PEACEMAKING AND TRANSFORMATIVE MEDIATION

Sulha Practices in Palestine and the Middle East

Erin Dyer Saxon

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Cover illustration: Pattern adapted from an Indian cotton print produced in the 19th century

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For Henry

Acknowledgements

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List of Key Terms
LIST OF ARABIC TERMS

'Atwe
: A token payment by the offending party to signify good faith, remorse, and security toward a *hudne*.

Diya
: 'Blood money,' the compensation paid to a victim's family upon a *sulha* agreement. Also see *taawir*.

Hudne
: 'Ceasefire,' a temporary truce period set by the *jaha* and agreed upon by the parties that marks the first stage of *sulha*.

Islahdelegation
: '*islah*' means 'to repair' but can also mean 'to bring reconciliation'. The *islahdelegation* comprises of respected and trusted male representative members making up the *sulha* or *jaha* committee who will lead the process of *sulha*. Respected male elders are chosen for their standing in society with regard to honesty, trustworthiness, and credibility at handling conflict and difficult situations.

Jaha
: See *islah delegation*. *Jaha* was the predominant term used in field research.

Mukhtar
: 'Chosen,' a selected, respected leader of a group or village.

Sulh
: 'Settlement,' used in the literature to mean the full settlement process, with the intent that those entering the process do so to end conflict and resume amicable relationships, which is marked through the final, public stage of *sulha*.

Sulha
: 'Reconciliation,' used by this thesis to mean the *process* of reconciliation as well as the *end result* of reconciliation. This stage is reached when parties have agreed upon reconciliation and forgiveness. It is celebrated publically once an agreement is reached, marked with ritual food and coffee.

Taawir
: Compensation paid by the offending party to the victim's family in cases of non-murder.

List of Cultural and Conflict Resolution Terms

Mediation	One in a range of conflict resolution processes, where the parties involved in the dispute work with a third party to come to an agreement on how to proceed. Typically, in Western practice, this means a stage model, including introduction, storytelling, identifying issues to discuss, bargaining, and final agreement.
Mediator	A third party who intervenes between parties in conflict at their request through the process of mediation.
Non-western	Regions that are still developing and have a history of economic struggle, colonization, and insecurity.
occupied Palestinian territory (oPt)	Used by the United Nations' Office for the Coordination of Humanitarian Affairs (OCHA) to describe the broad area also known as the West Bank and Gaza.
Palestinians	Those living within and beyond territorial boundaries of the 'imagined political community' of the Palestinian nation, as described by Anderson.
Relational ideology	The ideological foundation for the Transformative Mediation Framework (TMF) that suggests that all people are both striving for individual autonomy as well as social connection.

Transformative Mediation Framework (TMF)	Party controlled mediation, underscored by a *relational ideology*. Unlike in a stage model of mediation, parties enter into transformative mediation with the aim to gain clarity on individual decisions and responses (empowerment) as well as the potential for the ability to consider the alternative party's perspective (recognition), without pressure placed on mediator or parties for resolution or settlement.
Western	Originating from Europe or North America and sharing common political, economic, legal, and governmental systems.

Introduction and Methodology

Abstract This chapter aims to give an introduction to the study and the specific methology used. The purpose of the study provides a basis for the project and the approach used to analyze data and return conclusions. Methodology is discussed, including the nature of the interviews. The structure of the study is outlined, including the specific interview questions, theory questions, and central research questions referred to throughout the study.

Keywords Research design · Research structure · Theory questions
Research questions

INTRODUCTION

As a conflict resolution strategy, mediation has proven to be a resilient method of settling disputes worldwide. Yet, the practice of mediation is subject to cultural variation and ideological interpretation. Avruch (1998, p. 24) remarks "Conflict resolution looks rather different depending on which sense of conflict we begin with." In the United States, the Transformative Mediation Framework (TMF), developed by Bush and Folger (1994), evolved from a culture of individualism and problem-solving. In its thesis, TMF was distinguishable by the focus placed on the existence and impact of mediator ideology on the process, the establishment of a relational ideology in its foundation, as well as the

articulation of the importance of the qualitative effects for the parties involved. This theory of conflict transformation has engaged scholars and practitioners across North America, Europe, and Australia. Yet, outside of a "Western" cultural context, the framework is unknown. The question remains: is the Transformative Mediation Framework relevant outside of the "West"?

The practice of mediation is varied even within the same cultural context. Bush and Folger argue that theory drives practice that ideologies inevitably affect the way in which practitioners approach their work. In the mediation field, particular views on the nature of human beings, what conflict is, how one can ascertain that a conflict intervention is going well or poorly, and what role, if any, that social institutions should have in the field of conflict resolution will guide a mediator into an associated model of practice. Using this logic, Bush and Folger describe two models and their associated ideology in the West: problem-solving mediation and individualist ideology, and transformative mediation and relational ideology.

Given a case study in the Middle East, this study uses the underpinning elements of the TMF approach and considers these in a cultural context that differs significantly from the Western basis for the model. The selected case study is located in an area of enduring broader regional conflict, holding the potential for further distinction in worldviews. TMF is considered with appreciation that it is not an indigenous model within the case study, but that TMF could be of potential interest outside of the confines of the West.

A case study was undertaken in Bethlehem, in the occupied Palestinian territory (oPt) of the West Bank, 10 km south of Jerusalem. The interviews that were conducted with experienced mediators affiliated with *Wi'am* produced an array of responses that were coded for themes relevant to this study. *Sulha*, a traditional Arab model of conflict resolution, focuses on mediator influence, restoring harmony and honour, and public acknowledgement of the ending of conflict. Those interviewed described their views on human nature, conflict in general, what successful and failed conflict resolution might entail, and the role that the social institutions should have in the process. The cultural realities specific to the Arab world provided by scholars in the discussion on culture and conflict resolution proved accurate.

Purpose of Study

The purpose of this research is to examine whether non-Western approaches to conflict in a politically divided societal context correlate to the transformative approach to conflict and its relational ideological underpinnings.

There are two main facets to the central research problem: the lack of research of the transformative framework as applied in non-Western cultures or regions affected by ongoing political conflict and the uncertainty of whether the relational ideology corresponds effectively with components of Middle Eastern culture and belief systems. The primary purpose of this research is to examine whether the relational ideology, which creates the foundation for the Transformative Mediation Framework, can be a shared belief despite numerous distinctions in culture and values. The secondary purpose is to examine a Middle Eastern approach to conflict: what influences in society create concepts of conflict, how is conflict analyzed, managed, resolved, or transformed, and how these methods are taught within communities.

Exploring the modes of communication in the culture and comparing it to the foundation to the transformative approach addressed the two aspects of the research problem. By observing and understanding approaches to conflict and its resolution or transformation in a non-Western setting currently engaged in a protracted conflict, the primary and secondary foci of the study are supported in coming to an understanding of whether the relational ideology behind the transformative framework can be shared outside of the Western frame of reference despite considerable cultural, social, and political disparities.

Methodology

This study is comprised of a stated research purpose, theoretical foundations in the form of literature reviews on the subjects of mediation as well as culture and conflict resolution, central research questions, theory questions, and a case study and interview questions adapted from Della Noce (2002) for use within semi-structured interviews with practicing mediators to gauge the concepts of their working theory and practice of mediation. Following the field research, the material was contrasted with existing research to analyze the data in light of the theory questions and the central research questions.

Nature of Interviews

The nine semi-structured interviews provided significant, original information that supplemented literature readily available. This study has qualitative aims, where "improved understanding of complex human issues is more important than generalizability of results" Marshall (1996, p. 524). Therefore, this study intends to investigate unexplored elements of TMF, rather than to provide a result that is generalizable to a population.

The selection of interview participants was not informed by qualitative research methods, and mediators were not selected through a process of random sampling. Instead, this study employed what 'purposeful sampling', a non-probability form of sampling Bryman (2008, p. 415). In purposeful sampling, the goal is a strategic sampling that will provide the richest and most relevant results in comparison with the research questions. The sample provides variety in terms of participants selected for study, but, due to the non-probability of sampling, is not generalizable to the population.

Importantly, "the essence of the qualitative approach is that it is naturalistic—studying real people in natural settings rather than in artificial isolation. Sampling therefore has to take account not only of the individual's characteristics but also temporal, spatial and situational influences, that is, the context of the study" Marshall (1996, p. 524). This research was conducted in situ, in the homes, offices, and workspaces of the mediators interviewed, within the context of the West Bank. This physical location added a layer of complexity, because the current social and political situation required an understanding of the environment in which mediators worked.

Structure of Argument

Through a gradual discussion of mediator ideology, the expectations of the third party role, and specific intervention strategies within distinct mediation practices, the same structure of argument is used to illustrate the central characteristics of the model adopted by mediators affiliated with *Wi'am*. TMF has identified mediator ideology as a key rationale behind practice. The relevance of TMF within this context is discussed through the consideration of whether the ideologies of mediators affiliated with *Wi'am* align with existing Western mediator ideologies

articulated by Bush and Folger or with a decidedly local worldview. For this reason, mediator ideology, the third party role, and specific intervention processes are used as a way to explain the characteristics of the model adopted by mediators of *Wi'am*.

Research Questions

The study has been organized in a hierarchical series of questions or a pyramid model. This structure includes broad central research questions that relate to the overarching research purpose. Below these and feeding into the answers of these central research questions are theory questions, which are phrased in relation to the existing theory and current research. At the bottom are interview questions and interview interventions that, once answered, provide documentation on "the subjective perceptions of a given individual," Wengraf (2006, p. 86) and influence the relevant theory questions.

The following questions were the overarching central research questions, which this study sought to answer through field research and theory question analysis. These questions will be answered by the final chapter:

1. Would the transformative approach translate into effective theory and practice in the Palestinian model?
2. In what ways are the approaches to conflict within a Palestinian context conducive to the theory and practice of the transformative framework?
3. What elements of social interaction are evident within a Palestinian setting that are not touched upon in the transformative model? What cues exist in the culture that does not exist in a Western frame of reference?

To answer the central research questions, the following questions were used to interpret the results of the interviews and provide the theoretical framework for mediation practice in Bethlehem:

1. How do mediators within this society view conflict?
2. What does the current conflict resolution or transformation look like in practice?

3. What aspects of society impact this perspective, e.g., family, religion, education, government, history, and tradition?
4. Who mediates disputes? Does formal training exist for those who wish to practice? Or is the role of mediator bestowed upon a specific person based on cultural norms or expectations?
5. How does gender, societal class, education, and ethnicity play a part in determining active participants in conflict transformation and resolution?
6. How, if at all, does conflict in the micro-level impact greater society?
7. In what ways does a society engaged in a larger, protracted conflict affects the understanding and treatment of conflict at the micro-level?

In order to comprehend the local methods for addressing conflict, this study made use of qualitative approaches in terms of case study research and semi-structured interviews. The interview questions were adapted from Della Noce (2002) in developing a working theory of conflict resolution. These questions are posed to mediators to gauge their understanding of how they work in their environment, and why:

1. What do you try to achieve in mediation?
2. Can you describe a situation that would be a "success" for you?
3. Can you describe a situation that would be considered a "failure"?
4. What do you think people want and need
   (a) in conflict?
   (b) from mediation?
   (c) from you?
   (d) from each other?
5. What do you think people do not want or need?
6. How do you know you have acted competently in mediation?
7. What do you try to avoid?
8. How do you know if you have made an error in mediation?
9. How does the occupation affect your work?

From the pyramid of questions, this study aims to discover the applicability of TMF in a non-Western context, but also to highlight the effective history and practices of existing indigenous models of informal justice.

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Theoretical Perspectives on Mediation and the Third Party Role

Abstract This chapter provides an overview of the theoretical perspectives on mediation, with a focus on Western practice. After a brief history of mediation and the third party role, the concept of ideology is explored and considered in the context of the third party intervention. Relational ideology is presented as an emerging worldview that is later discussed in the context of being the underlying ideology of the Transformative Mediation Framework. The harmony approach and its organic ideology are introduced.

Keywords Transformative mediation · Relational ideology · Harmony Organic ideology · Individualism

A Brief History of Mediation

Throughout history, the third parties have been praised for their efforts in assisting competing parties in violent clashes, stubborn impasses, and trade wars. Mediation has boomed as an innovative approach that extended to community, family, and interpersonal disputes (Bush and Folger 2005, p. 7). Low-cost and accessible, the basic, quintessential mediation model was an informal process, where a neutral third party helped the parties in conflict to reach a mutually derived written agreement. In the late 1960s, two very different elements of society began to view mediation's potential in their own realms: "civic leaders and justice

system officials saw in mediation a potential for responding to urban conflict and its flash points; and community organizations and legal reformers saw in mediation a potential for building community resources alongside the justice system" (Bush and Folger 2005, p. 7).

Mediation grew from a few isolated programs in the early 1970s, to nearly 200 in the 1980s, to more than 400 in the 1990s (Bush and Folger 2005, p. 7). By 2000, the number of victim-offender mediation programs alone in North America exceeded 1000 (Umbreit and Greenwood 1999, p. 237). Following the foundations set by now-prominent scholars, such as Adam Curle, Kenneth Boulding, Elise Boulding, Johan Galtung, and John Burton, conflict resolution began to be addressed from a wide range of disciplines and institutional bases. The 1980s saw the formation of the United States Institute of Peace (1984), Harvard University's Program on Negotiation (1983), and other academic bases for the study of conflict and its resolution both within and beyond the USA (Ramsbotham et al. 2005, pp. 39–54). Today, there are hundreds of companies and thousands of individuals engaging in mediation, conciliation, and arbitration, either in for-profit or non-profit companies or working in court-annexed programs related to commercial, community, public policy, family, housing, victim-offender, and school arenas (Poole 2015). Mediation has become such a common first step in small claims, divorce, and general civil litigation across the USA that the "use of volunteer and professional mediators has become institutionalized" to an extent that "courts often cannot imagine how caseloads would be handled without the use of these mediation programs" (Bush and Folger 2005, p. 8).

Determining where mediation fits into the range of the third party intervention options is one way of examining this boom of popularity and attractiveness to the process. The term "third party intervention" refers to any process where a person or a team is called upon to assist the parties in the conflict to resolve it. When those in conflict assume the roles of the first and second parties, the intervener is considered the "third party" and not directly involved in the conflict. There are three questions which are typically examined when considering what kind of intervention is possible: (1) Does the third party know the people in the conflict or not? (2) Does the third party have an interest in the outcome of the dispute? (3) Is it a single person or a group acting as the third party? The answers to these questions form what is called the Third Party Mandate, or what expectation the intervener and the parties have with the intervention and the role of the intervener (Folger 2003).

Mediation has hovered in the middle of this spectrum, with disputing levels of commitment to process and content control by the mediator. While the precise definition of the process varies slightly from practitioner to practitioner, the purpose remains constant: to provide the environment for parties to work with one another to create their own solutions to problematic issues that exist between them.

This is what classically differentiates mediation from adversarial methods of arbitration and negotiation (which focus on competitive motivations to an imposed resolution) and conciliatory efforts (which rely on parties to compromise and accommodate in order to salvage an existing relationship). Essentially, where mediation sits on this scale is dependent on the understanding of whether the parties control the process and the content of the mediation, the mediator controls the process and the parties control the content, or the mediator controls both. This distinction matters, because it delves to the core assumptions of what mediation is intended to provide, given an ideological context.

IDEOLOGY

Worldviews or ideologies are the ways in which human beings interpret and understand human nature and the surrounding world. How one interacts in conflict is dependent upon how one construes and makes sense of the world. Beliefs on human nature, conflict, and peace are drawn from "what interactions and outcomes *should* occur in conflict situations and why. These claims rest on ideological foundations that are often deeply rooted in a culture and therefore rarely unpacked and examined" (Folger and Bush 1994, p. 6).

People use ideology in their daily lives by providing a means to make sense of their surrounding world at the micro-level, in dealing with individual experience, behaviors, and practice. As a result, ideology is not solely a cognitive exercise, but affected by and has effect in social interaction. Ideologies are "acquired and expressed through social phenomena; people learn (and recreate) ideologies through participation in groups and relationships" (Billig as cited in Folger and Bush 1994, p. 7). Thus, ideology also has a macro-level characteristic, built by institutions and social systems to create an understanding of expectations of behavior at the micro-level.

IDEOLOGY IN THIRD PARTY INTERVENTION

How mediators view, utilize, and interact in conflict is dependent upon how they understand and make sense of the world at large. Bush and Folger have articulated two premises in which to analyze mediation "as a form of conflict discourse shaped by ideology" (Folger and Bush 1994, p. 7). While deeply rooted in culture, ideologies are acquired, learned, and expressed in social groups and relationships, enabling them to be recreated and passed on (Billig as cited in Bush and Folger 1994, p. 7). This is the macro-level characteristic of ideology, built by institutions and social systems, and includes rules and regulations that create expectations of behavior. Second, there is the micro-level characteristic, which includes the everyday behaviors and practices. This is, nevertheless, a very powerful element of ideology: "…people's discursive choices create important social consequences…. These choices ultimately distribute power, establish the acceptability of social relationships, and constrain the ability to imagine or enact alternative social arrangements" (Folger and Bush 1994, p. 8).

Broad policies at the macro-level of institutions and society will inevitably affect individuals and groups at the micro-level. Ideologies at the macro-level establish power and influence for certain groups within the micro-level (Folger 2003). Consequently, it is necessary to survey what the ideologies of these groups are in order to ascertain whether the methods used in conflict resolution reinforce these influences in a negative way, or whether within alternative ideologies, there are constructive communication techniques in conflict resolution.

Categories of ideology are relevant to the role of the third party intervention. These conflict ideologies carry implicit notions of what conflict is, as well as expectations about what moves or responses are possible or required in specific contexts, what role third parties play, and what outcomes are desirable (Grimshaw as cited in Folger and Bush 1994, p. 8). In communication theory, conflict is considered "a socially created and communicatively managed reality occurring within a socio-historical context that both affects the meaning and behavior and is affected by it" (Folger and Jones 1994, p. ix). Bush and Folger have outlined four distinct areas, where the views of mediators should be measured: View of Human Nature, View of Conflict, Views of Productive/Destructive Conflict, and View of Social Institutions.

In determining a mediator's view of human nature that their practice is based on, there is a curiosity in how mediators view parties in conflict

and linking this to assumptions on overall views of human nature. Mediators may think that parties are incapable decision makers during conflict, weak in discussing what it is they want, or perhaps emotionally overbearing. Understanding how mediators view human nature is one way to bring ideology to the surface.

When the view of human nature is examined, there is a wide understanding of what conflict is and is not. By looking at whether the conflict is understood by a mediator to be a contest over perceived incompatible goals, a problem to be solved, or a crisis in human interaction, each understanding will bring very different ideals on how to tackle it both in theory and in practice.

Knowing when the process is going well or not is another way of determining an underlying ideology of how to approach intervention. How would a mediator know that the session is going well? Is it that parties are working on points of agreement, or respectful to one another or the process, or articulating their points clearly and being able to acknowledge the other's points? Knowing when the mediator sees the process as going well or poorly is an indication of how mediators would see an ideal process play itself out.

Finally, a mediator's view on social institutions is an indication of their understanding of how these macro-level institutions should function in day-to-day life, and what they can accomplish. These social institutions may be courts, families, schools, religious congregations, or other areas of large influence. While some mediators may think that mediation should be independent of court control and influence, others may believe that precedents set by earlier, related cases should have value in determining settlement. In addition, some mediators believe that mediation has the capacity to feed benefits experienced from the private sphere of mediation back into the public realm. That is, that the personal experience of mediation can "reinforce the civic virtues of self-determination and mutual consideration are therefore of enormous public value" (Bush and Folger 2005, p. 82). The concepts of social institutions and their role in conflicts provide another category in which to appreciate the ideologies that mediators use to view their work.

Individualist Ideology

Individualist ideology has been the predominant ideology in Western society for over 250 years. As a result, the traditional Western problem solving is "essentially aligned with Individualistic assumptions about

human nature and social interaction" (Folger and Bush 1994, p. 13). This ideology is what informs the core practice of problem solving or settlement-driven mediation which is heavily practiced in the USA and Europe.

Individualism has evolved through the lines of reason and rationality as first discussed by Plato and Aristotle. Western political philosophers of empiricism would later refine the terms of how people should act toward each other in a particular political context. Putnam (1994) articulates: "Individual agency is a value that is esteemed in Western culture. It stems from a belief that society is made of distinct and radically separate human beings who act independently and are accountable for their own choices" (p. 341). Noone (1996) commented that "Western modes of dispute resolution have been predominantly adversarial and have emphasized rationality, individual rights, a restricted range of remedies and an objectively 'just' decision"; however, he notes in recent years that nations have adopted processes which stress self-determination (pp. 6–7).

Individualist ideology can be seen to affect individuals' sense of themselves, their relationships with others, and their interaction with the world around them. Individualist micro-level ideology in practice includes the focus on the individual and their distinct goals or interests throughout life, leaving decision-making with the individual in order to ensure autonomy.

In macro-level Individualism, social institutions are "needed to facilitate joint pursuits, but they are even more important to protect against oppression and self-inflicted injuries" (Bush and Folger 2005, p. 245). The Declaration of Independence of the USA is a strong example. This perspective of equality and rights has not faltered from American philosophy. As a point of national character, Americans have stood up against the laws which restricted individual rights, including slavery, women's suffrage, and civil rights. "Civil liberties have become central to American perceptions of what it is to be an individual as well as an American" (Dudley et al. 2003).

Individualism is evident in how American society values a limited government role in the lives of its citizens. According to McCormack (2001), the popular view is that government "should provide selected public services, uphold the rule of law, and enable individuals to achieve their goals, but it should resist the temptation to make too many decisions on behalf of individuals" (McCormack 2001, p. 42). Individualist ideology at the macro-level is, therefore, evident in the American

example through expressions by the government and social institutions on the expectations of behavior at the micro-level. The government's macro-level influence on the rules and regulations that create an expectation of Individualism in society includes how the constitution (through the Bill of Rights) guarantees such individual rights, the judiciary provides a means for settling disputes or crimes through legal precedent, and members of Congress represent the needs and interests of their constituents.

Social institutions, such as universities, religious groups, businesses, and families, can impart moral and ethical expectations at the macrolevel as well, creating the expectation of how the world should be seen and how those within society should act within that frame. Within an Individualist ideology, these institutions should promote the value and rights of the individual because among a social world that is essentially 'an aggregate of individuals' individuals are not "fully capable of either agency or empathy" (Bush and Folger 2005, p. 245).

Relational Ideology

In contrast to the long-standing history of Individualism, the relational ideology is an "emergent" worldview. It has been built upon and reflective of work in a variety of fields within the past 20 years, including moral theory, psychology, political philosophy, sociology, law, and organizational theory. This is the underlying ideology informing transformative mediation practice, which is a relatively new process in the West.

According to the relational ideology, people are *interconnected*. Individuals have freedom and independence in their thoughts and actions and yet exist in constant relation with others. "[N]othing in the universe exists as an isolated or independent entity. Everything takes the form of relationships, be it subatomic particles sharing energy or ecosystems sharing food. In the web of life, nothing lives alone" (Wheatley 1994, p. 89 as cited by Lederach 2005, p. 34). In recognizing this interconnectedness, individuals are able to balance the need for autonomy with the need for others (Beal and Saul 2001, p. 10). When in conflict, this balance between self and other becomes frustrated, and metaphors frequently used to describe the feelings of being in conflict reflect those of powerlessness and alienation from the other person. Part of this is due to the way in which "protagonists view themselves, each other, and the conflict" (Curle 1990, p. 27).

This relational worldview, though a new concept in the mediation field, has foundations within other disciplines. Carol Gilligan, a theorist in morality and psychology, has noted that people are intensely relational because they are naturally a social species. However, more than that, when they speak, they are communicating and connecting the views of the individual with those of others. John Paul Lederach (2005) has argued that central to the concept of peacebuilding is accepting that "[w]ho we have been, are, and will be emerges and shapes itself in a context of relational interdependency" (p. 35).

Relational ideology makes sense of the daily experience through the lens of interconnectedness. Relational ideology contends that "human beings not only have the desire for both autonomy and connection but also the capacity for both (Bush and Folger 2005, p. 255)." Conflict communication can be considered a "moral conversation" or "moral discourse" as suggested by legal ethicist Robert Burns (as cited in Bush and Folger 2005, p. 254). The micro-level moral vision within the relational ideology values the balance between individual autonomy and social connection and supports this vision especially when these are unbalanced (such as times of conflict).

At a macro-level, relational ideology proposes that societal issues be seen through the same balance of freedom and responsibility. Political philosopher Michael Sandel suggests integrating individuality and social connection "through social interaction in communities that are not 'instrumental' but 'constitutive'—interaction that allows and asks the individual to 'participate in the constitution of its identity'" (as cited in Bush and Folger 2005, p. 252). Legal sociologist Joel Handler refers to "communitarian feminism", where "the feminist conception of social interaction enhances autonomy, empowerment, and community simultaneously [and] can foster both individuality and connectedness" (as cited in Bush and Folger 2005, pp. 252–253).

Relational ideology views individual experiences as important, yet values the connections we make as human beings. This balance of autonomy and connection is what creates a higher potential and awareness in both the individual and the other.

Transformative Mediation

The Transformative Mediation Framework is an evolving perspective on the theory and practice of mediation. Responding to criticism of mediation as an inherently flawed method of dealing with conflict, Bush and

Folger outlined that it was not mediation that was flawed, but the values that underscored the practice were not consistent with how the process was implemented; indeed, by being settlement driven, problem solving mediators could risk the values of self-assertion and self-determination that provided the basis for the problem solving approach to mediation. To distinguish the emerging transformative approach from the existing problem solving approach, Folger and Bush (2001, p. 23) developed *Ten Hallmarks of the Transformative Practice* to illustrate the unique mediation principles from a transformative perspective. Included among these are: leaving responsibility of the outcome to the parties, refusing to make judgments about what the parties' decide, taking the view that the parties have what it takes to create a successful outcome for themselves, focusing on the 'here and now' of the conflict, being responsive to emotions expressed by the parties, and believing that small steps can also be indicators of success.

Connecting Relational Ideology With the Transformative Framework

The relational worldview is founded on the value of transformation, "the achievement of human conduct that integrates strength of self and compassion toward others—both because of the great goodness of the human conduct that results and because of the great moral effort required to produce it" (Bush and Folger 1994, p. 242). With the value of transformation, the qualities of the human being that are viewed as central are those that are required to realize this value. The relational worldview perceives the "central feature of human nature as neither individuality nor connectedness, but the elements that relate the two in an integrated, whole human consciousness—the relational capacity. Human beings are thus simultaneously separate and connected, autonomous and linked, self-interested and self-transcending" (Bush and Folger 1994, p. 243).

The relational view of society and social institutions follows in this same vein. While an Individualist ideology views society as a necessary referee to protect and support individuals and their wants and needs, relational ideology views society as "a medium for the process of human relations and interaction, in which all the capacities of human nature, and especially the relational capacity, are enacted and the full potential of human decency is realized" (Bush and Folger 1994, p. 244). Social institutions within this worldview must engender a supportive, educational, constructive and positivist role. The role of social institutions must be

to orient individuals to their sense of strength and capacity to show concern for others. While social institutions indeed should provide protection for those in society, its role should not be limited to this. Instead, social institutions "serve not only to protect us from the worst in each other, but also to help us find and enact the best in ourselves" (Bush and Folger 1994, p. 242). Mediation forms one such institution.

