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Jerusalem or Israel? Supreme Court Appears Split on Passport Case

Priest to UN: Israel is 'Only Safe Place' for Christians in Middle East"

"The Jewish state is the only safe place where the Christians of the Holy Land live in safety," Fr. Gabriel Naddaf, a Greek Orthodox priest from Yafia near Nazareth in Israel, recently told the United Nations Human Rights Council (UNHRC). "The earth of the Middle East is soaked with the blood of Christians being killed daily," Naddaf said in testimony released by the non-governmental organization, UN Watch.

"If we look at the Middle East, we realize there's only one safe place where Christians are not persecuted. One place where they are protected, enjoying freedom of worship and expression, living in peace and not subjected to killing and genocide," Naddaf said. "It is Israel, the country I live in. The Jewish state is the only safe place where the Christians of the Holy Land live in safety."

"Israel is the only refuge welcoming and protecting all of its citizens. It is the only place that does not attempt to push out Christians, forcing them to leave their land in search of security," he said. This makes Israel "one of the few Christian communities left in the Middle East that is still growing."

Fr. Naddaf was brought to Geneva to testify on the plight of Christian minorities by The Face of Israel, a public diplomacy organization that's affiliated with the Foreign Ministry, the Times of Israel reported. [cnsnews]

A splintered US Supreme Court grappled recently with the thorny question of whether Congress exceeded its authority when it passed a law permitting the passport of an American citizen born in Jerusalem to reflect that the child had been born in Israel. Long-standing US foreign policy has been to maintain strict neutrality over the disputed status of Jerusalem. Under this policy, the passport of a citizen born in the city shows the place of birth simply as "Jerusalem," with no mention of Israel or Palestine.

In 2002, Congress sought to change that, in part by passing a law that gives the parents of US citizens born in Jerusalem the option of having the place of birth listed as "Israel." The provision was part of a bill designed to encourage the US government to jettison its neutral policy and recognize Jerusalem as the capital of Israel.

The White House objected and refused to enforce the law.

Shortly after the law was enacted, Menachem Zivotofsky was born in Jerusalem to American parents. When they applied for a passport for their son, they asked that it reflect the place of birth as "Israel." Consular officials denied the request, listing "Jerusalem" instead. The Zivotofskys sued, arguing that the executive branch of government was ignoring a valid law passed by the legislature.

Now the issue is before the Supreme Court, where the justices must decide whether Congress was operating within the scope of its constitutional authority or interfering in the president's exclusive power to recognize foreign governments and speak with a single voice in foreign affairs.

"The question of the status of Jerusalem is the most vexing and volatile and difficult diplomatic issue that this nation has faced for decades," US Solicitor General Donald Verrilli told the justices during the hour-long argument. He warned that if the court upheld the law, it would sharply undercut the credibility of the president and of the ability of American diplomats to serve as honest brokers in Mideast peace efforts. "Foreign governments, foreign peoples will not be able to have complete confidence that the position that the president announces on behalf of the United States is, in fact, the position of the United States," Mr. Verrilli said.

In urging the justices to uphold the statute, Washington appellate lawyer Alyza Lewin said the passport requirement does not amount to a formal recognition of sovereignty over Jerusalem by Israel. The law merely gives parents a choice of whether they want their child's passport to reflect birth

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in Jerusalem or in Israel, she said. It is an opportunity to “self identify” with Israel rather than an act of US government diplomacy. “What goes on a passport as a place of birth is not tantamount to recognizing foreign sovereignty,” she said.

Several of the justices appeared to be searching for a way to resolve the case without delving into matters of the Constitution’s separation of powers. Justice Anthony Kennedy repeatedly asked if passports couldn’t come with a disclaimer announcing that the listed place of birth does not reflect a change of US neutrality on the status of Jerusalem. Lewin said such a disclaimer would pose no problem. But Verrilli objected. He said it would undermine the credibility of the president.

Justice Stephen Breyer wanted to know why he shouldn’t defer to the expertise of diplomats at the State Department who urge continued adherence to neutrality. “I’m a judge,” Justice Breyer said. “I’m not a foreign affairs expert.”

