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Civil Law and the Protection of Human Rights in Jordan: A Legal and Institutional Analysis

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ABSTRACT

Within a hybrid legal framework formed by civil, Islamic, and constitutional aspects, this study investigates Jordan's civil law system's capacity to defend and enforce human rights. Supported by case analysis, a doctrinal legal approach is used to examine how closely civil law statutes, court procedures, and enforcement tools conform to globally accepted human rights norms. Although the Jordanian Civil Code and Constitution include clauses that implicitly support individual rights—such as freedom of contract, privacy, and access to remedies—because of procedural conservatism, legal pluralism, and institutional constraints civil courts often operate with limited engagement in broader rights enforcement. Case studies expose partial achievement in areas such labor and tort law, but major gaps still exist in the protection of gender equality and freedom of expression, especially in areas where religious and civil governments interact. The study draws attention to systemic conflicts between national legal traditions and international human rights obligations and suggests legal changes meant to harmonize opposing standards, increase judicial competence, and so enhance access to justice. The study finds that although Jordan's civil law provides a basic framework for the defense of rights, its efficacy depends on significant legislative and institutional change.

KEYWORDS

Jordanian Civil Law; Human Rights; Judicial Enforcement; Legal Pluralism; Constitutional Law; Gender Equality; Shari'a Courts; International Treaties; Access to Justice; Legal Reform.

1. INTRODUCTION

Jordan's legal system is a special mix of constitutional power, Islamic law, and civil law doctrines. Jordan, a Middle Eastern monarchy with a written Constitution and codified laws, holds a pivotal role in the continuous conversation on the fit between civil law systems and protection of human rights in the Arab world. Although the Jordanian Constitution and Civil Code theoretically provide some civil liberties and rights, their actual implementation usually runs up institutional, legal, and procedural difficulties.

Given Jordan's acceptance of several important international human rights treaties, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Covenant on Civil and Political Rights (ICCPR), the junction of civil law and human rights in Jordan is especially important. Still, the domestic implementation of international treaties is subject to Jordan's hierarchical legal system, in which national laws—including religiously inspired statutes—take first priority in many civil affairs. This paper seeks to scrutinize Jordan's civil law system's contribution to or impediment of protection of basic human rights. It especially looks at the legal systems ingrained in the Civil Code, the court's authority to uphold rights, and the conflicts between civil laws and other sources. The studies answer the following main concerns:

- To what extent does Jordanian civil law facilitate the protection of human rights?
- What legal and institutional challenges undermine this protection?
- How do civil courts respond to rights-based claims under existing legal frameworks?

The paper employs a doctrinal legal research approach, supported by illustrative case analysis, to explore the compatibility of Jordanian civil law with international human rights standards. In doing so, the research contributes to a broader understanding of how civil law systems in Arab contexts can evolve to better serve justice and uphold human dignity.

2. LITERATURE REVIEW

2.1 *Evolution and Structure of Jordan's Civil Law System*

Combining elements of British colonial administrative law, post-independence codification based on French and Egyptian legal

systems, and the *Majalla al-Ahkam al-Adliyya* of the Ottoman Empire, Jordan's legal system is a hybrid construct influenced by several influences (Awaishah et al., 2024). The Jordanian Civil Code of 1976, which forms the main legal source controlling personal obligations, contracts, property, and torts, clearly shows this hybridization. Although it is based on the Egyptian Civil Code, the Jordanian version stands apart from Western civil law systems by including Islamic legal doctrines and Arab cultural standards (Al-awamleh, 2019).

Legal scholars have emphasized that while Jordan's civil law primarily governs private rights, it also indirectly supports certain human rights, such as protection of property, freedom of contract, and compensation for civil wrongs. However, these rights are conceived more in a private legal context rather than from a public or constitutional rights-based approach (Al-Qheiwi et al., 2024).

The civil law system does not offer an explicit bill of rights within the Civil Code itself. Instead, broader human rights guarantees are embedded in the Jordanian Constitution (1952) and interpreted through higher courts such as the Court of Cassation and, more recently, the Constitutional Court (established in 2012). The disconnect between civil law procedures and constitutional rights raises questions about the accessibility and enforceability of human rights through ordinary civil litigation (Alshdaifat, 2014a).

