concept further and further into abstraction until the reader is forced to ask if the concept of social justice is still useful. So much has been written on the subject, and the term has been used in such varied contexts (both inside and outside the academy), that social justice for most people has been reduced to shorthand for a general conception of "fairness" or "equality."

As a result the term's continued amorphousness, many writers have questioned the efficacy of a continued reliance upon it. Most prominently, the German economist and philosopher Friedrich Hayek argues in his monograph *The Mirage of Social Justice* "that the Emperor had no clothes on, that is, that the term 'social justice' [is] entirely empty and meaningless."[1] He maintains "that the people who habitually employ the phrase simply do not know themselves what they mean by it and simply use it to assert that a claim is justified without giving a reason for it."[2] Hayek concludes that it would be his "greatest service" to his "fellow men" if he were able to eject the term from their vocabularies.[3]

Hayek, however, is throwing the baby out with the bathwater. Simply because the term social justice has been carelessly (or erroneously) employed in the past does not render the entire concept invalid.[4] Even though the term has been thrown around meaninglessly on the one hand, and debated to endless abstract minutia on the other, the foundations of social justice are still very important. They provide a rubric through which we can formulate maxims for a just society and, thus, identify existing injustice in society and work to rectify it. However, to avoid getting caught in abstraction or generality, we must strip back the vague and superfluous layers currently convoluting social justice. This entails examining the historical development of the concept – and of justice more generally – so that the unique contributions of a social justice framework can be more clearly understood and applied.

While it is necessary for this paper to examine the development of social justice ideas to lay a concrete foundation for its later examinations of the Jordanian context, it is not possible – or indeed even desirable – for it to serve as an exhaustive survey of the debates surrounding the concept. The paper seeks instead to provide an overview of

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[1] Friedrich Hayek, *The Mirage of Social Justice, Vol. II, Law, Legislation and Liberty* (London: Routledge and Kegan Paul, 1976), xi. For discussion of convergences between Hayek and John Rawls, *see* Andrew Lister, "The 'Mirage' of Social Justice: Hayek Against (and For) Rawls," CSSJ Working Papers Series, SJ017, June 2011. << http://social-justice.politics.ox.ac.uk/materials/SJ017_Lister_MirageofSocialJustice.pdf>>

[2] Hayek, *The Mirage of Social Justice*, xi.

[3] Hayek, *The Mirage of Social Justice*, 97.

[4] *See* David Johnston, "Is the idea of social justice meaningful?" *Critical Review: A Journal of Politics and Society* Vol. 11, No. 4 (1997): 607-614.

key conceptions of justice and social justice ideas in order to arrive at a useful framework for examining Jordan. It consequently attempts to provide stepping stones across vast expanses of literature and debate so that we can efficiently proceed to discussing tangible issues of injustice in Jordan. In order to trace the most expedient path to our objectives and avoid getting caught in tangential and unnecessary debates, we are forced to sidestep other potential and important stepping stones.

By highlighting the contributions of a handful of key figures in the development of justice theories, this paper will examine three different conceptions of justice: (1) justice according to what is legal, (2) justice according to what is reasonable, and (3) justice according to what is fair. An appreciation of the differences and parallels of these three conceptions of justice will prove useful for laying a comparative framework for analyzing the many diverse understandings of social justice that exist between and within divergent contexts. Each of the varying understandings of social justice is based upon one of – or a mix of – the different conceptions of justice; thus, a grasp of the implications and applications of the three conceptions of justice will not only enhance our ability to compare different understandings of social justice, but also to effectively apply the concept to tangible issues in Jordan.

Three Conceptions of Justice

Justice According to What Is Legal
Some of the earliest efforts to define justice linked the concept to compliance with established laws. This conception of justice is frequently referred to as "legal justice."[5] A law, rule, or act is considered "legally just" if it is carried out according to its established parameters in a society. The inherent advantage of achieving a system in which legal justice prevails – and rules and punishments are thus treated in a consistent manner – is immediately manifest. When the law is consistently applied, those who are subject to the law know what is required of them and how they can protect themselves accordingly. Consequently, even if a law is considered unjust or unfair according to other standards, it is, nonetheless, better that it be consistently applied, for even greater injustice will occur if those who already face disadvantage are also treated arbitrarily.[6]

The reliance on a conception of justice according to what is legal is overtly manifest in the Code of Hammurabi – the earliest known extant example of a ruler publicly presenting a comprehensive body of laws in a format that allowed it to be widely understood by the people. Rather than leaving Babylonians convicted of a crime (perhaps that they had not even known to be a crime) at the mercy of the monarch, the code informed them about what was permissible and what exactly the penalty would be if someone acted in a manner that was impermissible.

Yet, even though having the code facilitated the realization of a consistent legal system that was naturally preferable to one in which laws are not defined and each act is treated differently, the code did not ensure that all members of society were treated equally before the law. In fact, the code explicitly stated that different demographic groups in society were subject to respectively different laws and punishments. Not

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[5] There is substantial debate regarding the use of the term "legal justice." *See, eg*., Wojciech Sadurski, "Social Justice and Legal Justice," *Law and Philosophy* Vol. 3, No. 2 (1984): 329-354.
[6] John Rawls, *A Theory of Justice, Revised Edition* (Cambridge: Harvard University Press, 1999), 51.

only were sexes treated differently in the code, but so too were freemen/women and slaves. According to the code, for instance, "[i]f a man strike a free-born woman so that she lose her unborn child, he shall pay ten shekels for her loss." However, "[i]f he strike the maid-servant of a man, and she lose her child, he shall pay two shekels in money."[7] Despite the incongruity of the code with our most general understanding of social justice as a form of equality, complete compliance with the code would be sufficient for achieving legal justice.

Even with the subsequent expansion of the meaning of justice in the works of Plato and Aristotle, each of which represents a milestone in the philosophy of justice, their theories continued to be predicated upon expressions of justice according to what is legal. In *The Republic*, for instance, Plato argues that society is best served when each member of society fulfills a specific, naturally prescribed function. He maintains that the state has a nature that determines both the parts of which it should consist as well as the order in which those parts must be arranged. Justice in the state is therefore obtained when each part of society is correctly ordered.[8]

Achieving the correct order in a state requires that each individual in society fulfill his or her proper function. According to Plato, each individual person is not self-sufficient by his or herself; instead, each works more efficiently if he or she specializes in the practice of a specific craft and relies upon the specialization of other members of society.[9] Achieving this societal symbiosis, and thus justice in the state, requires that every person in society perform the social function that corresponds to the constitution of his or her respective soul.[10] In the course of demonstrating why it is better for an individual to act justly (and thus fulfill his or her function within society), Plato argues that an individual's obedience to a good state (that is, a state complying with its own natural order) helps him or her to achieve the right order within his or her own soul: justice in the soul.[11]

For Plato, therefore, class distinctions are necessary for the effective functioning of society, and justice is obtained when each person receives that which he or she is due based on his or her prescribed position in society. In effect, he maintains that unequals ought to be treated unequally. As such, Plato, like Hammurabi, allows justice to be defined differently for different people depending on the circumstances of their birth. Accordingly, achieving a just society does not demand the reformation or transformation of the existing order, but instead that institutions continue to function as intended; justice, therefore, inherently requires submission to the laws of the state as prescribed by nature.

Aristotle further developed the concept of justice in the *The Nicomachean Ethics*. He conceptualizes justice as the basis of the rule of law, maintaining that laws express the interests of all citizens and should ideally serve all citizens of the society. Foreshadowing modern debates regarding resource allocation, Aristotle argues that

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[7] "The Code of Hammurabi," (Trans. L.W. King) *The Avalon Project: Documents in Law, History and Diplomacy*, Laws 209 and 213. << http://avalon.law.yale.edu/ancient/hamframe.asp>>
[8] Plato, *The Republic of Plato*, trans. Allan Bloom (New York: Basic Books, 1991), 433a-444e.
[9] Plato, *The Republic of Plato*, 462 a-c, 443d.
[10] Plato, *The Republic of Plato*, 443c-444a, 441d.
[11] M. B. Foster, "On Plato's Conception of Justice in the Republic," *The Philosophical Quarterly* Vol. 1, No. 3 (Apr. 1951): 208.

justice is achieved when each person receives his or her fair share of goods and bads. Like Plato, however, Aristotle does not regard all members of society to be equal, and consequently he does not believe that distribution should be equal. Instead, he argued that equal persons are entitled to equal shares and unequals to unequal shares.[12] Like Plato, moreover, he defines each person's share according to the best interests of the state.

The legitimacy of the state and its law, and the need for complete subservience to them, are founded on the presumption that the law exists to secure the happiness of the society and its members.[13] As in Plato, Aristotle's conception of justice is defined according to what is legal. The legal is the just. Hence, the position of a person's birth in the existing social hierarchy determines the *rights* to which he or she is entitled.

The formulation of rights in Plato and Aristotle is a crucial point because defining exactly that to which an individual possesses a right – and what possessing a right entails – is the crux of any theory of justice. Justice effectively requires the balancing of rights. How each theory defines an individual's rights helps to clarify the specific conception of justice upon which it is constructed. For Aristotle and Plato, an individual's rights are determined by the position of his or her birth in society's naturally prescribed hierarchy. Because their conceptions of justice define what is just according to extant societal structures, Plato and Aristotle do not believe gross inequalities in rights that exist between different societal groups to be unjust, but rather to be in accordance with nature. Neither philosopher raises any objection, for instance, to the continued existence of slavery in their respective societies. They do not even believe it to be contrary to their advocacy of a democratic system. Slavery is in accordance with the law and is thus considered just.

Justice According to What Is Reasonable
More universally inclusive conceptions of justice emerged with the growth of some of the world's major religions (Judaism, Christianity, Islam, and Buddhism), which pursued visions of divine humanity that were tied to their respective deities.[14] However, as these religions grew increasingly institutionalized, hierarchies reflective of nascent state structures began to solidify and consequently corrode notions of universal justice. As ideologies of human secularism and rationalism emerged in the sixteenth and seventeenth centuries and renewed attention was focused on conceptualizing justice, key thinkers focused on rationally justifying extant hierarchies and the rule of absolutist monarchs.[15]

At the same time, however, the early modern period also witnessed the first real questioning of the existing social order. The Enlightenment and the Scientific

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[12] Aristotle, *Nicomachean Ethics*, trans. Robert C. Bartlett and Susan D. Collins (Chicago: University of Chicago Press, 2011), V, 3.
[13] Delba Winthrop, "Aristotle and the Theories of Justice," *The American Political Science Review* Vol. 72, No. 4 (Dec. 1978): 1203.
[14] Michael Reisch, "Defining Social Justice in a Socially Unjust World," *Families in Society: The Journal of Contemporary Human Services* Vol. 83, No. 4 (2002): 344.
[15] One of the most prominent examples of this is in Thomas Hobbes *Leviathan* where he argues that the construction of a state authority separate from society is necessary to ensure that the requisite laws are created and enforced to prevent individuals form harming one another and, thus, from committing injustice. *See* Thomas Hobbes, *Leviathan: Or the Matter, Forme, and Power of a Common-Wealth Ecclesiasticall and Civill*, ed. Ian Shapiro (Yale University Press, 2010).

Revolution (both of which roughly occurred in the sixteenth and seventeenth centuries) respectively focused on obtaining universal truths and on the application of these truths for the reformation of society. In parallel to those who sought to rationalize existing hierarchies through reason, revolutionary new thinkers employed the same scientific methods to construct theories to explain the prevalence of societal injustice.

One of the most important figures for justice theory to emerge out of this context was the English philosopher John Locke. In his *Two Treatises of Government*, Locke attacks arbitrary and absolutist governance and outlines his own ideas for realizing a more civilized society predicated upon a social compact. Responding to rationalist justifications for absolutist rule,[16] Locke maintains that all men are born free and equal, endowed with "natural liberty and equality."[17] Hence, exerting power over another, according to Locke, is permissible only with the existence of a prior contract. He bases this idea on his understanding of the law of nature, which can be understood by humans through their sense and reason: the "voice of God" in humanity.[18] According to Locke, the "fundamental law of nature" is the preservation of humankind. Out of this, an individual has two basic duties: to preserve him or herself and to preserve others.[19]

Locke adopts (though differs slightly in his interpretation) Thomas Hobbes' idea of the "state of nature." He conceives of the state of nature as both an historical as well as a moral depiction of human existence.[20] In the state of nature all people are born free and equal and are at liberty "to order their actions, and dispose of their possessions, and persons as they think fit."[21] In the state of nature, everyone is equal and the power or jurisdiction that each has over the other is reciprocal. Each individual is bound by the law of nature and, as such, each possesses the same basic rights and obligations. This is the situation in which an individual remains unless he or she willingly consents to make his or herself part of a political society by submitting to a social contract.

Even though an individual is free in the state of nature, Locke believes that humans are social creatures by nature and that as a result they are unable to exist outside of society.[22] In the state of nature, people do not have an established law, an indifferent judge, or the means of enforcing law. Humans are therefore naturally inclined to establish political societies, as these structures assist in people's endeavors to preserve themselves and others. An individual's dependence upon society for his or her preservation in conjunction with his or her obligation to oneself and others, therefore, also obliges him or her to work toward the preservation of society. This obligation to preserve society, according to Locke, is derived by shared *reason* from people's dependence upon society and their fundamental responsibilities.

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[16] E. Clinton Gardner, "John Locke: Justice and the Social Compact," *Journal of Law and Religion* Vol. 9, No. 2 (1992): 351.

[17] John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), I. 67.

[18] Gardner, "John Locke," 352.

[19] Locke, *Two Treatises of Government*, II. 135.

[20] Richard Ashcraft, "Locke's State of Nature: Historical Fact or Moral Fiction?" *The American Political Science Review* Vol. 62, No. 3 (Sept. 1968): 898.

[21] Locke, *Two Treatises of Government*, II. 4.

[22] Locke, *Two Treatises of Government*. II. 8.

According to Locke, the establishment of a social compact between people represents the genesis of a civil community.[23] The community's government is subsequently conceived through the agreed communal establishment of a ruling authority to whom political power is delegated. The issue of power is crucial for Locke. Indeed, he asserts that the "great question" of government is not "whether there be power in the world or whence it came, but who should have it."[24] The challenge that Locke's ideas presented to established hierarchy is blatantly clear, for his conception of a just society vests power in the people rather than the government. For Locke, the people are not subjects of the government by virtue of nature or history, but instead as the descendants of those who entered the social contract.[25] The purpose of the government, therefore, is to preserve the life, liberty, and property of *all* of its people. If the government fails to do so, and thereby breaks the social contract, the people retain the right to reform, or even remove, the governance body.

While the concept of justice is not explicitly addressed at length in any of Locke's works, it is a major theme that is implicitly manifest in his political ideology as a whole. Indeed, by outlining a moral theory of the way society should function, he provides a conception of justice that stands in stark contrast to those of Plato and Aristotle. For Locke, preserving people's rights is the state's raison d'être. Justice, therefore, is not focused on preserving society's status quo, but on ensuring that the status quo is in accordance with nature – ensuring that it is just. Justice is not defined by the law; reason must be employed to determine if the law is just. If the extant system is not in accordance with nature (which people can understand through reason), then it should be reformed.

Despite his step away from defining justice through extant laws and hierarchies, Locke nonetheless continued to believe justice to be dictated by nature. By contrast, Jean-Jacques Rousseau, who was born soon after Locke's death and expanded upon Locke's conception of the social contract, does not invoke nature as a reference point for quantifying the legitimacy of a social contract. Instead, he argues that humanity's departure from nature is permanent. He asserts that social contracts establish fundamental rights, but that those rights are not based upon nature. According to Rousseau, "what is characteristically human is not the gift of nature, but is the outcome of what man did, or was forced to do, in order to overcome or change nature: man's humanity is the product of historical process."[26] Rousseau consequently concludes that the pervasive inequalities that continue to exist in society are "the fatal proofs that most of our ills are of our own making."[27]

In effect, Rousseau moves the conception of justice further away from reference to existing structures and rules. His *Social Contract* begins with the famous line, "[m]an is born free, and everywhere he is in chains. One who believes himself the master of

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[23] Gardner, "John Locke," 359.

[24] Ashcraft, "Locke's State of Nature," 899.

[25] Joshua Foa Dienstag, "Between History and Nature: Social Contract Theory in Locke and the Founders" *The Journal of Politics* Vol. 58, No. 4 (Nov. 1996): 987.

[26] Leo Strauss, Natural Right and History (Chicago: University of Chicago Press, 1953), 274.

[27] Katrin Froese, "Beyond Liberalism: The Moral Community of Rousseau's Social Contract," *Canadian Journal of Political Science / Revue Canadienne de Science Politique* Vol. 34, No. 3 (Sep. 2001): 579-600.

others is nonetheless a greater slave than they."[28] These chains exist because by entering a social contract an individual removes his or herself from the freedom of the state of nature and agrees to the restrictions of society. For Rousseau, an individual's freedom is dependent on all others'. Each person must rely on other people, rather than mistrust them, to realize his or her full potential. No one is master of another (or at least they are reciprocally both slaves and masters of each other) because all are equal; all are equally freed and enslaved through the social contract.

Through these discussions, Rousseau and Locke force a crucial question upon us: what does it mean to be equal? Aristotle and Plato each include formulations of equality in their respective theories of just societies, but both, as we saw above, limit their definitions of equality to members of society who maintain like positions in the society. Both assert that assigning equal rights to two individuals who occupy dissimilar positions in society is unjust. Locke's and Rousseau's views of society as a contract entered by free individuals, rather than a naturally defined social hierarchy, provides a very different understanding of equality.

Both contractarian thinkers (Locke and Rousseau) contend that justice requires that all members of a society be equal – that all enjoy equal rights. In Locke's and Rousseau's formulations each individual has a right to do something if, and only if, everyone else in the society has the same right. For instance, a member of society has the right to not be stolen from by other members *if* he or she agrees not to steal from other members. For Locke and Rousseau, justice requires that all members of society enjoy equal rights and that each person maintains the most extensive rights possible without detracting from the rights of other members of society. Locke's and Rousseau's views of rights and equality, therefore, contrast shapely with those of Plato and Aristotle. For Locke and Rousseau, the Platonic and Aristotelian understandings of "rights" distributed by social rank are merely privileges reserved for select members of society. If rights are not equal they are not rights: they are privileges.

By entering the social contract, all people agree to the same rights and obligations. Because all people in the social contract are equal, justice is achieved when all people enjoy the same rights regardless of their positions in society. If an individual is not rendered his or her right – that is, the person is prevented from exercising his or her right – that does not negate his or her possession of that right.[29] It solely means that the individual is being deprived of the freedom to enjoy a right that he or she nonetheless possesses. In this formulation, we may think of a right as a legitimate claim. Claims are valid, according to Locke and Rousseau, when they provide all with equal rights and freedoms. Because rights that are not equal are merely privileges, injustice results when one person is denied the ability to enjoy the same privilege that others enjoy. Justice for Locke and Rousseau is achieved when everyone maintains the same freedom to enjoy the same rights. In justice according to what is reasonable, therefore, equality is defined as a condition of "sameness."

