Treatment of Palestinians in Israeli-Occupied West Bank and Gaza

Treatment of Palestinians in Israeli-Occupied West Bank and Gaza

Report of the National Lawyers Guild
1977 Middle East Delegation

National Lawyers Guild
New York
1978

Library of Congress Cataloging in Publication Data

National Lawyers Guild. 1977 Middle East Delegation.
Treatment of Palestinians in Israeli-occupied West Bank and Gaza: report of the National Lawyers Guild 1977 Middle East Delegation.

Includes bibliographical references.
1. Palestinian Arabs–Legal status, laws, etc.—Israel. 2. Israel-Arab War, 1967—Occupied territories. I. Title.
LAW 341.65 78-21553

Library of Congress Catalog Card No. 78-21553
Paperbound: ISBN 0-9602188-2-3
Hardbound: ISBN 0-9602188-1-5

Typeset and layout by Art for People, Washington, DC

Cover Design by D. Schindler

Glad Day Press
UNION SHOP I.U. 450
306 Stewart Ave., Ithaca, N.Y. 14850

TABLE OF CONTENTS

FOREWORD

From its inception in 1937 the National Lawyers Guild has been concerned with developments in the fields of international law and relations. The primary focus of our attention has been the policies of our own government. We believe that the domestic and foreign policies of the United States Government are informed by the same basic economic, social and political premises and that there can be no genuine understanding of one except in its relationship to the other.

This is the context in which our interest in the Middle East should be understood. Our attitude towards the events in that important region derives from principles which have always guided us—sympathy for and identification with those who are oppressed and denied their human rights and national identity. A brief overview of our decisions will serve to place our views in perspective.

In 1948 the Guild supported the creation of what became the State of Israel. We called upon our government to modify its embargo so as to allow arms shipments to those in Palestine who were abiding by the resolutions of the United Nations.

The events of the past two decades, however, have led us to conclude that the relation of forces in the Middle East has changed substantially. The United States has become the dominant influence in the region and its policies now constitute the major obstacle to the inalienable right of the Palestinian people to self-determination and nationhood. We have criticized these policies as well as the complementary policies of the Government of Israel. We insist upon the withdrawal of Israel from all territories seized in 1967 and we condemn the violation of human rights in these territories by the Occupying Power.

Our conclusions about the historical developments in the Middle East have not been arrived at quickly or easily. They have been the result of intensive study and extensive debate within the Guild over a considerable period of time. As with all great issues affecting the lives of people and the destinies of nations, our debates have been controversial and passionate. Not unexpectedly, our decisions as well as our motives have been maligned by forces outside the Guild eager to find any reason to divide and, if possible, destroy us. We have been falsely accused of desiring the destruction of Israel. We have been falsely charged with condoning anti-semitism and terrorism. Our denials of these falsehoods have been ignored by the media as have been the contents of our resolutions. Despite this, we shall continue to adhere to our principles. That is our way of life, the only reliable source of our strength and the purpose of our existence.

We reaffirm our view that at this time the central issue in the Middle East is the right of the Palestinian people to self-determination and nationhood and we recognize that the Palestine Liberation Organization is the sole legitimate representative of the Palestinian people in their struggle for national liberation.

We shall continue to expose and oppose the violation of the human rights of the Palestinian people in the Occupied Territories and elsewhere and support their right of return or compensation pursuant to United Nations Resolution 194.

We call for the elimination in all states of the Middle East of discriminatory laws, practices and institutions.

We shall continue to support Israel's right to exist as a sovereign independent nation and we reaffirm our call to the P.L.O. that it commit itself to the exchange of mutual recognition between an independent sovereign Palestinian state and the State of Israel.

* * *

So that the reader may have more accurate knowledge of our decisions and better understanding of the process by which we have arrived at them, we have included the complete texts of our major resolutions in the Appendix to this Report. We make no claim that our members agree with every clause of any of these resolutions. Given the realities and complexities of the Middle East situation, that is impossible. What we do assert with pride is that the resolutions represent a genuine if rough consensus of our members' views, painfully but democratically arrived at. That itself is a considerable achievement.

INTRODUCTION

A. Background

As a part of the peace settlement after World War I, the territories of the Ottoman Empire were allocated as mandated territories to the imperialist victors—Great Britain and France. The area east of the Jordan River was eventually given independence under the name of Trans-Jordan; the area west of the Jordan became the British mandated territory of Palestine.

On November 29, 1947, a United Nations General Assembly resolution recommended termination of the mandate under a partition plan, which would simultaneously bring into being a Jewish State and a Palestinian State.[1] On May 14, 1948, the Jewish leadership proclaimed the independence of the State of Israel. By the end of the 1948 Israeli-Arab war which resulted, two-thirds of the Palestinian population had been displaced and Israel had expanded its partition-suggested borders by one-third. The Palestinian State was never created: the West Bank was occupied by the Hashemite Kingdom of Jordan and was annexed by it in 1950; the Gaza Strip came under Egyptian administration and remained so until 1967.

In the June 1967 Arab-Israeli war, Israel occupied the West Bank, parts of the Golan Heights, the Gaza Strip and the Sinai Peninsula. Since June 1967, those areas have been the subject of intense dispute between Israel and the international community, not only concerning the fact of the occupation, but also concerning the conditions of the Israeli military occupation.

The occupation has given rise to international concern for several reasons. First, international law prohibits seizure of territory by force, even where that force is defensive. Second, military occupation always imposes severe burdens on a population. Third, the Israeli occupation of Gaza and the West Bank presents a particularly difficult situation for local inhabitants as Israeli actions demonstrate that Israel does not recognize their right to live there. Increasingly, Israeli officials have indicated that they consider these two areas to be part of Israel in that they are located within the biblical borders of Israel.