Folger and Bush (2001, p. 76) argue that as human beings with interests in self and other, approaching conflict within this ideology uses the supporting value of transformation in considering response:

> Relational ideology portrays the human world as socially and discursively constructed. Human begins are depicted as fundamentally social, that is, formed in and through their relations with other human beings, essentially connected to others, and constantly relating to others through dialogue.

Transformative mediation, therefore, would not see conflict as a "problem to be solved," but a *crisis in interaction*. This crisis references the dyadic relationship between the individual autonomy and social connectivity, and is addressed through the relational ideology that underlies the practice.

Initially in conflict, disruption occurs in the relationship between the autonomous self and the connection with others, and parties become more alienated and destructive, distorting perception and experience of self and other. Because of this, parties feel more vulnerable and self-absorbed than before the conflict emerged. Transformative practitioners contend that for most people, this spiral is the most significant negative element of their experience of conflict. The authors demonstrate that the most effective way to make progress in conflict is to improve the *quality* of interaction, which in turn affects the parties and their interaction. Parties are capable to regain this strength and have the ability to acknowledge the other party and their perspective. As parties develop empowerment, their goals become clearer as parties describe the true nature of the conflict through their own words. Parties shift from a negative conflict spiral to points of connectivity by recognizing the other, showing signs of empathy, and taking natural turns in conversation. The *conversation metaphor* is the most illustrative way to describe the transformative framework to mediation, and the mediator role is to assist the parties in having a conversation by following their cues. Transformative practice focuses on improved *quality* of conflict interaction rather than aiming to solve a problem.

The terms that the transformative framework uses in describing these shifts from negative to constructive conflict interactions are "empowerment" and "recognition." Empowerment relates to the party clarification and strengthening of goals, feelings, expectations, options, and events. Recognition refers to acknowledging or appreciating the other party's emerging empowerment. While conflict can be destabilizing, parties engaged in the conflict have the potential to feel an overwhelming sense of weakness and self-absorption. "Conflict tends to lessen parties' ability to accurately understand and assess their situations, think clearly about their own views, and deliberate confidently about their choices and options. As a result, parties are often uncertain, indecisive, confused, and disorganized as they engage each other about the issues that divide them" (Folger 2008, pp. 840–841). Conflict tends to reduce parties' ability to consider the perspectives of the other and can result in a loss of an otherwise comfortable social connection. This negative conflict cycle prevents parties from considering the options and goals from their own perspective and from the understanding of the other, which "often undermines sound decision-making. Parties make choices that are rooted in a reactive, unreflective posture rather than a reflective, deliberate one" (Folger 2008, p. 841).

In transformative mediation, the goal is to address and transform the negative quality of the interaction in favor of a more constructive quality of interaction. To do this, mediators will assist parties to clarify individual feelings of uncertainty, as well as the support parties when there is a recognition or consideration of one another's perspectives. This improved quality of interaction evolves out of the shifts within the conflict interaction. As one party becomes clearer and more confident on his or her goals or expectations (referred to as an "empowerment shift"), this party can show recognition, understanding, or awareness of the feelings and statements of the opposing party (referred to as a "recognition shift") (Folger 2008, p. 841). As parties become oriented to their own agency and become more open to hearing the other, the conflict interaction changes from one that is destructive to one that is constructive; a transformation of the conflict interaction has occurred.

Transformative Mediation Process

The transformative mediation process may initially appear like the more common problem solving mediation process. Parties may take part in

pre-mediation sessions or phone calls and will meet together with the mediator or co-mediators for the process at an office. The mediation process, however, is not shaped by successive stages, but through following the parties through a conversation on the issues that bring them to mediation. The mediator's role is to support the parties through becoming clearer and more confident in their own goals and perspectives as well as supporting shifts that occur toward the recognition of the other party. Rather than having the mediator control the process, the parties themselves decide how their conversation is constructed and paced.

Behind this process is the acknowledgment that the parties have the capacity to resolve the conflict in a way that is acceptable for each of them and that the value of mediation is to improve the quality of the interaction through empowering each party, so that they may be able to connect with one another in ways that are constructive to the conflict. Della Noce (2002) articulates the strategies that transformative mediators employ when 'positioning the parties for constructive conversation' in great detail in her thesis "Ideologically Based Patterns in the Discourse of Mediators: A Comparison of Problem Solving and Transformative Practice," which informs much of this description of the transformative process.

The mediator orients parties to a constructive conversation initially through the opening statement or conversation of the mediation. Rather than having simply the goal of resolution in mind, transformative mediators orient parties to the possibilities of greater clarity and understanding, considering choices, making decisions, and including a decision to make an agreement. The mediator also affirms that this is a process owned by the parties and supports this through asking the parties for their goals, any suggestions for guidelines for the conversation, and inviting discussion on these. If open conflict ensues at this stage, the mediator's role is to assist parties in getting clearer on what guidelines to include or what reservations exist.

When parties speak on the substantive issues that bring them to mediation, the mediator's role is to summarize narratives, reflect statements and questions, and orient parties to one another. Mediator agency is downgraded through encouraging parties to speak with one another, even if this means interrupting the mediator. Instead of outlining the issues and negotiating each methodically, the transformative mediator

follows the parties in the micro-level content of the conversation. The mediator assists the parties in clarifying their narratives and orients them to their own agency. As parties become stronger independently, they are more able to hear and consider the other party. The mediator will summarize the conversation, including collaborative elements of both parties' stories as well as disagreements that they may still have.

As conflict emerges, the mediator opens this discussion just as he or she would with a disagreement with guidelines for the discussion. By following the parties as they describe the issues that create disagreement, the mediator opens verbal conflict and allows the parties to discuss these disagreements openly. Mediators tend to resist terminating this open verbal conflict, and instead allow for parties to speak directly with one another. Emotional expressions are addressed in the same vein, allowing parties to convey emotional responses with the support of the mediator, without framing these moments as "venting emotion." Bjerknes and Paranica (2002) explain:

> We rely on emotional input in order to make decisions and prioritize information. Emotion is what non-verbal communication is made of and therefore, if we ignore the emotion, we also ignore more than 90% of human communication. We have found that if we recognize emotion as it is displayed, that the level of emotion naturally decreases. We have also discovered that if we fail to acknowledge emotion or prevent its revelation, the emotion in the room increases.

The mediator also "checks in" with parties in order to orient them to the decision-making nature of the process. He or she may ask the parties what topic they want to discuss and how to discuss it, especially when parties seem unsure of where next to take their conversation. Checking in is also used to determine available opportunities for decision-making, and highlighting options that parties have articulated in their conversation. Throughout this check in, mediators downplay their own agency and instead emphasize the capacity for the parties to make their own decisions about how the mediation process should develop. Should parties decide to create a physical agreement at the conclusion of the mediation, they may do this, but it is not the only measure of success. Success is also measured by the clarity, perspective-taking, and option consideration that parties achieved through the process.

Harmony

The harmony model is adopted when the collective culture of a group is highly valued, such as religious, traditional, or indigenous communities (Alexander 2008, p. 114). The harmony approach, as with the transformative model, has values that inform the model's mediation practice, including views on individuals and society, conflict, and managing conflict.

"Organic" Ideology

In the harmony framework, a core value is the sustained well-being of the community. As Bush and Folger (1994, pp. 239–240) articulate:

> the valued end in this view is the survival and welfare of some collective entity – a family, tribe, community, society. Harmony is a way of describing the necessary condition for community well being, because conflict can rip the entity apart. The value itself is really not harmony, but community survival or welfare, to which harmony is instrumental.

If the value in this perspective is collective welfare, the qualities sought in a human being are those relating directly to this value. Bush and Folger (1994, p. 240) outline such qualities:

> the capacity to be aware of participating in something larger than self, to feel connected to others and to a common entity, and furthermore the capacity for subjugating the needs of self to the needs of the whole, for self-sacrifice and service… Starting from the value of harmony, the view of human nature is one that emphasizes connectedness, devotion, commonality, and selflessness.

Bush and Folger categorize this ideology as organic—with a life of its own that is independent and superior to any individual member. It is collectivist, as opposed to individualist.

The view of society within this perspective follows from this understanding of human nature. Values that are protected and preserved in the wider political culture with an Organic worldview include hierarchy, loyalty, and service. "Though in some degree to many of us from 'intimate' societal spheres like family, religious, or ethnic associations, this Organic worldview is not widely seen as relevant to the larger political culture in which we live," assert Bush and Folger (1994), and "more

identified with other cultures, including premodern Western societies and contemporary non-Western societies" (p. 241).

Connecting the Organic Ideology with the Harmony Approach

Within an organic ideology, conflict is viewed negatively as it disrupts social order and risks the basis for stability within the community or group. Conflict threatens wider systems of relationships that support the social order; if relationships fail due to conflict, this weakens the power and cohesiveness that the society relies on to exist. Abu-Nimer (1996) suggests that in a collectivist Middle Eastern context, "even though a dispute might begin between two individuals or two families, it soon escalates to involve the entire community or clans. The group, not individuals, is a central [focus] of action…[C]onflict is negative, threatening, and disruptive to the normative order and needs to be settled quickly or avoided" (p. 46). LeResche (1992) describes how Koreans in America view that "conflict is not an acceptable condition; hence careful attention must be paid to avoidance of any activity that may cause discord… conflicts occur when at least one person does not behave in the proper manner toward another. When someone is selfish or insults another person, a conflict is created" (p. 326).

A harmony approach to conflict takes action to ensure that the factors causing the rift between members of the community do not evolve into a wider disruption to the cohesiveness of the group. The hallmark of a successful harmony approach to mediation is "the restoration of harmonious relationships that support the values of the community at large" (Folger 2008, p. 829). Conflict resolution from a harmony approach values the *interdependence* of the parties over each individual's *independence*. Folger outlines three actions or conflict behaviors within this approach that aim to address the need for relationship restoration, including avoidance of conflict issues, saving face, and offering apologies and forgiveness.

Avoidance of Conflict Issues

In groups that enact a harmony approach, conflict is seen as negative. Conflict issues are avoided in order to ensure that they do not threaten the community. The maintenance of strong relationships within the community is highly valued, and in this case, more so than tensions may exist on an interpersonal level. A peaceful community is seen as one without

conflict. Leas and Kittlaus argue that the absence of conflict in this perspective is problematic in that "What is really going on in this situation is the repression of conflict for the sake of peace" (as cited in Folger 2008, 289).

Saving Face

Face saving is the way in which people maintain a positive self-image. When face is tarnished in some way, for example, when making a mistake, a face-saving technique may be employed in order to avoid embarrassment. Folger argues that within the goal of restoring relationships, face saving can be used to stabilize and satisfy relationships, where conflict has undermined the self-image of one or both of the parties. While the loss of face may not destroy every relationship "…true harmony depends heavily on interaction that assumes and conveys mutual face support… when face threats persist, they tend to escalate conflicts because issues related to identity—how parties see themselves—are rarely negotiable" (Folger 2008, pp. 831–832).

Offering Apologies and Forgiveness

An apology is constructed with an acknowledgement, affect, and vulnerability and in line with the community expectations of how this should occur. While a loss of face can be damaging, "our moral relations provide for a ritual whereby the wrongdoer can symbolically bring himself low—in other words, the humbling ritual of apology, the language of which is often that of *begging* for forgiveness" (Schneider 2000, p. 266). Apologies and forgiveness are opportunities for parties to align with the core values of the wider community (Folger 2008, p. 832). Apologies can then be an opportunity to acknowledge, "norms and expectations of the community have been violated" (Folger 2008, pp. 832–833). Forgiveness offers the opportunity for the injured party to "acknowledge this intent and support the offender's effort to realign with the broader norms of the community" (Folger 2008, p. 833).

The Harmony Approach and the Third Party Mandate

A harmony approach aims for the stability of relationships following a conflict and is frequently mediated by an insider within the community who is familiar with the parties and the issues, as well as the values

and ideals that the conflicting parties and the community at large wish to uphold. Folger outlines that "Because the outcomes of the conflict need to be aligned with the core values of the community, the mediator usually is assumed to have some degree of personal familiarity with these values… this means that the mediator him or herself is a member of the disputing parties' community" (Folger 2008, p. 833). While mediators may not be a part of the immediate family or group in which conflict occurs, mediators tend to be from within the broader cultural community.

Wehr and Lederach (1991) articulate this concept of insider-partial to explain the value and trust placed on a mediator that is from within the community as well as with and for each side of the dispute. This model, based on the trust placed upon the third party, views an insider-partial as legitimate because of his or her personal relationships with the parties, connection with the community, knowledge of the norms and values, and their whole investment with the community. Mediators are chosen precisely because of their proximity to the parties rather than their neutrality from them. These qualities result in a third party's legitimacy within the community, the confirmation of tradition, and the use of connections in order to resolve disputes. The insider-partial mediator will understand the context, the parties, the history of their relationship, and the issues that the parties face. The mediator's relationship with the parties and the issues that bring them to dispute "establishes an expectation that the conflict the parties are addressing is not just their conflict, but is owned by and is threaded through the larger community" (Folger 2008, p. 834). The mediator represents the community when he or she assists parties to reach a resolution.

Mediators "are usually sought out for their wisdom, status, and persuasive presence rather than their technical expertise" (Alexander 2008, p. 114; Folger 2008, p. 835). Mediators are not necessarily professionally trained conflict interveners but gain their credibility and influence through their role in the community. "Their presence and contributions encourage parties to recognize that their accountability is not just to each other, but to the community as a whole…. The third party intervener takes on the responsibility of insuring that the conflict intervention process is linked to the community by including representative members who speak for community values" (Fogler 2008, p. 835). The mediator position is thus filled by a person of some authority, trust, value, and respect within the society as a whole as well as with the disputants, such

as elders, chiefs, or religious or political leaders. The mediator's style is respectful and reflective, reminds parties of the larger commitment to the community, and remains optimistic at the ability for the relationship to be healed (Folger 2008, p. 835).

The third party mandate within a harmony approach is informal in terms of the use of insider-partial mediator(s) and the avoidance of formal bodies in order to address conflict. There is an expectation for the mediator to bring resolution, and the mediators involved have a high level of persuasion and influence within the community at large to bring conflicts to an end and to help restore relationships.

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Culture and Conflict Resolution

Abstract This chapter delves into the theoretical perspectives on culture and conflict resolution. Culture and conflict resolution is discussed both in broad terms and with consideration for the regional case study. Middle Eastern approaches to conflict resolution are explored generally, and the comparison between Western and Middle Eastern values on the individual and the community. Concepts of conflict within the Middle East are presented and the understanding of the role of the third party from Arab authors is considered. The impact of religion, specifically Islam, is taken in the context of the Middle East and its methods of conflict resolution. *Sulha*, a traditional Arab conflict resolution method, is outlined in this chapter.

Keywords Culture and conflict resolution
Middle Eastern conflict resolution · Collectivism · Islam · Sulha

Culture and Conflict Resolution

When examining conflict resolution from the role of a Western scholar or practitioner in a non-Western society, taking the path to "identify and legitimize similar and different concepts of managing and settling conflicts" among both the Western and non-Western societies provides the opportunity for describing or applying models without leaving the

researcher to "ignore or impose his/her cultural bias" (Abu-Nimer 2001, p. 125).

Avruch examines the way that culture has been used or ignored in classic conflict resolution techniques. From game theory to negotiation, theories on rationality champion that individuals are calculating and abide by set rules in order to maximize their utilities and resources. Yet, these theories are culturally defined. In looking why culture is neglected in popular, prescriptive approaches such as those presented by Ury and Patton in the bestseller *Getting to Yes*, Avruch (1998, p. 78) posits:

> The proposition holds that where practice is situated, there theory is derived. And for conflict resolution, as for some other expert domains, the practice overwhelmingly has been culturally situated within a North American, male, white, and middle-class world.

Avruch (1998) argues convincingly that the model in *Getting to Yes* of employing tactics such as "separating the people form the problem" "corresponds deeply to the idealized Anglo-middle class model of what negotiation looks like" (p. 79).

Conflict Resolution in the Middle East

Influences on conflict resolution practices indigenous to the Middle East originate from Islam as well as Arab traditions predate Islam. Scholars and practitioners studying conflict resolution in the Middle East should examine existing processes within communities fully, to create "acceptance and recognition of the proposition that Islam and Islamic societies contain beliefs, customs, attitudes and a history which can serve as rich bases for identifying constructive conflict resolution frameworks and processes" (Abu-Nimer 2001, p. 125).

For many non-Western societies, the formal nature of conflict resolution does not exist. Without trusted state and legal institutions, community-maintained conflict resolution processes are considered legitimate means of handling conflict. Peter Just (1991, pp. 107–108) adds:

> …in many societies composed of small-scale, morally cohesive communities, there is often an incomplete understanding and a fundamental mistrust of formal state-run legal institutions, which are perceived as exogenous, intrusive, uncontrollable, and ill-suited for representing indigenous concepts of justice.

Middle Eastern societies have enjoyed a range of traditional methods of resolving interpersonal conflict, conflict within families, between families, between religious communities and regions through negotiation, mediation, and arbitration for hundreds of years (Abu-Nimer 2001, pp. 128–129). While conflict resolution practices are professionalized in the West, they "mainly exist where traditional norms legitimize such actions" in the Middle East (Abu-Nimer 2001, p. 130). Dispute processes can press for resolution based on tribal law, Islamic law, or cultural and traditional practices, none of which is mutually exclusive.

Informal justice is a term used to distinguish the choices and availability of local, community, and tribal conflict resolution processes from formal court systems in Arab and Islamic contexts (Fares and Khalidi 2006). Existing processes within these communities place particular importance on collectivism, local concepts of conflict, a central role of the third party, as well as religious influence. One particular form of informal justice, *sulha*, will be introduced for its relevance within Middle Eastern societies as well as its prominence within the case study.

Individualism and Collectivism

Western conflict resolution practice typically focuses on the needs and interests of the individual in resolving conflicts. Indeed, "conflict is accepted as a natural concomitant of self-interest and competition which, when subject to an optimal amount of regulation by carefully designed institutions, keeps societies dynamic, energetic, and strong" (Funk and Irani 2001, p. 171). The Individualist ideology underscores the Problem Solving model of mediation, and has high process and content control.

In a Middle Eastern context, one's standing in society is ultimately connected with a man's *sharaf*, loosely translated as male honor. As Marcel Mauss describes, "Sharaf, in Arab society, is a pervasive code of beliefs and values manifested throughout interlocking moral, political, economic, kinship systems of meanings; it is a *total social fact*" (Lang 2005, p. 48). *Sharaf* forms a man's self-identity. It is both status and one's perception of self-worth tied to that social status; it is dependent on a web of social connection, as one cannot have *sharaf* without the regard of one's peers. As a result, the society is highly collectivist and values the ideals of "cooperation, negotiation, honor, and compromise" both in society and in conflict resolution (Lang 2005, p. 82).

In this spirit of peaceful relations, a return to stable community relations is sought when resolving disputes. It is understood that a normal state of relations within this collective society is one that is peaceful, while conflict risks this careful balance. Therefore, attempts at resolution involve the wider community, where mediators or third parties frequently may know the parties personally and are considered leverage in convincing parties to work toward an agreement. While individualism promotes the concept that individuals are independent from one another, Oyserman et al. (2002) maintain the collectivist understanding is that "groups bind and mutually obligate their members" (as cited in Hook et al. 2009, p. 823). Hook et al. (2009) add, "collectivists, concerned with maintaining relationships, promoting social harmony, and maximizing positive consequences for the honor of a group, are likely to view conflicts as requiring social resolution even at the cost of personal peace" (p. 829). The use of mediation allows for power inequalities to be addressed, albeit temporarily, within mediation and by mediators for the purpose of gaining a lasting agreement that will restore calm social relations.

THIRD PARTY ROLE

Just as conflict resolution processes are based on the values and assumptions of societies, so too are the roles and characteristics of the third parties. In the West, the third party tends to be impartial and professional, to focus on the individual interests of parties, to conform to laws and regulations, and to orient parties toward agreement. Within Middle Eastern societies, the assumptions of the third party echo those assumptions of conflict resolution practice: older, politically or religiously powerful mediators or a delegation of influential, notable men (*jaha*) who have a thorough understanding of the dispute and perhaps a vested interest to intervene are qualities expected of the third parties (Abu-Nimer 2001, p. 132). Lang (2005, p. 106) notes:

> Each man's sharaf entitles him to the same respect as every other man and yet there is one category of men who are generally accepted to have greater sharaf, status, and power than others… Jaha men are not entirely set apart from other men, but like the sheikh figure of tribal societies, it is they who are socially sanctioned, more valued and esteemed than the rest.

Mediators will speak and act in ways conform to these expectations of prestige and power. They may, as noted in Lang (2005) and within this text, also hold political office, which reaffirms their power and status in society. However, participating in *sulha* remains the ultimate source of this prestige (Lang 2005, p. 107).

Mediators working from Muslim backgrounds may declare, "God does not love the aggressor" among the initial recitations of *Qur'anic* text to create an atmosphere of expected cooperation and investment in a goal to re-establish harmony (Abu-Nimer 2003, p. 102). The mediator emphasizes the purpose of the process as restoration of order by focusing on the destructive forces that have come from the conflict, including hurt and loss. The third party's role is to reach an agreement with the parties that they can accept without necessarily addressing the structural or institutional arrangements underlying the conflict. Should one of the parties object to terms or suggestions based on underlying causes, the mediator may pressure the party by challenging, "Are you going to change the world through this case? Accept what has been offered, because you will not get better compensation" (Abu-Nimer 2003, p. 103). Toward the end of the process when the parties accept the final agreement in a public display, breaking the agreement becomes difficult not only because of the complex series of social connections that make the resolution possible, but also for the reason that the *jaha* may be disgraced by a party failing to commit to their promise (Lang 2005, p. 108).

The third party commands respect and is likely an elder of the community who knows both the societal and religious norms and values well enough to influence the parties to agreement. In Gaza, the third parties are representative of three levels: (1) family elders who intervene with familial conflict; (2) local community leaders who intervene in community conflicts including those in refugee camps; or (3) regional leaders who are highly regarded and well known and asked to intervene in disputes involving different cities (Abu-Nimer 2003, p. 105). The disputants are likely to avoid angering or gaining disapproval from their leaders and, instead, would make efforts to maintain good relations with them. Zoughbi (2003) describes the role of the third party as:

> …the side that provides support [for the parties]…to reach the goal of peace and equality. Without the support, the other two sides wobble against each other fighting to stay upright, until they both collapse into the ruins.

Overt displays of superiority are often frowned upon, as the *sharaf* and respect that each man seeks to maintain implies that every man should be treated as morally equal (Lang 2005, p. 103), yet "the realities of power differences are inescapable, especially within the family and lineage" (Abu-Lughod in Lang 2005, p. 109). This contradiction between the value of equality and the inevitability of hierarchy is resolved through ideologies that Abu-Lughod introduces: (1) kinship and (2) honor and morality. While kinship is used to describe the need to protect, care for, and be responsible for others, inside and outside the family, "All relations of inequality in Arab societies… are expressed in these kinship terms" (Abu-Lughod in Lang 2005, p. 110). The social divisions of hierarchy, on the other hand, are rooted in the notion of morality: "Authority derives neither from the use of force nor from ascribed position, but from moral worthiness. Hierarchy is legitimated through beliefs about the disparate possession of certain values or moral attributes" (Abu-Lughod in Lang 2005, p. 110).

The Influence of Islam

One impact of colonial interaction in the Middle East was the introduction and administration of the colonized regions by European legal codes or significant modification of pre-existing laws. For example, in Mandate Palestine, British actions included measures to "close the Ottoman land registers, prohibit all land transactions until a new registry was installed, and transfer jurisdiction in land matters from Islamic *shari'a* courts to new secular land courts" (Home 2003, p. 295). Personal and family law became one of the few areas that were legally allowed to be overseen by the local inhabitants in order to preserve colonial stability. As a result, *ulema*, or religious scholars, strove to encourage the "conservative paradigm that was making itself felt as the European intervention began. Islam became an effective rallying point for many resistance movements that opposed colonial encroachment" (Davies and Sardar 2003, p. 100).

Islam is a force for conflict resolution based on core moral principles and teachings that provide both preventative and responsive programs for conflict. One such principle is *shurah*, or "solidarity in society based on the principle of free consultation and genuine dialogue, reflecting equality in thought and the expression of opinion" (Abu-Nimer 2003,

p. 76). Another is *ijma'*, or consensus building, an important element of the decision-making process in Islam. Moral aspects of Islam also anticipate the need for forgiveness (*maghfira*): "precisely because human beings often fall short of ideal standards, bringing hardship and suffering to themselves and to others, they are in need of patience, forgiveness, and toleration" (Funk and Said 2009, p. 150). Pardon (*'afu*) of crimes is also evident in Islamic teaching because such actions causing anger and grief challenge community cohesiveness and solidarity. While one may be allowed to seek retribution for dishonor committed against him, the *Qur'an* states that forgiveness is favored over retaliation in responding to conflict: "The recompense of an injury is an injury the like thereof; but whoever forgives and makes reconciliation, his reward is due from God; and God loves not those who do wrong" (42:40).

Islamic attributes from the *Qur'an*, *Hadith*, and cultural realities "support collaborative and consensus-building processes rather than authoritative, competitive, or confrontational procedures" (Abu-Nimer 2003, p. 77). By focusing on the requirements of the broader mission to serve greater humanity (thus, God), and not simply individual needs, the community of human beings as a whole would create a more collaborative, peaceful effect.

Informal Justice: *Sulha*, Peacemaking, and Reconciliation

Indigenous rituals of the Middle East, such as those of settlement and reconciliation, have origins in tribal and village contexts as well as support in *shari'a* law. Legal pluralism, where populations are subject to more than one legal system, exists in the Arab world as it does in any given society. These systems are ultimately interrelated, and attempts to understand the legal workings of any system without considering the role of other, related sources of law and justice would prove problematic (Fares and Khalidi 2006, p. 509). Unofficial dispute resolution practices are actively used within "traditional rural, tribal Bedouin and urban Muslim communities" (Abu-Nimer 2003, p. 91). Traditional Arab-Islamic third party intervention has included arbitration (*tahkim*) as well as peacemaking and reconciliation (*sulh*). Fares and Khalidi (2006, p. 509) articulate that although "there is a clear difference between tribal law and mediation or sulh processes, they both incorporate tribal notions of communal responsibility and share similar procedures, and

they both often refer to Islam as a motivation" (Fares and Khalidi 2006, p. 509). *Tahkim* developed through the "tribal social structure of pre-Islamic Arabia" in order to "cope effectively with conflicts within as well as between social and political groups seeking subsistence in an environment characterized by scarcity and insecurity" (Funk and Said 2009, p. 153). Arbitrators (*hakam* or *hakim*) are authority figures who hold excellent judgment both in the settlement of disputes and in other matters. The Prophet Muhammad arbitrated disputes based on the standards and values of the community, resolving disputes within and between tribes, and is still considered the ideal model for arbitration.