Even though defining equality as sameness seems to accord with our intuitive – and perhaps even reasoned – understanding of the concept, its sufficiency has been

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[28] Jean-Jacques Rousseau, *The Social Contract* (New York: Hafner Press, 1947), 1.1.
[29] Nicholas Wolterstorff, "All Justice is Social But It's Not All Social Justice," *Philosophia* Vol. 41 (2013): 384.

directly challenged in the last half century with the emergence of conceptions of justice according to what is fair. While justice as fairness also sees the possession of equal freedom to enjoy rights as a central component of justice, it argues that equality cannot be achieved simply by treating everyone the same.

Justice According to What Is Fair

Debates regarding justice as fairness have centered on John Rawls and the ideas he put forth in his landmark work *A Theory of Justice*. Rawls' formulation of justice as fairness has exerted such a large impact on political philosophy that it has quite correctly been noted that "[p]olitical philosophers now must either work within Rawls's theory or explain why not."[30]

Rawls himself works within a contractarian formulation of justice, arguing that "[e]ach person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others."[31] Despite his reliance on earlier contractarian theories of justice, Rawls seeks nonetheless to respond to more recent arguments of – and criticisms to – utilitarianism[32] by incorporating elements of social welfare into the contractarian framework.[33]

Moving away from the contractarian state of nature, Rawls introduces what he calls "the original position."[34] The original position, a concept central to Rawls' work, describes a hypothetical situation in which we each imagine standing behind a "veil of ignorance" that forces us to design society's social, political, and economic institutions without knowledge of our own particular circumstances in the society. Standing behind the veil of ignorance, we do not know what our religion, race, sex, material resources, or even abilities will be once the veil is lifted. As such, we are forced to try to construct the most fair society possible for we do not know what position in society we will fill once the veil is lifted. Because the lifting of the veil may leave us as the least advantaged in terms of racist or gendered social norms or the least advantaged by the value that society vests in our specific skills, Rawls asserts that this original position is the best framework for deciding the most just order for society. From this position we can formulate an "ideal theory" for the way a society should be ordered. Forced to formulate principles for society from the original

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[30] Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 183.

[31] Rawls, *A Theory of Justice*, 3.

[32] *A Theory of Justice* presents a direct and comprehensive challenge to the utilitarian approach to the distribution of rights that had become predominant during much of the twentieth century. Rawls objects to the way in which rights are balanced in utilitarianism, as utilitarian theories rely on a hedonistic calculus that is premised upon the idea that social goods (rights) ought to be distributed to achieve the greatest satisfaction for the greatest number of people in society. Rawls argues that this utilitarian principle does not sufficiently represent the demands of the few – and specifically the demands of the poor. While Rawls accepts the utilitarian belief that each individual's view of his good is his or her good and that society should be arranged so as to help realize each individual's wishes (so long as they do not harm others), he objects to utilitarianism's lack of consideration for the individual and the potential consequence of disadvantaged groups being further disadvantaged for the sake of society's general benevolence.

[33] For a discussion of divergences (and shortcomings) between Rawls and the contractarians, *see* Allan Bloom, "Justice: John Rawls Vs. The Tradition of Political Philosophy," *The American Political Science Review* Vol. 69, No. 2 (June. 1975): 648-662; and Michael L. Frazer, "John Rawls: Between Two Enlightenments," *Political Theory* Vol. 35, No. 6 (Dec. 2007): 756-780.

[34] Rawls, *A Theory of Justice*, 11.

position, a person, Rawls argues, will settle upon two basic, *serially* ordered principles:

> 1) Each person has an equal right to the most extensive system of personal liberty compatible with a system of total liberty for all.

> 2) Social and economic inequality are to be arranged so that they are both (a) to the greatest benefit to the least advantaged in society and (b) attached to positions open to all under conditions of fair equality of opportunity.[35]

Rawls argues that any reasonable and rational person in the original position would accept the first principle of justice (and view it as the most essential principle for designing society) because it would best protect that person's freedom to enjoy their rights regardless of his or her position in society. Rather than risking losing his or her happiness altogether, an individual would choose a society in which each person possesses equal freedom to enjoy his or her rights because it would allow the individual to pursue his or her life goals so long they did not harm others. Yet, while accepting this contractarian maxim that all members of society need to possess the same freedom to enjoy their rights, a person in the original position – unlike the contractarians – would not see this as sufficient for achieving equality or justice.

This disagreement is a function of differing understandings of equality. While the contractarians define equality as *sameness*, Rawls bases equality on *relevant difference*.[36] In order to ensure that everyone equally benefits from their freedoms, social, political, and economic institutions must compensate those individuals negatively affected by the arbitrariness of contingency. In pursuit of this equality, greater resources might, for instance, be devoted to the less rather than the more gifted or advantaged students, so that they can equally enjoy their rights to education.[37] While justice according to what is legal allows greater resources to be given to students privileged by birth, and justice according to what is reasonable would provide the same resources to all students regardless of their respective situations, justice according to what is fair addresses individual needs to help mitigate the effects of chance and provide all students with greater opportunities for success.

Even if everyone in society possesses exactly the same freedoms, inequality will remain because each member of society is born into a different situation with different capacities and privileges. These distributions of talents, according to Rawls, are neither just nor unjust; they are merely "natural facts."[38] Instead, "[w]hat is just and unjust is the way that institutions deal with these facts." Hence, Rawls argues that a person in the original position would add an additional principle to help ensure that members of society are compensated for the inequality of contingency, so that everyone is able to benefit from their rights and freedoms. Consequently, a person in the original position will arrive at Rawls' second principle; the person will decide that in addition to ensuring that each person enjoys the most extensive personal freedoms possible, society must also be arranged so that unequal distributions of life goods benefit the least advantaged members of society.

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[35] Rawls, *A Theory of Justice*, 53.
[36] Also *see* Michael Ignatieff, *The Rights Revolution* (Toronto: Anansi Press, 2000).
[37] Rawls, *A Theory of Justice*, 86.
[38] Rawls, *A Theory of Justice*, 87.

Although the person in the original position does not know his or her specific life plan, he or she is aware that there are certain things that will facilitate the fulfillment of his or her life plan, no matter how its constituted. These things, or life goods, include liberties, birth, talent, position, wealth, and a sense of one's own worth. Regardless of his or her subsequent life plan, each person would want to have as many/much of these life goods as possible.[39] Behind the veil of ignorance, therefore, a person would opt for their most equal distribution because given the scarcity of primary goods, he or she will likely have less rather than more of the unequal distribution once the veil is lifted.

In reinforcing his second principle of justice, Rawls offers what he terms the "principle of redress:"

> Undeserved inequalities call for redress; and since inequalities of birth and natural endowment are undeserved, these inequalities are to be somehow compensated for. Thus, the principle holds that in order to treat all persons equally, to provide genuine equality of opportunity, society must give more attention to those with fewer native assets and to those born into the less favorable social positions. The idea is to redress the bias of contingencies in the direction of equality.[40]

The original position helps us to understand that the things that a person conceives of as being "his" or "hers" – that is, his or her innate skills and those he or she develops through education and commitment – do not entitle him or her to the benefits that are accrued through using them. Instead, the distribution of natural talents should be viewed as common assets; an individual should only benefit from his or her talents and circumstances when it is for common benefit.[41] Once a person understands the original position, he or she, according to Rawls, will recognize that there are no legitimate claims to special privileges. Personal endowments and the value that is placed upon them by society are morally arbitrary. Thus, choosing the principles used to dictate the distribution of benefits that are gained from exploiting these endowments ought to be a decision that society makes together. The least advantaged in society should be given a voice in this decision; they cannot simply be the recipients of charity. This robs them of their self-respect and renders them less able benefit from their freedoms and to pursue their own life plans. Rawls dubs this blending of contractarian theory and social welfare *A Theory of Justice*, but it would perhaps have been more accurate to title his opus *A Theory of Social Justice*.[42]

Social Justice: A Dynamic Definition

Having discussed three key conceptions of justice, we are now in a better position to discuss social justice and to identify its unique contributions. This can most clearly be achieved by defining the concept in relation to social *in*justice. Social injustice is injustice that is inflicted upon members of a particular society by its laws and/or

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[39] Rawls, *A Theory of Justice*, 54.
[40] Rawls, *A Theory of Justice*, 86.
[41] Rawls, *A Theory of Justice*, 88.
[42] *See* Antony Flew, "Socialism and 'social' Justice," *Journal of Libertarian Studies* Vol. 11, No. 2 (Summer, 1995): 76-93.

social practices.[43] Social injustice neither describes particular instances of injustice, nor does it define specific victims or perpetrators. It does not speak to the manner in which people treat one another. Instead, it denotes unjust systems and customs in society. Social injustice exists when society's institutions deprive some members of society the freedom to enjoy their rights, or they render some members unable to benefit from that freedom.

To identify social injustice and attempt to eradicate it, we must challenge extant systems and hierarchies. To do so is inherently difficult and necessitates a great deal of abstraction and imagination because it requires that we challenge and evaluate the very institutions and structures upon which we normally depend for our understanding of justice.[44] Outside of legal systems, moreover, it entails challenging hegemonic narratives of societal normality. That is to say, eliminating social injustice involves confronting systems, customs, and values that society generally accepts as fair and equal, but in fact conceal ingrained inequalities and persistent chauvinism. For instance, while apartheid is now regarded as manifestly unfair and unjust, South Africa's former system was once seen as legally and socially acceptable. Eliminating the social injustice inherent in the apartheid system involved challenging established rules and confronting accepted social norms to reform people's beliefs and values.[45]

Of the three conceptions of justice discussed above, justice as fairness is best equipped for identifying hegemony and revealing social injustice. Justice according to what is legal, for instance, merely relies upon existing laws and institutions for its definition of justice. It may consequently help to perpetuate rather than eliminate social injustice. In fact, confronting social injustices requires that we directly challenge conceptions of justice according to what is legal, for we have to focus not on what rule or system is currently in place, but on whether or not it is fair.

Unlike justice according to what is legal, justice according to what is reasonable provides a formulation of justice that is independent of existing structures and hierarchies. Justice according to what is reasonable helps us, therefore, to identify a single, albeit important, type of social justice: when one group in society is being denied the same freedoms to enjoy rights that are accorded to another group. From this, we can reasonably assert that it is not just, for instance, to allow men to vote whilst depriving women of the same franchise. The social contract requires that *all* people in society be given the same freedom to enjoy their rights.

However, while justice according to what is reasonable is useful for identifying this one kind of social injustice, it is not useful for identifying another type – one that is much more salient and persistent in Jordan. This shortcoming stems from the fact that the definition of equality in justice according to what is reasonable only requires that

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[43] At the same time, we must bear in mind that it is not simply the laws that inflict injustice, but rather those who create and enforce them, and it is not the practices that inflict injustice, but those who perpetuate those practices. Wolterstorff, "All Justice is Social but it's not all Social Justice," 389.

[44] *See* Priya Narismulu, "A Heuristic for Analysing and Teaching Literature Dealing with the Challenges of Social Justice," *Teaching in Higher Education* Vol. 18, No. 7 (2013): 785; and Kate O'Regan, "Justice & Memory: South Africa's Constitutional Court," *Daedalus* Vol. 143, No. 3 (Summer 2014): 168-178.

[45] Narismulu, "The Challenges of Social Justice," 785. For a discussion of the parallel case of African Americans in the United States, *see* Robert Michael Franklin, "In Pursuit of a Just Society: Martin Luther King, Jr., and John Rawls," *The Journal of Religious Ethics* Vol. 18, No. 2 (Fall 1990): 57-77.

each member of society is accorded the same freedoms to enjoy their rights. While this is a very necessary component of tackling social injustice, it is not sufficient to identity all types because it says nothing about a person's ability to actually exploit those freedoms. This is a crucial point, because simply ensuring that all members of society technically possess the same freedoms does not guarantee that everyone is equally able to benefit from them.

Each person in a society is born with unique natural talents and capacities as well as different privileges. As such, even if all members of society possess the same freedom to enjoy their rights, some people will not be able to benefit to the same extent as others. If, for example, we imagine a society in which each individual is legally enfranchised, we can say that each person possesses the same freedom to exercise his or her right to vote. However, if some members of society live in poor, rural communities from which it is difficult to attain information about the voting process or financially unfeasible for them to reach a polling station, they are consequently less able – or maybe even wholly unable – to benefit from the freedoms that they possess. In this situation, the rural voter has the same freedom to enjoy the right to vote, but we can hardly say that he or she is equally able to benefit from that freedom as his or her urban, affluent counterparts.

This is why in addition to Rawls' first principle guaranteeing each person equal freedom to enjoy rights, his second principle and the principle of redress are also vital for identifying and addressing social injustice. Together they allow us not only to determine if everyone has the same freedom to enjoy their rights, but also if each person is equally able to benefit from them. This is a vital aspect of justice as fairness, for the theory requires that having established a hypothetical society in which each person enjoys equal rights, the system needs also to be arranged in such a manner that its institutions provide greater privileges and resources to those members of society who are the least privileged by contingency so as to try increase their ability to exploit their rights.

But how do we locate this more disguised and amorphous form of social injustice? While it is relatively easy to identify situations in which a person is being deprived of his or her freedom to enjoy a right (such as denying women the vote), it is substantially more difficult to recognize instances in which each person is legally provided with the same freedoms, but the ability to benefit from them is unequal. These inequalities are frequently concealed by hegemonic narratives that encourage people to view social inequalities as normal or natural. Justice as fairness, however, helps us to see through these hegemonic façades because the original position offers an independent means of evaluating the fairness of social arrangements independent of the ingrained assumptions and values that are formed around each person's respective position in society.

By offering an ideal societal rubric against which situations in existing societies can be compared, the original position allows us to focus our attention on the institutions and systems that order society and to evaluate their justness based on the ideal society formulated in the original position.[46] We can conceptualize this "ideal theory" for society by viewing all social institutions and arrangements through the vantage point

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[46] John Rawls, *The Law of Peoples* (Cambridge: Harvard University Press 1999), 90.

of the veil of ignorance. If there exists in our society a situation that would not be agreed upon in the original position, then we know this arrangement to be socially unjust. This abstraction allows us to locate injustices that exist within society's laws, systems, and customs, but are masked as being natural or normal.

Having defined social injustice as societal arrangements and institutions that would be rejected in the original position, it is tempting to inversely define social justice as the achievement of a society in which all its systems and institutions would be agreed upon in the original position. While this "ideal theory" certainly describes a just society, this leaves us with a far too narrow and static a definition for it to be a practical tool through which to analyze social (in)justice. Indeed, if we hold the standard of success for any endeavor to achieve social justice as a state of perfect and complete equality, and consequently regard every societal situation that fails to meet that standard as a failure, then any attempt to achieve social justice will inevitably result in failure.[47]

Rather than regarding "ideal theory" as the definition of social justice, it is better to understand it as a compass for a perpetual journey towards achieving a better society. It steers us away from social injustice and directs us towards social justice. Social justice, however, is not the destination, but the journey. Each step that we take towards eliminating social injustice is in itself an achievement of social justice. The definition of social justice, therefore, is not static but dynamic. It describes the continuous process of rectifying social injustice, not the achievement of a society devoid of social injustice. The definition and boundaries of social justice are, therefore, being continuously redefined as they expand to incorporate previously unidentified social injustices.

Understanding social justice as a dynamic process rather than an end goal yields a much more practical framework that can actually be applied to real life issues. It directs us away from endless debates on ideal societies and pushes us toward a solid vantage point for identifying social injustice. At the same time, it also converges with most people's intuitive understanding of social justice, which typically associate the term with societal equality or fairness for all. However, how "fairness" and "equality" are understood is, as the next section will highlight, a source of considerable contention.

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[47] Johnston, "Is the Idea of Social Justice Meaningful?" 608.

Part II: How Social Justice Is Understood in Jordan

Social injustices endure unnoticed in every country, overlooked as normal aspects of society because of traditions and established norms. In Jordan, a post-colonial state once personified by both elite and minority domination, narratives of tradition and normality are particularly persuasive and persistent. Despite the fact that some individuals and organization are now struggling to challenge the validity of ontologies and practices that have been uncritically accepted for decades, many Jordanians remain apathetic toward (or even supported of) continued social injustice.

We must be careful, however, not to speak about "Jordanians" as a cohesive unit and thereby fall into the trap of universalizing a heterogeneous population. The Hashemite Kingdom is inhabited by a diverse population, and this diversity is reflected in Jordanians' divergent understandings of social justice. The multiplicity of views regarding the concept was clearly demonstrated in the discussion groups we convened with Jordanians across the Kingdom. Not only did each discussion group identify different issues that were more or less important to its respective regional and economic concerns, but so too did each participant present entirely different understandings of the concept itself. While most participants agreed that social justice generally explains the "fair" and "equal" treatment of all members of society, they disagreed greatly about what those terms actually mean. As a result, many participants came to the discussion groups with a pre-conceived notion of "social justice" that differed substantially from those of other participants.

Mind Map at Karak Discussion Group

Social Justice as Legal Justice
Even though the details of each person's definition of social justice varied widely, almost all relied on references to existing social structures. Participants either claimed that Jordan's constitution and laws represent a comprehensive roadmap for achieving social justice, or they anchored their understandings of social justice in tribal and religious customs. While all of these reference points certainly embody potentially useful pathways for working toward a better society, each also relies on a static definition of social justice that consequently limits its usefulness for identifying hitherto unidentified social injustices.

Dependent on prescriptive depictions of ideal societies rather than a dynamic framework that constantly redefines the boundaries of social justice, participants accepted as normal and socially just numerous situations that would be regarded as

unfair according to the above-formulated definition of social justice. When questioned about several cases in Jordan in which freedoms to enjoy rights are unequal or cases in which equal freedoms exist but the ability to benefit from them is unequal, many of the participants answered that no injustice exists. In defending their responses, participants argued that these situations are in accordance with Jordan's constitution, laws, or traditions. In effect, they maintained that these cases are socially just because they are legally just. Used in this way, the term "social justice" was transformed into a tool for reinforcing extant structures and hierarchies rather than challenging them.

The use of "social justice" as a justification for the preservation of tradition and extant hierarchies was clearly expressed by way of an example one of the participants provided.[48] He stated that while Jordanian women are only legally entitled to half as much inheritance as their male siblings, this did not represent an example of social injustice. The participant argued that it was fair that women typically receive less inheritance,[49] because they are not burdened by the same financial obligations throughout their lives to which Jordanian men are subject. He admitted that if we examine inheritance laws in a vacuum they may appear unjust, but asserted that when they are studied as part of Jordanian society as a whole their rationality and social justness becomes evident. The participant maintained that this is the system that Jordan has long relied upon, and that these rules suit Jordanian society. He contended that if all parts of the system continue to function as they always have, this will result in the preservation of a fair and just system of inheritance. Most of the other discussion group participants (including female participants) agreed with this argument, believing that the inheritance laws make sense when they are viewed as a single facet of a larger system – a system that participants considered to be generally just.

The Influence of Islam on Jordanians' Understandings of Social Justice
The understanding of social justice as a synonym for legal justice was also espoused by participants who rooted their understandings of social justice in Islam. This was a very surprising result of the discussion groups because the meaning of Islamic social justice and its compatibility with western understandings of social justice and democracy has provoked rich debates both inside and outside of the Muslim world.[50] While some writers within the expansive body of literature centered on these debates have expressed very prescriptive understandings of social justice, others have focused

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[48] This example was given by a participant during our first discussion group, which took place in Irbid. During all subsequent discussion groups, we asked participants about this same situation, and the results they provided reinforced the sentiments expressed in Irbid.

