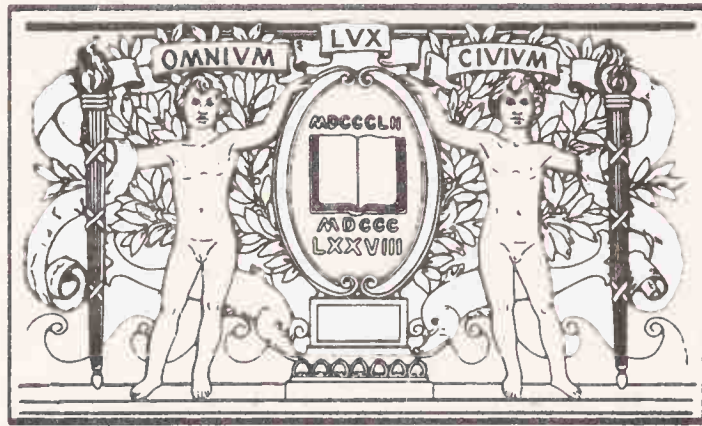


The Karp Report

An **Israeli** Government inquiry
into settler violence
against **Palestinians**
on the West Bank

Institute for Palestine Studies



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Institute for Palestine Studies
Washington, D.C.

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Preface

On 29 April 1981, the Israeli Attorney General Yitzhaq Zamir established a commission of inquiry to examine the enforcement of law in the occupied territories. The formation of the commission was in response to a petition submitted to the Attorney General's office in July 1980 by fourteen law professors from Tel Aviv and Hebrew universities. The petition expressed concern about irregularities in law enforcement in the territories and cited numerous cases in which violence committed by Israeli settlers against Palestinians had not been thoroughly investigated. It further claimed that when investigations into such violence were conducted, suspects were rarely indicted.

The Commission was headed by Deputy Attorney General Yehudit Karp, after whom it was named. The other members of the Commission were the District Attorney of Jerusalem, a legal counsel to the West Bank command headquarters and the head of the Investigation and Claims Branch in the national police headquarters. The Commission was charged with observing and coordinating the investigation of offenses that concerned relations with Palestinian residents. It was to ensure to the extent possible that suspicion of offenses committed in the occupied territories by Israeli civilians or soldiers would be investigated speedily, thoroughly and efficiently. Finally, it was to prepare recommendations for means of coordinating the agencies to ensure fair application of the law.

The Commission encountered numerous difficulties in the course of its investigations. A major obstacle was the lack of cooperation from some military government administrators and police officials. Furthermore, attempts by the Commission to reopen police investigations were hindered by settlers who refused to provide the necessary testimony and claimed they were acting with the encouragement of the IDF (Israel Defense Force). A Kiryat Arba resident, Dov Kohen, stated that "in the period under consideration in the Karp Report—March and April 1982—Jewish residents of Judea and Samaria were under

Israel Defense Force orders not to cooperate with the civilian police after incidents in which Arabs were fired [up]on”.¹ The settlers were instructed by Major General Ori Orr, then Regional Commander of the West Bank, to cooperate only with the investigations branch of the military police.²

On 25 May 1982, Deputy Attorney General Karp submitted the Commission Report to the Attorney General and to the ministers of Justice, Interior, Defense and Police. Twenty months were to pass, however, before public pressure, media coverage and Knesset requests finally compelled the government to publish the Commission’s findings.

According to Justice Minister Moshe Nissim the Commission’s report was given to the Interior Minister in November 1982, after which discussions were held over a period of months by a special ministerial committee composed of Defense Minister Arens, Interior Minister Burg and Nissim himself.³ The discussions aimed at consolidating a law enforcement policy for the occupied territories. In the meantime, Yehudit Karp, frustrated by governmental failure to act on the findings, resigned from her post as Chairperson of the Commission. As a result, the Commission ceased to function and thus failed to meet one of its terms of reference—the drafting of recommendations for means of coordinating the agencies involved in law enforcement in the occupied territories to ensure fair application of the law.

Karp’s resignation stirred wide public debate. However, neither her resignation nor repeated requests by the Knesset Law Committee to read the Report resulted in the release of the Commission’s findings. Nissim refused the Knesset requests on the grounds that ministerial discussion of the sensitive topic were not yet complete.⁴

Finally, in February 1984, the GPO (Government Press Office) released an edited Hebrew version of the Karp Report. Although the GPO initially tried to provide a simultaneous English language edition of the Report, its efforts, according to the *Times* (London), were “sabotaged by the Public Relations branch of the Justice Ministry”.⁵ When the GPO subsequently

¹*Jerusalem Post*, 8 February 1984.

²*Ibid.*

³*Ha’Aretz*, 8 February 1984 translated by FBIS.

⁴The *Times* (London), 8 February 1984.

⁵*Ibid.*

did publish an English translation, the document appeared with approximately 30 names deleted from the text. On 7 February, the GPO published a portion of the Report consisting of a summary of the Commission's activities and its conclusions as well as a rebuttal from the head of the Israel police criminal investigations branch Y. Karty, in which he discussed police jurisdiction over criminal investigations in the occupied territories. The government released the bulk of the Report, consisting of several cases analyzed in detail, on 9 February.

The debate which followed the publication of the Karp Report was monitored daily by the Israeli press. Notable among the critics of Karp's work and the findings of the Commission were Justice Minister Nissim and Interior Minister Burg.

The text which is reproduced here follows the original order of the Karp Report. To preserve the textual integrity of the Report, editorial changes have been limited to corrections of typographical errors which appeared in the translation, standardization of Arabic transliteration and standardization of capitalization. Comments enclosed by brackets [] or otherwise attributed to an editor (i.e., "ed.", "sic") come directly from the GPO. The gaps in the official translation, presumably due to Israeli government censorship, have been retained and are marked by an ellipsis (. . .). Finally, in two places the text of the Report required an explanatory comment which is starred and printed at the bottom of the page. An uncensored version of the Report has yet to be released.

Released: Jerusalem, 7 February 1984

Memo: 25 May 1982

To: Attorney General Zamir

From: Deputy Attorney General Karp

Investigation of Suspicions Against Israelis in Judea and Samaria

Introductory Section as Determined by the Government Press Office

On 29 April 1981, you appointed a team (hereafter the inquiry team) whose function was to work in accordance with the letter of appointment as detailed below:

- A. A problem exists in conducting investigations related to suspicions against settlers as far as the perpetration of offenses that are not routine criminal acts, but rather concern relations with the Arab residents.
- B. It appears that in certain matters, there is a lack of clarity as to which body is authorized to investigate, the procedures to be used in the investigation and the conclusions to be drawn from it.
- C. It was decided to create a team to coordinate between the bodies concerned in this matter. The team will be comprised of a representative of the Attorney General (who will serve as chairman), a representative of the police, a representative of the military Advocate General, and a district attorney.
- D. The coordinating team will prepare a proposal for procedures and guidelines for carrying out the investigation, including the taking of legal steps in connection with the abovementioned offenses.
- E. The team will, as needed, observe and coordinate the conduct of investigations and the taking of legal steps when *prima facie* evidence is found of the perpetration of the abovementioned offenses.

F. The findings of the investigations regarding the abovementioned offenses will be brought for a final decision before the District Attorney, even in cases of misdemeanors (and not only felonies).

The members of the inquiry team are the District Attorney of Jerusalem, the legal counsel to the Judea and Samaria* command headquarters, the head of the Investigations and Claims Branch in the national police headquarters, and the undersigned. This report is submitted at the end of a year's work of the inquiry team, and its conclusions are the product of the team's deliberations in the course of that year, and of reports submitted to it in the framework which it set up as a means for the inquiry, as well as being the fruit of an attempt—which did not succeed—to complement information in light of publications in the media.

The background for the establishment of the inquiry team is a letter from law lecturers at the Hebrew and Tel Aviv universities, in which they expressed their concern about the maintenance of the rule of law in the state of Israel, and brought up the issue of private “policing activities” of settlers in the region of Judea and Samaria, specifying a series of incidents in which (they claimed) settlers, either individuals or in groups, broke the law via offenses against Judea and Samaria residents—the claim being that in many of the incidents there was either no police investigation at all, or the files were closed at the primary stages of the investigation; and the letter writers' fears that this was due to local lobbying of the settlers with representatives of the police and of the military administration, or even on a higher level. The abovementioned letter stated:

When there is suspicion that an offense was committed, government authorities must investigate into the case, take actions to locate the offenders, and prosecute them, with complete disregard for their identity, their nationality, or the motivation behind their actions. In the complex of facts described here there is suspicion that the investigation of the offenses committed by settlers in the territories against Arabs was not conducted properly. There is suspicion of discrimination between one offense and another, and between one offender and another. This suspicion calls for thorough examination.

*Throughout the text, “Judea and Samaria” are used to refer to the West Bank.

Following a meeting of representatives from the Ministry of Justice, the Israeli police, and the IDF, the need came up to examine the efficiency of the treatment of complaints against Israelis in Judea and Samaria.

On 29.4.81—the day of the establishment of the team—the Supreme Court heard a petition (HCJ 175/81, the Beit Hadassah case, which will be discussed below); and in the wake of the Court's severe criticism of police shortcomings in investigating complaints in Hebron, the state promised the Court to act firmly to prevent breaches of law and public order, and to investigate thoroughly complaints and suspicions in this sphere. In its opinion and ruling, the Supreme Court stressed that it rejects the petition on the basis of its confidence that the Attorney General and his representatives, as well as the military authorities, will indeed take steps to maintain law and order in Hebron, via the following [means]:

- A. Thorough and truthful investigation of every complaint made.
- B. Alertness to events in the sensitive areas, in order to prevent, insofar as possible, all illegal actions.

Submitted to the Supreme Court was a directive, issued by the commander of the area in a commanders' discussion on 13.4.81, to the effect that "whoever breaks the law, be he Jewish or Arab, will be dealt with in the framework of the law." The Court was also told that directives in this matter were issued by personal order of the Minister of Defense. On 6.5.81, the directory of the petition section appealed to all the authorities concerned, and emphasized their pledge to take special pains that the commitments in regard to maintenance of law and order would indeed be honored.

Following the appointment of the inquiry team, the Prime Minister expressed his willingness to order, through his military secretary, the coordinator of activities in the territories and the commander of the Judea and Samaria region, to cooperate with the abovementioned team (letter by the Attorney General to the cabinet, of 31.4.81). An order along such lines was indeed issued to the authorities involved (letter by Brig. Gen. Poran of 3.5.81).

The inquiry team's purpose was to ensure, as much as possible, that suspicions of offenses committed in the Judea and Samaria region by

Israelis (be they civilians or soldiers) against Arab residents of the region will be investigated speedily, thoroughly and efficiently. Based on the basic presupposition that its ability to operate as a coordinating body hinges first and foremost on ongoing and comprehensive information about what happens in the area of its jurisdiction, the inquiry team set itself the following goals:

- A. The formulation of procedures for ongoing follow-up of complaints and their treatment at the level of police general headquarters and the Judea and Samaria area command's legal counsel, and for channels of reporting to the inquiry team;
- B. Sample check of the manner of handling and quality of investigation of all the complaints made in the Judea and Samaria region during a given period in the past;
- C. Receipt of ongoing reports about complaints made during the team's activity, and examination of the procedures, duration, and quality of police treatment;
- D. Examination of the quality and results of the investigation in the wake of the comments made by the district attorneys who received the files, in accordance with the procedures established by the Commission;
- E. Keeping close watch on press and other media reports which suggest suspicions of offenses, and initiating investigations even in the absence of complaints.

It should be stressed that in light of its letter of appointment, the inquiry team did not see itself as an operative body, but as a follow-up and coordination body. The team did not consider it part of its authority to intervene in the investigations themselves, except where it saw fit to order the completion of an investigation. However, the team operated under the assumption that the very follow-up would influence the operative bodies who are authorized to investigate.

It should be made clear from the outset that the aim of the inquiry team to see to an exhaustive investigation, even in the absence of complaints, by relying on data obtained from sources outside the investigating authorities (press, information reaching military government personnel, High Court petitions) proved unsuccessful, because of

various constraints with which the team was forced to contend. Activity in this area was, therefore, sporadic; but it was enough to indicate incidents which were not investigated until the team intervened, as well as to the fact that the investigating authorities' reporting to the team was not sufficiently complete. Being unable to judge whether the deficiencies in the reports were the exception or were due to a basic flaw, the Commission in its examination took a state of incompleteness as its point of departure—[a situation] which does not contribute to its full confidence with respect to its assessment of the situation. Therefore, its conclusions should be read in the light of this reservation.

Given the existing division of authority, the inquiry team examined two systems: The police, as one system, which bears operational responsibility for the preservation of law in Judea, Samaria and the Gaza district; and the CID, as a second system, which is empowered to investigate complaints against soldiers. The inquiry team's findings deal with these two systems separately, although the analysis which points to the problems involved in the split between the two investigating bodies refers to both of them alike.

CID Investigations

- A. The legal counsel for the Judea and Samaria district, who was a member of the inquiry team, took it upon himself to coordinate on an ongoing basis the reports of CID investigations, to follow up their progress, and to report to the team periodically.

The Commission received a report of incidents until October 1981 (among them: death, property damage, assault, and theft), and of about 15 incidents which took place in the months of March and April 1982 (all of them concerning death and injury as the result of shootings). A four-month gap thus exists in the reports, and it is difficult to assume that during that time no incident occurred which called for investigation. The fact that between October 1981 until the writing of this report (over six months) no report was made of any incident of a kind unconnected with the use of weapons, and no such file was opened, is itself astonishing.

On 11.5.82 the inquiry team requested a report on the investigation of a lengthy series of bodily injuries and deaths as a result of

shootings, as reported in the periodical *Haolam Hazeah* dated 5.5.82. The [official] report dealt with the 15 incidents mentioned above, of which 11 cases were still under investigation. Some of the incidents noted in the abovementioned article were not mentioned in the report; and the question of whether they actually took place, and whether investigations were begun into them, is still being clarified.

While this report was being written, the team's chairperson received a copy of the shocking complaints which reserve duty soldiers had tendered to the military Advocate General on 16.5.82. At this stage there is no intention of dealing with the specific issues; on the orders of the military Advocate General an investigation was begun, and it is to be hoped that the allegations will be investigated. But the fact that the inquiry team was not informed of any of the events listed in the report, calls into question the ability of the team to put together a cohesive and accurate situation appraisal.

It should be noted that the more incidents there are of injury due to shooting, the harder it is for this team to examine the scope of the report given to it, hence also to assess the scope of the complaints which were investigated.

- B. A distinction can be made between incidents in which the absence of a complaint is likely to serve as a cause for not dealing with them (conventional criminal offenses), and incidents which according to the rules followed by the army require investigation (injury as the result of the use of firearms). With regard to both, and subject to the reservation of our assumption of incomplete reporting, it can be said that complaints against soldiers are generally investigated, a fact which is the outcome of the IDF's disciplinary interest in the soldiers abiding by the law. But as of the writing of this report, after the inquiry team's attention was drawn to the aforesaid complaints of 16.5.82, and as long as they have not yet been examined—the inquiry team does not feel it can make any definitive statement on this. True, it may be assumed that those injured in the incidents which are the subject of the complaints did not [themselves lodge any] complaints—and that is the reason that no report of such complaints reached the team; but it would appear that in this case the distinction between incidents on which

there were complaints, and those which justify complaints, is a formal one. The grave apprehension that the inquiry team is operating in a vacuum, as regards its knowledge of what is really going on, requires it to refrain from drawing conclusions which may be construed as value-judgements.