Cook (in Jabbour 1996) shares that the roots of *sulha* "can be found partly in early Semitic writings and later in Christian Scriptures dating from around the first century A.D., and, of course, later found in pre-Islamic and Islamic Arab literature" (p. 13). The tribal roots of many Middle Eastern societies have created strong communal bonds and institutions that promote and maintain order and thwart disintegration. In these Arab-Islamic contexts, "*sulh* was traditionally used to foster a sense of moral accountability that transcends tribal loyalty, and to make peacemaking itself an honorable, dignity-granting activity" (Funk and Said 2009, p. 156).[1]

Sulha is a form of conflict resolution used to restore normal relations in communities following injury or insult to *sharaf* varying in severity, including murder. If conducted properly, *sulha* restores social harmony by reinforcing personal dignity, and is, therefore, preferred over court or arbitration (Abu-Nimer 2003, p. 96). The size of the *jaha* (notable, respected delegates that intervene in conflict) will depend on the difficulty of the case, smaller cases calling for perhaps one member of the *jaha* to address the situation, while complex situations with the collective responsibility of large extended families (*hamula*) may request as many as 20 members of the *jaha* to intervene.

In Arab society and within Palestinian context particularly, "familial and social bonds impose upon individual within that context a strong commitment and obligation toward his family as a collective whole and to the preservation of its honor and reputation" (Jabbour 1996, p. 70). The community is expected to assist in de-escalating the conflict using their influence to restrain undesired behavior of the parties. By not assisting in the resolution of the matter, the community risks harm their own interests and image, and are, therefore, bound to support the process for themselves as well as the parties.

The *Sulha* Process

As one of the options within an informal justice continuum, the *sulha* process has five main phases: (1) the expressed intention of the offending party to reconcile with the injured party; (2) the formulation of a group of mediators (*jaha*) to negotiate a period of cessation of hostilities with the injured party (*hudne* or *hudna*); (3) in the event of murder, the security of an amount of money (*'atwe*) to guarantee a ceasefire; (4) a specified truce period which can be renewed as the mediators work with parties on an acceptable agreement; and (5) the final stage of the process is *sulha*, a public reconciliation ceremony that marks the restoration of normal, peaceful relations with the signing of an agreement witnessed by the community, dignitaries, and (in cases of murder or serious injury) payment of an agreed sum (Abu-Nimer 1996, p. 44). Ultimately, the sulha process is "a means of avoiding—or ending—a blood feud" (Rohne 2006, p. 189).

To initiate *sulha,* the party that has injured another shows remorse for the actions that have caused harm. A representative of the offending party approaches a mediator to request their intervention in order to negotiate a settlement with the injured party. The moment that the aggrieving family approaches a third party, negotiations commence in order to secure a ceasefire that will protect the offending family from reprisal arising from the dishonor caused by the offense. This mediator will compose a group of mediators, called a *jaha*, to assist in resolving the dispute.

Once formed, the *jaha* will approach the victim's family in order to persuade them to agree to a *sulha* process. The *jaha* approach the injured party with deep respect and humility usually reserved for the most revered in society. *Jaha* demonstrates that *reverse musayara* to show extreme humility to the injured party, an ordinary member of society, where this would normally be reserved for most honored individuals (Lang 2002, p. 89). This ritual treatment by the *jaha* allays further feelings of humiliation and is intended to give the injured party a partial increase of *sharaf.*

The first meeting by the *jaha* to the victim's family takes place soon after a dishonor in order to avoid further humiliation by the victimized family, expressed in the terms: "They went to sleep while our honor was hurt" (Rohne 2006, p. 190). This typically occurs within hours of the killing, during a period known as *fawrat al-dam* (the eruption of blood),

where the victim's family has a legitimate right to seek vengeance for the dishonor (Lang 2002, p. 56). The offending party establishes the mandate for the third party, the *jaha*. By initiating the process, the offending party admits fault and acknowledges that they are willing to accept the punishment necessary to achieve reconciliation. In utilizing the *jaha*, they are preventing what might be seen as a further insult and provocation to the victimized party should they approach them directly (Rohne 2006, p. 190). Instead, the men of the offending family will remove themselves from their normal home and seek shelter elsewhere, partly out of protection from the victim's family and partly out of humility and respect for the victim: "By moving away from the (victim's) family, the killers are saying, 'We are not proud of what we did, and we do not want to hurt your feelings further'" (as an informant described to Lang 2002, p. 56). While the offending party may appear to be more powerful immediately following a murder, by entering into *sulha*, the family is taking steps to rebalance the honor and restore harmony in the community, at the same time as protecting themselves from future attack by the victim's family.

The *jaha* communicate that the offending party has expressed their responsibility for the offense, and wish to establish a ceasefire period, or *hudne*. The injured party agrees not seek vengeance for the original offense and will consent to the *jaha* working toward a reconciliation agreement between the two families. Requesting and accepting the *jaha*'s assistance require submission by both parties to the *sulha* process and any decisions made by the *jaha*. This conduct at the initial stages of *sulha* sets the stage for the entire process: "These actions are all integral parts and essential preconditions of the *Sulha* process and they are meant to empower the victimized party's side" (Rohne 2006, p. 190).

When the victimized party accepts the *jaha* committee, it further legitimizes the authority of the *jaha* in the situation as well as commits the victimized party to address the conflict in this nonviolent way. Forsaking the right to retaliate to restore the family honor is a considerable and honorable step, and can be extended if necessary if conditions for settlement are not met in the period allotted in the *hudne* agreement. As Elias Jabbour (as cited in Rohne 2006, p. 191) has remarked, the decision to agree to a ceasefire is most difficult for the victimized family:

> [It] is not easy to get the agreement of the victim because of the hurt, aggrieved, anger, etc. To get the agreement of the victim is the whole

wisdom based on the knowledge of human nature and behaviour, of the
society and the cultural ethics, rules and codes. So, in fact the killer will
beg the jaha to help them to make peace and to end the conflict, so that he
can escape […] from the revenge. But it is the victim who finds it difficult:
why would he end it, why would he agree to make peace? Because he does
not want to lose another son. So, you talk to his heart, mind and honour
as well as his foresight to see the future. When you get the agreement you
are almost there.

Once the *hudne* is accepted, it may be guaranteed by the offending side
through *atwe*. This investment is made to prevent retaliation and further
violence. The acceptance of the *'atwe* by the injured party shows tempo-
rary acceptance of the truce and a guarantee to withhold revenge. While
party acceptance and commitment to a *hudne* is not guaranteed, mem-
bers of the *jaha* show their dedication to the process by lending the con-
flict their prestige, time, and energy toward the task of reconciling the
parties.

In the *sulh* (settlement) phase, the *jaha* visit each party individually in
shuttle negotiations to find a solution that will satisfactorily restore the
honor of the victimized family, as well as the dignity of the offending fam-
ily. Mediators will talk with parties separately to learn about the conflict in
detail, and may meet the extended family for additional information. This
negotiation is enacted primarily through story telling by both the media-
tors as well as the parties "to present their positions and interests, and the
conditions for a desired settlement" (Abu-Nimer 1996, p. 46).

Shuttle negotiations expedite the process, allow mediators to engage
in fact-finding, and ensure avoidance of further conflict. Emotional
expressions such as anger, hurt, fear, grief, and sadness are expected
throughout this time. The *jaha* exhibit *reverse musayara* to demonstrate
gratitude toward the victim's family for granting this request "to make
peace rather than to avenge… Such treatment helps to assuage feelings
of humiliation further and to effect a partial restoration of lost sharaf"
(Lang 2002, p. 89). By approaching each party and their families indi-
vidually, the *jaha* provides an environment that shields the parties from
any additional loss of *sharaf*.

Discussing terms of settlement is a central yet private element to this
phase. Compensation for murder, called *diya* (or *tawwir* in cases of non-
murder), is considered by the *jaha* through the use of precedents and
circumstances (Lang 2002, p. 58; Pely 2009, p. 84). *Diya* acts as "both

a kind of punishment for the offender as well as a reparation for the victimised family" (Rohne 2006, p. 193). The *jaha* ensure that the victimized family understands that the "*diya* is not the price of the killed, as the worth of human life is invaluable" (Rohne 2006, p. 193). The process of agreeing to an amount can take some time and negotiation. Jabbour (1996) notes that in one case alone, more than thirty visits were necessary to convince the family that to accept the *diya* would be an honorable act and would constitute the family's "acceptance of peace" (p. 40).

When the parties agree to the terms of the settlement, they enter the *musalaha* (*sulha*) phase or reconciliation. This public ceremony of reconciliation is witnessed by the entire male population of the village or town, which can amass to hundreds of onlookers. Notables attend the ceremony to witness the reconciliation to confer *sharaf* and help rebuild lost pride (Lang 2002, p. 58). There have been cases, where a family refused to engage in *sulha* until they were assured that a number of prestigious figures would attend.

There are three elements that make up the final *sulha* phase, including an opening ceremony, peacemaking, and a symbolic closure of the conflict. These rituals serve to publicly the end of the dispute, to return calm to the community, to restore the honor and dignity of the victimized party, as well as to temporarily shame the offending party for their transgression.

At the start of the *sulha* ceremony, the victimized family will stand on a raised platform for the ceremony in view of the community. The *jaha* will tie a white flag (*rayah*) to a pole to symbolize "forgiveness by the victim's family and surrender and submission of both families to the authority of the *Sulha* Committee [*jaha*]" (Pely 2009, p. 85). The knot in the *rayah* is "a non-verbal promise of honor that the reconciliation which is going to take place applies to all members of the offending side and will not be protested by any of the victimized family" (Rohne 2006, p. 194). The offending family walks with the *jaha* to the ceremony site to meet the victimized family.

The offending party is seen to have their *sharaf* lowered through this temporary public humiliation. In the peacemaking element, the parties customarily meet once the process reaches the end stage for a symbolic handshake (*musafaha*) and to exchange *diya*. This can prove to be a suspenseful moment, especially in cases of murder: the offending party meets the blood relatives of the victim and is escorted by the *jaha* and

his male relatives. The injured party may, if financially able and a suitably strong family, return this compensation. This is *magnanimity*: "the injured family is encouraged to identify the action of reconciling with their attackers as a manifestation of magnanimity—one of the highest expressions of *sharaf* in indigenous Middle Eastern culture" (Lang 2002, p. 55; Funk and Said 2009, p. 158). The injured party, with restored and overwhelming strength over the injuring party whom they chose not to violently retaliate upon, forgives the person who caused him dishonor: "When you have a choice and you forgive, this is the highest rank in *sharaf*" (Lang 2002, p. 55).

Formal speeches by notables and dignitaries will be made before the two families, the *jaha*, and the invited notables present sign a physical document of agreement. The physical *sulha* agreement, signed by both parties and the *jaha*, clarifies who is guilty, of what offense, what amount of *diya* should be paid as a result, in what currency and by what time. To break this agreement would not only dishonor the family, but also the honor of the prestigious men who co-signed the agreement.

To end, there is the symbolic closure of the ceremony (*mumalaha*). The victimized family invites the offending family into their home to share a cup of bitter coffee, raising their *sharaf* in the process. The offending family provides a meal for the victimized family, the *jaha*, the notable guests at the ceremony, and the public witnesses of the *sulha*. This expensive meal, traditionally lamb, acts to reintegrate the family into the community. This exchange of symbols and ritual marks the restoration and resumption of normal social relations between the families (Pely 2009, p. 85; Lang 2002, p. 97).

Sulha is about redressing an imbalance through a formalized routine to mark a new state of affairs; it creates and maintains peaceful relations. It is impossible to understand the practice of *sulha* without reference to the complex set of assumptions, rules, and values associated with *sharaf*. *Sulha* is inextricably linked with *sharaf* and in many ways is about maintaining, restoring, and negotiating respect and reputation. The logic of *sharaf* forms a set of assumptions and rules that are constitutive of the social practice of *sulha* (Lang 2002, pp. 98–99).

Rituals and structures of Middle Eastern modes of conflict management and settlement are based on long-standing values of collectivism and honor, reinforced by religious and cultural ties. This is not to say that there has not been training sought in alternative methods as used in

the West such as North America. As Irani articulates, "Although Western techniques are skills relevant and useful, they ought to be better adapted to indigenous realities" (Irani 1999, p. 10).

The organic ideological and cultural expectations of the communities are imperative to understanding using such mediation and conflict management processes within their regional context. The use of rituals such as settlement and reconciliation serve to ensure reunification following strife, and encourage renewed friendly relations between parties. While the *Qur'an* is now an important source to mediators and arbitrators in talking with the parties, the processes of Middle Eastern mediation pre-date modern religious practices. With a young, professional push for secular society, this emphasis on pure and traditional Islamic modes may change, but cultural cues remain an overriding factor in how conflict is settled in the Middle East.

NOTE

1. The term *sulh* refers to the negotiation and settlement *phase* of the process, whereas *sulha* refers to the *act* of reconciliation (Abu-Nimer 2003, 92). Several authors and mediators interviewed in field research use the term *sulha* to describe the process *and* the event of reconciliation (Jabbour 1996; Lang 2002; Rohne 2006). Both terms are used in this chapter when adopted by an author, but this text uses the term *sulha* as this was the predominant term in the field research and the literature.

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A Brief History of Palestine and Conflict Resolution

Abstract This chapter gives an introduction to the case study location and the history of *sulha* in the region throughout the ages. More modern history includes the use of *sulha* through the Ottoman Empire and the European involvement in the locale, including the rise of Zionism, World War I and the British Mandate, the establishment of the state of Israel, and Six Day War. Recent history and the impact on *sulha* involve mention of the first and second intifadas, the role of the Palestinian Authority, and current Palestinian demographics in the oPt. Finally, the city of Bethlehem in the oPt is unveiled as the case study location and the organization *Wi'am* is offered as the base for field work and interviews with mediators within Bethlehem.

Keywords Palestinian sulha · Informal justice · Bethlehem

Introduction

The history of what are now Israel and the occupied Palestinian territory (oPt) of the West Bank and Gaza is a complex series of ancient and recent empires and kingdoms, religious shifts, controlling elites, warfare, immigration and emigration, and foreign involvement with the region during trade, pilgrimages, and external mandates. Modern Palestinian history has seen four stages of political and military occupation: Ottoman, British, Jordanian, and Egyptian and since 1948 Israel.

It is very difficult to separate the historical, political, and geographical dimensions of the conflict with Israel and the military occupation of the area, from everyday experiences of the Palestinians.

History of the region has been accompanied by the methods of conflict resolution that the Palestinian and greater Arab population have practiced since pre-Islamic times (*Jahiliyah*), namely, *sulha*. The roots of *sulha* were "found partly in early Semitic writings and Christian Scriptures" around the first century CE and (Cook 1996, p. 13). Birzeit University Institute of Law (BUIL 2004) has researched the informal justice methods used within Palestine throughout the modern occupations, and articulated how the process of *sulha* and the use of trusted local men who work to help people find agreement (referred to in the BUIL study as *islah men*) developed from the Ottoman period through to the modern situation.

ISLAM AND THE OTTOMAN EMPIRE

By the 600s CE, the rise of Muhammad, the messenger of Islam, presented a wave of change to the Middle East's political and social organization. The sayings of the Prophet Muhammad (*hadith*) as well as the Holy Qur'an provide examples of early Islamic-era methods of conflict resolution, including *sulha*. Through his preaching, Muhammad found opposition as well, necessitating not only negotiation but also warfare. Under the successors of Mohammad (*caliphs*), Islam spread into Europe, Africa, and Asia.

The Ottoman Empire gained territory throughout Asia, the lands surrounding the Mediterranean, and Europe. In Palestine, Ottoman rule saw reliance on local Arab leaders to run the Empire's administrative tasks, including tax collection and social affairs (Smith 2001, p. 11). The region retained its pluralistic blend of ethnicities and religious groups that were allowed to work and pray as they saw fit, albeit with some restrictions on non-Muslims (*dhimmis*).

Informal or tribal justice (*'urf*) is documented at this time, "particularly regarding land laws and penal codes" (BUIL 2004, p. 30). Within Palestine, "tension and rebellion against the central authority…led to a weakening of the authority of Ottoman institutions" (BUIL 2004, p. 30). Local people were more open to informal justice as a means to resolve conflicts meaningfully without a need to turn to the central authority. In one interview, an elderly, prominent *islah* man in the West

Bank noted that he inherited the role from his father and uncle, who held the position in the Ottoman era (BUIL 2004, p. 31).

ZIONISM AND OTTOMAN RESPONSE

Zionism evolved as a response to discriminatory practices, persecution, and attacks on Jews within Europe and Russia. According to Smith, the Zionist movement was a religious nationalist began with Russian Jews, who had attempted without success to assimilate in Russian society and were victims of state oppression and pogroms (Smith 2001, p. 34).

Emigration occurred between 1882 and 1900, with most Jews taking to the United States. Others, however, travelled to Palestine, making what the modern Israeli state considers the First *Aliyah* (ascent), the first wave of immigration (between 20,000 and 30,000 Jews) to the land of Israel by the movement that became known as *BILU*.[1] This movement would inspire later generations of Zionists on the importance of a return to Palestine, and how Jewish agricultural labor (leading to the founding of *kibbutzim*) could embody the principles of Zionism (Smith 2001, p. 34).

A main proponent of the Zionist movement was Theodor Herzl, an assimilated Viennese Jew, whose work *Der Judenstaat* (1896) called for the "creation of a Jewish state that would absorb European Jewry and thus end the anti-Semitism that still prevailed even in Western Europe and proved that assimilation was impossible" (as cited in Smith 2001, p. 36).

Herzl worked diplomatically for a Jewish State in Palestine by disseminating information through his publications and the installation of the World Zionist Organization (WZO), a "collective body of Jewish representatives advocating a secure homeland for Jews and presenting the Zionist cause to the rest of the world" (Smith 2001, p. 567). Zionists debated the importance of settling in Palestine given the extensive difficulty to secure land purchases, but ultimately this debate cemented the need for land in the region instead of offers elsewhere (Smith 2001, p. 38; Ferber 2015). With the establishment of the WZO bank and the Jewish National Fund in 1901, the purchase and development of land for Jewish settlements in Palestine, "never to be sold to or worked by non-Jews, as part of the program to establish a dominant Jewish presence in the area" (Smith 2001, p. 38). Herzl died in 1904, without solidifying international commitment to a Jewish state.

The second *Aliyah* between 1904 and 1914 was committed to a Jewish land through Jewish labor alone and did not seek the assistance

of Arab farmers on Jewish land like the previous *aliyah*. "For the Zionists of the second wave, Jewish socialism meant an egalitarian Jewish society from which Arabs were excluded" (Smith 2001, p. 40).

WORLD WAR I AND THE BRITISH MANDATE (1914–1948)

During the first world war, the Ottoman empire allied with the Germans, while Britain, France, and Russia allied in response to common threats to colonial, military, and commercial interests (Pappe 2006, p. 65; Smith 2001, p. 60). Because a war with Turkey would risk commercial trade routes like the Suez Canal, British interests included creating instability and tension for the Turks in the form of Arab revolt and separatism (Smith 2001, p. 64). The Sykes–Picot agreement of 1916 was the result of secret negotiations between the French and the British, with the consent of the Russians, to carve up the Middle East according to the spheres of influence, which came to fruition throughout and at the end of the war. The British occupied Southern Iraq from Baghdad, with interests across Mesopotamia and Southern Persia, as well as Egypt complete with the Suez Canal to Southern Mesopotamia; the French: Lebanon, coastal Syria, Southern Turkey, and Northern Iraq to the Persian border; and the Russians: Constantinople, Armenia as well as a sphere of interest across Northern Persia.

The Balfour Declaration (November 1917), written by the British Foreign Secretary Lord Arthur Balfour, represents the "first political recognition of Zionist aims by a Great Power" (Israeli Ministry of Foreign Affairs):

> His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.

The end of World War I brought with it Woodrow Wilson's League of Nations, "to provide a forum for settling international disputes peacefully… and provided a formula whereby former German or Ottoman territories could be taken over temporarily by the world powers. This was the mandate system" (Smith 2001, p. 85). British Mandate Palestine

included western Palestine that was allotted to the Zionists, and eastern Palestine, which was adopted into the newly founded kingdom of Transjordan. During this era, the British ensured a "legal basis for the establishment of tribal courts" and "regulated the work of informal judiciary" (BUIL 2004, p. 32). These tribal courts were formalized to "adjudicate cases among and between tribes" (Fares and Khalidi 2006, p. 509). The legal authority established by the British Mandate may not have been to encourage local capacities for the resolution of conflicts but rather to provide ways to control the colony indirectly by "retaining local laws and local leaders in order to avoid opposition" (Fares and Khalidi 2006, p. 509; see also BUIL 2004, p. 32).

The End of the British Mandate and the Establishment of Israel

World War II drained the British financially and militarily. Referred to the UN in 1947, the special committee charged with the Palestine issue recommended partition based on a pattern of land ownership, dividing the land into a Jewish state and a Palestinian state (BUIL 2004, p. 125; Smith 2001, p. 194; United Nations 1947; United Nations 2003). Arab and Zionist clashes erupted over the control of land to establish their own individual states. This violence would lead to the first *Nakba*, or catastrophe, for the Palestinian people. Three hundred thousand Arabs fled for safety to other Palestinian towns or to neighboring Arab countries. This forced exodus occurred, because people were either driven out or had to escape slaughter by the *Hagana*, one of the Jewish defense forces built up to protect the Jewish communities (Smith 2001, p. 209; Pappe 2006, pp. 135–136). In May 1948, David Ben-Gurion declared the State of Israel amid unabated conflict and crisis. Palestine was lost. The remaining regions were annexed to Jordan (the West Bank), Egypt (Gaza), or the new Israeli state.

Informal justice in this age is reported to have been either complementary to the formal courts (*nizami*) or very well supported by the Egyptian or Jordanian authorities, according to *islah* men who recall that period (BUIL 2004, pp. 32–33). Jordan occupied the West Bank from 1948, and with this "Jordanian laws became enforceable in the West Bank as well" (Fares and Khalidi 2006, p. 512). Jordan recognized local informal systems of conflict resolution and "Jordanian authorities played

a significant role in sanctioning and even organizing the work of mediators (Fares and Khalidi 2006, p. 513).

Partition (1948–1967) and Six Day War

Throughout the time of partition, Palestinians on all the sides felt their identities and loyalties being pulled in divergent directions. In the West Bank, "there was a growing realization that they too, were under occupation," despite offers of leadership by the Jordanian state (Pappe, p. 153). Following the Six Day War in 1967, Israel gained the control of the West Bank and East Jerusalem from Jordan and the Gaza Strip from Egypt. Fewer Palestinians were made refugees than in 1948, yet the figure in 1972 revealed 1.5 million registered refugees (Pappe, p. 187). Refugees were forced into camps in Gaza, the West Bank, East Jerusalem, as well as the neighboring Arab states of Lebanon, Jordan, and Syria.

Laws prior to partition continued to exist in large part, with Israel "reserving the right to amend or change laws as necessary" (Fares and Khalidi 2006, p. 513). Informal justice practitioners saw an expansion and extension of their role, due to the *nizami* courts being under the authority of the largely distrusted occupying authorities (BUIL 2004, p. 35). Fares and Khalidi (2006, p. 513) note that this helped to strengthen dependence on informal justice processes:

> This neglect to establish new courts to keep up with the rise of population and commercial life resulted in an overburdened court system to the extent that a simple case to 3-5 years took reach a verdict. This inefficiency, combined with the general mistrust of the Palestinian population of the Israeli-controlled judicial system, resulted in increased recourse to informal means of resolving disputes as an alternative to the Israeli court system.

Representatives of informal justice verified that, "their role was considered to be a national alternative for the *nizami* courts which were under occupation" (BUIL 2004, p. 35). Unlike previous periods, there was no established relationship between the occupying forces and the informal justice officials. Yet, research by BUIL (2004, p. 35) supports the idea that Israel viewed this alternative mode of justice to be an unchecked affront:

> Some representatives of informal justice said that they were harassed by the occupation authorities, arguing that the latter were not interested in settling discord in Palestinian community [sic] and preferred that cases and conflicts be dealt with directly by them rather than by the informal judiciary, since they viewed *islah* men and tribal judges as a nationalist 'police' which was not under their control.

If one of the parties in the dispute was an individual who collaborated with the Israeli authorities, *islah* men reported that there was greater interference in the case by the occupation authorities. Therefore, *islah* committees would avoid those *islah* men and tribal judges who collaborated with the Israeli government, and members of the community would deal solely with those representatives of informal justice with honorable, nationalist credentials (BUIL 2004, p. 35).

The First Intifada (1987–1994)

The first Intifada erupted in anger at the Israeli occupation and mounting frustration of the inefficacy of the Palestinian leadership (Smith 2001, p. 412). While Palestinians benefitted from Israeli employment, an improvement over Jordanian and Egyptian wages, the reality of the true costs of occupation became painfully obvious. The construction of Jewish settlements intensified across the West Bank, and these were built closer to Arab communities than ever before. Water-use restrictions decreased the amount of agricultural production within the Palestinian Territory, specifically Gaza, to benefit Israeli settler agricultural programs (Smith 2001, p. 417). Youth (s*habab*) born under Israeli occupation questioned their parents' submission to harassment and humiliation, whereas the elder generation viewed their steadfastness (s*amud*) as one way to carry on without giving in.

Anti-occupation demonstrations, arrests, and increased violence became the norm during this time. A notable example of nonviolent resistance occurred in the town of Beit Sahour, in Bethlehem governorate. The village refused to pay taxes to the Israeli state and raised the rallying cry of the Boston Tea Party "No taxation without representation." The Israeli response, not unlike the British response in 1773 America, was to take anything of value from tax resisters' homes (Cowell 1989). By 1989, it is estimated that 626 Palestinians and 43 Israelis had

been killed, with Palestinians accounting for nearly 37,500 wounded, and over 35,000 arrested (Smith 2001, p. 422).

During the first Intifada, informal justice was mainstream for those in the oPt. Due to "the weakness or absence of the occupation's executive authority, and the calls by the Unified National Leadership of the Uprising (UNLU) in their regular circulars, for Palestinians to boycott the agencies and institutions of the occupation," those who practiced informal justice during this time felt that this was the 'golden age' for their work (BUIL 2004, p. 36). Without police, courts, or administration overseen by the Israeli authorities, the need grew for alternatives to these governing bodies. "[V]arious Palestinian factions united under one leadership formed 'islah' or reconciliation committees to undertake the job of resolving disputes between individuals based on shared customs and traditions and in the interest of the Palestinian people, as a substitute for the Israeli justice system" (Fares and Khalidi 2006, p. 513). While *islah* committees were conventionally led by established mediators and heads of families known to function in this role, an innovation occurred, where there was the "introduction of new actors, young politically active individuals representing the various political factions, in such work, many of whom continue to carry out this function presently" (Fares and Khalidi 2006, p. 514). *Islah* committees became a widespread and effective alternative, and rulings and opinions of these committees were enforced by *shabab* of the *tanzim* (youth of the organization) or 'those who are masked and those who are on the run' (BUIL 2004, p. 36). In other words, those who failed to agree with the decisions of the *islah* committees were forced to commit to these opinions, by force if necessary.

