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## Trends in the Use of Commissives in the Informal Judicial System of *Sulha*

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### Abstract

*This article investigates the trends in using commissive speech in Sulha proceedings in Jordan. Sulha focuses on a dispute-resolution system in Arab society that uses the Bedouin Arabic dialect as the primary language of communication. Qualitative and quantitative research designs involving descriptive and survey instruments were used in this study. The data for the study were collected as audio recordings of some incidents taken from Sulha samples. Some of the data are from interviews with Sulha participants and the synthesis of archived disputes related to cases previously handled by Sulha. The data analysis was done according to the scope of Speech Act theory to show the trends adopted in the Sulha tribunals in making commitments by different participants in solving disputes. This study finds that the informal legal setting in the Sulha tribunals determines the patterns exhibited by commissive speech acts and their frequencies during the Sulha proceedings. A number of eight commissive speech acts are realised in the Sulha proceedings: promise, swear, vow, threat, guarantee, warning, acceptance, and offer. The eight commissive speech acts are realised either explicitly or implicitly. The results further reveal some of the commissive speech acts can elicit other commissives, and a number of commissives can also be resultant forces of other speech acts, such as the acts of directives. The finding of this study is expected to help understand how forms of language used in the Sulha enhance the adoption and discharge of commitment during the Sulha proceedings.*

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## 1. INTRODUCTION

The enactment of law depends on language, given that the performance of legal duty is achievable through proper language use (Danet, 1980; Fiorito, 2006). A language becomes appropriately used when it performs its intended purpose (Austin, 1962). One of the main factors contributing to a language's performance of its intended purpose is contextualising its operation (Austin, 1962; Searle, 1969). Therefore, for the performance of a legal action, a language needs to operate within a legal setting which may be defined by factors (felicity conditions) such as rules of evidence, power manifestation, and discrimination among users of the languages in such settings (Blommaert & Bulcaen, 2000). A specific pattern in using a speech act is established through the constraints of felicity conditions in a particular setting. It is worth noting that trials in legal and judicial systems follow generic patterns divided into different phases. Those stages are distinguished by a distinctive usage of language (Kiguru et al., 2016). According to Kiguru (2014), this uniqueness creates some differential patterning of speech acts in conversation. The regular employment of these patterns makes it a habit as far as language use is concerned in enacting legal acts. The habitual employment of these patterns to enact law forms a trend specific to the legal context in question.

The existing literature shows two main classes of legal systems: the formal legal system and the informal (see Danet, 1980; Furr & Al-Serhan, 2008; Kiguru, 2014). These systems, particularly the formal ones, have attracted the attention of a number of linguists, including Danet (1980) and Kiguru (2014), to linguistically attest oriented forces that enable the operation of rules of law by the statutes upon which the systems operate. There needs to be more research on linguistic forces within the setting of informal legal systems, *Sulha* included. *Sulha* focuses on a dispute-resolution system in Arab society that uses the Bedouin Arabic dialect as the primary language of communication.

With regard to *Sulha* legal system, the focus has been given to its structure, its value to the communities that use it, and the conventions under which it operates (See Furr & Al-Serhan, 2008). From the research by Furr and Al-Serhan (2008) on the *Sulha* system, it is established in this study that the concepts of linguistics in the operation of the *Sulha* legal system have not been given a study, thus calling for a study like the current study, which is linguistically based. Scanty research has also been achieved on speech acts in the Arabic culture (Abdulrahman, 2012). Consequently, it is hoped that the current study fills a gap in speech acts in cultural understanding, especially the commissives, which are understood and utilised in Arabic, particularly in the Bedouin community. To fill this study gap, the study hoped to answer the following questions:

1. How are commissive illocutionary acts used to enact legal forces in the *Sulha* tribunals?
2. How do these acts pattern in their performance of the legal forces during the *Sulha* tribunals?

The answers to the two research questions are expected to give insight into the effect of discourse forms in enacting a commissive illocutionary act by a speech in an

institutionalised informal legal setting. This implication is grounded on Kiguru's (2014) argument that success in any judicial activity depends not only on participants' utilisation of linguistic resources for achieving an intended meaning but also on how an action is performed by speech to enable a participant to get a certain commitment. Moreover, the outcome of the current study is wished to improve the functionality of the process among the Bedouins, improve its effectiveness among its participants and learn commissive acts that can be used to enhance the suitable use of language in the *Sulha* process.