Justice Elena Kagan suggested that the US Government would not allow the parents of a US citizen born in Northern Ireland to list “Ireland” as the place of birth even though that might be their preference. “This is a very selective vanity plate law,” she said, comparing the passport issue to drivers seeking to display messages on their car registration tags.

Antonin Scalia exhibited the friendliest posture toward Ms. Lewin and her defense of congressional power despite tense foreign policy implications. “If it is within Congress’s power, what difference does it make that it might antagonize foreign countries?” Justice Scalia asked the solicitor general.

Verrilli responded that there are areas within Congress’ power that could antagonize foreign countries that, nonetheless, wouldn’t raise separation of powers problems. “And this may be one of them,” Scalia shot back. Verrilli mentioned a trade embargo or a travel ban. But he said the Jerusalem passport issue was different. “The mere fact that it upsets foreign relations doesn’t prove a thing,” Scalia said.

“The critical point,” Verrilli replied, “is that what this statute does that those other statutes don’t do is it requires the executive branch, the president himself and the executive branch itself, to communicate a message that contradicts the official recognition position of the United States.” And that, he said, undermines the president’s credibility and prevents him from speaking on behalf of the nation with one voice.

A decision is expected by next June.

The case is *Zivotofsky v. Kerry* [CSMonitor.com]

U.S. Military Chief: Israel Tried to Limit Civilian Casualties in Gaza

The highest-ranking U.S. military officer said recently that Israel went to “extraordinary lengths” to limit civilian casualties in the recent war in Gaza and that the Pentagon had sent a team to see what lessons could be learned from the operation.

Army General Martin Dempsey, the chairman of the Joint Chiefs of Staff, acknowledged recent reports criticizing civilian deaths during the 50-day Gaza war this year but told an audience in New York he thought the Israel Defense Forces “did what they could” to avoid civilian casualties.

Israel was criticized for civilian deaths during the conflict, including by the White House. A Human Rights Watch report in September accused Israel of committing war crimes by attacking three U.N.-run schools in the enclave, while Amnesty International said in a report that Israel showed “callous indifference” to the carnage caused by attacks on civilian targets.

Dempsey was asked about the ethical implications of Israel’s handling of the Gaza war, during an appearance in New York at the Carnegie Council for Ethics in International Affairs. “I actually do think that Israel went to extraordinary lengths to limit collateral damage and civilian casualties,” Dempsey told the group. “In this kind of conflict, where you are held to a standard that your enemy is not held to, you’re going to be criticized for civilian casualties,” he added.

He said the IDF, in addition to dropping warning leaflets, developed a technique called “roof-knocking” to advise residents to leave sites they planned to strike. Rights groups have criticized the technique, which involves dropping a low-yield explosive or non-explosive device on a rooftop, saying it did not constitute an effective warning and could kill residents too.

Dempsey said the Pentagon sent a “lessons-learned team” of senior officers and non-commissioned officers to work with the IDF to see what could be learned from the Gaza operation, “to include the measures they took to prevent civilian casualties.” The general said civilian casualties during the conflict were “tragic, but I think the IDF did what they could” to avoid them.

He said he thought his Israeli counterpart would look at lessons learned from the conflict to see what more could be done to avoid civilian deaths in future operations.

“The IDF is not interested in creating civilian casualties. They’re interested in stopping the shooting of rockets and missiles out of the Gaza Strip and into Israel,” Dempsey said

[Arutz Sheva]

IDF: Possible Hezbollah Has Tunneled Across Border

Israel believes the militant group Hezbollah has probably dug tunnels across the border from Lebanon in preparation for any future war although it has no conclusive evidence, an Israeli army general said recently.

Israel's vulnerability to tunnels was laid bare during its war against Hamas in Gaza in July and August. What began as shelling exchanges with Hamas escalated into a ground offensive after Palestinian militants used dozens of secret passages dug from Gaza into Israel to launch surprise attacks.