C. At the same time, the inquiry team sees fit to bring up the following:

In the matter of investigation of injuries resulting from shooting—the team did not deem it in its capacity to pass substantive criticism on the military Advocate General's decision on the question of whether the use of arms had been in accordance with army directives and whether the circumstances justified indictment, since involved in this decision are, naturally, considerations of policy on opening fire, which are not in the purview of the inquiry team.

At the same time, the reports received by the team cited many cases of injuries to the head or upper regions of the body (in contrast to leg wounds).

The inquiry team believes that there are grounds for a renewed and comprehensive review of this matter. Among other things, it is recommended to reexamine the directive for opening fire, the reports on verbal instructions and their consistency with written procedures, and the directives for opening fire in special situations; and to try to draw necessary conclusions from the gap between the spirit of the directives and the results of their implementation. It is also proposed (in view of the fact that CID investigations have been opened in the wake of reports in the media) to examine the directives concerning the requirement to report on every use of weapons against civilians (even if no one is injured) and the actual application of this reporting requirement.

In the majority of the CID investigations the question of dualism in the investigation comes up, which stems from the fact that the CID interrogates soldiers only, whereas for the purpose of questioning local residents (victims or witnesses) it needs the aid of the Israel police. The result of this method is that complainants and witnesses are questioned about an event long after its occurrence (at least a month), and this method has a direct and immediate effect on the duration of the investigation and on its results (the ability

to locate witnesses, details being forgotten, the ability to identify people, etc.). Findings which have come to the attention of the team raise the fear that the split method of investigation substantially impairs the possibility of achieving any tangible results in the investigation.

Another sort of dualism comes up in cases which involve members of the border police, who are subject to a separate disciplinary jurisdiction. (It should be noted that the inquiry team did not receive any report on border police investigations in this sphere.) A separate investigation of shooting incidents, without the cooperation of the CID, and without coordinated policy considerations regarding conclusions and indictments, is deficient. This issue, too, requires a comprehensive review.

Most of the reports on shooting which were brought before the Commission, were based on questioning of soldiers only, and this was not only because of the need for police questioning assistance, but also, and mainly, because of the involvement of the injured or the potential witnesses in stone-throwing or disturbances and their fears of getting in trouble as a result of their testimony. These witnesses are not guaranteed immunity from prosecution. The decision as to whether the use of arms was in accordance with regulations is therefore usually made according to the version of only one party to the incident. This raises a difficulty, which must be given consideration, even though the answer is far from simple. This difficulty is element in the wider problem of being able to achieve a true investigation of this sort of incident. This difficulty becomes doubly important in investigating cases of death, in which, considering the serious consequences, the obligation to conduct a true investigation may require a different set of considerations.

As to the quality of the investigations, and the conclusions stemming from them, the work of the inquiry team centered mainly on an examination of the quality of police investigations; and as a rule, the team limited itself to following up decisions of the military Advocate General. In one case, in which the team thought that on the face of it the Advocate General's conclusions were doubtful (a case of assault and battery), the team asked for the file—and its examination revealed that the soldiers' version was

believed even though it did not seem reasonable, and the circumstances of the incident supported the complainant's version. The file was returned to the military authorities for continued action.

Another incident which came to the attention of the team in the wake of the examination of a police investigation (criminal/civil 305/81) which was opened as the result of a complaint about damages to buses in Ramallah, shows that the police called on the CID due to the suspicion that the perpetrators were reserve duty soldiers. From the police file it appears that the CID did not investigate the matter, neither on its own initiative, nor in cooperation with the police. In the file on the investigation there is a notation which states “. . .the CID has not helped in most of the investigations in the past.” (This file, which the team obtained only recently, will be studied in order to draw lessons on, among other topics, the cooperation between the CID and the police.)

The inquiry team has no data indicating that the aforementioned shortcomings are evidence of a general situation. But the special difficulties mentioned above that typify CID investigations in the territories—and especially the division of investigations of incidents between the CID and the police, and the need for close coordination between these two bodies—require, in the team's opinion, ongoing monitoring that would include more careful scrutiny of events.

(editor's note: CID in this document refers to the Hebrew acronym *Matzah*, or investigations branch of the military police.)

DSE, NK, BG/DSE, NKK, BG.

Cases Investigated in Detail

Middle Section as Determined by the Government Press Office

(See introductory and concluding sections released 7.2.84)

Police Investigations

- A. The head of the claims section at the Israel police national headquarters, who is a member of the inquiry team, took on herself the rather difficult task of collecting, on an ongoing basis, the reports on complaints and investigations in Judea and Samaria (via the heads of investigation offices in the various Judea and Samaria districts), to keep track of how the investigations went and to report periodically to the team.
- B. The Commission examined some 70 occurrences which were included in the reports, including psychological damage (the minority of cases), armed threats, threats, trespassing, assault, damage to property, and breaches of order. Of these 70 files, the investigation of 15 led to the files being passed on to the state's attorney with recommendation to prosecute; 33 of the files were closed; and the handling of 20 (in four of which, the investigative material had not been located) had not yet been completed. Only five of the files whose handling had not yet been completed are from March and April. The investigation of the remainder had been going on for more than six months, in some cases—for more than a year (10 cases dealt with events which took place in April and May 1981, and four were opened in November and December 1981).

Experience has shown that protracted investigations of the above kind are not likely to have results, and one may therefore say that of the aforementioned 70 cases, 53 have reached.....a dead end.

Approximately half of the 33 closed files were closed on the

grounds of offender unknown; five were closed for lack of evidence; seven because no charge was brought; and three for lack of public interest.

The inquiry team did not examine the entire group of cases to the full, but random checks yielded 15 files in which the team thought that investigation was either poor or contained substantive defects. Some of them are cases whose handling was not completed, and some were closed in the wake of investigation, as was said above.

It should also be pointed out that in some cases, investigation was begun only following the Commission's request (this will be discussed below), and that in several cases it turned out that reports to the Commission were either defective (some 10 complaints were not included in the reports) or deviated from procedures established by the inquiry team (some 6 files).

- C. The findings of the inquiry team should be read subject to following two reservations:
1. The methods and the quality of the investigation may be subject to reliable ethical evaluation only by comparing the investigating authorities' operation in the sector examined by the team with their operation in other sectors of the Judea and Samaria area, and with their operation in Israel (a comparison which was beyond the inquiry team's ability).
 2. The quality of the investigating authorities' operation cannot be evaluated without taking into account common constraints such as manpower shortages, the level of the investigators, orders of priority, language difficulties, a hostile Arab population, and other factors which have nothing to do with the issue of the identity of the complainants and the subjects of their complaints, and which can serve as grounds for slowness in an investigation, failure of an investigation, or the closing of a case without the investigation having been thoroughly exhausted.

From the picture emerging from the collective total of the inquiry team's findings, one may conclude with reasonable certainty that the report's findings point to a situation which can neither be

justified nor accounted for only by general constraints, and which clearly reveals special background characteristics, and a seriously problematic situation which stems from those characteristics.

D. The above finding is based on the following:

1. The ratio between the overall number of files and those files which were closed without prosecution, and the percentage of files closed on the grounds of offender unknown.
2. The handling of many files went on for an unreasonable length of time, regardless of the sensitivity of the issue under investigation. The inquiry team takes a very grave view of the slow pace of investigation (and the pace of reporting) in cases of death from shooting. It should also be pointed out that even in those cases where the state attorney's office had given its commitment to the Supreme Court to conduct an effective investigation, the inquiry team's efforts to expedite handling were to no avail.
3. The aforementioned cases, which are the most conspicuous of those checked by the Commission, are enough to move the above conclusion from the sphere of estimation to that of fact. They will be detailed below in what may seem overelaboration, because this, in and of itself, will suffice to exhibit—without further explanation—the background, the characteristics, and the contradictions between commitment and reality.

The Beit Hadassah Affair (Supreme Court file 175/81)

A. On 29.4.81, the Supreme Court discussed, *inter alia* the claim of the petitioners, to the effect that those holding Beit Hadassah were harassing residents of the city, especially those living nearby, their declared and understood aim being to intimidate residents and scare them away—in order to realize their right to settle in Hebron. The Court found the complaints about the demolition of a part of a ceiling in a shop in Beit Hadassah which was kept by one of the petitioners as a protected tenant, to be very serious. The Court said:

The petitioner's complaints to the Court said that on the day after

the festival of Purim, he saw that the ceiling had collapsed. The ‘explanation’ given him by those living on the floor above was that it had happened by accident, as a result of festive dancing. At first, the petitioner hesitated as to whether to complain; later on, he said that if the damage were fixed, he would forget the incident. However, the following day he reported (in another complaint to the police) that his merchandise had also disappeared. He added that the building’s residents had repeatedly urged him to hand the shop over to them, claiming that in the past, this had been a stairwell which led to the synagogue. This complaint, which we view as serious, did not receive proper handling. It is evident from the statement of the defendants that after the ceiling was repaired, the file was closed. The explanation that they thus were trying to calm things down is far from satisfactory.

The Court added:

There is no doubt that the main function of the ruler in an administered territory is to maintain law and order. He must do so even in the absence of any complaints from the local residents. At the same time, it is important to clarify to the residents their right and duty to lodge complaints whenever they are harassed, and to insist that the complaints be looked into and that the steps required by the conclusions reached be taken.

Only after the defendants’ learned counsel declared that the investigative file on the shop affair had been reopened, and that orders had been given to treat breaches of order with utmost seriousness, did we see no further need to issue an *order nisi* regarding the complaints. We would like to believe that from now on the handling will be effective and that offenders will be prosecuted.

The Court rejected the request (to issue an *order nisi*) on the basis of a declaration by the representative of the state that “steps had been taken to ensure that law and order would be maintained, and that residents’ complaints against those holding the Hadassah building would be expedited and handled effectively.”

- B. On 6.5.81, 25.5.81, and 26.5.81, the director of the department of Supreme Court matters in the state attorney’s office called the attention of all elements involved—including the coordinator of activities in the territories, the commander of the Judea and Samaria area, and the head of the investigations branch at the Israel police national headquarters—to the Court’s remarks, to the criticism of the investigation, and to the commitment given the Court by the state to continue the investigation.

It should also be pointed out that prior to the Supreme Court's decision, the state attorney had asked the head of the investigations branch at national headquarters to investigate the petitioners' complaints, stressing that he attached utmost importance to the issue (his letter of 14.4.81).

C. And what became of the investigation?

On 18.6.81, a month after the commitment was given to the Supreme Court, the investigation was passed on to the Attorney General together with the final report of Superintendent Kalij (head of the Judea investigations office). The report did not address the main point which the police had been asked to investigate—namely, whether (name deleted) and others had committed the criminal offenses of assault and criminal trespass in conjunction with the damage caused to the shop. In the same report, Superintendent Kalij attributed the fact that the police had refrained from conducting a comprehensive investigation immediately after the event to an order given by the Hebron military governor to the commander of the Hebron (police) station. Yet the aforementioned report did not make any attempt to establish investigative findings regarding the plaintiff's complaint. It also took no position on whether anyone could be charged with causing the damage, nor in regard to the credibility of the claim that the damage had been caused by dancing.

In his letter of . . . 21.6.81 to the head of the investigations branch at national headquarters, the state's attorney points out that he is not at all convinced that all the testimony on these points, which one would expect to have been gathered, had indeed been gathered.

The file was returned to the police for completion of the investigation and came back only in February 1982—i.e., eight months after being given to the police for completion of the investigation (and two months short of a year from the date when the Supreme Court ordered an in-depth investigation).

D. Here it is worthwhile to cite the conclusions of the Jerusalem District Attorney, to whom the file was given after completion of the investigation. In his letter of 1.2.82, he wrote:

The following facts emerge from the file:

Friday 20.3.81 was Purim eve. A Hebron upholsterer, who owns a store below Beit Hadassah, closed his shop at 11.00, as is his custom on Fridays. On arriving at the store the next morning, he discovered a 1.5 meter hole in the ceiling above his shop, a ceiling which serves as the floor of Beit Hadassah. The upholsterer went to the police to lodge a complaint, and clarifications with the military government revealed that on Friday night, there had been Purim “dancing” in Beit Hadassah, thereby creating the hole. The incident was reported to the military government on Friday night by (name deleted), and it was agreed that the damage would be repaired and the upholsterer compensated. The upholsterer went to the Hebron mayor’s office the same day, where he was told to start fixing the ceiling. To support the ceiling, the upholsterer and his sons brought iron bars and began work. But the plywood placed over the hole gave way, and (name deleted) told them to stop working because they were desecrating the Sabbath. After the Sabbath, the upholsterer resumed work, and while he was by the hole, the plywood again gave way, and (name deleted) ordered him to stop working, and pushed his hand through the hole towards the upholsterer. (Name deleted)’s finger poked the corner of the upholsterer’s right eye, which then began tearing—though it wasn’t injured and required no medical treatment.

At midnight, a military government officer visited Beit Hadassah and saw that the entire ceiling had collapsed, and that the store was being emptied by a group of youths. When he asked what was going on, (names deleted) said that the ceiling had collapsed, and that the cotton in the store was liable to get dirty, so they were removing it. About two and a half hours later, after receiving a report that the door to the store was open, the same officer stated that he was now witnessing the renewal of Jewish settlement in Hebron.

On Sunday, when the upholsterer returned to his store and saw it was empty, without a ceiling, but with a stairwell, he sat by the entrance and began to bemoan his bitter fate. Three armed Beit Hadassah men, who were not identified, approached him with (name deleted) and asked him to remove himself from the store entrance. When he told them it was his store, the three stepped on his feet and pushed him outside, where they together picked him up and either led or threw him out. The man’s son showed up while this was going on; he, too, was pushed in the incident, and his left arm hurt him as a result. The upholsterer then went to the police and lodged a formal complaint. In the complaint, the upholsterer says that the ceiling was damaged—according to what he was told by (name deleted), by the dancing—and that he was to be compensated. But when he returned the next day he saw

the whole ceiling had been destroyed, and three youths whom he could identify pushed him outside.

After this complaint was lodged, both the military government and the police promised that the situation would be restored to the *status quo ante* as swiftly as possible; everything was indeed repaired with maximum speed, and everything that had been broken was either repaired or replaced. Even areas that hadn't previously been floored were now paved. The only damage left unrepaired was that the good cotton got mixed with the bad. . . .

From this description of the facts, the involvement of (name deleted) is clear, both in what happened to the store ceiling and in what happened to the storekeeper. It is difficult to assume that the hole in the ceiling was indeed caused by the wild dancing, though there is also some question whether it can be proved in court that the hole was caused deliberately, as well as that (name deleted) was involved in the deed. The same difficulty exists with regard to the 'collapse' of the ceiling. . . .

The evidence concerning the assaults is stronger, although here, too, there are difficulties. . . .

- E. In the end, the state attorney decided on 8.3.82 that: "Taking into consideration the difficulty of proof and other circumstances of the incident, such as the fact that the complainant was generously compensated, and is apparently uninterested in reopening the matter, it seems to me that this case should be closed."
- F. It would appear that these things speak for themselves, and there is reason to think that the lack of proper action immediately upon receipt of the complaint also contributed to the fact that law and order were not fully maintained in this instance.

