

The autonomy of law in criminal cases:
A case-study of a land conflict in Aleppo in the 1990s

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There are two schools of thought when it comes to law: either law stands as autonomous on its own, or else it is part of society.² What does the autonomy of law mean, and is it possible to envisage law “without” society? The autonomy implies that the law as a homogeneous corpus (or at least aims at homogeneity and for being systematic) primarily purposes at maintaining its internal *modus operandi* in terms of the logic of its operations (validation of facts and the finding of appropriate articles and codes). Even though the construction of the narrative of the crime scene is primarily based on witnessing (without which there would be no case), which in turn is based on the common sense knowledge of the witnesses, the processes that involve validating facts through witnessing and forensic evidence are internal to the law, hence independent of any “outside” referent. That law is therefore primarily busy at validating itself from *any* external setting, be it social, economic, political or scientific, constitutes our point of departure for this study. It goes without saying that such a view has even more implications for contemporary Syria, a quintessentially undemocratic country with an authoritarian régime, whose judiciary is routinely perceived as politicized. But even under undemocratic circumstances, however, the law primarily struggles with itself, that is, it is foremost busy at finding rules for its own validity and acceptability: how to transform the statements of witnesses into facts that could be validated; how to construct narratives out of the facts, which would develop into a verdict; and how to find the appropriate codes for the validated facts. Even though the legal enterprise is very much different from the scientific, what they share in common is their internal autonomy within the logic of the juristic or scientific enterprise. When it comes to law, it has a form of life of its own, which consists at constructing a “case” as an artifact, that is, as a dossier that could be objectively handled through the work of multiple actors, independently from one another, and in the association of narratives based on validated facts with the appropriate codes. For that very reason, what is crucial from our perspective is to demonstrate how a single case unfolds, primarily in the enterprise of witnessing itself; the association of common sense statements delivered by witnesses into validated facts ready to be used in memos, reports and the final verdict; the juxtaposition of witnessing with forensic evidence, both of which end up as validated statements acceptable as such in the final verdict; finally, the association of all those facts with the coded article(s) which prove more general than the case itself. Various claims of “corruption” into the Syrian judiciary, whatever their merits, do not touch upon the “integrity” of the system itself, namely, that, like any other legal system, the Syrian

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² This chapter is part of a forthcoming book, *The Crime of Writing. Narrative and social order in criminal cases in Baathist Syria*.

judiciary only survives through its internal rules and obligations, whatever the level of corruption and political pressures. Even if we know for a fact that police brutality is at times excessive, that judges are remunerated by private parties, that some of the judgments may reflect a political standoff, the autonomy of the law still holds under such circumstances. Thus, even when allegations of “corruption” circulate, the assumption of common laymen is that law and the judiciary should not be under the mercy of social and political pressures, which, in our language, raises the issue of autonomy and integrity not simply apropos possible corruptions, but more importantly, in relation to the internal logic of the decision-making process. To put it bluntly, the more the researcher “socializes” the law, looking for social clues behind the drafting of codes and in judicial decision making, the less rewarding the research experience will be, as it would fail to see how *internal* such processes effectively are. Law is therefore autonomous the way the natural sciences are, except that in the latter the logic of verification of facts is entirely different, beginning with what constitutes a “fact” in science.³

With that in mind, I analyze in this Chapter a single case from Aleppo in the 1990s, in which the main protagonists were under investigation for a crime that occurred in the province over a land dispute. A criminal case-file would normally contain on average 250 pages of convocations, memos and reports, biographical statements, autopsy reports and court hearings, drafted by various protagonists, beginning with the police report that inaugurates the crime scene, up to memos by lawyers and judges, not to mention the verdict, and various memos by court and medical experts. What is therefore at stake here, considering the sheer bulk of the material, is the *selection* and *editing* process, which is not to be confused with the final verdict and what led to it. In effect, reducing a case to its mere “synopsis” and verdict would deprive it from the wealth of material that made its very existence possible. I therefore examine narratives and cross-examinations in detail, particularly in the way they would reveal the inherent tension between the ordinary common sense speech of witnessing, on one hand, and the construction of factual evidence by lawyers and judges in a language appropriate to legal reasoning on the other—a process that reveals the autonomy of law and how all its operations are internally situated.

Syria’s aristocratic nobility

Under Ottoman rule the Syrian provinces of the Empire had the bulk of state lands granted to urban notable families, with the peasantry, which was under corvée labor, practically landless. Neither the colonial nor postcolonial periods, however, properly addressed such imbalances in land ownership, a problem that was to be challenged in the 1960s under the “socialism” of the Baath.

³ Such views are handily expressed in Bruno Latour, *La fabrique du droit: une ethnographie du Conseil d’État*, Paris: Éditions La Découverte et Syros, 2002.

