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# Thinking/Practicing Clinical Legal Education from within the Palestinian-Israeli Conflict: Lessons from the Al-Quds Human Rights Clinic<sup>1</sup>

by David F. Chavkin\*

## INTRODUCTION

Mention the words “Middle East” and two types of images are immediately summoned up by most audiences — images related to the ancient history of the region and images related to the current struggles for peace and dignity. There are the images of the holy places revered by multiple religions — the Dome of the Rock, the Wailing Wall, the Church of the Holy Sepulchre. And, there are the images of war, occupation, and resistance — the “Wall,” the demolished homes, the bombings, and the interminable checkpoints.

While these images are powerful and symbolic, they tell only a part of life in the West Bank. Despite the occupation, a rich and often amazing diversity of life goes on among the Palestinians living in Jerusalem and Ramallah and Hebron and the other cities and villages of the West Bank. Some of this richness and diversity is reflected in a vibrant and energetic approach to education generally and to legal education in particular. Among the institutions that have defined this approach to higher education generally and to legal education specifically is Al-Quds University<sup>2</sup> and its Human Rights Clinic. The Al-Quds Human Rights Clinic, unique so far in the Arab world as an accredited program, is bringing experiential learning and a higher level of political consciousness to its law students.

## AL-QUDS UNIVERSITY FACULTY OF LAW

Al-Quds University Faculty of Law was established in 1992 as the first law school in Palestine.<sup>3</sup> Since then it has educated thousands of lawyers who have gone on to successful careers in private practice, civil service, and work with domestic and international NGOs. The law school currently has 700 students enrolled. Its objective is “to provide Palestine with qualified experts who are capable of assisting with the development of the legal structures of Palestine and the consolidation of its legal principles and democratic concepts.”<sup>4</sup>

University President Dr. Sari Nusseibeh’s assessment of the state of education at the university at the beginning of his term in January 1995 highlighted an underlying challenge relevant to the establishment of a clinical education program:

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As the first accredited clinic in the Arab world, the Human Rights Clinic is located within the Al-Quds University Faculty of Law.

To quote Kant, it [the student body] was a crooked piece of timber that I now had to straighten out. . . . It was a daunting prospect to reform an institution dominated by a political-religious movement systematically throwing shackles on the mind. . . . I traced the source of the disease to a tradition of learning that embodied everything wrong with Palestinian education. . . . Rote learning was the norm at Al-Quds, a parrotlike repetition of facts closely aligned with social conformity. Students for the most part reproduced existing social norms, thus merely adding more conformists to a social system already resistant to change and criticism.<sup>5</sup>

Traditionally, education at Palestinian colleges and universities has been almost entirely book-based. Students are required to read large amounts of text from textbooks (which are often not Palestinian but rather Jordanian or Egyptian), and then regurgitate memorized information on exams.<sup>6</sup> As a result, students studying law in Palestine graduate with law degrees that offer them little understanding of the concrete, legal world around them. Graduates leave university with much information, but few skills and knowledge of how to apply them. Also, within the Palestinian legal education system, the particularities of the Palestinian situation, both domestically and within the framework of international law, receive very little coverage.<sup>7</sup>

Building a clinic at Al-Quds therefore found support in the administration of the university, but represented a sea change in higher education in Palestine, as it has in many other nations

across the globe. Today, under the leadership of Dean Mohamed Shalalkeh, the law school is undertaking innovation in almost every aspect of its curriculum, including a concerted effort to increase the number of women on the faculty. The law school is therefore an especially appropriate place for the continued growth and development of its clinical program.

### THE AL-QUDS HUMAN RIGHTS CLINIC

In 2006, a group of lawyers who had studied at Al-Quds University established the Human Rights Clinic.<sup>8</sup> These lawyers previously volunteered to provide *pro bono* services to the Palestinian public. However, because their work was completed under the supervision of a group of social workers, rather than lawyers, the experience was not very fruitful, either for the lawyers or for the intended beneficiaries of the free legal services. Therefore, in an effort to counter the lack of practical learning within the existing model of legal education, this group of lawyers, including Munir Nuseibah, set out to build a model in which students could “learn by doing.”<sup>9</sup>

The Al-Quds Human Rights Clinic is unique in several ways. First, it was the first accredited clinic in the Arab world. Additionally, it was clear from the beginning that clinic design would need to be responsive to the unique nature of the Palestinian occupation and adapted to the on-the-ground realities of Palestinian legal education.<sup>10</sup> In this regard, the clinic was designed to operate under an occupation and to resist the violations of human rights associated with the occupation.<sup>11</sup> This is very different from the setting of most clinics, which function under the laws of their own states.