Over this period, not only had the number of *islah* men increased, but the traditional characteristics of those practicing informal justice gave way to a diverse spectrum of socio-political backgrounds. No longer simply inherited the position from their father, and new *islah* men were "chosen as a result of their successful relations with the citizens or their position in the political structure" (BUIL 2004, p. 37). This era proved especially important in grounding the practice of localized informal justice measures with elements of the popular resistance against Israeli occupation while adapting the use of informal methods to the needs of Palestinians during the circumstances of the Intifada. "Rather than being subject to the Israeli court system, Palestinians resorted to a socially sanctioned, community

based system of resolving disputes that addressed their concerns and with which they could identify" (Fares and Khalidi 2006, p. 514).

Palestinian Authority (1994–Present)

Following the Oslo agreement in 1995, Palestinian leadership regained some authority over the Palestinian territory, though not autonomy. The World Bank (2008) articulates:

> The 1995 Oslo interim agreement split the West Bank into three Areas A, B, and C, with different security and administrative arrangements and authorities. The land area controlled by the Palestinians (Area A corresponding to all major population centers and Area B encompassing most rural centers) is fragmented into a multitude of enclaves, with a regime of movement restrictions between them. These enclaves are surrounded by Area C, which covers the entire remaining area and is the only contiguous area of the West Bank. Area C is under full control of the Israeli military for both security and civilian affairs related to territory, including land administration and planning. It is sparsely populated and underutilized (except by Israeli settlements and reserves), and holds the majority of the land (approximately 59%). East Jerusalem was not classified as Area A, B or C in the Oslo interim agreement and its status was to be resolved in final status negotiations.

These land designations were only intended to be a temporary measure with the purpose of gradually transitioning land resources of Area C to the PA. However, this process has "been completely frozen since 2000", and "little territory has been transferred to the PA since the signing of the Oslo interim agreement" (World Bank 2008, p. iv).

The Oslo agreement transferred the control of the Palestinian court system to the PA. New courts were opened in time and a police force was strengthened, which "briefly revived Palestinian confidence in the formal system and led to increased recourse to the courts, especially in civil and commercial cases" (Fares and Khalidi 2006, pp. 514–515).

Informal justice was seen by the PA as one way to "expand their jurisdiction and authority to areas that were not under its direct control according to the Oslo Agreements, such as Area C and most importantly, Jerusalem" (Fares and Khalidi 2006, p. 515). For informal justice practitioners, the PA "welcomed and encouraged their work," as shown by judiciaries meeting the PA through their governors, or being issued with

papers that officially acknowledged their role. Informal justice workers also were offered access to offices and an official backing for their decisions (therefore, they were less dependent on the *shabab* of the *tanzim* to implement rulings). One *islah* man suggested that the PA support for their work was due to the fact that the PA lacked control over the entire West Bank, with it carved into three pieces made it impossible to travel freely from one part to another. Representatives of informal justice, however, were able to move around quickly and freely in particular areas, including Jerusalem (BUIL 2004, p. 37). Overall, the PA took the concept of informal justice seriously, as seen by the creation of Central *Sulh* Committees, or President Arafat financially supporting the rites of *sulhs* or *'atwas* (BUIL 2004, p. 38; Khalil 2010, p. 16).

The Second Intifada 2000–2005

The second Intifada erupted in 2000 following a combination of factors, including failed continuing political talks and reactions on both Palestinian and Israeli sides as well as Israeli opposition leader Ariel Sharon's visit to the Temple Mount/Al-Haram al-Sharif (Greenberg 2000). Deadly violence by Palestinians and Israelis inflamed and polarized the situation further. Despite the Israeli government splitting the West Bank and Gaza into manageable, isolated sections with the use of an estimated 680 checkpoints, barriers, roadblocks, and trenches, Palestinian suicide bombings and armed resistance continued in retaliation for humiliation, beatings, and suspected Israeli Defense Force (IDF) killings of civilians. The Israeli response was swift: politically ordered targeted assassinations of political leaders and full-force military actions that leveled camps and villages.

In 2002, the construction of the security barrier began in earnest to prevent suicide bombers from entering Israel while also redefining Israel's borders within the West Bank and preventing Palestinians from reaching their land on the opposite side of the security barrier (Smith 2001, pp. 517–518; B'Tselem 2010, 2001). By 2015, the standards of living within the West Bank and Gaza plummet with a majority of Palestinians living below the poverty line, and at least 40% of children chronically malnourished (Smith 2001, p. 518). In Israel, fear of bombings created a pervasive sense of disruption in daily life and the state suffered seriously economically. As Gilmore (2005) and Halper (2008) detail, by the end of the second intifada, "more than 3,330 Palestinians were killed, at least 85%

of them civilians, including 650 children and youth, half under the age of 15. A vast majority of these children died without having had direct confrontation with the IDF" (Halper 2008, p. 172).[2]

Conflict resolution during the second Intifada was again heavily reliant on informal justice. The effect upon the Palestinian judiciary has been devastating, as it has been upon Palestinian society in general. Consequently, the government of the PA has been near collapse. Due to security closures and sieges of Palestinian cities, the *nizami* courts were frequently not an option. Palestinian institutions and infrastructure built up in the period before the second Intifada were destroyed by Israeli offensives, and the release of prisoners during such incursions was common, resulting in an absence or weakening of PA judicial and executive bodies. Particularly, the security forces were weakened; instability in the region increased, and resulted in "large numbers of weapons in the hands of the people." Informal justice saw negative consequences with armed groups forcibly intervening in disputes among the people. Most interviewees of the Birzeit University (2004, p. 39) study confirmed that the absence of formally recognized executive, judiciary, or security elements contributed to a surge of dependency on *islah* services:

> …The current situation of instability and an absence of law and order that currently dominates Palestinian society brought informal justice and its role to the fore, and … the activities of the islah committees was reconsolidated during the second intifada as a result of a desperate need for it.

Informal reconciliatory measures were undoubtedly necessary at this time in order to maintain relative peace and social order in an otherwise unstable society.

Bethlehem, a Society in Context

Located 10 km south of Jerusalem, the whole of Bethlehem Governorate is 658 km² and includes the three largest urban localities of Bethlehem, Beit Jala, and Beit Sahour, several smaller rural communities, and three refugee camps (United Nations Office for the Coordination of Humanitarian Affairs in the occupied Palestinian territory [OCHA] 2009a, p. 2; OCHA 2009b). Data from OCHA (2015) estimate the population in Bethlehem at 210,000, with 6000 Bethlehem residents living in Area C—under direct control of the Israeli government. The United Nations Relief Works

Agency for Palestine Refugees in the Near East (UNRWA) (2016) indicates that there are 809,738 Palestine refugees living across 19 refugee camps in the West Bank. Three refugee camps in Bethlehem (Aida, Beit Jebrin/Azza, and Dheisheh) shelter approximately 19,487 refugees as of December 2016 (United Nations Relief and Works Agency for Palestine Refugees in the Near East [UNRWA] 2016). There are 19 settlements or outposts inhabited by Israeli settlers across the governorate under de facto annexation by the Israeli government. This local face of the wider conflict was the source of 162 settler attacks on Palestinians and 73 Palestinian attacks on Israeli settlers from 2009 to 2014. During a surge of deadly violence following the abduction and murder of three Israeli teenagers in the West Bank in 2014, four Palestinians (including two children) were killed in Bethlehem in clashes with the Israeli Defense Forces, and 1292 Palestinians (including 614 children) were injured (OCHA 2015).

In 1947, the UN Partition Plan envisaged Bethlehem, like Jerusalem, as an international trusteeship and under neither Palestinian nor Jewish control. In the fighting that ensued after this plan was announced, the communities of Bethlehem lost land and yet absorbed refugees in one of three established Palestinian refugee camps. Bethlehem lost more land as a consequence of the war in 1967, which resulted in an Israeli occupation of the West Bank and the annexation of land from Bethlehem to Jerusalem for the purpose of settlement construction. Toward the end of the first Intifada, Bethlehem residents were struck by Israeli security measures, including a general closure of the West Bank as a whole. Permits to enter Israel, including Jerusalem, were required for those with West Bank identity cards. That remained the case after Israeli forces withdrew from all of Bethlehem, with the exception of the holy site of Rachel's Tomb. With the Oslo agreement, out of the area that is the Bethlehem Governorate, the UN Office of the Coordination of Humanitarian Affairs (OCHA 2009a, p. 2) indicate:

> …only 13 percent is under full or partial the Palestinian Authority control: Area A (7.5%, 49.1 km^2) and Area B (5.5%, 36.4 km^2). Some 66 percent (434.2 km^2) is designated Area C, where Israel retains security control and jurisdiction over planning and construction. An additional 19.4 percent (127.7 km^2) is designated as nature reserves, ostensibly handed over to the Palestinian Authority in 1998 but remains under the effective control of the Israeli Authorities.

Israel began construction on the separation barrier in the northern section of the Bethlehem governorate in 2002, sealing the division of

Bethlehem from East Jerusalem. This construction is nearing completion, with 56 km of the barrier's 708 km total route in Bethlehem governorate. When complete, it will affect the movement of people and goods, access to fertile land as well as public health and education services available in Bethlehem by isolating the residents at the opposite side of the planned wall, with 12 communities physically separated from the rest of the governorate (OCHA 2006; OCHA 2010; OCHA 2015).

Wi'am: Palestinian Conflict Resolution Center

Wi'am is a community mediation center in Bethlehem. Established in 1994 after the first Intifada, staffs at *Wi'am* are quick to note that it was a necessary venture so that the members of the community had a trustworthy, non-governmental organization to turn to when they had conflict. The main issues affecting communities in the Bethlehem governorate are consistent with the ongoing conflicts of the occupation, but also not unlike issues that people in conflict elsewhere deal with: land, water, housing, work, marriage. However, the context of Bethlehem means that conflicts, and their attempted resolution, are different. *Wi'am* sets out five main elements to the context in which their organization works: lack of land, restricted movement, crumbling economy and infrastructure, instability and uncertainty, and unknown future (Wi'am 2006).

In this context, the conflicts referred to *Wi'am* are inherently more complex. Much of the work that *Wi'am* does in the community is "a response to the effects of the broader political and social issues that impact life" in Bethlehem (Wi'am 2007). *Wi'am*'s mediators provided *sulha* to 260 cases in 2015, citing that "continued deterioration [of] the socio-economic infrastructure has led to increased tension in our streets, combined with the occupation, which leads to degradation of dignity, and creates displaced anger" (Wi'am 2007, 2015). The top five categories of conflict included financial disputes (66), youth violence (60), family disputes (52), neighbor disputes (50), and car accidents (44). Other categories include real estate, work, theft, assault, school violence, harassment, and attempted murder.

Arabic tradition holds that, "Nobody can carry blood, it is so heavy. Even the earth cannot absorb [it]… It will remain a stain" (Jabbour 1996, p. 57). *Wi'am* maintains the perspective that severe conflicts, such as assault or homicide, leave a stain on the community, and therefore, it is understood that no member of the society can take matters into

their own hands without the situation being investigated and brought to justice. In order to prevent the conflict spilling into revenge and feuds, *Wi'am* employs *sulha* as a means of dealing with disputes.

Wi'am is also a center for women's development, youth work, citizen diplomacy, and a children's summer camp. There were eight full-time employees at the time of the field research interviews. The organization is a close knit due to its small office size, and frequently co-workers assist one another in projects, grant writing, interpretation, and assistance with showing hospitality to visiting groups from within and outside the West Bank. In the summer months, *Wi'am* regularly has American and European volunteer interns to assist the daily functions of the organization.

Conclusion

The history of Palestine and its modern incarnations is one that is complex and hotly debated. However, there is consistency with which the indigenous population have used *sulha* and other forms of informal justice over an extensive time span that has seen changing occupations, leadership, strife, and uncertainty.

Viewing this history of conflict resolution within the context of an ever-changing landscape brings to light the reasons for change or steadfastness, and explains why informal justice has remained a popular option despite a modernizing climate. An atmosphere of anxiety provides an expectation for intensified conflict situations. Individuals are uncertain about their own life course in the circumstance of greater societal ambiguity. *Wi'am*'s role in the community is to provide mediation or *sulha*, as well as other community projects, to interact with the society and provide a space within the society that is dependable, trustworthy, and comfortable when the formal avenues of justice are not.

Notes

1. BILU is "an acronym taken from the Hebrew initials in Isaiah 2:5, "O House of Jacob, come and let us go." (Smith 2001, 34).
2. Official figures of fatalities are inconsistent. As Wolfsfeld, Frosh & Awabdy discuss (2008), news reports commonly embody an ethnocentric perspective, which emphasizes patriotic accounts while demonizing the enemy. Therefore, reports detailing fatalities during hostilities will differ

depending on the source. For example, MEDEA reports differ slightly from Halper's count: "The death toll rose to 4.046 in May 2004, of which 3.057 are Palestinians, and 918 Israelis." Further Israel Ministry for Foreign Affairs reports that in the years between 2000–2004, 1,009 Israelis were killed (including both military and civilian casualties), of which, 502 individuals died as a result of 132 Palestinian suicide attacks. See MEDEA or Israel Ministry for Foreign Affairs (2008) for more information.

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Interviews with Palestinian Peacemakers

Abstract This chapter's main function is to present the primary field research findings. Presenting summaries of each of the nine field interviews with local practicing mediators based on a set of relevant interview questions, the translated answers are intended to provide brief, accessible responses from the interview participants. They are a collection of interviews from mediators across society, including insights from mediators who are Bedouin, refugees, lawyers, politicians, businessmen, and teachers.

Keywords *Sulha* · Jaha · Mediator · Palestinian · Informal justice Interviews

INTRODUCTION

Over the course of 2 months, nine mediators were interviewed about their views on the mediation process and their role as a mediator. Interviews usually took place within the *Wi'am* center, but were also held in a participant's home or office. A typical meeting would involve a greeting, preparing tea and coffee for the guest, where necessary an introduction of the interviewer and interviewee by an interpreter, a semi-structured interview recorded with the participant's consent, and coffee provided during the interview as a matter of custom.

To gain access to these mediators, Zoughbi Zoughbi contacted mediators directly to arrange meetings for interviews, or provided contact information to the interviewer, providing an implicit reference that the interviewer was trusted. Mediators are Christian and Muslim, and come from a variety of geographic and demographic backgrounds of Bethlehem governorate: Bedouin, urban elite, lawyers, refugees, UN employees, *sheikhs*, and traditional and modern. All are men, and most are older men.

Interview questions were asked of all participants to understand the working theory of conflict resolution as it is practiced specifically in the context of Bethlehem.

ZOUGHBI ZOUGHBI [ZZ]

The first interview was with Zoughbi Zougbhi [ZZ], the founder and director of *Wi'am*. He is the only named interviewee because of his obvious role in Bethlehem. Mediation is a skill introduced to this mediator from a young age, as he indicates that his elders were active mediators. ZZ learned from their work, from oral history, and from practice about mediation, and would later attain a Master's degree from Notre Dame in Peace Studies. He viewed mediation in the way that he practiced it as a synergy between the cultural and traditional practices of *sulha*, and the modern techniques learned abroad. When discussing the aims of mediation, ZZ noted that for him, "mediation is not just to resolve conflict, but to invest in the relationships, positive relationships." ZZ sees restorative justice as central to his work: "I'm interested in addressing the wrongs and not avenging them. At the same time I like to humanize both sides and invest in the quality of relationships of people."

Successful mediations are commonplace, with ZZ citing that *Wi'am* has a success rate of "85–87%", where mediators "were able to resolve the conflict and respond to the needs of the local community… based on the win-win equation." In describing one story of success, ZZ mentioned a husband and father who were not able to cross the checkpoint in Bethlehem to get to work in Jerusalem 1 day, because his permit to enter Israel was not renewed. The man suffered humiliation and physical abuse from the Israeli soldiers. After this, he went home and projected this anger and frustration on his wife and family. *Wi'am* was called to mediate by his wife, and after lengthy conversations spanning 2 years, the mediators involved were able to restore the family and marital

relationships, engage the husband in local work, and enjoy the entire family's involvement with *Wi'am*'s work in the community as volunteers and participants. This successful conclusion, says ZZ, is the epitome of restorative justice and reconciliation. Mediation has been adapted as an interdisciplinary field, with approaches that are "multi-disciplined, inter-related and correlated."

Mediation practice is a long process, and one that ZZ has indicated does not run on a Western notion of appointments and scheduling. Instead, mediation assumes "compassionate listening; to listen with your heart to them, to have attentive listening, to validate their feelings." At the point, where he intervenes, ZZ appreciates that the parties are wounded and torn and that mediators need to respond to emotions and be open-minded, ultimately resulting in a holistic observation of the parties.

When the topic of failure comes up, ZZ initially did not want to commit to considering the term and suggested that at the time, this is simply blocking of growth. Later, he defines the term: "failure is a challenge that we need to overcome, that means we need to have the perseverance and to overcome it in a positive way to respond to their needs." Unlike the previous example of success, the topic of failure is a difficult one to pin down with an example. Honor killings and murder may still be issues up for discussion 10 years after the incident. Power imbalances also cause frustration and may result in a conflict not being resolved through mediation. Where this is the case, ZZ insists that when a party is not willing to enter into the conversation, they try to maximize their losses and instead focus on the social relationships of the community.

Responding to what parties need and want in conflict, ZZ says that people want to be heard and listened to. Parties might want different things from the mediator, for example, to be a shield, an advocate, a validator, or a fighter. Mediators need connections, resources, power, trust, reliance, and the ability to take on the frustrations of the people who come to them with confidence. At times, this also means being a listening ear to people who suffer from trauma and need to talk about problems that they experience in their lives.

Parties need and want different things from each other based on the nature of their conflict, according to ZZ. If one party was treated negatively, they may have anger to be dealt with, or lack of affirmation, or too much information. The range of cases they deal with means that parties will have different needs in conflict. Similarly, parties will not want or

need a range of responses or services from the mediator, depending on the party and the type of conflict. The examples that ZZ provided of parties expressing what they do not want or need were directed at the mediator. These statements were expressions of expectation, and included the desire for the mediator to 'get tough' with the other party, to come to a solution quickly, and even in an attempt to bribe the mediator to favor a particular side (ZZ notes that the mediators do not take bribes or gifts in exchange for their work).

ZZ knows that he acts competently in mediation by the number of people who have come to him, continue to come to him for matters small or large, or refer people onto Wi'am as a trusted third party, as well as the overall success rates. As a liked and trusted mediator, he knows that he is expected to respond to the needs of his community no matter what the issue. This requires the mediator to be able to forgive people for the things they have done, and be able to talk with those who are not able to express themselves well, young or old.

ZZ wants parties to help themselves and each other by being more compassionate to each other, including working together, cooperating, and focusing on the common good rather than personalities. This also includes the hope that parties could help themselves by mediating and reconciling between themselves rather than coming to a third party.

In mediation, ZZ avoids allowing the parties to demonize one another. Parties come into conflict "hysterical or historical," meaning that they are either not of sound mind or coming into the conflict from a previous one. In this situation, mediators need to remember to reserve all judgment. He recalls a traditional Arab story, where someone comes to a mediator and says, "The other took out my eye, what is your verdict?" The wise man says, "Wait, let me see the other guy, maybe his two eyes are taken."

When he has made an error in mediation, ZZ notes that these keep his mind active in regret, either immediately or soon thereafter. Facial expressions, speech, and general reactions from the other party let him know if he has erred. Where dynamics have changed and he has noticed it, he halts the conversation to mark that he had made a mistake and offers to rephrase or explain what he has said.

The impact of the Israeli occupation on ZZ's work is detailed in the conflicts caused by the material resources of arable land and accessible water that the community lacks, the employment opportunities that have rapidly been depleted, the inability for people to move freely,

international trade that is restricted, and increased anger and frustration among the people. He notes that not every problem is the result of occupation, but the 'lion's share' can be pinned down to the effects of occupation. Of course, "abnormal conditions create abnormal relationships:"

> We are a pressure cooker, but we can organize ourselves better. Our struggle is not only against the occupation but it is also the injustices among ourselves, which is impacted by the occupation. …We can regulate our relationship with the world. We can let the world hear us. … Of course, we are talking about different approaches, different realities, so, you need to do it in one way or another.

Finally, ZZ emphasizes that the work he does is part of him being Christian that "it is part of the ministry of reconciliation, that our Lord Jesus Christ asks us to do it." This does not restrict or imply preference for services to one denomination or religious group over another, but includes the entire community. He hopes that 1 day, work will also include "our cousins the Jews."

AB

AB is an older man from Beit Jala and a mediator in Bethlehem. He is a retired school headmaster, having held that position for 18 years, a former sports teacher and referee, a Boy Scout leader and training leader, and a volunteer at *Wi'am* since about 1997.

As a mediator, AB's aim is to bring people together to solve the issues between them. Knowledge of the reality of the situation and the perspectives of each side is critical. Once the main issues are understood, AB tells how mediators talk with both parties separately and "ask things of each of them," so that the mediators can come to a decision on the solution. If one party is stubborn and unwilling to solve the problem, AB says that they have time to pressure that party toward working for a solution.

However, AB insists that the success "comes from the people themselves [when] they cooperate on the problem." If parties do not cooperate, the mediators work to convince the parties to work toward conclusion. One example of success that AB mentioned was between a quarrelling husband and wife, where the wife had returned home to her

parents because of the dispute. When the mediators were called, they visited each party's home and spoke with them at length. The mediators continue to shuttle between the parties to work toward a solution, where each party can gain. In this situation, they were successful in getting to an agreement, and marked the end of the dispute by sharing Arabic coffee.

In situations that are more challenging or may face failure, AB indicates that the mediators have involved external bodies, such as the police or clergy. The police may put suspected dangerous offenders in jail until an agreement may be reached, and clergy provides support and cooperation to the mediators and the parties in a region, where the connection between the lives of people and the church is strong. In other cases, such as land disputes, mediators may recommend parties to provide documentation in demonstrating their side of the story. Parties not interested in mediating or not cooperating may avoid the mediators when they arrive at the home by not answering the door or telling their families to say that the party is not at home.

AB believes that all parties accept that they are right in conflict, and part of the mediator's job is to convince one of them that he is not, or to convince each party to compromise in order to reach an agreement. He believes that the ongoing occupation causes much of the day-to-day experiences of conflict. Without an established government authority, some people do not feel threatened by the government, and many people would know police officers if they were in a situation on the road. Otherwise, police would not be called to solve an issue, as many would like conflicts resolved outside of courts in order to avoid publicity, fees, and lengthy delays.

Parties want and need mediators to be available, accessible, and above all working on a decision on their case. From each other, AB believes that parties want and need money, humanity, and time. AB believes that parties do not need any monetary gain; though money may be a demand, they might make or a right they may have. He feels that parties are leaving God, and money may not be the solution that they need: "God is plenty outside."

AB knows that he has acted competently by a feeling of having resolved the conflict. If he had not come to a resolution on a dispute, he would have trouble sleeping and would not rest easily. When parties have come to a resolution, however, they sit together and drink coffee, marking the finality of the conflict.

In judging what he would avoid in mediation, he has to keep afoot to what the parties are saying and continually alter what he says and what he does to each party. He avoids letting quarrelling get out of control by changing his words or the substance of what he says. When he should err, he reflects back on it, and if he feels that he has spoken improperly, he takes the time to revisit that person and repair whatever harm may have been done by it. AB suggests that with the Israeli occupation, and earlier the Jordanian and Ottoman occupations, people within Bethlehem prefer seeing a mediator that practices an Arab method rather than going to the courts.

EK

"EK" is an experienced politician and mediator, having sat on an elected city council in Bethlehem for 24 years before requested by the Palestinian Authority to resolve disputes. He owns a large factory in Bethlehem and has a large family. One son is in an Israeli prison, and a second was deported to Ireland in 2002. EK has spent time in jail ("They said we were resistors"), as have his sons. His main concern is amicable relations of the people of Bethlehem: that Christians and Muslims are able to live together peaceably "as a whole family."

In one particular conflict example, EK mentions that there was a dispute over land. One party tried to blackmail a significant amount of money from the other, because it was thought that the family was very wealthy, causing tension. EK intervened and resolved it "in a tribal way," ensuring that rumors of wealth were dispelled and that the parties received a reasonable outcome. In this case, the party purchasing the land paid only the amount of money necessary for the land and did not fall victim to extortion.

The percentage of failure in mediation for EK is low, with most social and economic situations successfully resolved. Issues of citizens not abiding the law are referred to police and not handled directly by the mediator. EK believes that the low failure rate is due to fear of the consequences of breaking the law. In conflict, EK believes that people want an active legal system and should support the government. From mediation, parties need and want safety and security. From him, he believes that they only want to reach justice.

EK believes that from each other, parties want to preserve the traditions of the Palestinian people and for their religious faith to be

observed and respected. If there is a religious issue, EK notes that this is considered as an urgent issue and resolved in 24 h. To prevent such issues, he says that representatives from the Muslim and Christian faiths meet regularly to ensure that problems do not arise between the two Palestinian communities. Occupation, overall, is a universal problem of the Palestinian people, and one that has resulted in what EK terms "forty years of side effects," referencing the time since the Israeli occupation in 1967. EK mentions that these effects are ongoing and visible, including middle of the night Israeli military incursions and arrests.

EK knows that he has acted competently in mediation by the reaction of the people in conflict. In addition, he says that he is supported by the number of people involved in mediation, such as lawyers and police. He does not tackle family mediation whatsoever. Land disputes that, however, he is a very active mediator in that "if someone comes to me and he has a right to this land and he shows his ownership…I'll ask the other side what evidence they have…. You can't register two people on the same land." Problems arise when parties do not have documentation to support their claims, so the mediator would engage in fact finding to uncover the true owner of the land. EK indicates that before the occupation land, ownership was vague, and therefore, the ambiguity carried to today. "One of the major problems is that when you have a piece of land that belongs to one person and he dies, it is inherited by many people. So one person has a share out of ten shares, and sometimes he sells it and he sells other people's shares with it." Many people are consulted and the mediator decides who should get the land based on these consultations. Therefore, to prevent any error, the mediator would have his decision reviewed by other parties, and perhaps official bodies to confirm it. They would inform him of any mistake in the decision, though EK indicates that these individuals provide him guidance throughout the process. "Through the official sources, I am able to find ownership," and therefore, a decision.

HM

"HM" is an older man, whose family owns a souvenir business and small restaurant in Beit Sahour. The interview took place in an office at this business, and his daughter interpreted my questions and his answers. He started mediating disputes in 1964.

Initially, HM describes the process of *sulha* in detail. HM listens to both the parties in the dispute to inquire whether they have the same story or competing versions of events. In his own words, HM wants "to tell which one of them is lying." To get to the bottom of different versions of stories, parties are asked to repeat the story in front of others and include witnesses that the mediator can trust to detail a true account of events. Following this step, the parties are asked to make an agreement that what is decided by the mediator will be abided to, and they will make amends if found guilty.

During this process, the parties must avoid one another so to avoid compounding the problem. Once a conclusion is reached, parties are expected to make good on their earlier agreement. Should the conflict be about money, the party who is considered guilty is expected to pay the other party the sum agreed. The witnesses and the mediator may ask the other party to return the money to the guilty party in good will.