The land reforms and the subsequent “socialist” policies of the Baath did not prevent, however, frictions erupting on both sides—from landowners and peasants. In effect, one of the most poorly documented chapters in Syrian economic rural history are the strategies that both sides have deployed since the 1960s to safeguard their rights. Thus, while peasants pressed for more ownership and better control over their resources, landowners for their part attempted to stick to what was left of their properties under the reforms. At times confrontations turned nasty, if not bloody. In the mid-1990s, during a summer visit to Aleppo’s Palace of Justice, I was informed by a descendant of the Jabiri family, which were among Aleppo’s most prominent notables under the Ottomans, distinguished with the Kawakibis for their long line of muftis, that some of their peasants, with the hope of getting better deals from them (including, presumably, more properties), had set their crops on fire. The Jabiri in question, having filed a lawsuit, was that day in court to follow up his case: “Such cases have become way too common, and the legal system is too slow, too inefficient and corrupt to be totally ineffective on such matters.” How common are such cases of peasants acting against their landlords remains unknown.⁴ What is more certain, however, is that in the northern triangle of Aleppo, Bab al-Hawa (along the Turkish border), and Idlib, incidents of violence between landlords and their peasants did accelerate, albeit at an irregular pace. In such regions of high fertility, with small to medium properties, and unlike the grain-dominated areas of the Jazira region where properties are large but, as a result of intense mechanization, do not require much manpower, the labor of peasants proves more than necessary on lands where olive trees and various vegetables and fruits are cultivated. Manual labor would always be needed whatever the status of technology.

Anatomy of a murder scene

Muhammad Saleh Tirmanini was an accomplished lawyer and landowner. The Tirmaninis, who originate from Tirmanin along the Syrian–Turkish border, were under Ottoman rule a family of notables living from the rents of their *iltizām* farms. Along their landowning duties, they contributed in a number of muftis, lawyers, and judges. Landowning was thus to them, as for a number of the upper urban middle class, a source of rent which provided them with a more or less stable income in parallel to their embracing some of the liberal professions. Muhammad Saleh was apparently sure of himself that day of 24 May 1995⁵ when he picked up in his car a policeman from the village of Muslimiyyah, in the vicinity of Aleppo, where the main prison is located, having already secured the loyalty of two witnesses.⁶ For decades he suffered from bad relationships with his tenant farmers, using both the civil and penal courts in Aleppo to

⁴ Landlord violence is another problem, which remains underreported and marginalized.

⁵ Dates are important not only for the chronology of events, but to appreciate how *time*, as lived by the social actors, unfolds from the moment the case is open to its closure with the verdict.

⁶ The following account is solely based on the report drafted by the referral judge in Aleppo in 1996 (case 478/1/1996), when the investigation was still in its early stages, and was included among other memos in the dossier that I was able to consult in the late 1990s. At the time, the final ruling was not there yet.

chastise them. (There is no evidence that he had recourse to physical violence.) As a professional lawyer he was well aware of the slowness and corruption of the court system. A court convocation for a witness to show up at a hearing on a particular date could take forever to materialize: either the recipient would allege that it was lost in the mail, or that it came too late to its destination, or else the witness would manage to rebuff it once a policeman would show up at his door. To speed up the process Muhammad Saleh decided that he would personally deliver to its destination the court injunction regarding a truck that was seized from the defendants and whose sale date was now set. But was he aware of the risks and perils he was taking, and how inflammatory his attitude was? To begin with, the defendant Rahhal al-Hamd (b. 1931)⁷ had already been imprisoned in relation to a previous dispute with his landlord Tirmanini. To add insult to injury, when Rahhal, who at the time was a tenant farmer to Tirmanini, saw the policeman with the court order in his hand, he hadn't been out of jail that long, having barely enjoyed few nights in the comfort of his own home. He was furious at what he imminently perceived as another unjust provocation and tore apart the court order:

“Only two days had passed since I came out of prison, due to a complaint from the same lawyer [Tirmanini] regarding the usurpation (*ghasb*) of a property and a previous dispute between us. There were lots of suits regarding the lands on which we labor, and from which the lawyer [and landlord] had been attempting to force us out.”⁸

That was stated by Rahhal to a prosecutor a couple of weeks amid Tirmanini's murder at the hands of Rahhal's own son. Even though the land issue serves only as a backdrop to the murder, and is for all purposes useless when it comes to determining who the killer was and how the murder was executed, it is indeed the only element that places the case in the framework of the class struggle over land ownership. For those who interpret law and the judiciary apparatus within a structuralist model where the dominant “bourgeois” class would exercise its hegemony over the rest of society, they would undoubtedly look at this case in terms of a peasantry receiving additional chastisements from a subdued judiciary apparatus.⁹ Thus, in addition to their de facto domination by capital and the commercialization of land, laborers and tenant farmers are disciplined by the judiciary whenever they would attempt to “appropriate” some of their masters' capital—for instance, in claiming a land as their own. However, the judicial process, even if biased towards landlords, is not that simple, as its modus operandi defies class struggle.

In the Tirmanini case the land issue was definitely “crucial,” but in what way? For over 20 years Tirmanini fought his opponents by bringing them to justice. At a time when his

⁷ Dates of birth of the main protagonists are sociologically revealing, as most of the crimes are inter-generational: as is the case here, a member of the younger generation commits the murderous act, ends up in prison, only to be rewarded by family members upon his release. The older generation, in this instance the father, are the real third-party addressees of the murder, because the son's aim is to be worthy of his father and to hold to his mantle and leadership.

