



The Activist Files Episode 16: Occupation Vacation Diala Shamas and Ziad Alwan on Palestine, Settlements and Airbnb

Nadia:

Welcome to The Activist Files. I'm Nadia Ben-Youssef. I'm CCR's advocacy director and I'm in the studio with staff attorney, Diala Shamas and our client, Ziad Alwan to talk about Palestine Airbnb cases that we filed, the vision that we have, and to have a conversation and to catch you all up on what's been happening here and where we're going. Thank you so much Ziad for being here with us. Thank you Diala for your extraordinary work. And I want to actually turn to Diala to hear a little bit about the case. It has been such an honor to watch you work and to watch you take this case from start to where we are now and to keep pushing forward a story of resistance and finding innovative ways to tell the Palestinian story. So I would love to hear a little bit about the case and where we are and a bit of where we're going before we turn to Ziad.

Diala:

Okay. Well. It's exciting to be here. As you may recall, and was really widely reported on at the time, Airbnb in November of last year took a decision, which we were all feeling very positive about, to stop listing Israeli settlements on its website. And this was actually the result of like a two year campaign of advocates and organizers in Palestine, in the US, in the corporate responsibility world really pushing on this idea that companies should not be involved in settlements. And so it was viewed as a victory, but it was also really rooted in pretty fundamental principles of international law. Not to anyone's surprise, the Israeli settler movement was immediately ready to

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challenge their decision and filed a lawsuit, actually, in the district of Delaware in a US federal court. Weirdly enough, it brought the claims under the Fair Housing Act. So we have Israeli settlers who are suing Airbnb under the Fair Housing Act, which is a really important civil rights statute here in the United States.

Diala:

And they essentially argued that Airbnb is discriminating against settlers on the basis of their religion and on the basis of their nationality, which is Israeli. We saw that lawsuit and like, you know, the Palestinian in me was obviously insulted, but it was really the civil rights attorney in me that was almost more incensed at this perverse use of the courts and these laws to further these, like, discriminatory ends. Right? And so at the time, I was in Palestine and a few of us got together and started thinking, well, so a few of us here at CCR started thinking together about what our response could be. And one thing that was kind of glaringly obvious is that, like, obviously there's something missing from this conversation between settlers and Airbnb and that is the Palestinian voices and perspective. So we thought that if we could find the Palestinians who actually own the land, that these settlers (who are also plaintiffs, so we call them settler plaintiffs) are renting their houses on, then those Palestinians would have a really strong argument to be able to intervene in that lawsuit, argue that they have an interest in the outcome of the litigation and that they should be heard.

Diala:

They would also be able to counter sue and bring counterclaims. And that's actually how I met Ziad, who's on this podcast with us. So I'm gonna turn it over to him. Ziad, tell us a little bit about how when I first reached out to you, like, what your response was.

Ziad:

Well, first of all, this land they took by the, by the Israeli government and they gave it to the settlers, as everybody know, after the occupation of the West Bank and they're stealing, this land, we still have the documents for this land and Airbnb, doing this, supporting these settlers, it's not right. I don't know why they're doing this. In United States, here, if you deal with thieves, deal with somebody stealing stuff, this would be criminal. This is our land. This is my father land for a long, long time and Airbnb is supporting those settlers. And I don't think they have the right to do this. This is a shame for Airbnb, a big company like this,

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supporting those settlers, stealing the land from the Palestinian people. I don't think this is all right. We want to see the truth for the whole - the whole world, this is what's going on back home. What's going on in Palestine, what's going on? What the settlers doing for the Palestinian people. The Palestinian people are suffering everyday, everyday for those settlers. Why those settlers will get support from company like Airbnb. This is my question. Why? What the reason? Money? I don't think this is worth it.

Diala: So you and I have spoken a little bit about the process and what it's been like over the course of the past few months. And then you said you've had a lot of conversations with your family about the land and your mom's memories. Can you just share a little bit of that?

