Tribal Law and Restoring Peace in Society: The Case of 'Al-jala' in Jordan

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Abstract

This paper explores the parameters of a traditional Bedouin legal practice called al-jala (tribal banishment). Aljala (banishment) has been around for centuries and has strived to restore peace to a community disrupted by the commission of a murder or honor crime. The century-old practice is arranged by the elders through tribal law and requires the offending party, and his co-liable group of relatives, to leave the community where the crime was committed and live in another traditional enemy community. In this way, the offending party and his family are psychologically and physically punished as a collective whole. The paper will describe al-jala by explaining its liability, time, place, duration, and functions. Also, the paper will discuss the effect of rapid social change on aljala and provides relevant recommendations to deal with this old tradition in a 21st century society.

Keywords: banishment, Jordan, Bedouin, collective responsibility, collective punishment, social change.

Introduction

In August 2009, the city of Ajloun was under siege. Hundreds and hundreds of Jordanian security officers and anti-riot forces were enforcing a curfew over the city and establishing check points in and out of the town to stop growing violence and to curb widening unrest. The chaos, which lasted for almost three weeks, started when a person from the Smadis tribe killed another person from the Momanis tribe (The Jordan times, 2009). The story began when a young Momanis man was visiting his ex-in-law family who belongs to the Smadis tribe to take his six-year old son for a weekend stay. The visit did not go as planned. The child was not available on time and he was badly clothed. As a result, an argument erupted, a fight broke out, and the child's father was stabbed to death by his ex-wife's brother (The Jordan Times, 2009). News of the crime reached the Momanis (the victim's tribe) rather quickly. As expected, the Momanis got very furious for the murder of their fellow tribesman, picked up their weapons, and vowed a rapid revenge. Consequently, chaos spread across the city despite a curfew and road closures imposed by Jordanian security forces. During the turmoil, a number of the Smadis as well as Momanis houses, business, cars, busses, and other properties were destroyed and/or set on fire in spite of the heavy presence of government security forces (The Jordan Times, 2009).

The very tense situation was open to escalating violence had tribal leaders not intervened, mediated, and resolved the matter peacefully and skillfully. Although a crime like murder is committed every now and then across the country, reaction to such a crime does not always reach the level of violence seen in Ajloun. In order to contain such an explosive situation like this, government 's officials work in collaboration with notable tribal leaders to de-escalate tension, curb violence, establish peace, and restore normalcy in society. Whenever a serious crime occurs, security forces quickly respond, arrest the perpetrator, de-escalate the tension, and curb the violence. Then, tribal leaders intervene to calm the situation, save face for the injured group, restore peace, and re-establish normalcy. To further contain the conflict and lower the possibility of more violence, the culprit's group must flee the scene and leave, or are forced to leave, their homes and towns 'yajlu' into an open-ended exile called 'al-jala' (banishment). Finally, it is worth noting that 'al-jala', the local concept for tribal banishment in Jordan will be used for the rest of the article.

To examine this unique phenomenon, this paper defines 'aljala', explains when and why it applies, and indicates the parameters surrounding the perpetrating group. The paper further clarifies the 'al-jala' sanction, and rules governing groups under 'al-jala'. The paper also examines the functions of 'aljala' and discusses its significance in society. Finally, the paper explains the impact of social change on 'al-jala' and 'al-jala'-related regulations in a tribal, yet mostly urban, society. Finally, this paper highlights how this special cultural method aims at preventing crime and stopping violence in society. Through a case study, this paper details how state officials and community leaders could work together to restore peace and re-establish normalcy in an ever changing society governed by strong tribal customs and laws.

What is 'al-jala' (Tribal Banishment)?

