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# The factionalization of Palestinian customary justice: *sulh* politics in the Balata refugee camp

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## ABSTRACT

Having played a leading role in two Palestinian uprisings, the Balata refugee camp remains a bastion of oppositional political currents in the West Bank. This article explores how competing political factions have adopted a form of arbitration called *sulh*, or *communal conciliation*, to mitigate conflicts. Based on fieldwork and interviews with leading actors from Balata and the city of Nablus, it offers an up-close account of how the local administration of customary justice has evolved from past days of anti-colonial struggle to the present era of contested state-building. Drawing on Faleh Jabar's concepts *social* and *etatist tribalism*, the article asks: Do the *conciliation committees* of Nablus and its refugee camps constitute a semi-autonomous legal order fostering communal resilience or an instrument of power reflecting the dominance of the political elite? The study shows that the committees' embeddedness in the proto-state structures of the Palestinian leadership has challenged their autonomy. Structurally, 'tribal law' has increasingly become synonymous with the rule of the Fatah faction – a matter that long has driven wedges between leading *conciliation men*. This article contributes to our understanding of how political movements take part in shaping what is considered customary and traditional and use it to further their rule.

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## Introduction

On the first day of my stay in the Balata refugee camp, young residents had blocked off the nearby Quds highway, the southern entry point to the city of Nablus, with burning tires. They were protesting the murder of a friend.

In July 2019, the Palestinian Authority's security forces opened fire on a car carrying a group of young men from Balata. The driver had sped past a checkpoint after a verbal altercation with a security officer, which led the latter to draw his weapon. The bullets that penetrated the car injured the young man who died from his wounds in a hospital 2 weeks later. In Balata, the killing resulted in a public outcry. As I will elaborate later, the incident took place amid a hard-handed security campaign that the Palestinian Authority (PA) was leading against wanted militants and opposition groups. Suffice it to say, the trust between the political authorities and the camp population was more than frail. At

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the young man's funeral in early August, collective frustrations boiled over, resulting in an armed mass demonstration against the incumbent Palestinian leadership. Enraged young people and masked combatants bore the casket through the streets of the camp and went on to throw stones at security forces.<sup>1</sup> The way in which the PA sought to handle the situation was noteworthy. Drawing on trends that were decades in the making, the city's authorities mandated special dignitaries with expertise in customary dispute resolution to 'deal with the problem the tribal way,' as one of these puts it.<sup>2</sup> This involved reinterpreting the incident as a familial conflict between the extended family of the victim and that of the shooter, where the authorities took it upon themselves to pay a sum of 'conciliation money' in the latter's place. After this, the opposing side signaled to family members and affiliated militants to de-escalate, and the protest mostly died down.

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Found in the eastern parts of Nablus and hosting a population of at least 17,000, Balata is the largest refugee camp in the West Bank. Many Palestinians regard it as a symbol of national resistance due to its pioneering role in two grand-scale uprisings against Israel. The camp emerged as an essential enclave for Palestinian nationalist activism between the years 1987 and 1993 in the popular mass revolt now known as the First Intifada and as a base for militant activity when the occupied Palestinian territories (henceforth OPT) erupted in the subsequent Second Intifada (2000–5). Due to its legacy of revolt, Balata has also become a contested space by an incongruous host of political actors and their legal practices – the PA's security forces tasked with maintaining law and order, armed factions with an uneasy relationship with the former, and the Israel Defence Forces (IDF) that frequently raid the place (Sogge 2019; Tartir 2017). Although it is lesser known, Balata has also been important for shaping the practice of customary justice and how it has evolved in the northern parts of the West Bank. In this article, I explore how Palestinian political groups throughout these turbulent transitions have relied on a form of customary arbitration called *sulh*, or *communal conciliation*, to mitigate tensions at the local level and further their rule. In particular, I seek to understand how affiliates of Fatah – the dominant Palestinian faction – have shaped the local administration of *sulh* and how it has evolved from past days of anti-colonial struggle until the present era of contested state-building. Drawing on the concepts *social* and *etatist tribalism*, as developed by the seminal Iraqi sociologist Faleh Jabar, I ask the following: Should we understand the *conciliation committees* as a semi-autonomous legal order fostering communal resilience in the face of political turmoil or as an instrument of power reflecting the dominance of the Palestinian political elite?

Scholars have tended to see the perseverance of customary justice in Palestinian society as a sign of distrust in the formal judiciary and as proof that pre-colonial honour codes continue to act as a foil to the toss and turn of statutory law (Fares and Khalidi 2006; Khalil 2009; Milhem and Salem 2010). The study of the phenomenon has often been linked to investigations of informal kinship networks and their perceived strength vis-à-vis the formal political authorities. The weaker the rule of law, as the argument goes, the stronger a position the latter will take (Tuastad 2022a). 'Strong customary law,' as historian Chorev-Halewa writes, 'reinforces the family's centralistic power, and it does so in sheer numbers' (Chorev-Halewa 2019, 5). It is no coincidence that the most detailed analyses of Palestinian customary justice from the past few years have dealt with Hebron (Qubaja 2019) and the Gaza Strip (Tuastad 2022b, this issue), where kin-based forms of socio-political organisation is more evident than elsewhere in the OPT. Anthropologist Dag Tuastad, for example, argues in his exploration of Hamas' encounter

with the tribal order of Gazan society that the Islamist movement in question has struggled to compete with the legitimacy of 'tribal informal law' and has found itself unable to ban it (Ibid.). If we are to borrow from Jabar's treatise on tribal culture in urban spaces in Iraq, we might say that these accounts highlight sentiments of *social tribalism* in Palestinian society. Broadly speaking, this term describes a process in which social networks and customs reflecting a tribal past are made relevant anew due to the state's inability to guarantee basic services, such as social welfare or the rule of law (Jabar 2000).

