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Foreign to Palestinian Society? *Urft* Marriage, Moral Dangers, and the Colonial Present

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Abstract

In 2005, religious authorities in Palestine warned publicly of a new phenomenon, one that was 'foreign to Palestinian society': *urft* marriages. They used this term to refer to 'secret marriages,' which they considered as linked to social breakdown, the result of the Israeli occupation. In the tales (similar to rumors) of young men and women throughout the West Bank and Gaza in the early 2010s, these marriages were often related to the colonial geographies of anxiety, of social and political fragmentation, and of the spatial segregation that Israel has imposed on Palestinians. Related concerns were expressed by the men of religion as they attempted to maintain their authority in highly uncertain times and in contested spaces. Still, in the very small number of concrete cases shari'a judges continued to use the flexibility of Islamic jurisprudence to legally recognize *urft* marriages to work towards the most equitable solution in problematic situations.

Keywords

urft marriage – secret marriages – Palestine – colonial geographies

1 Introduction

Cases of *ʿurfī* marriage in Palestine have increased because of economic conditions and the decline caused by the Israeli occupation.

SHAYKH TAYSIR TAMIMI, chief Islamic justice, 2005

ʿUrfī marriage happens among students because of checkpoints.

Female university student, Nablus, 2010

When speaking in 2005 to a journalist from the Palestinian newspaper *al-Ayyām*, the then mufti of Jerusalem and the Palestine lands, Shaykh Ekrameh Sabri, warned of a new phenomenon, one that was ‘foreign to Palestinian society’: *ʿurfī* marriage. The mufti attributed a rise in such marriages, also known as ‘secret marriages,’ to ‘social breakdown.’ In the same article, the acting chief justice (*qādī al-quḍā*) of Palestine’s shari‘a courts, Shaykh Taysir Tamimi, added that such new forms of *ʿurfī* marriage were due to the Israeli occupation, particularly its negative economic effects (Arnaout 2005).

Whereas *ʿurfī* marriages, in the general sense of non-state registered marriages, have a long history in Palestine, in 2005 these men of religion were talking about a distinctively new phenomenon, one that was, as they phrased it, ‘foreign to Palestinian society.’ To be sure, debates and alarms about new forms of *ʿurfī* marriage had swirled through other Arab countries, particularly Egypt (Abaza 2001, Hasso 2011). These marriages were often seen as the effect of the rising costs of marriage, which could drive young people of marriageable age to consider entering into secret, informal marriages. Other influences often mentioned were satellite television and social media, which spread and magnified stories of secret marriages, ruined young women, and introduced moral dangers (Singerman 2007, Shahrani 2010).

However, there is little evidence of public concern about this issue in Palestine prior to 2005, and much to suggest that ‘*ʿurfī* talk’ has special features in the Palestinian context, even if regional influences are present. At first hand, microscopic Palestine – where provincial towns, numerous villages, and close-knit refugee camps feature strong forms of family and community surveillance of young people – seems an unpromising site for secret liaisons, certainly when compared to a megapolis like Cairo. Yet it was not only the religious establishment that expressed a strong concern about such marriages; in discussions held with young women and men throughout the West Bank and Gaza in the winter and spring of 2010, stories of *ʿurfī* marriage, some amounting to urban legends, were told repeatedly, along with other tales of improper

marriages and a range of anxious concerns about marriageability and appropriate partners.¹

How, then, did this *ʿurfi* talk emerge in Palestine from 2005 and onward? We argue that, in a colonial present marked by spatial segregation, insecurity, and social and political fragmentation, fears about the ‘dissolution’ (disintegration) of the social and political order partly come to rest on that most fundamental social institution, marriage and the family. In particular under conditions of existential threat, the family, as the central institution for producing and raising a new generation, is crucial for the reproduction of the Palestinian nation. The emergence of *ʿurfi* talk is, then, linked to such colonial geographies of fear, anxiety, and segregation that Israel has imposed on Palestinians, particularly since the early 2000s: the university student quoted above blamed *ʿurfi* marriage on the checkpoints that surrounded the city of Nablus. Yet there were also more diverse dangers that faced Palestinians halfway through the first decade of this century. These geographies also worked in a more indirect ways to produce the specter of moral dangers as young people considered their futures in a fragmented and insecure social and political landscape.

This contribution on *ʿurfi* talk builds on debates about the presence of political crisis in everyday life. How political crisis, pervasive violence, and colonial rule ‘translate’ into moral and gendered dangers is complicated, and perhaps ‘translate’ is not the right word. In looking at the everyday effects of the colonial present on the subjectivities and practices of young women and men, Veena Das’s notion of ‘folding’ is helpful. As she aptly remarks, colonial and sectarian violence ‘folds itself into the recesses of the ordinary’ (Das 2007, 1). Everyday life is a site where experiences of public violence are enfolded, shaping and haunting relationships. The violence of the colonial present is thus folded into young people’s talk about *ʿurfi* marriage to produce sites of moral danger. As we discovered, two such sites emerged in our discussions with young Palestinian men and women: Palestinian universities in the West Bank, and the city of Jerusalem (and its border zones).

When young people discussed *ʿurfi* marriage, they always told stories about someone else rather than reporting from direct experience. Indeed, these stories of *ʿurfi* marriage might be usefully considered as forms of rumor, in that

1 This project aimed to investigate discourses of proper and improper marriages. It was part of a collaborative project with colleagues at the Institute of Women’s Studies at Birzeit University on ‘Marriage in Crisis Conditions: Discourses of Partnership, Power and Propriety,’ within the framework of the Arab Families Working Group. From 2014 onwards, it was also part of the ERC advanced grant ‘Problematising ‘Muslim Marriages’: Ambiguities and Contestations (2013-AdG-324180).

they are indeterminate (in terms of evidence as well as source) and lack the signature of an original teller (Das 2007). What matters here, as became evident from our conversations, is that such rumors are both productive and almost irresistible to pass on. This ‘contagion and circulation’ of rumor, as Bhabha notes, ‘links it with panic’ (1994, 286). And, as Das observes, ‘Rumor occupies a region of language with the potential to make us experience events, not simply by pointing to them as to something external, but rather by producing them in the very act of telling’ (2007, 108).