In addition, numerous individuals and organizations, both within the Occupied Territories and outside, have charged Israel with violating even those limited rights which international law requires be afforded to an occupied population. Among the more frequent allegations are that Israel has transferred its own people into the Occupied Territories as settlers, that it has refused repatriation to thousands of Palestinians displaced during the 1967 fighting, that it has expelled prominent Palestinian citizens, that it has employed collective penalties against the population, and that its police and military personnel have frequently tortured detainees to get them to confess to crimes.

---

[1]Resolution 181(II) adopted by the General Assembly on November 29, 1947, concerning the future government of Palestine. The attached Plan of Partition With Economic Union, Section A3, suggested that two independent states come into existence simultaneously. Note should be taken of the fact that General Assembly resolutions, as opposed to Security Council resolutions, have no binding effect on members.

In 1975, the National Lawyers Guild called upon its members to study these allegations. In July 1977, the Guild sponsored a visit to the Middle East by ten of its members to explore the situation of the Palestinian people and to investigate the allegations of violation of their rights. This delegation visited Lebanon (July 11-17), Jordan (July 18-20), and Israel, the West Bank and Gaza (July 20-28).

The ten members of the delegation were Howard Dickstein (Sacramento), Marsha Greenfield (San Francisco), Nancy Hormachea (Houston), Abdeen Jabara (Detroit), Malea Kiblan (San Francisco), Garay Menicucci (San Francisco), Bill Montross (Columbus), John Quigley (Columbus), Matthew Ross (Boston), and Gunnar Sievert (New York). This Report represents the conclusions of all members of the delegation except Howard Dickstein.

This Report deals exclusively with the delegation's examination of the conditions of the Palestinian people living under Israeli military occupation. In the brief time spent in the Middle East, the delegation could not conduct an exhaustive investigation of all charges made regarding the nature of the occupation. However, the delegation was able to interview Palestinians who had been imprisoned in Israel and deported, Israeli and Palestinian lawyers, Palestinian civic leaders on the West Bank and Gaza, representatives of the United Nations and church groups, and representatives from several political parties in Israel, as well as individuals. As the delegation frequently divided into sub-groups, many of the interviews were conducted and the observations made by fewer than the entire group.

This Report is meant to serve two purposes. One is to relate conclusions of the delegation's investigation, including extracts from interviews and personal observations. A second purpose is to review and evaluate available material regarding the occupation. The Report has made liberal use of the investigations which have been conducted and the reports which have been issued by other organizations, as well as Israeli periodicals, particularly Hebrew-language publications. However, the mass of material available precluded a review of everything which might exist. Examples and cases cited are for illustrative purposes only, and are not meant to be exhaustive.

B. International Investigations

Since others have devoted considerable energy to these issues, and in order to provide a broader context for evaluating and understanding the conclusions reached by the delegation, this Report includes the observations and conclusions of a number of other organizations. In some instances, conclusions of the delegation are based primarily on facts developed by others, with the delegation's observations providing corroboration.

The principal organizations whose work is cited are:

1. The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, established by the United Nations General Assembly in 1968.[2] The Special Committee has

[2] U.N. General Assembly Resolution 2443 (XXIII) of December 19, 1968.

three members (Senegal, Sri Lanka, and Yugoslavia) and conducts an on-going investigation leading to publication of annual reports.[3] The Special Committee has been denied access to the Occupied Territories to perform on-site investigations, as Israel considers it antagonistic.

2. The International Committee of the Red Cross. The ICRC is empowered under Article 30 of the Fourth Geneva Convention (*see* below) to entertain complaints from any inhabitant of an occupied territory. Article 30 requires the occupier to permit the ICRC to operate freely "within the bounds set by military or security considerations." The ICRC has had staff in the West Bank and Gaza throughout the occupation. It has focused primary attention on detained Palestinians, whom it is entitled to visit under Article 143 of the Convention. Despite its contention that the Geneva Convention is not applicable to the Occupied Territories,[4] Israel's cooperation with the ICRC has been more extensive than with any other internationally recognized body. While the ICRC functions primarily by making non-public complaints to Israeli authorities about individual prisoners and prison conditions, it has issued public statements, and it publishes an annual report regarding the state of the occupation.

3. Amnesty International. This London-based organization investigates ill-treatment of detainees around the world and regularly publishes reports. Israel has been discussed in several, including the 1977 report.

4. United States Department of State. Pursuant to legislation which would suspend military and/or economic assistance to governments that violate human rights,[5] the State Department investigates human rights practices in

---

[3]Report 1—Document A/8089, October 5, 1970;
Report 2—Document A/8389 and Corr. 1 and 2, September 17, 1971;
Report 3—Document A/8389/Add. 1 and Add. 2/Corr. 1 and 2;
Report 4—Document A/8828, September 25, 1972;
Report 5—Document A/9148, October 15, 1973, plus supplement A/9148/Add. 1;
Report 6—Document A/9817, October 25, 1974;
Report 7—Document A/10272, October 13, 1975;
Report 8—Document A/31/218, September 17, 1976;
Report 9—Document A/32/284, October 17, 1977.

[4]In a reply dated June 16, 1968 to an ICRC note,

> the Israeli Government confirmed its desire that the ICRC should continue its humanitarian activities in the three occupied territories on an *ad hoc* basis and stated its readiness to grant to it all facilities required. But it added that it wished to leave the question of the application of the Fourth Convention in the occupied territories open for the moment.
>
> . . .
>
> On several points, the Israeli authorities have responded to the ICRC's requests and have granted it the facilities it requires for its action under the Geneva Conventions. But on some other points, its efforts and interventions have come up against Israel's general reservations with regard to the applicability of the Fourth Convention; these points, such as the destruction of houses and the deportation of protected persons are examined [in their Report]. ["The Middle East Activities of the International Committee of the Red Cross, June 1967-June 1970," published in *International Review of the Red Cross*, August 1970, p. 427.]

