

ZiF

Zentrum für interdisziplinäre Forschung
Center for Interdisciplinary Research
Universität Bielefeld



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CHIBLI MALLAT (Utah, USA)

Reading history in the light of nonviolence



»Ich glaube an die Menschen und an ihre Fähigkeit, Konflikte gewaltfrei zu lösen«: im Juli nahm der Rechtswissenschaftler, Menschenrechtsaktivist und ehemalige libanesische Präsidentschaftskandidat **Chibli Mallat** (Utah/Beirut) an der Abschlusstagung der ZiF-Forschungsgruppe »Religion und Menschenrechte in Staatsverfassungen« teil. Der 1960 geborene Jurist lehrte an den Universitäten London, Princeton, Harvard und Yale und ist seit 2007 *Presidential Professor of Law* an der Universität Utah und *EU Jean Monnet Chair of Law* an der Saint Joseph's University in Beirut. Er ist renommierter Kenner des Schiitischen Islam und Autor eines Standardwerks zum Rechtswesen im Nahen Osten. Er engagierte sich für die Gründung eines Regionalbüros von Amnesty International in Beirut, das er auch berät. Manuela Lenzen sprach mit ihm über sein neues Buch *Philosophy of Nonviolence*.

Professor Mallat, in your most recent book¹ you develop a philosophy of nonviolence. Isn't that a very optimistic perspective when looking to the situation in the Middle East?
The more important question is whether my analysis of nonviolence for what happened in 2011 is correct. It is true that we see an immense violence in the Middle East now. But there is also the very real phenomenon that tens of millions of people chose deliberately to use nonviolence to express their dislike of their governments and the need to remove the dictators in place across the Middle East in 2011, and that many continue to do so. That is a fact we have to account for. Even though we have to account also for the fact that four years later we seem to be in a far worse situation. Either because the old regime is back in the form of al-Sissi or because things have turned horrible as in Syria. So we need to bolster any theory of nonviolence with what failed in the Middle East between 2011 and now. And that is where my book tries to give an explanation to what was ignored by practitioners and theoreticians of nonviolence: a nonviolent revolution cannot hold only to the moment when it brings the dictatorship down. Even if it succeeds in deposing a tyrant, it needs two other components to sustain its initial

success. One is a working constitution. This expresses the need for people to redraw the political and social contract away from dictatorship so that they can live without violence despite the differences in their opinions and the ensuing, natural disputes amongst them. And the second is justice, in other words accountability for the immediate past: the immense violence of dictatorships leaves behind millions of victims. We need therefore a process of justice, of accountability. You can't have a nonviolent revolution without accountability.

We are in a moment of real difficulty now, across the world where authoritarian systems are clearly on the rise. But things actually develop in ways we can hardly suspect. I believe in humans and their propensity to use nonviolence as a strategic way of life, and that they will eventually succeed.

Can you have a revolution without violence?

Of course you can, 2011 was a clear example across the Middle East, with Libya as the exception. In 1989 in most of Eastern Europe the revolutions were nonviolent. And of course Gandhi. And as we work our way back through history we realize that a lot of the anti-colonial movements in the 1920s and 30s were nonviolent.

The modern era has given way to a new phenomenon, the reality of nonviolent revolutions. They take several shapes across the world and that is the reason why the process of change needs to be reexamined with a new philosophy that concentrates on 'nonviolence as the midwife of history', to adapt Marx's famous quote. In 2005 we had a revolution in Lebanon which was very consciously nonviolent. In 2009 the revolution in Iran, though brief, was also nonviolent. The revolutions in Iran and Lebanon were not successful, but they were in Egypt, Tunisia and Yemen in the first months of 2011. We would of course like this to come back, to see 2015, 2016 in the spirit of 2011. This is not going to happen tomorrow but we can now finally look at history in a profoundly different way. Nasser once said that "what is taken by force can only be reclaimed through force". In 2011 it became plain that he was wrong, and that nonviolence can and does bring back rights. Even in one of the most violent areas in world. Nonviolence is not a figment of my imagination in the Middle East, it is a reality we need to account for, and it is complex.

Is there a tradition of nonviolence in Arabic political thought?

