TOWARDS THE IMPLEMENTATION OF *SULHA* AS A CULTURAL PEACEMAKING METHOD FOR MANAGING AND RESOLVING ENVIRONMENTAL CONFLICTS AMONG ARAB PALESTINIANS IN ISRAEL

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Abstract

This article examines the prospects for applying sulha, *the traditional Arab dispute- resolution process, to the management of environmental conflicts within the Arab Palestinian communities in Israel. As background, the* sulha *process is examined in terms of the modifications that would be necessary to adapt the process in order to create a new tool, labelled 'environmental* sulha', *for managing and resolving environmental conflicts. Successful adoption of such a tool could be a valuable contribution to peacebuilding within Israel where environmental conflicts are growing both in number and in severity. In the course of the research for this project, the Muslim religious scholars and figures interviewed were receptive to the development of an'environmental religious edict that could legitimate the creation and acceptance of such a tool.*

Introduction

Traditional communities undergoing urbanisation increasingly face environmental hazards and conflicts. These environmental threats often serve as catalysts for precipitating and deepening social and even physical conflict between neighbours and within communities. The action research approach taken in the study examined these disputes and developed a management/resolution mechanism to deal with such conflicts, one that is designed to be culturally acceptable to traditional Arab communities within Israel. At the level of the governmental legal system, environmental disputes in Israel are dealt with through the agency of the planning and regulatory bureaucracy and augmented, in the last decade, by experiments with alternative dispute resolution mechanisms from the United States and Western Europe. However, within traditional Arab communities there are socio-cultural barriers to adopting such policy mechanisms. In response to this resistance, the study was directed to examine the potential for the *sulha*, a religiously based and culturally accepted social conflict resolution tool used in many Muslim societies, to be adapted and applied to environmental disputes.

Arab Palestinians became a minority in the wake of the establishment of the state of Israel in 1948. Currently the 1,2 million Arab Palestinian citizens of Israel constitute 18% of its

citizenry.[1] The majority live in 116 small villages and towns on the country's periphery. In the face of rapid urbanisation and modernisation, many members of the these communities struggle to maintain their traditional lifestyles

One manifestation of this urbanisation/traditionalism dichotomy is the Arab citizen's use of the Israeli legal system while embracing traditional customary laws such as *sulha*. While the *sulha* mechanism is acknowledged by the Israeli courts and is often applied within the Arab communities to resolve social conflict, to date, it has not been used to address environmental disputes. The study expands upon traditional *sulha* by introducing an environmental *sulha* methodology to the known array of alternative dispute resolution methods. The research was based on in-depth interviews with members of the *jaha*, or mediating body, of Muslims applying traditional *sulha* for conflict resolution in Israel's Arab society. The interviewees were selected by gathering names from signed *sulha* agreements and recommendations made by *jaha* members from the Galilee region in northern Israel, based on the following criteria: geographic distribution (within the Galilee region); formal education; professional backgrounds; age distribution; religious position; number of years' experience conducting *sulha*. Prior to conducting the interviews, surveys of environmental conflicts in six Arab villages and towns in the Galilee region – Sakhnin, Arabe, Deer Hanna, Kokab Abu-el Heja, Elabon and Beina-Njedat — were undertaken. Based on these surveys, the study developed a typology of the prevalent disputes. The interviews had two areas of focus: the challenges, strengths and weaknesses of *sulha* as it is practised today, and its necessary adaptation to address environmental conflicts.[2]

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The next section describes traditional *sulha* as it is practised in Israeli Arab society and critiques its strengths and weaknesses as reported by *jaha* members. The third section examines how Islam addresses environmental issues; the fourth presents a typology of growing environmental disputes in Israeli Arab communities; and the fifth discusses how *sulha* could use Islamic values and religious norms to manage environmental problems. A proposal for adaptation and formalisation of environmental *sulha* is presented as a new approach to managing environmental conflicts in Arab communities, based upon the traditional *sulha*.

Sulha: A Brief Exposition

Sulha is a traditional method of conflict resolution and peacemaking between individuals and groups, and is used in many parts of the Middle East. The method dates back to the pre-Islamic era, having been absorbed into the roots of Islamic religious law and serving as a guiding value in Muslim society (Irani 1999; Al-Zuhaili 2003). The *Encyclopaedia of Islam* (1977:845-846) gives the word 'peace' two distinct meanings in Arabic: *salaam* and *sulh*. The first refers to the abstract notion of peace, while *sulh* refers to the literal act of settlement. According to Islamic religious law, the *sulh* means 'to resolve the dispute' (*Qat'a Al-nezah*). This process is concluded by signing an agreement between the stakeholders, a commandment (*Fard Kefaiah*) that society must uphold (Al-Rahili 1989). *Sulha* is an informal method employed to resolve many kinds of disputes, such as business, financial and consumer conflicts and those arising from violence, including murder. Much of the information and literature about the *sulha* involves the more extreme murder cases. However, the ritual and techniques used are similar in all kinds of cases (Abu-Nimer