Other topics of conflict include land, assault, murder, and relationships, and may involve discussing the matter the police or hospitals. Should there be a situation, where a guilty party has been put into prison for his involvement in a conflict, the mediator, on behalf of the family, may go to the police and agree that the party is guilty and are ready to do anything to get him out of jail. Likewise, if someone should have to go to the hospital because of injuries sustained in an argument and does not have the necessary insurance to pay for care; the mediator will pay for the party's care. This is only done if the family is very much in need and the party is not guilty. Frequently, the party or their family returns this sum to the mediator. To stop the conflict the parties first make *hudne*, and then later *atwe*, "a word that they will not make any problems:"

> After a month or two weeks, the guilty party takes 40 men with them and go to visit the other party, and they have to pay everything. If he was in hospital they have to pay the hospital fee, if he was in the prison he has to pay bail. …When they visit they're trying to make things better, each one kissing the other's hands.

When a conflict should result in death, the mediator among others will approach the murdered individual's family to negotiate a ceasefire and to encourage them to take time to grieve. The mediator discourages

revenge by the murdered person's family and tells them that it will take time to put the anger that they have into words. Therefore, during this time, many people speak on behalf of the family in a particular way— the mediator takes on responsibility for the family, "insuring" the family against actions of revenge. The bereaved family may take a sum for an accidental death, but may ask for any sum should their family member have been murdered. In addition, the murderer's family may be asked to move away from the community should the two families be neighbors.

After a second ceasefire, the mediator of the murderer will approach the bereaved family and request a meeting with the murderer to come to reconciliation. The bereaved party may ask for anything from the other party and their family, and the guilty party must openly accept wrongdoing, apologize, and accept any request that the family may have. Should the bereaved family forgive the guilty party, they will accept this apology and the parties will kiss on the forehead and drink coffee. Finishing the coffee marks the end of the dispute.

HM indicates that his goal in mediation is peace between people and good relations. He emphasized that he works voluntarily. A success is measured in how much a mediator is selfless and entering the mediation process out of "love of reconciliation and making things better." A mediator does this by allowing parties to calm down, and not hesitating in doing the work of resolving the dispute, "to control things between them." HM also tries to "make their opinions close enough so as to help them solve everything."

HM's wife and daughter indicated that he also works with couples, including engaged couples and those on the brink of divorce. HM will meet with engaged couples' families to work out issues, such as money or interpersonal relationships, so that they are able to marry. HM has been successful in assisting wives who were being pressured by their families to get a divorce to remain married and in talking with dissatisfied wives who wanted a divorce to remain married.

A problematic case was one of a couple that was engaged, but the bride's family did not agree to the marriage. The two families were arguing about the issue when the groom's father suffered a heart attack and died. The couple felt guilty that this should have come about because of their engagement and have decided to be apart at this time. The young men of each family cause concern when they should meet the other. At the time of interview, there has not been a resolution, but HM is hopeful: "… even with all these problems, still the bride and the groom still

love each other." He sees their continuing efforts as well as those of their parish priests in overcoming a dangerous situation, so that the young couple can marry.

In mediation, HM believes that parties need to calm down and simplify and clarify the problem. He believes that parties want material outcomes from mediation, such as land or money. As the mediator, HM believes that parties do not need or want anything from him other than to solve their problem in a way that only he may know how. Parties need and want a variety of things from the other party: some just want peace, while others need money, and yet others need revenge. HM believes that parties do not need selfishness in a mediation and that this is most important in relation to the mediator. Parties want the mediator to solve the issue in a short amount of time and work toward a better life.

HM knows that he has acted competently after a mediation when the two parties solve their conflict and return back to their normal relationship—when he gives each one the rights they deserve. Consistently, parties seek his involvement in their conflict, and he believes that this is a testament to his success. Mistakes are rare because he does not work entirely alone ("I'm with country leaders") and he would have consulted this group if he felt he had done something wrong, and then apologize to the party. However, this has never happened, "we are leaders with good opinions and thoughts."

AS

"AS" is a sheikh in a Bedouin community just outside of Bethlehem. He lives in a tent, which operates as his court. He acts as a judge because of the honor that the late King Hussein of Jordan had bestowed upon him. He was educated in Kuwait, where he studied Arabic literature, recited poetry on television, and managed the Jordanian Embassy. He judges cases in his community and throughout the oPt, where the honor of being a sheikh has supported his work and given him more authority. He is a supreme judge who makes decisions on honor. He is a very highly regarded figure and staff from the office attended in this interview. Leila interpreted for the length of the interview, and AT (next interview) was present for the interview. It was made clear that this man should be shown extreme respect. This interview was held in the *Wi'am* office.

AS's work differs from that of a mediator in that a mediator may refer a case to the judge if they are unable to reach a reconciliation between

the parties. Once referred to the judge, the parties must implement any decision that the judge renders. AS contends that his court has more authority than the official courts because he is not restrained by the laws of the country. In addition, he has a large extended family to ensure that his decisions have power and protection.

In AS's courtroom, his only aim is to bring justice. AS has a lot of control over the decisions that he makes and is not limited to precedent or legal code. His success stems from honesty, integrity, and trustworthiness in his decisions. A weak judge who accepts bribes or has a personal interest in a conflict will not have the respect necessary to have decisions adhered to.

A story of success involved couple of men from Beit Jala who convinced a gold dealer in Jerusalem into a business plan to buy gold with small defects for a profit. The man from Jerusalem agreed to supply the men with $30,000 in exchange for this gold, but encountered trouble. Instead of going to Bethlehem, he was led south to Hebron by the two men from Beit Jala. Here, he met an armed man who took the money and was clearly not going to give gold in exchange. He had to leave the money behind and noticed that one of the men from Beit Jala accepted a small package from the armed man. Later, the group approached a checkpoint on their way back to Bethlehem. One of the men hid the small package under the seat, but when the brakes were suddenly hit, the man from Jerusalem could see that it was drugs.

One of the men from Beit Jala felt guilty about what had happened and sought a mediator to resolve the issue. The mediator had miscalculated the currency exchange between US dollars and new Israeli shekels to about half the dollar's worth. A ruling found that the man from Jerusalem had wanted to take a profit, and he should take a cut of 50%, but that the two men from Beit Jala should return the remaining half to the man. One of the men from Beit Jala immediately returned the sum to the Jerusalemite, while the other promised to bring it within a few days, but this turned into months. The man from Jerusalem contacted AS about the case. AS phoned the mediator who issued that ruling and they met along with the two men from Beit Jala, who now denied the scenario of baiting the man from Jerusalem purposely. They refused to return any remaining sum owed to the man.

Following this meeting, AS met the man responsible for detentions, and advised him of the situation, and suggested that the two be imprisoned for a few days. Each was in jail for a week until they agreed to pay

the sum. This is a success for AS because he brought "total justice to someone." They considered this man weak and chose to exploit him because he had no protection, whereas they had people to protect them.

When asked what he thought people want and need in conflict, AS remarked that people want someone who will not prejudge them on their religious background: "Muslims and Christians in Bethlehem are considered one." He notes that in Beit Sahour, where the overwhelming majority of the population in Christian, the people continue to request his assistance in matters because he can convey their message of equity between the two religions.

When people turn to him, AS insists that anyone he represents must be honest and righteous. In this process, AS would call on other people to help his client's case, and be willing to speak on their behalf. A person only having five or ten people of questionable background is not considered worthy of defense. A deserving person may be able to get two thousand people to stand up for his client, making his case much stronger. One situation he describes where he might feel that someone was honest and deserving of his help would be an unmarried girl who had slept with her boyfriend willingly and she was guilty of the act. AS says that if this girl came and confessed the act to him, he would judge her as innocent. He would do this for her own protection from her family, as well as protection in the future. He would do this because he insists: "All the religions in the world would say not to exploit her even more but to cover up the problem."

In conflict, AS contends that there are a myriad of needs and wants that people have of one another. While one case may be about a physical plot of land, another may be about defending one's honor, and yet another may concern misinterpreted messages. In describing a case of a couple, where the girl's family disapproves of the marriage, AS expressed how in a suitable case, he may protect this girl in his home until marriage arrangements can be made. One such case was that of a young woman who stayed with his family for 9 days, for fear that if she returned home that her family would kill her. In the meantime, AS talked with the family and convinced them that this was her decision and her responsibility. Parties, in this case, need time and space to cool off from the heat of their conflict, but AS indicates that this separation is also in order to protect the family from destroying itself. Parties overall do not want to further problems, AS suggests, and do not need or want to compound what troubles that they already have.

AS knows that he has acted competently when he has judged on the facts in front of him with justice. He concedes that the two sides will not completely agree with the decision he makes. He gives an example from the Prophet Mohammed, "When you try to make a decision as a judge and you make a mistake, you gain from God…But if you try and you're right, you get double—either way you'll gain." Given that, he admits that he does not know if that has happened, and writes the statement "Only God knows where the right is" at the end of each ruling.

The ongoing occupation does not affect AS's work, though he lives opposite an Israeli military post. The army made AS and his family aware that they know what it is that he is doing. He feels that this is not a benefit, but a way of sending the message that they are watching his every move.

AT

"AT" is a staff member of *Wi'am*. AT began his mediation work in 1987, at the start of the first intifada. The lack of authority or government at the time resulted in corruption, internal chaos, and distrust in the Israeli government services, including courts. His involvement in mediation initially started when neighbors and friends contacted him to discuss problems, including between families, couples, and involving drug addiction. AT feels that the service that he and others provided at the time was necessary to keep society together and prevent it from fragmenting further. It was around this same time that he met ZZ and realized that they were providing the same service in their communities, at times with the same cases. Their interventions eventually caught the attention of the Israeli authorities, resulting in the imprisonment both AT and ZZ between 1988 and 1989. AT believes that it was not in the Israelis' interest to see local conflicts resolved.

AT's aim in mediation is to follow a case to its completion and have closure for those involved, meaning collaboration and problem solving between the parties. One successful story of seeing a case to finality involved a father of four who was addicted to drugs. The mediators met with him and asked the man why he took drugs, and then worked with him to find appropriate treatment for the drug addiction itself and its root causes. This treatment was holistic; the man, his wife, his children, his parents, and his friends were all involved in his recuperation. As a result, the man has become a highly respected man in society.

A case of failure involved a young woman who wanted to marry one man, but her family disapproved and coerced her to marry another man. Societal expectations and tradition caused her great distress, and as a result, that marriage and that family were eventually subject to fragmentation. The woman left her husband and baby son to start a new life with the man she wanted to marry, in another country. AT considers this a failure because society placed undue pressure on her, and the woman was expected to abandon her own wishes for those of her parents'. While the mediators attempted to convince her parents to respect their daughter's wishes, society claims that the parents have the control in the situation and they would not forfeit this right.

In conflict, the social, political, economical, and educational dimensions of the scenario combine with the reality of life under occupation. The lack of social activities and the economical situation and high unemployment rate, added to the inability for people to work in Jerusalem, creates situations, where even very old grievances involving money or land may appear because of desperation, need, or even boredom.

When parties approach mediators, they want to feel comfortable in talking about their story and want to feel a sense of fairness. One example was between two brothers, whose father had died and left everything to one of the brothers and said that he did not want to leave anything to the other. The mediators brought the two brothers together and discussed whether to evenly share the inheritance, because the father may have made his decision to cut one of his sons off in a moment of anger. AT said that by doing this, the parties were more comfortable and happier because they were considered equals.

Related to this, parties want a mediator to give them reasonable solutions. AT says that people approach him because of his positive reputation for being honest and giving. He gave an example of two poor brothers with a sick mother in hospital. Neither was able to afford the medical expenses, and therefore, they argued over who was going to be financially responsible for it. One of the brothers' wives contacted *Wi'am* over the situation, and AT was able to raise charitable donations from within the community to assist with the medical bills. This eased the stress upon the brothers and their families, ending the conflict between them.

Within conflict, the parties' social and economic situations influence their needs and wants of the other. Money was the main source of stress for the previous example, but neither party was able to take on that

burden. They needed understanding from one another of their equal economic status. In educational issues, parties may be accepted to study at university, but unable to enroll as the fees are too great for the family to take on. In this situation, the party needed assistance from the mediator on scholarships available or cooperation from the university in lowering tuition. Similarly, in medical situations, the situation is usually about assistance in paying for the costs of treatment. Problems also arise when there is a death and there are arguments over the allocation of inheritance, or when a couple want to be married, but the woman's parents do not approve.

In these situations, AT believes that parties do not need or want him to interfere in the very personal elements of the conflict. Where this line is drawn varies, but could include discussing the inner workings of a mother–daughter relationship, or emphasizing or underlining a mistake that someone made. The issue of shame is an important, but very private, element of this society.

AT knows that he acts competently from the repetition and learning from his experiences. Before making decisions, he goes over the finer points of the conflict and ensures that it is a good decision. He avoids talking about certain issues that will enflame the conflict further or anger a party. If he does make a mistake, AT realizes that this could result in serious consequences, such as death. To prevent this, he tries to be as conscientious as possible.

Fortunately, for AT, this conscientiousness has not gone unnoticed. He acts the official spokesman for his extended family and he is highly regarded by the Palestinian Authority as a trustworthy individual, so much so that he has a government-issued identity card that puts the responsibility on him with providing consultation on social conflicts. His work, therefore, is not limited to Bethlehem, but all over the oPt.

RR

"RR" is a lawyer, a member of the Palestinian Bar Association, the president of the Public Liberty and Human Rights within the Palestinian Bar Association, and a member of the board of directors. He is also a social worker and donates considerable time to charitable and cooperative societies, both Christian and secular. This interview occurred at his law office near the Dheisheh Refugee Camp. A younger lawyer under RR's supervision was also present for the interview.

The nature of RR's work as a lawyer may initially indicate that he should take all of his cases to court. Yet, his involvement with social committees and *Wi'am* creates alternative means of handling particular issues. There are times that he may advise a client not to take the case to court and he may mediate the dispute without charge. Many of these cases involve marriage, divorce, and ecclesiastical issues. Much of what drives RR's work is his Christian faith, and he believes that people need to love each other: "All difficulties… can [be] overcome by our Lord, and He is the solution for everything." He indicates that he uses verses from the Bible to convey this spirit, and uses the current socio-political situation of life under occupation in his work. He tries to create a sense of peace, goodwill, and unity by doing this to tackle the difficulties of life in Bethlehem. There are serious conflicts that involve land and property that are threatened by the occupation, mainly settlers and settlements. There are matters that are more trivial that surface because the occupation has created a situation of Palestinians being "nervous, short-tempered", and easy to rise. In these situations, RR aims are to calm the parties down.

One example of a successful case may involve a spouse who wants to get a divorce. RR will hear from the party why he or she wants a divorce but sees that the reasons for wanting the divorce are minor. He would "take the case as I am one of the family." When he gets involved in this way, he may even anger with the other lawyers who saw this as a profit-making opportunity. He will coordinate meetings, perhaps in their home or involving other family members, to resolve the issues that brought them to him. He devotes personal effort, time, and finances in order to see the family reunified.

An example of a failed case might involve parties who refuse to accept interference and would prefer to solve it independently, sometimes violently. Once the party is involved in a criminal matter, RR says that the official procedures with the police and court prevent him from interfering. Other times, a party may go to a tribal chief for representation, and RR details his frustration at a cosmetic resolution to the problem rather than solving the conflict at its roots. This particular way of handling disputes also suggests that this chief will benefit from representing the party, with either money or land in return for their services.

RR outlined five elements needed by all people within the Palestinian society. First, there is no trusted, neutral authority; Palestinians need their own state, without violence. Second, RR believes that Palestinians

need an independent, trustworthy, and honest judicial system. Third, he believes that rules and laws need to be respected and applicable. Fourth, an executive authority comprising the police, government, and the governor must be present to apply the laws of the land over the people. Finally, the people need to be recognized, respected, given their rights, and not neglected, especially if they are poor and weak. With these components missing, people are left to feel insecure. The lack of needed authority means that independence cannot be achieved, because the political and militant factions and in-fighting work against "liberation and building institutes of the state." With these needs met, RR feels that the types of conflicts that they encounter will largely resolve themselves and mediation may not be required as much as it is now. Until that the level of stability becomes a reality, however, the "work of the mediators are needed."

When people choose to come to mediation, they turn to people they trust. Parties need feel secure knowing that their case is in honest hands that will not take from them financially and socially. Mediation is a low-cost and less time-consuming alternative to the courts. Socially, mediation provides an avenue to consult with a trusted mediator, where the judicial system may not be as dependable.

What parties want from each other varies from each case. While one party may want revenge, another party may want to feel protected, and may go to such lengths as giving up rights to feel secure and safe. Ultimately, each person wants to have "a peaceful life without any kind of headache." However, in avoiding the headache, a party may do wrong. In mediation, there is a sliding scale of responsibility and rights and room for compromise. In the courts, a decision of a judge will have less consideration of areas of agreement or bargaining between the parties, and will issue a verdict based on what evidence is presented.

RR lets consciousness be his guide when he mediates. He feels that he has acted competently based on his consciousness, and so long as he feels no guilt, he knows that he has done his job proficiently. Errors are sometimes knowingly made while trying to solve a "critical and difficult conflict." This error usually comes into focus later when he has time to see the situation with a broader perspective. RR indicates that there are others with experience that may advise mediators who require it, and for that reason, mediators rarely work alone but prefer to work with mediation groups. There are times that a mediator may require an expert

consultant is needed, and these groups provide this guidance, whether this involves issues of law or engineering, for example.

There are other cases, for instance, marriage, where there is unwanted and unneeded interference from outside parties, such as mothers-in-law or other family members. RR says that he avoids their interferences or minimizes it because while some try to interfere in good will, others want to be involved directly in the case out of bad will. RR also indicates that if there is a crime that affects the general community, he believes that these cases need special attention by the authorities, such as the police and the courts.

RR will hear most cases: land, marriage, car accidents, and minor crimes in the community are included in the range of possible mediated disputes. In these minor cases, RR says that their role is to solve them before going to their courts in order to ease the burden of the court.

The occupation does not interfere with his work as much as it would have in the past. RR tells how the leadership of the Intifada had chosen a select number of people who could deal with conflicts on an "on call" basis, so that Palestinians did not have to involve the Israeli police. Within the oPt, there was largely an absence of police, police stations, and courts. RR's role as a mediator in that time meant that he was heavily relied upon all across the oPt, "from Gaza to Jenin." As legal institutions grow and improve, as policing becomes more professional, and as politically, the situation within the oPt becomes more hopeful, the urgent services that RR provided in the past are no longer required. While mediation continues to be a difficult profession, RR considers it a necessary part of the Palestinian fabric, while the broader needs of the society remain unmet.

AJ

"AJ" is a Muslim mediator who worked for the United Nations in Bethlehem for several years. A refugee, AJ worked hard to afford his family a home that had enough land to house a few animals and a back garden filled with fruit trees, just outside of Aida Refugee Camp, where he had spent much of his life. His grandfather was a *sheikh*, who helped the community in resolving disputes. His father was a *mukhtar*, or village head, as were both of his brothers. The interview took place at his home and was conducted in English. His son-in-law, an emerging mediator,

transported me to the interview and occasionally contributed from his own perspective or to clarify a point that his "uncle" made.[1]

When asked about his aim in mediation, AJ says that solving problems and having parties leave happy and gives him great satisfaction. Some cases are easier than others, however. AJ indicated that there is a difference when dealing with distinct personalities. Mediating a case with one or two "good" parties is very easy, as parties are more likely to compromise with the suggestion from the mediator:

> If one of the parties is good and the second is bad, you press upon the good man to solve the problem. 'You are [a] very good man, you must help. If there is a God… you will take [your right] from God. Your right, you will take it from God. The cash or the money is no problem, *yanni*.' And they shake hands.[2]

Comparatively, dealing with "bad" parties becomes more difficult as elements of distrust and inability to compromise making resolution more difficult.

An example of a success in conflict is when parties are disinterested in money, open to dialogue, and are open to forgiveness, such as in an accident where no one is at fault and the act was unintentional. A more difficult scenario is murder with motive, not just because the parties are "bad", because it becomes much more complex for the community. The entire family of the murderer must leave the village or city as a part of *hudne* and to avoid revenge. This exile may last decades. AJ shared one example of this situation, where a family was allowed to return as part of *sulha* many years later.

About 15 years ago, a taxi driver murdered a fellow taxi driver by stabbing him to death over a fare. Both were Bedouin, and the outcome was that the murderer and his family had to leave Bethlehem as *hudne* and pay *diya*, or blood money, to the murdered man's family in order to return and engage in the *sulha* process. There is pressure on the parties from several mediators or sheikhs to enter into a resolution process, and agreements are intended to last.

AJ contends that parties want the *mukhtar*, *sheikh*, or mediator to enter into the conflict, listen to both sides equally, and help them solve their problem. The main goal for the parties is that their conflict is solved at the end of the mediation, no matter how difficult this may be. AJ implies that parties are usually cooperative and agree on a decision. The

continued occupation means that the people of the oPt need to resolve their conflicts and have lasting relationships during this difficult era. Referring issues to the Israeli court system carries negative psychological and cultural weight, resulting in parties being more likely to resolve conflicts locally and with their own people. Parties want mediators to be neutral and honest men, who are able and free to speak with two families to uncover the nature of the dispute from both perspectives and advise accordingly.

Mistakes happen, but it should not impede the mediation process. AJ knows that he has acted competently from the feelings he gets from the parties once they have arrived at an agreement. He said, "I should make a good job. I should!" as he feels pressure to reach an agreement. Before there was a government in the form of the Palestinian Authority, mediators were central to resolving social and economic issues, and while the PA grows in influence, mediation remains an influential part of Palestinian life.

An important aside involved the relationships between the religious groups in Bethlehem. AJ emphasized: "All of us, we consider the others… the same family," and there is "no difference between Christianity and Islam, especially in Bethlehem, and most of Palestine." As AJ was educated at the Terra Sancta School in Bethlehem, he became familiar and close to the priests there, despite the fact he is Muslim. He recalled a time, where one priest told the students, "Jesus is a Palestinian! He is born in Palestine and his is Palestinian!" Because the religious groups have lived together for over millennia, AJ believes that the commonality between the religions is more important than the differences. The way that a Muslim family holds the keys to the Church of the Holy Sepulchre in Jerusalem was one example of the need for one another, the trust of one another, and the collaboration that the faiths can share.

JD

"JD" is a mediator from Bethlehem Governorate. He has worked as a mediator with *Wi'am,* since it was founded, and believes that mediation is vital work for the community that requires attention at any time. Because mediation is so time-consuming and one has to be "at the ready" for conflict, the work has affected JD's personal and social life. However, he considers mediation a national duty and one he is proud to perform. He works with the Palestinian Liberation Organization and,

therefore, understands mediation as a national concept. He works voluntarily and says that the benefit to such a role is the respect from the community. He spent 5 years in Israeli prison.

The aim of mediation is not simply to resolve one conflict at a time but to "bring Palestinian people together as one unit" in response to the greater issue of the occupation. Mediation should serve to bring society closer because the Arab and Palestinian society has a close connection to family and extended family, and this system of relationships should be evident in how they resolve conflicts. Mediation should help in supporting Palestinian society, "preventing it from collapsing and falling into pieces." Time is also an issue with mediation; problems should be solved immediately. A court referral usually translates into a long-term time commitment, which means that for some parties, "the person who has claimed something, he dies before he gets his right."

JD is a busy mediator, successfully resolving five or six conflicts per day. One particular case he was currently working on involved a man seriously in debt and unable to repay the money he owed. Those who were owed money went to the debtor to collect from him, but the man was not at home. Physical fighting ensued, and rather than resort to the Israeli police, who could get to the area easier than the Palestinian police could, the parties requested JD and AS to intervene. Using the phone, the two were able to halt the fighting temporarily, because JD and AS, respected members of society, took on the responsibility of the conflict. JD notes that parties know that when the mediators agree to step into a particular conflict to solve it that the parties with rights will get those rights. '*Atwe* was taken during the *hudne* period, and the mediators took a month to plan possible solutions. This time also allowed the parties to cool down from the tense moments of the physical confrontation. After a month had passed, JD and AS met with the two parties to discuss the issues further. The two mediators met later in that day on that day to discuss strategies and steps for resolution in this case, but without the parties present. JD mentioned this story as a success because the parties were perspective-taking: the debtor's family understand that while the other family went against social custom by approaching his house directly, and the debtor appreciated that the family needed their money returned.

In situations of murder, however, success is less likely according to JD. While the steps of '*atwe* and *hudne* are taken, the affected parties do not necessarily honor the mandate to keep a distance from one another. As a

result, revenge is common, and the party who lost a family member may kill the original killer or a member of his family. In court, a party may present their case untruthfully; mediation, in contrast, is "built on relations and certain ethical codes." A party that aims to deceive or cheat knows that in the local process of mediation, the community may outcast him. JD contends that some parties may try to avoid this by taking their case to court rather than using the indigenous process.

Parties in conflict have a need and want for the "mediators to get his right back." The emphasis is on the need for the mediator and the immediacy of resolution. Parties expect the mediator to investigate the problem fully and speak with a range of people involved. They want their mediator to be methodological and confident in making their decisions.

Overall, JD remarks that people want relationships in the community to remain positive. People need each other, and yet require a sense of assurance and safety. Trauma from the years of occupation and conflict has taken its toll on the people. However, mediation provides an opportunity to bring relationships to the fore and restore their connectivity.

There are times when people get involved in conflict that the parties do not want to see involved in the matter, including a member of large, extended family with authority and power. Their reason for getting involved in questionable, and may not be out of concern for the parties, but out of self-interest or money.

JD knows that he has acted competently by the parties' reactions to solutions that he has suggested. Facial expressions, expressions between parties, laughter, words, or gratitude, or sharing a meal are all ways in which JD understands that the parties have appreciated his work and benefit from it.

Honor and marital conflicts are both topics that JD does not interfere with. JD indicates that experience has been his teacher, rather than universities teaching strategies and methods of mediation. When returning home, he reviews the day's work and analyses what he did well, what he did wrong, and what he could improve. Mediators are able to meet, discuss their cases, and offer or receive opinions. JD believes that this peer criticism is necessary in order to improve the profession.

JD added that he believes that Eastern cultures are more attune to religion, and this encourages and emphasizes particular ethics for human relations. Familial relations are valued highly, as is conservatism. He believes that mediation is more successful as a result because it has become a social norm within society.

Notes

1. The term "uncle" is used as a mark of respect for male members of the family who may not be an uncle but rather a relative by blood or marriage, or another respected male elder. See Davies (1949, 244–252).
2. "Yanni" is a filler word, similar to "like", "you know", "I mean".

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The Underlying Ideological Framework of Mediation Practice with *Wi'am*

Abstract Using the primary data collected in field research, this chapter employs theory question analysis, which targets the questions posed relating to theory, including the views of human nature, conflict, productive conflict, destructive conflict, and social institutions. The aspects of society influencing these views are considered, namely, family, religion as well as government and politics. The reality for those who mediate disputes is discussed, as are the prerequisites that are commonly associated with the role of mediator in Bethlehem. Also considered are the effects of community conflict on the macro-level of greater society and with Israel, in addition to the effect of the broader and protracted conflict between the oPt and Israel on conflict at the micro-level of society.

