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A TENACIOUS FIDELITY TO THE LAW

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I HAPPENED TO BE IN A CRAMPED MAGISTRATE'S COURT ON JULY 14, the second day of Israel's military campaign to "set the clock back in Lebanon by 30 years." I was there as part of my research on mixed marriages in Israel/Palestine to witness a case that Lea Tsemel was defending. It was not one of her run-of-the mill cases.

Lea Tsemel is famous as the Jewish Israeli lawyer who defends Palestinian prisoners, including attempted suicide bombers. She very rarely refuses to represent a Palestinian. She once delicately declined to represent the four East Jerusalem Palestinians accused of orchestrating the bomb attack that killed seven people at Hebrew University in the summer of 2002. One of the victims was a dear friend, and a companion for decades in a weekly women's support circle. In that particular case, Tsemel told the accused that she might not be able to give them the best defence.

Tsemel's work originally earned her the contempt of other Israeli Jews, sometimes physically violent. Four years ago in a courtroom, the mother of a boy killed in a suicide bombing screamed out "Take away the ugly face of Lea Tsemel" – a description lacking in all accuracy for a woman who, at 61, has luminous green eyes, a luxuriously gravelly voice, a mischievous smile and a captivating presence.

After 40 years of ingloriously doing this work,Tsemel is now regarded as a pioneer in Israeli human rights work with an emerging cadre of dedicated Israeli lawyers following in her finally respectable footsteps.

But the case last Friday was a most unusual one for Lea Tsemel.

As a highly competent criminal defence lawyer, Tsemel is also called upon as a public defender. Last Friday, she was the defence lawyer for a group of detained teenage boys from one of the extreme right-wing Jewish settlements in the West Bank. Without question, the families of these boys know who Tsemel is and what she routinely does. And they were not the least sparing in their heartfelt gratitude for the highly competent defence work she was doing for their children.

The boys are marginally troubled teenagers. They had been spending the early summer shiftlessly hanging around the malls and bus station in Jerusalem. A religious youth centre in Jerusalem had diverted them to more structured activities and they were travelling on a public bus in Jerusalem on their way to the centre.

One of the boys had his foot up on the seat in front of him. An adult male approached him and told him to take his foot down. The boy replied, with typical teenage insouciance, that there were plenty of other seats on the bus. The adult shoved the boy's foot off the seat. The boy got up and shoved back. The boy's buddies entered the melee.

The adult then pulled out his identification that showed him to be an off-duty police officer. The foolhardy boys continued to tussle and then attempted to flee the bus. They were charged with assaulting a police officer and fleeing arrest and were detained pending probationary reports and the formal filing of charges. Tsemel was called to plead for the boys' release from detention on bail pending these further legal developments.

One of the troubled boys (whose name is Haim) was ushered handcuffed into the courtroom and found himself in a terrible bind. Haim's mother had divorced his father and a month earlier and had married another man. Both of Haim's birth parents live in illegal West Bank Jewish settlements that are infamously right wing and extreme, although his father lives on an outpost of the first that is virulently extreme.

As the magistrate's court attached to the prison is tiny and cramped, I happened to be sitting on one of the four narrow benches in the room next to Haim, with a knit kippah on his head – the son of these two parents; and also next to me was Haim's sister, for whom Haim's otherwise listless eyes lit up when she entered the room.

As she entered the court, the mother rushed to Haim and told him in stern and urgent whispers that she had arranged for him to be released to the home of a woman on her settlement and that that was the only place to which he was going to be released, Did he understand?

She was dressed in the long skirt and headscarf of the religious settlements and, as she was of American origin, she addressed her son in English.

The boy's father also entered the courtroom and, as the room was so phenomenally cramped, had to sit next to his ex-wife, who had sat down on the uncomfortable wooden bench next to the prosecutor. The bearded father had the huge and imposing body of a bouncer and was dressed in black pants, a white dress shirt, black suspenders, and had a black velvet kippah on his head.

After the judge entered, the prosecutor argued for Haim's continued detention; and Tsemel argued that this was an extreme and unnecessary position and that the boys' families were clearly present to take responsibility for their children.

The judge then had to determine whether suitable arrangements were present to receive and supervise Haim if he was released on bail. The case turned on this issue.

Haim's mother got up and indicated that Haim's father lived on a radically extreme right wing settlement and that further, his father had been convicted on criminal charges. She also added that Haim's father had not worked a day in his life and was not, therefore, a good role model. (Tsemel later pointed out to me that, given that the mother also lived in one of the right-wing West Bank settlements, the sociological likelihood was high that Haim's new stepfather had also not worked a day in his life, nor had the other male members of the two illegal Jewish settlements present in court on that day, supported as they are by the Israeli state).