But what is most serious and noteworthy in this connection is what is said in Superintendent Kalij's letter of 1.6.82, whereby the Hebron military governor ordered the commander of the Hebron police station not to investigate. This order by the military governor not to deal with the incident was used by the head of the Judea investigations office to justify the police's failure.

It should be further noted that the head of the Judea investigations office, who reported to the inquiry team on the Beit Hadassah investigation, clearly said that there had been a conspiracy of silence in this incident, and that not everyone who could have been interrogated was questioned.

The Charges against (Name Deleted)

- A. The case revolves around complaints of trespassing, threats accompanied by shooting, and denial of access. The complaints were directed at a man by the name of (name deleted), who lives in one of the Judea and Samaria settlements and does not hold any official post. In the wake of the petition submitted to the Supreme Court, a clarification was held, whence it emerged that this same man had brought a bulldozer into a field without any legal authority or order from the area command.

It was also found that local residents had filed complaints in the past accusing the same individual of very grave actions, and police investigative files had been opened against him. The complaints revolved around events that took place in February and March, 1981.

- B. On 7.4.81, the Attorney General wrote to the head of the police investigations branch, asking him to order an investigation, due to suspicions that this (name deleted) had committed offences.
- C. On 27.5.81, a written reminder was sent to the police by the inquiry team.
- D. The investigative files were transferred to the Supreme Court matters department of the state attorney's office before the investigation had been completed, and without recommendations; they were subsequently returned once more to the police for completion of the investigation.
- E. On 19.6.81, another reminder was sent to the national headquarters by the inquiry team.
- F. On 2.9.81, the head of the prosecutions section at national headquarters returned the investigative files to the head of the Samaria investigations office, with a note that the investigation had not been completed, and with a detailed list of the steps to be taken to complete it (ascertaining ownership rights, etc.).
- G. On 6.9.81, the head of the Samaria investigations office closed one of the files on grounds of offender unknown (contrary to the procedures laid down by the inquiry team, according to which he was supposed to transfer the file to the District Attorney).

- H. On 29.10.81, five files were transferred to the attorney for the central district, with a recommendation that they be closed. (The inquiry team asked the District Attorney to explain the grounds for the closure; as of today, they have not been supplied.)
- I. One file was transferred to the military prosecutor in Nablus, and another to the magistrate court in Tulkarm; investigations have still not been completed on three more files as of this writing, i.e., one year and three months after the events. The reason given to the team to justify the failure to complete the investigation is that they were waiting for the Judea and Samaria surveyor (nine months after the file was transferred to the head of the Samaria investigations office for the purpose of carrying out the surveying).

The Kedumim Episode (Supreme Court case 430/81)

The director of the Supreme Court matters department wrote on this issue on 25.9.81 to the head of the national police headquarters investigations branch, as follows:

1. A petition has been filed with the Supreme Court, in which the petitioners claim that they own lands in the village of Kadum in the Judea and Samaria area, and that their lands were sown and planted with olive trees. Likewise, the petitioners charge that in the months of May and June of this year, approximately 300 trees were uprooted from these lands and that acts of trespassing and damage to property were committed. The petitioners further charge that a complaint was lodged with the Israel police about the above acts, and that appeals on this issue were directed also to military government representatives.
2. For the purposes of drawing up the reply to the petition, we sought to clarify the facts; and in a meeting which I held for this purpose, the head of the Tulkarm investigations office and his assistant also took part. The abovementioned police officer presented me with the investigative file which had been opened on this issue.
3. A study of the investigative file shows that complaints were indeed lodged with the Tulkarm police about the matter raised in the petition, and that the police investigation revealed that hundreds of trees were indeed cut down and uprooted, and illegal actions were indeed perpetrated with regard to land to which the petitioners claim rights. The case was closed on grounds of offender unknown.

4. While I am aware of the many difficulties involved in the identification and tracing of offenders in cases involving harassment of residents of Judea and Samaria, we have already repeatedly warned that every effort must be made in order to try to complete investigations and locate offenders (you surely remember the Beit Hadassah affair in Hebron).
5. Concerning the subject of the petition under discussion, we shall have to explain to the Supreme Court what actions were taken in treating the complaints lodged with both the police and the military government. For myself, I am of the opinion that it was possible at least to try to discover the identity of one of the main offenders in the case, as the complainant in the police file gave a description of a man who had threatened him a day before the acts were committed; moreover, a police investigator at the site found one of the Kedumim settlers there. Furthermore, according to the complaint, a tractor was also at the site, and it could be ascertained who used it. I have therefore asked the head of the Tulkarm investigations bureau to reopen the case and complete it.

I see fit to take this opportunity to reiterate that those responsible for investigations in the Judea and Samaria area be instructed as to the importance of investigative activities aimed at finding out who is responsible for acts of violence and disturbances of the peace in the area.

I would be grateful, therefore, if you would direct that I be speedily provided with the findings of the investigations, as well as a report on the actions taken as a result of the investigation, as the petition is scheduled for a hearing in the Supreme Court on 16.11.81.

The file returned (*sic*) for completion of the investigation, and in spite of the indications, which might, it seemed, have served as a basis for identifying the suspects, the file was returned on the completion of the investigation exactly as it was sent out, and submitted months later to the central District Attorney's office, with a recommendation that it be closed. It may be assumed that the passage of time, along with the absence of a substantive investigation close to the [time of the] complaint, are what precluded the possibility of completing the investigation.

The Case of the Relations of Shiloh and Kafr Karyut

- A. In the months of September and November 1981, Attorney Khouri complained, on behalf of the residents of Kafr Karyut, that his clients were being driven off their lands by force by set-

tlers of Shiloh who had illegally—and using weapons and armed threats—seized and trespassed on his clients' lands.

In his letter to the deputy legal counsel to the Judea and Samaria area command, Attorney Khouri notes that the military government had in the past, when his complaints about trespassing had proved to be justified, intervened in order to return the situation to the *status quo ante*; and he adds:

On 5.11.81, after you informed me that the Shilo settlers were not under your jurisdiction, and that you could not force them to leave the areas they were trespassing on; and after I informed you that in the past my clients had complained to the police about the matter—but the police did not open a file and directed them to the military government, who did nothing in this matter—you advised me to complain to the police again, and that you for your part would see to it that the police handled the matter as required by law. My clients lodged a complaint on 5.11.81, and on that same day the investigator, Mr. Halim Aas, of the Nablus police force, called me and told me that he was handling the complaint, and that the settlers would be interrogated about the matter.

Mr. Khouri ends his letter by expressing the hope that the Shilo settlers would be prosecuted for breaking the law and trespassing—and that the police, with the army's help, would prevent further violations of the law by the settlers, and prevent them from provoking and threatening his clients. In his letter of 9.11.81 to the Attorney General, Attorney Khouri complains that the violations of the law by the settlers were not halted, and in his words, “they continue to do whatever they want in the belief that they are immune and protected (perhaps justly) by the military government and the government who support them and back them up . . .”

- B. During the discussion on 2.11.81 in the office of the director of High Court affairs, and with the participation of the head of the inquiry team, the Shilo inspector and the Tulkarm district rural officer made it clear that they had received many complaints about harassment by Israeli settlers. As a result of this meeting, the head of the international law division requested, on behalf of the military Advocate General of the Judea and Samaria command, that the complaints lodged with the police and with the

districts be compiled and submitted to the chairperson of the inquiry team.

C. On 1.12.81, Major Shimon Stein, assistant legal counsel to the Judea and Samaria command, wrote the following letter to the Israel police:

1. In my telephone conversation, to which you refer, I was told that the file, although opened at the Nablus station, had been transferred to the Ramallah station.
2. Owing to the great sensitivity in handling this case—and this because of the fact that the attorney (A. Khouri) has complained to me that in the past the police had been unwilling to investigate this matter—and because there exists the possibility of a petition to the Supreme Court in this regard, I would ask you to handle the file forthwith, and not to pass it back and forth between you.
3. It should be noted that I, myself, have also been to the site with the attorney; and my impression was that there exist, at least ostensibly, signs of the working of wide areas of land in sections not allotted to the settlement.

D. On 15.1.82, following a meeting on the subject in the office of the director of the civilian section in the state attorney's office, it was decided that the assistant legal counsel for the Judea and Samaria area would direct the police in taking detailed statements concerning the matters under dispute with regard to possession.

Following what was clarified at the same meeting, that Shilo residents illegally blocked the Karyut villagers' access road, the settlers promised to refrain from blocking the road. It was also agreed, that after the reception of the findings of the police investigation and other material to be collected, the rights of usage pertaining to the disputed plots would be determined. It should be stressed that at the meeting, the lands aspect—and not the criminal aspect—of the complaints made by the Karyut residents were discussed.

E. Up to the time of the writing of this report (some eight months after the incident), the police investigation has not been completed. On the other hand, Attorney Khouri contacted the director of High Court affairs on 11.4.82, and complained again that Shilo residents were chasing away the Karyut villagers, and that he had phoned the assistant legal counsel of the Judea and

Samaria command—who responded by saying, “there’s nothing to be done.”

The police give as the reason for the fact that the treatment of complaints dating back to September and November, 1981, have yet to be completed, that the issue of surveying at the site—not the police’s job—is a very difficult one, and that to this day, the boundaries have yet to be determined, so that the dispute might be settled.

Mahmud Awad’s Wife’s Complaint (Supreme Court, 12/82)

- A. On 19.1.82, the Supreme Court heard the aforementioned case, and, *inter alia*, ordered that the petitioner’s wife’s complaint of assault be handled, and that the results of the investigation be brought to the attention of the petitioner’s lawyer.

At the same hearing, the Attorney General’s representative declared that:

Insofar as the matter relates to the complaint of the fifth petitioner’s wife, who claims she was beaten by a police official—this complaint is being looked into, and the results of the investigation will be brought to the attention of the petitioner’s lawyer; additional complaints brought in the prescribed manner, will, of course, also be treated in the accepted fashion.

- B. On 2.2.82, the director of High Court affairs in the state attorney’s office sent the head of the investigations branch at national headquarters a copy of the Supreme Court’s 12/82 decision, and wrote the following:

Because the incident is connected with, *inter alia*, shortcomings on the part of the police in handling complaints of local residents, I have seen fit to bring these matters to your attention.

I especially wish to make you aware of what is said in section 2(c) and (d) of the Supreme Court’s ruling, and the obligation ensuing therefrom—that is, that the police and army intervene on the spot only if there is the fear of a disturbance of the peace or public order, and that complaints filed with police be duly investigated.

We have also undertaken to pass on the results of the investigation of the complaint by the fifth petitioner’s wife to the petitioner’s lawyer. . . .

I would appreciate your issuing the appropriate orders.

- C. On 9.2.82, the chairperson of the inquiry team requested a report on the results of the investigation; and the same day, the head of the investigations branch at national headquarters requested details about the incident in a letter to the head of the Samaria investigations office.
- D. Up to the writing of this report, the investigation has not been completed. The report of the police representative on the inquiry team had it that the suspects in the assault of the woman are members of the border police, and that on 24.1.82 the border police appointed an investigating officer. The police representative has not yet succeeded, up to the writing of this report, in obtaining details of the fate of the investigation, or the reason for its prolongation. It should be noted that the complaint dates back to 21.12.81; needless to say, it is difficult to expect any results from this investigation.

The Complaint of Nicholas Jaris (Supreme Court 149/81)

- A. In the wake of the petition of a Beit Jallah resident concerning expropriation of lands, the Supreme Court ordered that the petitioner's complaints be investigated. The petitioner complained that on 15.2.81, civilians and soldiers treated him violently as they were fencing off his plot and he attempted to protest the action. The Supreme Court said in its ruling (of 13.5.81): "Ms. Beinish . . . told us that these complaints were now being investigated, and we are acting under the assumption that the two circumstances of the complaint mentioned here will indeed be thoroughly checked into, despite the rejection of the petition."
- B. On 25.5.81, the director of High Court affairs wrote to the government authorities and brought the Court's comment to their attention.
- C. On 19.6.81, the chairperson of the inquiry team requested a report on the investigation and its results.
- D. Up to the time of the writing of this report, the investigation has yet to be completed; on the other hand, it seems that the Israel police are searching for the investigative file which has disappeared (a year and three months after the incident).

The Tomb of the Patriarchs WAQF Guard Case

- A. In the wake of a report—in the newspaper *Ha'aretz* of 22.10.81—on the assault of a guard in the Tomb of the Patriarchs, as well as on an excavation beneath the lower level of the Tomb, the inquiry team requested a report on the investigation of the incident.
- B. The legal counsel to the Judea and Samaria command submitted to the team (on 17.12.81) a report (from 30.11.81) compiled by Lt. Col. Manoach Zahavi, Commander of the Hebron district, from which arises the following:
- A. The incident of the striking of the guard:
1. On 18 October 1981, between the hours of 16.30-16.45, the Ministers of Justice and Communications visited and prayed in the Tomb of the Patriarchs, as part of the celebrations marking the dedication of a new Torah scroll (in the name of the Justice Minister's father) for the *Avraham Avinu* (Abraham our Father) synagogue.
 2. Many Kiryat Arba residents joined in celebrating the event.
 3. During the prayer service in the Tomb of the Patriarchs, in the Hall of Isaac, one of the *waqf* guards walked past the worshippers on his way from the entrance to the Muslim prayer area. As he passed, one Kiryat Arba resident kicked him in the leg, in full view of the Hebron police commander and other policemen.
 4. I was also at the site, and the matter was immediately brought to my attention. I immediately instructed the *waqf* guard to lodge a complaint with the Israel police, and I asked the Jew who had kicked him why he had done what he did; I received a rude reply.
 5. Despite my explicit instructions, the *waqf* guard did not file a complaint with the police, and only a few days later, when the police investigator realized that the Arab hadn't complained, did I order the guard to come immediately to the police station and lodge a complaint, which he did.
 6. The matter is still under police investigation—incident B—from 23.10.81 (the man lodged his complaint on 23.10).
- B. The incident of the excavation in the Tomb:
1. On 19 October 1981, at 02.40 hours, an attempted break-in to the lower level of the cave, by a group of Jewish worshippers from Kiryat Arba, was discovered. After the discovery, everything was done to conceal it and to try and repair the damage without the *waqf* personnel finding out. At 06.15 hours, the affair was discovered by the same *waqf* guard (incidentally, it should be noted that until that very moment, the guard had walked with

a decided limp, to show how badly he'd been hurt by the Jews; but suddenly, when this episode was discovered, he began running like a frightened deer).

2. The police investigator was personally present at the site. The guard wasn't injured at the time of the discovery, neither by Kiryat Arba residents nor by anyone else. (There were many soldiers and officers at the site.)
3. Complaints were lodged with the Israel police by the police investigator and the Tomb commander against those suspected of attempting the break-in and causing the damage, and a police investigation was opened (police file #1014/81).
4. It is typical that a journalist such as Yehuda Litani who regularly writes tendentious anti-government reports, should deliberately cook up and combine two totally unrelated episodes, in order to smear [the authorities].
5. It is recommended that from now on, issues of this type be looked into and solved via a single phone conversation, avoiding unnecessary and burdensome paperwork.

