



Looking towards opportunities in the future:

Analyzing Women's Access to Justice in Jordan



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ARDD

النهضة العربية للديمقراطية والتنمية
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Table of Contents

About ARDD	3
Executive Summary	4
I. Background and Rationale	6
II. The Jordanian Justice System	8
III. Women's Engagement with the Justice System	9
A. Women's Access to Justice: A Framework for Inquiry	10
B. Perceptions and Satisfaction: The Courts	11
C. Four dimensions of the Courts: navigability, affordability, timeliness, and fairness	13
D. Women Refugee Access to Justice	14
IV. Women's Access to Justice: Challenges	16
A. Challenges at the macro level	16
B. ARDD's Challenges in working on Women's Access to Justice	19
V. Women's Access to Justice: Approaches by Civil Society	19
A. Facilitating an Enabling Environment	20
B. Components of an Enabling Environment	21
C. Availability and Accessibility of Legal Aid	23
VI. ARDD and the Way Forward	24
A. Model of Change and Strategy	25
B. Priorities Moving Forward	26

About ARDD

Founded in 2008 in Amman-Jordan, Arab Renaissance for Democracy and Development (ARDD) is a Civil Society Organization seeking to foster transformative change towards an empowered, resilient and just society in Jordan and the Arab World. ARDD supports marginalized individuals and communities—including refugees and migrants— in acquiring and enjoying their social, political and economic rights, through legal aid, psychosocial support, media and grassroots mobilization, and research and advocacy to raise stakeholders' awareness locally, regionally and internationally about the challenges that vulnerable persons face in Jordan and the Arab Region.

Executive Summary

Driven by shared global values of social justice, the Arab Renaissance for Democracy and Development (ARDD) is a human rights organization that strives to strengthening rule of law and facilitating access to justice for all individuals in Jordan, and the MENA region on a broader level. Understanding and addressing the multiple layers and complexities with regards to women's access to justice thus constitutes a major focus of ARDD's work.

Under the overall theme of gender justice – which can be observed to include political justice, economic justice, and social justice – and in order to establish a more holistic understanding of women's access to justice, this paper argues for the consideration of the various ways that encounters with the law should be framed in a way that encompasses legal instruments that relate to employment, social welfare, marriage, economic participation, health, education, citizenship, and others. In terms of analyzing the status of women's access to justice in Jordan, six core principles are taken into consideration, namely: justiciability, accessibility, availability, good quality, meaningful remedies, and accountability of the justice system. This is in line with ARDD's Framework for Inquiry on Women's Access to Justice.

Further, this paper aims to shed insight into the nature of women's engagement with the justice system and aims to identify gaps from a variety of different perspectives. Within the analysis, reference is made to ARDD's surveys, with Jordanians and Syrian refugees, on public perceptions and satisfaction regarding the justice system through four main dimensions: navigability, affordability, timeliness, and fairness. While the surveys showed some similarities between men and women, upon closer analysis, gendered differences are observed in relation to these dimensions. The outcomes present further insight into the differences between perception (of those who have not engaged with the justice system or a specific component of it) and satisfaction (of those who have experience with the justice system or a specific component of it). Essentially, this difference can be seen as a potential deterrent factor to access the justice system, and could be mitigated through awareness raising and facilitated access to information.

In terms of refugees access to justice – and women refugees, in particular, this paper highlights that refugees currently residing in Jordan face many of the same issues faced by the local community in terms of access to justice, these are often exacerbated by other issues such as a lack of awareness, being unable to afford legal services, and the prioritization of things regarded as necessities over legal issues. This reaffirms the importance of working towards access to justice for refugees through both the facilitation of prompt and adequate access to legal information, and through directly increasing their access to justice through legal aid services. In terms of Syrian refugee women, in particular, key findings include

the reality that Syrian refugee women are less likely than their male counterparts to pursue legal action, or even alternative dispute resolution methods, among others, due to reported sociocultural pressures, such as the culture of ‘aib’ (culture of shame).

Furthermore, challenges relating to women’s access to justice at the individual, community and institutional/structural level are identified. These levels of challenges can be understood by analyzing the various aspects of the functionality of government, civil society, and policy frameworks. In this respect, when personal status laws are analyzed in parallel to penal codes, the unequal treatment of women becomes increasingly evident, especially in terms of provisions related to honor crimes, rape, and adultery.

ARDD argues for the establishment of an enabling environment as essential to women’s access to justice. For ARDD, an enabling environment refers to full range of socio-cultural, political, or economic conditions in a society that enable or hinder access to justice. One of these approaches is the pursuit of effective adoption and revision of national legal instruments in line with international human rights standards, bearing in mind the economic implications related to the status of women. Another key component is the strengthening of trust between justice institutions and persons of concern. In addition, while equally important and relevant, sensitization to remove restrictive social norms is perhaps the most complex component of establishing an enabling environment for women’s access to justice.