2.2 The Jordanian Constitution and Legal Dualism

The Jordanian Constitution remains the primary domestic legal document outlining human rights protections. Articles 5 through 23 cover a range of civil liberties, including equality before the law (Art. 6), the inviolability of personal freedom (Art. 7), freedom of speech and press (Art. 15), and the right to litigation (Art. 101). However, these rights are broadly worded and often subject to legal limitations "prescribed by law," allowing the legislature wide discretion to curtail rights in the interest of security or public order (Doumi & Bani, 2018).

Jordan's legal system shows legal dualism, whereby international legal duties coexist with Islamic law (Sharia) under civil law. Particularly on gender equality, Shari'a courts function alongside civil courts in civil matters—especially family law, guardianship, and inheritance—often using ideas that would contradict international human rights norms. For instance, the Personal Status Law gives male and female testimony varying evidentiary weights in some circumstances and favors paternal guardianship (Syamanta et al., 2024).

Legal inconsistency resulting from this duality is most evident in decisions pertaining to human rights, as civil courts could be reluctant to uphold treaty-based rights should they contradict national laws or religious doctrine. Particularly in women's rights and family law, academics underline the ongoing conflict between civil law requirements and Shari'a-based restrictions (Issa et al., 2024).

2.3 International Treaties and Jordan's Human Rights Commitments

Jordan has ratified numerous international human rights instruments, including:

- The International Covenant on Civil and Political Rights (ICCPR) (ratified in 1975)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR) (1975)
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1992, with reservations)
- The Convention Against Torture (CAT) (1991)

Though their domestic applicability is restricted, these accords constitute part of Jordan's international legal responsibilities (Englehart & Miller, 2014). Jordan approaches international law from a dualist perspective, hence treaties must be specifically included into national legislation to be judicially enforceable (Bydoon, 2011). Although the Jordanian Constitution upholds the nation's dedication to treaty obligations, civil courts hardly ever refer to these treaties unless they are expressly stated in national legislation; international law does not automatically supersede domestic law (Al Dalaien & Al Enizi, 2021).

Reports by the Jordanian National Centre for Human Rights (NCHR, 2022) and international watchdogs (e.g., Human Rights Watch, 2023) highlight how poor human rights protections in Jordan still are in execution (Alshdaifat, 2014b). Though symbolic significance of treaty ratification is great, actual results depend on legal education, judicial training, and institutional readiness to interact with international norms (Salameh & Darawsheh, 2018).

2.4 Judicial Practice and Human Rights Litigation in Civil Courts

Notwithstanding constitutional and treaty-level obligations,

Jordan's civil courts' actual application of human rights is still limited. Mostly in cases involving illegal imprisonment, press freedom, or political expression, most human rights litigation in Jordan occurs in administrative or criminal courts. Generally focused on private conflicts and tortious liabilities, civil courts hardly interact with concerns of public interest or civil freedoms unless particularly defined under current statute requirements (e.g., unlawful termination, breach of privacy in commercial settings) (Haglund & Welch, 2021).

Legal academics contend that judicial culture and doctrinal training, which stresses limited statutory interpretation over more general constitutional or human rights viewpoints, help to explain why judicial activism in civil courts is lacking. There is no consistent precedent mandating judges to apply international human rights legislation; they are not methodically instructed to do so (Eskridge Jr, 1991; Hunt, 1999).

Notably, even in cases involving the right to compensation for arbitrary detention or defamation, the civil courts tend to defer to executive authorities or fail to award adequate remedies due to evidentiary burdens, lack of jurisprudential guidance, or concerns about political sensitivity. This creates an environment where civil remedies for rights violations are procedurally available but practically inaccessible for most citizens (Kryvytskyi, 2024; Napoli & Morandi, 2024).

2.5 Institutional and Procedural Limitations

Multiple institutional and procedural constraints further hinder the realization of human rights through Jordan's civil law system:

- **Access to Legal Representation:** Legal aid in civil cases is minimal, and the cost of legal services deters vulnerable groups—particularly women, refugees, and low-income citizens—from pursuing civil remedies.
- **Judicial Independence:** Although the 2011 constitutional reforms improved the formal autonomy of the judiciary, the Judicial Council remains partially influenced by the executive branch. This raises concerns about impartiality in politically sensitive cases involving rights violations (Awawda, 2024).
- **Lengthy Procedures and Case Backlog:** Civil litigation in Jordan is often slow, with procedural delays and backlog that discourage claimants from seeking redress, especially in personal status and land disputes.