These characterizations of rumor as both productive and contagious have largely come from studying and thinking about rumor in the context of producing violence, as described by Das. Whereas rumors of improper marriages are not in this register, it helps us understand the generation and circulation of these stories in larger settings. We see their emergence as linked to the context of uncertainty, anxiety, and insecurity that contributes to their salience. Yet rumors do not only result from a particular social and political context; we also recognize their performative power. As Samuels (2015) has argued, rumors do not only work as a mobilizing force in warlike conditions, but may also produce feelings of uncertainty.

2 Sources and Method

In order to explore how concerns about *ʿurfi* marriage and other proper and improper marriages, circulate in the discourse of Palestinian young women and men, nineteen focus groups with young women and men in diverse locales in the West Bank and Gaza were conducted in two series, in the winter and spring of 2010.² We were either present ourselves at these focus groups or had transcripts available to us (especially for Gaza). We also drew on earlier focus

² Focus groups were conducted in two series: in January/February 2010 and then, with a slightly revised set of questions, in April/May 2010. We conducted both sex-segregated and mixed groups, with a range of 8–15 participants. In the West Bank, sites were Amari refugee camp, Nablus town (two groups), Balata refugee camp, Bethlehem, Hebron city, Saʿir village (two groups), Jerusalem, Ram, and villages near the Wall in the Jenin District. In Gaza, sites were Rafah and Beit Hanoun (with two focus groups conducted in each). The research team included Dr. Islah Jad, Ayman Abdul Majid, Maha Turjeman Nino, and Nadia Fuad Al Aqra. We are thankful to Ayman Abdul Majid for the excellent organization and facilitation of focus groups. This article could not have been written without the contributions of Maha Turjeman Nino and Nadia Fuad. Maha Turjeman conducted an extensive literature review and observed focus groups in the Ramallah, Hebron, and Bethlehem regions. Nadia Fuad attended Nablus-area focus groups, examined records in the Nablus region, and interviewed Shaykh Tamimi and Mufti Ekrameh Sabri in 2010.

groups with young unmarried women, conducted in 2007 and 2008, where stories of *ʿurfi* marriage arose when young women were asked what dangers they faced in their daily lives (see Johnson 2010). An examination of court records and discussions with marriage registrars in the Nablus region shed light on older forms of *ʿurfi* marriage, where couples came to court to register their customary marriages after a period of time. Interviews with Islamic officials, including Shaykh Taysir Tamimi and Shaykh Ekrameh Sabri, as well as Shaykh Ahmed Natour, then head of Israel's shari'a court, enriched our understanding of their concerns, as well as adding concrete information on the role of the courts in regulating marriage and addressing improper forms of the same. *ʿUrfi* marriage was not the exclusive concern of any of the discussants or of our project: the wider focus of proper and improper marriage included discussions (and sometimes debates) on appropriate marriage partners. Finally, in April 2019, after presenting the draft of this article at a conference, two participants, shari'a judge Sumoud Damiri and a social worker, provided us with additional insights into the occurrence of *ʿurfi* marriages.³

In the following, we focus on how the notion of *ʿurfi* marriage circulates among Palestinians, both among the religious establishment and among young women and men. We first trace the novel ways in which religious authorities discuss *ʿurfi* marriages, elaborating on how the meaning of *ʿurfi* marriages and their evaluation have shifted in the course of the last century, and explain the relevance of the particular historical moment. The next section focuses on the tales young people tell about *ʿurfi* marriages, and discusses the kinds of circumstances that enabled their emergence and the performative work they do. Two sites were singled out as the main sites where such marriages may occur: the universities (on the West Bank, but not in Gaza), on the one hand, and the city of Jerusalem and other border zones, on the other hand. We end with insights gained from our most recent conversations, ones that point to the ways in which *ʿurfi* marriages are not only a problem but in some cases may also, in more covert ways, function as a solution.

3 From Unregistered to Secret Marriages: The Religious Establishment

The arguments that the men of religion who were interviewed in the newspaper article brought to the fore indicate a rather ambiguous position. On the one hand, both the mufti and the chief justice pointed out that such marriages only

3 Our interlocutors and the social worker remain anonymous to protect their privacy.

rarely occurred. When we talked with officials in the Nablus shari'a court, they made the very same argument – such marriages were few and far between, and they could certainly not be considered a social phenomenon (*zāhira*).⁴ Still, these senior figures of the Islamic establishment simultaneously considered it necessary to sternly warn society about its dangers.

Before elaborating on this, it is worthwhile to trace how the meaning attributed to *urfi* marriage has changed in the course of the previous century. Whereas this term used to refer to rather conventional non-state registered marriages, it now has come to be used for the far more controversial 'secret marriages' as part of an increasingly alarmist frame.⁵ Classical jurisprudence required neither a written document nor the formal registration of a marriage for it to be valid; during Ottoman rule, few contracts were officially registered. With the codification of personal status law, registration became a legal requirement. The British mandatory authorities, and later the Jordanian rulers of the West Bank and the Egyptian authorities in the Gaza Strip, introduced specific marriage forms, which had to be filled in by an officially recognized marriage registrar (*ma'dhūn*). These marriage contracts could be concluded at the shari'a court itself, but also elsewhere, such as at the bride's home. Elsewhere, we have recounted a dramatic version of such an out-of-court contract, when two political activists in the first intifada concluded their marriage contract in the shaykh's house, as it was an intifada strike day and the courts were closed (Johnson, Abu Nahleh, and Moors 2009, 12).