Most scholars do, nonetheless, also acknowledge that state authorities tend to leave an imprint on non-state law. In Palestine, colonial administrations, such as the Ottoman, the British and the Israeli etc., have in their respective ways promoted customary tribunals to make up for the colonised's lack of trust in their legal institutions (Chorev-Halewa 2019; Jaradat 2014, 20). Not dissimilarly, scholars have argued that the PA – the Palestinian proto-state administration which currently governs (parts of) the West Bank – has adopted customary justice as a broader strategy to mobilize conservative forces in the suppression of youthful (or Islamist) opposition actors (Tuastad 2017; Milhem and Salem 2010; Frisch 1997; Brynen 1995). The incentive to appropriate tribal culture for political gains resonates with Jabar's concept of *etatist tribalism*. This involves incorporating patriarchal elites, tribal lineages (fictive or real) and symbolic culture into the state with the intent of ensuring the survival of a fragile political elite (Jabar 2000, 28). In *etatist tribalism*, customary justice does not act as a foil against state failure, nor does it necessarily empower traditional forces – it becomes an instrument of patronage for a totalitarian administration (Ali 2018, 85).

As illustrated above, there is a tension in the scholarly descriptions of customary justice and its function in the OPT. On the one hand, the literature suggests that Palestinian nationalist groups vying for statehood have found it difficult to compete with the legitimacy of pre-existing social structures and perceptions of law and to some degree find themselves challenged by these. On the other hand, it also suggests that such actors, in the absence of statehood, have attempted to coopt and dominate customary justice, as a strategy to entrench their rule in informal ways. Despite the substantial scholarly interest in the subject, there is a scarcity of ethnographic studies to explore how customary justice interacts with political power in the contemporary West Bank. In general, area-specific studies have been few and far between and northern governorates like Nablus have been underrepresented, perhaps due to their perceived lack of a 'tribal' culture. What then does the view from Balata provide?

While this study cannot provide a complete picture, it offers a rare, close-up account of the ideals, structures and actors governing the field of customary justice in a society of refugees that has been central in the struggle for Palestinian self-determination, and how these have developed over time. What follows is a historical discussion in two main parts. The first explores how Balata's political leadership came to appropriate emerging expressions of *social tribalism* during the First Intifada and built elaborate semi-formal legal arenas to contest the hegemony of the Israeli occupation. The second part investigates how the political elite that emerged from said uprising has gone on to organise its ever-expanding *sulh*-bureaucracy in the present era of state-building and security reforms. The article finds that while the conciliation committees of the uprising exerted high measures of communal resilience, their gradual embeddedness into the expanding proto-state bureaucracy of the national elite has challenged their autonomy and ability to assert themselves as an independent social force. The discussion suggests that it might be wise to differentiate between

customary justice as a set of cultural ideals and governing structures: Culturally, kin-based honour codes and precolonial methods of conflict resolution retain a significant resonance among the people of Balata and the refugee camps of Nablus. On an administrative level, however, ‘tribal law’ has increasingly become synonymous with the political dominance of the Fatah faction – a matter which long has driven wedges between leading *conciliation men*. On a broader level, the article challenges the notion that customary justice is something strictly informal or exists in contention with the state. Ultimately, it shows that *sulh*, as a method of arbitration, does not survive as a set of rigid, unchanging traditions, but as an elastic and adaptable system capable of thriving within rapidly changing political realities. It provides a vibrant example of how rebel groups and proto-state actors take part in shaping what is considered customary and traditional and – in the view of some – distort it.

The article builds on 5 weeks of fieldwork and participant observation in the Balata camp, where I lived between August and September 2019. During this period, I interviewed around 35 people including community activists, faction heads, militia leaders, NGO employees, security officials, other PA staff and legal scholars with substantial knowledge on political life in the area. My access to the ‘field’ was mostly, but not exclusively, facilitated by a group of community activists from a Palestinian NGO, who very graciously took it upon themselves to host me in the camp for the duration of my stay. Given the tense situation in Balata and Nablus in general, I took extra precautions to keep my interlocutors safe. This involved regularly deleting recorded conversations, transcripts and field notes and uploading them to a secure server before leaving the camp. Moreover, as I relied on my hosts’ network of contacts, I made sure, to the extent I could, that no interlocutor felt pressured into letting me interview them.

During my stay, I was also able to meet a few of the authorities who had established conciliation committees during the First Intifada. I had intended to return to the camp for another extended stay to follow up these conversations but was prevented due to the breakout of the Covid-19 pandemic. Eventually, with the help of my talented research assistants Darwish and Ibrahim, I was able to (re)connect with 10 leading conciliation men from the Nablus (and Jenin) area via digital means between 2020 and 2021. All interviews were carried out in colloquial or formal Arabic by the author. Before I embark on the historical discussion, I will offer a brief introduction to *sulh*.

## A pragmatist system

Pre-dating modern state formation, *sulh (conciliation)*<sup>3</sup> is the most common expression of non-state law practiced in the OPT. Although it borrows heavily from the concepts and vocabulary of customary Bedouin tribal law (*urf*) and has been influenced by Islamic jurisprudence, *sulh* differs from both. First, it is based on arbitration where verdicts are reached by negotiation and does not require a hierarchy of judges or legal experts to be carried out. In principle, any male adult, as long as they enjoy acceptance within their community, can take on the role as a man of conciliation (*rajul islah*). Second, it places emphasis on forgiveness rather than on retribution. The goal is to reestablish a sense of harmony and balance between feuding communities to prevent violence from spreading. The process is often referred to as *tribal conciliation (al-sulh al-‘asha’iri)* because it draws

legitimacy from the idea of the extended family functioning as a cohesive social unit, in which members of patrilineal descent groups are expected to avenge their next of kin or collectively bear the blame for their actions.

While smaller conflicts are solved ‘over a cup of coffee,’ feuds occurring as a result of severe *premeditated* violence, including murder and rape, demand a more elaborate approach and typically involve paying fees and signing a succession of truces or ‘*atawi*’ (s. ‘*atwa*) over longer periods of time. During these proceedings, which might take years, the parties engage in negotiations in order to hash out the conditions of a final, lasting agreement, or *sakk sulh* (*conciliation deed*), which is celebrated with a public ceremony where the aggressor is reaccepted as a member of the community.