⁸ All citations are from the unpublished dossier which I was able to consult in Aleppo's Palace of Justice (Jinayat Department) in the late 1990s.

⁹ On violence and class struggle between landowners and peasants in the context of contemporary Egypt, see Timothy Mitchell, *Rule of Experts*, Berkeley: University of California Press, 2002, Section II.

opponents felt that he was trespassing his limits, they went after him. Were it not for the lands, the killing would certainly have not occurred. But how much of the land issue should the criminal Jinayat court have brought into the file? In itself the land conflicts, having spanned over two decades, are irrelevant to describe a crime that did not seem *prima facie* premeditated and was rather planned and executed in a state of fury within less than an hour. On the other, were it not for all those past and present conflicts, the crime would certainly not have occurred. We have noted earlier what the defendant Rahhal (the father) said to the prosecution, and that's one side of the story. The other side was narrated by the victim's son Ghalib to the prosecution (27 August 1995):

“20 years ago my deceased father purchased land in Handarat from the Jabiris, and there was an agreement with the peasants that they would have their own parcels in lieu of their labor. Among them was the defendant Rahhal [the father], who was not related to the land purchased by my father, but who managed an exchange (*tabādul*) with some of the peasants working on that land, and then claimed that he enjoyed a right (*ḥaqq*) over my father's land. He started usurping (*ighṭiṣāb*) with his sons parts of our lands, which prompted my father to initiate several lawsuits, some of which led to court rulings in 1994 for the crime of usurpation. As a result, the defendant Hasan b. Rahhal [the second son] broke my father's arm and was incarcerated for two years for having done this.”

We roughly understand from such a truncated account that (i) Tirmanini, instead of compensating his peasants for their labor, allocated them with parcels of lands for their own use in what looks like sharecropping contracts, even though it does seem that the property rights remained his own; (ii) some of Tirmanini's peasants unlawfully “exchanged” their rights with the Rahhals, which (iii) prompted a series of suits against the latter.

In both instances—that of the defendant (the father) and the victim's son—there was an attempt to frame past violence as leading to the present incident. The framings were, however, on opposite ends of the spectrum. Thus while Rahhal bemoaned his two-day release from prison, providing an excuse for his own's and son's aberrant behaviors, Tirmanini's son recounted a difficult period that his father had to endure because of alleged usurpations. When the referral judge (*qāḍī al-iḥāla*)¹⁰ drafted his preliminary 21-page report of the case on 18 August 1996, over a year after the killing, the couple of references to the previous disputes were mentioned in the “evidence” (*adilla*) section. As the judge listed 24 of those “pieces of evidence,” it remains unclear, however, which status he wished to attribute to previous disputes: the deceased victim Tirmanini, writes the judge in his concluding remarks,

“had constant conflicts with the Rahhals over agrarian lands they labored and which were the victim's property. Which prompted several lawsuits, some civil and other penal. One of these suits led to the seizure of a pickup truck that the defendants owned for the benefit of the victim Tirmanini. The truck was

¹⁰ The *qāḍī al-iḥāla* plays the conspicuous role of the *juge d'instruction* in the French penal system, which is often criticized by its detractors as being too intrusive, bluntly imposing itself on the outcome of the case when little evidence is still available.

effectively delivered by the head of the executive authority in Jabal Sam‘ān to the defendant ‘Abdul-Hamid al-Hamad [Rahhal’s son, who became the main culprit] as a third person, until a date would be set for its sale. Another lawsuit led to the imprisonment of the defendant Rahhal al-Hamd for a month for unlawful usurpation.”

The judge was here playing on two stances. On one hand, he was eager to situate the crime within a *longue durée* perspective, one punctuated by long feuds and suits between the two parties, while, on the other, he was convinced that

“the killing was the **outcome of its moment**¹¹ (*walidat sā‘atu-ha*), and wasn’t premeditated beforehand, because the intention to kill (*niyyat al-qatl*) grew out of the defendant ‘Abdul-Hamid [Rahhal’s son, b. 1964] once he realized from his father that the victim had dispatched a policeman to inform him of the date of delivery and sale of their seized truck for the benefit of the victim. That eventually fostered hate and anger in his spirit, pushing him **immediately** towards his criminal act. All that points to an intended *qaṣd* killing, punishable under article 533 of the penal code.”

The judge thus argued that the crime was neither planned beforehand nor premeditated, but intended:

“the defendant used a gun, which is a tool of killing in its very nature, and then pointed it towards the victim’s head, which is a vulnerable location (*makān qātil*) in the body, then fired several shots on the victim’s head until he realized that he was dead.”

In sum, the broader 20-year perspective of intense rivalries seem to have been dropped in favor of the “moment” of the killing itself, in order to associate such a “fact” with article 533, saving the defendant the possibility of the death penalty.