Still, if a marriage was not officially registered, it was nonetheless generally considered valid as long as the *shar'i* conditions of the contract were met, such as that the bride's marriage guardian (*wali*) consented. Such forms of non-registrations were rather common during the British mandate. Whereas many women in the rural Nablus region were married before the age of 17, in all the marriage contracts the bride's age is registered as 17 or older, in accordance with the legal minimum age current at the time. Very likely, such marriages were simply retroactively registered at a later moment (Moors 1995, 96).

In case a marriage is not registered, there are two major ways to remedy this. The first is through the acknowledgement of the marriage (*taşadduq al-zawāj*) – that is, if both spouses petition the court to acknowledge their marriage, such as when they had not officially registered their marriage at the time of marriage or because they had lost their documents. The marriage registers in the Nablus shari'a court of the 1970s contain many such marriage confirmations. According to the court officials, these often concerned refugees who

4 As pointed out, both by officials in the shari'a court in Nablus and by the mufti of Nablus.

5 See for this general trend Moors (2013) and Moors, Akhtar, and Probert (2018).

had lost their papers as a result of their expulsion in 1948 (and were unable or unwilling to go to the relevant shari'a court, now located in Israel), while also Bedouin from the Jordan Valley turned to the court to reconfirm marriages they had not registered earlier. A smaller number of cases of non-registration were due to the fact that the *ma'dhūn* himself had not taken a copy of the marriage contract to the court (also Welchman 2000, 20). The second remedy is by means of *ithbāt zawāj*, a claim of proof of marriage raised by one party in the court, while the other party is absent (or perhaps dead) or denies the claim. In contrast to the acknowledgement of marriage, the court officials pointed out that there were very few such claims of *ithbāt zawāj*.

With the increased need people have for written evidence of marriage in their dealings with state bureaucracies, nowadays virtually all people register their marriages at the shari'a courts (or through a recognized *ma'dhūn*). There are indications that, by the turn of the century, the highest religious authorities had become increasingly concerned about non-registration. On 11 November 2000, deputy chief justice Shaykh Tamimi issued an administrative directive that included stricter instructions about the procedure qadis were to follow when registering a deed of 'acknowledgement of marriage.' It required, for instance, detailed information about the circumstances and procedure of the marriage. According to Welchman (2000, 375), the growing unease about underage marriages may have been an impetus for issuing such a directive.

Half a decade later, in 2005, the term *'urfī* marriage is used to point to a different phenomenon. In the *al-Ayyām* newspaper article noted above, both the mufti and the chief justice expressed their concern about the growing number of *'urfī* marriages that were 'foreign to Palestine.' In this case, they were referring to 'secret marriages,' hidden from parents and society, the number of which was increasing 'generally and in particular in Jerusalem.' Although the chief justice recognized that the number still did 'not exceed more than the fingers of one hand in a month,' they still deemed it necessary to issue a warning. In the words of the mufti:

With the *infilat* (breakdown) in society, the phenomenon of *'urfī* marriage has increased and we confirm our advice (*nasiha*) to girls that they are the ones who lose out in this marriage.... The *'urfī* marriage is void. It opens the door to evil and leads to the breakup of the family.... There are even young men who deny that marriage has taken place. That is why we consider the *'urfī* marriage as opening the door to immorality.

The chief justice seems to have been a bit more restrained, or pragmatic, in his evaluation of *'urfī* marriages. Whereas he also considers these marriages

as outside of the (statutory) law (*qānūn*), he explains that ‘we deal with these matters case by case.’ Distinguishing between two formats, he points out that, ‘if it is only a matter of registration (that is, if all the pillars and conditions of marriage are fulfilled) then we try to solve the case and register it, while transferring anyone who has a relation with the contract to the public prosecutor.’ If, however, the contract does not accord to the rules, it needs to be invalidated. In other words, he presents a rather flexible position in the case that only registration is lacking, allowing for the recognition of such an unregistered marriage through *taṣadduq al-zawāj*. At the same time, he expresses a strong concern about those marriages in which not all requirements have been fulfilled, such as the consent of the *walī*.

How do these men of religion understand the context in which such ‘secret marriages’ emerge as a problem? Both agree that there is a great responsibility for the lawyers who write these contracts and for the parents who make marriage difficult by demanding a high dowry.⁶ Whereas they present these ‘*urfi*’ marriages as foreign to Palestine, they simultaneously highlight that certain traditions (those that make marriages very expensive) push young people in the direction of ‘*urfi*’ marriages: ‘Some try to escape from certain *adāt wa-taqālid* [customs and traditions], especially with respect to the parties and the enormous costs of marriage ..., they marry in secret.’ But when a person marries with an ‘*urfi*’ contract, he may later ‘deny the marriage and deny that the pregnancy resulted from it, and that the girl has financial rights.’ This is the very same argument that had already been made in the case of Egypt – the costs of marriages have risen too much, young people can simply not afford to marry, and it is the women who will pay the price. They further add to this, that the growing number of such marriages ‘threatens the social structure in general, leads to immorality and opens the door for the disobedience of girls vis-à-vis their families.’

Interviewed in 2010, Shaykh Taysir al-Tamimi further underlined the disastrous societal effects of such marriages. He repeated a number of points raised earlier – that these marriages had been imported to Palestine from abroad, that the girls were the victims, and that marriage should be made easier by not demanding expensive clothing, parties, and gold. But, as he explained to us, his main point was the relation of these marriages with emerging societal threats:

6 Regular marriage contracts are concluded by the parties concerned and registered by state-recognized officials (*ma’dhūn*). When lawyers are mentioned in this article as being involved in writing the contracts, this refers to documents that are not recognized as official registration in the eyes of state authorities.