Keywords Wi'am · *Sulha* · Ideology

In this chapter, the focus is on taking the information that these practitioners provided within the interviews to explore their responses and to analyze these in terms of their descriptions, viewpoints, and understandings. This chapter describes the cultural construct of the working theory of conflict resolution in Bethlehem by reviewing how the interview responses relate to the theory questions.

VIEW OF HUMAN NATURE

Views on human nature were heavily conditional on the current situation of occupation. Many mediators commented that the hardships many suffer as a result of the occupation drives many to respond to conflict in ways that they may not if they were not in this environment. ZZ commented, "Abnormal conditions create abnormal relationships," and goes on to explain, "It's in the hot summer, no water, nowhere to go… You see it in people… When you have a scarcity of things, people fight, because [of] selfishness, personal agenda…these things."

Aside from the hardship of summer, there is also the effect of the long-term condition of occupation and violence: "Let me tell you, we have trauma (ZZ)." EK notes that due to "Israeli occupation, we have 40 years of side effects." In conflict, ZZ describes parties as angry, frustrated, unable to express themselves, and reactive. He also defined parties in conflict as "hysterical or historical," meaning they are "half mind." AT agrees that parties, "in a moment of anger…can cause numerous complications. In our society, anger is something that easily arises, especially if the situation is violent then you have a lot more complications." RR added, "…we know that the siege [Israeli occupation] that's put on the Palestinians has led them to be nervous, short-tempered, and so on. So anything, it will [cause them to] rise. So we try to calm them." The economic hardship as a result of the ongoing occupation has resulted in some parties referring to old grievances, "because there isn't much to do and people don't have things to do in their lives, they go back to old things and old conflicts to get any kind of money from it" (AT). AB mentioned, "If you see that's [the] bad situation [in] which we live, make all this conflict. That's the reality."

Another opinion on human nature concerns adherence to social norms. In one conflict, JD described how one party owed a second party money. The second party that needed the money broke social custom, and went to the home of the first party who was in arrears. As a result, mediators became involved and evoked a method of taking the responsibility of the conflict or 'insuring' the parties in order to solve it, called *wija* (JD). "Usually a lot of mediators may talk on behalf of them, 'I insure, I am responsible, that they will not do anything'" (HM). Part of this insurance is based on the honor and esteem of the mediators intervening in this conflict. To go against their wishes would dishonor the mediators as well as the parties (Lang 2005).

Some views of human nature included the assumption of whether people were innately good or bad. A mediator mediating between two "good" parties or between one "good" and one "bad" party was said to provide easy resolution, because it is straightforward to pressure the good party or parties into a resolution. Mediating between two "bad" persons would be far more difficult because of their perceived bad nature. Parties who lie or over-exaggerate their case to make gains (unbeknownst to the mediator or judge) are said to have bought "a plot in Hell" (AS).

Finally, HM suggested that parties in conflict are heated and their views convoluted and made complicated. To address party needs and wants in conflict, there is the "need to simplify the problem and not to enlarge it, to calm them, to make the views more clear" (HM).

View of Conflict

The views on conflict were varied; however, they centered on the concepts of *problems*, *injustice*, and *relationships*. These terms were not mutually exclusive; a discussion on the need for justice to resolve problems could be coupled with the need for investment in relationships or community support. As a result, these subcategories containing the views of conflict may include multiple variables as introduced by the same mediators. In addition, mediators indicated that there a sense of urgency is considered, where critical and dangerous conflicts, such as those surrounding murder, assault, and honor, have an imperative for assistance greater than those understood to be less serious or ongoing.

Conflict as a Problem

Out of nine interviews, seven mediators made explicit reference to conflict as a "problem to be solved":

[The goal of mediation is to] bring people together so that we can solve things between them. (AB)

[A success is when] the mediator solves this problem. (HM)

In that way, I was able to solve the problem…(EK)

The main thing that I aim for and I'm happy when it happens is when I have a case and we take the case to the end and solve it and put closure to

it, and both sides are able to get what they wanted, and to solve problems between people. (AT)

Agreement – we make papers – and [have] witnesses, and I solve their problems and no one can ask the other, forever. (AJ)

Today, we have a meeting. The meeting will be about what are the strategies and steps to use to solve the problem. (JD)

[Success] means we were able to resolve the conflict and respond to the needs of the local community…based on the win-win equation. (ZZ)

Two mediators referenced statistics of success rates: ZZ highlighted that there is "85–87% success" with mediation and JD cited an American academic who studied Palestinian mediation in depth when he mentioned "as Palestinians, we were able to resolve 98% of our conflicts without going to the courts."

Conflict as Injustice

Themes of justice and one's rights were heavily mentioned throughout the interviews. One term used repeatedly was 'the right' in emphasizing a just or fair entitlement:

Where is the right? (AB)

It may be sometimes two parties, a conflict between them; one has a receipt or document that he has a right from the second party. (AJ)

Your right, you will take it from God. (AJ)

But when you have the right and it's with you and you're honest, I can get 2000 people to stand up for you. (AS)

At the end of my decisions, I always write a sentence, 'Only God knows where the right is.' (AS)

They should know whenever we say that we're going to interfere in a problem and try to help it or solve it, that anyone who has a right will get it. (JD)

The just person in the situation wants the mediators to get his right back. (JD)

See, [in] mediation, someone has the right or someone doesn't have the right. Or both of them they have the rights, but this one is 70% he is right and the other he is 30%. So the mediation is coming two steps here and one step from here. (RR)

`When two parties solve their problems and they return back as families and friends, that's when I know I'm a good mediator. Like when I give each one his rights. (HM)

Conflict as a Crisis in Relationships

The emphasis on relationships and maintaining good relationships was a theme heard throughout the interviews. Conflict was seen as a threat to the unity shared between people in society, with a potential to spill over into a greater conflict. As a result, the mediators understand conflict as something that has brought the parties away from each other. Six mediators evoked themes of reconciliation, using phrases to describe what they try to achieve in mediation:

bring [the] people together (JD and AB)

But when you do it in mediation, where you bring the relationships together, you bring people together, you reunite them, and you even take them back to the period before the conflict even happened. (JD)

unite people (RR)

invest in the quality of relationships of people (ZZ)

love and peace between all the people. (HM)

People want relationships in the community to stay good between each other. There's an Arabic quote that says, 'Heaven without people is not really that nice,' or you don't go to it because that only emphasizes how much people need each other. (JD)

One mediator commented that the goal of mediation has a broader aim to protect the relationships between the religious groups in the society. EK considered the goal of mediation was to "make sure Bethlehem lives in a condition as a whole family that brings Christians and Muslims together, to keep it a friendly environment."

VIEW OF PRODUCTIVE CONFLICT

Mediators described productive conflict as including elements of cooperation, participation, understanding the situation, and accepting the agency of mediation and the mediator.

Cooperation

Cooperation with one another and the process was the first inclination of success:

> The success begins or comes from the people themselves, they cooperate on the problem. And if they cooperate [well], they make it successful. (AB)

> To work together, to cooperate, to focus on the common good and not the personalities, to treat each other with more respect, to dignify each other. (ZZ)

Participation

Participation of the parties and others affected is an important element of productive conflict. AT described a case of drug addiction and the effect on the person's family:

> The treatment was with all his family, not only himself, his wife, his children, his parents, and even the people around him not only his family. The reason is behind this is that you can't treat someone away from the rest of his family; if he's going to be bad-tempered, and his wife is going to be bad-tempered, he'll only get up to step zero. So we had to work with the whole family to get success.

Understanding the Situation

JD mentioned that one of the "main indications of success [are] people's understandings of the situation." For the parties to take into consideration, the other person's perspective is a valuable dynamic.

Acceptance of Mediator Agency

Most mediators indicated that parties respected both the mediator's role and the established process of mediation. When they enter a dispute,

they expect a set protocol to be followed and in turn devoted a considerable amount of personal time to finding solutions:

> When we went, the fighting was over because the people had to respect us as figures in society. (JD)

> What he [the mediator] decides they should agree, always. (AJ)

> When they sign on this paper, they are saying that we have to obey what the mediator judges. (HM)

> [People need a mediator to] give them reasonable solutions. (AT)

> First of all, when the two sides, when they do react in a good way to the solutions that I have [suggested]. [Responding to a question on how the mediator knows he has acted competently in a mediation]. (JD)

> To be a mediator, they need to have connections. They need power, and by power I mean non-violent, conflict resolution power. You are talking about resources, able to use resources – human resources and material resources. (ZZ)

> "After I make my own decision and am able to prove my own decision, I then consult other sides, official sides sometimes [to confirm my decision]." (EK)

Productive conflict is one that moves forward in the established process, even if that takes time. Productive conflict also has active participants who are willing to talk with the mediators and accept the decisions that mediators make in their disputes:

> After negotiation and working things out between the two sides and they come together, reconciliation…There are lots of ways [I know I've acted competently]: through laughter, through words, through gratitude. Sometimes they have a small party, or a meal, they eat together. Our society's opinion, that personal gratitude they show…and I became a figure that people do listen to what I say. (JD)

View of Destructive Conflict

Mediators noted that success was hampered by non-cooperation and non-participation by parties, or the involvement of outside parties for good or ill intentions.

Party Non-cooperation

Parties that do not follow the mediation process, avoid, or disregard mediator engagement contribute to a view of destructive conflict. Among this discussion included frustration over asymmetrical power as well as parties that are considered to be unreasonable, dangerous, dishonorable, or 'bad' by the mediators:

> [O]ne of them, they don't care. And when we go to them, he might say, 'Tell them I am not at home.' … When we phone for him, he doesn't answer. So we feel that he is not cooperating. … We see that there isn't any cooperation for it. (AB)

> It's a dangerous one because if they get more angry, any of the boys, they could hit or kill each other. In regard to a conflict that remains unresolved and spilled over to extended family] (HM)

> …There was a situation that happened that there was a girl in my protection and around twenty armed men from her family came and they wanted to take her. In these kinds of situations, you have to protect yourself if you're threatened. (AS)

> In some cases the perpetrator is so strong, the strong will not come to his or her senses and the other side is weak. (ZZ)

> Sometimes the parties don't accept our interference, they refuse and insist that either they'll solve it their own way by their own hands. This will take them to more official procedures with the police and the courts and then we can't do anything. Or sometimes directly they go to the courts or prosecuter, or they go to the chief of an Arab tribe so he can speak on their behalf. And then… I don't like to work with them …[b]ecause their ways are not solving the issues from the roots, but they will solve it on the surface only. So after a while it goes back. At the same time they [the tribal chief] have their own benefits. They get either money or land, or they get something to be paid to them. (JD)

> Sometimes people, when they want something from someone, and it's not right or they do have a right, they try to bribe the mediator to either get more than they deserve or sometimes they don't deserve anything but they want something so they try to deceive the mediator. (JD)

> It takes time. It takes time. But at last they should arrive at peace, they should arrive. For agreement and peace. If the two parties are two bad, it takes time. (AJ)

Mediators also discussed what they do to counter this element of destructive conflict:

> We ask sometimes that the priests…cooperate with us…because of…life and the connection with the church. And maybe sometimes we are cooperating with the church; the priests help us in solving this problem. (AB)

> We use only non-violence and we try to be accountable to the people and we cannot really force anyone to go to mediation except through our, the strength of our society and through the communication with the elders. (ZZ)

To ensure control over the process when parties may lose focus, one mediator discussed his method for keeping parties on track:

> If you're speaking with both of them about their situation and someone goes on and on and on about this situation…so you have to change everything, everywhere, all the time. If you're going to talk you must talk another way, to take the other way and speak to the other. Sometimes they are going to quarrel; you change their words of what you're going to speak to another. (AB)

Interference by Outside Parties

Mediators have indicated that in the process, a party involved in a conflict approaches them to intervene, and then, the mediators take the case to the second party for discussion. When they encounter those outside of the direct experience of these parties, two mediators indicated that they prefer not to deal with these people and focus just on those involved or invited to be involved in the case:

> Sometimes people don't like it when someone from a huge extended family has authority and power and he interferes, even though no one wants him to interfere, but because it's some kind of ego [boost] to himself, and plus he needs the money, because some people do get money for doing mediation. (JD)

> …usually we try to avoid the interference of, in every case there are some people who want to interfere when there's no need for their interference. Those people, sometimes they come to intefere with good will. But sometimes there are others that they will come to interfere with bad will. So

we try to minimize, as much as we can, the people who are interefering directly in the case. (RR)

VIEW OF SOCIAL INSTITUTIONS

There is high mistrust of the effectiveness and trustworthiness of formal justice bodies, and mediation had been extremely popular as a local method of conflict resolution. RR outlined his vision for a sustainable society that would be prepared to handle the community conflicts that mediators encounter: the community needs an authority that is neutral and genuine, an independent judiciary that the people can rely on, laws that are "respected and applicable," an executive authority that includes government and security forces that are present and apply the laws to citizens equally, and finally for these social institutions to recognize and protect the weakest members of society, those who have been consistently denied rights and respect. The work of mediators at the micro-level of society will be ever-present without these goals achieved, he maintains. (RR)

With the Palestinian Authority gaining stability and the violence of recent times subsiding, mediators have indicated that their work is supported by the Palestinian government, the Palestinian security services, courts, and religious institutions. In return, mediators ask for help from church leaders and sheikhs where necessary. AT noted that he carries a government-issued card that requires his consultation on social problems of society, throughout the West Bank. Others mention the importance of mediation in courts and police bodies:

They consider it in the court, the rule of the *mukhtar*, they consider it in the court, they consider it. (AJ)

We don't leave them free: we ask the police to cooperate with us, and put them, both of them in the jail… (AB, when asked about serious challenges.)

Mediators provide more than conflict resolution services, but also bring people in their society to other services where necessary as part of their work in the community:

Sometimes I take people to psychiatric [hospitals] and when they put their names, "What is their name?" "George." "George Zoughbi",

"Mohammed Zoughbi", you know, because they think [the patient is] part of the family because of the way we deal with people. (ZZ)

Aspects of Society Influencing Perspectives

Behind the perspectives on mediation practice, mediators also provided insight into the aspects of society that influenced their views. These included the social institutions of family, religion, government, and politics.

Family

The imperative for the practice of *sulha* has been promoted through family involvement over generations. The position is one of honor, and those who shared this influence suggested that their involvement was desired and expected from their families and society:

Do you know, why I like this thing? My father was a *mukhtar* to his village. And my grand[father] was a *sheikh*. Not *sheikh* Islam, but *sheikh* to solve problems [for the community]… And my two brothers were *mukhtars*…. *Mukhtar family!* (AJ)

Because I'm so trustworthy in society, my extended family told me that I should be considered the official spokesperson of the family. (AT)

Since I'm a Palestinian who believes that it's my duty to do mediation, and I come from a background that allows me to do such a thing because of my family. (JD)

[M]ediation is something that I have grown up with. I belong to a family rooted in this culture for hundreds of years and I used to walk between the legs of my [elders]. I learned a lot from them, from the oral history, from the practice, from the skills and the stories. (ZZ)

The traditions that surround Arab society since that time have influenced the process of mediation as it is practiced in Palestine. Many mediators made reference to the types of cases that they would avoid in responding to what they avoid in mediation. Mediators in this context, like many in the West, have speciality areas in which they work best (e.g., family, work, community, and politics). However, on more than one occasion, a mediator

remarked that he would not mediate very "intimate" conflicts, such as between a mother and a daughter. When asked about this, AT replied:

> There are lines that shouldn't be crossed. There could be a problem that was someone made a mistake and they don't want that to be emphasized or spread. (AT)

AT added that this is due to the personal nature of the issues and the impact of shame on the parties.

Religion

The influence of religion upon the work of conflict resolution in this environment is substantial, regardless of the religious background of the mediator. For some, conflict is brought about when there is a loss of connection with God. For others, religious faith is a driving force behind their work. The work of mediation within this society includes consultation with religious leaders and at times reference to religious texts.

One mediator commented that, in his belief, Palestinian culture as part of Eastern society is more connected to religion:

> One of the things that differentiate us from the West is that we are more related to religion. Religion does emphasize and encourage people, and has certain ethics, that encourages people to treat each other in a certain way. (JD)

Another mediator commented that the role of God in society is not adequately considered:

> Everyone needs more than he has. …It's a type of feeling…feeling and needing plenty of money, and the money – and God is never part of it. They want money, not praying to God. They are different together. Now we are following the money, and leaving the God. God is plenty outside. (AB)

Christianity

Those who considered their Christianity an influence or reason for their work made this explicit at some point in their interview:

Personally for me it's different from others. I have a Christian background, and I believe that we have to love each other. I believe that, as I said, all difficulties we can overcome by our Lord and He is the solution for everything. So we use verses from the Bible. (RR)

[F]or me as a Christian, [mediation] is part of the ministry of reconciliation.. that our Lord Jesus Christ asks us to do it. And we do it not for Christians, but we do it for the community in general, for Muslims, for Christians, and probably, if the future will allow us to have a relationship, with our cousins the Jews…So in a way peace work is not locked for one group or another. It is more commitment, it is more value, it is…I believe we have demand. (ZZ)

And they'll say you're a kind of pilgrimage to Allah. It is a kind of pilgrimage, a type of worship, a kind of spirituality that you are doing, and not in return for anything. (ZZ)

Priests are asked to participate in mediation, where their influence is seen as a positive element for the parties:

So they are still trying their best to solve this problem, they are still waiting on this problem, maybe not with them directly but …the priests are trying to solve it. But not directly with them but through negotiation, they're trying to think what's the better solution. (HM)

Sometimes they want a father, they want a grandfather, sometimes they want a counsel, they call for a priest… You as a mediator you are playing different roles… (ZZ)

Islam

Islam is the religion of the majority of Palestinians, but many of those Muslim mediators who mentioned their faith did so in a context of inter-religious relations. AS was one mediator who referenced elements of his faith in the form of *Hadith* throughout his interview to explain what the Prophet Muhammed had to say about a range of issues:

There's an example from the Prophet Mohammed…when you try to make a decision as a judge, and you make a mistake, you gain from God…But if you try and you're right, you get double, but either way you gain. (AS)

At the end of my decisions, I always write a sentence, 'Only God knows where the right is.' There's a saying from the Prophet Mohammed that when people come and get these kinds of judges, maybe … you know how to over exaggerate more than me or have a [better] way of talking than I do, so you present your case in a more convincing way but you were actually lying. So if I do make a decision for you and you win that case, in fact [you're] buying… a plot in Hell. (AS)

AT discussed why AS is a success as a *manshad* judge:

He's a good person and does everything by God's law [*Shari'a*]. (AT, while present at the interview of AS)

Interaction Between Religious Groups

The main discussion of the influence of religion came in the form of describing the religious groups living in Bethlehem and how they interact, or how they should interact:

[When] I was a student of Terra Santa College, I was very close to the priests. Every day before we entered the classes, we should enter into the Church of the Nativity for praying, daily. I am Muslim, I don't pray [as a Christian], but I should be with my colleagues. All the class together! (AJ)

This takes a picture of Christianity and Islam here in Bethlehem. All of us, we consider the others, all of us, the same family. As you know. [ZZ] is a Christian, I am a Muslim. No difference between Christianity and Islam – especially in Bethlehem, and most of Palestine. Because we are all living together, Islam and Christianity, together for [hundreds of] years. We said for us, we all of us are Palestinian. (AJ)

In Bethlehem, Muslims and Christians live as one family. I have a Muslim neighbor and a Christian neighbor and we live next to each other, it's normal. And most of the time we're together and we don't separate from each other. (EK)

Dealing with the humanity issues, there are constant meetings between the Muslim and Christian side, parties. We even meet priests from Jerusalem to make sure there aren't any problems that arise from religious issues. (EK)

One of the things that I hate people to say, and maybe the Israelis are behind such a thing, is when people emphasize Christians and Muslims…

> Muslims and Christians in Bethlehem are considered as one. And even if Christians need help with such a thing they do come to me because they know I don't differentiate between any of these two sides. When people ask where you're from, you should say you're from Bethlehem, not that you're Muslim or Christian. (AS)

AS mentioned that he tries to maintain the good relations between the two religious communities by not taking cases that involve romantic relations between them:

> I don't accept any cases where it concerns a Muslim girl loving a Christian boy, or vice versa, to keep the relationships between the two very good. (AS)

Government and Politics

Mediation has become popular not only because it allows parties to resolve their conflicts, but also because it remained stable, while the society was in constant change. As a result, it is a recognized process that parties rely on; mediators are influential and are trusted, and mediation is considered a form of voluntary national service, as well as a form of resistance against the systems established by occupying regimes.

Sulha: A Recognized Process
While courts were not always a reliable source for justice, mediation, performed by local mediators, was a process that parties could trust and that mediators felt was necessary to secure society:

> I started off working in 1987, at the beginning of the uprising. My work took place because at this time, people were resisting against the occupation and there was much chaos in society and there was no official authority to govern people. So corruption started between people because there was no government, there was no authority. So we had to interfere between people to try to solve problems and bring them together instead of bringing more chaos. Since there was no authority or government and there was chaos in society, we had to do such a thing to keep society together, help it from falling apart. (AT)

> [S]ocially, they go to the people either they think they trust more than the judicial system, because they do not trust the judicial system. The judicial

system is getting better and better, time to time, but still it's in the first steps. (RR)

[S]ulha is a law here in the Arab [association]. It's much respected here on the other side by the Palestinian Authority, in the courts. So there is a general right and private right. Private right has mediators. (Comment made by son-in-law of AJ, who is also a mediator)

Before we had our own authority, when the Israelis did directly rule us here in Palestine, people didn't go to the Israeli judges and courts to solve their problems, they preferred to solve it within the people instead of taking it to their side. (AT, during the interview of AS)

Politicians as Mediators

Mediators are politicians and mediators find their work to be political. Politics in the lives of mediators is common, since the work was known to interfere with occupying power, but these mediators shared their political sphere of reference:

EK, a former city councilman, indicated that the Palestinian Authority has asked for his assistance in political matters in Bethlehem, but asked not to speak about those issues in detail.

AT was issued with a governance card, which allows him to be consulted on any social problems across the West Bank.

JD mentions that political theory plays into his decisions:

As mediators, we then meet together, and we discuss these, and we tell our opinions. And we should accept this kind of criticism because we built something from it. I'm really involved with the Marxist theory, leftist movement. Sometimes I do base my solution on the [political theory]. (JD)

Mediation as National Service

Mediation during times of resistance was a show of service to one's nation, and allowed mediators to do something non-violent and supportive during a time of uncertainty:

I work in the PLO, and my understanding of mediation is a national concept. (JD)

You see our work before it was more difficult, especially in the first intafada. I was kind of a mediator but I was…. The leadership of the Intafada had chosen some people to be… give their names and addresses to the people instead of going to the Israeli police during the first Intafada.

Mostly, there was no police, no stations, no courts. So I used to work from Gaza to Jenin. My name, I was one of those people. (RR)

Mediation as Alternative to Official Bodies of Occupation

Another means of resisting the occupation was avoiding its official modes of judiciary:

The most important thing, the most important thing— we are under occupation. We must be easier together. If we take our minds to the hard thing, we all lose. Because we all, all the Palestinians, are under occupation. They should solve their problems. If the Israelis enter their problem, it'll be very, very [difficult]. They prefer to solve their problems [by Palestinian methods]. (AJ)

First point is that the law should have a more active role. And we should support the [Palestinian] government. (EK)

Mediation as an Alternative to Court

Similar to avoiding official bodies because of the distrust over who is presiding over cases, mediators indicated that cases come to mediation as an alternative to official court proceedings, which saves clients substantial money and time:

…we try to solve these difficulties and misunderstandings outside of these official bodies. (RR)

Financially [people choose mediation over the courts], because most of the people cannot afford the fees of the lawyers and the fees of the courts, and the long term of the procedures of the courts. This will take, for a minor thing, 3, 4, 5, 6 years, 10 years. I have some cases from 1985 still arguing in the courts. (RR)

THE EFFECT OF MICRO-LEVEL CONFLICT ON GREATER SOCIETY

Community Involvement and Escalation

The conflicts experienced in Bethlehem are limited to those between Palestinians rather than between Palestinians and Israelis. Yet, conflict

at the interpersonal level of society can easily involve a larger circle of families and extended relations. Many examples provided by those interviewed involved initially two parties, perhaps a married couple. In this example, when there was a conflict and the wife left the husband's home, the parents or families of that couple were immediately a part of the attempts at resolution. In another case involving an engaged couple, the parents of the bride-to-be were reluctant to marry their daughter to the man she wished. The conflict eventually involved the brothers of each family, and then grew to the extended families. In the examples provided by mediators, the parties' concern was not only about their individual satisfaction with the outcome, but the effect on their families.

Israeli Involvement

Imprisonment

Many mediators indicated that the benefit to mediation meant that Palestinians could avoid using institutions of the occupation: police, courts, or army. Yet, the work of mediators did not go unnoticed by those forces that they sought to avoid. Indeed, four of the nine mediators had experienced imprisonment, though only one mediator indicated that he and another mediator were imprisoned as a direct result of their mediation work[1]:

> I was imprisoned for 5 years in Israeli prisons. (JD)

> They said we were resistors. I spent about 6 months, but my eldest son was sentenced to eight years, the second four and a half years, and the third three years, and I six months. But believe me we are in a very good situation now. (EK)

> Because of the amount of problems we were solving and the amount of people that were coming to us, we were imprisoned by the Israelis from '88-'89. (AT, referring to he and ZZ)

Military Involvement

Mediators indicated that the occupation sometimes affects, where they are able to travel with their work, but that this is not considered a detriment to their work. While some were once able to travel freely to respond to conflict, in the case of RR during the first intifada, they are hampered from doing this now due to checkpoints, identity card

requirements, and movement restrictions. Others commented that the Israeli authorities notice their work and that they are made aware that their work is being monitored:

> The occupation doesn't affect my work. My tent is opposite a military spot of the Israeli army. A cousin of mine went to…get an American ID card. And so the Israelis there told him that he should come in to get interviewed, they wanted to ask him a couple of questions. They asked, "What's your name and where are you from?" and he told them, "You have the ID card." When they found out who he is related to me, they told him that they highly respected me and that I am helping them to solve lots of problems in the C area. (AS)

> It just affects us from going, say if there's a problem…with transportation. It doesn't affect me… (HM)

Aside from the anxiety caused by erratic home demolitions, high unemployment, water shortages, movement restrictions, and building restrictions, the freedom of Israeli military to enter into Bethlehem at any time remains a worrisome fact of life:

> As you've noticed, they [the Israeli Defense Forces] tend to come into Bethlehem at any time they want, even midnight or after midnight. And they arrest people who do not deal with anything: no politics, no military, nothing. Only to send the message, "We are here." This is troubling to a lot of people. (EK)

The Effect of the Larger, Protracted Conflict on the Understanding and Treatment of Conflict at the Micro-Level

The ways in which the society of Bethlehem is affected by the engaged in a larger, protracted conflict with Israel are numerous. How the society is affected in its understanding and treatment of conflict under these conditions can be described in broad terms of the goal of bringing unity, focusing on religion, and being aware of topics that are directly related to the ongoing conflict.