1996; Irani & Funk 1998; Lang 2002). In Palestine, before the establishment of the state of Israel, *sulha* was used to resolve disputes between local inhabitants of Arab and Jewish decent. Today it is essentially used between Arab ethnic, religious and cultural groups (Jabbour & Jabbour 1996; Irani 1999; Gantos 2003). *Sulha* is based on social conventions that require people to honour agreements that are founded on persuasion, mutuality and relativity, and often satisfy both parties. The symbolic rituals of *sulha* include *mosafaha*, the handshake; *muzawara*, mutual visits; *musamaha*, forgiveness; and drinking traditional bitter coffee. These are all part of a cleansing process to initiate a better future between the conflicting parties (Jabbour & Jabbour 1996; Abu-Nimer 1996). According to traditional practice, the *sulha* process has three main elements:

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Forming the mediating body (jaha*):* Upon learning of a dispute, volunteers known collectively as the *jaha* immediately organise and become acquainted with the disputing parties in an effort to resolve the conflict. The *jaha* petitions the offended household on behalf of the attacker to plead for reconciliation through *sulha*, in place of violent revenge (Jabbour & Jabbour 1996). Based on religious and traditional values, forgiveness and honour are the primary socio-cultural assumptions employed by the *jaha* to encourage tolerance and respect between the disputing sides. The mediators are often Muslim, Christian or Druze notables chosen for their embodiment of moral authority. The composition of the *jaha* reflects the Arab approach to the preferred third party being an 'unbiased insider with ongoing connections to the major disputants as well as a strong sense of the common good and standing within the community' (Irani & Funk 1998:61). The *jaha* is further strengthened by the positions its members hold in the community and by the fact that it never operates without the explicit authorisation of the disputants, who generally are the families of the victim and the offender. The size of the *jaha* depends on the severity of the case. The 'persuasion power' of a larger group is sometimes necessary, particularly if a smaller *jaha* is not able to influence the direction of the negotiations. A *jaha* can be as small as one member or as large as 20. Jabbour and Jabbour note that a unique characteristic of the *jaha* is the ability to function as an 'anger absorber' between parties (1996:46).

Securing the truce (hudna)*:* The next step in the *sulha* process involves granting consent, or *hudna*, which holds considerable significance for the facilitation process. *Hudna* is an agreement wherein the *jaha* specifies the period during which the aggrieved family will not retaliate; likewise, the offender's family will avoid any further confrontations with the victim's family (Lang 2002). During the truce period, the *jaha* acts in utmost confidence and neutrality, sharing information exclusively with the involved parties or among themselves (Jabbour & Jabbour 1996) while visiting affected parties in the community to determine the facts. Storytelling in the visiting meeting is the primary communication method. This highlights the assumption that, as Abu-Nimer (1996) observes, many cases are resolved without face-to-face negotiations to avoid the risk of further escalation of the conflict. Instead, storytelling is implemented as a tool for each party to communicate privately with the mediating body to present its interests while avoiding antagonism.

The closing ceremony (sulha)*:* The primary objectives of the conflict resolution rituals embodied within *sulha* are restoration of honour and granting of forgiveness. These objectives are achieved through a closing ceremony, with handshakes and sharing a meal (Jabbour & Jabbour 1996). Generally, the final *sulha* ceremony takes place outdoors in the village centre, because restoration of honour relies on public view (Lang 2002). Additionally, the final *sulha* ceremony is usually punctuated with a 'heavy silence' (Jabbour & Jabbour

1996:55) and is a scene of temporary humility. Both parties demonstrate this feature: the aggressor's family humbly accepts the wrongdoings and offers compensation on behalf of its family member, and the bereaved family respectfully forgives the aggressor's family as an act of magnanimity. When the families put their hands together, parties understand that 'tensions must ease' as this is often the most sensitive moment of the *sulha* process (Lang 2002: 59). This handshake also acts as a public mark of the end of violence between the families (Irani & Funk, 1998).

In Israel, *sulha* has a unique embedded relationship with formal court mechanisms. It does not replace civil or criminal state law. In many cases, Arab victims adopt the two paths simultaneously.

Examining the Traditional *Sulha* Process

Twenty-two *jaha* members with extensive experience as *sulha* mediators were interviewed in order to gain a better understanding of the strengths and weaknesses of the mechanism as it is currently practiced in Israel. The critique was augmented by insights from literature and comparisons with the handling of disputes in the Israeli legal system. The interviewees were then asked for their assessment of adapting this mechanism to address environmental disputes.

The strengths of the sulha

All interviewees emphasised the importance of *sulha* as a custom deeply rooted in Arab and Muslim society and its contribution to mediating, peacemaking and conflict resolution. Improving and reinforcing the method will enable Arab communities in Israel to establish *sulha* as a conventional method suitable for current application as well as to expand its realm to embrace a variety of conflict types. Those who manage the *sulha* process are leaders, a fact that strengthens their ability to resolve the conflict successfully. The interviewees explained that it was their responsibility as leaders and mediators to take the initiative, particularly in cases of murder. Interviews revealed that *sulha* 'enables sides that are interested in peace to end the dispute and the cycle of vengeance, helping the parties overcome their differences in a peaceful way while maintaining their dignity' (Khatib interview 2005; Zubidat interview 2005; Khalaila interview 2006).