Although the group of lawyers was not bound in any way to Al-Quds University, thanks to President Nuseibeh and other members of the faculty, who developed a reputation for the university as a place in which new ideas and innovation were very much welcome and encouraged, the lawyers quickly concluded that Al-Quds University was the best place to start a clinic. However, organizers still had to raise funding, always a commodity in short supply at Palestinian universities.

### FUNDING

Funding is one of the issues that clinical educators confront throughout the world. Although the international trend is to rely increasingly on stable, hard-money sources of funding (like tuition), nearly all clinics began by raising “soft money” from

foundations or similar sources. The founders of the Al-Quds Human Rights Clinic had to confront similar financial issues, but within a broader political context.

For example, the United States Agency for International Development (USAID) was identified by organizers as a possible funding source. However, financial support from USAID may potentially come with political strings attached. Because the founders were committed to a clinical model in which clinic supervisors and students could do what they believed right, even if it was contrary to stated USAID policies, they turned elsewhere for ongoing funding.<sup>12</sup> However, they did accept some USAID support for furniture and equipment.<sup>13</sup>

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Into the breach stepped Diakonia, a Swedish Christian foundation,<sup>14</sup> and Grietje Baars.<sup>15</sup> Diakonia supports work completed in the occupied Palestinian territory in five thematic areas: gender, democracy, human rights, social and economic justice, and peace and conflict transformation.<sup>16</sup> One of the projects in human rights that received support from Diakonia was the Al-Quds Human Rights Clinic.<sup>17</sup> The Diakonia funding helped support the salaries of four supervising attorneys and a full-time clinic administrator.

### ESTABLISHING A FRAMEWORK FOR THE CLINIC

The idea of experiential learning was first introduced in the American legal education system. Experiential learning is different from classroom-based

education insofar as it “provides a unique and structured educational opportunity for students to observe or experience legal work and to extract appropriate skills, values, and ethics from that experience.”<sup>18</sup> Additionally, “experiential teaching methods allows [sic] student to perform and engage with the law in ways that theoretical lectures or readings alone often cannot.”<sup>19</sup> In addition, participants gain valuable practical work experience, an awareness of the different types of jobs possible for lawyers, and an opportunity to build a network of professional contacts.

Within this framework, the overall goal of the Human Rights Clinic is to expose students to the various ways that the law can be used to defend and promote respect for human rights.<sup>20</sup> The hope is that students will develop the legal knowledge and practical skills training to apply international human rights and humanitarian law to the situation in occupied Palestine. The program was therefore designed to challenge students to explore new ways to advocate and to inspire them to play a role in the struggle for change. Within this overall goal, the clinic founders had three specific objectives: (1) to offer participating students an overview of international human rights and humanitarian law

issues specific to the Palestinian situation; (2) to offer participants practical training in the skills and values most utilized by human rights/international humanitarian law practitioners;<sup>21</sup> and (3) to give students the opportunity to put their academic understanding and practical skills to use in real situations working with practicing lawyers.<sup>22</sup>

### THE CLINIC CURRICULUM

Recognizing its dual mission to advance human rights while educating students,<sup>23</sup> the Human Rights Clinic began operation in the fall of 2006 as an accredited, functionally independent unit within the law school. Instead of being isolated in a purely academic institution studying legal theory, students involved in the clinic are confronted with the real impact of law and legal institutions on the daily lives of real Palestinians. Through the Human Rights Clinic, for the first time, students are offered the opportunity to actively engage in their societies, helping to create a cadre of responsible and engaged legal professionals.