Some young men started to deceive some girls and justified this with the argument that they cannot open a house. Then a contract is concluded outside of the court and sometimes without the consent of the wali.... But, when the woman becomes pregnant, he denies the marriage.... Even if the pillars of the contract are present ... and even if there is the agreement of the *walī*, if the contract is not registered in the shari'a court, then I say, in this time in which security and morality have been ruined, we need to consider it as void (*bāṭil*), or at least as an irregular (*fāsid*) contract because of the disastrous effect on the Palestinian family, on its cohesion, and on the social texture for our Palestinian people.

That is, even if an *ʿurfi* marriage may be valid in *sharʿī* terms, Shaykh Tamimi argued that, when taking the practical consequences into account, 'I put this contract with the *bāṭil* (void) contracts because of its ruinous effects.'

In their arguments, both the mufti and the chief justice refer to a historical moment 'in which security and morality have been ruined.' We argue that the political and social context of the historical moment is salient. In 2005, the pivotal year, Palestinians entered the post-Arafat era, an era fraught with more diverse dangers than the Israeli tanks that rolled into Palestinian towns in 2002. On the one hand, the Palestinian Authority, particularly its main party, Fatah, attempted to regain control of the Palestinian street, restore public order, and restart negotiations with Israel. On the other hand, rising political forces, particularly Hamas, posed a powerful critique of internal corruption and political failure, particularly in resistance to Israel, with national unity under threat. Indeed, political corruption and moral vice often seemed to slide into each other in people's talk (see Johnson 2007 on the Amari refugee camp). Crucially, the words on everyone's lips in 2005 was *falatan amni* (security loosening, security chaos). Interestingly, the mufti used the same sense of dissolution to explain why *ʿurfi* marriage can be considered a new, dangerous phenomenon, in his words, 'now that there is a dissolution (*infalat*) in society, it is more prevalent.' It is this particular societal context of insecurity and immorality that turns *ʿurfi* marriages into a dangerous phenomenon, while the spread of *ʿurfi* marriages (in turn) causes immorality.

In other words, the meaning of an *ʿurfi* marriage has changed substantially. Earlier, it referred to 'conventional, unregistered marriages' – that is, marriages that were widely known in the community and considered as socially licit but which were not immediately registered at the shari'a court when they were concluded (sometimes because the area was isolated or the bride was underage, or because of the chaotic situation after the 1948 war). However, in the course of the first decade of the twenty-first century, the meaning of *ʿurfi*

marriages shifted to ‘secret marriages’ – that is, the kind of unregistered marriages that are not only unknown to state authorities but also were kept hidden from family and society. Also elsewhere, in particular those marriages that were kept hidden from the family were strongly condemned (Moors, Akhtar, and Probert 2018).

4 The Tales of Young People: The Sites of Rumor

In our discussions with young people, stories of *ʿurfi* marriage and other moral dangers often had ‘no signature’ – and indeed were displaced away from the teller – but they often had a site: Palestinian universities in the West Bank, and the city of Jerusalem. The focus on university students and *ʿurfi* marriage is regional – and particularly strong in Egypt, where the ministry of social affairs estimated in 2000 that the incidence of *ʿurfi* marriages among university students was 17% (Abaza 2001, 20, Singerman 2007, 29), a figure that the authors consider highly unlikely and which suggests that institutions, as well as individuals, may be prey to rumor. In her discussion about the Egyptian ‘wave of secret marriages,’ fueled by the rising costs of marriages, Singerman quotes a lower estimate: a 2004 study for the National Population Council estimated that *ʿurfi* marriages occur among 4% of youth aged between 18 and 30, increasing to 6% among university students (Singerman 2007, 29). Our participants often referred to Egypt when the topic of *ʿurfi* marriages arose, and regional influences, through old and new media, were clearly evident. However, the transformation of Palestinian universities into sites of potential immorality, at least in some tales, has a particular local resonance.

4.1 *ʿUrfi Marriages on the West Bank: ‘Only at Universities’*

In the sprawling village of Saʿir, in the Hebron region, nine young women sit together and discuss proper and improper marriages with us. As in other discussions, *ʿurfi* marriages are mentioned when we ask about new forms of marriage in Palestine. The young women nod in agreement when a lively young woman says she’s ‘heard about *ʿurfi* marriage – but it happens only among university students.’ One girl tries to bring the issue closer to the village and says emphatically: ‘There is. Don’t say no,’ noting there was a recent case in Saʿir. But the conversation quickly shifts back to the universities. A recently-married young woman adds that it comes from ‘too much freedom,’ and says that, in 2008, girls at Hebron University ‘had to be examined,’ presumably for pregnancy. One girl remarks that there is a special machine that examines girls ‘from a distance,’ perhaps offering an urban legend in the making. Among a

group of males in Sa'ir discussing the same issues, the discussion on *'urfi* was more subdued, although all rejected these marriages as immoral. 'It's present,' one summed up, 'but only in the universities.'

This response from a young man and a young woman from Sa'ir was recited, almost as a formula, in other conversations as well. In almost all the discussions in our research project, young men and women in the West Bank (although not Gaza) mentioned 'the universities' as the main site for the conduct of *'urfi* marriages, defined as secret marriages, and signifying, we would argue, illicit sexual intimacy in general. On the face of it, the focus on the universities is understandable. Universities in the West Bank are one of the few sites (next to workplaces) where there are constant interactions between unrelated young men and women. However, universities have been present in the West Bank since the late 1970s, and whereas some may have doubts about the desirability of gender mixing, *'urfi* marriages had not previously been a topic of discussion.

What seems to be at stake was the historical moment, the mid 2000s as a moment of particularly heightened insecurity and a widespread sense of the dissolution of society, as the men of religion had also pointed to. Yet participants in the group discussions also referred to something more emphasized: the ways in which Israeli spatial politics had drawn boundaries around universities, which made them, in a way, 'foreign to Palestinian society.' What did they mean by this phrase?