[49] Despite the legal and Quranic stipulations that inheritance should be distributed in this manner, exceptions are often made in Jordan. One participant for instance, noted that his mother had received a larger largest share of his father's inheritance than he or his siblings.

[50] *See*, for example, Sayyid Qutb, *Social Justice in Islam*, trans. John B. Hardie and Hamid Algar (Oneonta, NY: Islamic Publications International, 2000); Farid Esack, *Qur'an, Liberation and Pluralism: An Islamic Perspective of Interreligious Solidarity Against Oppression* (Oxford: Oneworld, 1997); Amina Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective* (New York: Oxford University Press, 1999); Asma Barlas, *"Believing Women" in Islam: Unreading Patriarchal Interpretations of the Qur'an* (Austin: University of Texas Press, 2002); Ahmad Hasan, "Social Justice in Islam," *Islamic Studies* Vol. 10, No. 3 (Sept. 1971): 209-219; Ahmad Zaki Yamani, "Social Justice in Islam," *Islamic Studies* Vol. 41, No. 1 (Spring 2002): 5-34; and Jacqueline S. Ismael and Shereen T. Ismael, "Social Policy in the Arab World: The Search for Social Justice," *Arab Studies Quarterly* Vol. 30, No. 2 (Spring 2008): 23-44.

on more abstract Islamic concepts such as *zulm* (oppression, inequity).[51] These latter, more nuanced formulations of Islamic social justice both open up the possibility of more dynamic applications of Islamic social justice and also highlight the religion's potential to serve as a powerful guide for achieving social justice. They reveal Islam's ability to challenge tradition and hegemony by offering an independent rubric (similar to the original position) against which the equality and justness of social structures and practices can be measured. In this sense, they incorporate elements of justice as fairness within an Islamic social justice framework.

However, despite the fact that these discussions are very important (especially for addressing arguments regarding a "clash of civilizations" vis-à-vis social justice), the discussion groups demonstrated that their salience for the purposes of this paper's foci is limited. Even though the overwhelming majority of Jordanians are Muslim, most are not versed in these esoteric formulations of Islamic social justice. During Identity Center's discussion groups it became clear that these more nuanced debates about social justice exert very little influence upon most Jordanians' understanding of the concept. Those participants that referenced Islam as a central contributing factor to their understanding of social justice did not use the religion as an outside framework for examining prevailing injustices, but rather as a prescriptive tool for justifying extant institutions and practices. Therefore, despite Islam's strong potential to aid in the achievement of social justice, for discussion group participants it largely served to reinforce the potency of tradition, patriarchy, and hegemony.

During discussions regarding the disparity between male and female inheritance laws, for instance, participants who emphasized that Islam was fundamental to their understanding of social justice stated that they did not see women's receiving less inheritance to be unjust. On the contrary, they maintained that such designations were established in the Quran.[52] These participants admitted that the Quran's allotting different proportions of inheritance to people based on their sex did not intuitively seem fair, but that its logic was nonetheless understood by Allah and it was, therefore, just. No participant in the discussion groups was willing to debate the meaning of Sharia, let alone openly challenge its justness.

Discussion Group in Madaba

Social Justice As Justice According to What Is Reasonable
Even though participants were largely unwilling to question religion and tradition,

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[51] For an example of a focus on *zulm*, *see* Amina Wadud, "Towards a Qur'anic Hermeneutics of Social Justice: Race, Class and Gender," *Journal of Law and Religion* Vol. 12, No. 1 (1995-1996): 37-50.
[52] Quran, 4:11.

they did not shy away from providing their own examples of social injustice in Jordan. When asked to identify extant injustices, each participant was able to provide an instance of something that he or she believed to be socially unjust. While the majority of the situations that participants presented involved infractions to legal justice or violations of the rule of law, some participants also offered examples that went beyond legal justice; these participants challenged various rules, procedures, and laws that were identified as unjust because they treated different social groups unequally.

In providing examples of these inequalities, participants concentrated on issues of nepotism. They argued that an individual's access to key institutions in Jordan is often dependent on his or her *wasta* (connections). Jordanians who possess better *wasta*, participants contended, enjoy greater abilities to access education and healthcare and enhanced opportunities to gain employment within state institutions. During the discussion group in Karak, for instance, several participants noted that university entrance procedures are extremely unfair. They cited numerous cases wherein students who received lower scores on their *tawjihi* (university standardization test) than their fellow students were nonetheless given preferential placement because of *wasta*-based admittance procedures.[53]

The participants who challenged these inequalities exhibited limited engagement with ideas of justice according to what is reasonable. By arguing that all Jordanians need to be treated the same, these participants implicitly endorsed a conception of equality as sameness. They maintained that allowing one person admittance to a university based on his family's connections, whilst rejecting another, more qualified applicant was unequal and, thus, unjust.

Yet, while participants generally agreed that all university applicants should be judged upon the same standards, none was willing to universally apply the same standards of equality as sameness to all issues in Jordan. As the above example of inheritance laws showcased, participants accepted as just laws that treat men and women very differently. This is understandable given that challenging inheritance laws would require questioning both tradition and religion: a much larger risk than criticizing nepotistic abuses of the university system. Appreciating the respective risks involved in these disparate challenges, participants refrained from applying the same standards of equality to issues that would involve attacking the system as a whole or challenging either tradition or religion. For the most part, participants limited their accusations of inequality to instances in which government actions or a single institution could be held at fault.

In effect, participants only criticized situations that are already widely regarded as being unfair and are relatively safe to discuss. Most prominently, participants highlighted cases wherein Jordanians are denied equal opportunities despite the

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[53] For further information on relationship between *wasta* and university admissions, *see* Yitzhak Reiter, "Higher Education and Sociopolitical Transformation in Jordan," *British Journal of Middle Eastern Studies* Vol. 29, No. 2 (November 2002): 137-164; and Daniele Cantini, "Discourses of Reforms and Questions of Citizenship: The University in Jordan," *Revue des Mondes Musulmans et de la Méditerranée* Vol. 131 (June 2012): 147-162.

constitution's guarantee of equality.[54] The unfairness of *wasta*-based university admissions, for instance, was frequently mentioned because it clearly contradicts the spirit, if not the letter, of the constitution and it does not require challenging tradition or religion. As a result, university admissions was one of the few relatively safe and uncontroversial topics that participants felt comfortable discussing through the lens of justice according to what is reasonable.

An Unsocial Side of Social Justice
With these limited crossovers into conceptions of equality as sameness, participants were able to identify some kinds of social injustice. However, even if these aspects of justice according to what is reasonable were evenly applied to every aspect of Jordanian society, this would not allow for the identification of all social justice issues in the Kingdom. It would only help locate cases in which freedoms to enjoy rights are unequal; it would not facilitate the identification of situations in which freedoms are the same, but the ability to benefit from those freedoms is unequal. Identifying the latter type of social injustice requires a level of abstraction that is not encouraged by either legal justice or justice according to what is reasonable.

Lacking this more abstract view of society, discussion group participants instead focused on how the incorrect implementation of legal justice affects their personal situations. Because identifying injustices inflicted upon one's self does not require the abstraction that is necessary to identify injustices affecting other members of society, participants proved much more able to readily provide examples of ways in which they are being personally treated unfairly. As a result, discussion group participants each identified situations in which they were the victims of injustice, but most could not recognize injustices that were inflicted upon others.

When Identity Center asked the 22 participants in the Irbid discussion group to identify the most important social justice issue in Jordan, they responded with 22 completely different issues.[55] Each participant identified ways in which he or she was being personally denied privileges enjoyed by others, but did not contextualize these issues within a larger comparative framework. For example, one participant from Irbid – an area of Jordan currently contending with a large Syrian refugee population – stated that he wished the government would treat him like a refugee because of the greater amount of privileges the government currently accords them. The participant, however, neither delved into *why* the refugee community required certain privileges that were not provided to Jordanian nationals, nor reflected upon the freedoms that he enjoys that Syrians in Jordan are currently being denied.

Similarly, a Palestinian-Jordanian participant indicated that it was unfair that it is significantly harder for him to find employment in the public sector than it is for East Bank Jordanians. He claimed that it is unjust that he and other Palestinian-Jordanians are forced to rely on private sector employment simply because they lack the connections (which are enjoyed by many East Bank Jordanians) that are necessary to

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[54] When discussing the Jordanian constitution in English, we must bear in mind that the Arabic word for "equal" (*musawah*) that is used in the constitution can also be translated into English as "same." *See* Chapter 2, Article 6 of the Jordanian Constitution. Hashemite Kingdom of Jordan, "The Constitution of The Hashemite Kingdom of Jordan," January 1, 1952.
<<http://www.kinghussein.gov.jo/constitution_jo.html>>
[55] While some of the other discussion groups focused more collectively on a single issue, all of the discussion groups focused on very localized issues that personally affected participants.

succeed in the public sector.[56] The same participant, however, disagreed that it was unjust that women face greater difficulties than men in attaining meaningful employment (in either the public or private sectors). This dynamic, he asserted, was simply a function of the way Jordanian society operates – and has always operated.

These examples underscore both the disparity between this paper's definition of social justice and the ones Jordanians commonly assert, as well as the analytical benefits of incorporating the concepts of justice as fairness into social justice discussions. Reliant on blends of ideas drawn from justice according to what is legal and justice according to what is reasonable, participants did not incorporate any elements of justice as fairness. The inclusion of the latter, however, would have enhanced their abilities to contextualize their personal concerns within larger structures, to empathize with the social injustices faced by others, and – most importantly – to identify previously disguised social injustices.

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[56] For further information on Palestinian-Jordanian exclusion from the public sector, *see* Laurie A. Brand, *Palestinians in the Arab World: Institution Building and the Search for State* (New York: Columbia University Press, 1988); Hussein Sirriyeh, "Jordan and the Legacies of the Civil War of 1970-71," *Civil Wars*, Vol. 3, No. 3 (September 2007): 74-86; Adnan Abu-Odeh, *Jordanians, Palestinians, & the Hashemite Kingdom in the Middle East Peace Process* (Washington: United States Institute of Peace Press, 1999); Yitzhak Reiter, "The Palestinian-Jordanian Rift: Economic Might and Political Power in Jordan," *Middle East Journal* Vol. 58, No. 1 (Winter 2004): 72-92; and Joseph A. Massad, *Colonial Effects: The Making of National Identity in Jordan* (New York: Columbia University Press, 2001).

Part III: (Some) Key Social Justice Issues in Jordan

By collating the individual experiences of discussion group participants and synthesizing those results with both secondary research and discussions with organizations engaged in social justice work, Identity Center identified four key overarching issues of social injustice that Jordanians currently face: (1) political inequalities, (2) economic inequalities, (3) gendered inequalities, and (4) citizenship inequalities. Given the scope of these expansive topics, there is necessarily some overlap between them. This intersection is inevitable, for social injustices are a result of the way in which social systems function together. The effects of this interconnection can be most clearly highlighted by beginning our overview of social justice issues with a slightly more extensive study of political inequality.

Political Inequality

If we once again imagine ourselves in the original position deliberating on how best to achieve a just society, one of the first – and most intuitive – decisions would be how to ensure that all members of society have an equal ability to participate in the society's decision making processes. Because the individual in the original position does not know what position he or she will have once the veil of ignorance is lifted, no reasonable person would choose to potentially deny him or herself a political voice. Because he or she may end up being one of the least privileged members of society, it would be illogical to also gamble on the ability to influence social decisions, and thus on the power to improve his or her potentially unprivileged situation. In choosing a basic political structure for society, therefore, an individual in the original position would formulate a system that guarantees each member the greatest possible ability to engage in decision making mechanisms without detracting from anyone else's.

In the original position, therefore, an individual will attempt to define a basic structure for society in which each person is equal and is fairly represented. Having established the basic structure of society, the government becomes the highest-order system in society for making new rules. Each individual, therefore, ought to enjoy an equal right to participate in and shape the formulation of laws with which they will be required to comply.[57] If the state is permitted to exercise authority over a specific territory and population, then the governance process should maintain the equal representation of the original position to the utmost degree that is possible.[58]

However, in a large political community, such as a country, it is not practical for each community member to directly engage in each and every minute decision. Accordingly, the individual in the original position would have to choose a system that allows for effective delegation of power, but prevents its monopolization. In attempting to create just political institutions, modern states have also struggled to formulate superlative systems of power delegation that ensure each person wields the greatest political influence possible. While this dilemma has resulted in numerous diverse political structures, most have relied upon a voting system that gives each

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[57] Rawls, *A Theory of Justice*, 194.
[58] Rawls, *A Theory of Justice*, 195.

person the right to choose candidates whom he or she thinks capable of representing his or her respective interests.

In Jordan, the constitution and laws guarantee all citizens of voting age the right to vote and since 1989 relatively regular elections have ensured Jordanians the freedom to exercise this right. Yet, despite these rights and freedoms, the ability of the majority of Jordanians to affect decision making processes has remained extremely limited. Not only was the parliament suspended for protracted periods before 1989, but even during the last quarter century of sustained parliamentary life, the influence of both voters and the parliament has remained confined.

Due to the centrality of political participation to eradicating not only political inequality, but all forms of social injustice, it is beneficial to first consider the methods through which most Jordanians have been excluded from decision making in Jordan. The next section will, consequently, focus on the power structures that were established under British colonial rule and subsequently explain how those structures have survived successive waves of seemingly democratic reform. This survey will help to explain both the mechanisms through which Jordanians are denied equal political participation, as well as the centrality of political participation to a society's ability to tackle social injustices.

A Brief Historical Overview of Jordan's Power Structures
During the British Mandate in (Trans)Jordan and the years immediately following the country's independence, the engagement of the Jordanian public in political affairs remained minimal. The extensively depoliticized disposition of the Jordanian people was a function of the economic system that emerged in the Kingdom. Initially relying on British funding and subsequently on financial contributions from the United States and oil-producing Arab states, Jordan developed an induced-rentier economy.[59] Rather than relying on taxation from its own citizens, the economy instead depended both on transfers from international donors as well as remittances from expatriate workers.

Because aid, rather than taxation, persisted as a central feature of Jordan's political and economic landscape, collective political demands remained insignificant. While "[i]n most developing countries, state appropriation of societal resources ('taxation') typically spurs the population to seek a greater voice in the allocation of state expenditures ('representation')," such societal pressure is substantially weaker in an induced-rentier economy.[60] In contrast to the American declaration of "no taxation without representation," in Jordan "no taxation, no representation" remained predominant.[61] Exploiting the funds it received from international donors, the Jordanian government was able to bypass the introduction of a democratic system. Such a system seemed superfluous, for the legitimacy of the state rested not on the existence of a democratic system, but on the prevalence of neo-patrimonial relationships through which the state used its resources to ensure the loyalty of key

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[59] For greater insight on induced-rentier economies, *see* Warwick Knowles, *Jordan Since 1989: A Study in Political Economy* (London: I.B. Taurus, 2005).
[60] Rex Brynen, "Economic Crisis and Post-Rentier Democratization in the Arab World: The Case of Jordan," *Canadian Journal of Political Science* Vol. XXV No. 1 (March 1992): 75.
[61] Brynen, "Economic Crisis and Post-Rentier Democratization," 75.

members of society.[62]

Financed by the rents it received, the state guaranteed loyalty by providing its citizens with acceptable standards of living and by coopting oppositional and elite members of society. This cooption was accomplished by furnishing decisive personalities and groups in the Kingdom with important positions and material incentives. Jordan's reliance on the continued flow of rents to finance these relationships, however, rendered the Kingdom vulnerable to the unpredictable oscillations of regional and global power structures.[63] Shifts in rent payments carried the potential to seriously undermine the government, for its legitimacy depended not on coercion or ideology, but on the ability to provide socio-economic benefits to its people.[64]

The stability of Jordan's neo-patrimonial relationships was threatened when the flow of rents to Jordan began to dry up in the early 1980s. The two foundations of Jordan's rentier economy – remittances and oil-driven foreign aid – reached a high water mark in 1981, and subsequently witnessed a definitive decline.[65] Between 1981 and 1987, Jordanian income derived from these two sources fell from USD 2.3 billion to USD 1.5 billion.[66] As a result, Jordan was forced to turn secretly to the International Monetary Fund (IMF) for assistance; IMF help, however, was predicated upon a number of conditions, including the reduction of public expenditure.[67] In compliance with these requirements, the government cut subsidies on basic commodities. This move provoked widespread opposition and resulted in protests across the Kingdom. As a result of its submission to the IMF, the state faced an unprecedented legitimacy deficit, and its traditional bases of support began to erode.[68]

Defensive Democratization
In response to the protests, the government announced the launch of a series of political reforms aimed at democratizing Jordan. According to the political scientist Rex Brynen, this democratic opening was the government's reaction to the decline of its rentier system. Unable to rely on long-term international funding and facing domestic economic instability, the government was forced to abandon its former "no taxation, no representation" deal with its people and to forge a "new social contract." The latter, Brynen argues, involved a "quid pro quo whereby a real democratic opening would be offered for acceptance of continued economic austerity."[69]

In the immediate aftermath of the protests and the initial launch of democratization, Brynen's assessment appeared to be correct. To the government's credit, it implemented some tangible, albeit tightly controlled, changes to the political system. Six months after the outbreak of the April 1989 protests, Jordan held full

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[62] Brynen, "Economic Crisis and Post-Rentier Democratization," 75.

[63] Curtis R. Ryan, "Working Paper 7: Civil Society and Democratization in Jordan," *Knowledge Programme Civil Society in West Asia* (Amsterdam: University of Amsterdam, 2010), 13.

[64] Ryan, "Civil Society and Democratization in Jordan," 14; and Russell Lucas, "Deliberalization in Jordan," *Journal of Democracy* Vol. 14, No. 1 (January 2003): 137-139; and Hesham al-Awadi, *In Pursuit of Legitimacy: The Muslim Brotherhood and Mubarak, 1982-2000* (London: Taurus Academic Studies, 2004), 9-10.

[65] Brynen, "Economic Crisis and Post-Rentier Democratization," 84-85.

[66] Kathrine Rath, "The process of Democratization in Jordan," *Middle Eastern Studies* Vol. 30, No. 3 (1994): 538.

[67] Knowles, *Jordan Since 1989*, 64

[68] Rath, "The process of Democratization in Jordan," 541.