## 2. LITERATURE REVIRE

### 2.1 Legal Texts

Legal texts are understood to adopt and discharge obligations and commitments. Such texts, according to Fiorito (2006), are called performatives. Depending on the speaker's intention, these performatives can come in the form of offers, swears, acceptance, and pledges. Language of offer and acceptance has been reported to be common in legal settings as means of commitment by participants (Bayern, 2015; Tiersma, 1986). Tiersma (1986) and Kiguru (2014) claim that offering and acceptance as samples of commissive address acts cannot be an issue of expression or manifesting the intention. Yet, they can be acts that force the participant to a particular way of behaviour (Kissine, 2013; Tiersma, 1986). Therefore, the speaker has to try to persuade the hearer that when saying something, the speaker is obligating him/herself to a certain proposal in the future. Tiersma (1986) adds that offering and acceptance fulfil their performative function by involving particular principles ruled by formal legal regulations.

Abdel-Jawad (2000) looks at the phenomenon of swearing in Jordanian Arabic. According to him, it is all about oath-taking devoid of tabooed words and profane expressions for reviling others or expressing anger. According to him, swearing is a speech act when the speaker limits himself to certain physical or judicial acts. To be particular, Abdel-Jawad (2000) adds that in Jordanian society, God's name, Allah, or one of the godly features must be invoked to satisfy the act. Other things included in the swearing are holy books, prophets, significant people, relatives, holy areas, creatures, moral values or times (Abdel-Jawad, 2000). All these, according to Abdel-Jawad (2000), are included in the swearing to make the act more performative.

Swearing in the Jordanian community also serves communicative functions like emphasising, offering, invitation, suggesting, promising and pledging, requesting, apologising and complaining, and praising and blaming (Abdel-Jawad, 2000). According to Abdel-Jawad (2000), all these communicative functions affect the Jordanian values of honour, chastity, dignity, and honesty, considered ideal in dictating swearing behaviour. These findings on swearing, as used in Jordan, are significant for related studies as they create a vivid environment on the process of commitment by participants in the tribunal dispute-resolution system, such as *Sulha*, as inherent in their life.

Enactment brings into force some social facts known as norms that are satisfied through the utterance of linguistic material (Marmor, 2011). These facts are meant to guide behaviour; because they are used to tell what must or must not be made (Marmor,

2011). Linguistic resources which enact forces that improve the performatives of these norms happen directly or indirectly. Allott and Shaer (2017), in their study of illocutionary force of legal discourses, notice that illocutionary directive acts are either direct or indirect, showing that provisions do not need to contain the linguistic items that make for direct directives (Allott & Shaer, 2017). From the observation of Allott and Shaer (2017), a legal text can perform an intended speech act with or without performative verbs; hence direct or indirect speech acts.

According to Hatch (1992), the legal discourse that does not consist of a performative verb utters speech act implicitly. The legal discourse is rich in implicit performatives (Pavličková, 2005). In different legal documents, explicit speech acts of commitments, permission, order, prohibition, and promise are expressed by modal verbs (Pavličková, 2005; Hatch, 1992). Within a legal setting, Hatch (1992) discusses that a number of occasions exist when a legal discourse does not consist of performative verbs for the intended speech acts. However, this legal discourse still expresses the act it is used for. The performativeness of the discourse in such occasions is improved by appropriate conventions where the discourse is used (Hatch, 1992).

The use of some of these speech acts is culture-based. This is attested in West African and Western culture by Egner (2006) using the act of promising. According to her findings, there are contrasts in the conduct of promise between West African and Western cultures. This is explained by the performative of some languages in Africa. For example, what most Westerners consider 'untrue promising' can be a respectful strategy in the West African context (Egner, 2006). She also discovers that a 'nonbinding' promise is employed in some African languages for being polite in ending a certain discourse, unlike in Western cultures.