During a *sulha* process, *jaha* members arrive at the site of the dispute and study the conflict closely. The management and resolution of the conflict take place at the site of the dispute in proximity to the stakeholders, so it is relatively easy to hold meetings. In contrast, when conflicts are handled by the legal system, the parties arrive at the court and present the dispute to an unfamiliar party that manages the dispute; the compromises that are struck may often result from legal findings and not the values at the core of the conflict.

One of the *jaha's* most important roles is to stop the violence and prevent the escalation of the dispute and blood revenge. Quick and stable solutions such as the *hudna*, *atwa* and *jala* are standard and acceptable means that are applied in varying degrees,[3] according to the circumstances and type of dispute:

> The *jaha* handles serious conflicts, such as murder and violence, studies the subject of the conflict and its implications and within a short period generates quick, effective and pacifying solutions, in a way that no other system can (Khatib 2005).

In many violent disputes in the Arab community, the police wait for the *jaha's* intervention, recognising the stability resulting from *sulha* and *jaha* involvement. So in a collective conflict between clan or *hamula* (extended families), the official Israeli system (police and courts) often accept – even seek out – the role and rule of traditional *sulha*. The *jaha* operates according to a less stringent set of rules and there it has flexibility in that enables the achievement of the ultimate objective. By contrast, the emphasis in the formal legal system is to punish the perpetrator of the crime and not necessarily to help solve the underlying dispute or prevent its escalation. The courts are bound to the procedures by rules and regulations.

Traditional and civil systems for resolving conflicts

Typically, courts do not initiate dispute resolution, but respond and direct the judicial process according to the plaintiff-defendant dichotomy. Acknowledging this limitation, mediation and arbitration practices have also been integrated into the court system. One reason why *sulha* remains popular is that, by contrast, litigation in courthouses and the formal judicial process often goes on for years and entails many meetings, some of which are accompanied by verbal and physical confrontations. Often stakeholders confront one another within and outside the courthouses; these confrontations may continue in the towns and aggravate the dispute. In contrast to the civil court system, the sulha method separates the stakeholders and is managed in a manner that gradually prepares both sides for resolution by using social and religious influences.

The interaction between modern state-centric justice mechanisms and *sulha* is examined by Tsafrir (2006). She notes that *sulha* agreements between an accused and victim or victim's family can influence the judge's decisions during criminal proceedings. *Sulha* agreements tend to work in favour of the perpetrator in respect to detention and sentencing. Lang examines *sulha* in relation to state law-and-order practices, noting that 'these systems generally are not in opposition, and neither has replaced the other' (2002:62). According to officials, the state views the practice as a beneficial system that maintains peaceful relations within Arab communities. Thus state authorities usually support the process and the *jaha* that facilitate it. Judges may give lesser sentences to perpetrators in cases where *sulha* has been achieved. The police, who have long-standing working relationships with the *jaha*, encourage them to conclude *sulhas* and agree to limit police involvement in the handling of crimes. Supporting the *sulha* process, high-profile members of the government (Arab and Jewish), Knesset deputies, mayors, state officials and police officers attend *sulha* ceremonies as invited guests, conferring legitimacy and adding honour to the occasion (Lang 2002; Gellman &Vuinovich 2008).

The *sulha's* legitimacy is bottom-up in nature, an important advantage since the goal of the process is to achieve long-term, viable agreements that have a greater chance of resolution than verdicts issued by courthouses. The community is influential during the *sulha* process; it simultaneously provides support and oversees the process and its outcomes. This social supervision is possible because the process is conducted publicly in both the initial stage, when the parties agree to begin a *sulha* process, and in the final stages, when the parties are presented with a written agreement that is signed in front of a public audience. In many cases, as part of the completion of the *sulha* process, a *deya* is paid, according to the type of the conflict.[4] The financial burden of the *deya* is divided between all the *hamula* members of the guilty party in order to emphasise

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society's responsibility for the actions of its members. *Sulha* produces a social deterrent that either prevents the development of disputes or resolves them before they escalate. The *jaha* acts on a voluntary basis. This is one of the strengths and anchors of the *sulha* method to serving the community.

Weaknesses of the sulha

The traditional nature of the *sulha* can also be a weakness because disputes today differ from past conflicts in many aspects. For instance, the *jaha* is able only to preserve the status quo; at times the solutions do not address the root causes of the problems, but merely restore the situation that existed prior to the dispute. In many cases when the underlying roots of the conflict go unresolved, the cycle of hate and violence continues. Another weakness is the susceptibility of the process to dominance by socially powerful participants. In such cases, the resolutions are often unsustainable and contradict the values of Islam, which stresses the right of all individuals to demand their rights without coercion. As several interviewees pointed out, the *sulha* is a reactive process; it lacks conflict prevention or early warning mechanisms. Typically, signs of conflict can be identified and handled before the conflict escalates. In most cases, *sulha* occurs only after the conflict becomes violent, the situation more complicated and the goal of reconciliation harder to achieve.

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Jaha members are typically representatives of large *hamulas* (extended families). They are primarily elderly men and some are religious figures whose social status grants them authority and influence within the community. The majority of these members lack the professional background that enables them to fully understand the causes of some of the disputes. Rather than treating the causes of the disputes, they treat the outcomes; the solutions remain temporary and incomplete, and disputes may reignite (Zied interview 2006).