A narrative of humiliation and forgiveness lies at the core of these processes. During conciliation sessions, the opposing sides might face each other, while coffee tables are set up between them to symbolise that one will leave as friends. Meanwhile, conciliation men are expected to embody the humiliation, the anger or the hunger for retribution felt by the side they represent, while they in poetic ways underline that true honour emanates from forgiveness, not revenge. In her study of *sulh* rituals from a Palestinian majority village within Israel, anthropologist Sharon Lang argues that these processes ritualistically turn pre-existing patron–client relationships on their head. It is the downtrodden and hurt who extend favours to the powerful, and they do so by agreeing to let the latter re-establish their honour through conciliation (Lang 2005, 86–89). ‘This reverse positioning is extraordinarily flattering for the injured family,’ Lang argues, because ‘the weakened party is put in a (temporary) position of “patronage” over society’s most esteemed men.’ (89) Naturally, this reversal of roles and resetting of balances cannot take place unless under the auspices of respected mediators who are seen as objective, fair in their verdicts and knowledgeable of the customs. ‘You have to be courageous,’ a conciliation man from Balata shared. ‘You need to be capable of telling the powerful that they are wrong and the weak that they are right.’<sup>4</sup>

Although the co-liability of the extended family plays an essential part in upholding the agreements made through conciliation, it is important to acknowledge that kinship identities are contextual and interactional and are not relevant in every avenue of social life.

In Balata, for example, kinship groups do not have distinct leaderships. Nor did I find proof that kinship-ties mattered much in the elections of the camp’s internal faction-based administration.<sup>5</sup> However, during conciliation sessions, even households of five would vividly refer to themselves as an ‘*ashira*’ (a clan or tribe). In this article, I maintain that the cultural resonance of the internalised rituals associated with tribal justice is more important than the presence of an actual tribal social order. Moreover, as I will show in the following discussion about The First Intifada, *sulh* is at its core a pragmatist system, that is flexible, and easily applicable in times of dramatic change.

## Part 1: The social tribalism of the First Intifada

In the six-day-war of 1967, Israel occupied the Palestinian territories and went on to establish a military administration to govern the civilian populations. Although this administration aimed to suppress any type of political activity, it was not able to keep nationalist groups associated with the Palestine Liberation Organization (PLO) from organising in refugee camps and at university campuses (in the 1970s). By the time the

First Intifada broke out in 1987, the Balata camp in Nablus was already a notable hub for young educated Palestinian activists, and it quickly became an essential base for a nationwide clandestine umbrella-organisation calling itself the Unified National Leadership of the Uprising (UNLU). The latter coordinated closely with the PLO and incorporated several grassroots organisations such as trade unions, vocational centres and women's collectives. In doing so, it challenged the established social order within the refugee camps and elsewhere, where young men and women who resented the political passivity of the parent generation asserted themselves as the leaders of a burgeoning national movement. In this section, I explore how these actors sidelined the established patriarchs of the Balata camp but simultaneously came to draw on cultural norms of tribal honour in their bid to establish a provisional legal order.

### *Sidelining weak patriarchs*

The people of the Balata refugee camp hail from a collection of roughly 60 coastal villages and cities in the Lydd, Jaffa and Ramle districts of historical Palestine, which were depopulated and purged of their indigenous populations, leading up to the creation of the state of Israel in 1948. The collective loss of property, the dispossession of land and the condemnation to a life in exile are factors that took part in eviscerating many of the class differences that had previously existed between these populations. The situation of refugee-hood made social contrasts between smallholders and landowners and between those with a Bedouin background (the clear majority in Balata) and sedentary populations less significant. Meanwhile, new divides – such as those between rural camp refugees living in squalor and city folk not having endured the same history of loss – came to colour everyday life in exile. Yet, perceptions of status connected to kin and village origins continued to play a role in the socio-spatial organisation of the refugee's new settlements as the makeshift tent-landscapes of the 1950s gradually were replaced with semi-permanent building structures. The quarters of the Balata camp were named after the biggest kinship groups or village communities that settled down in them (*Hashash, Qur'an, Jamasi, Tirawi* etc.), and new hierarchies emerged because the city's authorities would seek to recruit local community leaders to fill various administrative tasks. The Israeli military administration, for example, retained the colonial practice of appointing village notables or *makhatir* (*s.mukhtar*) to act as their intermediaries vis-à-vis the Palestinian populations (Baer 1980). In Balata, Israel would rely on the camp's *head mukhtar* to name dissidents, which drove wedges between families. Not surprisingly, the younger generation developed a strong distaste for this type of 'village mentality.' 'The Israeli forces tried to make a *mukhtar* for the camp, they tried to make a *mukhtar* for every family,' 'Ahmad' remembered. He had joined the leftist *Popular Front for the Liberation of Palestine (PFLP)* in Balata in the mid-1980s, at a point when the West Bank was ripe with national revolt:

They tried, and they tried, and they tried. There were revenge killings and all kinds of backwardness. We would say this *tribalism* is killing us . . . it is really killing us! We would say that the families who do not join the national struggle, will become a threat. So the factions, when they began recruiting, they would make sure to choose at least one from each family. Not in order for them to act as a representative of their family but, on the contrary, to break down the power of the clans, and transfer it to the revolution.<sup>6</sup>

Although the uprising certainly challenged the standing of patriarchal elites in Palestinian society, it did not erode their function entirely. Some continued to wield authority in mediation procedures at the behest of the new leadership to mitigate growing tensions between civilian populations and overzealous faction affiliates (Winder 2020; Zilberman 1996; Wing 1993). At an early stage in the Intifada, Palestinian police officers left their posts en masse, and some joined masked *shabab* (youth activists) in forming impromptu strike forces to guard Palestinian-populated areas (Lia 2006, 41). The strike forces of the Balata camp would coordinate security measures with an internal Popular Committee and discipline those who were hesitant to follow the directives issued jointly in pamphlet form by the UNLU and the PLO. Business owners who were unwilling to commit to strikes and boycotts faced repercussions, and humiliating punishments were dealt to those suspected of sharing details with the Israeli military administration. ‘Everybody was a suspect,’ a health worker recalled. ‘Let’s say you were ill, and needed to leave the camp for treatment, or to give birth. They would interrogate you, *who will you see?*’<sup>7</sup> When the UNLU/PLO called for the formation of conciliation committees a year into the uprising, it was a response to similar tensions rising throughout the OPT.