When, in a group discussion in Nablus, a young woman again states the mantra: '*Urfi* marriage is a phenomenon among university students,' another participant proposes a cause:

It happens among students because the checkpoints mean more (student) dwellings and there is *'urfi* marriage and we call it *mut'a* marriage.... I know someone who convinced his girlfriend to sign a contract for 50 shekels and *khalāṣ*, the case is over.

Checkpoints are an important spatial technique to separate universities from their surroundings and turn them into 'sites of suspicion.' The city of Nablus had been one of the hardest hit with checkpoints barring entry to the city; an ease in these checkpoints came only in mid-2010. With many students enrolled in Nablus universities from outlying villages and other parts of the northern West Bank, checkpoints effectively isolated students from their families and communities. Larger numbers of students started to take up residence in student dwellings in the city, as checkpoints made it very difficult for students to travel back and forth. Families and communities, physically separated from the university environment, experienced a strong sense of lack of control. Such

concentrations of male and female students without nearby family supervision seems to have produced universities as sites for interaction that were ‘foreign to society.’

The young woman labelling an *ʿurfi* marriage as a *mutʿa* marriage further contributed to a heightened sense of concern. *Mutʿa* (temporary) marriages involve a marriage contract that includes a date of dissolution. Such contracts are permissible according to Shiʿa Islam but are strongly condemned amongst Sunni Muslims, predominant in Palestine, who consider such temporary marriages as a form of illegitimate sexual intimacy. The migration of this term – which has also occurred in other settings – suggests regional media influences and has the effect of further disqualifying such marriages. While this young woman gave a vague formulation of knowing ‘someone,’ the group also heard a story from more direct personal experience, which was, perhaps suitably, more confusing than those told at a distance:

This happened to us, I’m sorry to say, when the police came and surrounded the house (student dwelling) because they found a girl and boy and she was among the most beautiful in Nablus. They forced him to marry her in court.... [O]ur house, unfortunately, became suspicious.

Here, the public intervention of the police in a seemingly illicit student relationship turns a student apartment into a site of suspicion. Although one young woman says that *ʿurfi* marriages are not forbidden in religion, the others correct her: they are forbidden because they do not fulfill the conditions of publicity. This position was repeated in a number of focus groups. It also roughly represents the view of Islamic authorities in Palestine. Although they would also acknowledge that two witnesses may be sufficient to qualify as the public announcement of a marriage, they also underlined the obligation of registration in order not to create confusion and suspicion.

The moment when a secret informal marriage becomes public – and thus a scandal – was a focus of several of the stories we heard from young people. In another focus group in Nablus, with both young women and men from different settings (refugee camps, villages, and the city), a question about *ʿurfi* marriage elicited this response from a young woman:

There were eight cases at Jerusalem Open University and they found out that they were from Nablus, and its camps and villages, and it became a scandal. Their lives were buried because their upbringing had been faulty and there was the pressure of a new environment and new ideas that contradict our customs and traditions.

It is interesting that this story unites the city of Nablus and its surrounding refugee camps and villages in scandal: in Nablus focus groups, the social distance between city-dwellers and camp residents was vast, although the physical distance of the camp in question, Balata, is extremely close as it is located within the city environs. In an all-women discussion in Nablus, young women from the city were adamant that camp residents were not appropriate marriage partners – their bias was so palpable that our research assistant wanted to write a letter to apologize to the refugees from the camp. The young woman's acknowledgment of a tension between 'customs and traditions' – a frequently evoked notion in young people's talk – and a new environment and 'new ideas' is particularly striking. Indeed, the comments of another young woman suggest customs and traditions produce their own challenge:

I want to say something. Mothers keep on saying to their daughters, 'That's forbidden (*ḥarām*), a mistake, it's shouldn't happen, shameful (*'ayb*).' So the daughter wants to challenge. She wants to make the mistake herself to show that it's not a mistake and not forbidden.

Here, we witness a discussion of customs – prohibiting interaction between unrelated young men and women – that have become counterproductive in the eyes of the speaker. As mentioned previously, the men of religion also pointed to customs that had become dysfunctional and hence undesirable, particularly the high costs of marriage, which prevented young people from entering into a regular marriage. This again points to a heightened sense of social disintegration.

4.2 *Gaza: The Moral University*

Interestingly, universities in Gaza were not constituted as sites of suspicion in the talk of our discussants there; in their conversations, universities did not function as sites for *'urfī* marriage or other immoral activities.⁷ Indeed, the only mention of universities in relation to *'urfī* marriage was denial. In the words of a young woman in Beit Hanun: 'We never heard of this, even in the universities, praise be to God. We are religious Palestinians and nothing like what happens in Egypt or other countries happens here.' The 'can't happen

7 In the four focus groups conducted in Gaza (two in Rafah and two in Beit Hanun), young men and women had somewhat different preoccupations than their West Bank counterparts; *'urfī* marriages were far less central to their moral anxieties, which centered on a perceived rise in divorce.

here' theme was echoed by another participant: 'We are conservative in Beit Hanun and we all know each other. It can't happen.'

