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Palestine and the Laws of Men

Sustained by Wits and Faith

By John McKay

It was July 2014, and I watched with amazement the high arcing rocket trails against the night sky from my little apartment in Ramallah in the West Bank of Palestine. Although I couldn't hear them, I knew the sirens would be blaring 40 miles away in Tel Aviv as Hamas desperately lashed out against an Israeli assault on heavily populated Gaza. Just as certainly as I knew the air raid warnings were sounding, I also knew the military response against the people of Gaza would be swift and unforgiving.

As the director of a U.S. rule of law program supporting the Palestinian justice sector during from 2013 to 2015, I had an unwanted front row seat to the rocket light show and the destruction of Gaza during the summer of 2014. Thousands of Palestinians died in retaliation for the mostly ineffective rockets of Hamas. With over 60 Palestinian colleagues working in our program, many suffered losses of friends and relatives as entire families were killed in futile attempts to avoid the Israeli attacks. And deeply troubling to me, I learned that my own government was in the process of resupplying munitions to the Israeli forces from a secret supply depot in Israel.

How did a professor at Seattle University become a reluctant witness to the seemingly endless Israeli-Palestinian conflict, with its history of military occupation and its attendant violence, assassinations, and acts of terrorism?

Searching for Hope in the Rule of Law

As a law professor and former United States attorney, I take pride in the American justice system. At the request of the U.S. Justice Department, I trained judges in the Republic of Georgia preparing for their first criminal jury trials. I briefly worked at the International Criminal

Tribunal for Rwanda addressing the horrors of genocide. Still, when the U.S. State Department asked me to head the U.S. rule of law program working with police, prosecution, security services, and the courts of Palestine, I hesitated. It would be difficult to leave my students at our Jesuit university and move to a troubled part of the world with what seemed like very little prospects for improvement.

Yet, somehow, I found myself with two duffel bags standing in a bare-walled apartment in a mostly Muslim community with an enormous task before me. Having been privileged to study the history of the Jesuits and benefiting from retreats in the Spiritual Exercises, I admit to feeling a bit like a Jesuit missioned to some faraway place with only my wits and faith in God to sustain me. In reality, of course, I had the support of the U.S. consulate in Jerusalem as well as many new Palestinian colleagues trained in law, policing, and technology.

Our task was to help lift the Palestinian justice sector by providing capacity building in the rule of law. This meant everything from purchasing yellow police tape to help the Palestinian police secure crime scenes to providing trial skills training for young and eager Palestinian prosecutors. The human rights implications of this work were often evidenced by the reduced reliance upon eyewitness testimony in criminal cases or upon confessions often obtained by coercion or physical intimidation. Neither the occupation itself nor the hodgepodge of laws from the Ottomans, the British Mandate, Jordan, and a now defunct Palestinian legislature made our job any easier.

At times, it was hard not to feel like efforts to build rule of law were acts of futility. It is true that both the

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United States and its allies, the Israeli occupiers of this land for nearly 50 years, nominally support the “two state solution” to include a State of Palestine. But it is also true that Israeli Prime Minister Benjamin Netanyahu frequently cites the Old Testament and declares that the land of the West Bank and the Palestinians “is the land of our forefathers.” Perhaps this explains why looking up from almost any Arab village, one sees newly built Israeli settlements glaring vaingloriously upon the inhabitants who most assuredly do not share the right wing Israeli view of history or religious mandate. With over 600,000 Israelis living in these settlements upon Palestinian lands, Israel assures the denigration of peace efforts and undercuts the legitimacy of its security claims.

Ethical Crisis and Self-Transcendence

Against this backdrop, I found myself in crisis. In July 2014 the international press reported the Israeli Government was running low on munitions, having already killed hundreds in Gaza. From a secret U.S. supply depot within Israel, American grenades and mortars were used to resupply the Israeli Defense Forces, who would surely use them to continue their attacks against defenseless families huddled in their homes in one of the most densely populated zones in the world.

As one of the few U.S. officials operating in the West Bank and in daily contact with Palestinian counterparts, including the Attorney General, I had to question my effectiveness in advocating for the rule of law while my country supplied weapons used to kill fellow Palestinians in Gaza. What about my obligation to serve the U.S. State Department and its programs in Palestine? What about the jobs of my Palestinian colleagues that could be jeopardized by any action I might take? What could I discern of my responsibility as a Christian and a believer in the peace of Jesus Christ for all peoples?

After consulting

with trusted and experienced advisors, I decided for myself that I could not remain silent amidst the deaths in Gaza and that I must act. I made appointments with three of the top Palestinian officials with whom I worked for the purpose of offering to resign if they felt my role as leader of the U.S. rule of law program could no longer be effective after the resupply of munitions. This was a difficult decision and not at all what I had hoped would be my path. My work was important and, I believed, was making a difference in this troubled region. My departure from the Palestine I had come to love and from the people I was humbled to serve seemed imminent.

Instead, completely unlooked for, I received one of the great surprises and great blessings of my life.

After explaining my intentions to the three officials, they each had the same response. All three asked me to stay in Palestine and continue my work for the rule of law, with the Attorney General himself kissing me on the cheek and saying, “please don’t leave. We are Palestinian – we are used to being killed.”

What a lesson for me. My self-absorbed analysis had missed the simple truth that suffering can be accepted as part of a prayer of hope. Human understanding and forgiveness can pave the way toward justice more powerfully than human laws alone. And, now that I have returned to my Jesuit law school teaching Constitutional Law to bright young law students, this time of service in the Holy Land will continue to inform my own teaching about justice, about hope and the limitation of law alone as the pathway to peace. ■



John McKay (right) with the Palestinian Attorney General Abdel-Ghani Iweawei.