In criminal cases the distinction between *‘amd* (premeditation) and *qaṣd* (deliberate intent)¹² turns out the *pièce de résistance* that creates some coherence to scattered narratives. In themselves the formal definitions of the penal code only serve as a set of general guiding principles, which are concretely documented in the narratives of the protagonists, so that the latter would provide content to what is *prima facie* only a formal rule. To begin with, the referral judge, who had completed the first full comprehensive synthesis of the case, defined for his part *‘amd* as

“a special category of killing, which should be proven independently, and discussed clearly. *‘Amd* occurs only when the criminal premeditates what he intends to do, attempts to foresee the consequences, insists upon committing his act, plans its causes while having plenty of time to release the tension and anger in him. He then comes and commits his act **calmly**, with a clean mind, so that if someone commits a crime without that ability to plan and think beforehand, with all that anger and excitement into him, that is definitely not *‘amd*.”

¹¹ All emphasis is mine.

¹² Which is roughly equivalent to the distinction between first-degree murder and manslaughter in the American common law.

From now on, having already set high standards for what *'amd* ought to be, the defense and judges would proceed with standard non-*'amd* arguments, giving hard time for prosecutors to push for premeditation. The twists and turns of such non-premeditation¹³ scenario are therefore worth examining.

Consider, for example, how the killer 'Abdul-Hamid (b. 1964) made his case during his police deposition on 1 June 1995, the day of his arrest in Aleppo, a week after his father Rahhal had given himself up to the police and "confessed" for "his" killing Tirmanini out of rage. The police eventually dismissed Rahhal's "confessions" since they did not match those of witnesses present at Tirmanini's farm. The son's account begins with his father's anger and rage upon receiving the court order from the policeman, feelings that in his own account soon got into him:

"When I saw how distressed and angered my father was, I got very much affected by the incident, and the anger and stress were now into me. I went to my room and seized my 9-mm gun which I normally keep under my mattress. I got out of the house...in the direction of the camp (*mukhayyam*) with the sole purpose to look for Muhammad Saleh Tirmanini and kill him as soon as I'll run into him. The reason behind my anger, and which fuelled my intention (*niyya*) to kill, was the number of lawsuits that Tirmanini had against me, my father, brothers, and family, which only left troubles (*irbāk-at*) behind. I wanted to convince him to negotiate with us regarding the suits on the land. When I reached the camp, **I was in this strong emotional state of anger**, and with the intent to get rid of Tirmanini, because I was convinced that once I would kill him and get rid of him, I'll then put an end to these suits and formalities."

Statements like this were read by the referral judge as a sign of non-premeditation, of an act that was decided "on the spot," without much thinking and planning. In other words, the abstractness of the penal code, which clearly cannot come to terms with a *concrete* definition of premeditation, finds its illustration in statements like these, which are uttered by the protagonists, picked up by judges in their reports to the court in order to frame the case in one way or another, which in this instance was non-premeditation. Obviously, such procedures are common to civil-law systems, where the major notion of premeditation¹⁴ proves crucial in the construction of the verdict; but *how* premeditation is understood, constructed, and interpreted is very much rooted in a specific cultural milieu; and, as we've argued all along, witnessing, a quintessentially *cultural* enterprise, is specific to a locality and culture.

Troubled land relations

Undeniably the disputes that Tirmanini had nurtured with his peasants and tenant farmers for over two decades make this murder case unique, even though in other regards the case-file seems like any other, with dozens of witnesses that have been only summarily cross-examined, hence their testimonies tend to be less than what we had wished for.

¹³ Or manslaughter in American common law, which does not implicate circumstances of murder.

¹⁴ Or first-degree murder in American common law, which could lead to the death penalty.

Such shortcomings notwithstanding, there are a couple of unique features to witnessing in this case, which need to be associated with Tirmanini's troubled relations with his tenant farmers. The first is that, due to the smallness of the community in question and its tribal and clan networks, many witnesses were either "related" to one another and/or to Tirmanini, which pushes witnessing to dimensions that need to be explored. Second, because premeditation had been excluded in the early stages of the investigation, the Aleppo court begged to differ with the investigative judge on how to legally describe the kind of "participation" manifested by the killer's father, who had first voluntarily introduced himself as the murderer: was it participation, instigation, or support? This may look like hair splitting among professionals, but in reality it portrays a broader malaise regarding an understanding of criminal acts which cannot be fully attributed to a single actor, even though evidence would show that the killer acted on his own: kin relations in this instance render such assertions a bit superfluous, as there's no such thing as acting "individually" in such an honor driven milieu. Third, one of the witnesses, having first furnished a detailed account of an alleged encounter with the accused's son and the formerly accused father (who was nonetheless accused of "instigation"), where they had both allegedly unleashed against their boss Tirmanini with an overt death threat, denied months later his earlier statements, maybe preferring the safety of the short jail sentence he had to endure over the unsafe and troubled communal relations. Fourth, the notification process, which considerably slows down trials, is here central, since it presumably had initiated the cycle of bloodshed. Finally, the existence of several direct witnesses to the crime scene divides witnessing sharply into two categories: those who were documenting reality, and others who were simply reporting on the crime from a distance.