Traditionally, 'al-jala' is a compulsory Bedouin nomadic custom that requires the departure of the instigator/perpetrator of crime/culprit and his close relatives (co-liable group) from the scene of the violation/crime to a safe place (under real or symbolic protection of a respected tribal leader) upon commission of a serious crime like murder or honor crimes (Abu Hassan, 1987; Alibeli, 1996; Alabbadi, 1986; Ginat, 1987; Khalaf, 1990). For example, if a person kills another person who belongs to the same tribe or lives in the same town, then the culprit's familial group must flee their tribe, village, or town for another tribal (al-majla) area quickly and without delay. Further, they must stay exiled until being allowed back to their original home if, and when, the dispute comes to peaceful resolution (Sulh). Refusing, resisting, or delaying 'aljala' would escalate the conflict and relieve the victim's group from any liability had they killed any member(s) of the culprit's group, damaged their homes, or destroyed their properties. However, if the two parties of the crime belong to different tribes, al-jala is not required (Alabbadi, 1986; Ginat, 1987). Currently, most individuals who commit serious crimes like murder tend to turn themselves immediately into the government to guarantee their own safety and to save their relatives the dire consequences of the crime. Normally, the conflict will not ease unless the culprit is killed, captured or arrested, and the responsibility of the crime is accepted by the culprit's group. In conclusion, 'al-jala' has very little to do with the culprit; rather, it is a method aimed at preventing more bloodshed and deterring further violence in society. The culprit may be imprisoned for a short or long term, may never enjoy freedom again, or maybe executed for the crime. The outcome depends on the terms of the tribal settlement, if any, rather than the court of law. Ironically, despite its far-reaching effect in society, 'al-jala' is neither officially recognized by the government, nor acknowledged by the court of law.

Who is liable?

All members of the perpetrator's 'Khams' (Ginat, 1987) or what is called his 'co-liable group' (Marx, 1967) are liable for the crime and must obey and observe 'al-jala' rules. The 'Khams' or 'co-liable group' is a social unit that is comprised of all male descendants from the same patrilineal great great grandfather (grandfather of the grandfather). The Khams (five in Arabic) represent the vengeance unit descended from a common ancestor five generations back (Khalaf, 1990). The 'Khams' or the 'co-liable group' is collectively responsible for blood revenge and mutual aid (Ginat, 1987). According to Gellner (1983), the co-liable group/Khams are co-responsible for "the conduct of any of their members, sharing in the risk of becoming objects of retaliation...if anyone in the group commits an act of aggression against a member of another group, and similarly, being morally bound to avenge aggression against any fellow member" (p. 37-38). However, because of massive social changes such as changes in population size, mode of production, and mode of residence in society, 'al-jala' regulations are eased up to roughly include the culprit's first degree relatives, including his children, if any, his brothers, and his father. Decision concerning crime's liability is usually made by a tribal judge through a complicated process of counting who is in and who is out of the culprit's co-liable group (Alibeli, 1996; Alabbadi, 1986). Therefore, collective responsibility and collective punishment are deemed to prevent and to deter crimes by pressuring groups to take responsibility, and to intervene and exert social control over their members' conduct for safety of the entire group.

Time of 'al-jala'

In most cases, 'al-jala' takes place voluntarily and quickly after a violent act, however, it should not be delayed for more than three days from the time of the crime commission (Musil, 1928). Overall, as soon as the culprit's co-liable group becomes aware of the crime; they leave their homes and go away (yailu) into another tribal territory. The expediency of 'al-jala' depends on the circumstances surrounding the crime and whether it is possible for the culprit's group to escape before the victim's group gets the news of the specifics of the crime and who committed it. In rare cases, the culprit's group may resist 'aliala'.

They may refuse to engage in 'al-jala' thinking that the crime is not serious enough, or they are not the guilty, they are strong enough to stop any attack against them, or because they believe that the victim's group is too weak to level any damage against them (Alabbadi, 1986; Abu Hassan, 1987; Musil, 1928; El-Aref, 1974). In a case like this, the culprit's group will be forced to leave and respect 'al-jala' regulations. Currently, if a group refuses to obey 'al-jala' rules and depart their homes and town following a crime, they will be compelled to do so by the government security forces. Under such circumstances, the culprit's group essentially has no choice: 'aljala' or risk going to prison (Alibeli, 1996).