[69] Brynen, "Economic Crisis and Post-Rentier Democratization in the Arab World," 92.

parliamentary elections for the first time in over twenty years.[70] The reform momentum that the elections encouraged led to the easing of state control over the media, and in 1990 King Hussein commissioned a group of diverse representatives to draft a National Charter (*al-Mithaq al-Watani*), which was ratified in 1991. The charter was presented as a Hashemite seal of approval for democratization, promising that the current political progress would constitute the foundation of political life in the Kingdom.[71] The next year, the last provisions of martial law were lifted and a new political parties law was introduced, allowing political pluralism to expand.[72] With this rapid progress, many Jordanians began to believe that the government was earnestly pursing democratization.[73]

Despite these early reforms and optimism, however, it soon became evident that there were limitations to how far the government was willing to proceed in the direction of democracy. While the government was prepared to pass a number of reforms to open up the political system and allow greater, yet still limited, participation and free speech, it was unwilling to allow a significant devolution of its extant powers.[74] Due to this centralization of power in the Kingdom, Samuel Finer defined Jordan in 1970 as a "façade democracy": "a system where liberal-democratic institutions, processes and safeguards are established by law, but are in practice so manipulated or violated by a historic oligarchy as to stay in office."[75]

The reforms that the Kingdom undertook in the immediate aftermath of the 1989 protests did little to transform Jordan into a genuine democracy.[76] Even though the government enacted a plethora of changes after the 1989 riots, it ensured that they would affect neither its own political power nor that of the executive wing of the government. The long-absent parliamentary process was reintroduced in 1989, but the

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[70] A by-election was held in 1984 through which empty legislative seats were filled. Because the last election was held seventeen years prior, sixteen of the sixty representatives had since passed away. *See* Mohammad Kanoush Al-Sharah, "Political Liberalisation in Jordan: a Study of the Democratisation Process; 1989-1993," (Ph.D. Diss., Durham University, 1997), 118 <<http://etheses.dur.ac.uk/5469/>>; and "Hussein Goes on TV and Vows Election," *New York Times*, April 27, 1989. <<http://www.nytimes.com/1989/04/27/world/hussein-goes-on-tv-and-vows-an-election.html>>
[71] "Hussein Pledges a Freer Press in Jordan," *New York Times*, November 11, 1989 <<http://www.nytimes.com/1989/11/11/world/hussein-pledges-a-freer-press-in-jordan.html>>; Hashemite Kingdom of Jordan "The Jordanian National Charter," December 1990 <<http://www.kinghussein.gov.jo/charter-national.html>>; Ryan, "Elections and Parliamentary Democratization in Jordan," 181; and Mehran Kamrava, "Frozen Political Liberalization in Jordan: The Consequences for Democracy," *Democratization* Vol. 5, No. 1 (1998): 140.
[72] "Jordan Plans to Lift Martial Law," *New York Times*, December 20, 1989 <<http://www.nytimes.com/1989/12/20/world/jordan-plans-to-lift-martial-law.html>>; and Kingdom of Jordan, "The Political Parties Law, Law No. 32 for the Year 1992," September 1, 1992. <<http://www.kinghussein.gov.jo/pol-parties.html>>
[73] Laurie A. Brand, "Liberalization and Changing Political Coalitions: The Bases of Jordan's 1990-1991 Gulf Crisis Policy," *The Jerusalem Journal of International Relations* Vol. 13, No. 4 (1991): 22-23.
[74] Curtis R. Ryan, "Elections and Parliamentary Democratization in Jordan," *Democratization* Vol. 5, No. 4 (1998): 180.
[75] S.E. Finer, *Comparative Government* (London: Pelican, 1970), 441.
[76] Beverley Milton-Edwards, "Façade Democracy and Jordan," *British Journal of Middle Eastern Studies* Vol. 20, No. 2 (1993): 191-203.

government retained all of its pre-election powers, continuing to pull the political strings behind a façade of a parliamentary democracy.[77]

Power remained centralized despite significant reforms because Jordan underwent a process best described by Glenn E. Robinson as "defensive democratization."[78] In an attempt to pre-empt further opposition – and to a lesser extent appease the donor community – the government undertook limited reforms that were sufficient to weather the crisis, but not to alter the Kingdom's key power structures. Facing both international and domestic pressure for political and economic restructuring, the government used democratization "as a means of prolonging its own rule, achieving international legitimacy, and minimizing domestic opposition."[79]

The government's defensive tactics were necessary because the neo-liberal economic reforms upon which Jordan's donors made aid to the kingdom conditional placed the government in a difficult position. Jordan's initial compliance with IMF conditions had already pushed traditional loyalists into the streets. Continued compliance with the IMF's demands would further antagonize the state's two key bases of support: the East Bankers and the rentier elite. The government was obliged to continue adhering to its IMF-dictated restructuring plan, but it also wanted to avoid losing the support of these two important demographics through the restructuring. Consequently, the government attempted to pacify its key constituencies during the process of economic reform by simultaneously constructing a democratic façade for the East Bankers, while maintaining neo-patrimonial relationships with the elite.

Key to the state's defensive tactics, the reopening of parliament was presented to discontented Jordanians as a platform through which they could exert greater influence on Jordanian policy. Yet, lacking any significant power, the seemingly democratic, but actually toothless, institution served instead as a "safety-valve" that the government used to provide a space for the expression of Jordanian anger, while limiting its potential to actually affect policy.[80] At the same time, the government also used the parliament as a means of maintaining a continued democratic façade to camouflage the perpetuation of the status quo in the midst of the disruptive effects of neo-liberal reform. Through a powerless parliament, the government created a new channel through which Hashemite support could continue to be directly funneled to key groups and personalities under the guise of democracy.[81] In this way, the government used the same institution to establish a life support system for the neopatrimonial relationships that were being threatened by the economic crisis, whilst

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[77] Finer, *Comparative Government*, 441. Also *see* Jillian Schwedler, "Jordan's Risky Business As Usual," *MERIP*, June 30, 2010. <<http://www.merip.org/mero/mero063010>>

[78] Glenn E. Robinson, "Defensive Democratization in Jordan." The general concept of what Robinson coined as "defensive democratization," to describe "a state strategy to maintain the dominant political order in the face of severe state fiscal crisis" others have also referred to as either a "negotiated transition" or a "regime survival strategy." *See* Rath, "The Process of Democratization in Jordan;" Betty Anderson, "The Status of 'Democracy' in Jordan," *Critique: Journal of Critical Studies of Iran and the Middle East*, Vol. 10 (Spring 1997): 55-76; Malik Mufti, "Elite Bargains and the Onset of Political Liberalization in Jordan," *Comparative Political Studies*, Vol. 32, No. 1 (February 1999): 100-129; and Robert Springborg, "Negotiated Transitions to Democracy," *Critique*, Vol. 5 (Fall 1994), 1-8.

[79] Samuel Huntington, "Will More Countries Become Democratic?" *Political Science Quarterly* Vol. 99, No. 2 (Summer 1984): 212.

[80] Kamrava, "Frozen Political Liberalization in Jordan," 142.

[81] Moore, "The Newest Jordan: Free Trade, Peace and an Ace in the Hole."

appeasing East Banker (and to a lesser extent, international) demands for political reform.

While Brynen is thus correct in asserting that the crisis of its rentier economy forced Jordan to find a new means of ensuring legitimacy, the government did not, as he suggests, obtain renewed legitimacy through a political opening up; Jordan's "new social contract" was not predicated upon a "quid pro quo" for "real" democratic reform. Instead, the government formulated a new means of perpetuating "no taxation, no representation" through the use of seemingly democratic institutions. In effect, the new social contract involved two different deals: the East Bankers agreed to Jordan's neo-liberal economic reform in exchange for the promise of greater influence on policy, while the elite agreed to tolerate limited politico-economic liberalization so long as the changes did not affect existing power structures.[82]

Electing or Selecting Parliamentarians?
The reintroduction of the parliament in Jordan has not resulted in significantly enhanced public input into the political process because the entire system is designed to minimize the influence of both the electorate and the electoral process. In Jordan, the government is not elected. The King appoints the prime minister, who subsequently makes ministerial appointments based on the King's advice. The prime minister and his cabinet remain technically responsible to the parliament, but in practice this constitutionally designated parliamentary power is almost never exercised. In fact, no Jordanian government has ever fallen as a result of a motion of no confidence in the legislature. The parliament does not exploit the influence that it is legally mandated because the electoral system ensures that the parliament remains loyal to the government. This parliamentary compliance is ensured through an electoral system that guarantees the success of loyal, pre-selected candidates.

Parliament's loyalty is guaranteed by the stakes of the electoral contest.[83] Because parliamentarians do not form the government, being elected does not provide an individual with significant influence over policy decisions. The main advantage of winning a legislative seat, therefore, is increased access to state resources. As such, elections are competitively contested not for the ability to influence policy, but for access to resources, and voters elect candidates capable of directly distributing those resources.[84] The state need not interfere on election day or manipulate results, as the system not only self-perpetuates its own depoliticized nature, but also ensures the

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[82] Daniel Brumberg, "Authoritarian Legacies and Reform Strategies in the Arab World," in *Political Liberalization & Democratization in the Arab World, Volume I, Theoretical Perspectives*, ed. Rex Brynen (Boulder, CO: Lynne Rienner Press, 1995), 230.

[83] *See* Amin Ali Alazzam, "Political Participation in Jordan: The Impact of Party and Tribal Loyalties Since 1989," Ph.D. Diss., Durham University, 2008), 137 <<http://etheses.dur.ac.uk/2183/>>; Ryan "Elections and Parliamentary Democratization in Jordan," 182; and Linda Shull Adams, "Political Liberalization in Jordan: An Analysis of the State's Relationship with the Muslim Brotherhood," *Journal of Church and State* Vol. 38, No. 3 (Summer 1996): 521.

[84] Ellen Lust-Okar, "Elections Under Authoritarianism: Preliminary Lessons from Jordan," *Democratization* Vol. 13, No. 3, (2006): 459; Ellen Lust, Sami Hourani and Mohammad El-Momani, "Jordan Votes: Election or Selection?" *Journal of Democracy* Vol. 22, No. 2 (April 2011): 119-129; Scott Greenwood, "Jordan's 'New Bargain': The Political Economy of Regime Security," *Middle East Journal* Vol. 57, No. 2 (Spring 2003): 248-268; Seeley, "The Jordanian State Buys Itself Time;" and Kristen Kao, "Jordan's Ongoing Election Law Battle," Carnegie Endowment for International Peace, SADA," July 5, 2012. <<http://carnegieendowment.org/sada/2012/07/05/jordan-s-ongoing-election-law-battle/fbdu>>

continued dominance of loyalist members within the house. This electoral result is guaranteed by that fact that voters cast their ballots for candidates who have the greatest access to resources and the greatest ability to distribute *wasta*.[85] In its simplest form, candidates who have a good relationship with the state – and are consequently more likely to gain access to resources – are more attractive to the electorate than their more oppositional counterparts.

Because candidates are not merely considered attractive for their ability to access resources, but also to distribute them, voters prefer to elect a candidate with whom they have a direct connection. In Jordan, this means that tribal affiliations become particularly salient, as they represent the single most secure means of ensuring the direct diffusion of resources.[86] In fact, phone surveys conducted by the Identity Center clearly indicate that votes are much more frequently cast for candidates with whom the voters have close personal contact than for candidates who reflect voters' opinions and ideologies.[87] A candidate's ideology, political experience, and competence are secondary to his or her ability to access and distribute resources.

Aware of the dearth of parliamentary influence in decision making processes, voters do not cast their ballots based on ideological affiliation. Candidates, therefore, are not required – or even encouraged – to formulate an ideological platform, as both they and their constituencies know that the parliament has little power over policy. Moreover, because candidates are not elected for ideological reasons, they do not attempt to exert a substantial political role once elected.[88] Joining a political party is equally unnecessary for the success of a candidate's campaign. The provision of an easily identifiable political platform does not generally result in the acquisition of increased votes, and there is no other incentive to work within a party because the dominant party does not form the government.

Appreciating the tribal constitution of Jordanian society, the state relies on the electorate to consistently prioritize tribe and *wasta* over ideology. Exploiting the discrepancy between primary and secondary votes, the state introduced a Single Non-Transferable Vote system (SNTV: "one person, one vote") in 1993 to ensure that voters would only have the opportunity to secure their tribal and familial interests. In introducing the system, therefore, the state guaranteed that loyalist independent candidates would be privileged over political parties. Since the introduction of "one person, one vote," the government has continually reformed the electoral system, but every subsequent amendment merely constitutes a new manifestation of the same system.[89]

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[85] Lust-Okar, "Elections Under Authoritarianism," 460.

[86] Lust-Okar, "Elections Under Authoritarianism," 461.

[87] *See* Identity Center, "Policy Paper: Policy Paper: Fostering a Parliamentary Democracy in Jordan through Electoral Reform," March 2014. <<http://www.identity-center.org/en/node/286>>

[88] Identity Center, "Fostering a Parliamentary Democracy."

[89] The SNTV system was finally eliminated with the passing of the 2012 Election Law. The new election law complied with protestors' demands for proportional representation; however, it only did so nominally. The new law designates only twenty-seven out of the assembly's one hundred and fifty to be contested through a proportional national list; the remaining seats are occupied by independent candidates who are elected based on a system that very closely reflects the 1993 SNTV system. As a result of this mixed electoral system, political parties are now confined to contesting a mere twenty-seven seats. Hence, even though the protests of 2011 *technically* led to reform and the removal of the hated "one person, one vote" system, its key precepts remain the method of determining the

Because the electoral system is designed to privilege candidates who are favoured by the government, it serves as a means of perpetuating neo-patrimonial relationships. The same groups that once received direct support from the government now obtain financial and social benefits through their holding of political offices. While parliamentarians may not be able to exert significant influence over policy decisions, one's social and economic status is greatly heightened by serving in the legislature. The system's construction ensures that these privileges can only be enjoyed by a small elite cadre of Jordanians. In this way, the government utilized the same institution to establish a life support system for existing power structures that were being threatened by the economic crisis, whilst appeasing Jordanian (and to a lesser extent, international) demands for political reform.

Campaign Posters for Municipal Elections in Zahran, Amman

Outside of the pre-selected group of Jordanians that is favoured by the government and thus able to be elected, most Jordanians have virtually no influence upon decision making processes in the Kingdom. Every Jordanian citizen may legally possess the freedom to exercise his or her right to vote or run for political office, but these rights and freedoms mean very little in a system where an unelected government makes all of the decisions. Simply guaranteeing all Jordanians the freedom to enjoy the same political rights, therefore, is not sufficient for ensuring that each person benefits equally from his or her rights and freedoms.

In addition to ensuring the enjoyment of equal political rights and freedoms, society's institutions – as Rawls' second principle reminds us – must also be arranged in such a way that those who are not privileged by contingency are provided with compensation. Otherwise, the most unprivileged segments of society are left without political

influence, despite the fact that is they who need it most to address their privilege

composition of the overwhelming majority of the parliament. There is no official English version of the 2012 Election Law. *See* Hashemite Kingdom of Jordan "*Qanun Raqam (25) li-Sanat 2012: Qanun al-Intkhab li-Majlis al-Nuwab wa Ta'dlilatih* [Law Number 25 for the Year 2012: Election Law for the House of Representatives and Its Amendments]," 2012 <<http://www.lob.gov.jo/ui/laws/search_no.jsp?no=25&year=2012>>. Also *see* Curtis R. Ryan, "The Implications of Jordan's New Electoral Law," *Foreign Policy*, April 13, 2012 <<http://mideast.foreignpolicy.com/posts/2012/04/13/the_implications_of_jordans_new_electoral_law >>; and Kristen Kao, "Jordan's Ongoing Election Law Battle," Carnegie Endowment for International Peace, SADA," July 5, 2012. <<http://carnegieendowment.org/sada/2012/07/05/jordan-s-ongoing-election-law-battle/fbdu>>

deficits. Indeed, inequalities that exist within the basic structure of political institutions are only justified if they are to the benefit of those members of society who occupy the least advantaged position in society.[90] In Jordan, by contrast, the system unequally privileges the already privileged. By consequently denying unprivileged members of society a political voice, the system has essentially transformed them into a societal subaltern who are deprived of the ability to articulate the injustices that they face.

The inability of the disadvantaged to exert significant influence over political decisions in Jordan highlights the importance of political participation, for the ability to participate in political life is crucial for engaging with all other social justice concerns. Consequently, the decision to create a society in which all members possess an equal ability to influence politics would be one of the first considerations of a person in the original position. How society defines an individual's political role affects his or her ability to express concerns vis-à-vis all other social justice issues.

Understanding the processes through which Jordan's longstanding power structures have been maintained, therefore, helps not only to explain how injustice has persisted behind a veil of hegemonic normality, but also why social and political reform has moved at such a slow pace. Defensive democratization has served to perpetuate the status quo whilst simultaneously encouraging Jordanians to become complacent. It has encouraged Jordanians to believe that the situation around them is constantly improving, even though shallow reforms have only reinforced inequalities. As a result, these reforms have pushed people away from social justice work and directed Jordanians toward apathy at a time when engagement with social injustices is needed most.

Economic Inequality

While the government's reliance on defensive democratization has stalled the pace of political reforms over the past twenty-five years, economic reforms have not been similarly encumbered. When the continued viability of Jordan's rentier system was challenged in the late 1980s and the Kingdom consequently applied for international assistance, aid was only given to Jordan on the condition that it would undertake extensive neo-liberal reform.[91] Jordan's request for USD 275 million in credit from the IMF in 1989 was only granted on the condition that the Kingdom would rearrange its economic policies, emphasizing private sector development and the government's move from direct participation in the economy to a more regulatory role.[92] In the quarter century since its application, Jordan has continued to focus on economic reform. This emphasis has been particularly acute since the ascension of King

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[90] Rawls, *A Theory of Justice*, 203.

[91] Jordan appealed to the donor community for help at a time when growing importance was being placed upon economic aid conditionality. With the end of the Cold War in sight, international donors were less willing to pump aid into hitherto geostrategically important states. Countries in Jordan's position, therefore, found themselves less able to attract aid and consequently more obliged to acquiesce to the demands of the international donor community. Knowles, *Jordan Since 1989*, 64; and Mahdi Abdul Hadi, "The Jordanian Disengagement: Causes and Effects," *Palestinian Academic Society for the Study of International Affairs (PASSIA)*, September 1988, 8.

[92] Brynen, "Economic Crisis and Post-Rentier Democratization in the Arab World," 89-90.