First, the mediators discussed how mediation brings unity in the face of the larger conflict. Mediation has a special quality in Bethlehem as being a force for creating stability and unity locally in a region, where

many feel that the fragmentation of the community at the micro-level would benefit the occupation or larger conflict. Conflict is seen as a threat to the larger unity of Palestinians in the face of occupation, and best dealt with by referring back to the greater struggle.

Second, religion is a relevant reference point for many in this region. A unifying factor, a mediator who shares the faith of the parties can use religious texts and messages to reinforce the shared understanding behind social and religious expectations in an area, where conservative adherence is the norm.

Finally, the conflict at the macro-level shapes the reaction to conflicts at the micro-level, especially in issues where the occupation has a direct effect. Property, land, relations with Israeli settlers and settlements, and interactions with the Israeli military will draw different reactions than issues not related to the conflict. Many mediators, as indicated before, have used the fact that they are under occupation to unify the parties against a common enemy:

> I use the circumstances that we are living in under occupation. This will unite people more together, and will help to solve certain criteria of difficulties, especially concerning land, property and so on, which is threatened by Occupation, settlers, settlements and so on. (RR)

The situation under occupation is central to the daily lives of those living within this society. A general summary of the number of ways the larger conflict affects the way that people within this society understand and respond to conflict is not possible with the limited information provided. It is understood, however, that the existence of *Wi'am* is a direct result of necessity during a time of recent violence and uncertainty, using a long-established mode of conflict resolution that is engrained in the culture and trusted by the people. Its popularity throughout the current crisis demonstrates the value placed on community, tradition, and trusted members of society.

NOTE

1. The two remaining mediators, JD and EK, did not elaborate on the reasons given for their imprisonment beyond what was supplied in interview. The interviewer did not follow up on this point out of understanding of

the sensitive nature of the subject, but also realizing that those subject to detention are not always provided with a charge by the police or army.

Reference

Lang, S. D. (2005). *Sharaf politics: Honor and peacekeeping in Israeli-Palestinian society*. New York, NY: Routledge.

Comparison of Palestinian Peacemaking with the Transformative Mediation Framework

Abstract This portion of the book compares the practice of mediation in Bethlehem with TMF. The chapter begins by considering an organic ideology of Bethlehem and contrasting this with the relational ideology of TMF. The chapter continues by outlining the expectations of the third party in a Bethlehem context and setting these alongside the expectations within a transformative framework. The central intervention practices of Bethlehem mediators are presented, and distinctions from the intervention processes in the Transformative mediation Framework are discussed.

IDEOLOGY

How mediators view, utilize, and interact in conflict is dependent upon how they understand and make sense of the world at large. Mediator ideology is a natural starting point when discussing the relevance of TMF in a non-Western context. The beliefs that mediators have about conflict, those in conflict, and how best to resolve it are drawn from expectations on how the conflict interaction should occur and why. Ideological perspectives create these expectations, which are informed by deeply held cultural values that are rarely scrutinized. The continued use of particular

models and ideologies is reinforced through the chain of values, ideology, and practice.

The Roots of Organic Ideology Within Bethlehem

The Bethlehem mediators described their views about conflict and human nature in ways that were articulated in Chap. 6. The origins of these views come from (a) core values within the collective society in which mediators practice, namely honor, social status, dignity, and religious beliefs. In addition, a central theme that mediators described was the effect that the long-standing occupation has had on the population and the need for Palestinian communities to remain unified against the threat of fragmentation under occupation. The general influences also include the structure of society as (b) a collectivist community committed to social justice, and particularly one that feels under threat. ZZ captured this sentiment with the simple statement, "Abnormal conditions create abnormal relationships." While mediators described parties who are frustrated and easily angered with the lack of movement, employment, or activities, many mediators also stated that the situation in Bethlehem is made more complex with the trauma within the community from the ongoing conflict.

Societal Values

The community of Bethlehem, as well as the broader Palestinian collective, is secured despite this uncertainty through a system of social norms and customs. Palestinian society which displays elements of what Lang (2005, p. 103) refers to as *egalitarian discourse* through an understanding that men are equal, though there is the seemingly contradictory reality that *sharaf* also creates a hierarchy or authority among men. While every man has *sharaf* and feels as if he is worthy of such respect, there is the sense that a man can have more or less of *sharaf* depending upon how favorably, or unfavorably, he is viewed by other men in society.

The values within the society are emphasized throughout the process: "Even if a dispute is over scarce resources (such as money or debts, or land) values such as 'honor,' 'shame,' 'dignity,' 'social status,' and 'religious beliefs' are at stake" (Lang 2005, p. 103). Bethlehem mediators indicated the weight attributed to the stability of social order, as well as the added value of unity in the face of the occupation particularly

between neighbors, political foes, and Christian and Muslim sections of society. Many also articulated the religious basis for their work, citing that this is part of the "ministry of reconciliation" (ZZ). The underlying values of mentioned by Abu-Nimer, including social order, honor, dignity, and status, were referenced in the interviews.

Collectivism and Social Justice

Characteristics to the ideology of the *sulha* model are commonly associated with what Bush and Folger describe as organic ideology. In this section, the roots of this organic ideology will be considered through the collectivist nature of the society, and the special value placed upon social justice.

In interviews, mediators expressed a broader connection to the community when conflict occurs and the need and purpose of the *sulha* process to reflect the greater threat of the conflict upon society. There is a consciousness that their role must be done with great care so as to not exacerbate the conflict. The community can be affected by the conflict in situations, where injured families decide to restore their *sharaf* through violent retribution over non-violent reconciliation.

A recurring theme in the interviews is the use of *sulha* as a method of addressing injustice and as a means of resisting instruments of the occupation, such as Israeli bodies, which would serve to undermine Palestinian society as a whole. Mediators described the occupation as an underlying factor in many disputes and a common threat for all in the community. When conflict arises, some mediators indicated that they reframe conflicts in terms of the occupation to help parties solve problems amongst themselves rather than using any Israeli supported system. Parties should use mediation because it acts to restore relationships and supports a strong and resilient Palestinian society in the face of threats to divide the community. As a result, social justice matters can be addressed through creative means by local mediators with connections to various bodies in the community to strengthen solutions built upon fairness and restorative justice.

Local, collective culture is undoubtedly a crucial ideological element to theory and practice of mediation in Bethlehem. The *sulha* process ensures that the cultural identity of the group is preserved through the practice, in addition to resolving the immediate dispute. Most respondents to Lang's study on *sulha* "consider this pre-Islamic custom a

positive tradition that bolsters Palestinian identity [within Arab-Israeli communities] in Israel by unifying and incorporating Arabs of various religious backgrounds and ethnicities" (Lang 2002, p. 53).

The collective memory and experience of several occupations and regime changes have meant that the social construction of reality in this context will inevitably differ from constructions of realities elsewhere, and will likely continue to change in itself. Social conditions, such as the state of economy, history, current relations with occupation and colonization, and instability continue to drive mediation practice in Bethlehem as a method that counteracts the volatility continually experienced by the community to reinforce smooth relationships.

The Underlying Values of Organic and Relational Ideology

Values and norms inform and develop the articulation of ideology. In the case of Bethlehem, the mediators associated with *Wi'am* rely upon societal values of honor, shame, dignity, social status, and religious values to shape their perspectives on the world and how they communicate from within it. Within a cultural context of occupied territory, the ideology is influenced by the values of self-preservation as well as steadfastness (*sumud*). Conflict is construed as dangerous, because it can rip the community apart in selfish, violent acts. Peaceful relations are treated as the norm, so small issues are seen as important to act upon before becoming a risk to envelop the larger community.

In contrast, TMF is committed to addressing conflict from the perspective that it is a crisis in human interaction between people who are weaker and more self-absorbed as a result of the negative conflict interaction. The value is transformation through compassionate strength, where individuals can gain a sense of strength for oneself while also building a capacity for responsiveness toward others (Bush and Folger 1994, p. 242). Individuals are simultaneously separate, autonomous, self-interested as well as sensitive, caring, and responsive to others. By balancing these qualities through a mediation process, mediators aim for the transformation of the parties' conflict interaction through greater clarity of one's own positions as well as the perceptions of the other. The transformative values consider the potential to grow with greater clarity and strength for self and other, as well as acknowledging a risk that individuals can retreat. Therefore, the benefit of working in a relational capacity is the promotion of individual capacity for agency and connection to the

extent that the goals of individual satisfaction and collective welfare are fulfilled (Bush and Folger 1994, p. 247).

The Third Party Role

The role of the third party intervening in conflict depends largely on the mandate that the intervener has been given by society and the parties. The third party mandate as described in Chap. 2 articulates that the role and influence of the third party are contingent on three key elements: the relationship that the third party shares with the party or parties (and whether the intervener is an insider to the parties or an outsider), whether the third party has an interest in the outcome of the dispute and what subsequent process and content control the third party has in the resolution process, and the size and assumed formality of the third party.

Expectations of the Third Party in Bethlehem

The perspectives on the established expectations and understanding of what the third party can and should provide in a *sulha* process were consistent in interviews with mediators. They saw their role as central and decisive. In most cases, mediators saw that parties wanted their involvement to result in a fair, just solution that would restore friendly relations. Mediators also have societal expectations that their work is considered legitimate. Because of the danger of escalating conflict, mediators are always "on call" and are expected to respond to the needs of the community where necessary, for as long as necessary. "This conception of burden and sacrifice is both a statement of fact and an ideological justification for the greater respect and authority these men enjoy in a society with deep egalitarian self-conception," notes Lang (2005, p. 118).

In Bethlehem, the nature of the third party role included the participation of a knowledgeable cultural insider-partial third party, who knows the parties and their context personally, a mediator with a respected voice in the community, and elements of persuasion and influence in reaching settlement.

The 'Insider-Partial' Mediator

The community recognizes the level of respect for a mediator by considering him as an intervener and requesting his involvement to resolve the dispute. Parties request a mediator's involvement in their case because they

are aware of the mediator's experience, successes, and personal value in the community. Mediators are also requested because of their knowledge and personal relationships with parties involved. Mediators may know the past history of the parties, as well as the current circumstances (for example, instances of debt, ongoing health issues, unemployment, domestic complaints, and addiction). Mediators are trusted with these intimate details because they are notable members of the community. They are not usually members of either party's extended family. Therefore, the mediator is not expected to be neutral, necessarily. In instances of injustice, mediators indicated that the rights of the parties prevailed over a need for impartiality.

A Respected Voice

The *jaha* holds an elevated status in society not only in terms of their personal qualities but their standing in the community. The act of taking on responsibility requires an understanding between both party and mediator; the mediator agrees to intervene and the party consents to the mediator having substantial process and content control, so that the offending party may be protected from retaliation from the victim's family once a *hudne* is secured. Those who are qualified to become *sulha* men are considered from tradition, notably respected, older men. "Unlike modern mediation," an Arab mediator in a multi-ethnic Israeli city explained, *sulha* "is a complicated process which cannot be performed by just anyone" (Li-On 2009, p. 467).

Power of Persuasion

Due to their elevated role in society in religious, business, political, and civic roles, mediators are understandably influential in conflict and within the community generally. When asked to intervene, the role of the mediator is understood and the parties and families are expected to enter a reconciliatory process. Within a collectivist Palestinian context, the third party mandate relies on substantial process and content control; mediators hold considerable power in their interventions and their considerable involvement is a key expectation of their role.

To ensure the success of the process, the involvement of more than one mediator and the use of a *jaha* is common, especially where the severity of the case may require either an increased number of mediators or the involvement of those who are of high political or religious ranking. Mediators do not work independently. Meetings between practicing mediators ensure that cases are understood thoroughly, all options are explored, and a strong and fair decision is reached.

Settlement options may be created through cooperation with parties outside of the immediate *sulha* process in order to find the best options for the parties. Mediation in Bethlehem is all encompassing and attempts to be holistic for parties, and not limited to the single issue at hand. As ZZ explained, parties seek mediators who genuinely listen to their concerns and who might have the ability to assist in some way. For some, listening is the only tool necessary, while others may receive collaborative assistance from mediators alongside drug rehabilitation programs, mental health facilities, or employment. Mediators in Bethlehem relate the needs of the individual with both the effects upon society as well as the ability of the community to assist in supporting the individual. This process, as mentioned by the mediators, includes family members, neighbors, and friends as they provide both support and perspectives in the issue.

Persuasion is an element in success: the community expects the process to succeed, and the role of honor (*sharaf*) plays an integral part in ensuring party compliance, during and concluding the process. Mediators do not physically coerce parties or have an authoritative position to impose rulings, and the system is based on the respect held for the mediator's *sharaf* in intervening in the case. In some cases, the strength and number of a third party's family can provide an amount of distinct protection from any opposition (AS). In other cases, the protection comes naturally from the investment of time and effort by prestigious men visiting family homes and working on a solution that creates a weight to agreeing to the terms of a settlement.

A distinction between the culture in Bethlehem and the West is the effect of the social connectivity of the community. *Sulha* is one process by which the underlying ideals in Palestinian society, including cooperation, negotiation, honor, and compromise, can be expressed in a nonviolent, but perhaps persuasive fashion (Lang 2002, p. 54). The emphasis in this arrangement is the societal pressure placed on the parties by the cultural expectations of the mediators, religious persons, and their extended families. Solutions are not necessarily those that the parties have devised on their own, but usually heavily reliant on mediator interference.

Distinctions Between the Third Party Role in TMF and Sulha

The central elements of the third party in a *sulha* process have evident distinctions from the role of the third party in transformative practice, based heavily on the underlying ideology of each established practice. The first distinction relates to the relationship of the third party with

the parties. Second, the amplification or the constriction of party 'voice' during the process is another marked difference between the roles of the third party in each framework. Finally, the third party mandate in each approach relating to the interest of the third party in the outcome and process and content controls result in either an influence over or facilitation of choice during the process. Each of these differences relates to the values and ideology informing practice within the respective society.

An Insider or Outsider?

The role of an insider partial or outsider neutral third party is one central difference in the expectation of the third party role. In Western practice, whether the transformative or another approach is used, most mediators are expected to be external to the parties involved. This reassures neutrality, impartiality and relates to the values of Individualism, including individuality, rights, and equality. Transformative mediation is practiced from an Individualist culture, meaning that there is "no assumption that the parties have to have common values that need to be preserved for the good of the community at large" (Folger 2008, p. 843). The third party in TMF is not expected by parties know the history of the dispute or those involved like in *sulha*, and the onus is instead on the parties to discuss whatever is considered the relevant aspects of the dispute, their circumstances, or past history.

In contrast, the use of insider partial third parties in Bethlehem is drawn from the collective nature of society, and the broader risks that interpersonal, local conflict poses to the community. The use of the insider partial third party is seen to support a commitment to justice for parties that choose not to enter into a formal adjudicative process.

With this stated, moving from one cultural and ideological framework to another can prove challenging, or at times problematic—especially if an outsider is used in intervention. Regarding outside interveners in the Middle East, Zoughbi asserts: "In any foreign country, you are always an outsider. No matter what your attitude and position regarding this conflict… you are a foreigner. And no matter what you do, no matter what you represent, no matter what your ideology, philosophy, or principles, you can be a part of the struggle, but the struggle is not yours" (as cited in Lederach and Jenner 2002, p. 152). While an outside neutral third party cannot own the struggle, inside participants can and do own it. Zoughbi advises that while an outsider, one should be impartial in approaching situations. "Impartiality is not neutrality, however,"

Zoughbi warns, "impartiality does not turn a blind eye to truth and justice" (as cited in Lederach and Jenner 2002, p. 154).

Mediators would argue neutrality, describing a mediator's sense of disinterest in the outcome of the dispute, differs from impartiality in sense that impartiality refers to an even-handedness, objectivity, and fairness toward the parties during the mediation process (Boulle as cited in Field 2002). Zoughbi's claim, echoed by the Bethlehem mediators, is that mediator impartiality should not impede justice or the rights of parties. While both parties may have been injured in a conflict, the injury each party faced may be disproportionate for the mediator to treat each party equally.

Furthermore, the distinction between a third party that is considered an insider or outsider brings other expectations of involvement. Their role as the third parties is expected of them because of their honorable standing in society and their influence. They work purely on a volunteer basis, and in some cases, the third party can bear the burden for some of the costs for services required by the parties, such as transport, hospital, or bail fees (AT, RR, and HM). In addition, their involvement and attention to a case is not limited to designated appointment times, what ZZ refers to as "chronos time".

In Western practices, the outsider neutral mediator becomes involved when approached by one or both the parties and agrees upon appointments, payment, and release forms with all of those involved. Sliding payment scales and voluntary services are provided in some cases. However, this outside neutral status assumes that the mediator is a provider of services, requiring payment by clients or a state funding body. These rates are promoted as substantially less than legal fees, and are a common selling feature for mediation as an "alternative dispute resolution" option outside of the courts. The third party is any member of society who has received relevant training from an accredited body and does not require any underlying influence or honorable status in the community.

Whose Voice Is Heard?

In a *sulha* model, the third party is a central role to the process, and as such, the mediator is the dominant voice. While the third parties in Bethlehem articulated that their involvement begins when requested, the stages of the process—negotiating a *hudne*, '*atwe*, *sulha* meetings, and public ceremony—require considerable involvement and influence of the

third party. The *sulha* process, unlike Western practice, is ritual-based and involves community engagement with the process. Honor in conflict is one element that may not be negotiated directly but supported through the third party's interest and involvement in the *sulha* process.

Transformative practice, however, places the responsibility for decision-making with the parties directly. The role for the third party in a transformative process is to support parties throughout the conflict interaction by fostering each party's voice in becoming clearer about their goals, options, and interaction with the other party. TMF considers the third party role to support both parties in a facilitative way that encourages party expression of choices "based on the greatest understanding of themselves and each other" (Folger 2008, p. 844). Rather than follow a ritual-based pattern, the third party assists in a manner that is party-driven. Parties own and construct the process, content, and outcomes based on the third party's belief that the parties have the capacity to decide the options that are most relevant and productive in their context.

The parties' voice is considered paramount because the conflict is theirs to engage with—inside and outside of the room, as well as before, during and after the mediation process. The third party is not expected to be a member of a community or group that requires their input for the process to have credence or a community-assured resolution. From this perspective, parties have the choice to offer apologies, seek, or grant forgiveness if they decide this is appropriate, but unlike *sulha,* these are not required as part of a successful mediation effort. In a *sulha* model, forgiveness and apologies are both sought out and expected in restoring the community to what is considered the natural state of cooperation and harmony. The parties, not the *sulha* mediator, offer forgiveness or apologies; the *sulha* process requires these in order for the process to be seen as successful.

Mediator Influence

The expectation of whether a third party should use some element of persuasion or act in a facilitative manner is a clear distinction between the two frameworks. Each approach relates to the values and the underlying goals of each context. The third party in a *sulha* process is inherently influential because of their role as respected members, and likely elders, in their community. The process of the highly respected third party showing the offended parties *reverse musayara* is one such way

of influencing parties in a way intended to encourage participation in resolving the conflict. Another is the act of "taking on responsibility" of the parties is another way that the third party demonstrates their influence; the parties should trust that the third party's involvement is in their best interest once the parties have agreed to take part in the process. The *jaha* may pressure the parties into particular options, or may enlist the assistance of local authorities such as religious leaders or police to provide either moral guidance to parties or a compelling warning that to not employ *sulha* would be a loss for all involved (AT, AB, AS, and ZZ). In addition, the third party will contain party conflict by encouraging conflict avoidance (including avoiding the other party) and is intended as one way to de-escalate conflict by preventing attempts to restore *sharaf* by committing acts of revenge or retaliation upon the other party or their family.

In comparison, the transformative mediator does not have the influence to draw from in conflicts, and would not use coercive techniques to bring parties to resolution, or to prevent the parties from ending the process or their relationship. The third party in the transformative process assists parties in shifts toward empowerment and recognition in order to encourage party-centered decision-making. From a transformative view, parties have the capacity to make the decisions that are meaningful and thought out for their own situation. The third party in TMF does not hold a role in the community that would obligate him or her to participate in such a process, and the transformative model does not quantify 'success' in terms of an agreement. *Sulha* places the onus on the third party to create a settlement that parties can agree to; not to do this may be considered a failure. Keshavjee and Whatling (2005) call this the historical cultural expectations by the disputants of the mediator: "It was expressed quite simply by a participant who said if having heard all the parties to the dispute, he did not deliver a settlement decisions, there was a real risk that he would be judged to have failed in his dispute resolution role, the process would not be respected."

The third party influence relates to the expectations of the third party, and perhaps more importantly on the expectations of the parties. Whereas the third party in *sulha* assumes responsibility to promote party compliance to a non-violent and non-judicial model for conflict resolution, the transformative third party is removed from influencing "any substantive or relationship outcome in the dispute" (Folger 2008,

p. 843). The third parties in a transformative framework support "constructive changes in the quality of the parties' interaction", so that the ultimate responsibility, and any risks and rewards that come with those choices, belong to the parties (Folger 2008, p. 843).

Within the context of Bethlehem, the focus on the community and relations between groups, religions, neighbors, and families shows the initial promise for a high concern for self and others. Methods employed in mediation place emphasis on process adherence, formal structure, traditions and norms, as well as strong mediator agency—all strategies that work opposite to those of TMF. While not individualistic, mediators in Bethlehem have mentioned their interest in solving a problem and attending to party needs. The assumptions of what parties want and need in conflict were largely indicative of party interests and resolving the dispute. The practice of *sulha* within the Bethlehem context is based on core assumptions that mediators hold that are specific to the culture in which it is based.

Intervention Practices

The strategies employed by the third parties relate to the underlying values that the society subscribes to, as well as the role and expectations surrounding the third party. In Bethlehem, these values include norms that relate to the social and cultural realities, including the preservation of honor, the unity of the community, a sustainable harmony between families, the richness of religious teaching, the consideration of peaceful relations as the normal state of affairs, and a tradition of forgiveness and dignity. Mediators in Bethlehem described a typical process which included being approached and agreeing to intervene, conducting private meetings with each party, securing the *hudne* and *'atwe*, investigating the dispute and negotiating between parties, meeting other mediators and consulting professionals to discuss the case, creating an agreement that is suitable and agreeable for the parties, and ultimately concluding with a public *sulha* process with all involved parties. Additional components to the process discussed in the literature include the selection of a *jaha* committee, the negotiation with parties of *jaha* members, the use of precedents in determining a solution, as well as inviting dignitaries to the *sulha* ceremony to give the agreement weight in terms of moral and religious authority (Abu-Nimer 1996; Funk and Said 2009; Lang 2005; Pely 2009).

Mediators in Bethlehem discussed key actions on how they intervene in the conflict, interact with parties, and support the *sulha* process. These practices include the use of private meetings during the process, an emphasis on unity and commonality, the importance of forgiveness and apologies, employing a public closing ceremony.

The Use of Private Meetings

When the conflict interaction moves into an attempt to resolve the dispute through *sulha*, the *jaha* employs private meetings with each party to obtain agreements to suspend hostilities, to hear perspectives on the events and their effects, and to allow expression of emotion in a closed setting. Parties may construe face-to-face meetings as antagonistic or even humiliating (Abu-Nimer 1996, p. 46).

Once the *sulha* process begins, the *jaha* shuttle between each party's home to engage in private meetings to describe the expected stages of the process to the parties, outline any expectation for parties to avoid one another, determine the series of events that caused the conflict, and the effects of these actions upon the parties. It serves as a fact-finding stage, a negotiation stage, as well as a clarification stage. Witnesses to the dispute who volunteer or are asked to contribute by the parties may also be expected to meet privately with the *jaha* (Pely 2009, p. 84).

Emotional expressions are expected throughout this time. By approaching each party and their families individually, the private meetings with the *jaha* provide a protective setting that allows the parties to discuss their cases without the threat of exposure that may result in an additional loss of *sharaf*:

> …some people would like to tell you, to air out their frustrations, to ventilate. And they find it with us. They want someone to tell a secret. Someone they trust. Someone that can keep their dignity while they are able to break down, to have tears…(ZZ)

Emphasis on Unity and Commonality

Mediators that were interviewed reflected the aim to embark on a process that highlights the collective strength of the community when unified and the potential to rally together against a common threat of injustice, instability, or separation. Despite the distinct populations of

Christians and Muslims, local inhabitants and long-term refugees, city residents, and Bedouin, the mediators indicated that each sub-group identity of those within Bethlehem is equally regarded and valued within a larger Palestinian context.

Within the course of the *sulha* process itself, the *jaha* may use a reframing technique to emphasize the positive statements of parties that might influence approaching the conflict with a common value or conciliatory gesture while minimizing or circumventing negative statements. This is done to work toward an agreement, as well as because conflict itself is seen as negative and the emphasis of the process is the restoration of good relations. In one case, the mediator said that in order to keep the parties civil, "We try not to let them demonize each other" (ZZ). In another, the mediator is careful to avoid bringing up issues that are divisive: "I avoid talking about certain issues that I know will only strike a larger anger or make the problem even bigger" (AT). In many cases, ZZ noted that the parties that come through the *sulha* process then become volunteers who then continually give back to the community through sharing themselves through citizen diplomacy, women's groups, and children's programs.

Importance of Forgiveness and Apologies

While the substance of any *sulha* process and agreement is important, the negotiations that lead to the forgiveness and atonement for the parties are crucial for *sulha*. The initiation of the process by the offender's family is the beginning of this reconciliatory practice, where an *'atwe* is paid through the *jaha* for the injured party in an expression of remorse, in addition to any compensation that the injured party may receive at the end of the *sulha* process.

One mediator discussed his need to show forgiveness during the process as well: "You need to forgive people, many times … because of the anger and the frustration, because of the terrible things they have [experienced], they are not able to express themselves" (ZZ). Parties, however, are the main focus of the reconciliation process, and where possible with interested parties, *Wi'am* will provide the space for the parties to meet and discuss the conflict in person: "We like them to be part of reconciliation themselves. We will help them to get together, to break the ice between them, to stop the enmity, and then do it" (ZZ).

The entire *sulha* process acts as a method of apology by the offending party to the victimized party. Symbolism and ritual play parts in establishing gestures toward reconciliation, including the use of a white flag to communicate a readiness of the victim's family for reconciliation, the public declaration of forgiveness by a male representative of the aggrieved family, as well as gestures of magnanimity to illustrate forgiveness to the offending family, such as a return of the compensation (Lang 2005, p. 97). The use of genuine apologies and forgiveness in the *sulha* process is not necessary, but the formal ritual act of giving them is both necessary for agreement and in preventing provocation by either party. As Lang suggests, parties do not need to be sincere in their messages and gestures of ritual apology and forgiveness in *sulha*, because the extent of complex social relations will bind parties to their agreement (Lang 2005, p. 100).

Employing a Public Ceremony

The end of the *sulha* process is a public ceremony that announces and celebrates the restoration of peaceful relations in the community with the signing of the *sulha* agreement. The public nature of the ceremony combines ritual acts, a physical agreement, and the inclusion of the male members of the community. The reason why this part of the process is done in the public eye, while the other elements have been largely in the private sphere is to ensure compliance through the social webs that are evident in the agreement and to make a public acknowledgement that the conflict has ended and parties are officially reintegrated into the community.