[5]International Security Assistance and Arms Export Control Act of 1976, and Foreign Assistance Act of 1976, respectively.

countries to which the United States gives aid. The March 1977 and February 1978 reports discuss Israeli violations.[6]

5. London *Sunday Times*. On June 19, 1977, this newspaper's "Insight Team" published the results of its five-month investigation into allegations that Israeli police and military authorities torture Palestinian detainees.

6. Swiss League for Human Rights. This group sent an observation team to the West Bank in June-July, 1977, and their report was published in the Fall of 1977.

C. General Legal Requirements Under Military Occupation

Israeli conduct in the West Bank and Gaza is assessed in the light of the international law of military occupation. That law is found primarily in the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 (hereinafter referred to as the Fourth Geneva Convention, as it was adopted along with three other treaties relating to warfare).[7] The Convention grants the occupier the right to take measures to maintain its security; however, the underlying assumption of the Convention is that even military necessity cannot be allowed to deprive human beings of certain elementary protections.

The Fourth Geneva Convention has been ratified by all states party to the continuing Middle East hostilities. Israel ratified the Convention on April 10, 1951; the Palestine Liberation Organization has deposited an instrument of accession.

Nearly all governments and commentators outside Israel agree that the Fourth Geneva Convention applies to the Israeli occupation of the West Bank and Gaza; the delegation shares that opinion. Article 2 of the Convention indicates that it applies "to all cases of declared war or of any other armed conflict which may arise," and to all situations "of partial or total occupation of the territory of a high contracting party . . ."

Israel denies the Convention's applicability to the West Bank and Gaza on the ground that it applies only to occupation of territory legitimately held by a contracting party. The Israeli Government contends that Jordan,

---

[6]The Human Rights Reports Prepared by the Department of State In Accordance With Section 502(B)(b) of the Foreign Assistance Act of 1961 As Amended (March 1977) (hereinafter referred to as 1977 State Department Report) and the Country Reports on Human Rights Practices, Report Submitted to the Committee on International Relations, U.S. House of Representatives and Committee on Foreign Relations, U.S. Senate, By the Department of State In Accordance With Sections 116(d) and 502(B)(b) of the Foreign Assistance Act of 1961 As Amended (February 3, 1978) (hereinafter referred to as 1978 State Department Report) are cited despite the United States Government's mediocre, if not hypocritical, record on human rights around the world. Concerning the Occupied Territories, the State Department Reports contain many distortions and much misinformation, in addition to flagrant omissions, but even so, admit to a number of Israeli practices which they find unacceptable. Rather than placing the blame on the Occupying Power (Israel) for repressive measures, the Reports put the onus on the Palestinian "indigenous population" for its resistance, "occasional demonstrations and clandestine dissident groups." Furthermore, use of the Reports' contents in no way means endorsement of the Reports' evaluations regarding the state of human rights in any of the other countries which are cited therein.

[7]72 United Nations Treaty Series 287.

from which it seized the West Bank, was not a legitimate sovereign there, and that Egypt, from which it took Gaza, did not have good title there.[8]

This argument is defective, since it assumes that the term "territory" in Article 2 includes only territory as to whose title there is no dispute. Prof. W.T. Mallison explains:

> . . . Even if the claim that Jordan annexed the West Bank unlawfully should be accepted for purposes of legal argument, this does not mean that this territory is not "the territory of a high contracting party" within the meaning of [A]rticle 2. It is well established that the word "territory" includes, in addition to de jure title, a mere de facto title to the territory. Otherwise, civilians in disputed territory would be denied the protection of law . . .[9]

Since the Israeli argument is inconsistent with Article 2 and would frustrate the aims of a pact aimed at protecting helpless civilians, it has been universally rejected by the nations of the world, including the United States,[10] by the United Nations General Assembly[11] and Security Council, and by other international bodies.[12] This Report assumes the applicability of the Fourth

---

[8]The Israeli Government argument is presented by Prof. Yehuda Zvi Blum (who has replaced Chaim Herzog as Israel's Ambassador to the United Nations) in "The Missing Reversioner: Reflections on the Status of Judea and Samaria," 3 *Israel Law Review* 279 (1968). Blum reiterated the argument in testimony to the United States Senate Subcommittee on Immigration and Naturalization (Committee on the Judiciary), Ninety-fifth Congress, First Session, October 17, 1977, in hearing entitled, *Question of West Bank Settlements and the Treatment of Arabs in the Israeli Occupied Territories*, U.S. Government Printing Office, Washington, D.C., 1978, at pp. 24-46. *See* Information Briefing, *Human Rights in the Administered Areas*, Israel Information Centre, Jerusalem (August 1976), p. 3; Meir Shamgar, "The Observance of International Law in the Administered Territories," 1 Israel Yearbook on Human Rights 266 (1971); Symposium on Human Rights, Faculty of Law, Tel Aviv University, July 1-4, 1971, statement of Ambassador Netanel Lorch (Israel Ministry for Foreign Affairs), reprinted in 1 Israel Yearbook on Human Rights 366 (1971). The Information Briefing quotes a July 10, 1968, statement in the Knesset by then Minister of Defense Moshe Dayan: "Units of the Israel Defense Forces operate in the areas according to directives and rules in force in Israel and consonant with the Fourth Geneva Convention of 1949." This is said to be so, despite the fact that "the status of the areas is not juridically defined or the Fourth Geneva Convention formally applied to them . . ." (p. 3). *See also Military Prosecutor* v. *Halil Muhamad Mahmud Halil Bakhis and others*, Israel, Military Court Sitting in Ramallah, 10 June 1968, 47 International Law Reports 484 (1974), in which the Court says, "The State of Israel is a State where the rule of law governs, and its Military Courts observe the provisions of the Geneva Convention relative to the Protection of Civilians."