The first curricular decision made was the duration of the clinical experience. Because clinic students need to develop skills and values that are very different from the training they otherwise receive in law school, the development team decided that the clinic should be a year-long course. Students are required to register for the entirety of the academic year, and receive six credits upon successful completion of the course. The team then developed the two elements of the clinic curriculum—the theoretical element and a practical element. The student's final grade is divided evenly between the practical and theoretical elements of the course.

### THE THEORETICAL ELEMENT

Students participate in a year-long program of lectures, workshops and skills-training sessions and progressively learn to assist in monitoring, reporting, and advocacy work in the fields of human rights and international humanitarian law.<sup>24</sup> Human rights practitioners from the principal legal non-governmental organizations (NGOs) in Palestine<sup>25</sup> are brought into the classroom to discuss the roles of lawyers in advocating for human rights within the Palestinian context, and to teach students the skills and values required for human rights advocacy. These lawyers conduct interactive seminars, delivering not just dry facts and legal analysis, but also explanations of the methods that they use to combat human rights abuses in Palestine — litigation, media work, international advocacy, and political organizing.<sup>26</sup>

The clinic hopes to develop students' substantive knowledge of international law and human rights protections, in addition to the skills of interviewing, drafting, client counseling, negotiating, and oral advocacy.<sup>27</sup> The values that the clinic hopes to inculcate in students include dedication to client goals, taking personal risks to protect client rights, respect for clients, and empathy for clients. These skills and values have a special resonance and application in the context of Palestine and in the need to fundamentally alter the legal profession there. In addition, presentations by practitioners encourage students to ask what led to the current circumstances within the occupied Palestinian territories, and what lawyers and the law can do to change things

in fundamental ways to protect the dignity and human rights of the Palestinian population.

### THE PRACTICAL ELEMENT

Students are divided into two groups to complete the practical element of their clinical work based on whether or not they have Jerusalem identification cards.<sup>28</sup> The students that do not have Jerusalem identification cards take part in practical training workshops led by experts from Al-Haq, where they learn, among other things, how to document and report on human rights violations.<sup>29</sup> Students may be required to travel (for example, to Ramallah, Jerusalem or Bethlehem) for their projects. However, students without Jerusalem identification cards are necessarily limited in their work to areas of the West Bank in which they will not have to pass through border checkpoints in and around Jerusalem. To the extent possible, personal preference and practical considerations are taken into account when assigning students to their fieldwork projects.



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Running alongside Al-Quds University, the wall is one of the barriers that students of the Human Rights Clinic must regularly confront to complete their work.

Following the training workshops and midway into the semester, each student puts their new skills into practice by volunteering with a local human rights NGO<sup>30</sup> one day per week, for a minimum of four hours, working on projects in which these organizations are engaged. In what is sometimes described as a “hybrid clinic” model, these students are supervised both by attorneys in these organizations as well as a supervising attorney from the Human Rights Clinic. Clinic students study the application of domestic and international human rights and humanitarian law to the situation in the occupied Palestinian territories and within Israel, and apply this knowledge through fieldwork with the local human rights NGOs at which they volunteer.<sup>31</sup>

One of the earliest clinic projects involved the provision of free legal services to the Palestinian public in Jerusalem through weekly legal advice walk-in sessions at an East Jerusalem community center.<sup>32</sup> In these sessions, students advised clients on residency/identification card issues, social welfare, and other common concerns arising under Israeli law. Due to the limitations on movement, students with Jerusalem identification cards staffed this project. Using Israeli law as a basis for legal rights gives rise to complicated political and practical



issues. Interacting with Israeli governmental institutions has the potential to legitimize the occupation, viewed by members of the Human Rights Clinic as fundamentally illegitimate. However, the reality today is that the Palestinian public in East Jerusalem is subject to Israeli law, and therefore Palestinians need legal services that engage with Israeli law.<sup>33</sup> Palestinians living in East Jerusalem must confront orders from the Jerusalem municipal government evicting families from longstanding homes and the demolition of those homes, enforcement of minor criminal laws by Israeli police and Israeli Defense Forces, prohibitions on demonstrations, and land title challenges brought by settlers against Palestinian homeowners.