Further, rather than simply focus on empowering women to engage with the justice system, ARDD reaffirms that it is equally important to empower instruments of the justice system in terms of communication and outreach in order to effectively engage women. Ultimately, through effective solidarity and partnerships and effective engagement on the political, legal, and economic levels, the feasibility of achieving an enabling environment by expanding and enhancing women’s access to justice can be increased. Additionally, both the limited availability and low accessibility of legal aid indicates that the institutional legal aid system in Jordan needs further support and expansion to be able to meet the needs of women and people in Jordan.

Perhaps an interesting point of departure for this undertaking can be rooted in the tools with which discourse about women’s access to justice is outlined. This includes the very definitions of notions like ‘justice’ and ‘fair trial’ – how are they truly defined? And are their definitions truly reflective of the ways in which they are implemented? It would be worthy to consider, even, how the overarching understandings relating to these ideas and systems were created and who was involved or included in their creation. This will enable an analysis of the status of women’s access to justice in a way that incorporates how that access was shaped and how it can be transformed.

I. Background and Rationale

In order for ARDD to properly analyze the status of women’s access to justice in Jordan and contribute towards alleviating the multi-faceted challenges relating to this topic, this document will serve as a guiding paper for ARDD. Here, access to justice is defined in terms that “encompass all the elements needed to enable citizens to seek redress for their grievances and to demand that their rights are upheld (UN Women, Council of Europe, 2015).” ARDD reaffirms the right of access to justice as essential to the realization of the rights protected under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), as highlighted in the CEDAW Committee’s General Recommendation No. 33 of the 2015.¹

Building upon ARDD’s continued work relating to women’s access to justice, this paper will be primarily used for establishing context and informing the enhancement and establishment of various levels of programming within ARDD relating to women’s access to justice. In line with ARDD’s vision, this guide recognizes that an analysis of women’s access to justice must take into account six core principles, namely: **justiciability, accessibility, availability, good quality, meaningful remedies, and accountability of the justice system** (UN Women, Council of Europe, 2015). In the proposed framework of inquiry, the six guiding principles are integrated along three main categories of analysis that describe the elements of the justice chain from a system’s analysis point of view, namely: enabling environment, supply and demand.

Further, in order to establish a more holistic understanding of women’s access to justice, this paper will consider the ways that efficient interaction with the justice system should encompass legal instruments that relate to issues such as employment, social welfare, marriage, economic participation, health, education, citizenship, and others.

¹ CEDAW General Recommendation on Women’s Access to Justice:
https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_33_7767_E.pdf

Through a review of relevant laws, research, and international conventions, this paper will aim to identify the legal, social, and institutional barriers to women's access to justice. In doing so, it will seek to identify the gaps in the justice system from a variety of different perspectives, including persons of concern, by utilizing various resources including a public perceptions and satisfaction survey conducted by ARDD in 2018. It will also consider the relationship between rights holders and duty bearers, and the political, social, and economic barriers that contribute to the nature of this relationship. In doing so, it will identify the role of ARDD in establishing an environment that enables women's access to justice. The paper will specifically aim to reject an exclusive focus on Sharia Law in relation to women and the justice system, and instead highlight the relevant components of Civil laws as well. This will be done by looking at access related challenges on three levels: the individual, the community, and the institutional/structural levels.

When examined in relation to both Jordanian and refugee women, the challenges related to access to justice are especially apparent. While obtaining legal aid and engaging with the justice system is riddled with complexity for women in general, the relevant challenges are exacerbated in the case of refugee women. For example, currently, ARDD is the only legal aid civil society organization operating in the Zaatari and Azraq Refugee Camps – in partnership with UNHCR – to provide legal aid and counseling.²

Ultimately, the guiding paper will offer key analytical recommendations for ARDD's envisioned role in facilitating women's access to justice, and suggest a framework for continued coordination between institutional and civil society stakeholders in order to strengthen an enabling environment for women's access to justice through the pursuit of institutional resources and capacities.

² UNDP: Enhancing community security and access to justice in host communities and other fragile areas in Jordan (2018-2015)
https://www.undp.org/content/dam/jordan/docs/Governance/Comm%20Security%20Project%20Document_FINAL%20JUN-2015.pdf



II. The Jordanian Justice System

The legal system in Jordan, in line with the Jordanian constitution, Law 19 on Sharia Courts (1972), and Law 17 on Civil Courts (2001), is built upon three major categories of Courts. For the purposes of this document, it is important to consider a definition of access to justice that incorporates the entirety of the justice system in order to facilitate access that is holistic and multi-dimensional.