Residents of northern Israel, who were battered by Hezbollah rockets during the Second Lebanon War in 2006, have at times reported underground noises suggesting that guerrillas were burrowing across the frontier in a new tactic. The IDF says searches it has carried out have turned up nothing. "We have no positive information meaning that there are tunnels. The situation is not similar to what there was around the Gaza Strip," Major-General Yair Golan, commander of Israeli forces on the Lebanese and Syrian fronts, told Army Radio. "That said, this idea of going below ground is not foreign to Lebanon and is not foreign to Hezbollah and so we have to suppose as a working assumption that there are tunnels. These have to be looked for and prepared for."

Hezbollah does not comment on its military capabilities. Spurred by the Gaza experience, the Israelis say they hope to develop effective tunnel-hunting technologies within two years.

Golan said Hezbollah, which is fighting on the side of President Bashar Assad in the civil war in Syria, appeared unlikely to seek a renewed conflict with Israel. Were that to happen, he said, Israel would hit Lebanese targets hard but would also suffer from a Hezbollah rocket arsenal believed to be ten times more potent than that of Hamas.

There have been occasional attacks along the border in recent weeks, however, including a roadside bomb planted by Hezbollah that wounded an Israeli soldier. Israel responded by firing artillery shells into southern Lebanon. "We will not be able to provide the umbrella that was provided in the south by Iron Dome," Golan said, referring to an aerial interceptor system which Israeli and US officials say scored a 90 percent shoot-down rate against Gazan rockets. "We and Hezbollah are conducting a kind of mutual-deterrence balance," he said, while cautioning that isolated flare-ups on the border could still boil over into war. "There is no absolute deterrence. Each side has its pain threshold, its restraint threshold, which when passed, prompt it to take action."

[Ynetnews]

Minister: If Hezbollah Fires Rockets at Israel, Lebanon Will Be Razed

Israeli Transportation Minister Yisrael Katz warned recently that Israel was prepared to completely eviscerate Lebanon in response to any cross-border missile attack by Hezbollah.

Katz (Likud) was responding to a fiery speech by the Shiite group's head Hassan Nasrallah earlier in the day in which the extremist leader claimed that his organization's rockets can hit anywhere in Israel and threatened to target the country's sea ports and main airport in the next conflict. "In order to avoid any doubt on the matter, Nasrallah the cowardly braggart should know this: that option does not exist for us!" Katz wrote on his official Facebook page. "If such a scenario does materialize, we will raze Lebanon to the ground! We will return it to the Stone Age and bury [Nasrallah] under the rocks."

In his speech, Nasrallah said Hezbollah "is fully ready in southern Lebanon." Addressing via video thousands of Lebanese Shiites commemorating the Ashura holiday in southern Beirut, he said the group's activities fighting in support of the Syrian regime had not affected its battle readiness. Hezbollah's campaign in Syria has cost the group over 1,000 fighters, according to some reports.

Nasrallah's televised address came a day after he made a rare public appearance in the Lebanese capital's southern suburbs, addressing thousands of his supporters ahead of the Shiite Ashura commemorations. The head of the Shiite group had not appeared in public since July when he attended a rally to show support for the Gaza Strip.

In September, an Israeli TV report said the Israeli army is "making plans and training" for "a very violent war" against Hezbollah in south Lebanon, without specifying when this war might break out.

The report featured an IDF brigade commander warning that such a conflict "will be a whole different story" from the Israel-Hamas conflict in which over 2,000 Gazans (half of them gunmen according to Israel) and 72 Israelis were killed. "We will have to use considerable force" to quickly prevail over the Iranian-backed Hezbollah, "to act more decisively, more drastically," said Colonel Dan Goldfus, commander of the 769th Hiram Infantry Brigade.

The report said Hezbollah has an estimated 100,000 rockets. Israel's Iron Dome rocket defense system would not be able to cope with that kind of challenge, and thus the IDF would have to "maneuver fast" and act forcefully to prevail decisively in the conflict, Goldfus said.

[TimesofIsrael]