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The Promise and Limits of Transformative Mediation in Palestine

Abstract This chapter reviews the goals of the study and research process, includes the final reflections on the central research questions and considers practical implications of the research. Conclusions reached through the research analysis to inform the practical implications of the study. Among these conclusions are the deep ideological, practical, and narrative distinctions that frame *sulha* and transformative practices. This chapter outlines possible opportunities to employ the model but acknowledges that there is a need to respect local capacities of peace—in this case, in the form of the highly regarded and widely used indigenous process of *sulha*.

Keywords Cross-cultural conflict resolution · Local capacities for peace *Sulha* · Transformative mediation

Would the Transformative Approach Translate into Effective Theory and Practice in the Palestinian Model?

"Purpose Drives Practice"

Palestine is a collectivist culture. While some elements of Relational and Individualist ideologies exist within the framework of those interviewed,

the prevailing ideology values the group over the individual, has high regard for the codes and rules established by a conservative cultural precedent, considers conflict unnatural and destabilizing, is concerned primarily with the restoration of social order, and acknowledges the role of the third party as originating from patriarchal expectations, and in practice, the mediator maintains high process and content control.

The qualities that make up the Palestinian *sulha* model are largely counter to those that support TMF. Central to the theoretical framework of TMF are the building blocks of the theory of conflict transformation. This includes the beliefs that "parties can recapture their sense of competence and connection, reverse the negative conflict cycle, re-establish a constructive (or at least neutral) interaction, and move forward on a positive footing, with the mediator's help" (Bush and Folger 2005, p. 53). A principle that the transformative framework often refers to in trainings is "purpose drives practice"—simply stated that the goals of the mediation process are what encourage a particular understanding of the mediator's role within that process (Bush and Folger 2005, p. 119).

The goal in transformative practice is to ultimately transform a negative and alienating conflict cycle to a productive and connecting conflict cycle through supporting parties through empowerment and recognition in the process, while responsibility for process and outcome is placed on the parties and the mediator's responsibility is to support the party discussion (rather than control it). The *sulha* model holds that the goal of the process is to maintain social relationships through esteemed mediators negotiating with parties on the conflict, their rights, social supports or pressures, compensation, and eventually a public acknowledgement of its end, with mediators holding central responsibility for the process, the outcome, and possible liability for the parties.

While parties speak face-to-face in a transformative (and Western) process, mediators within an Arab context go between parties to save face—both to restrain emotions from the parties and to maintain control to ensure that parties do not reengage in negative conflict behaviors. The *sulha* process is one that puts a large focus on the mediator: their honor depends on their ability to negotiate a sustainable agreement between the parties. Without a parallel cultural structure in place supporting an alternative goal of mediation that is party-focused, TMF may be understood as a theory of mediation but not one that would be viable within a traditional *sulha* system. The implementation of *sulha* enacts a series

of assumptions on ideal social relationships within society, and through *sulha*, these ideals are promoted and reinforced.

Outside of the *sulha* process and within the broader realm of the Arab egalitarian society, there is potential for transformative practice. Older men control *sulha*, and in many instances, the more formal, public ceremonies surround instances of injured male *sharaf*. In conflicts among youth and women, and in other cases, where male *sharaf* is not a focal element of the process, TMF has the potential to address issues of concern in an informal, private space without violating a pre-existing system built on the values of the community. TMF does not violate Islamic teaching, says Keshavjee (2010), and can offer a process that can include women in a co-mediation model, especially in instances, where a woman is one of the parties. Therefore, TMF may supplement the existing *sulha* process without supplanting it. Because *sulha* is predicated on *sharaf*, specifically male *sharaf*, TMF offers the ability to approach conflict in ways that support and engage both parties through shifts in empowerment and recognition. Within *Wi'am*, TMF would add a greater ability to support parties in becoming clearer on their goals and perspectives while offering the opportunity to hear and address one another. Unlike *sulha*, TMF depends on parties being present in the same room in order to engage with one another over issues that they have determined with the support of a mediator, in a conversation that they both create and control.

Therefore, mediator training is another area, where the existing *sulha* model could be explored through TMF. Where *sulha* mediators and *jaha* men are effectively chosen for their roles, a transformative mediator becomes qualified through extensive training and practice, regardless of age, gender, or social status. Those interested in playing an active role in alternative conflict practices including or in addition to the traditional model may benefit from transformative mediation training. These opportunities for this could include peer mediation in schools and universities, as well as within women's groups or in community settings. This is not to say that TMF would not be valuable to existing practitioners; *sulha* and TMF are not mutually exclusive. The suggested use of TMF in this society, on the surface, would not be inconceivable. Contextual cues, however, suggest that an awareness of the local realities, ideologies, and practices is required for meaningful conversation on how TMF might be adopted within this society.

A clear obstacle when considering TMF within the Palestinian culture is patriarchy and how this may limit the areas and participants that would adopt a non-*sulha*, Western-based approach. More complex, *sulha* has value in collective Palestinian identity as a traditional method of conflict resolution. The rituals and symbolism involved with the practice are tied to an age-old process that has its roots in the land and the people and, therefore, a political, historical, and social process that has passionate and proud practitioners with good reason.

The broader community can be affected by the polarization created, and therefore, the community may be included in *sulha*. The mediators that were interviewed are keenly aware of the effects that small conflicts can have if they are not addressed, and therefore, the indigenous model that is undertaken requires motivation and capacity to change the negative interaction. While parties in conflict must feel motivated to participate in such a process, the view is not that parties have the capacity to change the negative interaction, but an expectation that they must participate in the process that will do so. As a result, while the current ideology of mediation in Bethlehem is one that makes strong links with the community for collaboration, this is done, because the interconnectedness of the people in the community is valued more highly than the independent wishes of the individual.

TMF offers the opportunity for parties to raise, discuss, and challenge issues that confront them using direct and interactive dialogue with the other party. As social justice is an important, recurring element to mediation within a Palestinian context, TMF is an example of a process that supports the opportunity for mediation to address issues of social justice, and does so from a bottom–up, party controlled approach that carries with it the potential for profound, lasting change that is created by the parties themselves.

Are Approaches to Conflict Within a Palestinian Context Conducive to Transformative Theory and Practice?

The distinctions between how mediation functions in Bethlehem and the description of TMF have been discussed throughout this chapter in terms of ideology, the third party role, intervention processes, and the story of mediation that is told. Throughout these discussions, there are

three ways in which the frameworks align in either practical or theoretical ways, including recognition, accessibility, and legitimacy of mediation as a conflict resolution strategy, and the theme of social justice.

Recognition

The collectivist culture in Palestinian society means that there is a high concern for and connectivity between others generally, meaning that social relations matter both in conflict and in times of stability. This creates a noticeable change in the dynamic of mediation when compared with that, which occurs from an individualist ideology. With the social relations so interconnected in Bethlehem's society, the process of mediation is one that appreciates the complex webs that can make up conflicts, beginning with the individuals and extending to their families.

Sulha mediators are committed to breaking the negative and alienating dimension of conflict. The emphasis on compassion within the *sulha* process is an element that encourages expressions of concern, empathy, and recognition between parties, though this expression is not typically directly articulated face-to-face but through mediators or the *jaha*. Connection, communal unity, and sustainable social relations are part of the fabric of Palestinian and Arab existence, and individuals marginalized through conflict and the lack of services "need to be recognized … and not neglected" (RR).

ZZ discussed how he sees reconciliation in action and how this helps the larger community. While the public *sulha* ceremony and the exchange of coffee and meals signify the end of the process, it also marks a potential for parties to develop through their experience. The restoration of peaceful relations goes beyond the *sulha* ceremony, where once-conflicting parties (especially those comprised of family members or spouses) are assisted through grassroots organizations. At *Wi'am*, families who have gone through *sulha* processes are reintegrated into society through groups promoting *sulha*, citizen diplomacy, as well as working with other women and children in the community.

This compulsion toward communal unity and reconciliation differs from the sense of TMF value of recognition; in that, there is pressure on the parties by society to achieve this level of respect and acknowledgement of the other rather than through a personal shift in connection from one party to the other. However, the need for a passionate commitment to resolution through the shared values of justice, faith, and

security makes an argument for the varying degrees of recognition, and how this might be expressed in a non-Western culture. Recognition, as expressed by Bush and Folger, includes expressions of openness, connection, appreciation, and understanding of the opposing party's perspective. Recognition within a non-Western context may include expressions by parties that evoke a sense of openness and connection in ways that are omitted from the Western transformative account described in Della Noce's research and emphasized in TMF practice.

Accessibility and Legitimacy of Mediation

Mediation in Bethlehem is easily accessible and is considered a legitimate recourse for community conflict. Since the history of the region has placed great mistrust in official bodies, unofficial justice methods like *sulha* are respected, because honorable individuals are seen to conduct the process, rather than other processes that were created and maintained by external forces. Statelessness, the lack of a long-standing and reliable judicial system, legal uncertainties, an absence of a strong and democratic leadership, and security to protect and recognize the people are among the elements of society that contribute to the need for informal justice such as *sulha* (RR & ZZ). Mediation is necessary in this society, because it benefits the community, where recognized institutions of the state do not exist (RR).

Mediation and most social services provided by *Wi'am* and the mediators associated with the organization are provided at no charge. In a mediation context, this allows substantial savings for those with limited income and gives a viable option outside of the courts. In addition, the *sulha* practitioners are trusted and relied upon members of society, and community members repeatedly seek them out to assist in their conflicts. At the end of these processes, local, regional, and national leaders attend *sulha* ceremonies, which strengthen their status in the community as well as confirm their recognition of indigenous peacemaking. Supported by political, religious, legal, and educational institutions, *sulha* has been given credence and validity by the large social organizations of the region.

While *sulha* holds a particular respected and traditional place in Palestinian society, conflict resolution is generally considered acceptable and legitimate at the grassroots level through to the institutional level. The benefit of the accepted local models of mediation is that conflict resolution is already in the hands of the people. The broad interest in mediation is a sign of an emergent paradigm shift toward relational social

forms (Bush and Folger 1994, p. 258). In Palestinian and wider Middle Eastern society, the interest in mediation and conflict resolution has been a recognized social form for generations, albeit from an organic ideology and with collective societal values.

Mediation is meant to create a new culture through parties reviewing their relationship in a new light (Keshavjee 2010). Any desired change can and should be promoted through the people. One specific manner of doing this, according to Bush and Folger, is through "reconstructing reality in relational form by practicing transformative mediation" (Bush and Folger 1994, p. 248). This reconstruction may be difficult to envisage in a society with a lack of independence, leadership, and security, but "because of its transformative potential, the mediation process offers a very good place to start" (Bush and Folger 1994, p. 259). To promote a relational worldview within broader society may be an ambitious goal, but to embark on this through mediation offers the potential for transformative effects such as greater party clarity (empowerment) and perspective-taking (recognition) on an individual basis.

Social Justice

Social justice is at the core of the organic ideology as expressed in a Bethlehem context. The collective welfare of society is important, but so too is the fight against injustice experienced by individuals and groups. From interpersonal conflicts within families and neighbors to larger conflicts involving extended families and groups, mediators in Bethlehem expressed the need to address and confront injustices as part of a mediation process rather than through vengeful acts. A persistent cause of these injustices related directly to the occupation through economic, political, environmental, intercultural, and domestic channels. Mediators described intervention practices such as reframing comments to unify participants behind a common cause, finding solutions through collaborating with social institutions and civil society that treat the causes behind conflicts to prevent re-emergence, working with the effect of trauma when it arises in cases, and reintegrating parties back into the community once the conflict has been resolved. *Wi'am* also attempts to tackle injustices preventatively through the use of women's empowerment programs as well as engagement with youth. While these practices take on elements of social work, wider community negotiation, as well as commitment from the public, the fundamental value of social justice is the energy behind these interventions.

Folger and Bush have remarked that social justice can be a powerful effect of mediation when performed while honoring party self-determination through humanizing dialogue. Therefore, the value of social justice appears in both frameworks, but is addressed differently due to differences in ideological beliefs that inform the third party role and intervention practices. *Wi'am* expresses their dedication to social justice through empowerment practices through their community programs and outreach material. *Wi'am* has developed programs for women, children and youth, as well as encouraging engagement of the wider community. The conflict resolution practices that they employ are not limited to *sulha*, while all emphasize the need for community-based approaches in the context of occupation. For example, youth are encouraged to lead and conduct their own workshops with one another covering a variety of topics, and women meet regularly for training and workshops that encourage their natural leadership skills that some put into practice through developing their own civil society programs.

The importance of social justice is not lost in the TMF approach, but must be through the individuals who have to give and demand change. TMF's vision of social justice can be used in Bethlehem to further promote the desire for empowerment of individuals in society as well as the opportunities for members of society to meet and discuss how they might achieve potential goals. The values of dignity and justice can be put into practice through existing programs through the use of transformative strategies. In doing so, the demands for justice from women, men, and youth in the society can be met through a humanizing exchange of ideas without violating any of the core values and commitments of Palestinian culture. A frank discussion with the providers, leaders, and participants of these programs would have to be held to consider the potential for TMF's vision of social justice within this context.

Unique Features of Palestinian Conflict Resolution Social Interaction

Collaboration Between Mediators and Social Institutions

While *sulha* and conflict resolution in a Palestinian context is not unique in the broader Middle East, there are methods of dealing with conflict that do not exist within the transformative framework. The extensive

partnerships built between *Wi'am*'s mediators and the social sector is notable. Mediators expressed that the breadth of issues brought to their attention could range from marital disputes to clan disputes, to assault and murder, as well as issues with drugs or alcohol, abuse and mental health. Mediators work in conjunction with addiction and trauma counselors, prison services, police, clergy, lawyers, hospitals, and universities in dealing with issues of conflict as well as requests for assistance.

The rationale behind such an integrated approach has much to do with the collective community in which *Wi'am* functions. ZZ asserted that "when we talk about mediation [we] are looking at it from an interdisciplinary approach, not from one field. It is multi-disciplined, interrelated and correlated" (ZZ). Consequently, mediators must have qualities such as persuasive power, resources, and connections in the community in order to be seen as a promising *sulha* mediator. Bringing about creative and holistic solutions that address all the concerns of the parties sometimes means working beyond the meetings with parties and approaching connections from social institutions, especially relating to needs outside the immediate capacity of the mediator (e.g., trauma, crime, domestic violence, and substance abuse). This approach works through the conflict, and treats the individual(s) in need while incorporating their families and neighbors to support the assistance that is being provided. The multi-disciplined approach relates to the collectivist culture of Bethlehem, stressing the values of cooperation and unity.

Collectivist Culture

This chapter detailed the emphasis of collectivism in Bethlehem's culture. This collectivism is demonstrated through different aspects of the *sulha* process, including participation, negotiation, and ceremony. The offending party will initiate participation by approaching a mediator to enter a process to reconcile with the party (and family) that they have injured and to negotiate a ceasefire. This act acknowledges the traditional system, the danger of escalating conflict in the community, and asks the mediator to restore the relationship and the community to peaceful relations.

The mediator, depending on the severity of the conflict, may seek to establish a *jaha* in order to put the weight of noble men into the process, because a resolution will be necessary to restore relations. The power

hierarchy in this society is evident in the process, despite the *egalitarian discourse* described by Lang. While there is acceptance that that men are equal, there is the seemingly contradictory reality that *sharaf* also creates a hierarchy or authority among men. Therefore, the establishment of the *jaha* is one expression of this and is paramount to the success of the *sulha* process. Through negotiations, the *jaha* will convey respect for the parties to enter this peacemaking arrangement, and each visit that they make adds pressure to the party to allow the *sulha* process to take place. The inclusion of family, neighbors, friends, and experts assists mediators in the conflict resolution process because of their relationship to the parties and their witness to the process. The mediators seek their input or consultation where necessary. Even further, these outside parties have contributed to the solutions, such as where conflicts have been the result of ongoing poverty. Mediators indicated that there is a risk of conflicts escalating should their intervention not be successful. While mediators acknowledge that agreements do not come quickly or easily, many indicated that solutions would eventually come, as success rates for *sulha* are high.

The home visits that the *jaha* makes are as much for understanding the facts of the dispute as much as they are to communicate with the parties. In some cases, as indicated, unifying comments of a religious or nationalistic nature may be used to emphasize common values, teachings, or threats that parties face together. When parties agree to a resolution, the public *sulha* ceremony communicates this with the community and is supported by distinguished guests to add emphasis to the occasion. The extended family and outside parties to the conflict also contribute to the agreement by witnessing the ceremony and providing a supportive social web to ensure party compliance with any resolution. This pressure upon the parties during the *public* acknowledgement of the reconciliation is indicative of the Collectivist Culture that exists. The honors of the families, the mediators, invited guests, and the community is at stake when this agreement is made so publicly.

Religion

In the religiously diverse context of Bethlehem, one's faith could serve to divide religious communities. Yet, the emphasis has been to encourage dialogue among the different religious groups in order to maintain positive relations in the area as well as to promote the varied but cooperative

fabric of Palestinian society. Religious diversity is celebrated, and more so in the context of broader unity.

The opinions of priests, reverends, sheikhs, or other religious figures or texts may be sought by mediators to invoke a shared understanding and common ground for resolution. Typical of a harmony approach, the inclusion of clergy, and religious texts promote good relations through scripture and prayer, and to ensure that parties maintain positive relations, even if they represent different religious communities. The use of religious texts and input of religious clergy also consider the religious perspectives or concerns that parties might have in acting true to their beliefs. Within the context of Bethlehem, the religious communities strive to preserve peaceful relations within the Palestinian areas during a time of great uncertainty.

Mediators also indicated how their religious beliefs impacted their feelings of purpose and drive in the context of conflict resolution. The work of *sulha* is considered a moral duty, but one with religious inspiration in that it is seen to be a 'pilgrimage' to God. The role of a mediator is akin to the *sulha* process: a journey of moral significance.

MEDIATION IN A POLITICALLY DIVIDED SOCIETY

Bethlehem faces the challenges of political division in terms of its relationship with the state of Israel and in terms of other Palestinians. Mediation in this context addresses these challenges through unity efforts such as (a) the emphasis on collective Palestinian identity and through (b) acknowledging the ongoing occupation and resisting terms of the occupation wherever possible.

Collective Identity as Palestinians

Collective identity is extremely important in a region that faces risks of losing its land to annexation, its people to emigration, its economy, and international status due to instability. When conflict occurs at the local level, the *sulha* process reflects the need for unity and understanding when faced with a greater threat of the occupation upon society. At a larger level, *sulha* serves to calm the community and prevent the conflict from fragmenting society further. A collective identity is seen as a promotion of cooperation, pluralism, and interdependence. *Sulha* remains a distinctive cultural practice of Palestinians.

Unity with religious diversity is one way in which collective identity in Bethlehem is promoted. Mediators assert that Muslims and Christians are equally valued and cared for in society, despite (and because of) the influx of refugees from villages that would become Israel. As discussed in one interview, meetings between representatives of the various religious communities occur to air concerns, prevent conflict on the grounds of religious identity, and promote positive inter-religious relations.

While this religious respect and co-existence has existed for some generations, the modern effects of the creation of the Israeli state have brought changes in the demographics of Palestinian areas. In Bethlehem, a sizable Christian minority exists among a Muslim majority. Three refugee camps shelter nearly 19,500 Palestine refugees displaced since 1949 and 1950 (UNRWA 2016). The added aggravations of high unemployment, overcrowding, and damaged infrastructure from military incursions creates another dimension of reality under occupation. Those living inside and living outside of refugee camps experience similar irritations in terms of loss of land, unemployment, lack of movement, and displaced anger. Mediation in this context must consider the ongoing frustration of parties coming from this experience because of the unique needs that might emerge from conflict in this setting.

Ultimately, mediators are representative of the diversity of Palestinian society, and have expressed the need for Palestinians to grow and work together despite the differences that exist between them. Religious values and differences need to be respected. The experiences of refugees as well as the conditions of those living in Palestinian areas generally add insight into how frustrations relate to ongoing, long-standing issues related to the occupation can pervade into the lives of the population.

Occupation and Resistance

The effects of the occupation consist of hardships relating to economy, environment, movement, violence, demoralization, and lack of opportunity. While not the source of all conflicts, mediators contend that the repercussions of the occupation serve as an underlying factor in many disputes and, therefore, are a threat for the community at large. The themes of collectivism and social justice emerge when dealing with these issues and the topics that concern larger conflict with Israel and ways for the community to confront them. As phrased by one mediator, "Our struggle is not only against the occupation but it's also the injustices among ourselves, which [are] impacted by the occupation" (ZZ).

By orienting parties to a shared common obstacle, mediators depersonalize the conflict and encourage parties to work together or move beyond the conflict so to ensure greater strength when tackling bigger issues facing the community. This has obvious tones with the Social Justice Story, and for some conflicts, specifically relating to those dealing with issues relating to ongoing conflict with Israel (e.g., land), the collective experience of living under occupation is a relevant point of common ground.

The elements of occupation, including the existence of checkpoints, refugee camps, the need for permits to enter Israel, interaction with soldiers, interaction with settlers, water restrictions, restricted movement between Palestinian towns, as well as the separation wall that has divorced residents from their land, are experienced by all Palestinians at some point in their lives and frequently many points of their lives. Therefore, the occupation is part of the social reality for Palestinians, and cues in mediation within this context exist to acknowledge the hardships that result from it.

In addition to the collective experience of occupation, mediators mentioned their expected duties during the time of conflict between Israel and Palestinian factions, and have said that this is a national service that they were honored to be a part of. Mediation in a Palestinian context could be seen as a political act of non-violent resistance, where parties have committed to the traditional practice of *sulha* rather than use instruments of the occupying forces, such as courts. While Zoughbi mentioned that in an ideal world, mediation would also take place with Bethlehem's Jewish neighbors, most mediators centered on Palestinian concerns. With the Palestinian Authority executive, judicial, and policing arms still in infancy, and political factions centered on infighting rather than a vision for national unity, local mediation remains a reliable method for resolving conflict in a region facing ongoing uncertainty (RR). The macro-level conflict is undoubtedly a factor to the theory and practice of mediation at the micro-level in this context.

Practical Implications

Transformative mediation is a new, Western model compared with the long-standing, traditional *sulha* model. However, the goal of this research was not to replace existing systems, especially those that work well in context. Instead, this thesis asked the question of whether the transformative model is relevant outside of the Western confines where it

evolved from, and given a particular case study, can conclude that there are possible avenues, where the process may be appropriate, but not all. There are several opportunities for what practical implications this research has, and what direction future research can turn to investigate the potential for transformative mediation within a Palestinian context, in an Israeli context, in a Palestinian-Israeli context, and in other non-Western regions of the world.

The Possibilities—and the Limits—of a Transformative Model in the Middle East

Having completed this research project, the next step is to explore those possibilities of whether the transformative model is adaptable to a non-Western setting. In conflicts that do not immediately reflect male *sharaf*, TMF holds potential for creating an environment, where parties can discuss the issues that bring them into conflict in a private, informal setting without violating the pre-existing *sulha* system or religious tenants valued in the community. TMF has the potential to act as a supplemental model to the existing system without removing *sulha*. Specifically, TMF is appropriate for conflicts in which parties want to gain greater understanding and control over their perspectives in a conversation with the other party that the parties themselves own and control.

Women and youth were described as two groups, where the model has the possibility to engage with the society. One way to engage with these groups is through basic training through pre-existing group meeting space, such as in community centers (such as *Wi'am*) or in schools, where mediation training could take place. Peer mediation programs, while relatively new to the region, have been introduced to at least one school in the Bethlehem area. In addition, mediation training does take place with the women's group at *Wi'am*, but it is unknown whether the women are able to act as mediators outside of this group. TMF has the potential to be a valuable addition to grassroots, community methods for approaching topics, such as gender, because the model assumes in the innate capacity in the parties to discuss, deliberate, and make the best decisions for the parties on their conflict issues. Aside from the belief in party capacity, Folger and Bush (2009, p. 1) believe:

> Dialogue has a potentially humanizing effect which brings people to new ways of thinking and deciding – ways that can enable them to make

decisions that are based in greater clarity about themselves *and* each other… Interactive engagement carries with it the potential for profound changes in thinking and behavior. This premise is key in distinguishing mediation from other available approaches to conflict intervention, in which parties' conflict interaction is minimized, controlled, or prevented.

The possibility for TMF's role in supporting discussions on topics that are controversial and may require a change of thinking and behavior is promising.

Parties are able to discuss these issues in an environment that includes one another and their direct opinions and challenges. In order to initiate this model, local practitioners would need to be identified and trained. Trainers to women and youth should have some connection to the community, and any exploration of this area would require research into whether such training is desired within these groups. Active participation by the current mediators into any training and delivery of a transformative model would ensure community support for the model and for those practicing from within the model. Conversely, selection of women and youth as mediators may cause some unease from practicing mediators. For many, being a mediator for *sulha* is an honor, and a Western process that would be willing to teach any person these skills may not be widely accepted. However, should existing mediators be active in supporting an alternative, this may provide a level of reinforcement to a novel TMF practice, and incoming practitioners.

Respect for Indigenous Processes

The practice of *sulha* has lasted throughout millennia of turmoil, and though a traditional method, it is used regularly despite the availability of formal justice arenas, such as courts or arbitrators. *Sulha*, in a Palestinian context, has a rationale for its practice as described by the mediators in Bethlehem. The collectivist, associative culture provides the foundation for the ideologies that mediators shared in their interviews, just as the individualist, abstractive culture of the West has produced ideologies that underline the problem-solving model and a reactionary transformative model. Any introduction of the transformative model would not replace any existing Palestinian model, and it would not need to; the practice of *sulha* is a traditional form of non-violent conflict resolution that the community and surrounding communities have used since before the

dawn of Islam with great success. TMF has the potential to support parties in conflict alongside *sulha* when mediators want to approach conflict resolution in party-centered terms. In practice, this need not replace existing *sulha* processes, but may promote the addressing of conflict and its progression by way of supporting the voice and agency of each party in the process to foster party empowerment.

Mediators may highlight perspective taking as it occurs by parties to facilitate recognition by one party toward another. These transformative elements of party empowerment and recognition are not in opposition to the existing model. The purpose of *sulha* is to redress public dishonor and disempowerment, and by incorporating empowerment and recognition, parties can regain clarity from disempowerment and request recognition from the other while still adhering to the tenants of the *sulha* process. *Sulha* is a passionate, historical element to Palestinian livelihood, and *sulha* mediators are highly regarded for their contributions. A transformative *sulha* model has the potential to strengthen the Palestinian community further by encouraging parties to be responsible for any outcomes, supporting the concept of social justice from the grassroots, and maintaining a traditional model for conflict resolution that moves forward while respecting the past.

Conclusion

Mediation is a valuable resource for those in conflict in areas throughout the world. This thesis sought to address a question relating to the applicability of one model, the Transformative Mediation Framework, outside of the confines of West, where it is used, using a case study in the Middle East. This research project was situated in an emerging field, at a crossroads of the traditional practice and transformative ideas. From this project, questions can be drawn on the ideologies of mediators outside of a Western context; in what ways can these ideologies and practices be understood from a Western perspective, and what implications can be drawn in terms of future work for transformative mediation research? Only continued further research and action will solidify the potential for transformative practice outside of the West, yet the results of this research project suggest a promising, if challenging, initial exploration.

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