The following figure offers a basic outline of the Court System in Jordan:



III. Women’s Engagement with the Justice System

The relationship between people and the justice system in the country where they reside is an essential component of maintaining order and stability. In considering women residing in a certain place, it is important to consider the various religious or political minority groups present and to compare and contrast what forms their experience with the justice system take. This analysis is also central to ensuring social justice and the protection and enhancement of human rights through context-based approaches that recognize the unique intricacies of each group’s experience.

Through the organization’s work enhancing women’s access to justice, ARDD has come to recognize the importance of assessing the different actors and dimensions of the ‘chain of justice’ as an important means of improving the justice sector as a whole, and the ability of individuals to access and claim their rights.

When the engagement of women within the justice system is analyzed, it is important to consider what facets of this relationship with the justice system are particular to women. This is essential to effectively identifying gaps in the justice system from a variety of different perspectives. Here, we refer specifically to several resources, primarily a public perceptions and satisfaction survey (‘Public Perceptions and Satisfaction Regarding the Justice Sector in Jordan’) conducted by ARDD in 2018, and ARDD’s framework for inquiry on women’s access to justice (‘Women’s Access to Justice: A Framework for Inquiry’). This includes careful consideration of the relationship between rights holders and duty bearers in terms of access to justice, and the political, social, and economic barriers that contribute to the nature of this relationship.



A. Women’s Access to Justice: A Framework for Inquiry

ARDD’s framework for inquiry relating to Women’s Access to Justice is largely based on international experiences in order to systematically analyze the status of women’s access to justice in Jordan. Essentially – in line with the UN Inter-agency Practitioner’s Toolkit on Women’s Access to Justice Programming³ – this framework recognizes that an analysis of Women’s access to justice must take into account six core principles. These core principles, as defined within the Framework, can be summarized as the following:

- **Justiciability** requires women to be able to effectively access justice and to claim their rights;
- **Accessibility** requires that all justice systems are secure, affordable, and physically accessible to women, and cater to the needs of women including those who face forms of discrimination;
- **Availability** requires courts and other judicial bodies to be established in urban and rural areas of the state;
- **Good quality** of justice systems requires that all components of the system adhere to international standards of competence, efficiency, independence, and impartiality and provide effective remedies that lead to gender-sensitive dispute resolution for all women;
- **Meaningful remedies** require women to receive protection and meaningful redress from justice systems for any harm that they may suffer; and
- **Accountability of justice systems** is ensured through monitoring their performance to guarantee that they are in accordance with the previous principles.

³ UN Inter-agency Practitioner’s Toolkit on Women’s Access to Justice Programming
https://www.unodc.org/pdf/criminal_justice/WA2J_Consolidated.pdf

In order to inform programming and advocacy, these guiding principles can be integrated along three main categories of analysis that correspond to elements of the justice chain from a critical point of view. This categorization can facilitate the understanding of the environmental factors affecting women's access to justice as well as the roles and responsibilities of key actors and stakeholders involved in the justice system – and can be identified as:

- An **enabling environment** for women's access to justice, which refers to the full range of economic, social and political conditions/factors that enable or hinder access to justice;
- **Supply** refers to the availability of institutions and actors critical in the supply of justice;
- **Demand** refers to those who have the right to be served by justice.

B. Perceptions and Satisfaction: The Courts

As part of ARDD's commitment to evidence-based advocacy and programming, the organization conducted a quantitative survey among 1,700 respondents across North, Central and South Jordan.⁴ The survey aimed to gauge general perceptions regarding the justice sector, and to identify whether or not there may be major differences between those who have had experience with the justice process and those who have not. Further, throughout the following section, findings that reiterate differences between perceptions and experiences of civil courts and religious courts will be continuously highlighted.

To clarify, when the satisfaction of participants is mentioned, this is in reference to satisfaction of court users with key actor and processes related to the chain of justice. Only individuals who reported **having taken a legal matter to court** were asked questions relating to satisfaction. In contrast, when perceptions are discussed, findings are based on questions posed to respondents **who had not taken legal matters to court**. Essentially, through this differentiation, ARDD aimed to understand the different experiences and opinions that exist between individuals who have taken legal matters to court and those who have not taken legal matters to court.

⁴ ARDD – Public Perceptions and Satisfaction Regarding the Justice Sector in Jordan

The findings of this survey shed insight into the nature of women’s engagement with the justice system. For example, according to the survey, while the most common legal matter for both men and women is marriage registration, for women, the second most common legal matter type is inheritance, and the third is divorce. Considering that all three of these legal matters are designated under jurisdiction of religious courts, the survey results indicate that this is the court with which Jordanian women have the most experience. Further, while family matters such as marriage registration, divorce, child support and/or custody, and inheritance are common among both men and women, the experience of men with courts in Jordan varies greatly from the experience of women.