C. Since it appeared from the report that the Hebron police had opened a file (which by the way, wasn't among the incident reports which the team received), the inquiry team requested a report from the police on what had been done in the case.

D. Instead of a report on the October incident, the Jerusalem District Attorney received, in March 1982, a file on another assault incident from July 1981, and decided to close the case for lack of evidence. In his letter of 12.3.82, the District Attorney wrote:

I decided to close the above case for lack of evidence, on the following grounds:

1. On Saturday, 4.7.81, a number of Jews were praying in the Tomb of the Patriarchs, in a place in which Jews do not pray. According to the testimony of the IDF duty officer at the spot, this was done with the aim of preventing *waqf* personnel from passing through.
2. The complainant, Hader Abu Sneina, sought to pass through, but the worshippers prevented him from doing so; and following intervention by the duty officer, at a point at which it appeared to him (the complainant) that he would be allowed to pass—he was suddenly assaulted by one of the worshippers, a man “with a reddish beard;” hence his complaint.
3. Statements were taken that same day from the duty officer and another IDF soldier, while the complainant's statement was taken

the following day. Statements by other eyewitnesses, principally worshippers, were taken about three weeks later—although, from a memo in the file (document d), it appears that a preliminary investigation into the identity of the suspect had already been made on 7.7.81.

4. The reddish-bearded man, who, according to the evidence, is the one who assaulted the complainant, wasn't located by the police, and therefore I saw no alternative but to close the case. Nonetheless, I would like to observe that the investigation was not conducted properly, since, in my opinion, had the investigation to trace the suspect begun on the day of the incident, it would have been possible to find the suspect and to try and have the complainant identify him. I am not disregarding the fact that the complaint apparently arrived from military government circles sometime late in the evening of the same day—which in itself is not satisfactory—but in my opinion, it would still have been possible that same evening to go out and find the suspect. This was not done and, as was said, only on 7.7.81 was any investigation begun to trace him.
5. The undesirable result, then, is that on the one hand, the complainant was struck, and on the other, his attacker cannot be prosecuted, due to shortcomings in the investigation.

E. Although the gravity of the shortcoming speaks for itself, it is difficult not to add the following:

1. The authorities explicitly committed themselves before the Supreme Court to maintain law and order in Hebron and to handle complaints or occurrences entailing suspicion of a criminal offense, even where no complaint has been lodged (cf. above, Beit Hadassah episode—Supreme Court case 175/81). The method of handling detailed above does not indicate any adherence whatsoever to the aforementioned commitment.
2. The assault took place at a holy site, which the police are doubly obligated to protect. The circumstances of the offense, the sensitivity and method of investigation into the issue demonstrated by the police attest, if not to a deliberate omission, then certainly to a grave shortcoming.
3. The police file is full of paradoxes. On the one hand, it says that no police line-up was held, because the complainant knew all the people who were praying and even said he could iden-

tify the complainant (*sic*; this obviously should be the “attacker”); but on the other hand, the complainant didn’t succeed in identifying him.

4. From the material in the file, it clearly emerges that the group of worshippers was praying at a time not set as a prayer hour, in a place where prayer is forbidden (in the passage to the entrance)—and apparently, with deliberate intention of blocking the passage of Arab worshippers. Nonetheless, the emphasis in the police file is on the provocation by the *waqf* guard, who sought to pass through precisely during the silent prayer, and consequently on the lack of public interest in forwarding the case, since the deed (kicking—ed.) was done with the aim of preventing the prayer from being interrupted, and not with the aim to assault.

It should be made emphatically clear that, from the material, it is manifest that the *waqf* guard sought to go through the passageway which was deliberately being blocked by the worshippers (testimony of the duty officer in the Tomb); for after the worshippers refused to let him pass, the duty officer came to his aid and asked—to no avail—that the man be permitted to go through; and when the duty officer cleared the way for the guard, a worshipper struck the latter as he passed by.

5. The Judea investigations office head, who appeared before the inquiry team and who was asked to explain the shortcomings in the investigation, said that the incident had occurred on the Sabbath, and they hadn’t wished to disturb the Jews’ Sabbath rest. He added further that “the complainant always makes trouble for the Jews when they’re praying;” that this was, in sum, an assault incident, and that no special efforts are made in Israel, either, in such instances; that there had been provocation on the part of the assault victim, who had dared pass through among the worshippers during the silent prayer; that there is no public interest in the case, because it involved a *waqf* guard who had provoked the worshippers; and that the investigation would not have been conducted any better in Israel. He further stated that the complainant filed his complaint only the following day. But it should be noted that on

the day of the attack, military government personnel reported the incident to the police; and in the opinion of the inquiry team, the police were then obligated to embark immediately on an investigation. One wonders whether the police so conduct themselves when there is a disturbance at a holy site within Israel, and whether these are the priority considerations which govern its fulfillment of its task in this sensitive sphere (not to mention that it turns out that the assault was not an isolated incident at the holy site).

6. The head of the Judea investigations office told the inquiry team that there had been no cooperation on the part of the residents of Kiryat Arba, (and) that this had thwarted the investigation.
7. The inquiry team has not yet received a report on the fate of the investigation of the attempted break-in and damage done to the Tomb of the Patriarchs. Even though, according to Lt. Col. Zahavi's report, a police investigation had been initiated, the file was never mentioned in the police's ongoing reports to the inquiry team. As for the attack of 19.10.81, the material was transferred to the claims department of the Jerusalem precinct on 20.5.82, so that the suspect in the attack might be brought to trial.

Complaint Filed by Attorney Na'amana

- A. On 18.12.81, Attorney Na'amana filed a complaint that his client had been struck in the course of an action carried out by soldiers or border police who had entered a club in Kalandia. According to the complaint, the complainant was taken to Hadassah hospital as a result of the blows, and because of the seriousness of his condition, Ramallah prison authorities initially refused to receive him.
- B. On 13.1.82, Col. Baruch Hollander transferred the complaint, via the inquiry team, to the Israel police for investigation, because border police had been involved in the incident. An investigating officer was appointed, but to date—some six months after the incident—the investigation either hasn't been concluded, or its conclusion hasn't been reported to the inquiry team, despite repeated appeals.

The Hurling of Grenades at the Home of the Dana Family

- A. In the wake of the newspaper coverage in February 1982 of the hurling of grenades at the home of the Dana family, the inquiry team attempted to ascertain whether the incident had been investigated (let it be noted that the incident was not included among the reports received by the inquiry team). According to the family, which lives on the border of Kiryat Arba, they are being harassed with the aim of getting them to leave their house.
- B. In the course of the team's work, two more incidents in which grenades were thrown at the same house were recorded (the third on 18.3.82).

The following emerges from the report of the head of the Judea investigations office before the inquiry team:

There are indications that the grenade was an IDF weapon, and one of the guards saw a figure wearing an IDF uniform flee from the site after the grenade was thrown. A special investigative team was set up (after the third grenade was thrown). The guard was questioned, and it is believed that he knows details, but is afraid to talk. The team worked in various directions, and investigated in the field, but they turned up nothing. The suspicions run in a certain direction, but the police are powerless because the residents of Kiryat Arba do not cooperate, and it is impossible to question them.

The Wounding of Azat Iزارu – Washing Machine Repairman in Hebron

- A. In the wake of yet another newspaper story (dated 2.4.82), according to which four Kiryat Arba residents attacked a man by the name of Azat and wounded him with knives (*sic*), the inquiry team asked the police to submit a report. According to the account of the journalist (Yehuda Litani), Superintendent of police Kalij had told him that the motive for the attack was “adultery,” and that the identity of the stabbers was known to him—and that he had even advised the suspects “to confess in court and have done with.”
- B. It should be noted that the incident was not included in the ongoing police reports to the team. Mr. Kalij explained to the inquiry

team that the station chief had not reported the incident to him, and that the incident had taken place on the backdrop of relations between the attacked Arab and a Jewess, and that the attackers could not be identified. Mr. Kalij denied the remarks attributed to him in the media report, said there was no evidence, and that the case had been closed on the grounds of offender unknown on 10.1.82 (not by the District Attorney, as per the team's recommendation, but at the station).

- C. The team requested to see the investigation's file, and upon examining it, it is worth making the following points:
1. The impression is that not all the possible suspects were investigated.
 2. The file contains a memo stating that, since all (?) are reconciled to the incident because of the particular background (relations between an Arab and a Jewess), there is no lead as to the identity of the attackers. An appeal was made to intelligence—but nonetheless, the case was closed for reasons of offender unknown. It must be reiterated that the inquiry team was not informed of the case until after it had read about the matter in the press, and that the case was closed not in accordance with the inquiry team's directives.

The Case of the Pottery Dealer from Jericho

- A. On 16.5.81, the owner of a pottery store in Jericho complained that a Jewish resident of Beka'ot had threatened him with a weapon.
- B. The police report of 24.11.81 did not contain results of the investigation. In accordance with the team's wish to find out what the outcome of the [case] had been, the team was informed that the case had been closed because the complaint had been withdrawn and because the matter was a business feud. The team requested the file; and it became evident upon examining it, that the storeowner had complained after selling some pottery to customers who had placed it in the trunk of their car—in spite of his advice not to do so, for fear that it would break. The people returned a while later, complaining that the vessels were cracked and demanded at gunpoint that their money be returned. After

receiving their money, they threw the vessels at merchandise in his store, causing him damage.

- C. In the wake of this, the Jerusalem District Attorney wrote (on 26.2.82):

I have examined the evidence that has so far been collected in this file, and have come to the conclusion that there is *prima facie* evidence of the commission of offenses of extortion by threat (as per article 428 (end) of the penal code), causing deliberate damage to property (article 452 of the penal code), and obstruction of an investigation (article 245 of the code).

The complainant claimed that (name deleted) threatened him at gunpoint to return money (that he had paid for the plants). He also claimed that the suspect threw the plants, causing deliberate damage to other ceramic ware in the store.

He also contended that afterwards, the complainant (*sic*; obviously, suspect is meant) told him "if you notify the police, I'll come back and kill you."

The complainant stated that the incident was witnessed by a man named Abu Hassan; no statement was taken from Abu Hassan. There might be additional witnesses to the incident.

The testimony of the suspect and his two friends does not seem credible to me, since the gun-related incident is not mentioned at all by the two friends.

I am sending this together with the material, and request that the investigation be completed properly: The suspects should be summoned, with a warning, for additional questioning; investigative steps in accordance with the should be undertaken; and upon completion of the investigation, the file should be returned to me for a decision.

- D. The head of the Judea investigations office was asked to offer an explanation for what had occurred. According to his statements before the inquiry team, the police did not deal with the extortion aspect because the parties involved took care of the matter themselves; and if a complaint is retracted, even if it involves a criminal offense, the public has no interest in continuing procedures. He added that the complaint about threatening at gunpoint should be disregarded, because the Arabs exaggerate, and a Jew has only to carry a gun for them to claim they have been threatened. On this we must comment:

1. There is no trace in the file of a cancellation of the complaint.

On the contrary, according to the complainant's testimony, he was threatened with murder if he filed a complaint.

2. At issue here is a threat at gunpoint, receiving something as a result of a threat, and the felony of obstructing an investigation. According to the complainant's testimony, the weapon was pointed at him. One of those interrogated claimed that the weapon accidentally fell; in any case, there is certainly more at issue here than merely carrying arms.
3. It is difficult to assume that in Israel this type of case would be closed on account of lack of public interest.

E. At the time of the writing of this report, the investigation has not been completed (complaint filed 16.5.81).

Damage to Buses in Ramallah

On 10.4.81, the Ramallah police station received a complaint about damaged buses. A suspicion existed that reserve soldiers, Yeshiva students from Kiryat Arba, caused the damage. On 7.5.81, the station recommended closing the case, on the grounds of offender unknown. On 14.5.81, the Judea investigations office director sent a letter to the commander in Ramallah, in which he severely criticized the investigation—noting that, in fact, no investigation had taken place, but that the police had sufficed with a request to the CID and had not made the slightest effort to clarify the details in its possession. Despite the severe criticism, the file reveals no further effort to complete the investigation; and on 25.4.82, about one year after the incident, the case was closed on the grounds of offender unknown.

Investigation of Cases of Unnatural Deaths

A. The team had special difficulty following up police investigations of cases of gunshot wounds in which Israelis—not soldiers—had been involved, especially given the recent increase of such incidents. Police reporting in this sphere has been exceptionally slow. On injuries alone (not involving a complaint), there was no reporting and no investigating at all; and the police's position is (according to the head of the Judea investigations office and the police representative) that the police are incapable of following

up these incidents. The team's inquiry, in any case, was basically deficient, because updated details of reports were received by the team after a great delay. The inquiry team received reports on two investigations into deaths—the case of the killing of the boy from Sinjil (15.3.82), and the case of the killing of a boy in Bani Na'im (24.3.82). According to (*sic*; this should be “as a result of”) media information, the Commission requested details on the death of a 14-year-old girl from the village of al-Aroub, near Hebron—a case which was not included in the police reporting.

- B. The inquiry team's impression of the three aforementioned cases was that the appropriate energy and required efficiency for investigations of this kind were not evident—and doubts arose as to the actual method of investigation. In the Bani Na'im case, investigation of the suspect did not commence until six days after the incident—while in the interim, a delegation of Israeli local residents had presented themselves to the police and explicitly declared that the residents would not cooperate with the police, and would behave only as per instructions from the military government and the Minister (?) (the shooting suspect was apparently among the delegates). An arrest warrant that had been drawn up regarding one of the suspects was never served; and it is suspected that the police officers did not properly discharge their duties. (According to the report of the head of the Judea investigations office to the team, police officers had planned to serve the arrest warrant after midnight, and they reported that the suspect had not been at home—although the suspect claimed to have been at home.) The case was investigated in such a manner that the (District) Attorney had to return the file for completion of the investigation.
- C. Regarding the murder of the youth in the village of al-Aroub (an incident from the end of April 1982)—the team has still not received details of the investigation; it appears, on the face of it, that there was an inconsistency of reporting between the various elements within the police—and the suspicion arises that the police did not efficiently follow through the investigation's leads that could lead to the identity of the person who fired the weapon.

(editor's note: What follows now is what is called **Concluding Section of the Karp Report**, issued by the GPO on 7.2.84. All question marks in parentheses that appear in the text appear that way also in the original.)

BG, NW, AC, BY, NK, DSE, AT, JS/BG, NW, AC, BY, AT, JS

Conclusions of the Karp Commission

Concluding Section, as Determined by the Government Press Office

*(See introductory section and memo from the director
of the GPO news department, this date*)*

The above findings deal with 15 incidents which were investigated. They are only a portion of the entire group of 70 cases on which the team received reports. The inquiry team, as stated earlier, did not examine the entire group of cases to the full, and it therefore cannot determine with finality that the above findings characterize all investigations in the area under examination. However, a study of the details of these (15), and the fact (noted above) that of the 70 cases, 53 were closed without results, requires thought, if not concern. In any case, consideration should be given to whether the state attorney's office can indeed make a commitment in future before the court about conducting serious and effective investigations.

An analysis of the above requires that the following points be considered:

- A. 1. The complaints submitted to the police centered mainly on the following: assault, damage to property, threats, armed threats, shootings, trespassing and closing off rights of way to fields and businesses in towns (among the complaints were also attacks on schoolgirls and an incursion into a private clinic for purposes of prayer).