[9]W.T. Mallison, Professor of International Law at George Washington University, made this statement in testimony to the Senate Subcommittee on Immigration and Naturalization, *cited* above in Note 8, at p. 51. *See also* Stephen M. Boyd, "The Applicability of International Law to the Occupied Territories," 1 Israel Yearbook on Human Rights 258 (1971). (At the time of this article, Boyd was Assistant Legal Advisor for Near Eastern and South Asian Affairs, United States State Department.)

[10]Ambassador Charles Yost stated in the U.N. Security Council on July 1, 1969, that the Government of Israel was required by law to apply the Fourth Geneva Convention; he added that the United States has "so informed the Government of Israel on numerous occasions since July, 1967." 61 *Department of State Bulletin* 76, July 28, 1969. On February 4, 1978, the United States joined in a United Nations Commission on Human Rights (Economic and Social Council) consensus resolution which deplored the failure of Israel to acknowledge the applicability of the Fourth Geneva Convention.

[11]General Assembly Resolution 3092 (1973).

[12]". . . where a territory under the authority of one of the parties passes under the authority of an opposing party, there is 'occupation' within the meaning of Article 2 of the Geneva Convention." "Middle East Activities of the ICRC 1967-1970," pp. 426-427, *cited* above in Note 4.

Geneva Convention to the Israeli occupation of the West Bank and Gaza Strip.[13]

Article 4 is a general provision of the Fourth Geneva Convention which defines civilian protected persons in comprehensive terms:

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

Another general provision of the Convention is Article 27, which provides:

> 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.

In assessing repressive practices which are specifically permitted under the Geneva Convention during military occupation, the late Judge Hersch Lauterpacht, of the International Court of Justice, said:

> The administration of the occupant is in no wise to be compared with ordinary administration, for it is distinctly and precisely military administration. In carrying it out, the occupant is totally independent of the constitution and the laws of the territory, since occupation is an aim of warfare, and the maintenance and safety of his forces and the purpose of war, stand in the foreground of his interest, and must be promoted under all circumstances and conditions.[14]

While distinguishing between military and ordinary administration, one must always remember that it was to protect against potential abuse during such administration that the nations of the world negotiated the Geneva Convention. This Report reflects the concern that Israel's military administration of the Occupied Territories has exceeded those standards.

Military occupation is not a value-free act; one does not try to determine whether an occupation is "good" or "bad." By their very nature, occupations are repressive—more or less so, depending upon the prevailing political situation. In this regard, Israel's occupation is no different from history's other occupations. However, through its legal training and perspective, the delegation can make a significant contribution to an examination of the Israeli occupation. It is in this context that particular emphasis is given to Israel's violations of the Fourth Geneva Convention.

---

[13]The Fourth Geneva Convention, Article 6(3), provides that application of certain provisions ends after one year of occupation. Those provisions which lapse after one year are provisions which grant the Occupying Power the right to undertake certain extraordinary measures of a repressive nature deemed by the Convention to be permissible only in the immediate aftermath of warfare. However, those Articles which pertain to protection of the human rights of the population of an occupied territory remain in force so long as the occupation continues. Article 6(3) reads as follows:

> In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operation; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the function of government in such territory, by the provisions of the following Articles of the present Convention: 1 to 12, 27, 29 to 34, 47, 49, 51, 52, 53, 59, 61 to 77, 143.

[14]Lauterpacht, *Oppenheim's International Law*, 7th ed. (1954), p. 437, hereinafter referred to as *Lauterpacht*.

PART ONE
TERRITORIAL DEPRIVATION

I.
ISRAELI SETTLEMENTS

Since the Israeli occupation began in 1967, approximately 60,000 Israeli citizens have settled in some 100 locations[1] including East Jerusalem. Creation of these settlements violates Article 49(6) of the Fourth Geneva Convention, which states:

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

The opinion that the Israeli settlements violate Article 49(6) is shared by virtually all governments and commentators who have considered the issue. U.S. Government officials have repeatedly taken this position. On March 23, 1976, U.S. Ambassador to the United Nations William Scranton, citing Article 49(6) as the "appropriate standard," stated that "substantial resettlement of the Israeli civilian population in occupied territories is illegal under the [Fourth Geneva] Convention."[2]

On November 11, 1976, the United States joined in a Security Council Consensus Statement which called for Israel to comply with the provisions of the Geneva Convention:

> In this regard the measures taken by Israel in the occupied Arab territories that alter their demographic composition or geographical nature and particularly the establishment of settlements are accordingly strongly deplored . . .[3]

At the 1977 U.N. Session, following the General Assembly's October 28, 1977, overwhelming censure (131 to 1, with 8 abstentions) of Israel for its settlements, U.S. Ambassador Andrew Young said, "we believe that Israeli civilian settlements in occupied territories are inconsistent with international law as defined in the Fourth Geneva Convention."[4]

The Israeli Government denies the illegality of its settlements on the

---

[1] Jerusalem Radio, June 11, 1977, transcribed in *MERIP Reports* (August 1977), No. 59, p. 22.

[2] *New York Times*, March 25, 1976.

[3] *New York Times*, November 12, 1976.