There are several traditions one needs to take into account, and Arab-Muslim culture is an important one. When trying to understand how it came that the revolutions of 2011 were so massively nonviolent we can argue that the people took their ideas from Europe. And this is partly true. Democratic peace theory is the foundation of peace in Europe. And it goes back to reflecting on how to end war by making a peace treaty not just a one of waiting for the next war. I discuss in the book the Peace of Utrecht in 1712, and its immense impact on Abbé de Saint-Pierre, Rousseau, all the way to Kant's *Zum ewigen Frieden*, which is the unsurpassed founding block of the democratic peace theory. But I don't think that is sufficient, I think we need to reexamine Arab-Muslim culture. We have to ask ourselves how a set of nonviolent philosophical and political thinking has been rediscovered from within our own tradition. It's a long-haul work but it is not really different from re-reading history from a gender perspective or from the view of the working class. As I show in a full chapter of the book, you can find beautiful texts on nonviolence in the Arab-Muslim legal and cultural tradition.

Could you give us an example?

The most extraordinary text I came across was by Abu al-'Ala' al-Ma'arri, one of the great Arab poet philosophers in history who lived in present-day Syria in the 11th century. He is known

for beautiful verses condemning, for instance, sectarianism. I found in his Diwan, his collection of poetry, a text where he faults human beings for depriving violently bees from their honey, and extrapolating from that the importance of nonviolence, 'marching, Christ-like, in the world.' And in this passage, he criticizes monks for their passivity. Christ, he said in verse, did not just sit in a monastery, he marched out for justice.

Of course you have also texts in modern literature and in the Qur'an which are simpler and the rejection of violence more obvious. But I like the texts which are more elaborate and which I think are more telling. Alongside are also texts that call for violence in defense of religion. All religions carry both types, and compel often opposed interpretations. We have to rediscover the nonviolent traditions; they form an essential part of nonviolence as philosophy of change in the Middle East. And we are wrong to think the more secular-type are ahead: Hasan Bahr al-Uloom, one of my close friends from Najaf, who passed away last year, published in 2004 a book entitled *Non-violent society in Islam*. The Bahr al-Ulooms are one of the most prominent families of religious scholars in the Middle East.

Are you a pacifist? A kind of Gandhi of the Middle East?

This comparison simply does not hold. The human rights work I do is very different. Gandhi, Martin Luther King, Christ are iconic models. It would be ridiculous to compare my work to theirs. But I think there is a question which may be more serious for us to pay attention to: the fact that the revolutions of 2011 were leaderless. The question therefore becomes: do you need a leader for a revolution or isn't it better off precisely because it has so many different people involved at the top that it is essentially leaderless? When you have a character like Gandhi or Martin Luther King so much symbolism is vested in his leadership. And when they pass away, usually brutally at the hands of those they are fighting nonviolently, it is a catastrophe for the revolution. When you have millions of people in the street, shouting "peace" or "freedom" or "no violence", this is so much more intriguing than having a father figure of the Gandhi type. It may be time for abandoning father figures and sacrificial leaders. At least this is one argument in the book.

And with regard to pacifism, I resist the comparison because I take nonviolence seriously as a man of law. How can you be a lawyer and a nonviolent philosopher? There is no law without coercion. You can't have a criminal law system without violence. You cannot have a legal system without violence. But the violence you have in a legal system is one which is carried through a number of filters. This is the rule of law, democratically defined.

My book suggests this (I think) novel theory: you can be an absolutely nonviolent revolutionary, but you can no longer be absolutely nonviolent after the revolution succeeds in bringing down the dictator. After the dictator is deposed, you need to help build a government, together with a system of law, which rests ultimately on legitimate violence exercised by the government, the famous Weberian 'monopoly of violence'. This takes me away from the mainstream legacy of pacifism. And seeking justice for the victims of the dictator requires exercising violence through a court of law against him.

How about ISIS?

How can you deal with ISIS without violence? This is not a serious criticism of nonviolence, for it is akin to telling Churchill or Roosevelt in 1944 to deal nonviolently with the Axis powers. We need therefore to take some distance on issues that are forced upon us by missing the occasion to stop the bullies. This is a long discussion, on when and how Hitler or Mussolini's resistible ascent, to use Bertolt Brecht's wonderful play, should have been stopped. Let's look at ISIS. It emerged in Syria last summer, but remember that the Syrian revolution was non-violent for months on end, from March through the summer of 2011. It was faced by increasing violence from the government. The revolutionaries had the choice to arm themselves or to go home. And they started arming in July-August 2011, five months after large demonstrations that were absolutely nonviolent. I suggest this was a mistake, the Syrian Revolution should have stopped then. The Syrians would have been much better off if they would have gone home. Like the Bahrainis. And say: Look, let's cut our losses, we were not able to organize well enough to get rid of the dictator. Or as we saw in the Occupy movement in Hong Kong last year. The demonstrators could have gone violent and they did not. Theirs to stop was the right choice. When you turn violent it becomes extremely difficult to prevent extremism, and ISIS lurks at the corner. Alternatively, some world action could have been taken to remove Assad. But then this means a foreign, military intervention.