- **Lack of Awareness:** Many citizens are unaware of their rights under civil law or international treaties, limiting the scope for strategic litigation or public interest cases that might otherwise help develop human rights jurisprudence.

Moreover, the Constitutional Court, despite its mandate to ensure the conformity of laws with the Constitution, has issued relatively few rulings that directly advance civil or political rights. Its procedural rules restrict who can initiate constitutional challenges—typically only high-level officials—thus preventing ordinary citizens or civil society groups from directly appealing rights violations on constitutional grounds (Al-Billeh, 2024; El-Manaseer et al., 2024).

2.6 Gaps in Literature and Future Research Directions

While there is a growing body of literature addressing human rights in Jordan from a political and international law perspective, academic studies that critically examine the enforcement of these rights through civil law channels are limited. Existing work focuses primarily on criminal procedure, anti-terror laws, or administrative detention, leaving the role of civil courts largely underexplored.

Future research should consider:

- Empirical studies analyzing civil case rulings involving implicit or explicit rights claims
- Comparative research between Jordan and other MENA civil law countries (e.g., Tunisia, Lebanon) to assess judicial approaches to rights within a civil law context
- Investigating the integration of international human rights law into judicial education and training programs
- Exploring how legal pluralism and the influence of Shari'a courts interact with civil law-based protections, especially in areas like family law and gender equality

Furthermore, there is a need to examine the role of civil society organizations, bar associations, and legal clinics in shaping rights discourse within the civil law framework—particularly in their ability to influence legal reform or bring strategic litigation before the courts.

3. METHODOLOGY

This research utilizes a doctrinal legal research approach, underpinned by comparative legal analysis and qualitative case

study, to assess to what extent civil law within Jordan shields and enforces fundamental human rights. Doctrinal analysis, based on a focus on studying law texts, judicial rulings, and interpretative practices, is particularly well-suited for analyzing the application of statutory and constitutional provisions under the Jordanian system of law. Because Jordan's system of law is hybrid, consisting of civil, Islamic, and customary law, this methodology enables one to see clearly the place of civil law within structuring and determining claims based on human rights (Mathlouthi et al., 2024).

The research is based on an examination of primary sources of law including the Jordanian Civil Code (No. 43 of 1976), the 1952 Constitution of the Hashemite Kingdom of Jordan (as amended), and sample decisions from the civil judiciary, Constitutional Court, and the Court of Cassation. These are supported by international human rights agreements ratified by Jordan, the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Secondary materials to support the interpretation of sources include academic journal articles, legal commentaries, civil society organisation reports, and publications by the Jordanian Bar Association, to provide context and critique.

As part of the qualitative component, the study makes use of representative case studies to illustrate the ways in which Jordanian civil courts resolve cases that have important human rights features. Some illustrative cases involve issues as varied as compensation for unlawful dismissal, gender-based discrimination under family law, invasions of privacy, and civil liability for defamation (Drisko, 2025). This choice of cases is purposive, founded on legal significance, treatment within academic and professional literature, and the ability to bring out the merits and flaws of civil law protection. Through examination of these judgments, the study evaluates not only the judicial reasoning expressed by courts but also the accessibility and utility of civil solutions to right-based cases (Kurnianto, 2024).

Comparative observations are drawn from other jurisdictions within the Arab region that share similar traditions under civil law, e.g., Egypt, Tunisia, and Lebanon. Comparisons place Jordan's legal system within the wider regional context, presenting chances to learn best practices and reform paths which can better integrate human rights standards within civil proceedings.

Despite the benefits of this research design, there are known limitations. Access to detailed Jordanian court records is still

limited, which prevents full judgments being available for close examination. In addition, the relatively underdeveloped nature of strategic human rights practice within civil courts means that relatively few cases make express rights-based claims. These factors could limit the extent to which the findings can be generalized. The use together, however, of doctrinal analysis and case-based research offers a legitimate and rigorous framework for analysis of the way that Jordan's civil law system engages and impacts the protection of human rights.