Ziad: Oh yeah. Yeah. I mentioned before, this land we - my father, he had from his father, his father, and his father had it from his father - we're talking about many, many years owned by my family. And my family, they used to, my father, what I got told from my father and my mom, they used to take care of this land, make a lot of things in it, like wheat and trees and some like those - all the day they have to be as - My father is a farmer. He's supposed to be a farmer and everyday he have to go to the, this land, take care of it with my mom, with my older brother. And a lot of times my mom was she talking about this land, she talking with my kids, they like to hear what the story is. She has a lot of memories, a lot of good story. A lot of things. And most of the time she got, like, crying, she's 85 years old, by the way. One time she told me, "I hope before I die, I see this land, again. I want to see it. Because the settlers, they don't let us even go close up to this land." My mom hope just to see the land one time before she dies. I hope this will be happening.

Diala: So when we had a lot of conversations over the course of the past few months in preparing for the lawsuit, and I told you many times, like, we don't know what the outcome is going to be and we certainly aren't going to be able to prevent land theft, right. And get your land back. And you always said something that really kind of stuck with me.

Ziad: I was (to be honest with you) I was happy because there is somebody standing with me, standing with my rights, you

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know. Finally, I have somebody listen to me. He want to take my voice to the, to the media, the people. What's going on. Yeah, I was, I was excited to, you know, to doing - to show the people to show the American people, the American government, everybody what's going on, what the truth is, not like what we hear in the news. In the news, they don't say all the truth. We need just the truth. We are not asking for a big deal. We need only the truth. Only the people know what the truth is. Yes, I appreciate this. You know, I appreciate anyone standing with me to get my rights back.

Nadia:

You're leading us into the exact conversation, I think, Ziad. The idea of storytelling and telling the Palestinian narrative and disrupting an existing narrative that you said, exactly, in the media, and in public discourse, in government that doesn't tell the truth. That in fact avoids the truth, misrepresents the truth in order to, you know, continue the injustice that is happening to Palestinians. So I want both you and Diala really to, to think about that, what this moment meant in terms of telling the Palestinian story and disrupting the myths that are perpetuated about what is happening in Palestine and who Palestinians are, what their rights are and what their claims are.

Diala:

I mean, it's funny because I think what we did is actually an intervention. Literally, we didn't file a new complaint. We intervened in an existing lawsuit that was about Palestinian land with no Palestinians involved. And that's exactly what our clients are saying. They're saying, "Hello, hey, we're right here." And to me, that's actually really appropriate and kind of summarizes and captures the state of the conversation in the United States right now. Right? So what happened is you had Airbnb that took up a position that was rooted in law, that was critical of Israel or the Israeli occupation. And then it was accused of being discriminatory against Jewish people or Israelis, instead of having the conversation be about the reasons that Airbnb took that decision, we're sitting there having an argument about whether or not it's antisemitic to criticize Israel. And that really is the moment right now that we're in. I mean, the way that the conversation around Israel and Palestine is in the U.S. is entirely about who has the right to speak and not about Palestinians and their experiences.

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Diala: And so in intervening and like literally laying in great detail in our counterclaims our Palestinian clients' stories, the villages' stories, the stories of dispossession and linking it directly to the plaintiffs, who are settlers and what they did to our clients. I think we're really wanting to kind of refocus and shift the conversation to where it really matters. And that, to me, is in and of itself really valuable. We talk about this all the time. I know it's frustrating to watch the dominant conversation, whether it's Ilhan Omar or Omar Barghouti. It's all about not letting them speak. It's all about whether you have the right to call for Palestinian rights. It's all about whether they have the right to say certain things in certain spaces. And we got so busy defending those rights that we're not able to actually talk about the thing that we're all there to talk about. And that is a significant victory and success of the Israeli organizations and advocacy groups here in the U.S. have shifted the conversation in that way. And I think that's a lot of what we need to be pushing back against and like resisting caving into.