### *The new conciliation men*

In principle, *sulh* was not seen as a morally superior system by any political force. Rather, it constituted a lowest common denominator bridging the gap between ideologically heterogeneous resistance factions and their disparate interpretations of justice (Zilberman 1996). That being said, communal conciliation served an ideological purpose in the sense that indigenous expressions of collective morale were deemed an important vehicle in contesting the legal hegemony of Israel and its police forces (Winder 2020). Interestingly, a scholar of Islamic sharia from the Nablus area explained how he had gone on to educate himself in local expressions of customary justice in the decade leading up to the Intifada to meet the rising demand for arbitration which was brought on by a growing distrust in the Israel-dominated courts.<sup>8</sup> In the villages and refugee camps of greater Nablus, ‘tribal law’ was ‘the only law people knew,’ he contended, and he had at the time found it necessary to acquaint himself with the ‘rule of the people.’ This testimony is a good example of how both practical and ideological concerns paved the ground for emerging expressions of social tribalism.

In Balata, some of the most revered authorities in *sulh* were no longer trusted to mediate in conflicts after the uprising became a fact. Instead, young apprentices took their place. These were proponents of the UNLU/PLO who had learned the rituals of conciliation from the parent generation but, who unlike the latter, were not ‘tainted’ by ties to Israel. For example, while the camp’s *mukhtar* was sidelined by the factions, his 30-year-old son, a Fatah guerilla and self-ascribed man of conciliation, came to play a pivotal role in organising the local conciliation committee. The most notable personality, nonetheless, was a 49-year-old refugee based in the adjacent New ‘Askar camp, called Muhammad Abu Kishk.<sup>9</sup> Hailing from a village in the Jaffa sub-district, Abu Kishk had been trained in the field by his uncles who were regarded as prominent men of conciliation during the British mandate era. He also had strong revolutionary credentials. After the six-day war, he travelled to Lebanon (and Jordan) where he enlisted as a guerilla fighter and became acquainted with the central leadership of the PLO. Managing to slip back into



Nablus in the early 1970s, Abu Kishk went on to build clandestine militant cells, first as a member of the Syrian-backed faction Sa'iqqa and later as a Fatah combatant. Throughout this period, he was continuously arrested and was in 1976 sentenced to 12 years in detention, after an attempt to blow up an Israeli military structure went awry. In prison, he would spend his days getting to know a host of young activist from various political movements, many of whom he took under his wings following his early release in 1985, having been freed in a prisoner swap. Described by his contemporaries as the only person able to gather the view of all factions, Abu Kishk became instrumental in forming a *Supreme Conciliation Committee* gathering roughly 15 heads from the neighbouring Balata, al-'Ayn, and the New and Old 'Askar camps.

Crucially, this institution did not stop at mediation. The access to strike forces made it possible to order physical punishments, which became all the more prominent as the race to apprehend collaborators intensified throughout the uprising. In the process, the deterrent force of the factions became as important as the co-liability of the extended family. 'If somebody got into trouble and attacked people, they would get their hand broken,' one of Abu Kishk's close allies from the New 'Askar camp told.<sup>10</sup> It was not unusual for people to be brought into the Nablus camps by force to be 'tried' by the Supreme Committee. As a prominent Fatah activist from the area put it: 'Their role [was] vital, they were considered a court.'<sup>11</sup> This 'court,' and its interlinked network of local committees in Nablus, was indicative of how customary justice had become an institutionalised undertaking. The secretary of the Supreme Committee would keep an official registry of every open case, as well as of every truce or conciliation implemented. This institution would also issue verdicts – passed on by telephone or in letters smuggled out of the camp – to be implemented in the vast Nabulsian countryside. 'The problems would [be handed over] to us, in order for us to study them, to intervene and resolve them,' Abu Kishk's former secretary relayed: 'After reaching a verdict, our decision was spread to the *shabab* of the factions who would implement the decision wherever the problem had occurred [. . .] the punishment would come immediately and without hesitation.'<sup>12</sup>

### **Fatah captures the committees**

During my fieldwork, local conciliation men spoke of the First Intifada as the pinnacle of their careers. Yet, not everybody remembered these events to be frictionless endeavours. Some ceded that it was not always moral integrity that gave the given conciliation committee its strength – rather, it came down to the ability of its affiliates to build alliances with political groups. Many of the factions, from the leftist PFLP to the Islamists of Hamas, would strive to appoint their own affiliates to the Supreme Committee as to have a say in legal decisions, while some of the village notables who had been shunned by the young Intifada leadership would do the same. In this scramble for control, the Fatah movement quickly emerged as the dominant force, and it did so with external support. As noted by historian Rashid Khalidi, the Tunis-based PLO/Fatah leadership – which was facing political marginalisation after having been evicted from both Jordan and Lebanon – had been caught off guard by the breakout of a grassroots-led revolt in the OPT, but lost no time in attempting to coopt it (Khalidi 2020, 174). The consequence, Khalidi writes, was an increasingly 'intrusive management of the intifada by remote control from Tunis [. . .]' (ibid.) This was also the case with the conciliation

committees. In Nablus, the Tunis-leadership reportedly kept close tabs on local rulings, provided funding and even intervened in the most pressing matters. Fatah leader Yasser Arafat even created a '*diyya fund*' to be used in cases where his allies hurt or killed the wrong people, and there was a need for conciliation money to restore balances.<sup>13</sup>