One of the key witnesses, Mustafa Muhammad Abdul-Ghani (b. 1949), who lived close to the Tirmanini farm in camp Handarat, and was a coiffeur, said he was picked up by Tirmanini the morning he was murdered. Tirmanini was driving his own car and had a policeman with him from the Muslimiyyah station, and picked Mustafa with a neighbor of his, so that both would act as witnesses in the notification that would be delivered to Rahhal. The latter apparently owed money to Tirmanini, and had by judicial order a Mercedes truck seized and delivered to Rahhal's son (the murderer) as third-party, prior to selling the truck for cash. At some point the policeman was dropped to deliver the notification to Rahhal, while Tirmanini and his two other passengers pursued their journey (other accounts claim that the two passengers in the car saw Rahhal insult the policeman, while acting angrily and tearing down the seizure request, but the passengers refused to act as witnesses, out of fear of reprisal from the rival Bakkara clan, demanding that they be brought back home). Mustafa ultimately provided an interesting detail in his first deposition to the police on 5/24/1995:

"After we dropped the policeman, Tirmanini went on to check farmers on his lands, and we reached the junction where a pharmaceutical factory is located. He there met with Abdullah Adib with whom he had fostered a friendship. He saluted him and asked him, What are you doing here?, to which the other replied, I'm working on the crops. Tirmanini then notified him that 'You shouldn't work on

the second parcel of land, because **I've got a ruling that states that the crops are all mine.**”

Mustafa then claims that they drove back to the policeman, who informed them that Rahhal has refused to accept the injunction, tearing it apart: **“When we were asked to act as witnesses, we refused, because we did not see a thing.”**

Such accounts point to the fact that Tirmanini's relations with his laborers and tenant-farmers, even those who were supposedly on “friendly” terms with him, were marred with court orders, disputes, and a piecemeal legalistic approach to tenancy contracts where he was attempting to squeeze as much produce as he could from his lands. Some tenants seem to have been on sharecropping contracts, providing part of their produce for keeping possession of the land to the following year, but whenever he could (for instance through a court order), Tirmanini would hire seasonal laborers, thus avoiding tenancy contracts, keeping all the produce to himself. His relationship with Rahhal and his two sons was even more troubled, as all three had been jailed on various occasions in the previous years for alleged usurpation (*ghaşb*) for short periods. Rahhal, who from day one had claimed his son's killing of Tirmanini as an act of his own making (an allegation that was later to be dropped), recounted to the police upon his arrest that he was furious and shocked when he encountered Tirmanini:

“We've been through this with him for 15 years, but he would never budge. Prior to the killing incident I've been out of prison for just two days, having served for one month because of an usurpation accusation... My kids had pushed me on several occasions to give up on the land...”

What's relevant here is that *land “ownership” implies control over the produce*: it's not who “owns” the land that proves the most salient issue, but who controls the produce and in what proportion. Having understood this basic fact, Tirmanini developed the habit of looking at things pragmatically. He would thus treat each lot of his as if it were separate from the rest, and bargain with each tenant individually, and at times opting for outside seasoned laborers hired by the day over the ones that were already settled, and who would have imposed on him less beneficial sharecropping contracts. Thus, sharecropping became a deadly game whereby “sharing” was more important than “ownership” per se. As to the legal retaliations that Tirmanini would occasionally pursue, they soon reached their limits, considering that he was operating in an area where everyone was hooked to a clan. Thus, from day one he had problems securing his witnesses for the injunction that he delivered to Rahhal: the police report signaled that his witnesses may have been intimidated by the rival clans operating in the region (in addition to the two witnesses above, picked up by Tirmanini, see *infra* statements of clan-related witnesses).

Faked testimony? Strategies of lying? Fear of kinship?

It is fairly common for witnesses who were interrogated by the police within the first 72 hours to deny in toto to the examining judge, barely a week later, what they had allegedly

stated earlier in their first deposition.¹⁵ The fact that the police never do complete transcripts of their interrogations, providing only “useful summaries” to judges and courts, in conjunction with “admitted” episodes of brutality towards witnesses, pushes witnesses and their lawyers to request a reevaluation of the original police memos. What is less common, however, is when a witness provides a full account to the examining judge of a certain “crucial” event, in the privacy of the judge’s office, which unlike the police do not have that reputation of bad manners and brutality, and then months later, that same witness would withdraw his earlier statements in toto, with a pending risk for punishment. In such rare instances, determining whether the witness fabricated his story or was simply withdrawing under pressure from family and clan members would remain an open issue, which cannot be resolved easily. So how are we to take such accounts and their subsequent denials? In my view, statements with truth claims in conjunction with their ensuing denials ought to be taken seriously, primarily to understand what “lying” implies in such contexts.

Hammud al-Hammud (b. 1974) was an inhabitant of Muslimiyyah when he was interrogated by a judge on 7/17/1995. His allegations, that he had met with Rahhal and his son prior to Tirmanini’s murder, and that both had openly shared with him their intent desire to “punish” the lawyer once and for all, would not have had much of an impact, were it not for the fact that judges were all along preparing for a non-premeditated verdict on behalf of Rahhal’s son Abdul-Hamid. Hammud’s testimony was therefore the only thing the victim’s family possessed that would point to premeditation, hence its importance, in spite of its withdrawal months later.