## 2.2 Overview of Sulha

*Sulha* focuses on an arbitration mechanism to facilitate dispute resolution in Arab society in which an Arabic dialect, Bedouin, is used as the language for communication (Furr & Al-Serhan, 2008; Suwaed, 2015). The *Sulha* mechanism is used when a serious crime is committed in Bedouin society. The peace agreement after the crime or dispute follows a resolution process called *Sulh* (Furr & Al-Serhan, 2008). As Furr and Al-Serhan (2008) observed, the *Sulha* process involves a commitment by the participants towards acceptance of outcomes, and giving true and reliable pieces of information pertaining to the case. This informs the current study on the relevance of the commissive speech act in the *Sulha* system, as it is associated with commitment performance.

The traditional restorative justice actions, such as in *Sulha*, have grown rapidly worldwide. For example, in India and Pakistan, Bangladesh, Sri Lanka, Trinidad and Tobago and Nepal, a traditional restorative justice movement referred to as *Panchayats* was created as an alternative dispute resolution mechanism. Mitra (2001) observe that the litigants in Himachal Pradesh in India noted a positive response regarding the role of the informal judicial system. The *Panchayats* system is almost like the informal legal system of *Jirgas* in Afghanistan, which was also used to settle disputes amongst the Pashtun people in Afghanistan and tribal regions in Pakistan (Mitra, 2001). The *Panchayats* traditionally consisted of wise and respected elders chosen and accepted by the local community. These assemblies settled disputes between people and villages (Mitra, 2001). The *Panchayats* system is updated via the Indian government to inspire

governance at local levels (Mitra, 2001). This reformation has been due to the overwhelming number of suits pending before the civil and criminal courts (state justice system). The restructuring follows the discovery by the government of India that *Panchayats* were a speedier and inexpensive mechanism of justice delivery for those living in country zones that might not have access to courts (Mitra, 2001).

Regarding the previous studies on the commissive speech act, there is only one paper about the procedures of those acts on the *Sulha* proceeding by Alidmat and Ayassrah (2019). Their study discusses commissive speech acts of offering and acceptance in the *Sulha* tribunals and their commissive inferences. This opens a study gap in the operation of other commissive speech acts in the *Sulha* tribunals and the patterns formed by these acts in the adoption and discharge of commitments in the *Sulha* tribunals.

## 2.2 Speech Act Theory

Austin (1962) links language to actions. Austin (1962) and Searle (1969) highlight the communicative aspects of language. The two insist on a language's functionality rather than a structural form, and the structural form should count if they affect functionality. However, although syntactic structures in speech are essential, they would not be enough to get the right message (Abood, 2016). Hence, the issuing of utterances is the performance of actions, i.e., speech acts.

The speech act theory was further developed by Searle (1969). Searle (1969) echoes Austin's view of speech acts by arguing that all utterances are instruments for performing intended meanings. Since then, the theory has been given detailed views in relation to language use. For instance, the theory is identified as the process of classifying the ways of using languages by humans that have been classified by scholars and linguists (Aitchison, 1987).

Mey (1993) has defined speech act as an issue occurring in our life, which can change the present state of activities. Grundy (2000), on the other hand, looks at speech act theory in terms of performative. According to him, speech act theory analyses language in terms of performative, that is, the aspect of work in the field of language and non-serial power associated with speech. Abood (2016) further says that speech acts differ from one culture to another in several ways that can lead to communication problems. Abood (2016), therefore, suggests that the diversity of speech acts needs to be understood to avoid problems in communication in any given setting. Kasper and Rose (2002) summarise that the study of speech acts includes exploring cultures and comparing speech acts among them instead of comparing different cultures themselves. Linking speech acts to culture is important to determine the performative of various speech acts under conventions dictated by culture.

The research on speech acts has become important in the pragmatic theory since it is through the pragmatic theory that various types of acts are identified (Kiguru, 2014). Identification of these acts is deemed necessary because it is through the acts that a speaker's intended meaning via utterance is realised (Cutting & Fordyce, 2020; Searle, 1976; Yule, 1996). This may clarify the diversity of speech acts and why they must be included in studying meaning in language communication.

Undoubtedly, a main development in the speech act theory is identifying and assorting the speech acts, each of which realises different discourse functions (Abood, 2016). According to Austin (1962), five categories of speech acts exist: expositives,

exercitives, commissives, verdictives and behavitives, with each enacting particular forces in language use. Other than language forces, some speech acts can be identified by taking into account the felicity condition under which they operate (Abood, 2016).