'Al-majla' (Place of al-jala')

'Al-majla' refers to a specific tribal region to which the culprit group must flee to, reside, and live under the real or symbolic protection of the tribal leader of that region (Abu Hassan, 1987). Since not all tribal areas are acceptable 'majla' for the banished group, it is very important to quickly determine the appropriate majla for this group. These decisions are usually made through the collaboration of the local tribal leaders, outside tribal leaders, and government officials representing security forces and Directorate of Tribal Affairs. However, the majority of tribal men know in advance which tribe is an acceptable 'majla' and which is not based on their norms and traditions. To meet 'al-jala' rules, the banished group must head toward a tribal territory of a traditional or historical *enemy* to seek that enemy's help and request its protection (Abu Hassan, 1987). Living among, and under the protection of a strange or an enemy tribe aims at reducing contact between the culprit and victim groups, thereby lowering the chances of future bloodshed and violence. On the other hand, living under the rules of strangers or a traditional enemy is a harsh collective punishment intended to deter future crimes and provide a lesson for those who might resort to crime (Ginat, 1987). Finally, tribal law does not specify a required distance between the culprit's tribe and 'al-majla' (place of 'aljala'). As long as 'al-majla' is taking place in a territory of a traditional enemy or unfamiliar tribe, then there is no problem (Abu Hassan, 1987).

Duration of 'al-jala'

The length of 'al-jala' depends on the circumstances that follow the departure of the culprit group into 'al-majla'. It may last months, years, or in some cases, it may last forever and become permanent. For example, if the culprit group resolves the dispute and reaches a peaceful resolution for the crime (Sulh), 'al-jala' ends and the exiled group may return home unless the settlement includes a condition of no return (Alibeli, 1996). However, if a settlement is never reached due to the victim group's opposition, then, other tribes have different norms to put an end to this very complicated issue. For instance, some tribes require 'al-jala' to extend up to seven years unless a settlement is achieved. Other tribes require 30 years to be spent in 'al-majla' before the culprit group is allowed home without a settlement (Abu Hassan, 1987; Alabbadi, 1986; Alibeli, 1996; El-Aref, 1974). Yet, to end 'al-jala' and return home without *Sulh*, the culprit group must meet two conditions: 1) they must spend the required time in 'al-majla' according to their own tribal tradition; and 2) they must have exerted maximal effort to peacefully settle the dispute, but all their efforts were rejected by the victim group. Alternatively, after a long period in 'al-majla', some groups may choose to not return home, may become members of another tribe, or may reside permanently in another town.

Forms of 'al-jala'

'Al-jala' can take three different forms: Voluntary, forced, or an inverse. Voluntary 'al-jala' is the most common. As soon as a group of people know about the crime and that one of their own killed another person who belongs to the same tribe or resides in the same town, the group collects themselves and departs their homes quickly and without delay to escape retribution and vengeance killing (Musil, 1928). In addition to saving the culprit's group lives, this kind of 'al-jala' also saves the victim's group face and restores some of their lost pride and dignity by showing the guilty ones running for their lives fearing the victim's group wrath and retribution (Alibeli 1996). Yet, hasty departure is not always without its problems like leaving behind some members such as children or adolescents whose whereabouts is not known at the time of the departure. Forced 'al-jala' is less common than voluntary. Occasionally, the culprit group may refuse to depart their homes or leave their tribe for a number of reasons. As mentioned prior, they may believe that the crime is not that serious, or that they are strong enough to defend themselves against any attack, or deem the victim's group too weak to seek revenge or resort to violence, or they may feel that they are not the guilty group and proof is needed before considering leaving their homes and town. In this case, the alleged guilty group will be expelled by force or risk being sent to prison to avoid further violence and more bloodshed (Ginat, 1987; El-Aref, 1974; Alibeli, 1996).