Even in terms of how lawyers are perceived, while women had higher perceptions of lawyers than men, they ultimately tended to be less satisfied with lawyers than men. This is indicative of an apparent gap between expectation and experience. Further, across the board, satisfaction with lawyers in religious courts was notably higher than that of lawyers in civil courts. This also translates into perceptions and satisfactions as they pertain to other court actors, with similar views shared regarding better satisfaction with religious court judges and clerks than with civil court judges and clerks. Interestingly, while men were consistently more satisfied with male judges, female respondents regarded female judges as more satisfactory with regard to competency and overall satisfaction.

This is especially interesting when the differences between perception and satisfaction are taken into consideration. For example, among those who took legal matters to court, both men and women shared high levels of satisfaction with court clerks, but their lowest satisfaction within the entire justice chain was designated to police. Interestingly, judges were perceived with the highest regard among those who did not take legal matters to court, while lawyers and police were similarly poorly perceived. However, while this relatively poor perception of police was shared across genders, the survey showed that men – regardless of whether or not they took legal matters to court – share greater overall levels of satisfaction with the police than women. This is perhaps indicative of a gendered experience by which women are not as duly protected by police forces as they are entitled to be and reflects a deeper social dimension of gender discrimination.

C. Four dimensions of the Courts: navigability, affordability, timeliness, and fairness

The survey also offers a meaningful framework for gauging public perceptions and satisfaction regarding the courts in terms of the following four dimensions: navigability, affordability, timeliness, and fairness. While it is important to analyze these dimensions individually, looking into their relationship with one another is central to establishing a clear understanding of the extent to which individuals use the courts, and how that reflects the confidence, or lack thereof, that persons of concern have in the ability of the justice sector to yield just outcomes. This provides an in-depth understanding of why or why not individuals choose to litigate their legal matters.

As previously discussed, a stark distinction that emerged within the findings of the survey relates to the way that respondents distinguished between perception and satisfaction of the aforementioned dimensions as they pertain to religious courts versus civil courts. Among both men and women, in terms of navigability and timeliness, religious courts were viewed more favorably than civil courts, while civil courts were regarded more highly in terms of affordability. Further, men shared a greater willingness to utilize civil courts repeatedly than women, while women were more willing than men to engage with religious courts repeatedly.

However, upon closer analysis, gendered differences can be observed in relation to these dimensions. For example, men tended to have an easier time navigating the court and shared higher levels of satisfaction with the timeliness of courts than women did, while women were more likely than men to have positive satisfaction regarding affordability. Interestingly, women who had previous experience in taking legal matters to court were more likely than women who did not to have a positive outlook on affordability, while women who took legal matters to court were less likely than those who did not to express satisfaction with the execution of court rulings. This presents further insight into the differences between perception and satisfaction – a difference that can be seen as a potential deterrent factor to engaging with the justice system and could be mitigated through awareness raising and facilitated access to information.

D. Women Refugee Access to Justice

While refugees currently residing in Jordan face many of the same issues faced by the local community in terms of access to justice, these are often exacerbated by other issues. For example, a recent study by the Adaleh Center for Human Rights on Syrian Refugees' Access to Justice in Jordan showed that while 93% of those surveyed in Al Mafraq are in conflict with the law, but 37.5% of them reported not taking any measures to resolve said legal issues.⁵

According to the study, many of the legal issues faced by refugees are a direct result of a lack of awareness, being unable to afford legal services, and the prioritization of things regarded as necessities over legal issues. These findings reaffirm the importance of working towards access to justice for refugees through both the facilitation of prompt and adequate access to legal information, and through directly increasing their access to justice through legal aid services.

In the context of two projects – 'Support for Justice Sector Reform' (funded by EU) and 'Syrian Refugees Empowerment Pilot Project' (funded by Open Society Foundation) – and in order to provide solid evidence for social dialogue, ARDD conducted a quantitative survey, similar to the aforementioned one, among 600 Syrian refugee respondents across North, Central and South Jordan in December 2017.⁶ This survey aimed to gauge respondents' satisfaction and perceptions with key actors and processes related to the 'chain of justice.' Here, we define satisfaction and perception in relation to interaction with the justice system, as defined earlier in this document. It is important to note that Syrian refugees face a unique set of legal challenges, and potentially face greater difficulty in accessing justice in Jordan. Ultimately, Syrian refugees must navigate a justice system that is largely unfamiliar to them while also addressing and overcoming the challenges that accompany refugee status, such as reduced confidence, knowledge, or ability to front the costs of litigation.