Focusing on the main reason why the speech act theory was brought into place, Abood (2016) argues that this theory comes as a result of what is called by Austin (1962) a descriptive fallacy. Austin (1962) defends his stand using declarative sentences, which according to him, must be classified as either true or false, particularly when these sentences describe facts.

The study of speech act theory in various settings has been comprehensively covered. In a study of speech acts in a Christian wedding, Embugushiki (2010) finds that not all speech acts can be used to perform wedding vows but only commissive and declaration. From Embugushiki's (2010) point of view, it is evident that speech acts of discourse are dictated by the environment under which the discourse is used.

### 3. METHODS

The current study used a descriptive research design using a qualitative approach. To obtain qualitative data, the researcher used interviews and audio recordings. For clarity and convenience purposes, the interviews were self-administered by the researcher.

#### 3.1 Data

The target group for the interviews was *Sulha* officials, who were subjected to open-ended questions. These questions concerned the officials' use of commissive speech acts to adopt and discharge commitment during *Sulha* proceedings. The open-ended questions yielded responses that were multiple in character. These responses were input into the data editor using Excel software to provide a summary and trends in commissive speech acts in *Sulha* proceedings. Four informants, two judges and two Jaha leaders, were purposively sampled from the convenient eight judges and eight Jaha that had handled four conveniently sampled *Sulha* cases. The sampling of the *Sulha* officials was guided by the number of years the informants had served in the *Sulha* system and the number of cases they had handled as *Sulha* leaders. The researchers, therefore, picked the judges and the Jaha that had handled the highest number of cases and had served the longest in the *Sulha* system. To establish these traits (number of years and cases the interviewee had participated in the *Sulha* tribunals), the researchers consulted the clerks who had the records of every judge and Jaha. This resulted in two judges and two Jaha being chosen for interviews.

These four informants were first briefed on the objective the study, what was to achieve through the interviews, the purpose of the interviews, and the purpose of the study as a whole. For ethics, the informants were assured of the confidentiality of the information they would provide and that the information was purposely for the benefit of this study. These interviews were held in enclosed places by using a recorder as a means of data collecting to record the verbal interactions between the interviewer and the interviewees. The researchers also used a pen and notebook to take notes on what transpired in the interview that could give answers to the two research questions.

In addition, the data were also collected using audio-recording and note-taking from four *Sulha* trials, each containing sessions of defence, complaint, hearing, and judgment. The choice of the four trials was based on the accessibility of the trials. In terms of data collection procedure, the data were first obtained by audio-recording of *Sulha* proceedings conducted in Bedouin. Audio-recorded data were then transcribed, after which the English equivalents of the transcriptions were identified. It is from the English equivalents that commissive speech acts were purposively sampled, focusing on their sub-categories.

In addition to primary data, the researcher visited Tribal Consultant Department in the Hashemite Kingdom of Jordan, where documentary corpora on previous *Sulha* trials are stored. In this case, the researcher requested the documented *Sulha* proceedings between 2017 and 2019. This is justified by the fact that the proceedings between 2017 and 2019 also exist in audio-recorded versions (oral corpus), and before 2017, no recorded evidence is available to be relied on. Table 1 shows the number of audio-recorded the *Sulha* tribunals from 2017 to date.

**Table 1.** Number of *Sulhas* in 2017, 2018, and 2019 (source: Tribal Consultant Department in the Hashemite Kingdom of Jordan).

| Year  | Number of the <i>Sulha</i> tribunals |
|-------|--------------------------------------|
| 2017  | 27                                   |
| 2018  | 25                                   |
| 2019  | 17                                   |
| Total | 69                                   |

The study used stratified random sampling, where the trials were first separated into mutually exclusive sets of six *Sulha* cases at the individual level and six *Sulha* cases at the community level. Three simple random samples were then withdrawn from each of the two sets across the three years. That was done by assigning a random number for each set. This gave a total of six trials, equivalent to 10% (seven *Sulhas*) out of the total of 69 trials. As debated by [Bartlett et al. \(2001\)](#), 10% of a research population should be considered enough to answer research questions. The data obtained from the six randomly selected samples attest to the uniformity in the commissive speech acts applied in *Sulha* trials since the discourses used by *Sulha* participants, according to [Furr and Al-Serhan \(2008\)](#), are governed by the same customs and procedures. These customs and procedures are classified as felicity conditions, given that they have to be satisfied by a discourse in order for the discourse to perform its intended purpose ([Austin, 1962](#); [Searle, 1969](#)).