A common denominator may be discerned here, which is that the backdrop to their occurrence is not the usual criminal delinquency; and save for instances of shooting for self-defense, they may be characterized as springing from the desire to demonstrate "rights" on the ground. In any case, they bear a sort of witness

*It appears that the memorandum from the director of the GPO news department was never released.

to an ugly atmosphere in the relations of Israeli residents of Judea and Samaria to the local populace. These things focus mainly on Hebron and the Shilo area.

2. In case 214/81 in Jerusalem district court, two Israelis were convicted on 2.9.81 of attacking a Hebron Arab, trespassing, and deliberately damaging property, following the latter's refusal to allow them to enter real estate which the accused claimed was Jewish property.

In his verdict, Judge Goldberg noted the following:

In the instance before us, the accused at first only asked to enter an abandoned storey so as to demonstrate their presence in a non-violent manner; but when they encountered a refusal, they did not give up, but rather used force against the person who stood in their way. The accused's attachment to Jewish property cannot serve as justification for an act of hooliganism; and not by assaulting an elderly man and overturning crates of fruit at his stand will the accused bring about realization of rights to Jewish property. The Court cannot treat these actions indulgently. . . . even if these are youths who have no past record.

These statements were cited in this context because they would appear to represent the character of most of the complaints which are the subject of our inquiry.

3. We will not have done our duty if, in describing the nature of these actions, we do not deal with the events which transpired during the curfew in Hebron in May 1980, following the murder of the settlers. True, these are incidents which occurred in the wake of a trauma—and for this reason, we have no intention of presenting them as being usual, certainly not in their cumulative scope; but they are mentioned here as representing incapacity both to prevent acts of hooliganism towards the Arab inhabitants and to investigate complaints in this sphere.

This is said particularly in view of the fact that the actions took place during a curfew. After the curfew, which lasted several days, local inhabitants complained to the Hebron police about thefts, looting, damage to property, assaults, stone-throwings, and deliberate arson which occurred during the curfew. A report from 22.8.80 by Uri Shoham, Military Advocate (Jerusalem, Judea and

Samaria district military police file 240/80), lists 13 complaints of this type.

In view of the fact that the incident took place prior to the inquiry team's work, we will not go into detail on the grave episode which emerges from an analysis of these incidents, but it should be noted that the report spells out in detail that soldiers—eyewitnesses—stated during the investigation that they had seen with their own eyes how civilians from Kiryat Arba were the ones who had vandalized Arab property during the curfew. The following are some of the eyewitness citations included in the report:

“Kiryat Arbans roamed about Hebron damaging Arab property in revenge.”

“The main job of Brigade 202 was to chase Kiryat Arba residents and prevent these incidents.”

“I know that Jewish residents of Kiryat Arba are the ones who smashed car windshields. I saw this with my own eyes.”

“I saw Kiryat Arba residents smashing windshields and throwing stones. The friction was more between the IDF and Jews from Kiryat Arba than between the IDF and the Arabs. The Kiryat Arbans carried their weapons and were dressed in civvies.”

“I saw Kiryat Arbans throwing stones and smashing store windows and windshields.”

The report found that “there is no doubt that damage was caused to homes and cars of local residents in Hebron, when, among other reasons for this, one should see activity by Kiryat Arba residents. From various testimonies, it appears that despite the curfew, civilians from Kiryat Arba went about the town, some of them carrying weapons and wearing uniforms. In a few cases, these residents were seen throwing stones and causing various damage to property.”

Likewise, it was found that soldiers who witnessed vandalism by a Kiryat Arba couple did not stop them, did not arrest them for their actions, and did not take their names. **Epilogue:** According to the report on 25.11.80 by Chief Inspector Steinmitz,

all the files the police had opened in their investigation of the event were closed, on the grounds of offender unknown.

4. From the start, the nature of the acts, the subject of the complaints and their background constitute, *per se*, a factor working against effective investigation. The fact that the suspects in the case aren't criminals in the usual police sense also doesn't help promote special efforts in the investigation, even without taking into account the overt delaying factors which will be detailed below.

- B. 1. As a general finding, we can say that police activity to maintain public order and [ensure] the inhabitants' welfare in Judea and Samaria (at least in the sphere of Jewish-Arab relations) focuses on investigating in the wake of complaints. Incidents of lawbreaking when no complaints were lodged are not investigated. This holds true mainly regarding injuries resulting from shooting, but it is also true of simple criminal offenses. The inquiry team, in any case, did not receive reports on police discoveries.

This is clear from episodes discussed earlier, principally those instances in which an investigation was begun as the result of a Supreme Court request or at the instigation of the inquiry team. One may therefore say that the police have not been honoring—as they might have been expected to do—the commitment given the Supreme Court regarding awareness of what goes on in sensitive areas, so as to prevent illegal actions insofar as possible.

2. The Judea investigations office head presented his position to the inquiry team, whereby the police haven't the power to initiate investigations into incidents about which no complaint has been lodged.
- C. 1. The material submitted to the inquiry team clearly indicates that local residents refrain from complaining (Beit Hadassah, the Hebron school principal—aftermath to the Beit Hadassah affair, the assault on the guard at the Patriarchs' Cave, *et al.*); and although the team hasn't any way to keep close tabs on events in the area via means other than police reports, one may conclude with a large measure of confidence that criminal occur-

rences take place in the area, [occurrences] which are not investigated, and whose scope isn't known to the inquiry team. In this context, the astonishing fact should be noted that in the Samaria district, the police reported on just two complaints in the space of half a year.

2. The potential reasons for this absence of complaints may range from fatalism and natural tendency not to complain, to a lack of desire to come in contact with the authorities, to fear resulting from a threat or fear of an act of revenge, to drawing conclusions from a lack of results in previous complaints to the police or from police refusal to handle complaints.

While failure to report offenses is not typical only of Judea and Samaria—even in Israel, the number of complaints is far from reflecting all the offenses committed—the material presented to the team still gives substance to the fear that the pretext of alienation from the authorities (cf. The Arab proverb: “If the judge is your enemy, to whom can you complain?”), and fear of complaining due to the abovementioned fear of revenge, do indeed constitute a reason for failure to report. Another possible reason for failure to report, in the cases of gunshot wounds, is involvement by the wounded in incidents of stone-throwing or riots.

But besides all this, there is undoubtedly a direct correlation between the large number of investigations which end with case closed—and the large number of cases whose handling stretches over a long period—and the waiver of the right to complain. The real situation points to a vicious circle in which occurrences aren't investigated for lack of complaint, while complaints aren't submitted because of a lack of proper investigation. The rule of law and public order surely do not come out the winners in this matter.

3. At the start of the inquiry team's work, an attempt was made, both in the police and in the Judea and Samaria command, to set up an ongoing media watch for the purpose of instigating investigations in cases where no complaint was made. But the team failed in its efforts to get those concerned to maintain this watch. The team's watch on media reports was, as said, sporadic.

At the start of its work, the inquiry team also considered possibly taking action to encourage residents to complain, but felt that this would not be effective so long as there had been no investigation into the method of handling those complaints which had been submitted. From the inquiry team's experience, it may be deduced that no thorough and reliable investigation into the issue is possible without a constant and ongoing watch on the media (mainly the Arabic-language papers).

- D. The problem of cooperation between the police and the military police requires reorganization. The question comes up both when the police need military police aid in investigations in which there is a suspicion that soldiers were involved in the offense, as well as in the matter of the splitting of cases in military police investigations which require the military police to get help from the police to interrogate local witnesses. The material before the Commission points to malfunctions, and thought should be devoted to this at the highest levels.
- E. 1. The inquiry team didn't have the means for drawing comparisons, but its initial impression is that the number of cases in this sphere whose handling ended in closure of the case—on the grounds of offender unknown—exceeds the number acceptable in other spheres.
2. Of course, one must not overlook objective difficulties which exist in identifying suspects in occurrences of a certain type. Occurrences such as damage done at night, and gunfire from fleeing cars are, by their nature, difficult to solve. An additional difficulty occurs in incidents involving injury resulting from gunfire, since, as previously stated, the injured themselves face trial for involvement and therefore don't testify. These are objective difficulties that must be taken into account.
3. Another difficulty in connection with this, as previously mentioned, is that in CID investigations, the local residents are interrogated by the police, and material is passed onto it long after the incident, so that it's doubtful whether the investigation of the incident can be useful. The result is that witnesses from among the local population are not interrogated, and without such witnesses, it is necessary to begin from the assumption that

there was a roadblock, stones were thrown, there was a need to fire, the shots were actually fired in the air, and so it is difficult to reach any conclusions regarding identifying who fired. The difficulties increase in events ending in the death of an individual. Then, the question is asked whether in light of the loss of human life, there is reason to grant immunity to stone throwers or participants in riots, so that they will testify.

In the case of the death in Beni Na'im, the police decided not to grant immunity to the participants in the riots. Already at that stage, it was possible to say that the investigation was, therefore, one-sided and this has implications for the results.

4. Another phenomenon, relating to the non-identification of suspects, is that the complainants retract their statements that they can identify a suspect (such was the case in the Tomb of the Patriarchs incident, and the same for the uprooting of the vines in Kedumim). It is not for the team to establish the reason for this phenomenon, but the fear of the complainants should not be ruled out (fear of the threat in the case of the Jericho merchant). The inquiry team was not convinced that in the cases where complainants reneged on their willingness to identify a suspect, the police made real efforts to encourage the complainants to cooperate with them.
5. At the same time we can, without misrepresenting reality, point to a direct connection between the plethora of cases closed due to offender unknown, and failed investigations, either because the proper speed was not displayed when the event took place, or the investigation occurred a long time after the event, or because no proper efforts were made to locate persons (and it is fitting to recall in this connection that during the Hebron curfew incidents, as mentioned earlier, all the cases of complaints of property damage, arson, assault, and others—numbering at least 13—were closed on the grounds that the offender was unknown).
6. Due to constraints, the Committee did not check every file that had been closed on grounds of offender unknown; but the few that were checked give cause for concern. (Thus with the Hadassah file, the file on the assault in the Tomb of the

Patriarchs, the file on the washing machines installation; the damaged busses case stands out in particular, in which, as explained above, no action was taken to locate the offenders.)

Additional sample files, from the Commission's random checks:

In file criminal/civil 280/81 Ramallah station (wounding after stone-throwing and erection of barricade) the Jerusalem District Attorney noted: "The file does not contain testimony of eyewitnesses from among the local residents. In my opinion, no effort worthy of the name was made on the day the complaint was filed—which was the day the incident occurred—or on the days immediately following, to locate eyewitnesses."

In file criminal/civil 169/82, on the investigation of a complaint by a taxi driver from Silwad, who was travelling near Ofra and complained that a rock thrown from the settlement hit his car, the Jerusalem District Attorney wrote on 16.5.82:

No testimony was taken apart from that of the driver, and there is no material in the file that can attribute any guilt. The file was closed on grounds of offender unknown, and the matter is not within my purview. The file notes (in the investigations log) that efforts were made to locate suspects, but there is no documentation for this claim in the file.

It appears that matters speak for themselves. The multiplicity of cases in which files were closed on grounds of offender unknown demands attention.

- F. 1. The team formed the impression that the police investigations in the sphere of our interest were carried out in an ambivalent manner, as is evident from the results of the investigations.

This ambivalence stems not only from the natural complexity of the situation, and not only from the fact that the suspects in the abovementioned complaint files are not perceived by the police as offenders in the usual sense; it appears that the situation stems also, and mainly, from external interference on the part of military government personnel, in giving orders concerning the actual opening of investigations and related matters such as release from detention.

2. This was explained very bluntly to the inquiry team by the head

of the investigations department in Judea, Superintendent Kalij, who provided examples. Similarly, he also explicitly stated in his report (of 1.6.81) on the Beit Hadassah case:

The military governor of Hebron instructed the Hebron station chief not to handle the matter, as he would see to it that the military government repaired the damage. . . . In the first case, the complaint of *dendis* in the matter of the ceiling was not investigated properly, as the previous military governor had given instructions not to handle the case.

In his appearance before the inquiry team, Superintendent Kalij added that pressure was being brought to bear by the military government for the release of persons detained for questioning, pressures that led in a number of cases to their release. He said that when such pressures are applied directly, station chiefs are unable to withstand them, as they hesitate to enter into a confrontation with the governor and to act contrary to his directives. The result is release from arrest on irrelevant grounds and for reasons totally unrelated to the investigation.

3. Apart from the constitutional question raised by the intervention of military government personnel in police investigatory work, such intervention has the direct consequence of making investigations still more difficult, or of even further reducing the ability to investigate. Intervention by military government personnel in investigations is naturally interpreted as backing for suspects. Mr. Kalij conveyed to the inquiry team his impression that at some senior security echelon whose identity he does not know, Israeli residents of the territories are given to understand that they are soldiers to all intents and purposes, and are subject to army investigations. Israeli residents of Judea and Samaria, explicitly relying on this assurance, refuse to cooperate with the police or to provide information; they reject any contact with the police basing themselves on "high-level policy" and declaring that they are under no obligation to cooperate in this matter.
4. On 23.3.82, the brigade commander of the Judea and Samaria district issued a telegram, no. 3128-23-mb, which was sent also to the heads of the investigations bureaus in the Judea and Samaria district, stating, *inter alia*, that "any case of shooting

by Jewish residents in the Judea and Samaria district resulting in local victims will be handled by the CID and not by the Israel police.” A correction was sent out immediately afterwards, whose purpose was not clarified, stating that “any case in which residents of the Judea and Samaria district open fire resulting in local victims will be handled via the military government.”

When the Attorney General learned about the telegram, he expressed his opposition to the decision at the cabinet meeting on 28.3.82. Following clarifications, the military Advocate-General informed him that the brigade commander of the Judea and Samaria district had revoked the telegram. The problem is that in the 2.4.82 meeting of the inquiry team, when the team was presented with a copy of the cancellation of the telegram, the head of the investigations bureau of Judea reported that he had received no notifications of the telegram’s revocation, and that his staff still considered themselves bound by it. Such was the case at least until 15.4.82, when the Attorney General sent a letter to the police Inspector General asking him to inform police officers in Judea and Samaria that the telegram had been revoked.

- G. 1. The abovementioned telegram was not addressed to the residents of Kiryat Arba, but one may assume that they were informed of it. The matter was openly discussed in a flyer distributed on 24.3.82 in the name of the Kiryat Arba local council, calling on residents “not to cooperate with the police and not to respond to any question whatsoever. Similarly . . . at this stage one should not respond even to questions from military investigators, as long as we are not assured the material will not be passed on to the police and the Jerusalem District Attorney’s office.” Whether or not the revocation of the telegram came to the attention of Kiryat Arba residents, they continue to brazenly boycott the police, both as suspects or as witnesses who could assist investigations.
2. One can understand that the residents of Judea and Samaria are genuinely worried by the very idea that they could be called upon to account for activities done in their own self-defense—creating a feeling of insecurity in addition to the ob-

jective danger in traveling along the [district's] roads. But in openly challenging the police (and publicly reviling the chief of the Judea investigations bureau and the state attorney's office), they do not restrict themselves to cases of opening fire. Rather, the refusal to maintain contact with the police applies to every offense, even if it is totally unrelated to a shooting incident. In effect, this means an inability (and unwillingness) to investigate any complaint against residents of Kiryat Arba. Mr. Kalij told the team that he personally did not want to conduct investigations in Kiryat Arba, while his policemen acted infirmly. The results of the investigations, as detailed above, are the direct outcome of this lack of cooperation.