A month before the lawyer Tirmanini was killed, there was a wedding ceremony that took place in our Muslimiyyah village, **whose host name I’m unable to remember**. Both Rahhal al-Hamd and his son Abdul-Hamid attended the wedding; the latter is married to a woman from Muslimiyyah whose name is Fatima al-Abdullah bt. Muhammad al-Hamd. I overheard statements when Rahhal was talking to some of the **invitees whose names I can’t remember**. He said: “If the lawyer Tirmanini continues to play hard we’ll settle with him by force.” **His voice sounded threatening**. Soon after the wedding, Rahhal was imprisoned for 15 days for having usurped one of Tirmanini’s properties. With my uncle Ahmad al-Hammud b. Abdullah I visited Rahhal in prison, who told us: “My sons do not fit for killing, and were it not for the fact that I’m a pilgrim who completed his pilgrimage in the House of God **I would have killed him myself**. Once I’m released, I’ll hand in a gun to one of my daughters to kill the lawyer.” The day following his release from prison, Rahhal and his son Abdul-Hamid were invited to dinner by the latter’s in-laws in celebration for Rahhal’s release. I was there that night when I heard Rahhal and his son discussing their disputes with Tirmanini, saying that **they would finish him off**, and that they were in search for a gun for that purpose. They’ve even requested from Husayn al-Hamd b. Abdullah, the

¹⁵ Based on a detailed examination of nearly a 100 criminal cases from Idlib and Aleppo in the 1980s and 1990s; see my *Crime of Writing*, forthcoming.

brother of Abdul-Hamid's wife, to find a gun for them, specifically from a certain Abdul-Salam al-'Allush from the village of al-'Alawishah, which consists of a farm close to the concrete factory. **I heard that with my own ears** during that evening party which was also attended by Zakkur al-Abdullah al-Hamd b. Muhammad, the second brother of Abdul-Hamid's wife. The following day I heard the news regarding Tirmanini's killing, and that the murderer was Rahhal. I therefore went with my uncle Ahmad al-Hammud b. Abdullah and another person who happens to be Abdul-Hamid al-Hamd's brother-in-law, and someone else from Muslimiyyah under the name of Ali al-Hamd b. Yusuf. We met with Rahhal, who had given himself up to the police soon after the killing, at the Muslimiyyah station, and we sat with him in one of the rooms there. He told us that his son Abdul-Hamid was sleeping at home when Tirmanini came by with a policeman to deliver the injunction for the truck's seizure. He had a verbal fight with the lawyer, and once the latter left, he woke up his son and told him: **"I don't have men at my disposal, I'll give the gun to one of my girls to kill the lawyer."** Abdul-Hamid was annoyed that he was woken up from sleep, which made him even more furious, he took his gun and drove his pick-up van until he reached Tirmanini's farm, killing the lawyer on the spot. **That's what I heard from Rahhal:** it was his son who did it, he came back to him and told him what happened. That's all what I know for sure, knowing that **I'm from one clan** (*'ashira*)—Majdami¹⁶—and **the defendants are from another**—Bakkara¹⁷—and that I fear their might, in particular if they know that I've delivered those statements to you, even though the victim's son urged me to do so. When one of the victim's relatives realized that there's some important stuff I knew about, he introduced me to the victim's son who urged me to come to you.¹⁸

Even though the veracity of such statements is hard to verify, and in spite of later withdrawals by the witness himself (more on that below), I would argue that they nonetheless constitute an aspect of the community's imaginary, and hence need to be taken into consideration.

First, the statements that Rahhal had allegedly uttered were stated in the context of a wedding ceremony whose host was left unnamed, and so were the numerous persons to whom Rahhal was allegedly talking, and who could have served as witnesses. The witness was therefore unable to back up his story through other witnesses, taking the sole responsibility on his own, which considering the region's clan divisions would seem quite

¹⁶ Same as Rahhal al-Hamd? Their rivals were the Bakkaras.

¹⁷ Were the Tirmaninis from the Bakkara clan?

¹⁸ Statements like these, or cross-examinations by investigative judges (see *infra*), should be taken in their totality rather than placed in fragments. What is important to realize is that, unlike in American courts where all statements are transcribed verbatim (a very costly enterprise, funded by taxpayers), in the Syrian system all statements are fully "edited," hence the colloquialisms of the witnesses are transcribed on paper into official Arabic, not to mention the fact that certain "inappropriate" statements may have been omitted by the "editors" (police, experts and judges). It is then up to the reader's imagination to fill in the gaps, and see what is "relevant" under the circumstances.

volatile, if not worthless. Even though other persons have been named for being “participants” of a particular encounter, or for having possibly supplied the future assailant with the murder gun, some of which have later denied to the same judge such allegations, the above statements survive on their own, as if they were designed to be taken or rejected for what they are. Overall, the named and unnamed “witnesses” were carefully calibrated, as they reflected the main clan division acknowledged at the end between the Majdamis and Bakkaras. The later withdrawal–denial of the whole deposition may also reflect such division between two rival clans that control the region, making “witnessing” more of a collective than an individualistic endeavor. In this sense, the above witness would be perceived as having betrayed the clan’s sense of honor.