### 3.2 Analysis

Data gathered and categorised for the quantitative approach, were analysed statistically. Using statistical analyses, the frequencies of occurrence of each commissive speech act in the *Sulha* tribunals were counted, and their percentages were tabulated. This approach was used to find the frequency of the eight commissive speech acts in the *Sulha* tribunals.

In the analysis and explanation of the obtained data through recording and from the corpora preserved in the Department of Tribal Affairs, the researchers classified the texts from the recorded and documented texts into categories based on the significant themes they address, hence thematic analysis. To conduct this analysis, the

audio recordings were transcribed, and the written discourse strands were then coded for commissive features. A computer software, Nvivo 12 Mac, was then used to analyse the coded commissive features. As Rossman and Rallis (2003) described, thematic analysis is derived from familiarity with the data that comes from categorisation through coding. The study approached thematic analysis using an inductive way, in which the data content directed the coding and theme development.

Other than the inductive approach, the researchers also applied a constructionist way. Based on Rossman and Rallis's (2003) view on the constructionist approach, the researchers focused on how commitment is created by the data that had been collected. Coding was expected to reduce lots of data into small chunks of commissive meanings – not every piece of text was coded, but commissive texts were. The coded data were then placed into themes of promise, acceptance, warning, offer, vow, guarantee, threat, and swear.

#### 4. RESULTS

According to the findings of this study, there are eight commissive speech acts used in the *Sulha* tribunals to adopt and discharge commitment during trials. The analysis outcomes of the distribution of the eight commissive speech acts in the *Sulha* tribunals are summarised in Table 2. The eight speech acts are promise, swear, vow, threat, guarantee, acceptance, warning and offer. Included in Table 2 are the frequencies and percentages of these eight commissive speech acts.

**Table 2.** Frequency and percentage of commissive speech act used in the *Sulha* tribunals.

| Commissives | Frequency | Percentage (%) |
|-------------|-----------|----------------|
| Promise     | 21        | 27.6           |
| Acceptance  | 18        | 23.6           |
| Warning     | 13        | 17.1           |
| Offer       | 7         | 9.2            |
| Vow         | 6         | 7.9            |
| Guarantee   | 4         | 5.3            |
| Threat      | 3         | 5.3            |
| Swear       | 4         | 3.9            |
| Total       | 76        | 99.9           |

As shown in Table 2, it can be concluded that the commissive speech act of promise is the most frequently used in the adoption and discharge of commitment in the *Sulha* tribunals, with swear being the least frequently used.

As discussed in the preceding section, *Sulha* is an informal legal system that operates on Bedouin cultural norms that require all *Sulha* participants to behave in a required way. It is these norms that make commissive acts felicitous. For example, once a *Sulha* participant is found guilty, he is obliged to offer material compensation to the complainant and pay the judge a given amount of fees. The complainant has to assure the tribunal verbally of the compensation and fees. Consider Excerpt (1).

Excerpt (1) Participant A : Guarantor will be representing both guarantees of fees and attendance.

Participant B : Guarantor, do you accept that?

Guarantor : Yes, I do, and I guarantee in my name and the name of my tribe.

As shown in Excerpt (1), the guarantor's acceptance to pay fees and be available during the case satisfies felicity conditions that the *Sulha* system creates. Also noted in the excerpt that these offers are usually made at the initial stages of *Sulha* cases, thus creating a commissive act of promise. The example also demonstrates that whenever a speaker inquires about the status of the commissive speech act of acceptance in a *Sulha* proceeding, a commissive speech act of promise is used to satisfy the enquiry. This shows that a commissive speech act can be a result of another commissive speech act; that is, a commissive speech act has the effect of instigating the occurrence of another commissive speech act. This happens unpremeditatedly during the *Sulha* proceedings.