Abdullah II to the Hashemite throne in 1999. Indeed, King Abdullah II's reign has thus far been defined by his concentration on economic development.[93]

As a result of sustained economic reform, Jordan's economic position has greatly improved. Throughout this period, Jordan's economy has enjoyed healthy and consistent overall growth. Jordan's per capita GDP measured in PPP (purchasing power parity: per capita GDP adjusted for cost of living and inflation) has steadily grown from 4,361 current international dollars in 1989 to 11,639 in 2013.[94] Likewise, inflation rates have continuously remained within a reasonable range for a developing economy.[95]

GDP PPP
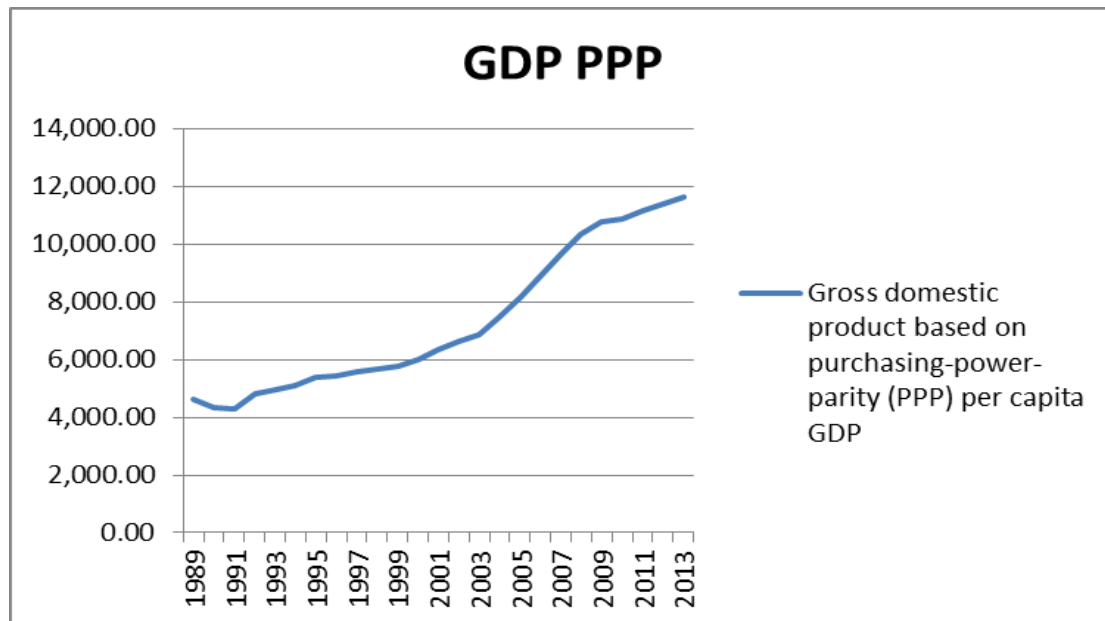
However, while the Kingdom's economy has enjoyed admirable growth, the effects of its enhanced overall position have not trickled down to the general population. In fact, the economic positions of many Jordanians have not improved substantially, and the wealth disparity between the rich and poor has not significantly shrunk. Jordan's ranking on the GINI Index – which measures a state's distribution of wealth – has remained relatively stagnant. In the last decade, Jordan's rating has gone from 39 to 34 (where 0 is perfect equality and 100 is perfect inequality).[96] While Jordan's GINI rating is not bad by regional and international standards and marginal improvements have indeed been achieved, its lack of significant improvement indicates that the country's economic growth has not served to facilitate any meaningful redistribution of wealth to the less privileged half of the population. It should also be noted that because there are significant problems with both informal labour and tax avoidance and evasion in Jordan, the accuracy of the data used to calculate the GINI Index is far

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[93] Curtis R. Ryan, "'Jordan First': Jordan's Inter-Arab Relations and Foreign Policy Under King Abdullah II," *Arab Studies Quarterly* Vol. 26, No. 3 (Summer 2004): 43-62.
[94] International Monetary Fund, "World Economic Outlook Database: Jordan."
<<http://www.imf.org/external/pubs/ft/weo/2014/02/weodata/weorept.aspx?pr.x=52&pr.y=14&sy=1988&ey=2014&scsm=1&ssd=1&sort=country&ds=.&br=1&c=439&s=NGDPRPC&grp=0&a=>>
[95] *See* World Bank, "World Development Indicators Database."
<<http://databank.worldbank.org/data/views/reports/tableview.aspx#>>
[96] World Bank, "World Development Indicators Database."
<<http://databank.worldbank.org/data/views/reports/chart.aspx>>

from perfect. Were Jordan's GINI score to be determined based on more accurate data, it would likely reveal a higher degree of inequality.

If we examine the wealth disparity through a more illustrative framework than the GINI Index, we can see that the share of total national income earned by the bottom 20% of the population has only increased from 7% in 1992 to 8% in 2010.[97] Indeed, a study of income share by quintile indicates that while the incomes of each income bracket have grown proportionally with overall economic growth, the distribution between groups has remained relatively static. This inertia is especially acute in regard to the shares of the most unprivileged sections of the population.
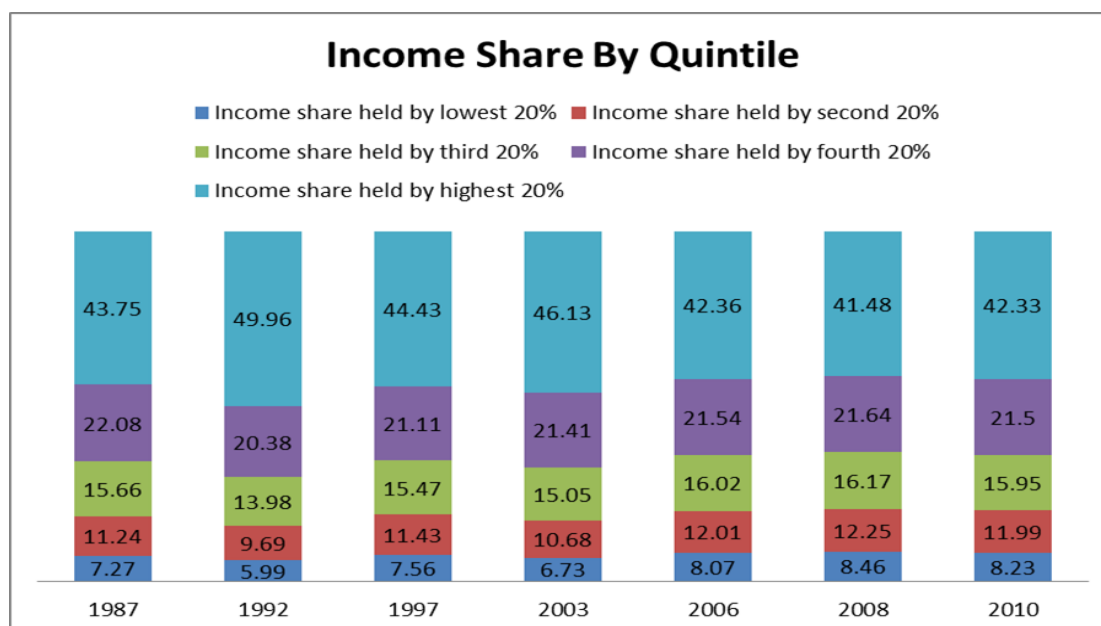
As with political inequality in Jordan, this economic inequality has been perpetuated under a veil of reform. By employing a tactic of defensive democratization, the government has both pacified the Jordanian public upon whom the state has forced economic austerity, as well as concealed the perpetuation of neo-patrimonial links with the Kingdom's rentier elite. The state has used the parliament (and other government offices) as a new means of disseminating patronage to key personalities, and also ensured that the IMF-dictated neo-liberal reforms would largely spare the rich. Indeed, rather than formulating economic policies to help redistribute wealth and benefit unprivileged sectors of society, the government has placed an undue financial burden on the poor.

This is a dynamic that would not be accepted within justice as fairness, for not only do the same freedoms need to be given to all citizens, but so too do institutions need to be designed to ensure that disadvantaged individuals are compensated. Constructing institutions in this way is to put Rawls' "principle of redress" into action; by devoting more attention and resources to those individuals with fewer native assets and to those born into less favorable social positions, society redresses

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[97] *See* World Bank, "World Development Indicators Database."
<<http://databank.worldbank.org/data/views/reports/tableview.aspx#>>

the bias of contingencies in the direction of equality by helping to ensure that everyone is provided with genuine equality of opportunity.[98]

Who Does Taxation Benefit?
Despite the fact that Jordan remains heavily reliant on international aid, it nonetheless collects 63% of its annual revenues from domestic taxation.[99] The bulk of this sum is collected through value added taxes (VAT) on goods and services rather than income tax. In 2013, for example, the government collected JOD 2.5 billion from goods and service taxes (69% of tax revenue) and JOD 681 million from income taxes, of which only JOD 131 million was derived from personal income tax. Personal income tax revenue only accounted for 2% of total revenue in 2013.[100]

The relatively low contribution of personal income tax is a direct result of two key factors: (1) a high tax-free threshold and (2) the prevalence of tax avoidance and evasion. With a nominal per capita GDP of JOD 3,668 and the tax-free threshold currently sitting at JOD 12,000 for an individual and JOD 24,000 for a family (regardless of its size), most of the population is exempt from income tax obligations.[101] While estimations vary slightly, the level of Jordanians subject to taxation on personal income sits between 5% and 10%. Even though this is already an extremely low figure, prevalent tax evasion and tax avoidance in Jordan further decreases the amount of people who are currently paying personal income tax. As a result of the high minimum threshold for taxation and substantial levels of tax avoidance and evasion, the IMF estimates that only 3% of Jordanians currently pay income tax.[102] This low percentage reflects the low salaries earned by most Jordanians, and also indicates that significant amounts of income earned by wealthier Jordanians is not being collected.

Even within the small group of Jordanians who actually pay personal income tax, the laws unfairly benefit the richest group of taxpayers because of very large income brackets.[103] As per the 2009 Tax Law that is currently in effect, Jordanians who earn above the tax-free threshold are required to pay 7% taxes on incomes between JOD 12,000 and JOD 24,000 and 15% on incomes above JOD 24,000. Even though Jordan does, therefore, utilize progressive taxation, the system only has two tax brackets. This means that the very rich pay tax at the same rate as some of the middle class.

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[98] Rawls, *A Theory of Justice*, 86.
[99] All of the figures cited in this paragraph unless otherwise states are derived from the final accounts of the 2013 budget. *See* Ministry of Finance, Hashemite Kingdom of Jordan, "Final Accounts for 2013 Budget," Amman, 2013. Also *see* Identity Center, "2013 Budget Closer Look: Jordan Independent Economy Watch," Amman, September, 2014. << http://www.identity-center.org/en/node/335>>
[100] The government's projected revenues from personal income tax for 2014 have increased this figure to 4%. *See* Ministry of Finance, Hashemite Kingdom of Jordan, "General Government Bulletin," Amman, September, 2014. <<http://www.mof.gov.jo/en-us/datacenter/financialbulletins/generalgovernmentfinancebulletins/generalgovernmentbultinsfor2014.aspx>>
[101] International Monetary Fund, "World Economic Outlook Database: Jordan." <<http://www.imf.org/external/pubs/ft/weo/2014/02/weodata/weorept.aspx?pr.x=81&pr.y=11&sy=2013&ey=2019&scsm=1&ssd=1&sort=country&ds=.&br=1&c=439&s=NGDPPC&grp=0&a=>>
[102] "International Monetary Fund Delegation: 3% of Jordanians Pay Income Tax," *al-Rai*, March 18, 2014. <<http://www.alrai.com/article/637841.html>>
[103] Hashemite Kingdom of Jordan, "Temporary Law No. 28 for the Year 2009: Income Tax Law," December 27, 2009. <<http://www.istd.gov.jo/ISTD/Arabic/Legislations/Laws/IncomeTaxLaw2009.htm>>

Hence, a Jordanian who earns JOD 10 million per year and one who earns JOD 25,000 per year will find themselves located within the same tax bracket.

Before 1989 and the launch of neo-liberal reforms – and, thus, defensive democratization – Jordanians enjoyed a much more progressive tax system. The base tax rate was 5% with incremental increases up to a maximum of 45% tax on income above JOD 36,000. With a nominal per capita income of JOD 793 in 1989, this more progressive taxation system targeted the rich instead of the middle class.[104] After 1989, the incomes of Jordan's very rich were in part protected through decreased tax levels for higher tax brackets. The consequent decrease in income tax revenue that has resulted from an elimination of the top brackets has largely been compensated for with high VAT, which was first introduced in 1994.[105]

The lower house is currently reviewing a draft for a reformed tax law. The draft law carries the potential to significantly change the form of the extant law by redesigning the tax brackets, but it does not only place a greater tax burden on the rich. The new draft tax law will redesign the tax brackets so that incomes between JOD 10,000 and JOD 20,000 will be taxed at 5%, incomes between JOD 20,000 and JOD 30,000 will be taxed at 10%, and a further 5% tax will be added to each additional 10,000 earned to a maximum of 35% taxation.[106] In sum, the new law adds tax brackets to higher income Jordanians, but it also increases the eligibility of the bottom percentiles, and, most importantly, it raises taxes for many middle class Jordanians. Indeed, the rates of taxation proposed for middle class Jordanians are comparable to the taxes proposed for banks. As such, the new draft law is subjecting the entire population to higher levels of taxation and increasing the taxes paid by the middle class, rather than focusing on the wealthiest sections of the population.[107] At the same time, the draft law does nothing to target tax avoidance and tax evasion, which currently result in a massive loss of total government revenues that would otherwise be collected in large part from wealthy Jordanians.

The new draft law also proposes to significantly raise taxes on businesses, which are already taxed at much higher rates than individuals.[108] While both the currently high

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[104] *See* World Bank, "World Development Indicators Database."
<<http://databank.worldbank.org/data/views/reports/tableview.aspx#>>

[105] Vision Institute for Economic Studies, "Paper 1 on Economic Policies: Income Tax Law, Sales Tax Law, and Investment Law," December 2013, Amman.

[106] Hashemite Kingdom of Jordan, "Income Tax Draft Law, 2014."
<<http://www.istd.gov.jo/ISTD/Arabic/Legislations/DraftLawsRegulations/DraftLawsRegulations.html>>

[107] The new draft law is a result of the IMF's stipulation that the Jordanian government must cut its deficit by 1%, which equally roughly JOD 150 million. The proposed tax changes are supposed to supply this extra JOD 150 million, but if they do not, the government will need another source from which to obtain the difference. It is likely that the consequent burden would be levied via VAT.

[108] Accordingly to the current tax legislation, any income from business and entities are subject to 14% tax, except incomes generated by telecommunications companies, insurance companies, brokerage firms, financial companies, and exchange companies are subject to 24% tax, and incomes made by banking institutions are subject to 30% tax. According to the new draft law, incomes made by businesses and entities are subject to 20% tax, except incomes between 250,000 and JOD 2 million from banks, exchange offices, financial firms and brokerage firms are subject to 35% tax and above 2 million are subject to 40% tax. Likewise, incomes less than JOD 250,000 derived from telecommunications companies, insurance companies and refineries are subject to 25% tax, incomes between JOD 250,000 and JOD 1 million are subject to 30% tax, and incomes above JOD 1 million are subject to 40% tax.

taxation rates on businesses as well as the proposed increases seem to represent positive measures that facilitate the redistribution of wealth, the burden of these relatively higher tax rates (in comparison with personal rates) does not solely – or even predominantly – fall upon the businesses themselves. In order to protect their profit margins from high levels of taxation, businesses simply raise the prices of their products and services to reflect increased taxes so that the consumer is ultimately forced to pay a substantial portion of the taxes. Higher tax rates on businesses, therefore, do not necessarily assist with targeting wealthy business owners, but instead serve to raise the prices of goods to the detriment of all consumers regardless of their socio-economic status.

The increased price of goods and services that results from higher tax rates on businesses simply compounds the already high price of goods and services that are a function of the high rates of VAT. As stated above, 69% of Jordan's total tax revenues are derived from VAT on goods and services. Currently, goods and services are taxed at 16%, but a number of basic items are either exempted from VAT entirely or are taxed at a rate of 4%.[109] On the other hand, some products, such as alcohol, are taxed significantly above 16%. These two kinds of exceptions carry two corresponding, but negative results: (1) the broadness of the items included in the exemptions benefits groups well outside the poorest in the country, and (2) some goods that are consumed irrespective of economic status, such as phone credit and cigarettes, continue to be taxed at a rate well above the standard 16%.[110] By applying VAT to goods and services also consumed by the poor as well as providing exemptions to goods and services consumed by the wealthy, these standardized taxes exert a greater relative impact on the incomes of the former rather than the latter. Despite the fact that Jordan's tax system increases and decreases from the standard 16% on a large number of goods, the overall system is hardly progressive. If the goal of the tax system were a more progressive distribution of the tax burden, this could be more easily achieved – and much more accurately targeted – through a greater focus on income tax and effective reform thereof.

With high VAT and an inefficient income tax system, economic inequality in Jordan remains a critical issue. If the proposed tax reforms are passed, it would represent a crucial step in the right direction, but it would hardly facilitate a more just distribution of wealth in the country. Institutions need to be designed not only to give each individual the same economic freedoms, but also to provide greater support to the most financially disadvantaged members of society.

The continued prevalence of a large wealth divide that is being perpetuated by economic institutions and systems that continually prioritize the wealthy over the poor cannot be divorced from the process of defensive democratization. By denying most Jordanians the ability to meaningfully participate in the Kingdom's political life, the government has stripped them of a platform upon which they could voice their economic concerns. Indeed, disenfranchisement and economic marginalization

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[109] Vision Institute for Economic Studies, "Paper 1 on Economic Policies."
[110] For a greater examination of which items are taxed at which rate, *see* USAID, "Evaluating Tax Expenditures in Jordan," October 21, 2011.
<<http://www.frp2.org/english/Portals/0/PDFs/Evaluating%20Tax%20Expenditures%20in%20Jordan%20Oct%202011.pdf>>

reinforce each other and create a self-perpetuating cycle of politico-economic exclusion in which most Jordanians are trapped.

Rural v. Urban Inequality

Economic exclusion has had the most severe impact on the rural populations of the Kingdom. While this is seemingly ironic given the strong parliamentary representation of rural, tribal components of the Jordanian population, the powerlessness of the legislature (as discussed in the previous section) has prevented this demographic from translating its legislative weight into influence over policy. The increased access to state resources that individuals obtain when they gain a legislative seat has provided rural Jordanians greater opportunities for public sector employment than urban inhabitants of the Kingdom enjoy. However, while this political representation has allowed rural communities greater access to state resources, it has not enabled them to push forward policy that would allow for these regions' long-term economic development.

Because of a notable absence of employment opportunities in rural Jordan, inhabitants of these regions are heavily reliant on positions within the state security forces and local administrative structures. The reliance of rural communities upon public sector employment has been an enduring feature of Jordan's socio-economic landscape since the colonial period, at which point public sector employment was used as a means of winning and maintaining tribal loyalty to the state.[111] This relationship endured until the late 1980s, at which point IMF mandated neo-liberal reform forced the Jordanian government to reduce the amount of employees upon its payroll.[112] However, fully cognizant of the angry reaction that such a reduction would provoke in rural areas of the Kingdom, the government attempted to maintain as much employment for these communities as possible.

As with the reintroduction of the legislature in 1989, public sector employment in the last quarter century has become a government tool for maintaining support through difficult reforms and for funneling resources to group and personalities upon whom the state's legitimacy has long been dependent. Participants in our discussion groups maintained that public sector employment is almost exclusively obtained through *wasta* rather than qualifications. Positions are distributed through familial and tribal connections, and new positions are constantly created to provide as many Jordanians as possible with an income – regardless of how small the income is. When each new municipal councilor takes office, for instance, he or she creates positions for a whole new staff of nepotistic relations, whilst also leaving existing administrative employees in place. As a result of these dynamics, state institutions overemploy under qualified candidates who are, in turn, paid low salaries for positions into which low investment is directed.

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[111] *See* Panayiotis Jerasimof Vatikiotis, *Politics and the Military in Jordan: A Study of the Arab Legion 1921-1957* (London: Frank Cass, 1967); Nasser H. Aruri, *Jordan: A Study in Political Development (1921-1965)* (The Hague: Martinus Nijhoff, 1972); Yoav Alon, *The Making of Jordan: Tribes, Colonialism and the Modern State* (London: I.B. Taurus, 2009); and Musa Budeiri, "Poor Kid on the Bloc: The Importance of Being Jordan," *Die Welt des Islams* Vol. 36, No. 2 (July 1996): 242-257.

[112] Brynen argues that three quarters of East Bank Jordanians were employed in the public sector at this time. *See* Brynen, "Economic Crisis and Post-Rentier Democratization in the Arab World," 82. Also *see* Brand, "Liberalization and Changing Political Coalitions," 22.

Despite the fact that most of these rural public sector employees receive small salaries, they are, nonetheless, an enormous drain on Jordan's annual budget. In fact, if we examine the government's recent budgets, their most striking feature is the high degree of revenue that they devote to paying public sector salaries and benefits.[113] While amorphous divisions within the budget disguise expenses and render it difficult to determine the exact amount that is devoted to propping up the enormous public sector, even a survey reading of the budget reveals that it constitutes its key expenditure.