As to Rahhal’s alleged behavior at the wedding, then upon his arrest, and in his brief episode of freedom, whether accurate or not, all reflect that the sense of honor must be publicly displayed to receive recognition. It’s not simply a question of retaliating against Tirmanini, but rather of building a public consensus against his misdeeds, his mistreatment of the peasantry, and his usurpation of their lands and sharecropping rights. Rahhal therefore boasts that he would take care of all that, even though he won’t be able to do it on his own, first due to his age, his piety as a pilgrim, and because he has two sons who should be entitled for the task. His boasting that “his girls” would do it (the claim was made on two separate occasions), because the males are not real men and are not up to the task, is a further indication that honor needs to be displayed through well articulated strategies: Rahhal had to find an excuse why the retaliation against Tirmanini had to be constantly “delayed” and kept on the margins with all the setbacks that he had suffered with his two sons (all three were repeatedly imprisoned for usurpation of property, their pick-up truck seized, and their control over “their” properties was scaled down in the aftermath of failed lawsuits). When Tirmanini’s killing was finally over, Rahhal acknowledges it immediately, first by giving himself up to the police, and then by admitting that it was his son who did it: honor killings must be claimed by the protagonists themselves in order to be distinguished from non-honor killings.

I’ve got a problem

Initially it was Rahhal who claimed the murder, and was immediately sent to prison, while his son managed to hide for a couple of nights at a friend’s house not far from Aleppo’s main Muslimiyah prison where his father was incarcerated. By mid-June, barely a month after the killing, Rahhal denied any wrongdoing, amid his son’s confessions. His second interrogation by an investigative judge in Aleppo on 6/14/1995 not only reflects a change in his mindset, and a new narrative where his son now stands as the main culprit, but also one more account where the son is portrayed to have acted on his own, without his father’s prior knowledge. In short, now that the father has been cleared from the direct act of the killing, it remains to be seen whether he should be framed as “collaborator” or “instigator” or “participant.”

Q1. You were accused of a premeditated (*‘amd*) murder.

A1. That's incorrect. I want to confess the truth to you as it happened. I was at home the day of the incident when a policeman dropped by in the company of the lawyer Tirmanini. He delivered me an injunction, which I tore apart, considering that I had just been out of prison two days earlier, amid accusations of property usurpation by the same lawyer. We've had that kind of problems and lawsuits with him for years, as he has always been keen at kicking us from our lands. It was 2:30 pm when the policeman left with Tirmanini. At 5:00 pm my son Abdulhamid woke me up and said: "I've got a problem," and gave me his 9-mm white gun, summoning me to deliver it to the police station, but he refrained from telling me what his problem was all about. At first I thought that the problem was with our neighbors the Bakkara clan. When I went to the police to deliver the gun, I was surprised to know that the lawyer Tirmanini had just been killed. Out of fear for my children I gave myself up and confessed that I was the one who committed the crime, even though I had nothing to do with it. It was indeed my son Abdulhamid who did it, and is in prison now.

Q2. When did you plan for killing the lawyer?¹⁹

A2. **We never planned for it.**

Q3. Our investigations show that your son Abdulhamid came to your home prior to the incident, and that you've informed him about the injunction, so he comes in, picks up the gun, and goes on to kill the lawyer Tirmanini. What's your response?

A3. That's not true at all. **I only saw my son after the incident.**

Q4. Our investigations show that Abdulhamid informed you that he killed the lawyer Tirmanini when the two of you were driving in his car in the direction of Muslimiyah. He wanted to give himself up, but you've refused, and decided that you're the one who will acknowledge the murder, pretending that you're the murderer. You gave us details on this killing, then reenacted it for the police and a judge where it had happened, confirming earlier statements on 5/27/1995. Now you're telling us that **your son never told you a thing**, except for the "I've got a problem," so what the secret behind such contradictions?

A4. The truth is that in my earlier statements and my reenactment of the crime I was coached by the police to say and do as they wished.

Q5. Where were your sons Abdulhamid and Hasan all along the day of the incident and before it happened?

A5. They both work all day long from six in the morning to late at night.

Q6. You would like to add anything else?

A6. Nothing at all.

To fully appreciate the above line of questioning we need to open a short parenthesis in order to see what was at stake now that the identification of the killer has shifted from Rahhal to Abdulhamid. Two issues had to be addressed at this juncture, the most important of which was the nature of the crime itself, whether it was premeditated or not. For that purpose, judges had to examine Abdulhamid's behavior over a short period of

¹⁹ The judge is still pursuing as in Q1 the premeditation option.

time, from the days before the crime to the incident itself. They also had to examine all kinds of connections with his father the day of the incident, in particular the few hours that separated the furious reception of the injunction to Tirmanini's killing. But then more lingering issues stood by, among them the role that both Rahhal and Hasan (Abdulhamid's brother) may have played: how to define their respective roles based on the penal code?