⁵ Refugees' legal needs and access to justice in Jordan
http://www.exteriores.gob.es/Embajadas/AMMAN/en/Noticias/Pages/Articulos/20190318_NOT01.aspx

⁶ ARDD – Syrian Refugees Perceptions and Satisfaction Regarding the Justice Sector in Jordan

Many issues arose within the findings of the survey that are true for both Syrian refugee men and women. However, in terms of findings particular to the Syrian refugee women that were surveyed, a key finding is that Syrian refugee women are less likely than their male counterparts to pursue legal action, or even alternative dispute resolution methods, among others, due to reported sociocultural pressures, such as the culture of 'aib (culture of shame). However, Syrian refugee women with legal aid were far less likely than those without legal aid to report having a lawyer who was discourteous. Further, Syrian refugee women with legal aid were far more likely than those without legal aid to report that they would use courts in the future. Interestingly, the survey showed while Syrian refugees' experiences of NGOs and legal aid providers are much more positive than their perceptions, Syrian refugee women are more likely to seek help from an NGO than Syrian refugee men.

The findings of this survey reaffirmed many recognized issues relating to refugees' access to justice, and particularly, refugee women's access to justice. The impact of conflict and protracted wars and crises on the lives of women in MENA and their ability to access justice deserves a moment of reflection. While in conflict-stricken areas violations against women's rights have become the norm, in the context of countries of asylum – like Jordan – especially in camp settings, women's rights have been subject of violations.

For example, during the early years of the Za'atari refugee camp, women in the camp faced several forms of sexual and gender-based violence including early marriage, rape, physical and verbal abuse. This was amplified by the lack of legal venues to pursue justice aside from tribal platforms that didn't necessarily prioritized women's rights. These violations alongside more basic legal challenges made it abundantly clear to stakeholders that rule of law is much needed in the camp setting; namely documentation for marriages, births and deaths.⁷

⁷ ARDD – Women's Access to Justice in MENA: A Holistic Human Rights Approach

IV. Women’s Access to Justice: Challenges

A. Challenges at the macro level

From a regional perspective of analysis, it is evident that while a large number of countries in the MENA region have ratified CEDAW and guarantee equal rights to all citizens within their constitutions⁸, realities on the structural and social levels tend to reflect a clear gendered discrepancy. Ultimately, there are challenges relating to women’s access to justice on various levels:

- **Individual level:** limited legal knowledge and awareness, as well as lack of alternatives for women;
- **Community level:** customary laws and social norms, including social stigma;
- **Institutional/Structural level:** gender biased institutions, unaffordable legal fees, and inefficient judiciary reforms

These levels of challenges can be understood by analyzing the various aspects of the functionality of government, civil society, and policy frameworks. From a macro perspective, this can simply be put as the perpetuation of the dichotomy of feminine private and masculine public by which women face exacerbated challenges in engaging with public institutions. This exacerbation is most clearly noticeable in terms of personal status laws that pertain to all matters relating to family life such as marriage, divorce, and child custody. In terms of both laws and practices, these personal status laws are often regarded as a main contributor to discrimination against women. When these laws are analyzed in parallel to penal codes, the unequal treatment of women becomes increasingly evident, especially in terms of provisions related to honor crimes, rape, and adultery.

⁸ Oxfam – Women’s Access to Justice in the Middle East and North Africa

How Political Identity is Preventing Women's Access to Justice in Jordan

Further, it is important to consider the ways in which the political identity of women is influenced in different contexts, and how that translates to different rights in different countries. This requires further analysis into the implications of political issues that hinder women's ability to access justice.

The Arab Renaissance for Democracy & Development (ARDD) recognizes the importance of addressing the role of identity politics in preventing women's access to justice in Jordan. As an organization, ARDD is committed to supporting the active agency of women in challenging discriminatory social and cultural structures; through various tactics, the organization has sought to facilitate women's access to justice and to effectively address the structural issues that do a disservice to society by limiting the identity of women. ARDD recognizes that as a consequence of policies that are inherently discriminatory based on gender, the intersectionality of women's issues is central to progress, whether this is in relation to freedom of movement, availability of facilities in their communities, unrelenting forms of sexual harassment, restriction of their civil and political participation, or access to justice.

Upon analysis, it is evident that the interaction between politics and law tends to undermine women's rights and plays a role in gender violence. This directly relates to a dominant political identity for women that often dissociates them from active citizenship and hinders women's individual political will. Although Jordan has taken a number of steps to promote women's inclusion in politics and political participation through reforms of the legal and institutional framework – such as the creation of the Jordanian National Commission for Women – and ratification of international conventions underpinning gender equality, cultural stigma and the need for formalization of women's rights remain obstacles in shaping a political identity that allows for equal access to justice. One of the threats to women's access to justice commonly relate to inequality for women deeply rooted in existing domestic legislation that is subject to socio-cultural norms that influence and perpetuate discriminatory laws.