It may well be that gender segregation (followed at the time of research by all Gazan universities), the lack of a direct Israeli presence on the ground, and the simple fact that in Gaza it is even more difficult to find spaces to hide, cast these institutions as 'moral universities.' Indeed, this is a self-described attribute of the Islamic University. As the 1995 Directory of the Islamic University notes: 'The Islamic University differs from other universities in having a policy of gender segregation.' But it is not only this one policy of gender segregation, which is echoed in other post-secondary institutions in Gaza. Addressing new students in 1998, Ismail Haniyya (then a leader of Hamas), further emphasized the religious imprint of the university: 'This university is different and our *minhaj* (curriculum) is different ... it's necessary to bring up students with the Quran and Sunna.' (Jensen 2006). The deepening of public insecurities (and, in the case of Gaza, war and siege) seem to have strengthened the notion of the moral university, where conditions allow for some sense of control.⁸

If the universities in Gaza are indeed seen as moral spaces, does '*urfi* marriage circulate elsewhere? In a discussion among young men in Rafah, '*urfi* marriage was denied except as a rumor: 'I heard of it but I did not see it.' Everyone agreed it was a 'mistake among a mistake.' And one man said indignantly, 'It is *mut'a* marriage exactly but under another name.' At the same time, these young men discussed '*urfi* marriage as a potential, given the difficult conditions of living and marrying. One young man said that the conditions for such marriage were present to a 'great degree.' The conditions cited were intriguing: 'the split [between Fatah and Hamas], hard conditions, conflicts and sexual looseness. The split effects social integrity and the socioeconomic conditions foster this phenomenon.'

In other words, whereas universities in Gaza were not defined as 'sites of suspicion,' the general concerns expressed about '*urfi* marriage, linking political crises and moralities, resonate with the discussions of the West Bank, even to the extent of, again, disqualifying these marriages as *mut'a* marriages. We briefly return here to the universities on the West Bank, as it is important to highlight once more the historical moment. Looking solely at the time of research, we can perhaps see why the 'moral university' (and students living at home) are considered as possible solutions to the 'problem' of universities as sites of improper activities. But if we widen the lens, we can also see that

8 Although Gaza's other main universities, Al Azhar (a Fatah/PLO-supported split from IUG) and the Jerusalem Open University, are not allied to Islamic movements, they also adhered to gender segregation at the time of research.

what one young man calls ‘social integrity,’ which is under threat in the present circumstances from internal conflict as well as Israel’s spatial regime, was strengthened at earlier moments by a common and united political struggle. While there are many other changing circumstances, the conditions of the first intifada, and the common civilian struggle against occupation that preceded it, had produced the paradigm of the ‘national’ rather than the ‘moral’ university. It was this emphasis on the national struggle as a common purpose, that, at least to some extent, had made male-female interactions licit. Indeed, the first intifada sometimes witnessed the privileging of activists as marriage partners, fostering male-female student interactions even across class and religious barriers (see Johnson, Abu Nahleh, and Moors 2009).

5 Jerusalem as Danger Zone

Another danger zone that emerged in the words of the men of religion is the city of Jerusalem. It was ‘especially in Jerusalem’ where *‘urfi* marriage could be found and shady lawyers were active. East Jerusalem, officially annexed by Israel after the 1967 war, is the site of two shari’a court systems, one under the Jordanian ministry of justice and the other under the Israeli ministry of justice, which apply different legislation. Both courts were outside of the control of Shaykh Tamimi, the Palestinian Authority-appointed chief justice. Even if there may be lines of cooperation, such a geography of segregation (between the West Bank and East Jerusalem) reinforces the notion of Jerusalem as a danger zone.

In the case of Jerusalem, discussions about *‘urfi* marriage also raised another issue: circumventing state-imposed impediments to marriage. Israeli law forbids polygamous marriages and sets the minimum age of marriage at 18 for men and 17 for women.⁹ Shaykh Ahmad Natour, president of the Shari’a High Court of Appeals in Israel, explained in an interview:

There is a dualism in Jerusalem with the Jordanian shari’a court and the Israeli shari’a court, even though East Jerusalem follows Israeli law since it was (unfortunately) annexed. There are marriages to minors or polygamous marriages that are not registered. So people marry and come to the court to confirm in order to register a birth and get social security and

9 This was the case for the period discussed here. In 2013, the minimum marriageable age for women was raised to 18 years. For the problems Palestinian women face in East Jerusalem, see Shalhoub-Kevorkian and Ihmoud (2016).

health. We recognize the marriage retroactively – that is, the court confirms marriages (rather than making them) and sees that the contract is *ḥalāl*. We avoid penal sanctions.

Shaykh Natour points to customary marriages that are kept hidden from the state (at least temporarily), rather than from society, and where the spouses eventually seek registration in the shari‘a court system. Whereas he is considered a reformer and has issued a fatwa setting the marriage age for women at eighteen, he opted to confirm these marriages. Aside from Jerusalem, another primary site he mentioned for these informal marriages is the Naqab, where Bedouin men, according to Shaykh Natour, marry underage girls from the Hebron district (and formerly, before the sealing of borders, girls from Gaza). Such ‘border zones’ place the practice of *‘urfī* marriage in a different context, one of uneasy or antagonistic relations with a state and its regulations.

It is then unsurprising that another main moral danger zone that emerged in our discussions with young men and women was Jerusalem, with its increasing isolation from the rest of society and its neglect by the Palestinian polity. There, universities were also sites of *‘urfī* talk, but the circles of suspicion were wider – including schools, impoverished Old City neighborhoods, and shady lawyers.

In a discussion with young women from various Jerusalem urban neighborhoods and camp settings, the first story of *‘urfī* marriage was, in fact, the only one presented by our interlocutors as positive: they mentioned a religious association that ‘two years ago’ had helped *rijāl al-da‘wa* from Pakistan and Turkey to marry Palestinian girls with the consent of their families.¹⁰ Here, the term *‘urfī* marriage reverts to its older meaning of an unregistered but publicly sanctioned marriage. In a setting of Israeli rule, the association seems to have provided a counter-space legitimizing these marriages. However, when the topic of the university entered the discussion, scandal returned, with talk about pregnancies, DNA testing, and dire consequences. One young woman said: ‘There are these marriages in the universities to a great degree and people force the young man to marry or they go to the girl and the family kills her.’