These external intrusions were not always conducive to solving conflicts at the local level. Rather than transcending factional feuds, the conciliation men would gradually find themselves subsumed into them. In the Nablus camps, tensions grew within the ranks of Fatah after Arafat made the major strategic blunder of quelling, rather than intensifying the Intifada, when entering into (indirect) peace talks with Israel – which eventually paved the way for the Madrid Conference of 1991. While the uprising began petering out, disagreements over succession and positions broke out within the local Fatah leadership, which eventually tore the Supreme Committee into two. In 1992, local Fatah strongman Abu Ibrahim al-Tirawi and the son of the former *mukhtar* of the Balata camp began managing their separate conciliation committees. 'We were all with Fatah, and the conflict revolved around appointment, over who was in charge,' the latter told. '*Have you been appointed or have you not?!* These factional conflicts impacted negatively on social life, and their impacts are still felt today – at the familial level.'<sup>14</sup>

To summarise, the First Intifada saw a fusion between emerging expressions of *social tribalism* and popular resistance ideals, where traditional manifestations of pre-colonial justice came to serve the national movement's liberation agenda. Although the new conciliation committees were a primary example of indigenous Palestinian communal resilience, their autonomy also found itself challenged by their close links to the Fatah movement and its internal quarrels. In the following section, we will see how these discords have multiplied manifold with the subsuming of both Fatah's grassroots institutions and conciliation committees alike into the proto-state administration known as the Palestinian Authority.

## Part 2: The etatist tribalism of the PA

The tensions that surfaced within the national movement during the uprising continued to grow during the Oslo peace process between the PLO and Israel. Between 1994 and 1995, exiled Palestinian leaders based in Tunis and other Arab countries returned to the OPT to create an interim quasi-state administration (the PA), which began taking control over Palestinian-populated areas in The Gaza Strip and the West Bank. Yet, lacking both territorial sovereignty and economic autonomy, the new authority often found itself subordinate to Israeli decisions and remained dependent on Western and Arab donors to pay salaries. While the Oslo-process did not guarantee much in terms of Palestinian statehood, it gave PLO, Fatah and (incoming) PA leader Yasser Arafat exponential access to donor-backed funds to coopt or sideline the younger activist who had led the uprising in his absence (Shikaki 2002; Brynen 1995). Towards the end of the 1990s, Balata and other camps emerged as stomping grounds for disgruntled members of Fatah's 'young guard' who blasted the leadership for enriching itself on Oslo-generated business deals while neglecting the perseverance of the Israeli occupation (Kershner 2005, 112). When the peace process broke down completely and the OPT culminated in another mass uprising known as the Second Intifada (2000–05), some of the same actors took part in forming clandestine militant groups like the Fatah-linked al-Aqsa Martyrs' Brigades (AMB), who,

aided materially by an incongruous host of national elites, engaged in violent tactics against Israeli military and civilian targets (Sogge 2021, 41–42). During this period, the IDF shelled and starved Balata, conducted mass arrests and left its population with severe physical and psychological trauma for years to come.

After Arafat's death in 2004, Mahmoud Abbas, a Fatah member with Western support, assumed the leadership of the PA/PLO/Fatah and embarked on a donor-driven effort to build Palestinian governing institutions and establish a rule of law in the OPT. However, it became increasingly clear that Abbas' Western support was contingent on his willingness to disarm unwanted armed factions and his commitment to maintain security coordination with the IDF whatever the domestic political costs. Gradually, these dynamics set the Palestinian president on a path to authoritarianism, where stifling opposition groups and ruling by decree became emblematic for his leadership (El Kurd 2019, 11, 37). After a failed attempt at forming a Palestinian unity government with Hamas in 2007 saw the latter lay claim to the Gaza Strip, Abbas' disarmament campaigns in the West Bank evolved into large-scale sweeps for suspected sympathisers of his Islamist rivals. During this period, the Nablus region became the primary focus of the PA's show of force (Leech 2016, 100). In Balata, the PA's security forces eventually also came to blows with former AMB combatants, having sought alliances with indignant Fatah elites who felt sidelined by Abbas and were eager to capitalise on the growing discontent with his leadership (Sogge 2019).

It would be inaccurate, however, to suggest that the Palestinian leadership's methods for dealing with these rifts have been confined to physical force. In this part, I will demonstrate how the Abbas administration has incorporated *sulh* as a part of its repertoire to contain political conflicts and quell popular dissent in the post-Oslo era. I will highlight three key features that characterise the PA's *etatist tribalism*: 1) the deep embeddedness of conciliation committees in the state bureaucracy, 2) coordination between conciliation men and security actors and (3) incessant meddling in conciliation sessions by faction elites.

### **An expanding sulh bureaucracy**

In September 2019, I was greeted warmly by a representative of Nablus' Civil Peace Administration (CPA) at the Muqata' — the city's massive governmental compound. My interlocutor had been a member of the Balata camp's Fatah branch during the First Intifada and had like many of his contemporaries since gone on to make a career in the PA's security forces. In 2011, however, he was handpicked by the governor of Nablus to serve as his *tribal counsellor* (*mustashar 'asha'iri*). In practice, this meant functioning as an official envoy in conciliation sessions and managing the bureaucratic side of *sulh*, which had only grown more complex in the intervening years.

