

Tribal Justice and Rule of Law in Palestine



By Ammar Dwaik

“

lost the investment of my life in a matter of moments.” These words were uttered by a merchant

from the lewiwi family, one of the largest families in the city of Hebron, after his furniture store was set ablaze against the backdrop of unfortunate events that took place in Hebron following the killing of a young man from the Jabari family, another large family in the city. Basil Jabari, 40, was killed in July, allegedly by a group from the lewiwi family who claimed to be avenging the murder of their relative some 15 years ago. They accused Basil Jabari of being an accomplice in that killing.

Immediately after Basil was killed, members of the extended Jabari family began to indiscriminately target property that belongs to members of the extended lewiwi family, setting fire to dozens of vehicles, shops, and property, regardless of the owners' affiliation to the crime.

This violent and instinctive behavior is a well-known tribal custom in Palestine and is referred to as *forat al-dam* (blood outburst), which is an old tribal tradition that allows the family of the murder victim to vandalize the property of the alleged murderer's family over a

period of three days without having to face any liability or consequences. In this case, however, the lewiwi family did not take a passive position as is customary for families in their situation. They held firm in their belief that the Jabari family is not entitled to the “blood outburst” tradition since the conflict had taken place 15 years ago. The lewiwis reciprocated the violence and vandalism, which resulted in millions of shekels of damage to both families. Many of those who lost their property in this communal conflict are distant relatives of the parties and have no link to the crimes in question; some do not even know the individuals involved in the killings. Furthermore, firearms were

used during the fighting, creating fear and panic among Hebron residents, particularly women and children.

The Palestinian police intervened and were able to partially contain the situation but only after dozens of shops, stores, and vehicles had already been set aflame. The inability of the Palestinian Authority to enforce law and order during the first two days is due to two main factors: First, many armed individuals who participated in the communal unrest took refuge in the southern part of the city, or the so-called H2 area, which is under full Israeli control and out of reach of the Palestinian security forces. Second, during the past few

■ An artist's view of the city of Hebron.



years, the Palestinian Authority has, for various reasons, tolerated many of the customary practices of the traditional justice system, which has made it difficult to confront these tribal customs.

that the “outburst of blood” is a legally condoned custom in Palestine. In such cases, the state gives a license to the victim’s family to take the law into their own hands to satisfy their instinct of revenge.

accepted by the Palestinian Authority. Historical evidence shows that in the tribal justice system, smaller families and clans usually pay the heaviest price as stability is achieved at their expense.

What occurred in Hebron in July left many residents feeling unsafe, and some began to seriously consider moving out of the city or even leaving the country. Palestinian society, which faces great political and security



■ Huge crowds during a traditional dispute-settling incident.



What happened in Hebron in July is not an isolated incident. There have been several cases in the West Bank over the last few years in which the Palestinian Authority has tolerated this phenomenon and neglected to do what is necessary to protect the families of the accused before or during the “blood outburst.” Moreover, the Palestinian Authority has not prosecuted those who perpetrated or participated in the burning and vandalism incidents, which encourages their recurrence and sends the wrong message to society

The tribal justice system prioritizes community stability and social order over justice and individual rights. To defuse communal tension and restore order, tribal judges (or men of reconciliation as they are usually called) may impose collective punishment by ordering *jalwa*, or the expulsion of entire families, including women and children, from the village or city of residence for a certain period of time, which usually becomes permanent displacement. Unfortunately, this practice still occurs and is usually tolerated and

The Independent Commission for Human Rights (ICHR) has raised concerns about some aspects of the tribal justice system. Although ICHR does not take a position against legal pluralism, we believe that any legal, judicial, or justice system must uphold a set of principles required by human rights agreements and the Palestinian Basic Law. These principles include the prohibition of collective punishment, the provision of fair trial guarantees, and the presumption of innocence. All these principles are violated by the tribal justice system.

challenges and strives to build a modern state, must firmly confront this phenomenon. The greatest responsibility, of course, lies with the Palestinian Authority, which must move from its comfort zone and take a clear and firm stance on such practices that threaten civil peace, rule of law, and respect for human rights.

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