The controversy was inaugurated thanks to an investigative judge report issued in Aleppo a year after the crime on 6/8/1996. Having patiently listed 36 items of "evidence," based on witnessing, police and autopsy reports, the judge concludes that the crime was non-premeditated, hence *qaşd*, based on article 533 of the penal code:

"Abdulhamid's father was **enraged at the injunction he had just received** from the policeman, and he told his son about it. The assailant left his father's home with the intention to kill the lawyer Tirmanini, which he effectively did. This coincides with Abdulhamid's immediate confessions, and later to the investigative judge."

The judge then dismisses all statements by the witness Hammud al-Hammud (see above): "His statements neither rely on any objective truth that could be independently confirmed, nor did the few named persons in his testimony accept any of his allegations." As to Rahhal's responsibility in all this, the judge notes that "a judge must be concerned with the act itself (*al-fi'l*) and not with its criminal description (*wasfahu al-jirmi*)," which may imply that it's the primacy of Rahhal's act, rather than the killing itself, that ought to be taken into consideration here. The judge then argued that Rahhal, once he got back the gun from Abdulhamid, knew perfectly well what his son had just accomplished, but instead of encouraging him to confess his crime to the police, preferred that he attributes the crime to himself, an act that implies, based on the two articles 533 and 218 of the penal code, an intervention in the deliberate act of killing (*jurm al-tadakhkhul bi-jurm al-qatl al-qaşd*).

Local knowledge and the national court system

Even in an exposé of a single criminal case as exhaustive as the one above, we are leaving behind an enormous amount of documentation, for instance, that of the autopsy and other medical reports, from the voluminous dossier that served as basis for the final verdict. Such a reminder, however, is not intended as an excuse for the shortcomings of this study, but more of a revelation of a fundamental technique that lies at the heart of case analysis, namely that whatever the nature of the close-up, whether conducted by judges and counsels for the sake of a verdict, or by an independent researcher like myself, we proceed by means of selections and careful editing of the material that was put on paper out of the interrogations and cross-examinations of witnesses. Needless to say, the process of transcribing on paper by police and judges of oral testimonies is in itself a process of editing of disproportionate importance. That is to say, there is a process of reconstruction of each case from the moment the crime scene is open until its final resolution through the verdict. Within that process, what emerges from witnesses and

their connections to their localities is carefully filtered by prosecutors, lawyers and judges to meet the requirements of the judicial process, which implies calibrating and contextualizing various utterances first within their local knowledge and then within the requirements of the national court system. Social actors would typically learn such process of contextualization through the work of their counsels. For instance, in spite of the richness of the material provided by local actors, the court was *mainly* concerned by the nature of the criminal act itself: was it premeditated or not? Having opted early on in the investigation in favor of the “immediacy” of the criminal act, it looked no further than the possibility of “instigation” and the role played by the father towards his son. Social actors learn that kind of normative rule, which limits the case to a single motif, and comply accordingly. For example, when Rahhal finally admitted that he was not the culprit, and that his son was, his cross-examination by an investigative judge in mid-June 1995 reveals an awareness as to the judicial meaning of “premeditation,” hence his well crafted replies that “We never planned for it,” and that “I only saw my son after the incident.” In similar vein, the son, upon his arrest and confession, revealed that “I was in this strong emotional state of anger,” once he realized that his father had been humiliated one more time by Tirmanini, which comes in conformity with the judiciary’s understanding of the act as non-premeditated and “the outcome of its moment,” as the referral judge stated in the first report to provide a complete synopsis of the case. That said, the norms of honor and shame in the same locality go further than that, as they are not limited to the concerns of the judiciary. That was particularly visible in the offhand deposition of the witness Hammud, which was eventually denied in toto, and where the language of honor comes to the forefront. In this instance, Rahhal and his son had allegedly boasted in front of a small audience at a local wedding that Tirmanini should have his days ended because of the harm that he routinely inflicts on small tenant farmers. Rahhal seemed even embarrassed that not one of his two sons did “it” for him, and that “his girls” would be the ones to do “it”: the dishonor, created by male passivity, is not only public shame, but situated within the family. None of that would, however, pass to the judiciary, as the case had been categorized as *qaṣd* in the early stages of the investigation, hence the witness account had to be dismissed altogether. Indeed, it is that tension between two grammatical forms, that of local actors and that of state officials (even though the two categories could not be kept separate at all times), that we’ve attempted to track in this Chapter. Indeed, once we contemplate power relations concretely at a micro level of the lifeworld, the “state” would look like an abstraction of little importance, as state intervention in the lives of individuals involves not only bureaucratic decision making from a presumed “center,” but more importantly, alternations in small narrative and discursive subtleties, as evidenced in the drafting of reports, cross-examinations and hearings. Quite often, state agents and local actors cannot be separated, as if they belong to different worlds, as they both operate within the normative values that make the very existence of a community possible.

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