Additionally, *jaha* members often face financial costs incurred in the process for which there is no compensation, and as a result their work suffers. Khalaila (interview 2005) stated that his work within the *sulha* requires significant commitment of time, money and dedication. He notes that due to the lack of resources and compensation, *jaha* members are less willing to volunteer and consequently the extent of social initiatives in the community is decreasing. This situation results in a weakening of community interest in receiving assistance from the *jaha* and a greater inclination to turn to the Israeli legal system (Khalaila interview 2005).

An additional weakness noted by interviewees is the lack of documentation of the many meetings held during *sulha* processes. This lack has prevented the *sulha* from developing a body of precedence for facilitating the conflict resolution process.

The Environment in Islam

The issues of environmental protection and conservation have been widely acknowledged in Islam, and the mechanisms for hazard removal, resource conservation and regulation, such as the institution of *Al-Mohtaseb*,[5] have been conducted according to Islamic law (*sharia*) since the 10th century (Akbar 1995). Concern for the environment is deeply embedded in Islam and can be discerned in the Koran as well as in prophetic *Sunnah* and *Hadith* (the sayings and traditions of the Prophet). The argument for this begins with Allah as the almighty creator of all things, 'to God belong all things in the heavens and on the earth; and He it is who

encompasseth *muhit* all things' (4:126). Sayyed Hossein Nasr, paraphrasing William Chitteck's work, explains that the term *muhit* in this context means 'environment'. Islam is also called *din al-fitrah*, which means the religion that is the very nature of things and engraved in man's primordial and eternal substance (Nasr 1989).

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A final but perhaps most important aspect of this logic is the concept of *khilafa*, by which Islam considers 'man as vice-regent of God on earth' (Nasr 1992). As the vice-regent of God, man must 'be active in the world, sustaining cosmic harmony'; the Koran enjoins the believers to 'do no mischief on the earth, after it has been set in order, but call on Him with fear and longing (in your hearts); for the mercy of Allah is (always) near those who do good' (Nasr 19927:56).

The practice of *ijtihad* (adapting religious law to emergent issues) in the 20th century enabled Islam to recognise new issues such as trade with Western countries, the use of banks and contracts, artificial insemination and organ transplants (Qardawi 1985; Al-Rahili 1989). The *ijtihad* functions as a judicial institute, examining cases and reaching decisions by formulating understandings and setting precedents for societal conduct. *Ijtihad* helps develop solutions for newer problems by bestowing religious legitimacy from respected religious scholars. If *ijtihad* were formulated to address the many environmental conflicts within Israeli Arab communities, it could open the door to an environmental fatwa, or edict, which would serve as rules and guidelines for conflict prevention, as well as constitute the backbone of an environmental *sulha* mechanism to be applied in environmental disputes.

Environmental conflicts in Arab society in Israel

Arab society in Israel is a traditional society undergoing rapid urbanisation and development. Transformations in many aspects of life (i.e. education, economy, agriculture, residential patterns and industry) are characterised by extensive development activities, infrastructure construction, broadening of economic activities, expansion of built-up areas, and more. These transformations may produce a variety of environmental hazards and conflicts, some of which are new and unfamiliar. The situation facing Arab society in Israel is complex, involving modernisation within geopolitical conflict between the state and its Arab citizens.[7]

Internal and external processes influence the development of environmental conflicts within Arab towns in Israel. The internal processes are related to accelerated structural and instrumental urbanisation. The external processes result from systemic governmental discrimination and exclusion, particularly in the areas of land use planning and land management. There are also insufficient financial resources allocated to local municipalities (Ozacky-Lazar & Ghanem 2003). In cases such as land management, the Arab community is confused as to whether to use modern state institutions or maintain traditional community behaviour.

The environmental issues presented in Table 1 lead to inter-community disputes. In cases where these disputes escalated into broader social conflict, traditional *sulha* was applied to tackle the repercussions, as described below. However the traditional *sulha* did not address the underlying environmental problem, which was the original cause of the conflict. The new mechanism, which we have labelled 'environmental' *sulha*, is needed both to prevent escalation of environmental disputes into wider social conflict and to deal with the environmental causes.

To analyse the changes in types and extent of environmental problems during the urbanisation process, a comparison of results from four surveys (two undertaken in the mid-1980s and two in 2003 and 2008) revealed the types of environmental nuisances and hazards that were characteristic of the towns' rural and urban periods (Yom Tov 1984; Arraf, 1985; Kalik & Tarabeih 1998; Shenhar & Tarabeih 2003). The study region is located in the central Galilee in northern Israel in an area that encompasses five Arab towns: Sakhnin, Arrabe, Deir Hanna, Eilaboun and Bu'ayna Nujeidat. These five towns have a total jurisdiction of approximately 50,000 dunams (12,355 acres) and a total population of approximately 70,000 residents. All towns are still in the early stages of accelerated urbanisation; they are partly rural and partly urban, and can serve as a model for the changes that are occurring in Arab towns throughout Israel.

Intra-neighbourhood environmental conflicts within Arab towns

In addition to the environmental hazards described in Table 1, the survey included records of environmental hazards and nuisances handled by the municipal departments of sanitation, business licensing and planning and engineering. The survey revealed new types of environmental hazards, some of which have caused conflicts between neighbours within residential neighbourhoods or conflicts between individuals and municipalities or businesses within the towns. A sampling of these conflicts is listed below. These are the types of disputes resulting from the rapid changes during the transformation from rural to more urban communities, which result in growing animosity within the communities.