[4] In testimony given by Alfred L. Atherton, Jr., Assistant Secretary of State for the Near East and South Asia, the U.S. position was described as unchanged since 1968:

> . . . we see the Israeli settlements as inconsistent with international law. . . . Israel maintains that it does not apply to any of the territories it has occupied since 1967, and that, in any case, it does not prohibit the establishment of settlements in occupied territory. We do not agree with this view of the Convention. In addition, we believe that under international law generally a belligerent occupant is not the sovereign power and does not have the right to treat occupied territory as its own or to make changes in the territory. . . . [Hearings Before the Subcommittees on International Organizations and on Europe and the Middle East of the Committee on International Relations, House of Representatives, Ninety-fifth Congress, First Session, October 19, 1977, p. 139; *see also* 1978 State Department Report, *cited* above in Note 6 to Introduction, p. 365.]

Despite America's oft-repeated position on this issue, United States practice has been to provide Israel with billions of dollars worth of economic and military assistance, violations of the Convention to the contrary. Particular attention is drawn to

ground that the Fourth Geneva Convention does not apply to its occupation of the West Bank and Gaza.[5] It has also been argued that the Israeli settlements do not violate Article 49(6) because the settlements, being the activity of private Israeli citizens, do not constitute a "transfer" of population by Israel.[6] It is clear, however, that Article 49 does not require that transfers of the population of the Occupying Power be forcible. In addition, like other investigators, the delegation concludes that the Israeli Government is intimately involved with creation of the settlements. The Israeli Government encourages settlers, provides them material aid without which the settlements could not be created and provides military protection. Beyond that, the settlements appear to be part of an Israeli Government policy of populating the West Bank and Gaza with its own citizens to facilitate the eventual incorporation and annexation of these areas into Israel. This chapter will demonstrate the Israeli Government's intimate involvement with the settlements.

A. Acquisition of Land

Through laws that it applies in the West Bank and Gaza, the Israeli Government has facilitated the takeover of Palestinian-owned land by settlers. The delegation met with Dr. A. Barkejian, U.N. Area Officer for Jerusalem and Jericho, who estimated that through these laws 25% of the land of the West Bank (500 square miles) is already inaccessible to Palestinians.[7]

---

the State Department's position that so long as Israel withdrew from southern Lebanon, the U.S. would not press the issue of Israel's illegal use of so-called "cluster bombs" during the March 1978 invasion. (*See, e.g.*, "State Department Says Bombing By Israel Violated U.S. Rules," *Washington Post*, April 9, 1978.) The "logic" exhibited is transparent.

[5]Israeli Foreign Minister Moshe Dayan, in an October 10, 1977, speech to the General Assembly, stated that the settlements were legal, and Israel's U.N. Ambassador, Chaim Herzog, provided the rationale: "According to international law, the Israeli settlements in the administrated [*sic*] areas are not illegal—in fact they are legal . . . [because] Jordan and Egypt had no legitimate claim to sovereignty in the West Bank and Gaza and that Israel cannot be considered an occupying Power under the provisions of the Fourth Geneva Convention . . ." *See* discussion on applicability of the Fourth Geneva Convention in Introduction.

[6]In a letter from Herbert J. Hansell, the U.S. State Department's Legal Adviser, to the Chairmen of the Subcommittees on International Organizations and Europe and the Middle East of the House of Representatives Committee on International Relations, this argument was refuted:

> The view has been advanced that a transfer is prohibited under paragraph 6 only to the extent that it involves the displacement of the local population. Although one respected authority, Lauterpacht, evidently took this view, it is otherwise unsupported in the literature, in the rules of international law or in the language and negotiating history of the Convention, and it clearly seems not correct. Displacement of protected persons is dealt with separately in the Convention and paragraph 6 would be redundant if limited to cases of displacement. . . . [Hearings Before House Committee on International Relations, *cited* above in Note 4, p. 171.]

[7]John Ruedy, Professor of History at Georgetown University in a paper entitled "Israeli Land Acquisition in Occupied Territories, 1967-77," estimated that Israeli land ownership on the West Bank is about 160,000 hectares (600 square miles), or about one-third of the land surface of the West Bank; reprinted at pp. 124-127 of the Hearings of the Senate Subcommittee on Immigration and Naturalization, *cited* above in Note 8 to Introduction. After extensive research in the Zionist Archives in Jerusalem, Walter Lehn, Professor of Linguistics at the University of Minnesota, and former Director of the Middle East Center at the University of Texas, estimates that the Jewish National Fund has now acquired over 680,000 acres (1,060 square miles) of Palestinian land in all the Occupied Territories. *See Palestine Human Rights Bulletin*, June 1978, p. 2.

Some of these laws are as follows:

1. *Article 125, Defense (Emergency) Regulations of 1945.*[8] Under this provision, initiated by the British during the Mandate period, the Israeli Government declares an area "closed" for security reasons. Inhabitants must leave such an area and may re-enter only by permit. Article 125 does not define "security"; implementation is left to the Israeli military governor for each region. Article 90 of the Security Provisions Order, put into effect when the Israeli army entered the West Bank on June 7, 1967, has a similar "closed areas" provision.[9] Mayor Bassam Shakaa of Nablus told delegation members that the dwellers of Tamun village (near Nablus) had been forced to sell their sheep after the grazing areas were closed by the military governor for security reasons.[10]

In implementing these provisions, Israel sometimes offers some compensation to the uprooted families; however, the resulting expropriation is entered into without any public hearing and without prior consultation with the community or individuals concerned. In a considerable majority of cases, expropriation amounts, in practical terms, to confiscation, since most Palestinians,

---

[8] Article 125 reads as follows:

> A Military Commander may by order declare any area or place to be a closed area for the purpose 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.

[9] 1 Israel Yearbook on Human Rights 428-429 (1971). Two Hebrew-language news articles illustrate the application of this law. On November 7, 1972, *Ha'aretz* wrote:

> The planners of the settlement [of Nahal Gatit in the village of 'Aqraba near Nablus] are convinced that the 800 dunums on which it is at present established will not be sufficient for its future requirements . . . and according to the plan the semi-military settlement will be replaced by permanent settlers belonging to Hakibbutz Hameukhad in about two years. The settlement will acquire about 2,000 dunums [one dunum equals about one-fourth of an acre] of absentees' property in the village of 'Aqraba . . .