It might be argued here that the extensive public sector employment being provided to rural communities is necessary – or even socially just – because it is being directed to groups and individuals that have not been privileged by contingency. However, while it is indeed true that these economically disadvantaged areas of the Kingdom require a greater focus and a greater share of resources, the vast amount of public funds being poured into public sector employment is not being used to provide these communities with equal economic opportunities or substantial economic growth. Instead, these funds are being funneled into rural areas as a form of charity to ensure continued rural support for the government.

Neo-liberal reforms have stimulated private sector development and led to a large increase in urban economic activity, but the government has sidelined the rural communities from this process. Instead of investing in rural areas, the state provides for them through basic employment and grants. This expenditure does not help to develop these communities so that they can keep pace with urban development. Instead, the significant sums that are currently being devoted to rural communities are unfortunately serving only to reinforce these communities' continued economic stagnation. This dynamic has simply bloated the public sector and rendered it a financial burden on the entire country and, consequently, further obstructed the redistribution of wealth. The revenue devoted to inefficient public sector employment could otherwise be used more effectively to fund longer-term development projects and investment, which could decrease the socio-economic disparity between urban and rural communities. The effects of the nearsighted extant policies on rural Jordan are evident. Not only are unemployment levels significantly higher in rural Jordan, but so too are rates of absolute poverty.[114]

Rural participants in our discussion groups provided several examples from daily life that aptly illustrate the urban-rural wealth divide in Jordan. For instance, one participant noted that while he has neighbours who still rely on a donkey for transportation, one only needs to get to the outskirts of Amman to be passed by a Range Rover or even a Porsche. While this example (perhaps unfairly – and maybe even belligerently) targets the extremes of the Kingdom's wealth divide, it

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[113] Ministry of Finance, "Final Accounts for 2013 Budget;" and Ministry of Finance, "General Government Bulletin."

[114] For a breakdown of unemployment by governorate *see* Department of Statistics, Hashemite Kingdom of Jordan, "Analytical Report about Unemployment and Labour Status for 2013," Amman, May 2014, 55. <<http://www.dos.gov.jo/dos_home_a/main/Analasis_Reports/emp/unemp_2013.pdf>> For a breakdown of absolute poverty rates per governorate *see* Identity Center, "Economic Challenges in Jordan: First Annual Report," Amman, Jordan, September 2014, 14 << http://www.identity-center.org/en/node/343>>

nonetheless highlights the fact that unequal wealth distribution is a persistent issue of social injustice in Jordan.

Even though the correct formula for a fair distribution of wealth will not soon be reached in Jordan or any other country, significant efforts must continuously be devoted to redesigning economic institutions and systems in Jordan so that they privilege rather than further burden disadvantaged members of society. Every reform that is implemented that helps to redistribute wealth to the poor and increase their opportunities to benefit from their economic rights and freedoms represents a key social justice victory. In this vein, important steps have already been achieved since the launch of neo-liberal reforms. Jordanians must now ensure that groups who were left behind in this process or negatively affected by the simultaneous implementation of defensive democratization do not remain caught in a perpetual cycle of political and economic marginalization.

Gendered Inequality

The preceding sections on political and economic inequality considered cases in which the same freedoms to enjoy rights are constitutionally guaranteed, but the ability to benefit from those freedoms is not equal because the state's institutions and practices privilege certain societal groups over others. The effects of these inequalities are manifest, but identifying their underlying causes can be extremely difficult. That is to say, even though it is easy to see that one Jordanian's reliance on a donkey for transportation while another drives a Porsche (see example above) demonstrates a very large wealth disparity in the Kingdom, it is hard to determine the sources of this inequality and how best to solve them. Such is the case – to a lesser or greater extent – in all countries; regardless of governmental commitment and the granting of equal freedoms to all citizens, no country in the world has yet implemented perfect systems for addressing political or economic inequality.

Yet, by considering which systems best enable Jordanians to benefit from their political and economic freedoms, this paper has thus far sidestepped an even more fundamental issue of inequality. In examining the inability of Jordanians to equally benefit from their political and economic freedoms, the previous discussions have presupposed that the Jordanian government grants *all* of its citizens the same freedoms. These discussions have taken for granted that all citizens are equally included in the constitution's definition of "Jordanians." This is not the case.

Article 6 (i) of the constitution states that "Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language, or religion."[115] While this clause seems to guarantee that all Jordanian citizens enjoy the same rights and freedoms, the constitution's omission of distinctions other than race, language, and religion allows for a very exclusive definition of "Jordanians." Through omission, the constitution leaves open numerous possibilities for legal differentiation based on grounds not explicitly mentioned – most prominently on sex. Indeed, as a result of the constitution's vagueness regarding

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[115] Hashemite Kingdom of Jordan, "The Constitution of The Hashemite Kingdom of Jordan," Article 6 (I).

acceptable categories of discrimination, numerous laws in Jordan provide men with different entitlements and responsibilities than women.

If we once again return to the original position, it is evident that a situation in which roughly half of the population is subject to different rules than the other half would be immediately discarded as unjust; however, enacting the legal and constitutional reforms necessary to tackle this situation is not so straightforward. Of course, the complications involved in attempting to ensure that laws equally apply to all citizens are clearly very different than those confronted in the above-discussed attempts to eradicate economic and political inequalities. On the one hand, designing legislation to guarantee that all citizens possess the same freedoms to enjoy their rights is substantially less complex than ensuring that all citizens benefit equally from those freedoms. The former neither involves formulating an effective tax system for wealth redistribution, nor designing an electoral system that provides equal opportunities. On the other hand, reforming tax laws or electoral systems does not entail challenging tradition or religion; changing rules regarding the respective social roles of men and women, however, necessitates these challenges. Changes to the legal position of women in Jordan involve tackling practices that are not only legally and constitutionally entrenched, but also widely perceived to be just.

Reflecting the contrasting natures of these issues, participants in our discussion groups approached each topic very differently. When assessing situations such as unfair taxes, participants drew upon ideas of justice according to what is reasonable and, thus, equality as sameness. However, when questions of equality between men and women were broached, most participants shied away from this framework, preferring instead to rely on a conception of justice according to what is legal because it did not require challenging religion or tradition. Most participants (as mentioned above in relation to discussions of inheritance laws) justified the existence of divergent legal treatment for men and women by arguing that the system as a whole compensates each sex for the differences. Society, they argued, assigns different but complementary privileges and burdens to each sex so as to achieve equality and a properly functioning society.

This balancing act between the sexes, however, has resulted in a situation wherein women are partially excluded from political and economic life in the Kingdom. A woman's ability to act as an individual legal agent or interact with the state is restricted because a number of procedures legally require her to be represented via a legal proxy to engage in the same practices that a man can perform autonomously. In some cases, a woman's legal status is effectively reduced to that of a child, as both require guardians to interact with the state.[116] The partial infantilization of Jordanian women will be highlighted in this section by first examining women's role in the family and subsequently discussing their inability to confer their citizenship to their families.

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[116] *See eg.*, Rita Giacaman, Islah Jad, and Penny Johnson, "For the Public Good? Gender and Society in Palestine," *MERIP* No. 198, Vol. 26 (1996): 11-17; Boutheina Cheriat, "Gender, Civil Society and Citizenship in Algeria," *MERIP* No. 198, Vol. 26, No. 1(1996): 22-26; Sondra Hale, "The Islamic State and Gendered Citizenship in Sudan," in *Gender and Citizenship in the Middle East* ed. by Suad Joseph (Syracuse: Syracuse University Press, 2000); and Suad Joseph "Gendering Citizenship in the Middle East" *Gender and Citizenship in the Middle East* ed. by Suad Joseph (Syracuse: Syracuse University Press, 2000), 17.

Family Law: "Equal But Different"

The diminished legal status of Jordanian women is clearly manifest within family law, where deeply entrenched ideas of tradition serve to fortify extant laws and prevent reform. The potency of these ideas was demonstrated in our discussion groups. Participants stressed that the current familial structures governing relations between men and women are fair and just because they are based on culture, religion, and tradition. Drawing on these "cultural," "religious," and "traditional" dictums, participants claimed that men and women in Jordanian society have equal value, but they also have different roles.[117] That is, even though men and women are equal, their natures and aptitudes are not the same, and thus, according to participants, each sex is more suited to its respective social role than the other. From this basis, most participants concluded that women are best suited to as act as the keepers of the home and family.[118]

Of course, this domestically oriented social role does not exist in a vacuum. It inversely reflects the role of a man as the head of a household and the financial supporter of his wife and children. In this "equal but different" equation, therefore, the difference is crucial, for it places women in a position of socio-juridical subservience in a number of familial structures. In fact, within certain facets of family law, women's rights "can only be actualized through the males in the family."[119]

Despite crucial advances in the legal position of women in the last quarter century,[120] there remains a persistent gap between the sexes in family law. The legal status of Jordanian women remains distinct from that of men in a number of key spheres,

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[117] Also *see* Annika Rabo "Gender State and Civil Society in Jordan and Syria," in *Civil Society: Challenging Western Models* ed. by Chris Hann and Elizabeth Dunn (London: Routledge, 1996), 153-174; Julia Droeber, "'We are different!' Similarities between Christian and Muslim Women in Jordan," *Islam and Christian–Muslim Relations* Vol. 23, No. 1 (2012): 59-78; Ibtesam Alatiyat and Hassan Barari, "Liberating Women with Islam? The Islamists and Women's Issues in Jordan, Totalitarian Movements and Political Religions," Vol 11, Nos. 3-4 (2010): 359-378; and Information and Research Center of the King Hussein Foundation (IRCKHF), "To Be a Girl in Jordan: A Legal and Cultural Bias," Amman, 2011, 26. <<http://irckhf.org/en/project/be-girl-jordan-legal-nd-cultural-bias>>

[118] Also *see* IRCKHF, "To Be a Girl in Jordan," 82; and Janine Clark and Amy Young, "Islamism and Family Law Reform in Morocco and Jordan," *Mediterranean Politics* Vol. 13, No. 3 (2008): 333-352.

[119] Abla Amawi, "Gender and Citizenship in Jordan," *Gender and Citizenship in the Middle East* ed. by Suad Joseph (Syracuse: Syracuse University Press, 2000), 159.

[120] In 1991 the crucial, albeit non-legally binding, National charter was passed stating, "Jordanian men and women are equal under the law. There shall be no distinction between them in rights and obligations regardless of difference in race, language or religion." The following year Jordan also signed on to the 1979 Convention on the Elimination of Discrimination against Women (CEDAW). Despite several reservations, Jordan's ratification of CEDAW nonetheless represented an important step towards achieving greater equality between the sexes. Almost a decade after its ratification of CEDAW, the Jordanian government began to reexamine some of the more discriminatory aspects of the 1976 Personal Status Law. As a result, the legal position of Jordanian women improved substantially with the passage of the Temporary Personal Status Law in 2001 and another in 2010. *See* United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, December 18, 1979, United Nations <<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>>; and Hashemite Kingdom of Jordan, "The Jordanian National Charter." Despite all this progress, however, Jordan is one of only six countries out of a recent World Economic Forum survey of 142 countries to have seen the gender gap between men and women increase in the past ten years. *See* World Economic Forum, "The Global Gender Gap Report 2014." <<http://www3.weforum.org/docs/GGGR14/GGGR_CompleteReport_2014.pdf>>

including marriage, divorce, and child custody.[121] Most strikingly, in many aspects of family law, the state still deals with women indirectly through guardianship (*wilaya*). According to the Personal Status Law, for instance, women who have not been previously divorced are required to obtain approval from their fathers or another male guardian (*wali*) in order to marry.[122] (The prospective husband, of course, does not require a *wali*. He can represent himself in the matrimonial proceedings.) The designation of exactly which women are required to have a *wali* is not explicitly stated in the law. Instead, dependence on a *wali* – just like the possibility of discrimination against women in the constitution – is explained through omission. By stating that the agreement of a *wali* is *not* required for the marriage of a sound-minded divorced woman (*thayyib*) of legal age, the law implicitly outlines the profile of those women who *do* need a *wali*: this includes any non-divorced woman.[123]

Once married, the authority of the father over a daughter is partially transferred to her husband. For example, a husband may legally prevent his wife from working if he perceives that her doing so could harm the unity of the family. A wife can only legally object to the husband's decision if she has previously stated in her marriage contract that her husband cannot prevent her from working. Because the freedom to make such stipulations in a marriage contract is not widely known – and it is veiled in social stigma – this important freedom is rarely exercised.[124] Indeed, many of the female participants in our discussion groups asserted that they would be unwilling to include such a clause in their wedding contracts. A husband's control over his wife's ability to work is reinforced by his legal power to decide whether or not he will provide his employed wife with an allowance (*nafaqa*) based on whether or not he approves of her employment.[125]

As a result of the gendered subordination of women in the family and the continued assertion that they are better suited for home life than work, the ability of Jordanian women to gain employment is also severely circumscribed. This circumscription is reflected in employment participation rates in Jordan. Women's participation in the labour market remains low, sitting at roughly 22%, while male Jordanian participation rests at approximately 87%.[126] In comparison to other states in the Middle East and North Africa (where female participation in the economy is already low by world standards), Jordan remains below the regional average of 25%.

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[121] For a good summary of these differences, *see* World Bank, "Hashemite Kingdom of Jordan: Jordan Country Gender Assessment," July 2013. <<http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/10/22/000356161_201310221 50059/Rendered/PDF/ACS51580WP0P130ox0379850B00PUBLIC0.pdf>>

[122] *See* Hashemite Kingdom of Jordan, "Personal Status Law No. 36 of 2010."

[123] Lynn Welchman, "Muslim Family Laws and Women's Consent to Marriage: Does the Law Mean What It Says." *SocialDifferenceOnline. Journal of the Center for the Critical Analysis of Social Difference at Columbia University* Vol. 1 (2011): 63-79.

[124] Agnieszka Majcher-Teleon and Olfa Ben Slimène, "Women and Work in Jordan: Case Study of Tourism and ICT Sectors," European Training Foundation, July 2009 <<http://www.silviacambie.com/wp-content/uploads/2010/01/womenwork-in-jordan.pdf>>; and United Nations Development Programme, "Gender Equality and Women's Empowerment in Public Administration: Jordan Case Study," 2014. <<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Women-s%20Empowerment/JordanFinal%20-%20HiRes.pdf>>

[125] *See* Hashemite Kingdom of Jordan, "Personal Status Law No. 36 of 2010," Article 61.

[126] 22% is a high estimate; others suggest participation levels between 14-22%. *See* World Bank, "Hashemite Kingdom of Jordan."

The exclusion of women from the workforce is reinforced by labour legislation that echoes the "equal but different" social roles that are assigned to men and women. For instance, according to Article 72 of the Labour Law, companies with over 20 married female employees with a total of at least 10 children under the age of four are legally required to provide childcare facilities at the company's expense.[127] Whilst this legislation is intended to assist women,[128] it simultaneously discourages smaller enterprises from hiring women and simultaneously suggests that the responsibility of raising a child rests solely upon the mother.[129] As a result of this inequality, a number of NGOs, such as Sadaqa, have conducted campaigns to reform Article 72 so that it applies to both men and women. Changing the law in this manner, Sadaqa asserts, would ensure that it does not suppress women's employment opportunities. At the same time, the change would also help to deconstruct patriarchal narratives suggesting that the raising of children is an exclusively female occupation.[130]

The "equal but different" formulation upon which discussion group participants relied to explain the divergent roles of men and women in society clearly limits the freedoms the latter enjoy both inside and outside of the home. The argument that complementary roles balance one another and help to achieve social symbiosis relies upon the existence of a social structure that assigns different freedoms to men than women. This allocation of different freedoms to different members of society is a situation that would be rejected in both justice according to what is reasonable as well as justice as fairness, for fundamental to these conceptions of justice is the stipulation that the denial of equal freedoms cannot be compensated for in any way. This qualification is fundamental to Rawls' two principles:

> These principles are to be arranged in a serial order with the first principle prior to the second. This ordering means that infringements of the basic equal liberties protected by the first principle cannot be justified, or compensated for, by greater social and economic advantages.[131]

Even if the system as a whole tries to balance responsibilities and privileges (for instance, men financially provide for women because women have less access to the economy), it nonetheless denies women the same freedoms that men possess and renders women less able to enjoy or benefit from their rights. Asserting that the system is just as a whole because men provide for women simply veils (and justifies) the fact that the system deprives many women of freedom, self-respect, dignity of choice, and equal opportunities to pursue their own life goals.[132] Rather than

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[127] Hashemite Kingdom of Jordan, "Labour Law and Its Amendments No. 8 of the Year 1996," Article 72. << http://www.mol.gov.jo/Portals/1/labor%20law%20english.pdf>>

[128] Another very pertinent example of this is the Labour Law's forbidding women from working certain kinds of night shifts. While this is supposed to ensure the safety of women workers, it also renders them less employable. These rules were set by Labour Code, Law No. 8 of 1996, Article. 69, and Ministerial Order No. 4201 of April 30, 1997 concerning the jobs and hours in which the employment of women is prohibited, art. 4. Also *see* Dana Peebles et al., "Factors Affecting Women's Participation in the Private Sector," National Center for Human Resources Development," 2007 <<http://www.almanar.jo/AlManarWeb/Portals/0/PDF2/Mayssa%20Gender%20report.pdf>>

[129] Majcher-Teleon and Ben Slimène, "Women and Work in Jordan," 10.

[130] "Jordan's Lowest Indicator Gets a Push," *Jordan Business*, May 2014. <<http://www.jordan-business.net/features/jordans-lowest-indicator-gets-push>>

[131] Rawls, *A Theory of Justice*, 53-54.

[132] Rawls, *A Theory of Justice*, 205-206.

balancing out the rights and responsibilities of men and women, therefore, the "equal but different" construction renders women lesser citizens and constructs a social hierarchy based on sex. This treatment of women as lesser citizens in Jordanian law can be more clearly highlighted though a brief examination of Jordan's citizenship laws.

Women's Citizenship Rights
Since 1954, Jordanian citizenship[133] has been determined by the Jordanian Nationality Law, which was last amended in 1987.[134] Article 3 of the law defines the grounds upon which a person congenitally obtains Jordanian citizenship:

> (3) Any person whose father holds Jordanian nationality;
> (4) Any person born in the Hashemite Kingdom of Jordan of a mother holding Jordanian nationality and of a father of unknown nationality or of a Stateless father or whose filiation is not established;
> (5) Any person born in the Hashemite Kingdom of Jordan of unknown parents, as a foundling in the Kingdom shall be considered born in the Kingdom pending evidence to the contrary.[135]

Through these conditions, Article 3 reveals that citizenship is conferred in Jordan based on *jus sanguinis*, which means that citizenship is determined by a person's ancestry.[136] In Jordan, however, the application of *jus sanguinis* is restricted, because citizenship may only be passed through the patrilineal line. Female citizens of Jordan are unable to pass on their citizenship. A mother's citizenship and her relationship to her child, therefore, are largely irrelevant in the determination of her child's citizenship.

Article 3 Section 4 of the Jordanian Nationality Law seemingly outlines specific circumstances under which a mother *can* transfer her citizenship. It states that a mother may pass on her citizenship to her child when the father's citizenship is not clear, such as instances in which a father is stateless. However, even though this clause ostensibly suggests that the law at times confers citizenship though matrilineal *jus sanguinis*, the law actually adopts a de facto stance of *jus soli* in these instances, for the law also requires that the child be born within Jordanian territory.[137] Hence, if *jus sanguinis* through the patrilineal line is not possible, Jordanian law bypasses the mother and reverts to *jus soli* to avoid statelessness of the child in line with international conventions. *Jus soli* is similarly employed in situations involving children with unknown parents, so that statelessness is again prevented. Consequently an orphaned child who is born in the Kingdom may have a legal advantage concerning citizenship – and therefore civil and political rights – over a child with a Jordanian mother and a foreign father.