Deeper reflections and dialogue on the political identity of women and the barriers to justice is required in order to create a more cohesive society in Jordan. Further, the inclusion of women in political life is fundamental for them to have a sense of ownership and be part of the future of Jordan.

Presently, there are major obstacles to achieving gender equality and shaping the political identity of women towards a more participatory role in politics. An example of this is the amalgamation of impacts of Jordan's Nationality Law, which does not allow for women to acquire or confer their nationality to their children and non-Jordanian partner. This legislation, in particular, is detrimental to the advancement of political rights of these children of Jordanian women who are not eligible to obtain full citizenship in Jordan, and their political participation is consequently restricted.

Ultimately, women's political participation is imperative for achieving gender equality and a prerequisite to democratic governance. As women count for half of the Jordanian population, the lack of women's inclusion in the political realm is especially problematic for realizing a democracy that accurately represents the entire country. Constitutional and legal reforms over the past decades have resulted in an increase of women's political rights and participation in accordance with international conventions. However, reservations to certain provisions in the international instruments and realities on the structural and social levels tend to reflect a clear gendered discrepancy that reveals the interference of politics with women's access to justice.

On a social level, particularly in rural areas, perceptions in Arab society of the 'masculine public' and 'feminine private' connote a normalization of restrictive gender norms and practices. When the societal role of women is framed in this way, women's political identity is therefore restricted. This can result in women being less inclined to engage in politics and feeling more alienated from practiced citizenship through a decreasing sense of ownership over the political and social fabrics within which they reside.

Throughout ARDD's experience in the Regional Women's Access to Justice program - in partnership with Oxfam and many national partners in each country - there were clear findings on the core relationship between the political identity of women and their ability to access to Justice. Further, and in line with the UN's Women, Peace, and Security agenda, ARDD stresses that women's full participation is critical to achieving and sustaining peace and stability within a community – and that this participation is also an undeniable component of women's access to justice. More research is needed to build analysis on this, and on how religion, economy, and politics are central components of the reality of access to justice for women.

B. ARDD’s Challenges in working on Women’s Access to Justice

Through several programs and initiatives, ARDD has been working towards facilitating women’s access to justice with the aim of addressing the structural challenges that restrict women’s ability to claim their rights. Throughout these endeavors, the organization has faced several challenges, mainly in relation to the following:

- Sustaining, and scaling up the momentum
- Lack of coordination amongst civil society
- Relegating women’s issues to the bottom of priorities in light of the current political instability
- Difficulties in reaching out to lawyers and their commitment
- Lack of awareness of gender sensitivity on behalf of lawyers and other relevant actors
- Women’s economic dependency
- Sharing of responsibilities by all the stakeholders
- Lack of literature or knowledge production that leads to “tone deaf” decision/policy making;
- Misreading of laws leading to messed up implementation.

V. Women’s Access to Justice: Approaches by Civil Society

ARDD maintains and advocates for the position that the facilitation of an enabling environment is critical to enhancing women’s access to justice. For ARDD, an enabling environment refers to full range of socio-cultural, political, or economic conditions in a society that enable or hinder access to justice.

A. Facilitating an Enabling Environment

The establishment of this enabling environment can be attained through several approaches, as per the following:

- The pursuit of effective adoption and revision of national legal instruments in line with international human rights standards, in order to ensure that women are granted their full and equal citizenship rights. Here, it is important to consider the economic implications related to the status of women, and to recognize the importance of the provision of meaningful economic opportunities as vital to their economic empowerment – which can, in turn, greatly enhance their ability to access justice and assert their rights. In this respect, it is also important to support women through social protection mechanisms, skills, and pathways to labor market. Further, this can include, for example, social welfare support in the form of urgent cash systems in cases of women in debt whereby imprisonment is prevented.
- Strengthening of trust between justice institutions and persons of concern. Within ARDD’s efforts⁹ relating to Women’s Access to Justice, various focus group discussions have been conducted in order to inform the organizations understanding of the present status of this trust. Interestingly, these discussions highlighted relatively high levels of trust, with ARDD’s Syrian female refugee clients regarding courts and laws in Jordan as generally fair to women. However, these perceptions are highly influenced by various facets of access, and women who obtained legal representation were more likely to report high satisfaction and trust in the courts. This further emphasizes the need for the availability and accessibility of quality legal aid, as well as increasing legal literacy.
- Sensitization to remove restrictive social norms is, while equally important and relevant, perhaps the most complex component of establishing an enabling environment for women’s access to justice. It is important for efforts related to this issue to foster a culture based on equal rights between men and women that are reflective of legal frameworks on a social and community level.
- Identifying and responding to gaps pertaining to Women’s Access to Justice in order to facilitate an enabling environment as it relates to communication. Rather than simply focus on empowering women