What do you think about the help of foreign military?

This is probably one of the most difficult dilemmas for non-violence which the book addresses. I have some theses which have not been tested. The idea basically: if you need a foreign military intervention to protect a city or a large section of people who are going to be imminently massacred by the regime, intervention might be legitimate. But it must be conditioned on the revolution itself remaining nonviolent. It's a bit of turning the

argument on its head: I don't say you should arm Homs against Assad. You should say: We are ready to protect Homs but only if Homs does not start shooting at Assad's torturers and snipers. We protect Homs as long as the people of Homs remain non-violent. But that's beyond the political horizon of any policy-maker in the world as for the moment. Maybe the idea will have taken roots in ten years when that happens elsewhere. Meanwhile I would say, it is better for the revolution to stop and to admit that it was not successful than to turn to weapons. We had that in Iran in 2009, then in Bahrain, in Kuwait and to a large extent in Saudi Arabia where nonviolence resistance continues in various shapes. In 2011, in several Middle East countries, people went into the streets by tens of thousands, they were nonviolent and they did not succeed. So they stopped. When the logic of violence starts prevailing that only helps extremism, usually the worst Islamists in Libya and Syria, or the army taking over again, as in Egypt.

The conference you are attending is about religion and constitution drafting. What is the place of religion in society?

One of my great intellectual mentors, the late Robert Fossaert, once wrote: *«Les religions sont mortelles, leurs cadavres jonchent l'histoire. Mais elles ne sont pas assassinales.»* My grandfather, who was known as the Poet of the Cedars², has a similar verse in which he warns against excess in and against religion. He warns against unduly provoking people in their religious beliefs, the verse goes something like this: "To each person his or her religion and to each religion its penumbra of dignity." Provoking people over their religion is like provoking them by demeaning their children. It gets the worst out of them, unnecessarily. The balance is of course difficult when it comes to free speech. One should be respectful of other people's religion even if one doesn't share its tenets. Those who transgress this social code should be resisted in more ways than one. Killing them is not an acceptable mode of resistance.

There are other constitutional issues of some difficulty we discussed at the conference, for instance whether religious leaders should be allowed to participate in shaping the social contract: my answer is definitely yes. The excess of secularism is no less a problem than the excess of religion. There is a militant dimension of atheism which I find oppressive. The idea of excluding someone from drafting the social contract because he is a religious leader doesn't even constitute a starting point. On the contrary: If someone does not share my faith it's an additional reason to have him included in a discussion where our common future needs to be decided.

A more difficult issue after the nonviolent revolution is how to deal with the participation of those from the old regime with blood on their hands. I am a firm believer in the need to bring dictators to justice. The problem is in “the pyramid of accountability”, which is the title of a chapter in the book: how far do you go down?

How about the Lebanese experience?

Lebanon tries to deal with the different religions in connecting representation and religion. The constitution we have is a fully sectarian one. But unlike other countries in the Middle East it is openly so. It says the sect is a constitutional agent and one is elected to the parliament according to one's sect. So there are 120 members of parliament, half of them are Muslims, half of them Christians, with further subdivisions according to sect, Sunni, Shi'i etc. The citizens cannot operate outside their sects. And the constitution is unable to solve that. That is typical of the Middle East as a whole. I am on the side of secularism, if you push me, but if you write into the constitution that everybody is equal the problem is not solved. It is more complicated than this.

How can being a citizen become more important than being member of a sect?

I think we should probe a multiplication of identities to be recognized in a constitution. Multiplicity eventually waters down the sectarian/religious straitjacket. One of these levels of recognition would be gender. Women have been so important in the revolution. And I am in favor of some form of quota that makes sure women are not excluded from the governments that result from the revolution.

There are other constitutional designs that help lessen the sectarian imprint. If you have a rotation system it becomes less important if the president is Muslim or Christian or Sunni or Kurd. You had an example of this 2004 in Iraq; it was called the Governing Council, with twelve members rotating each month over the year. When you are president for a month, how much harm can you do? True, how much good can you do either, but there was a collective leadership which worked.