In the summer of 2008, clinic students began to support the legal work being pursued by Adalah to stop the “Ring Road” that Israel is planning around East Jerusalem.<sup>34</sup> The “Ring Road” is designed to link the illegal Israeli settlements in East Jerusalem to each other and to West Jerusalem.<sup>35</sup> According to the Human Rights Clinic and many international experts, completion of the road would facilitate further annexation of Palestinian land on the West Bank and would further frustrate creation of a viable Palestinian state.<sup>36</sup> Therefore, clinic students have interviewed Palestinians affected by the construction of the wall, drafted affidavits describing the potential impact of the wall on the everyday lives of Palestinians, documented construction and impact through photographs, conducted legal research for various human rights organizations regarding the international legal protections and UN Resolutions that are being violated or would be violated by the wall, and researched what forums exist in which legal claims might be pressed.

In all of the Human Rights Clinic’s projects, clinic staff promote learning through practice. The clinic founders believe that working on practical fieldwork projects with seasoned lawyers and organizations can greatly increase the confidence of clinic students, both in the law as a vehicle for social and political change and in themselves as agents of such change.<sup>37</sup> Accordingly, the clinic is designed “to stimulate student initiative and encourage proactive engagement in human rights issues, and foster the courage and the ability of the students to critically assess situations that arise in their lives and develop practical methods and strategies to address them.”<sup>38</sup>

Concern for gender issues is one of the newer areas of focus of the clinic. The Honor Killing Campaign is a significant element in this new focus.<sup>39</sup> In an effort to end honor killings, students are working to empower women and to identify legislative changes that may be necessary. Under the guidance of supervisors, students working in the clinic also represent women in Sharia courts. Since these courts operate outside the civil judicial framework, participation is not limited to attorneys, and issues of unauthorized practice do not arise.<sup>40</sup> The Street Law Program is training students and sending them to high schools in Palestine to teach topics including intimate partner violence and honor killing. The long-term goal of this project is to improve the status of women in society, and to eventually place sensitized students in the positions of power in Palestinian society where policies are made and enforced.

Throughout all of their projects, clinic supervisors are trying to work with students both within the occupation and against the occupation in Palestine. The Street Law Program teaches

students about their human rights. As Palestinian teenagers and young adults, clinic students are confronted with the occupation on a daily basis. Students are stopped on the street and asked for identification papers on account of their Palestinian appearance, and intermittently students are arbitrarily denied passage through checkpoints when en route to the university.<sup>41</sup> This kind of situation happens again and again. For instance, to get to An-Najah, a large and well-respected university in Nablus, every person must go through a checkpoint from the West Bank to Nablus and back, even though Nablus is in the West Bank and is surrounded entirely by the West Bank. Commuter students attending An-Najah must pass through this barrier every school day. Unfortunately, as I observed, even students with papers are intermittently denied entry. They can enter on Tuesday, be denied entry on Wednesday, and be admitted again on Thursday.

#### THE INTERNSHIP PROGRAM

In 2009, the clinic staff fully established an internship program. There are two parts to this program. In the first part, clinic staff work with “clinic graduates” who get paid to help supervise students’ work. In addition, during summers, the Human Rights Clinic welcomes unpaid international volunteers and interns who assist in clinic projects, including publicity, conducting legal research, and building networks.

#### FUTURE PROJECTS

The projects undertaken by the clinic continue to evolve as political conditions evolve. Among the projects that are being expanded within the clinic are projects affecting the daily lives of Palestinians in occupied East Jerusalem. These include lawsuits against settlements, dispossession, house demolitions, and denial of education, among others.

The work of the clinic is now beginning to permeate the entire university. The clinic seeks ways to become involved in circumstances where illegal roads are built, illegal settlements are expanded, or where the Bedouin way of life is being threatened. Clinic staff are also expanding the right to education campaign by focusing on the rights of students of Al-Quds University. In doing so, the Human Rights Clinic documents the violations that students face day-to-day at checkpoints and at their residences when the Israeli occupying forces come and harass them and sometimes arrest them. In the context of the occupied Palestinian territories, where educational resources are limited, the daily struggle to even attend classes gives the right to education additional urgency.