It is a trend in the *Sulha* tribunals that a speech act of directive can initiate the commissive speech act of guarantee. For instance, in Excerpt (1), the guarantor offers to guarantee a defendant under a directive from participant A. Therefore, here, commissive speech acts can result in a conversation under felicity conditions created by other speech act acts that are non-commissive.

Evident in the *Sulha* tribunal is that some of these commissive acts are known to trigger others. This is common with the commissives of promise, acceptance, and offer. Consider Excerpt (2).

Excerpt (2) Prosecutor : I determined a guarantor for you to secure everything for you, and I am in charge of this situation, and if I evidence this claim, I will be the winner, and if I do not have evidence, I will be the loser, and all of that is guaranteed by the guarantor.

Litigant : I won't be arbitrary; I will accept the judgment of the attendees.

As demonstrated in Excerpt (2), the promise that the prosecutor makes of accepting the outcome of the case triggers the commissive act of acceptance by the litigant, who also puts it open his readiness to accept the outcome. As a result of the successful performance of the commissive speech act of promise, the act of acceptance is experienced by the litigant.

In Table 2, the commissive act of promise is the highest represented in the *Sulha* tribunals, followed by acceptance, warning, and offer, coming fourth with threat the least represented. Within the evaluated categories of commissive speech acts in the *Sulha* tribunals, differences in their distribution within a *Sulha* tribunal are relevant in this study. The higher use of promise and acceptance in the *Sulha* tribunals is attributed to the fact that *Sulha* is an informal legal system whose main purpose is to restore peace among the Bedouins. Therefore, any participants in such tribunals are expected to accept the outcomes of tribunals and give promise towards the restoration of peace (Furr & Al-Serhan, 2008). One way such promises are made is through a material offer which has to be verbally confirmed by a participant in the presence of a judge and witnesses hence the occurrence of offer as a commissive act in the *Sulha* tribunals.

Other commissive acts, such as threats, are registered the least. Threats are qualified as unfavourable promises (Grant, 1949; Wray et al., 2016). Based on this observation, it can be concluded that the threat is somehow peace threatening commissive act, which explains its low registration in the peace-building judicial system, *Sulha*. Threat is a commissive discourse act whose illocutionary goal is to illustrate a future outcome for the recipient under a particular situation to promote the hearer, not to make this state true (Salgueiro, 2010; Searle, 1969). Following this, it

can be argued that threat is a fear-instilling act hence its infrequent use in the *Sulha* tribunals.

The power of the *Sulha* participants is also known to decide on the patterns adopted in the use of commissive speech acts in the *Sulha* tribunals. Some of these commissives, such as judges, are conditioned by the participants' powers. These powers are considered social obligations in such tradition-driven judicial systems as *Sulha*. Consider the dialogue in Excerpt (3).

- Excerpt (3)
- |                   |   |                                                                                                                                                                                    |
|-------------------|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Judge             | : | How do I sentence without fees? Peace be upon the Prophet; I will take fees from the loser, and the rest will be sent to you, but after the issue. Are there any mistakes in that? |
| Public            | : | No, there are not.                                                                                                                                                                 |
| Judge             | : | How much is that?                                                                                                                                                                  |
| One of the public | : | Two thousand Dinars.                                                                                                                                                               |
| Judge             | : | I want my fees from the distressed party.                                                                                                                                          |
| Distressed party  | : | I may not have enough cash, but I have 500 Dinars. You may postpone the judgement or wait.                                                                                         |
| Judge             | : | You should have brought the money in advance.                                                                                                                                      |
| Distressed party  | : | This is what I have.                                                                                                                                                               |

In Excerpt (3), the judge uses powers vested in him by the *Sulha* system to give directives, which is an illocutionary force. He directs the distressed party to pay him fees before the case proceeds. This directive is satisfied by the promise made by the participant.

Promise and offer have been looked at as acts that almost perform the same roles. On the other hand, there is a variance between promises and offers in terms of the likely placing of these acts compared to other illocutionary acts or in terms of the speaker's faith, which the listener hopes or is willing that the speaker does some acts by making some offers, the speaker promises to afford the responsibility for doing the future acts that benefit the hearer (Edmondson, 1981; Ad-Darraji, et al., 2012). Following Edmondson's observation on the act of offering, it is only registered in the *Sulha* tribunals in cases that result in a hearer's material benefit, as shown in the pleading in Excerpt (4).