There are other topics we also discussed: How do you found nationwide political parties? That takes time. And it is difficult to mandate this by law or constitution. And there are other positive designs to be introduced in a federalist system. Regional recognitions unhinge the sectarian ones. Ultimately, and that I took from my presidential campaign back in 2005, multiple representations take place sometimes naturally: there was

a group of people helping, who had come to support the campaign because they believed in it. At one time I realized that I could not tell who was a Shiite or a Sunni, they were just working together, and half of them were women. There is a dynamism in organizations working on a higher political level which is alluring, and which has not been developed enough in the Middle East. But that is an example of integration as a political phenomenon rather than a constitutionally or a legally mandated one.

So you are universalist?

Naturally, how can one pretend to be a philosopher and not be universalist? There are universal basics that have to be acknowledged in every constitution, like human rights and the separation of powers. But people also need to identify with the text as their own. The reformulation of traditional law may be useful in a constitution. It's about the cultural tradition as well as the legal, and it's about language. The more one gets into one tradition the more one sees useful constitutional references in classical legal texts. Constitutions have to be couched in a language which people can relate to. The problem is when you have a Western model projected to Lebanon or Iraq or Egypt. So people say: what does that mean to me, I don't relate, I don't understand the language. My constitutional argument is one of style; we need to bridge this gap between a dominantly Western language of constitutionalism, and our better Middle Eastern traditions. In the Middle East one can simply not turn one's back to the religious traditions that are so much part of its history and legal culture.

What about the economic situation?

Economy works on a different rhythm than politics, in many ways it is much more important. If you get a state on the right track economically the results on a medium term are much better than a pure investment in political reform. What the violent people in the region actually do is precisely to prevent economic stabilization. If the Tunisians have a better life they have less chances of facing extreme Islamists taking over. But it is also a political battle. The order of things as I see it is that if you get your political act together and organize your society decently enough from a governance point of view, the economy will follow. Rather than the other way round. We have been driven by oil in the Middle East for the past hundred years. And that has been a disaster. It did create a lot of wealth but it was so poorly managed politically.

What can the role of the European Union be in the Middle East?

Many European colleagues share nonviolence as philosophy. However Europe is leaning back and waiting for the lead to come from America. This is a big structural problem. People in Europe listen politely and then nothing happens. So I am skeptical of Europe being instrumental in making the Middle East better. And when there is a problem the immediate European reaction is to close up. You see that in the ongoing migration tragedy. Kneejerk EU reaction: we must close the borders, we should bomb the traffickers. But why would a Libyan leave Libya, or a Syrian leave Syria, if he could decently live there? So this is the problem of Europe: even if colleagues agree with you, you don't have the political standing to follow up and say okay, how can we make Libya, or Syria livable? The gap between this diagnosis and getting the 28 countries to agree on anything is so large that I am of course skeptical. There needs to be a renewal of Europeans in Europe first before we can rely on them for anything serious in the Middle East. The Greek tragedy is not over yet, and the wounds will take a long time to heal.

Where do you see the situation in the Middle East in two or five years?

In such a large region we are going to inevitably have ups and downs. We are now in low compared to 2011, though better off than 1988, at the end of the Iran-Iraq War, or 2006 after the Hizbullah-Israel war. There are disparate negative elements like the reelection of Netanyahu, the Sissi dictatorship reestablished in Egypt, or the horrors of the Syrian scene. But there are also positive elements. It seems to me that we have an extraordinary chance today with the leadership of the Arab community in Israel. There, we see nonviolent people who have a say in Israeli politics, who can turn the table on the excesses of the ruling Israelis, so I am very eager that colleagues on the Jewish side of Israel seize this chance, and I hope we can build bridges with them from the other side of the border. But it won't happen on its own. In that sense I am still an activist.

Also, I think that in a year or two ISIS will be clearly undermined in Iraq and hopefully people will be freed from that nightmare, alongside the Baath dictatorship, in Syria. And I have great faith in the formidable women of Saudi Arabia. We might have setbacks in Libya or Yemen, but it is important to have decent people to work with, and there are literally millions of people like us, just remember the streets of Cairo and Sanaa in 2011. How do we develop a language of nonviolence that make like-minded people win? If we keep the flame of nonviolence

alive, we can see a promising Middle East again in five to ten years.

Are you thinking about trying to become a president again?

Not now, despite the deadlock in Lebanon. If you want to become president you need to be able to do something. To change. Even if I succeeded I would not have any margin to make a difference. I would be the prisoner of old structures. And there is a personal impediment: I don't have the fiber of a fulltime politician. I take much more pleasure in writing books, lunching with literary friends, or being with my family.

Thank you very much for this interview!

¹ CHIBLI MALLAT: *Philosophy of Non-violence. Revolution, Constitutionalism, and Justice beyond the Middle East.* Oxford University Press, 2015

² The Cedar is the national tree of Lebanon.