3. An even graver picture emerges on this topic in the investigation of fatal incidents in the villages of Sinjil and Beni Na'im. In both cases, when the murder suspects were summoned to appear before the police they announced that they would not come, and that they dealt only with the military government. The police did nothing to bring the suspects to the police station, despite the grave suspicion, and the arrest warrant issued against the suspect in the Beni Na'im murder was not implemented, under circumstances that demand clarification. In the case of Beni Na'im, a delegation including the head of the Kiryat Arba Council and a representative of the Gush Etzion Council turned up three days later and, according to Superintendent Kalij, told the police, citing military government authorities, that there would be no cooperation, and that the police and the Jerusalem District Attorney were hostile. They said they would not convey their version of the incident unless they received instructions from the political echelon. It should be noted that one of the suspects was a member of the delegation, and that he was not questioned on that occasion. As a result, the suspects were not located, and not until six days after the incident were the police able to gather evidence (and this on a case of manslaughter, or suspicion of murder, when the suspects were well-known). This, of course, had direct implications for the investigation itself. It is hard to believe that this is how a case involving a death would be investigated in Israel.
4. The inquiry team believes that urgent consideration should be

given to the phenomenon of residents refusing to cooperate with the police and the state attorney on grounds that they are hostile elements, and the matter brought for discussion before the relevant political echelons. A situation in which, in the name of self-defense, the police are prevented from clarifying whether self-defense was involved, or [perhaps] the unlawful taking of power into one's own hands, is intolerable and invites anarchy. The authority of the police to investigate any offense whatsoever, and especially cases involving deaths, is one of the foundations of law and order, and it must not be undermined in any way. Self-defense as such, must not serve as grounds for immunity before the law. The unique, problematic nature of the situation, and the sensitive question of the security of the residents of Judea and Samaria, must be solved in ways other than by casting off frameworks and taking the law into one's own hands. Stone-throwing and the blocking of roads must be dealt with, and procedures should be instituted to guide and obligate civilians—including Israeli citizens residing in Judea and Samaria—encountering such road blocks. The procedures for the bearing of IDF arms by civilians must be reevaluated, along with the instructions they receive about opening fire. A clear line must be drawn between the army and civilian settlers concerning responsibility for security in the district. It would be desirable to make it obligatory to report any firing of IDF weapons, even if no one is hurt, and to clarify and impress upon all concerned the difference between a situation of self-defense, and a different situation which constitutes the unlawful assumption of powers of guarding. The reaction of the Kiryat Arba and Hebron residents and their demand that the investigation be carried out by the military government authorities is tantamount to civil rebellion and a casting of aspersions on the civilian echelons of the Israeli police, the state attorney and the courts of the state of Israel.

The collective conclusion of all this is, that the inquiry team's findings point to definite deficiencies in police performance in investigating events growing out of neighborly relations between Israelis and local residents in Judea and Samaria, and complaints of local residents against Israelis.

After a draft of this report was distributed to the police, a letter was received from the head of the investigations and claims department at national police headquarters, and it is attached as an addendum to this report. Although the steps the police say they will take in the letter are worthy of praise, there is no doubt that this is only the first step. It seems that the stated deficiencies, which require the most basic treatment on their own merit, are but a symptom of a much deeper problem, containing the beginnings of a dangerous process whose end is difficult to foresee. Since this is the case, it wouldn't be right to focus attention on the police alone, or on the CID and its activities. It is imperative that the realities, and their serious ramifications, be discussed in political circles without delay, in order to find an urgent solution to this situation, and to establish an approved government policy to be instituted by all government authorities, to prevent the deterioration of the situation, and any harm to the foundation of the rule of law.

1. In light of the report's conclusions, and in light of the inquiry team's experience, serious doubts arise whether the inquiry team can act in a reasonable manner or bring about a real change in the situation; and therein lie the doubts concerning its continued activities.
2. The difficulties and pressures burdening the inquiry team's work are mainly the following:
 - a. Owing to the burden of their work, members of the inquiry team were unable to devote the necessary time to fundamental work which could be fruitful. The inquiry team did hold numerous meetings, but they were not enough to fundamentally check all the investigative files, and to establish an initiated follow-up of events in the field. A feeling of lack of thoroughness in its work accompanied the inquiry team throughout.
 - b. The inquiry team was established fundamentally as a coordinating team, but during the year in which it worked, it succeeded only in fulfilling the monitoring stage for the purpose of gathering the material, which [phase] is the basic condition for a discussion of questions of coordination. The subjects for coordination, however, must be determined at

the political echelon, and the composition of the inquiry team is not fitting for this purpose.

- c. As was explained previously, the inquiry team operated with the feeling that the material it was receiving was only partial, and that it had failed to establish an ongoing follow-up of events to compare with the ongoing reports it received. A side effect of this was that the inquiry team failed even in its aim of bringing about initiated investigations of incidents even in the absence of complaints.
- d. The reports that reached the inquiry team were not always exact or full. In any event, the pace of reporting to the inquiry team was too slow to permit any real check of developments. The slow reporting process (attributed to communications problems) deprived the inquiry team of the feeling that it had its hand on the pulse. (When the inquiry team requested a report on the incident involving the death of the girl from the village of al-Aroub, it wasn't received until ten days later. A week was the minimum response time for receiving additional explanations of [matters treated in] ongoing reporting.)
- e. Another obstacle the inquiry team faced was the inherent difficulty in following up an active investigation and in getting down to its finer details. Moreover, the supervision of a body enjoying operative authority is not the same as the supervision of a body lacking operative power. The inquiry team did not interfere, therefore, with the investigative process itself, except where it saw fit to return a file for completion of the investigation or a reevaluation of conclusions.
- f. The inquiry team's attempt to follow the quality of investigations via district attorneys was unsuccessful, except for the help of the Jerusalem District Attorney, who is a member of the inquiry team.
- g. The inquiry team's hope that the inquiry itself and the requirement to report would in themselves bring about an improvement in the work habits of the investigating bodies proved to be a false one, and raised doubts about the opera-

- tion's effectiveness. The police representative on the inquiry team tried to the best of her ability to guide the investigative offices and to make them aware of the importance of quick and useful treatment, but signs of improvement have yet to become evident.
- h. After reaching an understanding of the situation, the feeling increased among the members of the inquiry team that the fundamental treatment of the phenomena was beyond its powers and authorization, and that it was impossible to tackle the phenomenon except by means of a fundamental formulation of position regarding its underlying causes—and the inquiry team was not the representative body for this matter.
3. The representatives of the police and the Judea and Samaria command on the inquiry team have expressed their opinion that the very existence of the team serves as an impetus for the police and CID to investigate vigorously and efficiently, and that it is desirable that there be a body that will vet the information in this area and initiate investigation when necessary. This report does not support the claim, however, that the team can bring about the necessary, basic changes regarding this issue; and on the other hand, there is the danger that the existence of the team might serve as a cover for phenomena to which the team objects—and perhaps even as a calming element influencing the recognition of the need to tackle the problem in its full and proper scope. The key lies not in the technical monitoring of the investigations, nor in criteria for investigative techniques, nor in the legal angle—but rather in a radical reform of the basic concept of the rule of law in its broadest and most profound sense.

Judith Karp
Deputy Attorney General

BG, NW, AC/BG, NW, AC

Released Jerusalem, 7 February 1984

Memo: 7 February 1984

To: Commissioner of Israel Police

From: Commander Y. Karty

Status and Functioning of Police in the Administered Territories

Status of the Police in the Areas under the [Jurisdiction of the] Military Government

- A. As is known, the military governors bear overall responsibility for guaranteeing public order in the areas under the [jurisdiction of the] military government, and for enforcing the laws applicable to those areas.
- B. The military governors carry out their duty of guaranteeing the public order with the aid of military and border police units which have been placed at their disposal for this purpose, and which act under their direct command.
- C. The investigation of criminal offenses committed in the areas under the [jurisdiction of the] military government is conducted by police units that were set up in the [administered] territories and are staffed by local police officers under Israeli command. The police units are under the command of the military governors, and receive professional direction from the Israel police.
- D. Funds for the police and border police units in the areas under the [jurisdiction of the] military government are allocated from the budget of the Ministry of Defense. The location of police stations, the number of policemen, and their complement was determined in 1968 in accordance with the conditions and needs of that time.
- E. Since that time, fundamental changes have taken place in the administered territories, and are manifested mainly in the following:
 - 1. A significant rise in criminal and security offenses among the Arab population;
 - 2. Stepped-up settling of Israelis in small, widely-scattered settle-

ments. The investigation of every kind of security and criminal offense committed by Israelis is conducted exclusively by Israeli staffs. In spite of the mounting burden, which has burgeoned beyond recognition, and which falls primarily on the limited Israeli staff, there have been no changes in the deployment and staffing of the police units. The police's request that its ranks be reinforced and adapted to the immediate needs has not been complied with, nor have funds yet been allocated by the Defense Ministry.

Special Problems

- A. The legal situation in the military government area is complex and vague. A variety of conflicting legal systems are in parallel use: local courts, ruling in accordance with Jordanian law, try Arab residents; military courts, ruling in accordance with military jurisprudence and military government order, try security offenses carried out by local residents; courts martial try IDF soldiers; and Israeli law is applied by courts within Israel to try Israelis who committed crimes in the area.
- B. In the investigation of incidents involving soldiers, two different systems of investigation are in parallel operation: a CID unit questions military personnel only; the police unit is then asked to question the citizens lodging the complaint.
- C. In many cases, Arab residents refuse to file complaints with the police about attacks by Israelis, for fear of implicating themselves criminally for their own actions which had led to the violent reaction (the throwing of stones or molotov cocktails, the barricading of roads, etc.).
- D. The police do not enjoy the cooperation of sizable segments of the population, Jews and Arabs both, in the investigation of incidents in which Jews and Arabs are involved. In the absence of a willingness to communicate relevant information to the police, or to testify as to what they know, it is impossible to obtain the necessary evidence on which to confirm suspicions and obtain convictions. In certain cases, there have been deliberate attempts to thwart and obstruct investigations.

- E. Land disputes are the source of a considerable number of incidents between Israelis and Arabs. The investigation of these (incidents) is a particularly difficult task, owing to the deficient Jordanian method of registering land, (and) the corrupt practices and duplicity of the Mukhtars, the intermediaries, and the landowners.
- F. Investigative work worthy of the name cannot be carried out without an intelligence infrastructure. The intelligence alignment operating in the administered territories is the General Security Services, but they, by their very nature, focus exclusively on security matters.

Comments on the Inquiry Team Report

- A. The Attorney General set up the inquiry team on 29.4.81, recognizing that in investigations related to offenses committed by Jews against Arabs, there is a lack of clarity with respect to which body is empowered to conduct the investigation, investigative procedures, and the conclusions following from the investigation. The team was charged with coordinating among all the relevant bodies, and with drawing up proposed procedures and instructions for conducting investigations and taking legal steps.
- B. The team report makes reference to a number of particularly difficult and complicated investigations, in which the desired results were not achieved—*viz.*, the disclosure of the identity of the offenders, or the gathering of sufficient evidence to bring them to trial; while there is no arguing the findings regarding the results of the investigations in the specific incidents mentioned above, it is something of a distortion to present these findings as a representational sample of all the investigative work done at the police stations. There is no mention of the prodigious activity, the substantial efforts that were invested, or all the investigations that did yield positive results and resulted in the trial and punishment of the offenders.
- C. Though the team enumerated some of the legal problems and objective difficulties in investigating complaints against Israelis, no attempt was made to explore and propose ways and means to overcome or minimize them, as is needed.

- D. The report is wanting in that it examines the investigations according to accepted criteria within the green line, without really addressing the significance and implications of activity amidst a hostile and disaffected Arab population, and the handling of incidents that are ostensibly criminal, but are heavily charged with nationalist and sectorial feelings—and all this with insufficient tools and resources.

Conclusion

- A. The aim of this memorandum is to present things as they really are, within the proper context, and in their proper proportions.
- B. The team report contains no operational proposals for the main issues the Attorney General asked it to examine.
- C. The major contribution of the report is that several important issues were clarified in its wake:
1. The legal and organizational status of the police units in the area under the [jurisdiction of the] military government—those under the command of the military governors, and which help them carry out their responsibilities and law enforcement duties.
 2. These police units were intended from the outset to provide *routine* police services among the local population. Over the years, they were assigned additional complex duties, without the units being reinforced, or an intelligence infrastructure developed. These small units successfully discharged these additional duties, too, considering the complex and difficult circumstances.
 3. The police units in the areas under the [jurisdiction of the] military government need significant reinforcement of manpower and resources—as well as an intelligence infrastructure—as a condition for real improvement in carrying out investigative duties pertaining to disputes between Jews and Arabs in Judea, Samaria and the Gaza district.

(signed) Y. Karty, Commander
Head of Investigations Division

Appendices

This edition provides as appendices selections from three documents which may be useful for a reading of the Karp Report. They are: the Geneva Convention Relative to the Protection of Civilian Persons in Times of War, August 12, 1949; the British Mandate government's Defence (Emergency) Regulations, 1945; and the United Nations' Universal Declaration of Human Rights, 1948.

The Geneva Convention Relative to the Protection of Civilian Persons in Times of War, was drafted to establish internationally recognized civil and moral codes of behavior for an occupying power in a given territory. The majority of the articles reproduced here define the responsibilities of the power toward the civilian population in the occupied territory. Middle East signatories of the Convention include Israel, Jordan, Egypt, Lebanon, and Syria.

The Defence (Emergency) Regulations, which Israel has adopted for the administration of the occupied territories, were first enforced in Palestine by the British Mandate government. At the time, the Palestinian and Jewish inhabitants were vehemently opposed to these Regulations. In 1946, a conference of the Jewish Lawyers Association passed a resolution which denounced the Regulations because they "undermine[d] law and justice, constitute[d] a grave danger to the life and liberty of the individual and establish[ed] a rule of violence without any juridical control."¹

The Universal Declaration of Human Rights was prepared by the United Nations in 1948. The aim of the Declaration was to set down internationally recognized standards of social and human justice.

¹*Hapraklit (The Lawyer)*, February 1946, pp. 58-64.

Appendix I

The Geneva Convention Relative to the Protection of Civilian Persons in Times of War, August 12, 1949

Article 4

Persons protected by the Convention are those who, at a given moment, and in any manner whatsoever, find themselves, in case of conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.

Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are

Part III

Status and Treatment of Protected Persons

Section I: Provisions Common to the Territories of the Parties to the Conflict and to Occupied Territories

Article 27

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

Article 29

The Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred.

Article 31

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

Article 32

The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilians or military agents.

Article 33

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Reprisals against protected persons and their property are prohibited.

Section II: Aliens in the Territory of a Party to the Conflict

Article 37

Protected persons who are confined pending proceedings or serving a sentence involving loss of liberty, shall during their confinement be humanely treated.

Article 42

The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary.

If any person, acting through the representatives of the Protecting Power, voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be.