Jerusalem’s entrapment in a hostile Israeli legal system and isolation from Palestinian government seems to have produced a border zone of both imagined and real illegal transactions of all sorts – including illegal *‘urfī* contracts drawn up by Jerusalem-based lawyers, one of whom was identified by our respondents by name. Noting that fines, and possibly even prison sentences, await the lawyers and witnesses to these illegal contracts, one young woman

¹⁰ *Rijāl al-da‘wa* refers to men calling people to accept Islam.

said: 'There are many problems and some people witness the paper (the illegal contract) and then it is found out and they go to court or they make DNA tests.'

Whereas also in Jerusalem talk about these illegal contracts often occurs as rumor (which may or may not be true), in this setting more evidence is provided about its actual occurrence, as the above-mentioned case of the lawyers indicates. One narrative of *'urfi* marriages among students at Al Quds University and its consequences was partially confirmed by a young Ramallah lawyer who happened to be in the Ramallah district attorney's office on another matter when the students were brought in, accompanied by their parents, and later had their marriage registered. The same lawyer also observed the questioning of a lawyer who had made an illegal contract in another case; the lawyer was imprisoned for two days; the couple in this incident then had their marriage registered in shari'a court.

Jerusalem discussants also uniquely linked *'urfi* marriage to suspect or poor communities in Jerusalem. A woman from Jerusalem's Old City noted that she knew of ten cases – 'case by case' of *'urfi* marriage in Bab al Hutta, a neighborhood in the Jerusalem's Old City, marked by poverty and, at least in popular imagination, with petty crime. The Bab al Hutta *'urfi* marriages are the closest participants came to linking (in talk) such marriages with other forms of criminal behavior – and, perhaps, forms of prostitution. It is worthwhile to notice that the only study on sex trafficking and forced prostitution in Palestine – a briefing paper based on a fairly small number of interviews and with some of its information bearing the stamp of rumor – contains one case where a father from Hebron in the West Bank repeatedly sold his underage daughters to Palestinian men inside Israel using *'urfi* marriages to do so (Sawa 2008, 19). While Shaykh Natour had mentioned *'urfi* marriages of underage West Bank girls to men in Israel that were unregistered, but not necessarily secret, in this case, the father allegedly forced his daughters to dissolve their unions, return, and enter into new *'urfi* marriages, where he received the economic benefit himself. The fact that these transactions took place across 'borders' – essentially in a zone where the law cannot easily be applied – is certainly relevant.¹¹

In a discussion in the Jerusalem suburb of Ram, itself a border zone as it is behind the Wall (which cuts through East Jerusalem), young women's talk about *'urfi* marriage seems to have migrated to the schools as a site of impropriety with older men, instead of male students, seen as the guilty party: 'There is *'urfi* marriage and one resident who is elderly and afraid of his wife and children married a young girl. In most of the secondary schools in Jerusalem

11 Another linking of *'urfi* to crime is recounted in a study by the Women's Study Center in Jerusalem, where a divorced Hebron young woman fell in love and married 'the *'urfi* way,' only to be poisoned by her brothers when she fell pregnant (Al Rifai 2007, 48).

and especially among their students there is *'urfi* marriage.' Here, it should be noted that students from Ram attend schools in Jerusalem, where they must cross from 'behind the wall' with great difficulty, holding student permits and crossing checkpoints. Jerusalem itself thus becomes a danger zone – indeed, researchers have noted that, even in Jerusalem itself, mothers may withdraw their girls from schools because the streets of Jerusalem are seen as sources of danger (Oweidah 2010).

Also beyond Jerusalem, there were concerns about *'urfi* marriages of Palestinian men who are Israeli citizens with women from the West Bank. In some cases, this concerned men who were already married and hence were unable to marry in Israel, where polygamy is prohibited, while the bride's family may be interested in the financial benefits involved. In group discussions, one of our interlocutors commented that there were many marriage 'agencies' operating between the West Bank and 'Arab Israel,' suggesting that there was something both new and uneasy about these marriages. Whereas a generation earlier, Palestinian movement was common and marriages across the Green Line were conducted with relative ease, with the new colonial geographies of anxiety, fear, and segregation, it had become more complicated for people to connect across these 'borders' that have become danger zones. According to judge Sumoud Damiri, whereas polygamy is permitted for men on the West Bank, for Palestinians with Israeli citizenship, the shari'a courts have started to require evidence from Israeli shari'a courts that there are no marriage impediments for these men (such as being already married).

6 *'Urfi* Marriages as (Partial) Solution

In the above, much of the *'urfi* talk we presented was in the register of rumor – that is, by and large, as unsubstantiated stories. We end here with a brief note on a particular field, where concrete, documented cases of *'urfi* marriages did occur, even if these were also not clear-cut. We became aware of these cases when we were approached by a social worker, after we had presented a paper on *'urfi* marriage as rumor. In a later meeting, joined by her colleagues, she pointed to a particular set of circumstances in which *'urfi* marriages became semi-public. This was in the case of illicit relationships that had been 'found out' and reported to social services because potential violence may occur. In these particular cases, social workers were confronted with *'urfi* marriages in a variety of ways.

'Urfi marriages were entangled in rather complicated ways in intimate relationships, as part of the problem, but also as a possible solution. Such *'urfi*

marriages were concluded in a range of ways: there may have been an oral promise to marry, which might have taken the format of an orally conducted *'urfi* marriage, while at other times these marriages were documented, with or without witnesses, with or without a dower mentioned, or with or without additional documentation. One of the most sophisticated cases consisted of a handwritten marriage contract, drawn up by a lawyer, with the names of witnesses and an exact amount of the prompt and deferred dower mentioned.¹² Yet all of them were without the consent (or even knowledge) of the *wali*.