Inverse 'al-jala' is rare and infrequently occurring. It takes place whenever the victim's group opts to depart their homes and tribe instead of the culprit's group. Inverse 'al-jala' usually indicates the victim's group determination to seek revenge in order to cleanse their honor and to regain their pride and dignity (Obeidat, 1986). Inverse 'aljala' may occur if the victim's group is so weak to pressure the culprit group and drive them out (Obeidat, 1986). On the other hand, inverse 'al-jala' may occur if the culprit group spent the required time in 'al-majla' and made all efforts to settle the dispute peacefully but their efforts went unanswered by the victim group. In this case, the culprit group might be allowed to return home despite the victim's group objections. Under such circumstances, the victim's group is left with limited choices: accept the settlement (Sulh) or leave home into a self-imposed exile. Finally, if the victim group moves out in an inverse 'al-jala', their departure will be long and their determination to institute revenge will last for generation (Alabbadi, 1982; Abu Hassan, 1987).

Functions of 'al-jala'

'Al-jala', first and foremost, functions to prevent further violence and restore peace and normalcy. 'Al-jala' deescalates violence, lowers the chances of vengeance killing, and thwarts blood shedding via separating the conflicting parties and expelling the perpetrator's group into a long distance exile. In addition, 'al-jala' allows the victim group to become less angry and vengeful and regain part of their lost dignity and pride. Equally important, 'al-jala' provides community leaders the opportunity to go between, negotiate a truce, and settle the dispute peacefully. Additionally, 'al-jala' lifts a heavy burden from the shoulders of the government security forces and frees them to handle other important matters, rather than spending the time watching, policing, and adjudicating the two conflicting groups. In addition to its ameliorative function, 'al-jala' severely punishes the culprit group by imposing on them a long-term banishment to avenge for the crime. As a further punishment, albeit psychological, 'al-jala' turns the culprit group into a weak, marginalized dependent group who relies on strangers to save their lives and protect their property. During 'al-jala', the culprit group is downgraded to a marginal sociopolitical position vis-à-vis the tribal community offering them protection (Khalaf, 1990). According Khalaf, a good and honorable life for tribal people is only possible within the confines of one's own tribal people and thus, 'al-jala' is no more than a social death. Khalaf related a story of a tribal man who was known for his brayery and courage, yet he did not avenge the killing of his own brother. "After tolerating criticism from his tribesmen for fourteen years, he pursued the culprit in his distance exile and killed him. When asked why he had waited so long, he replied that he wanted to kill the culprit twice; a living death in exile and an actual physical death" (1990, p. 260).

As a repressive penal measure (Durkheim, 1964), 'al-jala' inflicts a collective punishment on one group, imposes a sanction, and affirms the tribal norm of collective responsibility. According to tribal law, the injured group is collectively entitled to pursue and kill the offenders and destroy their property unless they abide by 'al-jala' rules and obey its regulations. Similarly, collective responsibility turns the entire culprit's co-liable group into fair game for punishment and a just subject for retribution. Put differently, the culprit's co-liable group, collectively, becomes liable for the crime; the victim's co-liable group, collectively, becomes in charge of pursuing, hunting, and killing their opponents unless they depart into exile under tribal protection, or until a peaceful settlement is reached. Furthermore, expelling the wrongdoers' from their homes and towns clarifies tribal rules and sets clear the boundaries between right and wrong or good and bad in society. In addition, 'al-jala' brings group members together and unites them as elements of an interdependent and collectively responsible social whole (co-liable group).