- Excerpt (4)
- |            |   |                                                                            |
|------------|---|----------------------------------------------------------------------------|
| Prosecutor | : | The guarantor will be representing both guarantees of fees and attendance. |
| Plaintiff  | : | Do you admit this?                                                         |
| Guarantor  | : | Yes, I do, and I guarantee in my name and the name of my entire tribe.     |

As seen in Excerpt (4), the prosecutor's directive induces an offer by the guarantor of fees and attendance. The guarantor affirms this verbally. In this case, the hearer, the plaintiff, materially benefits.

Unlike speech acts like directives expected in settings like a socially constrained one like *Sulha*, commissives in *Sulha* are likely to be made in an indirect mode than the direct one. This is shown in Excerpt (5).

- Excerpt (5)
- |                   |   |                                                                                                                                          |
|-------------------|---|------------------------------------------------------------------------------------------------------------------------------------------|
| Judge             | : | Dear attendees, now everything is clear for us. I am not here for nothing; I want some fees; I want two thousand Dinars from each party. |
| One of the public | : | Fees?                                                                                                                                    |
| Judge             | : | How could the one judge without fees? Peace be upon the Prophet; I shall only take fees from the loser party.                            |
| Losing party      | : | I have 500 Dinars.                                                                                                                       |

As evident in Excerpt (5), the judge warns the losing party, “I am not here for nothing”. This warning is implicitly made without a performative clause, “I warn you...”. In this case, the equivalent wording of warning suffices for the hearer to deduce the illocution intended by the speaker, hence his acceptance to pay 500 Dinars, though smaller than what the judge wants.

Also noticed in the *Sulha* tribunal is that some commissive speech acts are defined by the positions of those who use them, a condition referred to by Searle (1969) as a preparatory condition. This is as shown in Excerpt (6).

Excerpt (6)    Judge        : Would you please sit down?  
                   Defendant: Okay.  
                   Judge        : Please, sit down.

Based on the choice of words, for example, the use of the word “please” by the judge makes the directive appears as a request but because of the position that the judge occupies causes the interpretation of the utterance by the hearer (defendant) as an order. This triggers a commissive speech act of promise marked by the word “okay” used by the hearer to show respect to the judge.

## 5. DISCUSSION

The use of speech acts in enacting legal actions has been studied in the formal legal system. From the findings of these studies, enacting these acts’ legal actions depends on the situation created by felicity conditions that are well defined and stated. However, the operation of speech acts, particularly the commissive ones in informal legal systems, has been given a scanty look, and this study is interested in demonstrating using a case study of *Sulha*. This study has shown that *Sulha* participants use eight commissive speech acts to adopt and discharge commitment which the traditions, according to Furr and Al-Serhan (2008), subject every person participating in any *Sulha* tribunals to show. The eight commissive speech acts are promise, acceptance, warning, offer, vow, guarantee, threat, and swear. As Furr and Al-Serhan (2008) observe, the tribunal was formed to solve disputes. Therefore, every person within the society where the *Sulha* takes its course is expected to abide by its laid traditions; some of these traditions include material compensation of a complainant by the defendant. Compensation usually comes after the complainant verbally accepts their disobedience and promises to do as per the judge’s decision. This explains the highest frequency of speech acts of promise and acceptance in the *Sulha* tribunals.

Many judicial decisions are commissive because they obligate the legal parties who are already acting to abide to or perform future acts (Stahn, 2020). In this study, *Sulha* as one of the law-protecting force in Jordan, warnings and threats from officials to other participants are also expected to avoid repeats of unlawful conduct by members of the society. These are, in turn, followed by vows from members found guilty. Vows are part of the promising commissive speech act (Gea & Johan, 2020). Through vows, the guilty make a solemn promise never to show misconduct in the future. Just as in a formal legal setting, there are cases when one cannot defend himself/herself. This calls for a guarantor who, through verbal communication, assures the distressed party and informs the tribunal of their availability to guarantee the

distressed party. If a participant loses the case, he will be obliged to give an offer in the form of money. This is usually done verbally for the tribunal to have it in records. From the discussion, these commissive speech acts form predictable patterns, as some commissive speech acts have to be triggered by others in enacting legal actions by these acts (Al-Bantany, 2013).