Leading up to the announcement of the Oslo accords in 1993, jurists hastily drafted a law declaring that the awaited Palestinian state would be a parliamentary democracy with a multi-party system, guaranteeing 'personal rather than collective punishment, the presumption of innocence and various other due-process guaranteed for' any defendant (Aruri and Carroll 1994, 8–9). These ideals, however, would prove difficult to achieve. Famously, the Oslo accords left substantial parts of the West Bank under partial or complete Israeli control, and thereby inaccessible for Palestinian security forces to enforce the law.<sup>15</sup> Another obstacle was the PA's failure to recruit professional jurists, resulting in

an overburdened and frail judiciary (Haddad 2016, 205). Ultimately, it would take a decade for the PA's *Basic Law* (2003) to be implemented, due in no small part to internal power struggles over which body had the right to see the process through. In the interim, the new leadership came to embrace a form of legal pluralism borrowing heavily from the former Jordanian penal code (in the West Bank) (Brown 2000, 28–29), but which also incorporated Islamic jurisprudence and customary justice. In 1995, Arafat established an Administration of Tribal Affairs to support the work of conciliation committees and various non-state tribunals. These dynamics seemed to strengthen the social standing of many prominent conciliation men but also bound them to the new authority – not as state employees, but as informal contractors. Although some vehemently reject the practice, it is an open secret that many earn a ‘wage’ through taking cuts from truce agreements and conciliation money. ‘After Oslo, some started to treat this as a job,’ an interlocutor from the Nablus area noted.<sup>16</sup>

Expanding upon the conventions established by Arafat, Abbas’ CPA was shaped in conjunction with his donor-backed security sector reforms and took part in forming *Central Conciliation Committees* in northern governorates like Nablus (2011), Tulkarem (2014) and Jenin (2015). The aim was to unburden the formal judiciary, a security official said, because courts struggled to handle ‘the unprecedented levels of crime and civil unrest’ that had become a reality after the Second Intifada.<sup>17</sup> Aside from rebranding ‘tribal affairs’ as ‘civil peace,’ Abbas has detached the administration of customary justice from the presidential office, delegating it instead to the Ministry of Interior, which manages the CPA on a governorate-to-governorate basis. In practice, this puts the governors of the West Bank – who otherwise supervise all local government agencies including police forces – in charge of the operation. Typically, governors will appoint their respective *Chief of Conciliation* (*‘amid islah*); a revered authority within the field tasked with organising various sub-committees under their command and unifying practices. ‘The tribal conciliation committees do not replace the law, they complement it,’ Fakhri al-Turkman, Chief of Conciliation in the Jenin governorate/Jenin refugee camp contended.<sup>18</sup>

No one is above the law, but with the committees you save a lot of time, and the people are more pleased. In a court, there are only two parties, the wronged and the wrongdoer. Meanwhile, their families might still be filled with hatred and spite. A tribal session is more holistic because it includes the families, they meet each other and shake hands.

Back in Nablus, the tribal councilor appeared to have his hands full with the paperwork emanating from conciliation sessions held around the governorate. Thirty to 50 new cases were handed to him every month, many of them ‘containing blood,’<sup>19</sup> he told, and the various legal institutions needed to work together. If feuding families can prove through documentation that they have fully reconciled, he explained, courts might cut a convicted offender’s sentence in half – a practice based on article 99 of the still applicable 1960 Jordanian penal code. Every piece of paper needed to pass by his office or the conciliation process would not be regarded as valid in the eyes of the authorities, my interlocutor said, as he pulled out seven different forms used for filling out truce agreements (*‘atawi*), all carrying the emblems of the PA. If the conciliation men did not follow suit or use the right paperwork, he stressed, they would lose their most important asset: their ability to reduce sentences.

The PA had not only incorporated *sulh* 'into its fledging bureaucracy' (Terris and Inoue-Terris 2002, 465) but appeared to have made steps towards monopolising the practice. In conjunction with these efforts, the Ministry of Interior had in 2013 issued 'about 300–400' IDs for leading conciliation men, meant to facilitate their entry to 'all corners of the West Bank.'<sup>20</sup> Moreover, it was widely regarded that the Abbas' administration no longer tolerated members of banned Islamist groups such as Hamas and Palestinian Islamic Jihad as members of conciliation committees – even those with reserved sympathies faced pressure to abandon the field. To the extent that 'tribal justice' continued to outflank the 'official legal system,' as an al-Jazeera report from Nablus phrased it (Zabaneh 2022), it seemed doubtful that it would be able to do so without the approval of the political authorities. This brings us to our second point, dealing with how conciliation men cooperate with security actors in conflict scenarios.

### **New security regimes**

As we saw an example at the beginning of this article, it was not unusual for security officials to seek tribal settlements with unintended victims of their campaigns. A year after the murder of the young man from the Balata camp, a similar scenario took place in the nearby Balata township. In July 2020, a member of the security forces shot and killed local Fatah strongman 'Imad al-Din Dweikat at close range during a quarrel over a store's permit to stay open during a Covid-19 lockdown (Quds Daily News 2020). Following the killing, Fatah militants and members of the extended Dweikat family stormed the streets, calling for the overthrow of President Abbas. During the turmoil, the governor's Chief of Conciliation, Mazin Dweikat, was successful in reconstructing the conflict – which had begun as an internal showdown in the largest Palestinian party – as a feud between his own kinship group and the authorities, by opting for a reconciliation process as opposed to a political process. Assisted greatly by PA-friendly media, he assumed the role as the spokesperson of the Dweikats and began holding press conferences urging restraint among his clansmen, saying he expected the President to request a truce.<sup>21</sup>

The way that both feuds were contained was a masterful display of soft power. If these experiences were any indication, the strategy of having patriarchal authority figures coerce their kin into conformity was an efficient way of deflating popular dissent. Naturally, as many Palestinian rights groups have pointed out, it was also deeply troubling in a human rights perspective.<sup>22</sup> Curiously, leading conciliation men ceded that they also had doubts about the PA's administration of customary justice and blamed it for engaging with 'tribal law' in superficial, if not opportunistic, ways.<sup>23</sup> After the Dweikat-protests died down, for example, the local authorities conveniently decided that the shooting did not constitute *premeditated* murder and thus saw no point in honouring the victim's family by requesting a formal truce, as the tradition in such a case would demand. Instead, a sum of money was paid behind closed doors. The lack of public response from the PA was a source of embarrassment for Nablus' Chief of Conciliation, who went on to relay to the public that he had slept with his cell phone under his pillow for three nights (the timeframe of a 'burial truce') without receiving the expected call from President Mahmoud Abbas.<sup>24</sup> In our conversation, Dweikat himself expressed his reserved frustration that the conciliation committees had increasingly become 'politicized' in the present period.<sup>25</sup> Evidently, the actors owing their reputation to their efforts in managing conflicts

in past national uprisings did not univocally feel at ease with their current role as intermediaries for an administration that showed no qualms about violently uprooting what was left of the 'popular resistance.' Nevertheless, their role in managing feuds also found itself challenged in more subtle ways. This brings us to the third and final point, dealing with how faction elites have made a habit out of intervening in conciliation sessions for personal gain.