Nadia: Those who are speaking out for Palestinian rights are being silenced. Smears in media and, in this case, litigation. Right? So they're up against a huge amount of state power and institutional power. Activists. Obviously we're thinking about what it means for activists who are sticking their necks out on Palestine are being silenced. And this was kind of the legal representation of that strategy. Airbnb took a principled decision and then was met with a huge litigation. And can you tell us what happened then, where we are now?

Diala: Airbnb was met with several lawsuits, not just one. So the one in Delaware, one in San Francisco, an arbitration in New York as well as litigation in Israel in addition to dealing with the blow back of anti boycott legislation that's popping up across the country. So you know, places like Texas University were emailing their staff saying we're no longer allowed to use Airbnb now even though that was technically a misinterpretation of the law, but that you can imagine what that does to a company thinking from a profit-oriented approach. And so the pressure on companies who are trying to abide by international law with regards to Israel and the occupied territory is significant. It's huge. And was not enough. Airbnb could not withstand, right? So they caved to the pressure and

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recently they backtracked and they announced that they are no longer going to stop settlements from being listed on their website.

Diala:

And so now settlers can continue to list their houses on Airbnb. And so the settler-plaintiff in Ofra, which is on Ziad's land, is still there. She still has her bed and breakfast. She's still running it. And Airbnb has also ironically announced that it's going to donate all of the proceeds from its business in settlements to humanitarian organizations, but significantly not humanitarian organizations that are even operating in the region. So this is like a prime example of how this push-back through the courts, through the public shaming and through these kinds of legislative pushes really ends up being too much for many to withstand. And Airbnb caved really quickly. Frankly, I think that they should be ashamed of themselves. After Airbnb took a decision to continue listing settlements on its website, they settled the lawsuits. And what we did is we filed a motion with the court requesting that our claims survive the dismissal of the underlying complaint because we made a case for significant interests and we have counter-claims against the settlers.

Nadia:

Ziad, were you surprised by this decision by Airbnb to continue listing the settlement properties on your land in Palestine?

Ziad:

I am surprised why they're supporting those settlers. Why supporting those illegal settlers, they are stealing the land. Why? When we go to the settlers, Israeli settlers, would be not a crime. I surprised. Yeah. I surprised why they did this. Airbnb, it's a big company. With doing this, they want to lose their credibility for the people. No, I don't think anyone hear about this story. You want to deal with the Airbnb because you are dealing - you are supporting people stealing the land and put it on your website. How can I trust you? They're losing a lot of business. If they want to do it like a business way, they're losing a business in this way.

Diala:

Ziad, I want to talk about the other part of Airbnb's decision of how they said they're going to continue listing the settlements, but then they also said they're going to donate the money that they make in settlements to a

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humanitarian organization somewhere else in the world. What do you think about that?

Ziad: I think they can't do it another way. You know, there is a lot of legal ways to donate the money. Here. Let's give you example, if I want to go rob or steal a bank and I said, "What? Why, why are you stealing the bank? Because I want to give it donate it to the people. Do they think is a reason? Is a good reason? That the people they accept this? I don't think so.

Diala: Well that's Robin Hood. But this is different

Ziad: No, but for me this is the same because you're supporting those people stealing the land from the Palestinians. You want to make money from those people that steal the land?

Nadia: You said something great, Ziad, which is that now you know. And I'd be really interested Diala, to hear kind of your reflections on that. Having filed this motion to intervene and laid out these complaints and the violations of international law that the settlers are involved in by operating on stolen Palestinian land and being complicit with the Israeli settlement enterprise. What does that mean now for Airbnb? That they know?

Diala: Well that's also a particularly frustrating part. I mean, look, advocates had been laying out very clearly for Airbnb and for others the extent to which their involvement in settlements is, you know, continuing violations of human rights. Right? Nobody can really claim to be ignorant of the consequences of the occupation at this point. It's the most over reported place in the world, arguably. Right. But our clients and our intervention added a layer of very personal, individualized harm that are directly linked to these plaintiffs. And so it's not just that Ziad is any landowner who's intervening. You know, he owns the land that, that the plaintiff from Ofra, Inbal Levy, is listing on Airbnb in a house that she advertises as being the site of the first settlement of Ofra. Right? So not just any settlement. Right. But the first house of the establishment of the, one of the largest settlements in the northern West Bank. And it's that kind of granularity that we really laid out in the complaint so that a, they can no longer claim ignorance but also to like confront them with the detail and they had to read our papers.