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[133] Within Jordan's laws, "nationality" and "citizenship" are used interchangeably. Because this section refers purely to Jordanians' legal status within the country, it will use "citizenship" for the sake of clarity. A further discussion of the terminological difference between "nationality" and "citizenship" is provided in the subsequent section on citizenship inequalities.
[134] *See* Hashemite Kingdom of Jordan, "Law No. 6 of 1954 on Nationality (last amended 1987)" January 1, 1954. <<http://www.refworld.org/docid/3ae6b4ea13.html>>
[135] Hashemite Kingdom of Jordan, "Law No. 6 of 1954 on Nationality," Article 3.
[136] The two principle bases for states' conferring citizenship: *Jus sanguinis* and *jus soli*. The latter refers to citizenship that is linked to a certain territory, namely a territory where a person is born.
[137] Catherine Warrick, *Law in the Service of Legitimacy: Gender and Politics in Jordan* (Surrey: Ashgate Publishing Ltd., 2009) 103.

The conditions surrounding the passing of Jordanian citizenship to foreign spouses are also determined by sex. Article 8 Section 1 of the Jordanian Nationality Law outlines how a Jordanian man can confer citizenship to a foreign wife:

> Subject to the approval of the Minister of Internal Affairs, a foreign woman who marries a Jordanian national may acquire Jordanian nationality if she so wishes by making a written statement to that effect:
> (a) Three years after her marriage if she is an Arab;
> (b) Five years after her marriage if she is not an Arab.

The simple conditions detailed here for Jordanian men contrast sharply with the legal entitlements enjoyed by Jordanian women, for there is no instance in which a Jordanian woman is able to pass her citizenship to a foreign spouse. In fact, following its outlining of the conditions by which Jordanian males can confer citizenship through marriage, Article 8 details the instances in which a Jordanian woman is allowed to *retain* her own Jordanian citizenship after marriage. Thus, while a Jordanian man is able to pass on his citizenship to a foreign wife with relative ease, the ability of a Jordanian woman to even maintain her own citizenship when she marries a foreign man is regarded as a privilege.

A woman's inability to confer her nationality to her spouse or children is particularly crucial because the ramifications affect entire families. A recent calculation determined that there are currently 84,711 Jordanian women married to foreigners and approximately 338,000 children who are the product of these marriages.[138] Children who are born into such families face significant hardships and are unable even to access public health care or free public school education.[139] Conscious of these challenges, the government approved a proposal on January 12, 2014 to grant the children and foreign spouses of Jordanian women greater civil rights. These civil rights include residency permits and greater access to subsidized government services, such as health care and education. While these changes, which are currently being implemented, undoubtedly represent a move in the right direction, they do not directly challenge the discrimination inherent in the Nationality Law.[140] The Jordanian Nationality Law and the principle of patrilineal lineage will remain unchanged.

The juxtaposition of the continued discrimination of the Nationality Law alongside the growing presence of women in public spaces in Jordan has provoked questions vis-à-vis the state's relationship with its citizens and the perceived value of women within that dynamic.[141] It is not simply women's inability to confer their citizenship to their spouses or children that is at stake in these discussions, but the privileging of

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[138] Khaled Neimat, "84,711 Jordanian women married to foreigners," *Jordan Times*, 6. Jan. 2014. <<http://www.unhcr.org/cgi-bin/texis/vtx/refdaily?pass=463ef21123&id=52ccea3f5>>

[139] For more detail on the implications of being denied citizenship, *See* Identity Center, "Policy Paper: The 1988 Disengagement Regulations and Their Effects on Identity and Participation in Jordan," February 2014 <<http://www.identity-center.org/en/node/273>>; Human Rights Watch, "Stateless Again: Palestinian-Origin Jordanians Deprived of their Nationality," February 2, 2010; and IRCKHF, "Reversing the Gender Bias Against Jordanian Women Married to Foreigners," Amman, 2011, 53. <<http://irckhf.org/en/project/reversing-gender-bias-against-jordanian-women-married-foreigners>>

[140] "Kalaldeh: Most of the Advantages of Children of Jordanian Women Will Be Applied," *al Rai*, November 10, 2014. <<http://www.alrai.com/article/676838.html>>

[141] Suad Joseph, "Preface" in *Gender and Citizenship in the Middle East* ed. by Suad Joseph (Syracuse: Syracuse University Press, 2000), xvii.

male Jordanians as the only active holders of citizenship. Without comparable weight afforded to matrilineal descent, the Nationality Law propagates the perception that a woman's relationship with the state is mediated through the male members of her family and is, therefore, of lesser value.

This perception was clearly demonstrated during Identity Center's discussion groups. While a small handful of participants voiced their disapproval of the Nationality Law, suggesting that the unequal treatment of men and women was unfair, most participants expressed support for the law. This support was largely predicated upon the belief that reforming the laws to allow women to confer citizenship to their children would fundamentally alter the social demographics in Jordan. Because non-Jordanian spouses are often Palestinian, participants maintained that changes to the

Nationality Law could tip the Kingdom's delicate demographic balance between East Bank Jordanians and Palestinian-Jordanians in favour of the latter. Consequently, participants argued that their objections to reforming the Nationality Law were based on concerns for political equality rather than inequality between the sexes.

Discussion Group in Karak

Interestingly, the ability of a Jordanian man to marry a Palestinian wife and confer his citizenship to her and their children was not perceived to be potentially problematic to maintaining this demographic balance. As such, while resistance to the changing of the Nationality Law may involve political concerns, it also highlights an ingrained belief that it is acceptable to deprive Jordanian women of freedoms, but not to do the same to men. The maintenance of the delicate balance between East Bank Jordanians and Palestinian-Jordanians could be achieved through other, less discriminatory means, but participants did not consider these strategies. To them it seemed natural to maintain the balance by continuing to deny citizenship privileges to women, even though they are afforded to men. That most participants did not believe this dichotomy to demonstrate inequality between the sexes highlights how well entrenched patriarchal hegemonies are in Jordan and how difficult it is to challenge them.

Despite these difficulties, however, confronting these deeply entrenched hegemonic narratives of normality is necessary for the achievement of greater equality between the sexes in Jordan. For even if laws are changed to provide women with the same freedoms to exercise their rights as men, longstanding biases will continue to prevent women from equally benefitting from these newly granted freedoms. Consequently, the government must not only accord women the same freedoms as men, but also expend greater resources and energy specifically ensuring that women are able to benefit from their freedoms. Without these freedoms, and the requisite resources and encouragement to exploit them, women will continue to remain secondary citizens of

the state and passive recipients of privileges rather than equal holders of rights and freedoms.

Citizenship Inequalities

The above discussion of the unequal rights respectively enjoyed by Jordanian men and women highlights the existence of citizenship stratification in the Hashemite Kingdom. It shows that some citizens are legally provided with fewer freedoms than others despite holding the same citizenship. Recognizing both the existence of this stratification as well as its injustice involves questioning widely accepted beliefs and traditions. In effect, it requires challenging hegemony. The end goal of this challenge is a society in which both sexes are not only accorded the same freedoms, but they are equally able to benefit from those freedoms.

A key step in confronting hegemonic narratives is the elimination of legal frameworks that treat men and women differently. Achieving this legal reform requires that the constitution be amended so that it stipulates that women are equal citizens. Thus, in addition to the constitution's assertion that there cannot be discrimination based "on grounds of race, language, or religion," it must also explicitly forbid discrimination based on a Jordanian's sex. The constitutional entrenchment of equality between men and women would not only assist with eradicating unfair legislation, but, perhaps more importantly, it would also force Jordanians to reexamine accepted ontologies that currently allow inequalities to be viewed as both normal and legally just.

Every new category that is added to the constitution's list of grounds upon which discrimination is forbidden therefore constitutes an achievement of social justice. Each new addition to this list, however, involves challenging another hegemonic narrative; each addition requires that we identify as unjust something that we currently accept as being normal or natural. This process is extremely difficult, for it requires us to question our own positions in society and ask ourselves both why we possess the privileges that we do, as well as whether the laws and institutions that provide us with those privileges are just. Adding new categories to the constitutional list, moreover, may also require that some of the freedoms we currently enjoy be limited so as to ensure that they do not infringe upon the freedoms of others. As a result, people who already enjoy significant rights within a society might be hesitant or unwilling to expand the definitional boundaries of society and, thus, to enlarge the pool of individuals between whom rights need to be balanced.

By discussing the rights of women in the previous section and thereby highlighting the existence of hegemony and stratified citizenship, we have already begun to contest the borders of society and the limits of the application of social justice. Through these discussions, however, we have thus far only addressed the social and legal stratifications that exist within the confines of legal citizenship; we have not yet focused on the groups and individuals who are located outside of these parameters. This is not an insignificant issue in Jordan, for between one quarter and one half of Jordan's entire population does not possess Jordanian citizenship. The presence of this large group of non-legal citizens in the Kingdom provokes a number of very difficult questions that are still heavily contested within social justice literature. Most fundamentally, where are the borders of society? And to whom does social justice apply?

By contesting the meaning of citizenship and society, we also question the definition of social justice itself. This terminological challenge, however, does not invalidate the concept of social justice. On the contrary, testing the conceptual limits of social justice demonstrates the continued relevance of the term; it highlights the importance of defining social justice not through prescription, but rather through dynamism. Social justice only remains conceptually useful when its limits continue to expand and provoke debate.

To open up a discussion concerning the possible expansions of social justice, the final section of this paper adopts a different approach than the examinations of inequalities that preceded it. While the three preceding sections each discussed a separate instance of social injustice, this section considers the positions of individuals located at the periphery of society who are allotted fewer freedoms than citizens. Rather than attempting to identify their situations as being socially unjust, this section hopes to provoke a dialogue by asking if – or to what extent – social justice applies to these groups.

To Whom Does Social Justice Apply?
In discussing political, economic, and gendered inequalities, this paper has continued to gauge the justness of social situations via reference to the original position. The paper has thus far maintained that decisions made in the original position apply to each individual member of society. Yet, the issues of social justice discussed above focused solely on situations in which *legal* citizens of Jordan are not accorded equal freedoms or these citizens are unable to equally benefit from their freedoms. As a result, the paper has implicitly suggested that social justice only applies to members of society who possess a specific type of juridical relationship with the state. Legal citizenship, however, may not constitute the only form of social membership.

A number of key theorists of legal philosophy have asserted that there are multiple manifestations of social membership, each of which involves a different relationship with the state. These varied social memberships can be illustrated by plotting them as centrifugal concentric circles.[142] Occupying the most prominent position at the center of these circles are culturally normalized citizens. The next circle is occupied by citizens who do not identify with the culturally dominant group, but who are nonetheless accorded equal legal standing. This ring of legal citizens is, in turn, succeeded by permanent residents of the country who enjoy substantial freedoms, but have been denied full legal citizenship. Finally, at the periphery we find illegal residents who are denied significant legal protection and are frequently unaware of

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[142] Benito Alaez Corral, "Nationality and Citizenship in the Spanish Constitutional Democracy," 2013 << http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2317134>>; William Brubaker, "Membership Without Citizenship: The Economic and Social Rights of Noncitizens," in *Immigration and the Politics of citizenship in Europe and North America*, ed. by William Brubaker, (Lanham, Md.: The German Marshall Fund of the United States and University Press of America, 1989), 145-162; Thomas Hammer, *Democracy and the Nation State: Aliens, Denizens and Citizens in a World of International Migration* (Averbury: Aldershot, 1990). For further discussions of the use of "citizenship" in the MENA region, *see* Nils Butenschon, Uri Davis, and Manuel Hassassian (eds.) *Citizenship in the Middle East: Approaches and Understandings* (Syracuse: Syracuse University Press, 2000); Uri Davis, *Citizenship and the State: A comparative Study of Citizenship Legislation in Israel, Jordan, Palestine, Syria and Lebanon* (Ithaca: Ithaca Press, 1997); and Stefanie Nanes, "Choice, Loyalty, and the Melting Pot: Citizenship and National Identity in Jordan" *Nationalism and Ethnic Politics* Vol. 14, No. 1 (2008): 85-116.

their rights, but who nonetheless participate in social and economic life of the country.

This centrifugal depiction of social membership highlights the different social, political, economic, and legal relationships that individuals maintain in society. While acknowledging that each group participates in society, the circles simultaneously demonstrate that each group's different membership status is largely the result of the extent and quality of the freedoms that are granted by the state. Within this illustration, the legal citizens (upon whom the above sections of the paper focused), occupy the first two rings and in Jordan account for between one half and three quarters of the population. The outer two rings, which account for between one quarter and one half of Jordan's population, represent individuals without legal citizenship, including long-term refugees, recently arrived refugees, and migrant workers.

Despite the fact that the groups occupying the outer two rings are engaged in economic and social activities within the Kingdom, their status as non-legal citizens legally and culturally prevents them from participating in public and political life. This dearth of participation (as the examples below will show) renders them an invisible component of Jordan's social corpus, essentially resulting in their permanent foreignization. However, despite their politico-economic invisibility, they may, nonetheless, be necessary for a comprehensive understanding of "Jordanian society."

The potential membership of these groups in Jordanian society challenges our use of the term "citizenship" as a synonym for "legal citizenship;" it forces us to reconsider the continued heuristic usefulness of "citizenship" for examining social injustice if it excludes a significant portion of society. At a discursive level, the concept of "citizenship" has already grown far beyond a definer of political participation or legal belonging into the fields of social and economic equality,[143] cultural rights,[144] human rights,[145] and even pseudo-utopian concepts of human communities.[146]

For "citizenship" to remain a useful term for social justice studies, it might similarly be necessary to redefine the term at a practical level.[147] A brief introduction to some of the peripheral groups that occupy the outer two rings of the concentric circles of social membership will help to identify possible limitations of continuing to focus on

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[143] T. H. Marshall, *Citizenship and Social Class: And Other Essays* (Cambridge: Cambridge University Press, 1950).

[144] Margaret Somers, "Citizenship and the Place of the Public Sphere: Law, Community, and Political Culture in the Transition to Democracy," *American Sociological Review* Vol. 58 (1993): 587-620; Will Kymlika, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995); and John David Skrentny, *The Minority Rights Revolution* (Cambridge: Harvard University Press, 2002).

[145] Reiner Bauböck, *Transnational Citizenship: Membership and Rights in International Migration* (Aldershot: Edward Elgar), 1994; Gershon Shafir and Alison Brysk, "The Globalization of Rights: From Citizenship to Human Rights," *Citizenship Studies* Vol. 10 (2006): 275-287.

[146] Adela Cortina, *World Citizens: Towards a Theory of Citizenship* (Madrid: Alianza, 1998); and Jürgen Habermas, *The Post National Constellation: Political Essays* (Cambridge: MIT Press, 2001).

[147] Margaret Somer, *Genealogies of Citizenship: Markets, Statelessness, and the Right to have Rights* (New York: Cambridge University Press, 2008); Margaret Somers, "Rights, Relationality, and Membership: Rethinking the Making and Meaning of Citizenship." *Law and Social Inquiry* Vol. 19 (1994):1301-1350; and Will Kymlicka and Wayne Norman, "Return of the Citizen: A Survey of Recent Work on Citizenship Theory," *Ethics* Vol. 104 (1994): 352-376.

legal citizenship as the basis for inclusion in social justice discussions. As such, this section will first examine the situations of refugees in Jordan before moving on to a brief discussion of migrant workers.

Refugees

Both in absolute terms,[148] and as a percentage of its total population[149] Jordan contains one of the largest refugee populations in the world. However, despite the prominence of refugees in the Kingdom, no clear numbers regarding refugee populations can be obtained. This imprecision stems from the fact that most estimations neither include the unknown number of Iraqi residents in Jordan (estimates range from 500,000 to 1 million)[150] nor non-registered Syrians who reside in the Kingdom, but whose personal situations prevent or discourage them from acquiring refugee status (estimates range from 500,000 to 750,000).[151] Adjusting estimates to include these numbers reveals that a total of between 2 and 2.5 million refugees who are not entitled to Jordanian citizenship live in Jordan.[152] Less than 1 million of these refugees are officially registered with either UNHCR or UNRWA.

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[148] According to the World Bank, between 2009-2012 there were 2,337,348 refugees in Jordan. *See* The World Bank, "Refugee Population by Country or Territory of Asylum." <<http://data.worldbank.org/indicator/SM.POP.REFG>> According to UNHCR, there were over 600,000 registered refugees in Jordan in 2014, but the Jordanian government estimated that all together there were closer to 1.5 million Syrians in the Kingdom. *See* UNHCR, "2014 UNHCR country operations profile – Jordan" <<http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486566&submit=GO>>; and "Refugee burden has exhausted Jordan — Judeh," *Jordan Times,* October 28, 2014. <<http://jordantimes.com/refugee-burden-has-exhausted-jordan----judeh>> In addition to this number, as of January 1, 2014 UNRWA stated that there were 2,070,973 Palestinian refugees in Jordan, all of whom have citizenship. It also noted, however, that were an unspecified number of Palestinian refugees in the country who did not have citizenship. *See* UNRWA, "Where We Work – Jordan." <<http://www.unrwa.org/where-we-work/jordan>>

[149] In 2006, Human Rights Watch noted that one third of Jordan's population consists of refugees. *See* Human Rights Watch, "The Silent Treatment," November 28, 2006. <<http://www.hrw.org/reports/2006/11/27/silent-treatment>>; The US Centre for Refugees and Immigration identified Jordan as the country with the second highest ratio of hosts to refugees at 1:9 in 2009 – even before the Syrian Crisis started. *See* US Centre for Refugees and Immigration, "2009 World Refugee Survey," 2009, 31. <<http://www.uscrirefugees.org/2010Website/5_Resources/5_5_Refugee_Warehousing/5_5_4_Archived_World_Refugee_Surveys/5_5_4_7_World_Refugee_Survey_2009/5_5_4_7_1_Statistics/Ratios.pdf>>. In 2012, the population of Jordan was estimated to be 6,388,000 with a stable growth rate of 2.2%, which would raise the total population to 6,671,000 in 2014. *See* Department of Statistics, Hashemite Kingdom of Jordan, "Population & Growth Rate Estimation, 1999 – 2012." <<http://www.dos.gov.jo/dos_home_e/main/ last retrieved>>

[150] Patricia Weiss Fagen estimates there are between 700,000 and 800,000 Iraqi resident in Jordan. *See* Patricia Weiss Fagen "Iraqi Refugees: Seeking Stability in Syria and Jordan," Center for International and Regional Studies, Georgetown University 2009, 7. <<https://repository.library.georgetown.edu/bitstream/handle/10822/558297/CIRSOccasionalPaper1PatriciaFagen2009.pdf?sequence=5>> FAFO estimates that only 450,000-500,000 Iraqis remained in Jordan. *See* FAFO, "Iraqis in Jordan 2007: Their number and Characteristics," 2007. <<http://www.fafo.no/ais/middeast/jordan/IJ.pdf>> Also *see* Nicholas Seeley, "The Politics of Aid to Iraqi Refugees in Jordan," *MERIP* No. 256 Vol. 40 (Fall 2010). <<http://www.merip.org/mer/mer256/politics-aid-iraqi-refugees-jordan>>

[151] This group largely consists of students, workers or other migrants who arrived in Jordan prior to or after the outbreak of the crisis. From interviews conducted with these Syrians, it became evident that while some self-identify as refugees of the conflict, others see themselves as temporary residents.