- Conflicts between neighbours over the positioning of cellular antennas on residences due to fear of radiation and cancer. These types of disputes can become violent, as reported by residents of Eilaboun, Arrabe, and Tamra, where conflicts over antenna location have resulted in incidents ranging from property damage to murder. In one instance involving murder in 2006, *sulha* was applied.

- Conflicts between residents and municipalities and/or the Israel Electric Company regarding high-voltage power lines due to fear of health damage from electromagnetic radiation.

- Conflicts regarding garbage cans of residents and businesses that have not maintained hygienic standards, resulting in olfactory nuisances, pests, unsightliness, etc.

- Conflicts stemming from initiatives by municipalities or residents to pave access roads, which result in loss of land and environmental nuisances such as noise, dust, drainage problems, and uprooting of old olive trees.

- Conflicts over the connections of homes to infrastructure: central sewer systems, water pipes, electricity supply, telephone lines etc. When lines or pipes cross private plots, there are often objections and conflicts.

- Conflicts regarding planning processes conducted without public participation that result in mixed land uses and the entry of hazard-generating businesses (such as marble factories, welding and locksmith workshops, cowsheds, sheepfolds and carpentry workshops) into residential areas without business permits or licences. This creates environmental nuisances and hazards that affect the neighbours. Additionally, the construction of industrial zones, town markets, and waste and sewage treatment facilities often occurs without planning and consideration of the potential environmental impact.

Table 1: Environmental Hazards – Rural versus Urban Phases

Hazards in Arab towns	Description during rural phase (Yom Tov 1984; Arraf 1985)	Description during urbanisation phase (Shenhar & Tarabeih 2003; Tarabeih 2008)
Chimneys in residences	End at roof height Smoke enters homes, causing respiratory problems Effects not recognised or understood by residents	Wood stoves replaced by gas, kerosene or diesel oil stoves Adjusted chimney heights have reduced the pollution New problem of fuel and gas storage Slow return to wood stoves as nostalgic 'rural' fashion
Traditional ovens (*taboons*)	Abundant in all villages Smoke contains high concentrations of CO_2; spreads throughout villages in mornings and rest days.	Most of the residents have stopped preparing bread at home Replaced by wood- or gas-heated baking ovens Still several complaints about *taboons*
Drainage	No drainage system Slops (rinse and wash water – not sewage) pours out to the yards or to public places	Many areas without proper drainage system Causes olfactory and mosquito nuisances Illegal use of sewers causes disputes with the municipality since treatment facilities cannot handle the excess flow, particularly during the winter months
Sewage	Many homes without restrooms Stables and cowsheds used as absorption pits Lime sanitisation often not done strictly, attracting flies and mosquitoes	Severe problem of absorption pit usage in some peripheral neighbourhoods Current efforts to connect all homes to proper sewer systems, but goal has not been achieved; required infrastructure construction will take several more years Some neighbourhoods connected to central sewer systems without treatment facilities, causing severe groundwater pollution and olfactory and mosquito nuisances
Vegetation	Private yards lack vegetation Some private yards are used to grow small amounts of vegetables	Few orchards, characteristic of rural houses Private vegetation replaced by concrete and asphalt yards Vegetation starting to be planted again, but far less than in Jewish towns Lack of public gardening maintenance
Green areas and public parks	Public parks and squares absent or neglected	Shortage of open public spaces Municipalities and local planning committees often do not consider urban open spaces important Land ownership and lack of awareness contribute to shortage
Waste	Remnants of food and other waste commonly found in streets and yards Piles of waste outside the towns	Serious problem of dumping waste within towns Recent funding from the Ministry of Environmental Protection for stopping dumping has not been effective due to poor enforcement by local authorities
Olive vegetable water (oil press waste)	Olive vegetable water disposed from oil presses as part of the processing of olives into olive oil Reduces the quality of water and soil	Ministry of Environmental Protection is partly funding technologies that prevent the passage of raw vegetable water to the central sewer system The number of oil presses has increased due to the phenomena of expanding agricultural lands and planting olive trees after 'Land Day' in 1976
Animal farming (sheep, cattle, goats, chicken)	Frequent animal rearing in residences (on the street level or adjacent) Causes olfactory and aesthetic nuisances and pest infestations	Animals no longer found within residences In some towns, animals kept under houses Causes relatively high number of public complaints

- Conflicts over social events, like noise from speakers during outdoor weddings late at night, and the use of fireworks during weddings, soccer games and other events.

- Conflicts over the lack of parks, green areas and community gardens.

- Conflicts resulting from the shortage of infrastructure and lack of waste management, which results in illegal waste sites in sensitive locations and disputes.

Such environmental issues increasingly escalate into wider, more intractable social conflicts.