#### CONCLUSION

The clinical teachers working in the Al-Quds Human Rights Clinic struggle on a daily basis to ensure the clinic’s continued existence and to expand the clinical model at Al-Quds University, in Palestine, and abroad. Like clinical teachers in the United States and other countries, preserving and expanding financial resources for experiential learning is a constant battle, but this concern is especially acute in an emerging nation that depends on international contributions to meet the basic needs of its citizens.

[A]lthough . . . clinical teachers around the world sometimes and appropriately complain about political interference with the work of their clinics, these intrusions are minimal compared to the constant adversity faced by clinical teachers and students of the Human Rights Clinic, including harassment by military forces, threats of deportation or imprisonment, and intermittent closures of the entire university.

Likewise, although American clinicians and other clinical teachers around the world sometimes and appropriately complain about political interference with the work of their clinics,<sup>42</sup> these intrusions are minimal compared to the constant adversity faced by clinical teachers and students of the Human Rights Clinic, including harassment by military forces, threats of deportation or imprisonment, and intermittent closures of the entire university.

Meanwhile, clinic teaching and clinic work goes on and continues to grow, and the clinical model will hopefully expanded to other universities in the Muslim and non-Muslim world. Human Rights Clinic advocates and staff have made presentations regarding clinical education at other Palestinian law schools (including An-Najah University in Nablus and Birzeit University

in Birzeit), and at international conferences. Additionally, the Human Rights Clinic fields frequent requests for information from schools, such as the Alexandria University Faculty of Law in Egypt, regarding translation of the Human Rights Clinic's model to other countries.

The Al-Quds Human Rights Clinic therefore plays many roles. It is educating the future leaders of what will hopefully become an independent Palestinian state. It is providing important support for advocates who are trying to make that hope a reality. It is also working to improve the daily lives of Palestinians while this process is underway. The Human Rights Clinic therefore both reflects and transcends the occupation of the West Bank as it writes another important chapter in the history of experiential learning and human rights advocacy. *HRB*

#### **ENDNOTES: Thinking/Practicing Clinical Legal Education from within the Palestinian-Israeli Conflict: Lessons from the Al-Quds Human Rights Clinic**

<sup>1</sup> An earlier version of this article was presented at the 7th International Journal of Clinical Legal Education Conference, "Global, Local Clinical: Clinical Legal Education in a Shrinking World," in July 2009 in Perth, Australia. That presentation incorporated embedded video from the clinic faculty members who created and currently staff the Al-Quds Human Rights Clinic and this article frequently incorporates language from those videos provided by these clinicians. This article incorporates language from the earlier version presented at the conference, in addition to language from the clinician's videos. Those faculty members include Munir Nuseibeh, Radi Darwish, Saleh Suhail Hijazi, Luna Orikat, and Khalil Abu Khadijeh. Munir Nuseibeh was the founder of the Al-Quds Human Rights Clinic and completed his LLM at the American University Washington College of Law. Radi Darwish is the current co-director of the Al-Quds Human Rights Clinic. Saleh Suhail Hijazi is the current co-director of the Al-Quds Human Rights Clinic. Luna Orikat is a supervising attorney in the Al-Quds Human Rights Clinic. Khalil Abu Khadijeh

graduated in the first group of students who completed the Al-Quds Human Rights Clinic, and is currently a supervising attorney in the clinic. Khadijeh completed his LLM at the Washington College of Law, American University. Although the author has attempted to incorporate the views of these Al-Quds faculty members and has attempted to reflect the political integrity with which they live their personal and professional lives, the responsibility for the views expressed in this article are solely those of the author.

<sup>2</sup> Al-Quds University, the Arab University in Jerusalem, was founded in 1984 by the merger of several Palestinian colleges in Jerusalem and its suburbs. As described by its current President, Dr. Sari Nusseibeh,

When Al-Quds finally got off the ground, it did so more as a legal technicality than by design. In the late seventies, four separate colleges began to spread out slowly from East Jerusalem to Ramallah, each one with different boards,