[152] This figure is derived from adding together the refugee populations of Syria and Iraq, as well as those Palestinian refugees who are not entitled to Jordanian citizenship.

The less than 1 million refugees who are registered receive only minimal social and economic services. The limited nature of the privileges accorded to refugees in the Kingdom is, in part, a function of Jordan having not signed on to the 1951 Convention Relating to the Status of Refugees (CRSR), which outlines the responsibilities of asylum granting nations. Jordan did, however, sign a Memorandum of Understanding (MoU) with UNHCR in 1998.[153] In the absence of any national or international legal frameworks for refugees in Jordan, the MoU establishes the Kingdom's parameters for cooperation with UNHCR.

The MoU enables UNHCR to provide protection and assistance to refugees and asylum-seekers and outlines major principles of international protection, including a definition of refugees and recognition of the principle of *non-refoulement*. As per the terms of the MoU, moreover, Jordan also agreed to provide refugees with relief such as food and shelter, certain social services such as education and health care, as well as courts of law for litigation and other civil matters.[154] In order to gain access to all of these "rights," however, individuals must demonstrate their eligibility for refugee status to UNHCR.

Unregistered refugees, or those who have had their applications for refugee status denied, receive no assistance from UNHCR (although there are several NGOs that provide limited assistance to unregistered refugee populations).[155] The number of non-registered refugees residing in Jordan is not trivial. If, for instance, we examine the Syrian refugee population – which has been continually growing since the start of the crisis in 2011 – it is evident that many (if not the majority) of Syrian refugees are in fact unregistered and, thus, afforded no legal protection. A variety of surveys investigating Syrian refugees in Jordan reveal a significant disparity between the numbers of registered Syrian refugees and the total number of refugees residing in the Kingdom. In July 2012 there were 50,000 registered Syrian refugees in Jordan, but an estimated total of 140,000 had already entered Jordan.[156] Likewise, in January 2013 there were around 200,000 Syrians who were registered or awaiting registration, but estimations of the total population remained significantly higher.[157] By the end of the summer of 2014 the number of registered Syrian refugees reached over 600,000.[158] Yet, despite this enormous number, some estimates have suggested that the total Syrian refugee population is nearly double this size, with over half a million having entered the Kingdom without registering since the beginning of the crisis.[159]

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[153] The MoU was originally signed in 1998 and was renewed in April 2014. *See* Khetam Malkawi, "Gov't, UNHCR sign amendments to cooperation memo," *Jordan Times*, March 31, 2014. <<http://jordantimes.com/govt-unhcr-sign-amendments-to-cooperation-memo>>

[154] UNHCR, "Memorandum of Understanding between the Government of Jordan and UNHCR," 5 April 1998.

[155] UNHCR, "UNHCR Regional Response Plan Syria 2014," 2014, 61-62. <<http://www.unhcr.org/syriarrp6/docs/Syria-rrp6-full-report.pdf>>; and Elizabeth Dickinson, "Shadow Aid to Syrian Refugees," *MERIP* No. 272, Vol. 44 (Fall 2014) <<http://www.merip.org/mer/mer272/shadow-aid-syrian-refugees>>

[156] UNHCR, "Jordan Opens New Camp for Syrian Refugees Amid Funding Gaps," July 30, 2012. <<http://www.unhcr.org/5016861c9.html>>

[157] UNHCR, "Winter Conditions Adding to Hardships for More Than 600,000 Syrian Refugees," January 11, 2013. <<http://www.unhcr.org/50f001bf9.html>>

[158] UNHCR, " Interagency Update – Jordan" 22 June - 5 July 2014. <<http://www.unhcr.org/53ce15e79.html>>

[159] According to the estimations of Khalid Al-Wazani, about 80% of Syrian refugees live outside the camps. *See* Khalid Al-Wazani, *The Socio-Economic Implications of Syrian Refugees on Jordan*

The large disparity between the total sum of Syrian refugees in Jordan and the number who are registered is a result of several key factors. Crucially, the ability of Syrians to register as refugees is limited by the registration process itself. For instance, only Syrians who entered Jordan *after* January 2012 are able to register as refugees.[160] Eligible candidates are, moreover, required to physically register with UNHCR and to renew their status every six months. Not only is it impossible for some refugees to travel to a registration office, but the waiting periods for renewals have also grown as long as 8 months.[161] As a result of these bureaucratic complications, many refugees are either unable to register or they lose their status by not renewing it.

Aside from these administrative difficulties, moreover, some Syrian refugees are simply unaware of the benefits of registration and, consequently, do not bother to initiate the process.[162] At the same time, some willingly eschew the whole process, fearing that by giving their information to the Jordanian government or UNHCR it could end up in the hands of the Syrian government. As such, they choose to remain off the record.[163]

Because of the lack of extant refugee legislation in the Hashemite Kingdom, Syrian refugees have been forced to rely on UNHCR and NGOs to access basic services and obtain basic legal entitlements. However, the inability of these organizations to comprehensively care for the growing number of refugees combined with the refusals of some refugees to register themselves has meant that a large number of refugees have fallen through the Kingdom's bureaucratic gaps. Because Jordan does not have any legal framework for refugees beyond its MoU, these Syrians have found themselves in a position of illegality and social invisibility, recognized only as an amorphous 6-figure statistic.

The sheer amount of Syrian refugees arriving in Jordan in the past 3 years has raised questions concerning refugee legislation, or the lack thereof. But these recent arrivals are certainly not the only population that has been adversely affected by the legislative absence. Following the 2003 Gulf War, Iraqis fleeing their homes faced similar difficulties as they attempted to settle beyond Iraq's western border. While the situation of Iraqi refugees in Jordan is much different than that of Syrians, the absence of refugee legislation similarly confined their freedoms and resulted in their being forced into bureaucratic no man's land. The lack of legality that they faced was reinforced by Jordan's refusal to recognize Iraqis crossing into its territory as refugees. Instead, Jordan labeled them "temporary guests:" a status that has severely undermined their legal situation in the Kingdom.[164]

(Amman: Phoenicia Printing Press, 2014), 83. Also *see* "Refugee burden has exhausted Jordan — Judeh," *Jordan Times.*
[160] The Assessment Capacities Project (ACAPS), "Legal Status of Individuals Fleeing Syria, Syria Needs Analysis Project," June 3013, 7.
<<reliefweb.int/files/resources/legal_status_of_individuals_fleeing_syria.pdf>>
[161] ARDD-Legal Aid, "Syrians, Fraud, and Forgery," 19-22 <<http://ardd-jo.org/syrians-fraud-and-forgery-jordan>>; and ACAPS, "Legal Status of Individuals Fleeing Syria," 7.
[162] *See* UNHCR, "UNHCR Regional Response Plan Syria 2014."
[163] *See* UNHCR, "UNHCR Regional Response Plan Syria 2014."
[164] *See* Human Rights Watch, "The Silent Treatment."

While Iraqis who met minimal investment requirements and whose balances in a Jordanian bank remained above USD 150,000 were provided with 5-year renewable residency permits, "temporary guests" who were not so financially fortunate faced severe difficulties in obtaining and maintaining legal residency in the Kingdom.[165] "Temporary guests" who could not afford the cash deposit or who slowly depleted their financial resources without being able to invest them profitably, were pushed towards the realm of irregular residency. While some simply had their permits revoked for not meeting strict renewal requirements, others chose not to reapply, fearing that they might face deportation if their applications were rejected.

Discussion Group in Gaza Camp, Jerash

Relegated to the periphery of society, these refugee populations are marginalized from public life and prevented both from participating politically and from formal forms of economic engagement. Intuitively it seems as if this politico-economic marginalization is a result of the absence of sufficient legal protection. That is, it seems as if it is the dearth of a legislative framework explicitly detailing refugee freedoms that has placed refugee populations in a situation of extreme vulnerability, for their legal non-existence deprives them of the ability to contest injustices committed against them. While this may be true, the precariousness of refugees may not be addressable through the passing of legislation to provide them with unique legal entitlements. On the contrary, the formulation of group-specific rules may actually serve to further limit the rights they enjoy. This dynamic can be highlighted through a brief examination of the conditions endured by migrant workers in Jordan.

Migrant Workers
Like refugees, migrant workers represent a significant portion of Jordan's population. Demographic estimates of migrants range between 350,000 and 750,000, constituting between one third and one half of the total workforce in Jordan.[166] In contrast to the scarcity of refugee legislation in Jordan, the positions and privileges of migrant workers are heavily regulated by extensive legislation pertaining to minute details of their occupations and personal lives. Reflecting the heterogeneity of this large population of migrant workers, each nationality of workers is subject to its own rules

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[165] The bureaucratic hurdles that Iraqi refugees were forced to jump became even more extensive following the 2005 bombings in Amman. *See* Fagen, "Iraqi Refugees," 8, 29; and Human Rights Watch, "The Silent Treatment," 50-51.

[166] In 2010, almost 300,000 working permits were issued, but the numbers of illegal labour migrants are estimated to be considerably higher, constituting in total more of over 25% of Jordan's workforce. *See* Tamkeen, "Jordanian Labor Market," 2009, 22. <<http://www.tamkeen-jo.org/download/labour_eng.pdf>>

and regulations, which are set out in the respective bi-lateral agreements Jordan has signed with the migrants' countries of origin.[167]

According to the nationality-specific legislation, migrant workers are limited in what occupations they can find employment, the manner in which they can organize, their ability to bring their families to Jordan, and their power to control their personal lives.[168] Regardless of the migrants' country of origin and its corresponding legal framework, however, none possess the freedoms to enjoy the rights that are enjoyed by Jordanian citizens. As a result of these reduced freedoms, migrant workers, like refugees, are demoted to a position on the social hierarchy below Jordanian citizens. However, unlike refugees, who are rendered socially invisible due to the absence of a legal framework pertaining to their situations, migrant workers are marginalized through an abundance of legality. This demotion not only limits their freedoms, but also results in frequent encroachments against these limited freedoms. Not accorded equal legal standing, migrant workers have few possibilities for recourse when the limited rights they are able to enjoy are violated.

Abuses of migrant workers' rights are most frequently committed by their employers, as the former is often dependent upon the latter for their legal status and their ability to reside in Jordan. Despite recent reforms in labour legislation that sought to better incorporate migrant workers into the larger collective structure of the Jordanian workforce, the relationship between employer and employee in a number of aspects, such as recruitment, security, and personal treatment, do not reflect these improvements, and many migrants workers continue to have their rights denied by employers.[169] The most common violations perpetuated by employers include paying wages under minimum prescribed rates, unlawfully delaying salaries, forcing workers to pay fees and travel expenses that should be covered by the employer, seizing identification and travel documents, and providing poor living conditions.[170]

Workers that are subjected to these abuses usually refrain from bringing their cases to the authorities. Although migrant workers theoretically enjoy equal legal standing before the courts, in practice the majority of court cases are settled in favor of Jordanian employers.[171] The vulnerability that this creates is reinforced by the inability – or unwillingness – of the workers' respective embassies to defend their rights, usually choosing to side with recruitment agencies or employers.

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[167] Egypt (2007, 1985), UAE (2006), Sri Lanka (2006), China (2005), Algeria (2004), Sudan (2003), Syria (2002), Indonesia (2001), Kuwait (2001), Yemen (1997), Qatar (1997), Philippines (1988), Morocco (1983), Tunisia (1983), Turkey (1982), Libya (1979), Pakistan (1978). *See* Ministry of Labour, Hashemite Kingdom of Jordan, "Bilateral Agreements: The Endorsed Bilateral Agreements in the Field of Workforce." <<http://www.mol.gov.jo/Default.aspx?tabid=237>>
[168] Hashemite Kingdom of Jordan, "Regulation of Employment Permits Fees for Non-Jordanian Workers," 1997 <<http://www.mol.gov.jo/Portals/1/Regulation36e.pdf>>; Elisabeth Franz, "Jordan's Unfree Workforce: State-Sponsored Bonded Labour in the Arab Region," *Journal of Development Studies* Vol. 49, No. 8 (2013): 1072-1087; CARIM, "Migration Profile: Jordan," 2010. <<http://www.enpi-info.eu/library/content/carim-migration-profile-jordan>>
[169] Hashemite Kingdom of Jordan, Law No. 48 "Amendment of Labor Law," 2008.
[170] Tamkeen, "Double Alienation: Domestic Workers' situation in Jordan," Amman, 2009. <<http://www.tamkeen-jo.org/download/doubled_alienation.pdf>>
[171] Franz, "Jordan's Unfree Workforce."

Given the poor conditions that migrant workers face combined with the assumption that their situations would not improve if a complaint were brought in front of the courts, many ill-treated migrant workers choose to abandon their employers and find informal, illegal work. Despite the extensive legislation pertaining to migrant workers, the insufficient legal protection that it affords them creates a paradoxical situation wherein many migrant workers are more comfortable and confident in an illegal position than a legal one. This preference is understandable, for within the informal sector they are spared the abuse of employers, they are more able to choose their own occupations, they earn higher wages, and, they have greater freedom to control their personal lives.[172]

In examining both the lack of legislation regarding refugees in Jordan and the seeming surfeit of regulations pertaining to migrant workers, it becomes clear that in both instances the rights of these non-legal citizens are not protected. Whether there is an absence of legality or an abundance of group-specific rules, both approaches have relegated non-legal citizens to a lower place on the social hierarchy than Jordanian citizens. In both instances, the rights of non-legal citizens are abused because these individuals are not accorded the same legal status as citizens, and, thus, any rights with which they are provided are also rendered vulnerable.

The Boundaries of Social Justice
With between one quarter and one half of Jordan's inhabitants occupying an "irregular situation" in which they are socially, politically, economically, and legally treated as foreigners, we are forced to question the relationship between non-legal citizens and society and, thus, the application of social justice to their situations. In effect, we are confronted with a key dilemma: are these individuals owed equal freedoms to Jordanian citizens or must Jordan simply protect their basic rights?

A similar debate continues to rage within social justice literature concerning the application of social justice in an international context. These discussions focus on whether or not the original position framework can be used to formulate a theory of social justice that balances the rights and freedoms of people globally. While a number of authors have suggested that there is no reason to limit the original position to the level of the nation-state, Rawls (among others) is less willing to employ the framework at a global level.[173] Rawls concedes that a nation-state is responsible for individuals living outside of its borders to the extent that these people should be provided with a sufficient standard of living, but he is unwilling to extend the boundaries of social justice and the original position beyond state borders.[174]

Providing basic assistance to individuals living beyond state boundaries, but not enlarging the borders of social justice and equality to include them is essentially

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[172] Franz, "Jordan's Unfree Workforce," 1079; Tamkeen, "Breaking the Silence," Amman, 2011 <<http://www.tamkeen-jo.org/download/breaking_the_silence.pdf>>; and Tamkeen, "Between Iraq and a Hard Place: Migrant Workers Caught Between Employers' Abuse and Poor Implementation of the Law," Amman, 2012. << http://www.tamkeen-jo.org/download/between_rock_hard_place.pdf>>
[173] The most prominent critic of Rawls' limiting his theory of justice to nation-states is Thomas Pogge. *See, eg.*, Thomas Pogge, *Realizing Rawls* (Ithaca: Cornell University Press, 1989); Thomas Pogge, "Priorities of Global Justice," *Mataphilosophy* Vol. 32, No. 1-2 (January 2001): 6-24; and Thomas Pogge, "An Egalitarian Law of Peoples," *Philosophy and Public Affairs* Vol. 23 (1994): 195-224.
[174] Rawls, *The Law of Peoples*.

Jordan's (and many other states') approach to dealing with non-legal citizens residing within its territory. Rawls' objection to expanding the limits of social justice may not hold for Jordan's domestic situation; although he is not explicit, his borders might encompass non-legal citizens. Rawls does not push the application of social justice beyond the state level because he does not believe there to be an authority at the international level that can safeguard the proper functioning of the basic structure. Jordan, however, does not face the same predicament in its dealing with non-legal citizens. A governance structure is firmly in place. These individuals are simply excluded from social justice because they are considered to be outside of Jordanian society and, therefore, beyond the limits of the Kingdom's social contract.

While the provision of specific (that is, lesser) freedoms to refugees and migrant workers might seem to represent an intuitive and maybe even reasonable way of dealing with these populations of non-legal citizens, we must nonetheless ask whether it is fair. In effect, we need to first determine if these non-legal citizen populations are part of society, subsequently establish their relationship with society, and finally decide what that relationship means for social justice.

We are consequently left with a series of questions that have not yet been answered in any context. On what grounds are these populations being excluded from society and what would render them members of society? Does, for example, long-term residence in a country transform an individual into a member of society? Does filling an employment vacuum or adding to the state's cultural diversity elevate an individual to social membership? And if we do consider these individuals to be members of society, should they be provided with the same freedoms as legal citizens? These difficult questions have to now be asked if social justice is to remain a dynamic and beneficial concept. Just as the equality of women must be constitutionally entrenched, perhaps these non-legal citizen populations represent the next category that should be added to Jordan's constitution.

Is Social Justice a Mirage?

Hayek argues that social justice is a "mirage" because the people who employ the concept "do not know themselves what they mean by it." Contrary to Hayek's assertions, however, social justice remains conceptually useful *because* the meaning continues to be debated and redefined. Social justice is a capacious concept, and its strength lies in its diverse interpretation and divergent applications. The term should not (and cannot) prescribe a singular definition of perfect social justice, for societies' understandings of justice are in a constant state of renewal and social evolution.

Less than three hundred years ago, for example, many "rational" and "reasonable" people claimed that a just society could include slavery, and failed to see how the existing socio-economic order would survive without it. But social values have since changed, and most reasonable people today would no longer accept the legitimization of slavery in any formulation for any reason. Social justice remains conceptually beneficial precisely because it is organic and can be dynamically adapted to changing ontologies, as well as expanded and reformulated to reflect new situations and ideas.

Appreciating this dynamism, the issues of inequality that are examined above are not intended to serve as a comprehensive overview of social injustices in Jordan. Instead, each issue highlights a different manifestation of social injustice in the Kingdom so as to provide alternative perspectives on extant social arrangements and open up discussions regarding diverse aspects of social justice. If readers agree with some of the paper's assertions whilst disagreeing with others, this paper will have proven successful, for this confrontation nevertheless places readers in a position where they must challenge their own understandings of social justice and, thus, the boundaries of the concept.

However, because conceptions of just societies must continually be redefined, Hayek's description of social justice as a mirage may be serendipitously accurate. In a sense, social justice is a mirage; it exists, but not autonomously. Its existence is dependent upon those who view it, and its position and limits change based on the perspective of those viewers. Moreover, whilst we must continually pursue social justice, we must also accept that a perfectly just society – like a mirage – can never be reached. Social improvement will be accomplished and injustices rectified, but they will be simultaneously accompanied by the identification of new injustices that need to be addressed, and the achievement of a just society will continue to prove elusive and mirage-like. Yet, even though we may never reach the goal of perfectly just society, every step we take in the direction of this illusive goal represents an important step towards embracing the ideal of social justice.