Table 2: Differences between Traditional and the Proposed Environmental *Sulha*

Traditional *sulha*	Environmental *sulha*
Jaha members are representatives of large *hamulas* (extended families). Primarily elderly men and some are religious figures whose social status grants them authority and influence within the community.	Make-up of the *jaha* would consist of social, professional and religious leaders Training necessary
Voluntary nature	Need for financial resources
Little documentation of process	Documentation necessary
Is activated after conflict has escalated	Aims to identify conflicts in their very initial stages and prevent escalation

Environmental *Sulha*: Adapting *Sulha* to Environmental Disputes

After an extensive examination of traditional *sulha* in practice in Israel, as well as an in-depth reading of the literature, points of divergence between traditional *sulha* and a proposed new mechanism for environmental *sulha* are addressed. Table 2 above summarises the more blatant discrepancies between traditional *sulha* and the environmental *sulha* tool that we aim to develop.

All the interviewees agreed that several aspects of the traditional *sulha* method would have to be adapted for it to be applied to environmental conflicts. The composition of the *jaha* would differ from that of the traditional *jaha*. The most challenging of these concerns is the functioning of the *jaha* and how to deal with recurring questions that arise during the conflict management processes and the fact that not all issues are addressed. Since only rarely are the activities and rulings of the *jaha*s supported by professional expert opinions, the composition of the environmental *jaha* is seen as necessarily including individuals who are knowledgeable about land management and other environmental issues, either as members or as consultants. To meet this need, it is suggested that three main member groups be represented in the environmental *jaha* in order to ensure that all of the objectives are reached in the dispute resolution processes:

Social group: similar to the composition of the traditional *sulha*, this group would include social activists, public officials and respected members of society.

Professional group: comprising environmental professionals and experts in accordance with the nature of the dispute; planners, for instance, if the source of the dispute is a planning issue, or someone with the necessary expertise if the problem is one of air pollution would be members of the *jaha*.

Religious group: religious scholars who would provide input on topics of religious law and interpretation.

The research examined the possibility of establishing the status of the environmental *jaha* by cooperating with the *sharia* tribunals, obtaining their sponsorship, or appointing environmental *jaha* through them. (Lahwani interview 2005; Karkur interview 2006) This option would improve the process because

> the *sharia* tribunals are an institution that serves the Arab Muslim society and is accepted by the entire society; therefore, it is easier for people to accept the involvement of the *sharia* tribunal system, rather than other civil courts (Natur interview 2006).

As the chairman of the Muslim *sharia* appeal tribunal, Natur considers it important to maintain the status of *jaha* in Arab society. The *sharia* tribunal provides rulings and verdicts

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on personal matters according to the Muslim religious law. He sees the broadening of the authority of the tribunal to civil issues as possible and desirable. He proposes to train professionals in different fields and refer the stakeholders to them in a consensual manner. The *sharia* tribunal can provide an 'umbrella' for their activity: 'An agreement reached through a *sharia* tribunal and authorised by it will be approved as a religious ruling by the court if it does not contradict the religious law' (Natur 2006).

Darwish, a respected religious authority within the Arab Muslim community in Israel, proposes to broaden the authority of the *sharia* tribunals, enable them to appoint *jaha*, and provide legal and religious support by adding regulations or legislative reforms:

> We are in the process of forming an initiative to establish a Muslim ruling centre – 'Islamic *Ifttaa* centre' – that will provide rulings on different matters that arise in society. The *jaha* will operate according to guidelines determined by the centre. The cultural-religious topics (*Al-sharia* – religious law) will be at the core of their activity. The *jaha* will operate with the authorities of the *sharia* tribunal, and will create and distribute edicts and norms based on new religious rulings (Darwish interview 2006).

Khatib notes that the idea of appointing a *jaha* with the support of the tribunals is appropriate, especially in environmental conflicts:

> The environmental issues concern public safety and health, and normally the issues cannot wait for court and immediate intervention is needed. A strong *jaha* with professional backing can deal with disputes immediately. Simultaneous action can be taken in the legal system; where the *jaha's* work and conclusions will be acknowledged by the court, the *jaha* can work in coordination with the courts so that its ruling will be acceptable by the court or require minimal refinement (Khatib interview 2005).

An important element in adapting *sulha* to environmental conflict management is for professionals and scholars to conduct joint training to strengthen the professional and organisational skills of the *jaha*. The training would include the development of negotiation skills and abilities (which many of the 'professional' *jaha* members might lack), familiarisation with different types of environmental disputes (perhaps lacking among the 'social' and 'religious' *jaha* representatives) and the study of Islam's attitude towards the subject matter (particularly important for the 'professional' and 'social' members).

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Another challenge is the lack of financial resources to adapt *sulha* to environmental disputes. There is no need to compensate the *jaha* members, since they act voluntarily. As previously noted, this is one of the strengths, which anchors *sulha* as a way of serving the community. However, in order to encourage and strengthen *sulha* in general and environmental *sulha* in particular, the process needs logistical resources to facilitate the daily work of the *jaha* members. One possibility would be the creation of a community institution to support *sulha* activities. Resources and funding would be provided by individuals and organisations from Arab society at large and from local authorities, NGOs, community centres among others. Documentation of the process, not just the outcome, is critical for environmental *sulha*. It is during this process that the issues underlying the disputes are explored and managed. The solutions reached will set invaluable precedents for the reoccurring environmental disputes affecting the communities.