4. ANALYSIS AND DISCUSSION

4.1 Legal Framework for Human Rights in Jordanian Civil Law

Most famously in domains like contracts, torts, responsibilities, and property, Jordan's civil law system lays out an institutional framework for private law relationships. Based mostly on the Egyptian Civil Code, the Jordanian Civil Code (Law No. 43 of 1976) mixes many elements taken from continental European civil law systems with Islamic precepts, most famously in the sphere of personal status. Although the Code does not specifically state human rights, it guarantees fundamental individual liberties most famously personal liberty, legal capacity, contractual liberty, and the ability to seek recompense for damage or loss.

The 1952 Jordanian Constitution codifies some liberties and rights, therefore augmenting the framework of civil law. Article 6 deals with equality before the law; Article 7 deals with protection against abuse of governmental power; Article 101 deals with the right to have access to the legal system. But generally, procedural laws and judicial interpretation provide these fundamental rights pragmatic relevance. Jordan's system generally maintains a difference between constitutional liberties and their substantive explication within separate actions, unlike systems whereby constitutional principles may be directly cited within civil suits. Civil court judges thus are reluctant to enforce laws against the more general human rights norms except as specifically directed by appellate courts or codified within legislative text.

Furthermore assigned to review the validity of laws and rules is the Constitutional Court, established under the 2012 constitutional revision. Though a significant institutional innovation, limiting access limits the enforcement impact on civil rights since only high-ranking officials and institutions are qualified to file constitutional challenges. Therefore, most problems under civil law remain within the jurisdiction of first-instance and appeal courts, where human rights claims usually lose ground to procedural restrictions or accepted principles of

law.

4.2 Enforcement Mechanisms and Judicial Practice

Under Jordan's civil system, protection of human rights depends much on judges' capacity and will to apply the law in line with both constitutional and international norms of human rights. But institutional and procedural flaws have made it difficult for civil courts to be efficient protectors of personal rights. The main difficulty comes from the general legal conservatism and rigorous interpretation grounded on the letter of the law. This formalistic approach inhibits judges in civil law regimes from utilizing liberal interpretation approaches. This is the reason courts hardly mention international human rights standards or those anchored in constitutional values unless guided by supreme courts. This restriction reduces chances for creative ideas in fields such anti-discrimination, privacy, and gender equality.

Furthermore, obstacles in the search of justice deny people even the exercise of their rights. Particularly for poor people like women, economically challenged, and foreigners, procedural complexity, high litigation costs, and limited provision of legal representation open up systematic inequality. Most of the time, victims of their abuses of their civil rights lack the means to start lawsuits or appeals should an arbitrary decision result.

Third, civil court-Shari'a cooperation adds complication in areas of guardianship, inheritance, and the law of the family when personal rights traditionally addressed by Islamic law rather than by civil law are involved. Particularly when issues concern women's legal position and agency, this dual system compromises the equality of everyone before the law and results in differences in the treatment of rights.

Notwithstanding all these limitations, there have been notable cases when civil courts have backed claims grounded on rights. Civil courts have occasionally granted remedies for tort and labor-related offenses such defaming, contract breach, or wrongful dismissal. These events show the possibility for civil law to be included into the defense of economic and reputation rights even in their present restricted and reactive forms.

4.3 Case Studies of Civil Rights Litigation

Application of human rights in Jordan's civil judicial system primarily depends on the court's capacity and readiness to implement legal clauses complying with international and constitutional human rights criteria. Still, a number of institutional and procedural challenges have lessened civil courts'

ability to safeguard individual rights.

Strong textualistic attitude and judicial conservatism are two primary limits. Generally speaking, apart from extremely clear instructions by appellate courts, judges in Jordan's civil law tradition follow closely the literal language of legislation and avoid citing more general constitutional notions or international human rights norms. This conservatism forbids dynamic or innovative interpretation that might strengthen protections in sectors such as privacy, anti-discrimination, and gender equality.

Another major barrier is still limited access to justice. Underprivileged groups include poor individuals, women, and non-citizens suffer disproportionately from high cost of litigation, procedural inefficiencies, and inadequate legal support. Those whose civil liberties have been violated typically lack the means either legally or financially needed to seek appeals or lawsuits against unfavorable decisions.

Cooperation between the civil courts and the Shari'a courts adds more complexity, particularly in regard to family law, inheritance, and guardianship. In some domains, religious law replaces secular law, therefore affecting the implementation of rights and so eroding the equality before the law—especially with regard to the position and autonomy of women. Notwithstanding these structural and procedural challenges, there are few significant cases when civil courts validated claims based on rights. Courts awarded damages under many tort and labor-related cases including defamation, breach of contract, and illegal dismissal. These incidents demonstrate how, although often restricted and reactive nature, the civil law system can support protection of economic and reputational rights.