Besides, 'al-jala' functions as a strong and effective deterrent against crime. Knowing in advance that all loved ones will greatly suffer and be humiliated due to 'al-jala' and its complications may deter crime and discourage violence in society. In terms of this, 'al-jala's long-term suffering, humiliation, and panic creates an obstacle against crime commission and gives a clear message via an advanced lesson on the dire consequences of such a crime on the culprit's own family (Khalaf, 1990). On the other hand, collective responsibility encourages the group to vigorously monitor and carefully observe the conducts of its members, rehabilitate potential wrongdoers, and exert the necessary social control over them. In most cases, such efforts end well. However, if such efforts fail, the group may go to the extreme and publicly disown the trouble-making members and outcast the offending group members. Thus, a reckless-violence-inclined individual who brings his group recurring problems may find himself ostracized by his own group to release them from any future blood liability (Ginat, 1987). Besides preventing crime, punishing the offenders, and deterring future offenses, 'al-jala' brings "satisfaction to the members of the injured group and saves their face by redressing their wounded honor" (Khalaf, 1990, p. 268). In term of this, salvaging the honor of the victim's group and keeping their dignity is more important in tribal

society than punishing the culprits' and inflicting pain on them.

Observing the offenders fleeing the scene and running for their life may provide some relief for the victim's group and make them feel that they still are the strong, feared, and respected group in society. Tribal law like 'al-jala' has preserved the tribal structure of Jordanian society and maintained the significant role played by tribes. Despite the tremendous social change, tribal leaders continue to enjoy a hand, sometimes an upper hand, in settling conflicts and diffusing tension between tribal groups. Such a role is supported by the government and promoted by its officials since it assists the authority and serves to maintain peace and order in society. Finally, it is worth noting that tribal law like 'al-jala' was the norm among Bedouins in Syria, Iraq, Saudi Arabia, Egypt, and Israel. However, these countries established their own state law and no longer acknowledge or recognize other legal arrangements like tribal law under their jurisdiction. For example, Saudi Arabia which has the largest and historically most fierce tribes adopted the *Sheri 'a Law* (Islamic Law) which prohibits collective punishment and outlaws tribal law like 'al-jala'.

Discussion and Conclusion

For centuries, 'al-jala' tribal law has been the norm among Bedouins (nomads) living in a stateless society or among those residing beyond a central government's authority. Without a doubt, 'al-jala' very well suits Bedouins' lifestyle including collective responsibility, nomadic (pastoral) mode of production, mobile mode of residence, as well as their small population size (Alibeli, 1996). Historically speaking, Bedouins are known for living far away from, and free of, any central government authority while depending on their own tradition to settle potential conflicts and to manage emerging problems. Bedouins are also known for raising sheep, goats, and camels for a living. They are also known for their constant movement across the desert in search of food and water for their livestock. Such mobility requires them to live in light and portable tents mostly made of goats' hair and sheep wool (Bait Sha'r). In addition, the harsh environment, poverty, lack of medical services, and diseases have taken a toll on the Bedouin population and kept it small and stable (Alibeli, 1996). Given the nature of Bedouin culture, 'al-jala' has thrived as a manageable and very functional tribal rule for Bedouin's society.

However, the culture that has supported 'al-jala' for so long is in a rapid decline. For example, Jordanian central government has become the sole and unquestioned authority in society. Not only have Bedouin tribes conceded power to the central government and become enmeshed within the larger national society (Khalaf, 1990), but tribal leaders have gradually become government-paid representatives in their tribes (Gellner, 1983). Furthermore, government sedentarization policy, persistent efforts by the government to recruit Bedouins into Jordanian military, high levels of poverty among Bedouins, and the diminished grazing land because of over-grazing, desertification, and due to the closure of international borders in the region, have forced many Bedouins to exchange their nomadic way of life for the wage labor market on a permanent basis (Ginat, 1987). Employment by Bedouins in the wage labor has led to rapid sedentary living where a Bedouin's tent is now being gradually replaced by rock and brick houses. Thus, a new lifestyle has emerged among these newly sedentary people including taking advantage of the healthcare system, bringing up bigger families, and sending children to government-run public schools. Above all, rapid social change including better standards of living, higher education, modernity, and an individualistic attitude have weakened groups' social ties and led people to question the validity of collective responsibility and the rationality of collective punishment in a country of law in the 21st century (Ginat, 1987; Khalaf, 1990).