Reporter Nahum Barnea wrote about this same settlement in *Davar* (November 8, 1972):

> . . . a settlement was established . . . in a single night. These were regular soldiers from the Nahal, directed by a senior officer, who were ordered to "create a fact" on the land of 'Aqraba. The fact was in existence at dawn of the same day. . .

Barnea then quoted from the Minister of Defense: "Several years ago this area was declared a closed area to meet the requirements of training with live ammunition." Barnea commented:

> He [the Military Commander] gave orders for the Gatit settlement to be established secretly in a single day, in the manner of a precise military operation. He obviously wanted to present everyone with a *fait accompli* . . . The rapid establishment of the Gatit settlement of 'Aqraba land is completely incompatible with the impression . . . that the area was closed for training purposes . . .

In addition, Jordanian law requires land not used for cultivation for three consecutive years to be re-registered with the government. Israel has utilized this provision of Jordanian law to justify its confiscation of land which has been "closed" for a three year period under Article 125 of the Defense Regulations, or Article 90 of the Security Provisions Order. Obviously, land closed to the Palestinians by Israeli military authorities cannot be cultivated and after three years, such land can be turned over to Israeli settlers. (Interview with Paul Quiring)

[10] *Confirmed* in *Al-Fajr*, July 4, 1977.

for many reasons, do not accept any compensation offered by the Israel Land Authority.[11]

2. *Abandoned Property of Private Individuals Order*.[12] This Order was put into effect to take land of Palestinians displaced in 1967. It defines as "abandoned property" any property "the legal owner or occupier of which left the Region [for any reason] on or before the appointed date [June 7, 1967] or subsequently thereto . . ." Few of these people have been permitted to return to their land, or to the Occupied Territories generally. All property owned by "absentees" passes to an "officer-in-charge."[13]

The International Commission of Jurists agrees with Dr. Barkejian's assessment that these laws have been used to acquire land for settlements. The Commission found

> . . . that much the greater part of the land for the Israeli settlements has been acquired under legislation giving title to public authorities over "waste lands" or "abandoned land" or "absentee property." In other words the settlements have to a substantial extent been established through the expropriation or confiscation of private property.[14]

Land is obtained through other means as well. By virtue of the 1967 war, the Israeli Government gained control over Jordanian and Egyptian public domains, a considerable portion of which had been used for generations by

---

[11] John Ruedy, "Israeli Land Acquisition in Occupied Territory, 1967-77," Hearings of the Senate Subcommittee on Immigration and Naturalization, p. 126, *cited* above in Note 8 to Introduction. "Some fear that accepting compensation might make them liable under Jordanian Law which makes sale of land to Israelis a capital offense. Others out of solidarity with their communities and the national cause refuse to accept compensation. Perhaps the majority refuse Israeli money because they do not want to sign away forever claims to properties they do not want to give up."

[12] Enacted July 23, 1967, with the operative date of June 7, 1967. 1 Israel Yearbook on Human Rights 443-447 (1971). This Order is virtually identical to the Absentee's Property Law enacted after the end of the 1948 Arab-Israeli war. Laws for the State of Israel 4 (1949/50):68, published in *Safer Ha-Chukkim* No. 37, March 20, 1950, p. 86.

[13] Article 2; the Absentee's Property Law created a Custodian [Article 2(a)]. According to an article by Anthony Lewis ("In Occupied Territory," *New York Times*, May 25, 1978), Israel has expanded its working definition of abandoned property:

> A few weeks ago Mr. [Aziz] Shehade bought some property near Ramallah from a cousin who has lived in Canada for years and is now a Canadian citizen. He took the title documents to the Israeli military government to register the transfer in the routine way. But he was told that the sale could not go through: the land had been taken over by the custodian of "absentee property."
>
> . . .
>
> Since Israel occupied the area in 1967, it has treated as absentee property real estate owned by persons in hostile—that is, Arab—countries.
>
> Now, suddenly, Mr. Shehade was told that a property-owner living not in an Arab state but in Canada was an "absentee." And within days, others around the West Bank had similar experiences.
>
> To treat all foreign-owned property in the West Bank as "absentee," subject to the custodian, would have a very large impact. Residents of non-Arab countries are estimated to own 100,000 acres of land [160 square miles] on the West Bank, and 11,000 houses. . . .
>
> The apparent new definition of "absentee property" has therefore caused alarm on the West Bank.

[14] International Commission of Jurists, "Israeli Settlements in Occupied Territories," *The Review of the International Commission of Jurists*, No. 19, December 1977, p. 31.

Palestinians for farming or grazing.[15] In addition, since 1968, the Jewish National Fund and the Israel Land Authority have been quietly buying land all over the West Bank. As Shimon Ben-Shemesh, Director General of the J.N.F., said in March 1976: "We will buy any land, anywhere, at any price, and in any currency."[16] Prof. John Ruedy, of Georgetown University, described the process:

> The government often uses intermediaries to cover its purchases so that the seller does not know he has sold to Israelis. Transactions are not publicly recorded. Neither the Israel Land Authority nor the Military Governor of the West Bank will release figures of any kind on the transactions. As a result of this quieter program of acquisition, Israelis own property in Ramallah, Hebron, Nablus, Tulkarm, Jericho and all over the populated heartland of the West Bank.[17]

Moshe Rivlin, Chairman of the Jewish National Fund directorate, was quoted about these land purchases: "Concerning the purchases—the less we talk, the more we shall be able to do."[18] In 1975, the Jewish National Fund

---

[15] Ruedy, p. 125, *cited* above in Note 8 to Introduction; *see also* testimony of Paul Quiring and Don Peretz, Hearings Before the House Committee on International Relations, pp. 70-71, *cited* above in Note 4. Israel has denominated as "public domain" what is known as "meri" land—land given, pursuant to Ottoman law, to villages for cultivation. In addition to being used by the village in common, land was also subdivided to village families for cultivation. Jordan adopted this traditional system of land tenure. Although technically state land, the state has no rights of usage to this meri land. Such land passes by inheritance to heirs but cannot be transferred by will.