### ***Benevolent sponsors***

When managing cases of violence, conciliation men will often look for sponsors or patrons to get the process moving along. A defence sponsor (*kafil dafa'*) might be put in place to shelter suspected perpetrators from acts of revenge, while a fulfilment sponsor (*kafil wafa'*) takes it upon themselves to pay for the truce, if relatives cannot afford to raise the money between them. Herein lies an obvious opportunity for political leaders to extend their patronage over the weaker or poorer parties.

Elite interventions have likely always played an integral part in *sulh*. Nonetheless, my interlocutors seemed to agree that the dynamics had been altered with the creation of the PA due to the rising social inequalities between an affluent political class and those barely scraping by. In Balata, it was often said that PA officials never wasted an opportunity to sponsor conciliations, presumably with the intent of asserting themselves as the social glue binding the camp's families together. In fact, many shared the belief that the most difficult cases could only be solved through the governor of Nablus' personal intervention, whether this meant hosting sessions at his own conference hall (see under) or making dramatic entrances to the camp during ongoing mediations. Such gestures from above tended to have a multifaceted impact. On the one hand, they were often welcomed by leading men of conciliation because it would speed up the process and make it easier to contain violence in the short term. On the other hand, many also ceded that they created an imbalance in the long term because those who knew they enjoyed the cover of political elites had fewer incentives to commit to a lasting peace. On occasion, such meddling seemed directly counterproductive to resetting balances. In February 2021, for example, Governor Ibrahim Ramadan made his way down to the camp and requested to cover the conciliation money on behalf of a PA customs official suspected of having killed a bystander during a clash that had erupted in the aftermath of a botched Fatah election.<sup>26</sup> This proposition created somewhat of a controversy because it came with the condition that the suspected killer should not be named or renounced in public, as is common. Locally, many understood this as an attempt to shelter a party fellow under the guise of conciliation. Instead of ritualistically subverting established power balances and putting the downtrodden above their aggressor, the events underscored the dominance of the resourceful.

Interestingly, certain camp-based militia leaders, some of whom found themselves at the receiving end of the PA's raids against Balata, appeared to have adopted similar strategies for entrenching patronage. One of these was Jamal al-Tirawi (the son of Abu Ibrahim), who at the time of my visit had – via his links to the demoted Fatah leader Muhammad Dahlan – established a substantial militia force consisting of ex-AMB combatants and young people with criminal records, all of them locked in feud with the Fatah mainstream. Having headed a controversial splinter cell within the AMB during the Second Intifada ('The Central

Command'), al-Tirawi had since his early release from Israeli prison in 2013 fashioned himself a dissident who seemed to gain clout through opposing the PA's security campaigns and had begun sponsoring conciliation sessions as part of his popular repertoire. During a visit to his well-decorated office outside of the camp, al-Tirawi told me he had little patience with kinship politics and tribalism, underlining that his mission was to bring the Fatah movement back to its former strengths and free it from the shackles of Oslo and Abbas. '[But] in light of the regression of the law,' he told, 'the clans are important in terms of implementing reconciliations between people [...] the younger generation is trying to take the reins of this initiative.'<sup>27</sup> Not unlike his adversaries in the Fatah establishment, his approach seemed to involve attempts at 'buying' his militants out of trouble, by offering conciliation money in return for silence (Shawahine 2018). Al-Tirawi's prowess as an entrepreneur of conciliation, nonetheless, found itself contested by another well-connected ex-combatant from the camp. Upon his return to Balata in 2012 after a decade in Israeli captivity, Abu Islam al-Hashash had established himself as a local strongman for Majed Faraj, the head of the PA's General Intelligence Service. In addition to heading his own armed Fatah gang, Abu Islam became a member of the camp's internal conciliation committee and began sponsoring sessions. Both actors' merits in promoting civil peace were questionable. In 2015, a conciliation session in which both al-Hashash and al-Tirawi had played a role ended in a clash where an older resident was killed by a stray bullet.<sup>28</sup>

The Oslo process had rendered Balata – the camp whose inhabitants were once at the forefront of the national struggle for self-determination – an epicentre for Palestinian conflicts, where political elites competed to either bolster or curtail what was left of the militant grassroots of the Fatah faction. As before, the conciliation committees were in no shape to deal with rifts of this calibre and tended to splinter along the same factional lines. The situation had left a foul taste in the mouth of some of the veterans in the field. 'The committees have become weak in the eyes of the people, like a father who has lost the respect of his children,' an ageing *shaykh* having recently retired from the scene said: '[At some point] personal aspirations took over, and it became a matter of showing off and accepting bribes. In the end, in every type of work, when bribes and money enter, everything fails.'<sup>29</sup>

### Concluding remarks: stuck in transit

On my last day of fieldwork, I attended a conciliation session held at the governor's hall at the *Muqata'* of Nablus.<sup>30</sup> Two families from Balata had agreed to meet to try to hash out the terms of a formal truce following a six-year-old murder case. At the session, conciliation men, PA staff and community figures from the camp sat up front on something resembling a courthouse podium adorned with a gilded plaque displaying the letters 'The State of Palestine.' The scene seemed to suggest, like many of my interlocutors would claim during my fieldwork, that the Palestinian leadership lacked the capacity to do away with inherent tribal traditions and primordial social orders that had endured centuries of colonial rule prior to the formation of the PA. However, it was also an indication that said traditions had been integrated seamlessly into the governing bodies of the latter, where they served a new purpose. Arguably, the scene was emblematic of where the Palestinian

national movement found itself, stranded in a prolonged transitional moment between anti-colonial struggle and post-colonial state-building (Sen 2020), where provisional measures continued to define political life.

