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A Palestinian Perspective on Human Rights

An Interview with Yale World Fellow Hassan Jabareen

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Hassan Jabareen, a leading Palestinian human rights lawyer and current Yale World Fellow, is the founder and Director of Adalah: The Legal Center for Arab Minority Rights in Israel. Jabareen regularly argues before the Israeli Supreme Court and teaches in the law faculties of Hebrew University and Tel Aviv University.



You have spent most of your career as a lawyer. What importance do you think law in general has in resolving the conflict between Israel and the Palestinians?

Usually, law can address day-to-day problems. But the power of the law is limited. It cannot resolve serious political conflicts, especially in divided societies. A court is influenced by the ideology of the dominant group and it seeks to gain the trust and the legitimacy of this group. This explains why the majority perceives the court as neutral. But we also know that the court has an interest in being viewed as the voice of justice, one which adheres to the rule of law. In addition, the law creates its dynamics which reveal some of its contradictions. Between those spheres, lawyers try to find their way in order to succeed in their cases. For example, in Israel, the Supreme Court adheres to the Zionist ideology and the army's notion of security. If you bring a case that challenges those perceptions, your chances of winning are very low. This is why the Israeli Supreme Court has failed to defend the basic rights of the Palestinians in the Occupied Territories. You might succeed before the Court, however, in those cases which do not create or seek to obtain serious social-political changes. This is also why the Israeli Supreme Court has not yet delivered a decision like *Brown v. Board of Education*, one which would shake the continuation of the racist order against the Palestinian citizens of Israel.

How do you feel as an Arab native of Israel? Are your rights respected?

I am a Palestinian. I belong to the Palestinian national minority which constitutes about 20% of the total number of citizens of Israel. We didn't come to the state of Israel, we did not immigrate - we were born in our homeland. In fact, Israel came to us. As any native people, we face serious violations of our human rights. Most

important are those relating to land issues. 76% of our land was confiscated during the 1950s through arbitrary laws. One-fourth of our population was ordered to leave their villages for "security reasons" with the promise that their departure would be temporary, but even today, they are not allowed to return to their villages. Today, they live in different Arab villages in Israel but not on their land. In addition, 60,000 Arab Bedouin citizens of Israel live in unrecognized villages - villages that Israel has refused to afford official status. Thus, those people are not entitled to basic services such as electricity, water, social services or local councils. We are also not allowed to visit the Arab countries, except Egypt or Jordan, or to have social and cultural contacts with them because Israeli law defines them as "enemy states." In July 2003, the Knesset [Israel's Parliament] passed a law which prohibits any kind of family unification between citizens of Israel and Palestinians who live in the Occupied Territories. Meaning, if I want to get married to a Palestinian woman from Ramallah [West Bank], we have to live outside of Israel. We challenged this law before the Israeli Supreme Court, and more than two years later, we are still waiting for the final decision. These are just a few examples.

Do you feel that being an Arab lawyer in Israel helps you as a lawyer, or does it make your job more difficult?

I don't have any feelings of inferiority towards any Jewish Israeli lawyer. Our lawyers defend our cases proudly, strongly, and professionally. It is important that we bring our cases. If our people do not feel that they have leaders, elites, or good lawyers, they will never succeed in achieving their rights. Bringing these cases is a form of empowerment. Besides that, I believe that the Supreme Court also has a political interest in Arab lawyers appearing and arguing before it on behalf of the national minority. This does not mean that we don't have Jewish staff members. Today, we at Adalah have 8 lawyers -7 Palestinians and one Israeli Jewish lawyer as well as other Jewish professional staff, all of whom are deeply committed to our human rights cause.

Do you think that the actions of the Israeli and Palestinian political leaders generally reflect the desires and best interests of their constituents?

Usually, the Palestinian leaders express the situation of their people. As part of a national liberation movement, they express the desire of the people. But leaders-all political leaders-make mistakes. Note that the Israeli occupation is the longest and the harshest occupation in the world since the Second World War. It started in 1967. The problem is that the Israeli government does not have a clear political agenda on the question of Israel-Palestine. The Palestinian leadership is clear, however-they say we want an independent state within our borders of 1967 beside the state of Israel; we want to be free from occupation. However, for the Israeli government, until now, the diplomacy has been militant - it is led by the army. And the militaristic option leads to escalation. The Israeli government must say how it views the resolution of the situation. But, we know why it does not do so. The right-wing political parties are very powerful and have one vision: to return back to the Greater Israel of 2000 years ago. This is the dominant narrative among the majority of the right wing.

How do you feel that the Palestinians' terrorist activities affect the argument that their problem is one of human rights, as opposed to one of liberation?

Terrorist attacks must end and be condemned, but all of us know that the continuation of the occupation will always unfortunately feed those attacks. The restrictions put by the Israeli army on the Palestinians create the men and women who are ready to take any action for revenge and the Israeli army will respond by

attacking Palestinian cities. In this way, violence is perpetuated every day. One of the main difficulties is the foreign policy of the U.S. It doesn't actually promote the Palestinian demand to end the occupation but rather the Bush Administration puts serious demands on the Palestinian Authority, knowing in advance that the Palestinian Authority doesn't represent a sovereign state-they are struggling, in fact, for a sovereign state. They have no army, no control of their land, sea or sky, no control over entry and exit to their cities. They cannot even leave the West Bank or the Gaza Strip without the permission of the Israeli army. Their daily lives are controlled by the Israeli army. The Bush Administration doesn't put demands on the Israelis to end the expansion of Jewish settlements in the West Bank, to stop the policy of targeted assassinations of Palestinians, to stop the policy of home demolitions, or to destroy the racist Wall. The goal must be to end the occupation. I believe that this goal is the only matter which could serve the interests of the Israelis and the Palestinians.

Some of your work has focused on identity issues. How do you think identities play into the Israeli-Palestinian conflict?

Identity plays a crucial role. The Israeli constitution (a series of basic laws) is based on the Zionist ideology which emphasizes that Israel is a Jewish state for the Jewish people only. There is no recognition of the national rights of the Arab citizens of the state who are the natives of the land. Legally speaking, this ideology legitimizes discrimination against the Arab minority in all the fields. Before the last election in 2003, the Attorney General asked to disqualify Member of Knesset Dr. Azmi Bishara, because he advocates for a "state for all its citizens," meaning a secular liberal state. We represented him before the Supreme Court which by a 7 to 4 majority rejected the Attorney General's request ruling that the Attorney General didn't have sufficient evidence to support his motion. Regarding the occupation, and as I said above, the right-wing parties believe that the Occupied Territories are the promised land, which according to the bible, belongs to the Jewish people. Here you have the issue of religious identity which makes the political resolution of the conflict impossible.

There has been much discussion lately about the rapid growth of the Arab population in Israel. How do you think this is affecting Arab rights in Israel and the broader conflict?

Again, if you believe that the Arab minority has no national status and that the state may constitutionally reject the concept of full equality between all citizens based on the notion of a "state for all of its citizens," of course, the existence of the Arab minority as such become an ideological problem. This is why Mr. Benjamin Netanyahu, the former prime minister, recently declared that Israel's main problem is not the occupation but the "demographic threat" posed by the Arab citizens of the state. Imagine if a high-level U.S. politician gave a similar statement against African-Americans or any other minority! As a matter of fact, Arab citizens constitute about 20% of the population and their growth is normal and even less than the growth of ultra-orthodox Jewish citizens who also constitute about 20% of the total population. There is no doubt that this kind of discourse - the "demographic threat" - is a racist one and illustrates the second-class status of the Arab citizens of Israel.