Due to the substantial social changes in society, 'al-jala' has become more problematic, difficult to execute, and too expensive to implement, socially and economically. To make matters worse, 'al-jala' practice has spread over to other non-Bedouin urban communities in towns and cities like early mentioned conflict between the 'Momanis' and the 'Smadis' in the city of Ajloun. The Momanis and the Smadis are urban, non-Bedouins who have been living together in the city of Ajloun and its surrounding for generations. In a rapidly and ever changing society, 'al-jala' may cause serious challenges for the government as an increasing number of people begin to question the significance of tribal law especially those aspects of collective responsibility and collective punishment (Alibeli, 1996). In that matter, the Jordanian government has become a subject of strong criticism for lacking the political will to implement the state law and to bear its fundamental responsibility of preventing crimes, protecting peace, punishing offenders, and deterring future offenses without causing innocent people an unnecessary suffering through collective responsibility or endorsing punishment by association. Additionally, 'al-jala' is criticized for being an outdated tradition that was good for a simple, stateless, mobile society rather than the one that is currently existing (Alibeli, 1996). Some argue that it is no longer excusable to uproot innocent people from their homes and jobs and to remove their children from schools in the name of keeping peace and maintaining order (Ginat, 1987). People are no longer able to move their homes away and transport them from one place to another

at will. It is difficult to transfer jobs wherever and whenever they want to. Also, it has become very difficult to manage the consequences of removing children from schools abruptly and for an extended period of time. In addition, since 'al-jala' is intended for a complete separation between the conflicting groups, this is no longer possible due to enhanced transportation, modern communication methods, and due to the fact that members of the two groups are most likely to come in contact with each other at work places, hospitals, police stations, and other government and business locations. Government lack of leadership concerning crime and punishment has often encouraged people to take the matter in their own hands and implement the type of justice they see fit without much thought about the government late and reactive response to the crime and its stance on social and legal consequences (Khalaf, 1990).

To summarize, 'al-jala' continues to be the norm and remains to be a strongly adhered to custom in Jordan. In the case of a serious crime like murder or an honor crime, the culprit's co-liable group has no choice but to abide by 'al-jala' rules and leave their homes and towns without delay. However, due to factors of social change, especially population growth since the country's population has increased from 472 thousands in 1950 to 6.472 million in 2010 (UNPD, 2010), 'al-jala' liability has changed toward including-roughly speaking- the culprit's male relatives of first degree such as the culprit's father, the culprit's children, and the culprit's brothers. The exact category of people who are liable to 'al-jala' rules may vary from case to case and needs to be decided by a tribal judge after 'al-jala' takes place. Those who found to be liable will stay exiled, and those who are no longer liable will be allowed to return home. Although such a reduction is encouraging, it is misleading due to the present day difference in the average family size between the traditionally small family size in the past and the larger one at the present time which is estimated as large as 6 people per family (Embassy of Japan in Jordan, 2006).

Because 'al-jala' is not going to disappear anytime soon in the near future, it is recommended to modify 'al-jala' liability to include no more than the culprit's own nuclear family. The prevailing attitude is that forcing 'al-jala' on additional innocent people is unwarranted and sends the wrong message concerning justice, guilt, and innocence in society. It is also recommended to set limits for the duration of 'al-jala' and criminalize incidents of sabotaging, burning, and destroying houses and property of the culprit's co-liable group subsequent to the crime. In addition, it is very necessary to protect the culprit's group dignity in 'al-majla' and house them appropriately. Currently, most culprit groups are left alone to live in crowded and substandard housing. Moreover, it is imperative for the government to deal quickly with other ramifications of 'al-jala' like maintaining employment, school children transfer, and the freedom of the culprit group to use public facilities like hospitals, government utilities, and business offices without fear. Finally, it is time for the Jordanian government to set laws that meet the current and future societal needs, clarify roles and responsibilities, and hold only those responsible for a crime accountable for their actions. Punishing Ahmad for a crime committed by his distant cousin Ali is no longer an appropriate policy to maintain peace and keeping order in society.

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