To unpack these conflicting impressions, it might be helpful, as I alluded earlier, to differentiate between customary justice as a set of cultural ideals and an administrative structure. Without there being a strong cultural appeal for an indigenous justice system rooted in kin-based or tribal honour codes ostensibly existing in defiance of modern statehood, it would not make sense for people to engage in *sulh*. In this sense, the West Bank's conciliation committees – to circle back to the question I posed at the beginning of this article – are certainly an expression of *social tribalism*. However, at its core, communal conciliation is not defined by rigid, unchanging traditions, nor does it depend on a very robust kinship order to make it function. As I have argued throughout these pages, *sulh* is first and foremost a pragmatist system that favours amicability and the finding of swift solutions over retribution and has due to its adaptability and elasticity continued to thrive within rapidly changing structures and political realities. Similarly, the ideal of holding 'the powerful' accountable tends to be approached with great measures of pragmatism.

Structurally, the conciliation committees are not only sensitive to local power balances but are deeply embedded in the proto-state bureaucracy of the Palestinian political elite. In many ways, they reflect the turbulent trajectory that the Fatah movement has made from a resistance faction to a state-supporting party, where its agenda of national liberation has been eclipsed by the incentive to retain political control over a national movement stuck in transit with nowhere to go. Likewise, leading conciliation men have, perhaps begrudgingly, found their former role in supporting the national resistance, repurposed to one of diffusing tensions on behalf of an increasingly unpopular political leadership. In this sense, the PA's Civil Peace Administration is a textbook example of *etatist tribalism*. In Nablus and its refugee camps, 'tribal law' does not challenge political power, it is pervaded by it.

That is not to say that *sulh* does not constitute an essential social glue in this unfinished Palestinian state. However, as we have seen many examples of, in situations where the underlying power structure becomes too visible, the ideals of justice and honour tend to suffer. At the *Muqata'*, the mood was also tense. For reasons unknown, the governor had not shown up to grace the abovementioned conciliation session with his presence. This seemed to lead the family of the aggressor to assume that the other side, a renowned 'Fatah family,' had requested him to boycott the session to humiliate them. While the negotiations broke down, both sides' conciliation men took turns lashing out at the tribal councilor, who was left with the blame for the debacle. Although one should be careful with drawing inference from a single case study, it is not unlikely that scenes like these may offer some insight into why a survey conducted by the PA's own Central Bureau of Statistics in 2021 found that the 'performance' of 'tribal justice,' not unlike public prosecution, suffers from substantial legitimacy problems.<sup>31</sup>

The committees' lack of autonomy was also a topic brought up by the son of the former *mukhtar* of the Balata camp. During our conversation, he relayed that he had shredded the plastic ID that the Ministry of Interior had issued years earlier. He remained adamant to continue in his path and heal rifts between people without any backing from the city's authorities. 'You don't need certification or official appointments – our conflicts always start this way,' he contended. 'All you need are the good words that you say.'



## Notes

1. I refrain from sharing references because the news articles covering the story contain the victim's name.
2. Conciliation man #1, author's interview by phone, 8 August 2020.
3. Whereas sulh means conciliation, the process of conciliation is often referred to as islah. Meanwhile, a single reconciliation is called sulha. I only use the former for the sake of clarity.
4. Conciliation man #2, Author's interview by phone, 5 July 2020.
5. A review of candidate lists from the two latest elections of the local Popular Committee showed no clear indication that the larger extended families in the camp were voting for their own.
6. Conciliation man #3, Author's interview, the Balata camp, 17 September 2019.
7. Author's interview, the Balata camp, 17 September 2019.
8. Mazin Dweikat, Chief of Conciliation in the Nablus area, author's interview by phone, 27 April 2021.
9. The biographical notes on Abu Kishk, who died in 2013, are taken from my notes from conversations with his former colleagues, as well as an interview from 2005, published by the Birzeit University on the following link: <http://www.awraq.birzeit.edu/ar/node/5750> (accessed 3 December 2021)
10. Conciliation man #5, author's interview by phone, 5 July 2020.
11. Author's interview in the Balata camp, 21 September 2019.
12. Conciliation man #6, author's interview by phone, 17 March 2021.
13. Conciliation man #1, author's interview by phone, 8 August 2020.
14. Conciliation man #7, author's interview by phone, 17 March 2021.
15. Author's interview with security official #1 in Nablus, 11 September 2019.
16. Conciliation man #8, author's interview by phone, 5 July 2020.
17. Author's interview with security official #2 in Nablus, 11 September 2019.
18. Author's interview by phone, May 2021.
19. This is a euphemism for murder.
20. Conciliation man #6, author's interview.
21. Videos of press conferences and statements made by the Dweikat family between July 26 and August 11 2020 are on file with the author.
22. A woman's rights organisation called Women Support held a protest against the 'tribal patriarchy', in downtown Nablus the same month as the incident (Citation from Facebook post 18 August 2020).
23. In the words of Abu Ibrahim al-Tirawi, author's interview, 23 September 2019.
24. See note 20.
25. Author's interview, 27 April 2021.
26. Videos of three conciliation session held in the Balata camp in February 2021 are on file with the author.
27. Author's interview in the Balata township, 15 September 2019.
28. For a highly biased account about the episode, see the following write-up in the Dahlan-sympathetic online magazine Fateh Voice (2015)
29. Conciliation man #2, author's interview.
30. Author's field notes, 26 September 2019.
31. For details, see the following link: [https://www.pcbs.gov.ps/site/512/default.aspx?lang=en&ItemID=4115#\\_ftn1](https://www.pcbs.gov.ps/site/512/default.aspx?lang=en&ItemID=4115#_ftn1) (accessed 13 December 2021).

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