4.4 Tensions Between Civil Law, Shari'a, and Human Rights Norms

Within Jordanian law, the constant conundrum is the conflict between secular law and Islamic law traditions, most especially in areas that cross international human rights legislation. Although the Jordanian Civil Code creates a secular structure for contracts and torts, Shari'a law decides many legal questions, most importantly those regarding personal status. Under some circumstances, such religious-based law runs counter to accepted international human rights standards Jordan signed.

Where religious strictures become higher authority than civil protections, this tension is of most consequence for women's rights. Gender discriminatory inheritance provisions, male guardianship of women, and asymmetric divorce entitlement are

still allowed by Jordan's Personal Status Law. Specifically in its commitment of gender equity, these provisions are essentially in direct opposition with the fundamental concepts of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). However, this disparity remains in the form of law's submission to religious courts and widespread political reluctance to confront religious authority through legislative reform.

Subordinate to both criminal and civil systems, tensions also emerge in freedom of speech and defamation. Now primarily employed against activists and journalists, civil suits for defamation typically entail heavy pecuniary penalties. While civil proceedings might be considered a lesser resort compared to criminal prosecution, they can serve to suppress dissent when they are not appropriately weighed against free speech protections in both global and constitutional law—such as Article 15 of the Constitution of Jordan and Article 19 of the ICCPR.

Uneven enforcement of international law provides another cause of conflict. Many of the world's prominent treaties on human rights are signed by Jordan, yet its courts rarely call upon international principles directly save in instances that have been explicitly incorporated within domestic law. Judges in treaty jurisprudence are hardly given any instruction; institutional arrangements for familiarizing domestic law with international obligation are still in the process of developing. This provides an erratic and, sometimes even conflicting, mechanism for the implementation of human rights.

Overall, they highlight the institutional and normative impediments to full convergence between Jordan's civil law system and international human rights standards. Solving them will take more than discrete reforms to the law—it will take structural reform that encourages judicial interaction with international norms and promotes cohesion within overlapping systems of law.

5. CONCLUSION

The extent to which Jordan's civil legal system supports the protection and application of human rights has been explored in this paper. Jordan's system of law has promise and drawbacks as a hybrid system integrating French civil law, Islamic jurisprudence, and constitutional principles for advancing human rights litigation and reform. Though many Civil Code clauses—such as personal autonomy, contract liberty, and compensation for injury—indirectly support human rights—like personal

autonomy, contract liberty, and so on—they are not proclaimed or enforced under an explicit human rights perspective.

The most important result is Jordan's civil courts' meager intervention in upholding public liberty and basic human rights. This is a result of procedural conservatism, general lack of judicial expertise in international human rights law, and respect by the court to religious courts on matters pertaining to personal status. Although civil remedies are occasionally applied for cases involving labor conflicts, invasions of privacy, or contractual violations, they are insufficient in pro-actively addressing systematic problems including gender discrimination, restrictions on freedoms of expression, or violations of marginalized groups.

The relationship between Shari'a and civil courts limits the jurisdiction of the civil courts over significant human rights problems, therefore adding a degree of complexity to the system. Moreover, Jordan's dualistic approach for international law—and the inadequate integration of international treaty commitment into national law—precludes many international human rights instruments from being effective inside the civil courts. Procedural and legal obstacles most disproportionately affecting women, refugees, and the economically deprived further compromise the system.

Jordan's civil law system needs to be made more in line with international human rights standards by means of several adjustments. First, most importantly with regard to personal status, more unity between the civil and religious worlds of law will help to remove firmly ingrained gender inequality. Second, reinforced by training for judges and public awareness, the official adoption and implementation through law of international human rights treaties would close the difference between international and national law. Third, structural measures to improve access to justice—like raising legal aid and opening the Constitutional Court to people and civil society—would make it more inclusive and fair. Jordan's civil law system has great but unmet promise overall as a human rights protection system. To fulfill this promise will need constant changes, more judicial capacity, and a basic institutional dedication to include human rights conceptions at every level across the system. Civil law can only be a consistent tool for furthering justice, equity, and human dignity for Jordanians by means of this more general endeavor.

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