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Diala: Yet they still settled. And I do think that that's a slap in the face. At this point, they, like, met our clients, basically. They've heard their stories. They've seen how their properties are involved in the dispossession of our clients. Right? In supporting these settlers in the tourism industry in settlements, which is a really big part of how settlements also expand and sustain themselves. Right? And that's another part of what we discussed in our pleadings is that the settlement enterprise leans heavily on bringing in people from the outside to come and then to stay. Not any people. Jewish people to come and migrate to Israel and then to settle the occupied territory and Airbnb as part of that tourism industry is part and parcel of that project. Whether they want to or not. Many of our partner organizations have been really thinking a lot about the role of tourism and what it means when you choose to travel and just visit a place like the occupied territory.

Ziad: Airbnb doing like a driver when he drive a car and see people in front of him and he close his eyes and hit the people and say "I'm sorry, I don't see you." They know everything. They hear everything and they said we don't know. I don't know. Exactly, exactly like the driver as I told you.

Nadia: Well, I would, I might think about, you know, the, this sort of turning point. I mean, I'm seeing a lot of the dramatic choices by governments and institutions in Palestine now are response to a sea change in discourse and advocacy and activism on Palestine. So there's so much positive things that are happening to advance Palestinian rights and claims for justice that the whole arm of the state is both in the United States and in Israel, kind of clamping down or, or making- it's in part the swan song of empire. Right? It's that last grasp and gasp for all of historic Palestine: annexing land, taking over Jerusalem, denying the right of return, clamping down on activism and movement for Palestinian rights, passing legislation, litigating for it. It's a hard fight. It's that last fight because there's a breakthrough that is happening where the movement for Palestinian rights is expanding.

Nadia: It's intersectional and cross-movement. It's transnational. And it's a really exciting moment. And I think when the moment and the movement is at its height, in its power, the state and institutions are going to fight hard to keep the

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status quo and to keep the injustice alive and it's failing. I think. I think it's failing. It's hard because we, we feel, you know, in, in the case of this litigation, we took one step forward, we had this really innovative intervention. We're able to tell the story and then it kind of felt like we went two steps back. But I really would see it as a strength of the movement and of the innovation that we're bringing. And so I'm really hopeful in this moment, despite everything. And maybe I would ask both you and Ziad to reflect on that and how you're feeling and what you can imagine moving forward, what this moment means for you.

Diala:

I have no doubt that most people at Airbnb know that they're on the wrong side of history and, for us, it's just a matter of minimizing the harm in the interim and making sure that we support those who are most directly affected by these policies as much as we can. As we move towards that kind of broader vision for justice. We'll see what happens in a few years. Who knows how many years when we revisit this chapter. I think I'm really proud of the fact that we stepped in, in the way that we did and that we continue to fight and that we continue to call for accountability and look for creative legal, political, strategic interventions that can further support the Palestinians in our struggle for liberation. No one ever said it was going to be a quick victory and certainly I think nobody thought that when Airbnb took a decision in November it was going to be the be-all, end-all. It's all, a matter of this iterative process, but I agree with you. It feels different right now. It feels like the energy is finally moving in the right direction.

Ziad:

I see a lot of good standing with us. Yes. But we need the justice. The justice. This is what we're missing: the justice for the Palestinian people that are suffering every day from the occupation from the settlers. But when we see people like The Center for Constitutional Rights standing for the people, standing for the rights of people that they wanna took all the voices for those people out to the media, I feel, I feel there's hope. There's hope in the future. I see some light at the end of the way.

Nadia:

It was wonderful to speak to you both.