[16] Transcript of Radio Israel broadcast, March 23, 1976, *cited* in Shulamit Aloni, "Is It Under Cover That We Should Purchase Land?" *Yediot Aharonot*, March 26, 1976. For further information concerning these purchases, *see* Yehuda Litani, "The Hidden Colonization of the West Bank," *Ha'aretz*, February 18, 1977; Terrence Smith, "Covert Israeli Land Deals on West Bank Stir Furor," *New York Times*, April 12, 1976; Yehuda Litani, *Ha'aretz*, March 2, 1977; and Amos Levav and Baruch Meiri, "Land Redemption in Judea and Samaria Brings in Profits," *Ma'ariv*, September 19 and 20, 1977.

[17] *Idem.* Individuals cannot acquire land in the Occupied Territories; however, a committee was created by the Likud Government, to handle proposals on how to simplify procedures of land acquisition in these areas. According to Nahum Barnea, "Government Committee Will Propose This Month Simplification of Land-Purchasing Procedures in Judea and Samaria," *Davar*, October 6, 1977:

> . . . This will enable the acquisition of land by [Jewish] individuals when the Government decides to allow this. During its electoral campaign, the Likud bloc undertook to change present regulations, decided upon by the former Government, and concerning the acquisition of land.
>
> As of now, any such acquisition is carried out through the Hemnutah Company [a subsidiary of the Jewish National Fund] which is listed in the Ramallah Company Registration Office as a "foreign company." Under the proposed procedures, the acquisition will be done in a simplified manner, although still in the framework of Jordanian Law [*sic*], it nonetheless will be carried out swiftly, and under the complete control of the Israeli Government. If the Government decides, as the Likud committed itself on the eve of the elections, to enable individuals to benefit from the new procedures, this will have some far-reaching political implications. The first beneficiary of such changes will be the Yariv Company, which was headed, until not long ago, by the Minister of Industry, Commerce and Tourism, Yigal Hurvitz. After the 1967 war, the Yariv Company bought hundreds of dunums of land near the village of Jib, in the Nebi Samuel area, not far from Jerusalem. 200,000 Lirah were invested by the company in this deal, which was then termed "illegal" by the authorities. The deal was made in secret, with the Mukhtar of the village, and it has still not been signed legally. The company will immediately legalize the status of "its" land, once the Government changes the ordinances. The company might find itself richer by millions of Lirah.

[18] Jerusalem Radio interview, September 17, 1977.

(Jewish Agency)[19] purchased land in the Occupied Territories for more than 50 million Israeli Pounds (at that time, approximately $6.6 million).[20]

Lauterpacht indicates that titles acquired in such ways by a military occupier are invalid:

> Immovable private enemy property may under no circumstances or conditions be appropriated by an invading belligerent. Should he confiscate and sell private land or buildings, the buyer would acquire no right whatever to the property.[21]

Thus, any transactions regarding the acquisition of land between Israel (or its nationals) and the inhabitants of the Occupied Territories, have no validity in law. The payment of compensation does not render such transactions valid.

B. Location of Settlements

Careful control is maintained by the Israeli Government over the locations where settlements in the West Bank and Gaza are established. In a 1974 Knesset (Israeli Parliament) statement, Chaim Tzadok, the Minister of Justice, indicated that Government permission had to be obtained to live in that area since, under military law, the West Bank was a "closed area." Moving from Israel to the West Bank without an authorization issued by the Military Governor was considered a violation of the law regulating the conditions of entry into the West Bank.[22]

Then Prime Minister Yitzhak Rabin stated in 1974 that Israel's policy of settlement of the Occupied Territories "was based on a series of priorities, on security and political considerations, on settlement requirements and on the existing possibilities and restrictions . . ."[23]

In October 1977, Minister of Social Affairs Zevulun Hammer reiterated this argument, stating that settlement is an explicitly political concern and that therefore only the Government could decide on settlement affairs.[24]

---

[19] The Jewish National Fund is an independent agency of the Jewish Agency. Until 1971, the Jewish Agency and the World Zionist Organization were identical [World Zionist Organization-Jewish Agency (Status) Law, 5713-1952, *Safer Ha-Chukkim* No. 112, December 2, 1952, p. 2; Laws for the State of Israel 7:3]. In 1971, however, the Jewish Agency was reorganized; the two organizations are now legally separated and operate under different governing bodies.

[20] Transcript of Radio Israel broadcast, March 23, 1976, *cited* above in Note 16. According to *Ha'aretz*, February 13, 1973, the Jewish National Fund had already bought more than 110,000 dunums. Prof. Ruedy estimates the J.N.F. and the Israel Land Authority have purchased about 75,000 acres in the West Bank since 1967 ("Israel Land Acquisition in Occupied Territory, 1967-77," Hearings of the Senate Subcommittee on Immigration and Naturalization, p. 127, *cited* above in Note 8 to Introduction. Prof. Lehn estimates that throughout the Occupied Territories, the Jewish National Fund has now acquired about 1,060 square miles of Palestinian land (*see* Note 7).

[21] *Lauterpacht*, §134, *cited* above in Note 14 to Introduction.