Lastly, traditional *sulha* is most often undertaken after a conflict has escalated. The value added by the environmental *sulha* would be to discover or expose the conflict, which may arise from an identifiable environmental problem. The environmental *sulha* would thus be an early warning and response mechanism for preventing the escalation of environmental conflicts, as well as a mechanism for conflict management should the dispute escalate.

Below we summarise the main principles of the environmental *sulha* mechanism. These principles are derived from the interviews with *jaha* members of traditional *sulha* processes, from the literature and from our own understanding of need.

Attributes of the negotiations: the intervention process will commence at an early stage, before the dispute escalates. The *jaha* will begin the process by indirect negotiations between the stakeholders. This will be done through a series of meetings with each party separately, and later as the process progresses through direct negotiations. The primary role of the environmental *jaha* as a neutral professional body is to extend the range of possible agreements rather than imposing a solution, similar to a process of consensus building in which all potential resolutions are accepted by the stakeholders.

Type of discourse: the discourse will have social, religious and professional constructs with emphasis on the significance of values of the Arab society. The discussion will be supported by Koranic verses and by sayings of the prophet Mohammed and the caliphs. Local and global environmental issues will be emphasised, particularly their influence on society and the responsibility of individuals to contribute to the building of a fair and involved society.

Sources for the rulings: patterns of environmental conflicts generally recur in different times and places. Environmental rulings by the *ijtihad* process can generate solutions for conflicts that develop. The cooperation of experts and religious scholars is an effective combination for reaching conflict resolutions. A recommendation from the study is to appoint environmental *ifttaa* committees that will be sponsored by the *sharia* tribunals. Their task will be to form environmental rulings as a step towards the development of an environmental religious edict.

Completion of the process: contrary to the traditional *sulha* that produces a very simple contract, in the environmental *sulha* process the *jaha* will work to achieve a comprehensive and sustainable agreement between the sides. The agreement will detail the disputed issues and the agreed solutions, including a mechanism for monitoring the fulfilment of the terms of the agreement.

Communal supervision: public ceremonies are traditional and desirable in Arab society. In order to increase the parties' commitment to the agreement and to raise the community's involvement and regulation of the obtained resolution, the signing of the agreement will be ceremonial and public-serving as an educating, binding and encouraging action.

Feasibility level: the feasibility of the agreement will be based on its conformity with social and religious values and whether it is foreseen that the professional solutions can pass the test of time.

Organisation of information and knowledge: the environmental *jaha* will be responsible for the establishment of a database that will record the conflict management processes undertaken by it and create a body of precedents. A logistical centre that will include a database and library will be established. It will be accessible to the public, receive inquiries and appeals from the public, and provide logistic assistance to the *jaha* members.

Institutional recognition: the environmental *jaha* will work with national government and local authorities, NGOs, community centres and *sharia* courts, among other organisations, in order to obtain recognition for the methodology and legitimatise the process within the Israeli national conflict resolution system.

Conclusion

Although the traditional *sulha* method is common in Arab society, scientific and professional communities lack information about its process and potential. This in-depth study reveals the value of adapting *sulha* to environmental conflicts. Strengths and weaknesses of the *sulha* have been identified, and means for improving and adapting the tool to environmental conflicts outlined. Through the research process, Muslim religious scholars and figures who were interviewed expressed a willingness to open the *ijtihad* to environmental topics in order to develop environmental rulings (environmental *ijtihad)* that reinforce the application of the environmental *sulha* to the resolution of environmental conflicts in Arab and Muslim society. As Islamic religious law aims to resolve social problems, environmental conflicts should be acknowledged as a relatively new element in Arab society with the support of religious scholars and officials. The development of an environmental ruling process would be an important component of the environmental *sulha* methodology.

> **As Islamic religious law aims to resolve social problems, environmental conflicts should be acknowledged as a relatively new element in Arab society with the support of religious scholars and officials.**

To apply environmental *sulha* in Arab towns, it is recommended that the approach be adopted in existing environmental conflicts; principles and guidelines proposed in this study are offered to guide the process. Advancing the use of the method and linking the proposed theory with practice require effort and a social initiative best led by an institutionalised body. This needs to be acknowledged as a new element within Arab society. Such recognition would require the support of religious scholars and officials in drafting a religious environmental edict. To develop such an edict, an action-research strategy would be useful to record the methodology used in the work of the *jaha* in order to integrate such an edict within the *jaha* system.

In introducing the *sulha* method to the management of environmental conflicts within Israeli Arab communities, it is vital to develop an early warning and response system to encourage the prospect of conflict prevention or escalation. While such systems are part of the theory and practice of general environmental conflict management, such preventative action is not part of the traditional *sulha* process. The environmental *sulha* would therefore represent a break in long-held religious and socio-cultural traditions.

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Endnotes

[1] In 1948, the Jewish state declared sovereignty over a section of historic Palestine. As a result of subsequent wars, Israel today maintains its occupation of the West Bank and Arab East Jerusalem.

[2] The following were among the persons interviewed:

Darwish, A. 2006, head of the Islamic Movement in Israel, the referee in religious matters, 15 January, Kfar Kasem

Karkur, K. 2006, religious scholar and lecturer, 18 January, Al-sharia College, Baqa El-Garbia.