⁹ ARDD – Women’s Access to Justice: A Framework for Inquiry

to engage with the justice system, it is also important to empower instruments of the justice system in terms of communication and outreach in order to effectively engage women. This development would significantly increase the gender-sensitivity of instruments of the

- justice system – beyond cosmetic adjustments such as the appointment of female judges, but rather on the structural level to reflect gender sensitivity and combat the perpetuation of often patriarchal and gender discriminatory structures.
- In relation to effective communication and cooperation, it is essential for collaboration and coalition building to be central within efforts to create an enabling environment. This will enable stakeholders to ensure coherence within strategies and initiatives in order to work towards a common goal. Ultimately, through effective solidarity and partnerships and effective engagement on the political, legal, and economic levels, the feasibility of achieving said goal by expanding and enhancing women's access to justice can be increased.

B. Components of an Enabling Environment

As mentioned, ARDD envisions the component parts of an enabling environment for women's access to justice to encompass various conditions and facets of justice. This directly stems from ARDD's commitment to achieving gender justice for women in the Arab region. This goes beyond eliminating gender-based injustices and incorporates ways to directly address the disproportionate levels of participation, representation, and inadequate roles in decision-making that women in the Arab world have – specifically in terms of social, economic and political influence. For ARDD, in order to achieve gender justice, women must be supported in combating injustice and discrimination against them by claiming their rights in terms of social, economic, political and civic participation. Beyond this, ARDD is also committed to evidence-based advocacy in relation to policy reform and transformation, and programming that promotes women's inclusion and equality.

As demonstrated within the Framework for Inquiry on Women's Access to Justice, gender justice can be observed to include political justice, economic justice, and social justice, which will be further explored in the following section.

Political justice refers to civic and legal awareness, as well as the right or access to political participation. While Jordan has ratified CEDAW,¹⁰ the Kingdom's reservation to specific articles constitutes a significant barrier to women's ability to fully access and practice their rights. Most specifically, these articles are:

- **Article 2:** "States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, and a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle."

- **Article 1" :9.** States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. 2. States Parties shall grant women equal rights with men with respect to the nationality of their children."

- **Article 16:** "States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women."

Evidently, hesitation to implement the principles of these instrumental articles has a significant impact on gender equality, and political justice for women.

Economic justice refers to ability of individuals to obtain a sustainable and dignified livelihood to support their needs, and/or the needs of their families. It is often thought of as participation in the labor market and in the formal economy but extends well beyond these realms. Further, due to social customs and a high-rate of unemployment, women in Jordan are often financially dependent on men. According to the World Bank, there is a direct correlation between gender equality and GDP per capita, and consequently, Jordan's economy stands to benefit from facilitating women's access to justice and promoting gender equality.¹¹

Social Justice refers to the social environment women live in Jordan, including socio-cultural norms and restrictions. Often, customary laws, social norms,

¹⁰ Convention on the Elimination of all Forms of Violence Against Women: <https://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>

¹¹ The World Bank – Country gender assessment : economic participation, agency and access

and stigma prevent women from simple processes in accessing justice, such as visiting a police station or court to report a violation of rights. Although this stigma has lessened in recent years, women may still face backlash from their families and communities for being seen accessing these institutions (ARDD Focus Group Discussions, 2017 – as part of research on the Framework for Inquiry).

In terms of access to justice, ARDD reaffirms the notion that achieving political, economic, and social justice for women is just as necessary as providing legal awareness and literacy so that women are increasingly empowered from each component of their lives. With continued coordination between institutional and civil society stakeholders, an enabling environment for women's access to justice can be established with an adequate supply of institutional resources to facilitate the process and meet current demands.

C. Availability and Accessibility of Legal Aid

Availability of legal aid mainly refers to the extent to which legal aid is provided in Jordan, as well as the circumstances under which it is provided. While the law in Jordan directly addresses the right of individuals to access justice in different ways, relevant legislations that safeguard this right are scattered and do not provide a comprehensive framework to enhance the right to access justice. Article 208 of Jordan's Criminal Trial Procedures Law provides that cases for crimes that are penalized by capital punishment, imprisonment with hard labor, life imprisonment, or temporary hard labor for a period of ten years can benefit from free legal aid assigned by the Ministry of Justice, if they cannot afford it (Criminal Trial Procedures Law, 1961).¹² Interestingly, this demonstrates the complex conditions under which legal aid is available and, ultimately, the limited scope that said legal aid covers. This has resulted in the absence of a comprehensive legislative framework that clearly and explicitly outlines legal aid, its rules and procedures.