The present study provides evidence that the frequency of a commissive speech act in a *Sulha* tribunal is determined by the hierarchies of the participants using them in the *Sulha*. In this case, the least occurring commissives, such as threats, are mostly used by judges as they are considered powerful in such tribunals. Power impacts the linguistic actions of people (Al-Bantany, 2013), and people do not have equal control in interactions due of power imbalances (Cutting, 2002). Because of the powers vested in the judges, their threats to other participants are taken positively with a promise from defendants and plaintiffs that they are ready to obey the law and judgments. The finding also reveals the important role power plays in enhancing the performative of commissive speech acts participants use in *Sulha* proceedings. For instance, threats are made by the higher power dimension (Gusthini et al., 2018); the commissive speech act of threat may not be performative if issued by an ordinary participant in a *Sulha* proceeding.

## 6. CONCLUSION

The present paper has examined the trends used in adopting and discharging commitments in the *Sulha* tribunals using commissive speech acts. It is established in this study that the *Sulha* tribunals work within social constraints (norms), in which case every participant is expected to show commitment towards the norm. In a set-up such as *Sulha*, participants are expected to always make promises to abide by the law and accept outcomes or judgments of cases. This explains the highest frequencies of promise and acceptance compared to other commissive acts in the *Sulha* tribunals. Forms of commissive speech act in the *Sulha* tribunals, their content and intentions, as constructed by speakers, are reconstructed in the mind of the hearers, thus making them perform their commissive roles.

Also established in this study is that some of these commissives are conditioned by the powers of the participants, such as judges who, according to the social obligations of the Bedouins, must be accorded due respect. The speaker must follow the acceptable customs of the community, which, with the speech, will be helpful. Following the *Sulha* tribunals as a culture-governed judicial system relies on the Bedouin traditions, which provide felicity conditions. It is from these conditions that language performs the speech acts of commitment.

This study focuses on the *Sulha* tribunals, the traditional Arab dispute resolution in Jordanian society. These findings may not be generalised to other Arab societies with different backgrounds and contexts. While, the findings of the current study are limited to only the Jordanians, however, the findings can be used as a basis to conduct a similar research with different types of speech acts in different contexts with different sample populations on other similar traditional dispute resolutions in other parts of the world.

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## APPENDIX

### Arabic Original Examples

#### المثال الاول:

ابو سيف: (مخاطبا طراد المسلط) عندك يا ابو اكرم؟  
طراد المسلط: عندي, عندي وعند كل بني صخر انا اكفل باسم بني صخر كلهم؟  
ابو سيف: يوم اني اروح من عند القاضي ابيض وش الي يفك رزقتي؟

#### المثال الثاني:

ابو ممدوح: يارجل انا حطيتك كفيل وانت اليوم جاي في الي لي حسبتها عليك وانت مالك حجه, ان ثبتها عليك  
القول قولي ان ما ثبتها عليك انا الخسران بوجه طراد المسلط اعطيك الرزقه.  
ابو سيف: انا مالي حجه!!  
ابو ممدوح: وحد الله, انا في ادعائيه اقول مالك حجه, عقب ما تسمع حجتني يمكن يصيرلك حجه تستحج.  
ابو سيف: (مستهزئا) ياساتر, ياساتر. ياساتر. انا ما عندي حجه!!  
ابو ممدوح: انا من عندي ما اجيب شي, الي يحكم فيه الغانمين انا قابل فيه.

#### المثال الثالث:

القاضي: يا غانمين الطرفين والحضور. الان بينت السالفه على ايش. وانا كمان مش قاد ببلاش انا ودي اترزق  
الله. ودي من كل واحد الفين دينار الفين اثنين من كل واحد  
احد الحضور: رزقه؟  
القاضي: (مستغربا) انا بسولف بيش طبعا بسولف بالرزقه. صلو على النبي انا ودي اخذ بس رزقة المفلوج  
والباقي اردهن عليكو لكن عقب ما تصفى الامور, في غلط في الكلام هذا يا غانمين  
الجمهور: لا ابد  
القاضي: (استلم مبلغ من ابو ممدوح, صاحب الدعوة) هذول قديش؟  
الجمهور: عدهن