Most of the cases these social workers referred to did not easily fit the paradigm of unscrupulous men deceiving naïve young women. Whereas no doubt it can happen that a man does not intend to marry the woman with whom he has had an intimate relationship, there were also cases where the couple wished to conclude a formal marriage but were faced with the problem that, for whatever reason, the families refused. These women chose to enter into these relationships quite willingly, even if, as one of the social workers said, they could not have been 'thinking rationally,' but were ruled instead by their sentiments, emotions, and desires. Neither did the young men fit the frame of the badly intended seducer. One case indicates this very well. This concerns a student in her early twenties who fell in love with the brother of a close friend. As this man did not have a good reputation – he had been taken to court because of his involvement with drugs – he was an undesirable spouse in the eyes of her family. When she became pregnant, her partner was bound for prison. He then informed the police about their case, fearing for her safety if the pregnancy became visible. As they had concluded an *'urfi* marriage, in writing, with witnesses and a dower, the social workers considered this a relatively easy case: there was a written document, their intention to marry was evident, and the father recognized the child. So the court quickly agreed to marry them officially through the reconfirmation of an existing marriage.

That women involved in such marriages may be considered as active agents in the process resonates with some points our interlocutors raised, even if only fleetingly. It is true that the religious establishment presented young women as those who will suffer, as the victims. Yet, the chief justice also expressed some ambiguity about the morality of these young women, when he referred to them as 'rebellious daughters' lacking the control of their fathers. Also, in the conversations with the young women, references were made to daughters who wanted to challenge their mothers, and to 'too much freedom' more generally.

12 Whereas the current family law requires the consent of the *wali* in the case of women who have not previously been married, classical Hanafi law considers a marriage without a *wali* also as valid.

Attempting to find a solution and to avert violence, the social workers analyzed the situation case by case and tried to find mediators, for instance a member of the family who was willing to protect the woman. Quite regularly, if possible, the solution would be to formalize the relationship. Not all men (or women) were willing to consider this, but it regularly happened. This required, of course, the cooperation of the shari'a court, and here the option of an *'urfi* marriage again becomes relevant. Whereas the ways in which *'urfi* marriages had been concluded diverged to a greater or lesser extent from the requirements of an official marriage, the shari'a courts often adopted a relatively flexible position, trying to find an equitable solution. They could have drawn on various Islamic lines of reasoning, including the Hanafi opinion that a woman can marry without the consent of the wali, if certain conditions are fulfilled (Tucker 1997, 51). This was, however, not what the court preferred to do. In cases where the woman's father objected to the marriage, they would try to exert pressure on him, in order for him to appear at the shari'a court and to consent to the marriage, considering that as a better way to protect the new couple. So, rather than the groom being 'forced' into the marriage, as some of our interlocutors had suggested when referring to 'forced marriages,' it may well be the father of the bride who was put under pressure to accept the marriage. The judges were also able to make use of the doctrine of *shubha*, the notion that the couple, having acted in good faith, assumed that they had contracted a valid marriage, which has a longstanding presence in classical Islamic jurisprudence (Tucker 1997, 164, 173).¹³ In short, whereas the mufti and the chief justice had been very outspoken in their rejection of *'urfi* marriages, which could have had detrimental effects for the women involved, shari'a court practices point to the continuation of a tradition that had allowed for flexibility in cases where an equitable solution was called for.

7 Out of a Dark Room?

In 2005, the year senior clerics issued a warning about *'urfi* marriage, girls in a high school in Beit Jala mounted an art exhibit sponsored by the International Center in Bethlehem. It began with 'The Will,' a moveable coffin on wheels

13 This is similar to what Tucker (1997, 164) describes for seventeenth and eighteenth-century Palestine and Syria, where the qadis used this doctrine of *shubha* (with the couple acting in good faith, assuming that they had contracted a valid marriage) and were willing to recognize a child as legitimate if the couple officially married up to one month before birth.

draped in a Palestinian flag, symbolizing Yasser Arafat's will to be buried in Jerusalem. After pieces focusing on subjects as diverse as the dangers of smoking, vanity, and the lack of computers and celebrations, the students' thirteenth piece was called 'An Affair of Darkness.' The description on the center's website reads:

The girls installed flowers and gifts as incentives to *'urfi* marriage which leads the bride to a dark and humid room, in which she is isolated and neglected. In the rooms the students exhibited a *'urfi* marriage contract with the bride's birth certificate.

INTERNATIONAL CENTER FOR BETHLEHEM/Dar Annadwa 2005

Arafat's moveable coffin, which nonetheless was unable to reach Jerusalem, and *'urfi* marriage's dark and humid room are imaginatively linked in this exhibit – an interesting echo of the complex translation of political crisis and social dissolution into moral warnings over *'urfi* marriage that is the subject of this article. While Shaykh Tamimi may well be correct in assuming that only a 'handful' will literally enter this dark room, many more young people feel trapped in less literal versions of this room as they seek to move into appropriate marriages and fulfilling lives.

'Urfi talk among the young women and men who discussed proper and improper marriages with us is thus located along a register of anxieties about marriage and marriageability. It is a different register than that of the religious authorities interviewed for this project, but both share a notion that *'urfi* marriage is new and 'foreign to Palestinian society,' and both see links between new and improper forms of marriage, social dissolution in Palestine, and the Israeli occupation, whether in its economic or spatial effects. While contemporary *'urfi* marriage is by definition secret and can perhaps only be known by its consequences, *'urfi* talk is situated in the realm of rumor and produces sites of moral danger. Israel's geography of spatial segregation, violence, and restrictions is folded into a new Palestinian landscape of fear – including, ironically, fear of 'too much freedom.'

The religious authorities have taken part in the strong rejection of the validity of these *'urfi* marriages, considering them both to be the product of conditions of insecurity and immorality and as producing a sense of uncertainty and further social disintegration. Yet, the way in which Islamic jurisprudence has historically allowed for a level of uncertainty – an *'urfi* marriage could have been concluded – simultaneously allows shari'a judges to work towards the most equitable solution in the difficult situations faced by young women and men in the colonial present.

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