Haim's father argued that he wasn't going to turn his son into a criminal in the four days that he wanted Haim in his custody pending the final probationary report, and added that Haim himself wanted to be released to his father's custody.

The judge left to check the father's criminal record. Haim's sister turned to me and said that although Haim would probably prefer to go with his father, it would be a catastrophe if the judge ordered this as the father was a terrible and violent influence.

"They raised their eyes and looked at the infamous defender of Palestinians, who was now defending their hapless son, and they slowly began to smile."

As the judge was out of the room, the mother hurried over to Haim and told him that if he was not released to her friend, she would take him into her home, but that he absolutely would not be allowed to talk to his father, not a word! Did he understand?

Haim started to shout: You want me to stay in prison then? You don't care about me? Haim's sister told me that, in fact, Haim's new stepfather refused to have Haim in his home.

After the mother sat down, the father tried to approach his son to counsel Haim on how to insist on his release to his father's care. As tension and voices were mounting in the stuffy courtroom in the judge's absence, Tsemel told the father to sit down, that the views of both parents were known to the judge, and that the drama was not necessary. The room was contorted with tension and pain.

And then Tsemel started to sing.

The song was in Hebrew, so I didn't know what she was singing. But after a while, I could see that both the mother and the father, forced by the situation and the suffocating smallness of the courtroom to sit next to each other on the court's surpassingly uncomfortable benches, were catching the tune. It was familiar to them. They raised their eyes and looked at the infamous defender of Palestinians, who was now defending their hapless son, and they slowly began to smile.

I asked Tsemel, as we left the courtroom, what the heck she was singing that she, in all of her anti-Zionist notoriety, could get these two right-wing and conflicted parents to smile with her, despite themselves.

She told me it was an old Hebrew song from her childhood about a boy called Haim, whose mother loves him very much, but who is a hapless idiot. He always walked with two left feet. Even in kindergarten, he was a walking disaster and everyone made fun of him; yet throughout the years, the mother still loved her little Haimka (the Hebrew name ended with a Yiddish endearment).

The song had a refrain that went like: Haimka, my little idiot Haimka, how I love him. The song ends with Haim in the army and the mother watching an army parade go by with all of the orderly lines of soldiers marching in disciplined lines, and there's her Haim, with the two left feet, completely out of step. The mother starts to sing her refrain, and the entire crowd gathered to watch the army parade erupts into the refrain for the mother's idiot son Haimka, whom she loves dearly.

Haim was released to his mother by the judge.

As we all exited the courtroom, there was a handcuffed man sitting as he waited to go into court, his legs and arms crossed in a knot, trembling. He was wearing black pants, a white dress shirt, and had his side locks tucked behind his ears. He had removed his black velvet kippah and was covering his eyes with it. There were three cameramen on their knees, no more than two feet from his face with their cameras aimed on him, waiting for him to drop the kippah from his eyes so they could get a photograph of what he looked like.

Haim's father, on leaving the court, approached the man and with his fat hands clutched the man's trembling head and was whispering into his ear when a security guard quickly intervened and pulled him away.

We were told by people in the surrounding crowd that the man had attempted to kidnap a Palestinian so his settlement could have an Arab to ransom. Haim's father, and the members from both settlements at Haim's court appearance, began saying: "He's done a good thing, trying to kidnap an Arab. It's a heroic thing this man has done. Why is he being treated like a criminal?"

"Kidnapped for ransom?" said Lea Tsemel as we rushed off. "The members of that settlement usually kill the Palestinians that they capture."

It is a slender and precarious thing to defend the law in such fraught and bedeviled circumstances: to defend with extraordinary professional competence both Haim's right of release to a right-wing Jewish settlement whose atmosphere is bathed in the righteousness of the kidnapping and killing of Palestinians – and also to defend the rights of Palestinian prisoners, including failed suicide bombers. That there are Jewish Israeli lawyers still doing such work is a moving testament to the enduring democratic urge at the core of Israeli society. The urge toward law and justice is almost impossibly stretched when grief strikes at the heart of one's family, one's friends, one's community, one's people, one's country.

Tsemel is an Israeli Jew who, with a tragically informed past and startling humour, holds onto a faith in law and justice over force. She provides an example, as the Middle East yet again explodes in pyrotechnic displays of unbridled force, of a tenacious fidelity to the law, a law informed by an empathy for the shared humanity and fundamental dignity of the other.

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