Khalaila, A. 2005, former head of local council, head of a *jaha* in northern Israel, member of *jaha* in the Arab sector, 9 October, Sakhnin

Khatib, R. 2005, former head of the Deir Hanna local council and a member of *jaha*, 22 November, Deir Hanna

Lahwani, Z. 2005, kadi of the Muslim *sharia* tribunal in Acre, 5 January, Acre

Natur, A. 2006, chairman of the Muslim *sharia* appeal tribunal, 15 June, Jerusalem

Zied, J. 2006, scholar and professor in the Islamic *sharia* college, Baqa Elgarbia, 18 January, Baqa Elgarbia

Zubidat, F. 2005, principal of Taha Hussein school, Sakhnin, and *jaha* member, 15 November, Sakhnin.

[3] *Hudna* is a mechanism to achieve ceasefire in order to prevent blood vengeance and the escalation of the dispute, stopping the violence for a predefined period until the *sulha* process in completed; *atwa* is an initial sum of money paid to the offended family in return for its agreement to the *hudna*; *jala* is the removal of the offender's family from town in order to prevent escalation and enable the *jaha* to manage the *sulha* process.

[4] *Deya*, a sum of money determined by the *jaha* as compensation for the offended family; it is paid on the day of the *sulha* ceremony.

[5] *Mohtaseb*, a regulatory institution dating back to the 10th century whose regulatory functions were similar to those of the departments of health and environment in today's cities.

References

Abu-Nimer, M. 1996, 'Conflict Resolution in an Islamic Context' in *Peace and Change* 21:22-40.

Akbar, J. 1995, *Religious Law and Rulings in Urban Development*, Amman: Dar Al-Basher Publishing.

Al-Rahili, W. 1989, *The Science of Islamic Religious Law and its Origins*, Damascus: Dar El-Fekr.

Al-Zuhaili, W. 2003, 'Negotiation in Islam' in *PIN Points, Network Newsletter* 21:1-12; available at www.Iiasa.ac.at

Ehrlich, E. 2005, *Hudna: A Political Adventure*, Tel Aviv: Arie Nir Publishers.

Encyclopaedia of Islam 1971, ed. Lewis, B., Menage, V., Pellat, C & Schacht, J, Leiden: Brill.

Gantos, G. 2003, *Forgiveness, Harmony of Religions, and Freedom of People*, Nazareth: Dar El-Nahda.

Gellman, M. & Vuinovich, M. 2008, 'From *Sulha* to Salaam: Connecting Local Knowledge with International Negotiations for Lasting Peace in Palestine/Israel' in *Conflict Resolution Quarterly* 26:2

Irani, G. 1999, 'Islamic Mediation Techniques for Middle East Conflicts' in *Middle East Review of International Affairs* 3:2:1-16.

Irani, G. & Funk, N. 1998, 'Ritual of Reconciliation: Arab-Islamic Perspective' in *Arab Studies Quarterly* 20:4:53-69.

Jabbour, E. & Jabbour, H. 1996, *Sulha: Palestinian Traditional Peacemaking Process*, Montreat, NC: House of Hope Publications.

Khamaisi, R. 2005, 'Urbanisation and Urbanism in the Arab Localities in Israel', special issue, *Horizons in Geography* 64-65:293-312.

Lang, S. 2002, '*Sulha*: Peacemaking and the Politics of Persuasion' in *Journal of Palestine Studies* 31:3:52-66.

Najar, A. 1999, *Environmental Issues from an Islamic Perspective*, Jada, Saudi Arabia: El-Behuth & El-Derasat Centre.

Nasr, S. 1989, *Ideals and Realities of Islam*, New York: Harper Collins; 1992, 'Islam and the Environmental Crises' in Rockefeller, S. & Elder, J. eds, *An International Dialogue, Spirit and Nature, Why the Environment is a Religious Issue*, Boston, Beacon Press.

Ozacky-Lazar, S. & Ghanem, A. 2003 eds, *The Orr Testimonies: Seven Professional Opinions Submitted to the Orr Committee*, Keter Publishing: Jerusalem.

Pely, D. 2009, 'Resolving Clan-Based Disputes Using *Sulha*, The Traditional Dispute Resolution Process of the Middle East' in *Dispute Resolution Journal* November 2008/January 2009.

Qardawi, Y. 1985, *Islamic Religious Law and its Suitability to Any Time and Any Place*, Beirut: Al-Mactab El-Islami.

Qassem, M. 1993, *Environmental Pollution and Economic Development*, Cairo: Al-Dar Al-Masaria Al-Lubnania.

Tarabeih, H. 2008, 'The Management and Resolution of Environmental Conflicts in Split Societies: Towards the Formation of a Culturally Adapted Model – Case Analyses of Conflicts in the Galilee', PhD thesis, Department of Geography and Environmental Studies, University of Haifa.

Tarabeih, H., Shmueli, D. & Khamaisi, R., in progress., 'The Formation of Environmental Conflicts in Israeli Arab Towns: Case Studies from a Changing Galilee'

Tsafrir, N. 2006, 'Arab Customary Law in Israel: *Sulha* Agreements and Israeli Courts' in *Islamic Law Society Journal* 13:1:76-98.

Yiftachel, O. 2000, *Land, Planning and Inequality: The Division of Space between Jews and Arabs in Israel*, Tel Aviv: Adva Centre.