Section III: Occupied Territories

Article 47

Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

Article 49

Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of

the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area have ceased.

The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.

The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place.

The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand.

The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

Article 52

... All measures aiming at creating unemployment or at restricting the opportunities offered to workers in an occupied territory, in order to induce them to work for the Occupying Power are prohibited.

Article 53

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

Article 54

The Occupying Power may not alter the status of public officials or judges in the occupied territories, or in any way apply sanctions to or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience.

This prohibition does not prejudice the application of the second paragraph of Article 51. It does not affect the right of the Occupying Power to remove public officials from their posts.

Article 58

The Occupying Power shall permit ministers of religion to give spiritual assistance to the members of their religious communities.

The Occupying Power shall also accept consignments of books and articles required for religious needs and shall facilitate their distribution in occupied territory.

Article 59

If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal. Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provisions of consignments of foodstuffs, medical supplies and clothing.

All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.

A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power.

Article 64

The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention. Subject to the latter consideration and to the necessity for ensuring the effec-

tive administration of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfill its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.

Article 65

The penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language. The effect of these penal provisions shall not be retroactive.

Article 66

In case of a breach of the penal provisions promulgated by it by virtue of the second paragraph of Article 64, the Occupying Power may hand over the accused to its properly constituted, non-political military courts, on condition that the said courts sit in the occupied country. Courts of appeal shall preferably sit in the occupied territory.

Article 71

No sentence shall be pronounced by the competent courts of the Occupying Power except after a regular trial.

Accused persons who are prosecuted by the Occupying Power shall be informed, in writing, in a language which they understand, of the particulars of the charges preferred against them, and shall be brought to trial as rapidly as possible. The Protecting Power shall be informed of all proceedings instituted by the Occupying Power against protected persons in respect of charges involving the death penalty or imprisonment for two years or more; it shall be enabled, at any time, to obtain information regarding the state of such proceedings. Furthermore,

the Protecting Power shall be entitled, on request, to be furnished with all particulars of these and of any other proceedings instituted by the Occupying Power against protected persons.

The notification to the Protecting Power, as provided for in the second paragraph above, shall be sent immediately, and shall in any case reach the Protecting Power three weeks before the date of the first hearing. Unless, at the opening of the trial, evidence is submitted that the provisions of this Article are fully complied with, the trial shall not proceed. The notification shall include the following particulars:

- (a) description of the accused;
- (b) place of residence or detention;
- (c) specification of the charge or charges (with mention of the penal provisions under which it is brought);
- (d) designation of the court which will hear the case;
- (e) place and date of the first hearing.

Article 72

Accused persons shall have the right to present evidence necessary to their defence and may, in particular, call witnesses. They shall have the right to be assisted by a qualified advocate or counsel of their own choice, who shall be able to visit them freely and shall enjoy the necessary facilities for preparing the defence.

Failing a choice by the accused, the Protecting Power may provide him with an advocate or counsel. When an accused person has to meet a serious charge and the Protecting Power is not functioning, the Occupying Power, subject to the consent of the accused, shall provide an advocate or counsel.

Accused persons shall, unless they freely waive such assistance, be aided by an interpreter, both during preliminary investigation and during the hearing in court. They shall have the right at any time to object to the interpreter and to ask for his replacement.

Article 73

A convicted person shall have the right of appeal provided for by the

laws applied by the court. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so

Article 78

If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment.

Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned.

Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power.

Protected persons made subject to assigned residence and thus required to leave their homes shall enjoy the full benefits of Article 39 of the present Convention.

Part IV Execution of the Convention

Section 1: General Provisions

Article 146

. . . Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts

Article 147

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture

or inhuman treatment . . . wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person . . . wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Appendix II

The Defence (Emergency) Regulations, 1945*

Part X—Restriction Orders, Police Supervision, Detention and Deportations

Restriction orders

109. (1) A Military Commander may make, in relation to any person, an order for all or any of the following purposes, that is to say—
- (a) for securing that, except in so far as he may be permitted by the order, or by such authority or person as may be specified in the order, that person shall not be in any such area in Palestine as may be so specified;
 - (b) for requiring him to notify his movements, in such manner, at such times and to such authority or person as may be specified in the order;
 - (c) prohibiting or restricting the possession or use by that person of any specified articles;
 - (d) imposing upon him such restrictions as may be specified in the order in respect of his employment or business, in respect of his association or communication with other persons, and in respect of his activities in relation to the dissemination of news or the propagation of opinions.
- (2) If any person against whom an order has been made as aforesaid contravenes the terms of such order, he shall be guilty of an offence against these Regulations.

Police supervision

110. (1) A Military Commander may by order direct that any person

*These same Defence Regulations have been adopted by the Israeli government but with the following alterations: the term "High Commissioner" now reads "Minister of Defense;" the term "Palestine" now reads "Israel and the Occupied Territories;" the term "His Majesty's forces" now reads "the army." All capitalizations and spellings are as they appear in the original text.

shall be placed under police supervision for any period not exceeding one year.

- (2) Any person placed under police supervision by order as aforesaid shall be subject to all or any of the following restrictions as the Military Commander may direct, that is to say—
 - (a) he shall be required to reside within the limits of any area in Palestine specified by the Military Commander in the order;
 - (b) he shall not be permitted to transfer his residence to any other area in the same police district without the written authority of the District Superintendent of Police, or to any other police district without the written authority of the Inspector General of Police;
 - (c) he shall not leave the town, village or Sub-District within which he resides without the written authority of the District Superintendent of Police;
 - (d) he shall at all times keep the District Superintendent of Police of the police district in which he resides notified of the house or the place in which he resides;
 - (e) he shall be liable, whenever called upon so to do by the officer in charge of the police in the area in which he resides, to present himself at the nearest police station;
 - (f) he shall remain within the doors of his residence from one hour after sunset until sunrise, and may be visited at his residence at any time by the police.
- (3) Any person in respect of whom an order has been made under subregulations (1) and (2) may be arrested by any police officer or by any member of His Majesty's forces and conveyed to the area in which he should be.
- (4) If any person against whom an order has been made as aforesaid contravenes the terms of the said order or of this regulation, he shall be guilty of an offence against these Regulations.

Detention

111. (1) A Military Commander may by order direct that any person shall be detained in such place of detention as may be specified by the Military Commander in the order.
- (2) Where an order is made under this regulation against a person in relation to whom an order under regulation 109 or 110 is in force, the order under this regulation shall be deemed to replace such other order.
- (3) Any person in respect of whom an order has been made by the Military Commander under subregulation (1) may be arrested by any member of His Majesty's forces or of the Police Force and conveyed to the place of detention specified in such order.
- (4) For the purposes of this Regulation, there shall be one or more advisory committees consisting of persons appointed by the High Commissioner, and the chairman of any such committee shall be a person who holds or has held high judicial office or is or has been a senior officer of the Government. The functions of any such committee shall be to consider, and make recommendations to the Military Commander with respect to, any objections against any order under this Regulation which are duly made to the committee by the person to whom the order relates.
- (5) Any person in respect of whom an order has been made under this [sub] regulation who commits any of the offences specified in [sub] regulation (7) hereof may be arrested by any police officer without warrant, and shall be liable upon conviction by a Magistrate's Court to imprisonment for six months or to a fine of one hundred pounds or to both such imprisonment and fine, or such person may be punished by the officer in charge of the place of detention with any of the punishments set out in Part I of the Sixth Schedule to the Prison Rules, and
- (a) if punished with a fine shall in addition to such fine be retained in a place of detention in accordance with the order issued under subregulation (1), or

- (b) if sentenced to imprisonment for a term less than the unexpired period of his detention, shall on the completion of such term be again detained in accordance with the order issued under subregulation (1).
- (6) The Commissioner of Prisons may give orders or directions as to the internal management of and otherwise in connection with any place of detention specified in any order made under subregulation (1) and as to the discipline of all persons detained therein

Restriction on departure from Palestine

- 111a. The High Commissioner, or any person generally or specially authorised in writing by the High Commissioner in that behalf, may by order require any person named in the order not to proceed from Palestine to a destination outside it, except under the authority of a written permit granted by such authority or person as may be specified in the order.

Deportation etc.

112. (1) The High Commissioner shall have power to make an order, under his hand (hereinafter in these regulations referred to as "a Deportation Order") for the deportation of any person from Palestine. A person in respect of whom a Deportation Order has been made shall remain out of Palestine so long as the Order remains in force.
- (2) The High Commissioner shall have power to make an order under his hand (hereinafter in these regulations referred to as "an Exclusion Order") requiring any person who is out of Palestine to remain out of Palestine. A person in respect of whom an Exclusion Order has been made shall remain out of Palestine so long as the Order remains in force.
- (3) A Deportation Order or an Exclusion Order may be made subject to such terms and conditions as the High Commissioner may think fit.
- (4) Any person in respect of whom a Deportation Order or an Exclusion Order has been made and is in force may be arrested without warrant by any member of His Majesty's forces or any police officer.

(5) A person in respect of whom a Deportation Order is made shall be liable, whilst awaiting deportation and whilst being deported, to be kept in custody in such manner as the High Commissioner may by the Deportation Order or otherwise direct, and all such custody shall be lawful custody.

.....

(7) For the avoidance of doubt it is hereby declared that an Order under this Regulation may be made to relate to one person or to two or more persons and that it shall not be necessary to state in an Order under this Regulation the name or names of the person or persons to whom the Order relates.

Power of Arrest

112a. Any member of His Majesty's forces and any police officer may arrest without warrant any person in respect of whom a Deportation Order has been made under the Immigration Ordinance, 1941.

Arrest of persons suspected to be liable for detention or deportation.

112b. Any member of His Majesty's forces and any police officer may arrest without a warrant any person in respect of whom he has reason to believe that there are grounds which would justify his detention under regulation 111 or his deportation under regulation 112. Any such person may be detained for a period not exceeding seven days pending a decision as to whether any such order should be made and any such detention may be in such places and subject to such directions as may be prescribed by order of a Military Commander.

Public officers

113. When an order under this Part has been made against any public officer, the High Commissioner may order the dismissal of such officer, or the stoppage of his salary in whole or in part during the period for which the order is in force.

Part XI—Requisitioning, Etc.

Taking possession of land

114. (1) A District Commissioner may, if it appears to him to be necessary or expedient so to do in the interest of the public safety, the defence of Palestine, the maintenance of public order or the maintenance of supplies and services essential to the life of the community, take possession of any land, or retain possession of any land of which possession was previously taken under regulation 48 of the Defence Regulations, 1939, and may, at the same time or from time to time thereafter, give such directions as appear to him to be necessary or expedient in connection with, or for the purposes of, the taking, retention or recovery of possession of the land.
- (2) Any police officer or member of His Majesty's forces may enforce any directions given under subregulation (1).
- (3) While any land is in the possession of the District Commissioner by virtue of subregulation (1), the land may, notwithstanding any restriction imposed on the use thereof by any enactment or by any instrument or otherwise, be used by or under the authority of the District Commissioner for such purposes and in such manner as the District Commissioner thinks expedient in the interests of the public safety, the defence of Palestine, the maintenance of public order or the maintenance of supplies and services essential to the life of the community; and for the avoidance of doubt it is hereby declared that the power of a District Commissioner under this subregulation to authorise the use of land includes power to authorise any persons carrying on any business or undertaking to occupy and use the land for the purposes of that business or undertaking on such terms as may be agreed between the District Commissioner and such persons if the District Commissioner thinks it expedient in any of the interests aforesaid that the land should be so occupied and used.
- (4) When possession of any land has been taken or retained under this regulation, the District Commissioner, so far as appears to him to be necessary or expedient in connection with the

taking or retention of possession of the land, or the use of the land while in the possession of the District Commissioner, or by reason of the exercise of any of the said powers—

- (a) may do, or authorise persons using the land to do, in relation to the land, anything which any person having any interest in the land would be entitled to do by virtue of that interest, and
 - (b) may, by order, provide for prohibiting or restricting the exercise of rights of way over the land and of other rights relating thereto, which are enjoyed by any person, whether by virtue of an interest in the land or otherwise.
- (5) The owner or occupier of any land shall, if directed by or on behalf of a District Commissioner so to do, furnish to such authority or person and within such time as may be specified in the direction such information in his possession relating to the land (being information which may reasonably be demanded of him in connection with the execution of this regulation) as may be so specified.
- (6) Where possession of land was taken under regulation 48 of the Defence Regulations, 1939, and is retained under this regulation, any order or direction in force under the said regulation 48 in relation to the land shall remain in force and shall be deemed to have been made or given under this regulation.
- (7) Any person who contravenes any order or direction in force by virtue of this regulation shall be guilty of an offence against these Regulations.
- (8) Where possession of any land is taken under this regulation or, having been taken under regulation 48 of the Defence Regulations, 1939, on or after the 29th July, 1943, is retained under this regulation, and the land was unoccupied land at the time possession was taken, such land shall be deemed to remain unoccupied land. Where possession of any land has been taken under the said regulation 48 before the 29th July, 1943, and is retained under this regulation and the land was deemed to remain unoccupied by reason of subregulation (2)

of regulation 2 of the Defence (Exemption from Rates) Regulations, 1943, the land shall continue to be deemed to remain unoccupied during the time that possession of it is retained under this regulation.

Requisitioning property other than land

115. (1) In this regulation the term "chattel" includes any substance, vehicle or animal and any launch, lighter, boat or other small craft, but does not include a vessel of any other class or an aircraft or currency, gold, securities or negotiable instruments.
- (2) A District Commissioner or a Military Commander, or a person acting under the general or special authority of either of them, may, if it appears to him to be necessary or expedient so to do in the interests of the public safety, the defence of Palestine, the maintenance of public order or the maintenance of supplies or services essential to the life of the community, requisition or continue a requisition made under regulation 51 of the Defence Regulations, 1939, of any chattel, and may give such directions, as appear to him to be necessary or expedient in connection with the requisition. Any person contravening any such direction shall be guilty of an offence against these Regulations.
- (3) Where any chattel is requisitioned, or the requisition of any chattel is continued, under this regulation, or any property other than land is in the possession or at the disposal of the High Commissioner by virtue of section 49 of the Post Office Ordinance, a District Commissioner or a Military Commander or a person acting under the general or special authority of either of them, may use or deal with, or authorize the use or dealing with the chattel or property for such purposes and in such manner as he thinks expedient in any of the interests aforesaid, and may hold or sell or otherwise dispose of, the chattel or property as if he were the owner thereof and . . . if the chattel or property requisitioned is a vehicle, vessel, excavator, crane, agricultural implement or agricultural machinery, may acquire it by serving on the owner thereof a notice stating that he has acquired it in pursuance of this regulation. When a notice of acquisition has been served,

then, at the beginning of the day of on which the notice is served—

- (a) the vehicle, vessel, excavator, crane, agricultural implement or agricultural machinery shall vest in the High Commissioner free from any mortgage, pledge, lien or other similar obligation, and
 - (b) the period of the requisition thereof shall end.
- (4) Where the Accountant General is satisfied that any vehicle in respect of which a licence to keep has been granted under the Road Transport Ordinance has, in exercise of the powers conferred by this regulation, been acquired before the expiration of the period of the validity of such licence, the Accountant General may authorise the refund to the person who at the date of such acquisition was the owner of the vehicle of a proportionate part of the fee paid for such licence under the said Ordinance or any rules thereunder in respect of such part of the period of its validity as remained unexpired at the date aforesaid, if a claim for such refund is made to him in writing by such person not later than three months after the date when such vehicle was acquired as aforesaid.