to justice in Jordan

<http://documents.worldbank.org/curated/en/503361468038992583/Country-gender-assessment-economic-participation-agency-and-access-to-justice-in-jordan>

¹² ARDD – Women's Access to Justice: A Framework for Inquiry

Accessibility of legal aid refers to the ability of individuals to access legal aid services. Although key providers of legal aid include the Ministry of Justice, the Jordan Bar Association, and some organizations in civil society, their reach is limited, and persons of concern are largely unaware of its availability. Further, according to UNDP, in actuality, courts are mandated to guarantee legal representation only for adults in criminal cases entailing death penalty and/or life imprisonment.¹³ Further the lack of awareness of rights and duties within the local and refugee communities prevents individuals from claiming their rights and often results in situations where individuals unintentionally break the law. Both the limited availability and low accessibility of legal aid indicate that the institutional legal aid system in Jordan needs further support and expansion to be able to meet the needs of women and people in Jordan.

For ARDD, the facilitation of Legal Aid and outreach to persons of concern is an area of expertise, and given the appropriate means of support, the organization can play a central role in establishing an institutionalized, functional Legal Aid framework within the Jordanian context that can utilize existing resourcing and ultimately facilitate access to justice.

VI. The Way Forward

In order to establish a more holistic understanding of women’s access to justice, this paper argues for the consideration of the various ways that encounters with the law – or challenges related to these encounters – should be framed in a way that encompasses legal instruments that relate to employment, social welfare, marriage, economic participation, health, education, citizenship, and others.

Moving forward – in line with the aforementioned frameworks and contextualization – ARDD will build upon work relating to Women’s Access to Justice by continuously developing programming and utilizing the following:

¹³ UNDP: Enhancing community security and access to justice in host communities and other fragile areas in Jordan (2018-2015)
https://www.undp.org/content/dam/jordan/docs/Governance/Comm%20Security%20Project%20Document_FINAL%20JUN-2015.pdf

A. Model of Change and Strategy

The model of change for Women’s Access to Justice programming will be centered on a number of thematic priorities. These will include, first and foremost, legal service provision – in relation to issues such as employment, social welfare, marriage, economic participation, health, education, citizenship, and others – to women in need as a major, macro-level output of project planning and implementation. This will be achieved by working with different stakeholders including families, communities, government entities, and instruments of the justice system. Further, awareness raising and engagement through psychosocial support and other means will be done on two levels, in parallel to one another:

1. with persons of concern; 2. with judiciary and legal institutions. Ultimately, this will include various components of advocacy, learning, and collaboration.

Taking into account the multi-dimensional nature of access to justice, ARDD recognizes that legal service provision and awareness-raising do not respond to the full extent of the pursuit of gender justice. Therefore, ARDD aims to strengthen a comprehensive model of change that incorporates political, economic, cultural and social justice through a gendered lens as strategic and indispensable components the organization’s programmatic pillars.

These programmatic pillars relate to youth, governance, refugees, solidarity and social cohesion, legal aid and the development of the justice sector, freedom of expression and education – and ARDD is committed to strengthening gender justice as a reoccurring theme throughout all of these pillars. In doing so, the organization recognizes that it would be inaccurate and ill-advised to pursue a ‘one-size-fits-all’ type of strategy towards gender justice, and specifically women’s access to justice. Recognizing the unique experiences of different minority groups – and those who belong to a combination of these groups – is a critical component of continuing to develop context-based programming with impact, especially on the legal level.

Furthermore, ARDD recognizes the need for analysis relating to the social and political contexts within which women face challenges in accessing justice. This is important for many of the reasons mentioned throughout this document, and in particular: 1. for purposes of policy and advocacy through innovative means and; 2. to inform justice sector reform.

B. Priorities Moving Forward

In line with considerations pertinent to ARDD that have been argued throughout this paper, the following can be seen as guiding priorities:





- Contributing to the creation of an environment that enables and empowers women’s access to justice through collective action, the strengthening of trust;
- Facilitating access to information in order to address the lack of awareness about women’s access to justice and establish a common understanding among all actors;
- Exploring beneficial avenues of collaboration and solidarity in order to engage people of influence within communities and to enhance and expand existing partnerships;
- Continuing to explore and strengthen outreach mechanisms to ensure that, through outreach, the perspectives of persons of concern continue to be at the centre of contextualized programming and advocacy;
- Civil society acting as a representative of the voices of persons of concern;
- Seeking gender-sensitivity in policies and legislation;
- Advocating for meaningful participation of women within the justice sector at the institutional level;

Moving forward, ARDD is well-positioned to assist national and international actors in justice sector reform efforts and to enhance advocacy for facilitation of effective and meaningful access to justice and rights through evidence-based insight that is derived directly from persons of concern.



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