Power to do work on land

116. (1) Any member of His Majesty's forces acting in the course of his duty as such, and any person acting under the general or special authority of a Military Commander, may, for any purpose connected with the public safety, the defence of Palestine, the maintenance of public order, or the maintenance of supplies or services essential to the life of the community, do any work on any land or place anything in, on or over any land, or retain any work done on any land, or anything placed in, on or over any land, under regulation 17 of the Defence Regulations, 1939.
- (2) A Military Commander, if it appears to him to be necessary or expedient so to do in the interests of the public safety, the defence of Palestine, the maintenance of public order or the maintenance of supplies or services essential to the life of the community, may by order provide for prohibiting or restrict-

ing the doing on any particular land of any such work as may be specified in the order.

- (3) No person, other than a servant of His Majesty or a police officer acting in the course of his duty as such, shall, except with permission granted by or on behalf of a District Commissioner or a Military Commander remove, alter or tamper with any work done or retained, or any thing placed or retained in, on or over, any land in pursuance of this regulation.
- (4) Any person who contravenes any provision of this regulation, or any order or direction thereunder, shall be guilty of an offence against these Regulations.
- (5) For the purposes of this regulation, the doing or retaining of work shall, in relation to any land, be deemed to include the demolition, pulling down, destruction or rendering useless of anything placed in, on or over the land and the removal from the land of any thing so placed, demolished or pulled down.

Use of land for purposes of His Majesty's forces

118. (1) Without prejudice to any other of these Regulations, the High Commander may by order authorise, subject to any restrictions or conditions imposed by the order, the use of any land specified therein for military purposes, for air force purposes, or for any of the purposes of His Majesty's Navy, as the case may be, during such period as may be specified in the order; and any such order may, so far as appears to the High Commander to be necessary or expedient for the purposes thereof, provide—
- (a) for entitling persons using any land in pursuance of the order to do such acts in relation to that land as may be specified in the order, and
 - (b) for prohibiting or restricting the exercise of rights of way over that land, and of other rights relating thereto which are enjoyed by any person, whether by virtue of an interest in land or otherwise.
- (2) Any person who contravenes any order made under this

regulation shall be guilty of an offence against these Regulations.

PART XII—Miscellaneous Penal Provisions

Forfeiture and demolition of property, etc.

119. (1) A Military Commander may by order direct the forfeiture to the Government of Palestine of any house, structure or land from which he has reason to suspect that any firearm has been illegally discharged, or any bomb, grenade or explosive or incendiary article illegally thrown, or of any house, structure or land situated in any area, town, village, quarter or street the inhabitants or some of the inhabitants of which he is satisfied have committed, or attempted to commit, or abetted the commission of, or been accessories after the fact to the commission of, any offence against these Regulations involving violence or intimidation or any Military Court offence; and when any house, structure or land is forfeited as aforesaid, the Military Commander may destroy the house or the structure of anything growing on the land.

(2) Members of His Majesty's forces or of the Police Force, acting under the authority of the Military Commander may seize and occupy, without compensation, any property in any such area, town, village, quarter or street as is referred to in subregulation (1), after eviction without compensation, of the previous occupiers, if any.

Forfeiture of property of individuals

120. The High Commissioner may by order direct the forfeiture to the Government of Palestine of all or any property of any person as to whom the High Commissioner is satisfied that he has committed, or attempted to commit, or abetted the commission of, or been an accessory after the fact to the commission of, any offence against these Regulations involving violence or intimidation or any Military Court offence.

Billeting of additional police in certain areas

121. (1) If a Military Commander is satisfied that the inhabitants of

any area have failed to render all assistance reasonably in their power to His Majesty's forces or the Police Force in securing the public safety, the maintenance of public order, or the suppression of mutiny, rebellion or riot, he may direct the sending of police to that area and may by order require the occupiers of premises therein to supply the police so sent without charge such accommodation and food and for such period as may be specified in the order.

- (2) If the occupier of any premises fails to comply with the order, he shall be guilty of an offence against these Regulations and his premises may be seized and occupied, and the previous occupiers evicted, without payment, by any members of the Police Force in question and any food therein may also be seized and confiscated without payment by any such members.

PART XIII—Movement of Persons, Traffic

Curfew

124. A Military Commander may by order require every person within any area specified in the order to remain within doors between such hours as may be specified in the order, and in such case, if any person is or remains out of doors within that area between such hours without a permit in writing issued by or on behalf of the Military Commander or some person duly authorised by the Military Commander to issue such permits, he shall be guilty of an offence against these Regulations.

Closed areas

125. A Military Commander may by order declare any area or place to be a closed area for the purposes of these Regulations. Any person who, during any period in which any such order is in force in relation to any area or place, enters or leaves that area or place without a permit in writing issued by or on behalf of the Military Commander shall be guilty of an offence against these Regulations.

Trespassing and loitering

127. (1) No person shall—

- (a) trespass on, or on premises in the vicinity of, any premises to which this regulation primarily applies, or
- (b) unlawfully enter on board any vehicle, vessel or aircraft used or appropriated for any of the purposes of His Majesty's service or trespass on any premises in the vicinity of any such vehicle or aircraft.

and any person acting in contravention of this regulation or being found on any vehicle, vessel or aircraft on any occasion on which he had entered or boarded it in contravention of this regulation shall be guilty of an offence against these Regulations and without prejudice to any proceedings which might be taken against him, he may be removed by any member of His Majesty's forces or by any police officer from the premises or from the vehicle, vessel or aircraft, as the case may be.

- (2) Any person who shall, for any purposes prejudicial to the public safety or defence or the maintenance of public order, be in, or in the vicinity of, any premises to which this regulation primarily applies, or any such vehicle, vessel or aircraft as aforesaid, shall be guilty of an offence against these Regulations; and where, in any proceedings taken against a person by virtue of this subregulation it is proved that at the material time he was present in, or in the vicinity of, the premises, vehicle, vessel or aircraft concerned, the prosecution may thereupon adduce such evidence of the character of such person (including evidence of his having been previously convicted of any offence) as tends to show that he was so present for any such purpose.
- (3) Any person who loiters in the vicinity of any premises to which this regulation primarily applies, or any such vehicle, vessel or aircraft as [aforesaid] and who continues to loiter in that vicinity after having been requested by a member of His Majesty's forces or a police officer to leave it, shall be guilty of an offence against these Regulations.
- (4) The premises to which this regulation primarily applies are premises used or appropriated—

- (a) for any of the purposes of His Majesty's service or for defence, or
- (b) for the performance of any essential service.

PART XIV – Miscellaneous Provisions

Power to detain suspected persons

132. (1) If any person, upon being questioned by a police officer or by a member of His Majesty's forces acting in the course of his duty as such, fails to satisfy the police officer or member of His Majesty's forces as to his identity or as to the purposes for which he is in the place where he is found, the police officer or member of His Majesty's forces may, if he suspects that person has acted or is about to act in any manner prejudicial to the public safety or the defence of Palestine or the maintenance of public order, arrest him and detain him pending enquiries.

- (2) No person shall be detained under the powers conferred by this regulation for a period exceeding twenty-four hours except with the authority of an officer of police of a rank not lower than that of inspector or, subject as hereinafter provided, for a period of forty-eight hours in all:

Provided that if such an officer of police as aforesaid is satisfied that the necessary enquiries cannot be completed within the period of forty-eight hours, an officer of police of a rank not lower than that of Superintendent of Police may authorise the further detention of the person detained for an additional period not exceeding seven days but shall, on giving any such authorisation, forthwith report the circumstances to the Inspector General of Police.

- (3) Any person detained under the power conferred by this regulation shall be deemed to be in lawful custody and may be detained in any prison, or in any police station or in any other similar place authorised generally or specially by the High Commissioner.

Inquests, etc.

133. (1)

- (b) where the Coroner responsible for holding an inquest upon the body of any person is satisfied that such a person has been killed as a result of operations by His Majesty's forces, or by the Police Force for the purpose of suppressing disturbances, the Coroner may dispense with the holding of an inquest on the body of such a person

Information of military value

136. (1) Any person who, not being a member of His Majesty's forces or in the Police Force or a servant of His Majesty acting in the course of his duty as such—

- (a) obtains, or
- (b) records, or
- (c) communicates to any other person or publishes, or
- (d) has in his possession any document containing, or other record whatsoever of,

Any information being, or purporting to be, information with respect to any of the following matters, that is to say, the number, description, armament, equipment, disposition, movement or condition or any of His Majesty's forces, or police officers, or their vessels, vehicles or aircraft, or their operation or projected operations or their prisoners, or their munitions of war or any measures for the defence or fortification of any place on behalf of His Majesty, or any other information being, or purporting to be, of military value shall be guilty of an offence against these Regulations.

- (2) Without prejudice to the generality of Paragraph (c) of subregulation(1), a person who makes or sends a visual or other signal or message by any means whatsoever or communicates with any other person in such a manner or in such circumstances or by such means as to have been likely to convey information to any person shall be deemed to have communicated the information to another person within the meaning of the paragraph.

Firearms etc.

137. (1) [A] Military Commander may by order—

- (a) prohibit, restrict or regulate the buying, selling or otherwise dealing in firearms, ammunition or explosive substances in the area specified in the order;
 - (b) direct all persons having in their possession or custody in the area specified in the order any firearms, ammunition or explosive substances to keep the same in place approved in accordance with the order;
 - (c) cancel or suspend any licence issued under section 15 of the Firearms Ordinance, or any licence to carry or use a firearm issued under that Ordinance or direct that any such licence shall have effect subject to such conditions as may be specified in the order.
- (2) Any person who contravenes any order made under subregulation (1) shall be guilty of an offence against these Regulations.
- (3) A licensing authority under the Firearms Ordinance or a Military Commander may grant to any person a licence to carry one or more firearms of which particulars are endorsed on the licence subject to such conditions as are so endorsed. Any person who contravenes any such condition shall be guilty of an offence against these Regulations.
- (4) Notwithstanding anything contained in section 11 of the Firearms Ordinance it shall be lawful to grant a licence to carry a shot gun under that Ordinance to any person notwithstanding that he is not the holder of a game licence under that Ordinance.
- (5) In this regulation “explosive substance” shall include all explosive and blasting explosives other than black powder as defined in the Trades and Industries (Manufacture of Black Powder) Rules, 1910; and it shall also include sodium nitrate (chilian nitrate), ammonium nitrate, nitro naphthalenes, nitro benzines, nitro toluences, nitro glycerines, nitro glucoses, nitro celluloses and nitro phenols.

Injury to property

139. (1) Any person who, not being a member of His Majesty's forces or of the Police Force acting in the course of his duty as such—

- (a) injures, or does any act calculated to injure or prevent the proper use or working of, any public building, railway, canal, bridge, road, trainway, vehicle, telegraphic or telephone line or wireless apparatus, cable or plant, mine, shop, factory, waterworks, electrical generating station, or any works or plant used or adapted for use for the production, supply, storage, or transport of food, fuel, munitions, water, light, heat, or power, or
- (b) approaches, or is in the neighbourhood of, or enters, any such place or property as aforesaid with intent to do injury thereto,

shall be guilty of an offence against these Regulations unless he proves that he was acting by lawful authority or on a lawful occasion.

- (2) For purposes of paragraph (b) of subregulation (1) a person shall be deemed to have the intent to do injury as described in the said paragraph if by reason of his being in possession of any explosive or incendiary article or lethal weapon or dangerous missile, or otherwise from the circumstances of the case, or his conduct, the Court is of the opinion that his purposes was to do such injury.

139a. Where, in the opinion of the District Commissioner, any building, or part of a building which is used for human habitation, is rendered unfit for such habitation as a result of any act of terrorism or of any act done by any member of His Majesty's Forces or of the Police Force for the purpose of meeting any actual or apprehended terrorist attack or of protecting persons or property from the dangers involved in such attack, the District Commissioner may, in his absolute discretion, authorise any person to carry out such repairs to such building or part of a building as, in the opinion of the District Commissioner, are absolutely necessary in order to

render such building or part of a building fit for human inhabitation.

142. (1) Any person who—

(a) endeavours, whether orally or otherwise, to influence public opinion (whether in Palestine or elsewhere) in a manner likely to be prejudicial to public safety, defence or the maintenance of public order or

(b) does any act, or has any article in his possession, with a view to making, or facilitating the making of, any such endeavour,

shall be guilty of an offence against these Regulations.

(2) A prosecution for an offence under this regulation shall not be instituted except with the consent of the Attorney General.

Entry and inspection of land

145. Any member of His Majesty's forces acting in the course of his duty as such, and any person authorised by a District Commissioner or Military Commander—

(a) may enter upon any land for the purpose of exercising any of the powers conferred in relation to that land by these Regulations,

(b) may enter and inspect any land for the purpose of determining whether, and, if so, in what manner, any of those powers are to be exercised in relation to the land, and

(c) may, for any purpose connected with the securing of the public safety, the defence of Palestine, the maintenance of public order or the suppression of mutiny, rebellion or riot, or with the maintenance of supplies or services essential to the life of the community, pass (with or without animals or vehicles) over any land.

PART XV – Statutory Martial Law

Military courts

153. (1) A Military Court shall have exclusive jurisdiction (together with all such powers as may be appropriate to implement such

jurisdiction) to try all persons alleged to have committed in the Controlled Area, either before or after the coming into force of this Part, any criminal offence for which provision is made in any law (including these Regulations), and to impose any punishment or make and enforce any order which could be imposed or made by any Court in relation to such offence.

- (2) These Regulations shall apply *mutatis mutandis* in relation to all such offences as though they were offences against these Regulations triable exclusively in Military Courts.
- (3) No sanction or authority shall be required for any prosecution for any such offence or for the issue of any process in connection therewith.
- (4) The jurisdiction conferred on Military Courts by this Regulation may be exercised in respect of an offence notwithstanding that proceedings in relation to that offence have been instituted or have commenced or are pending in any other court.

Entry into and exit from the Controlled Area

156. Subject to such exceptions as may be provided for by such order of a Military Commander, no person, vehicle, vessel, aircraft, animal or thing shall enter or be brought into the Controlled Area, or shall leave or be taken out of the Controlled Area, except with permission granted by or on behalf of a Military Commander.

Removal of persons from the Controlled Area

157. Any person may be removed by any police officer or member of His Majesty's forces from the Controlled Area by order of a Military Commander and taken to any place in Palestine specified in the order.

Publicity and proof of boundaries of the Controlled Area

162. (1) A District Commissioner shall give such publicity to the boundaries of the Controlled Area as he may deem to be practicable or desirable.

- (2) If any question arises as to whether any place is within the boundaries of the Controlled Area, a certificate purporting to be signed by or on behalf of a District Commissioner that the place is within such boundaries shall be sufficient evidence of that fact.

Appendix III

The Universal Declaration of Human Rights, 1948

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable right of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women, and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore,

The General Assembly

Proclaims

This Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy,

family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality or denied the right to change his nationality.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 27

1. Everyone has the right freely to participate in the cultural life of

the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

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Jerusalem Post editorial
9 February 1984



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