[22] *Ma'ariv*, August 14, 1974. Staying in the West Bank was not forbidden *per se*; it was forbidden when it was the result of moving into the area to settle or to help someone else settle. The Minister quoted Article 4 of the regulation controlling entry into the West Bank whereby offenders are liable to two years' imprisonment, to a fine of 2,000 Israeli Pounds, or to both.

[23] Radio Israel Report, July 31, 1974, *cited* in U.N. Special Committee Report, Doc. A/9817 (1974), p. 17.

[24] *Davar*, October 6, 1977.

During January 1978, Foreign Minister Moshe Dayan said that all settlements set up since the present Likud Government took office were established according to Government decision.[25]

And in an earlier interview, Yigal Allon, former Foreign Minister, commented: ". . . if you sum up the empirical behavior of the Government of Israel in determining the points of settlement, you'll find that they add up to a concept: that is, settlements are placed in strategically important areas along existing borderlines or in the vicinity of areas likely to become borderlines in the future."[26]

It is obvious from the above-stated policy that settlements are not set up at random locations. The delegation met with Paul Quiring, Director of the Mennonite Relief Agency, who indicated that West Bank settlements have been established along three prongs which appear to be aimed at containing and isolating the Palestinian communities.[27]

The first prong runs along the Jordan River, which separates the West Bank from Jordan. This string of settlements (the delegation saw one while driving to Jerusalem from the Jordanian border) isolates West Bank Palestinians from Jordan.

The second prong runs along the 1948 armistice line between Jordan and Israel, commonly referred to as the "green line." This string (the delegation observed one while travelling to Nazareth from Jerusalem) separates West Bank Palestinians from Israel.

The third prong (not yet completed) calls for settlements to ring the most populous Palestinian towns, like Nablus and East Jerusalem. The delegation observed the large new apartment complexes, open to Jews only,[28] ringing Jerusalem on the eastern side.[29]

C. Government Cooperation With Settlers

The Israeli Government has, since the time of the first settlements in the West Bank (scarcely a month after the occupation began), cooperated closely with the settlers. Cooperation has taken many forms, all directed toward the successful transfer of Israeli citizens into the Occupied Territories.

---

[25] *Al-Hamishmar*, January 5, 1978.

[26] Interview by Refael Basham, *Yediot Aharonot*, May 14, 1976.

[27] On October 17, 1977, Quiring testified before the House Committee on International Relations, *cited* above in Note 4.

[28] Testimony of Ibrahim Dakkak, Hearings of the Senate Subcommittee on Immigration and Naturalization, October 18, 1977, pp. 83-84, *cited* above in Note 8 to Introduction.

[29] Kfar Etzion, south of Jerusalem and near the Jewish residential development of Talpiot; Ramat, northeast of Jerusalem and considered the backbone of the newly built Jewish residential areas of French Hill; and Ramat Eshkol, north of Jerusalem, were all visible from our hotel on the Mount of Olives.

On Mount Scopus, within walking distance, were a campus of the Hebrew University, the Hadassah Hospital, and Har Ha'Tzofim settlement. The Hebrew University, established in 1925, and the Hadassah Hospital, established in 1939, have remained under Jewish control since. [Sir Richard Allen, *Imperialism and Nationalism in the Fertile Crescent* (New York: Oxford University Press, 1974), pp. 288, 496 and 639 and *Encyclopedia of Zionism and Israel* (New York: Herzl Press, 1971), p. 441.] Since 1967, these facilities have been substantially expanded.

1. *Disguise of Military Encampments*

Civilian settlements are often created from what start out as military encampments. In a March 1978 guest column in the *Washington Post*, Simcha Dinitz, Israel's Ambassador to the United States, wrote that ". . . out of regard to the delicate negotiations [between Egypt and Israel] . . . the government of Israel itself decided, and so conveyed to the president [of the United States] in September 1977, that new settlements within the next year would be confined to military camps. We have fulfilled that promise."[30]

In fulfilling this promise, the Israeli Government, as reported in a September 1977 article, agreed that "six Gush [Emunim, an ultra-nationalist movement, which organizes settlements in the Occupied Territories] settlements will be created by the end of 1977 in military camps. The settlers will serve as army reservists." The article noted that other settlements, such as Kiryat Arba (Hebron) and Alon-Moreh were originally established in military camps but are now ordinary settlements.[31]

Deputy Defense Minister Mordecai Tzipory explained that settlers in such camps have the official status of "civilians in military service." He announced that Israel would begin the construction of seven Army camps in the occupied West Bank to receive such settlers. He said the Army might employ some of the settlers, who would become civilian Army employees; their salaries would be paid by the Defense Ministry, which would have them sign six-month contracts.[32] Tzipory said that "the Army would eventually evacuate the camps and help to turn them into permanent settlements."[33]

The "military disguise" is not an innovation of the Likud Government which came to power in May 1977. Israel Galili, in charge of Israeli settlement policy in the previous Labor Government, undertook and authorized military "stations" in Bethlehem and Kochar-Hashar "to avoid foreign policy problems and domestic opposition." And in December 1976, Minister of Social Affairs Hammer suggested that new settlements be given the character of "security settlements."[34]

---

[30] Simcha Dinitz, "Israel's Stand on the Settlements Issue," *Washington Post*, March 12, 1978, Sec. C, p. 7; recalling this promise not to make new civilian settlements, Shlomo Avneri, former director general of the Israeli Foreign Office, described the policy, which has allowed settlers onto the West Bank in the guise of "archaeologists" as "multiple lying . . . much more reminiscent of the behavior of a fearful diaspora leadership than that of an independent state . . ." H.D.S. Greenway, "Hope for Settlement Waning," *Washington Post*, March 6, 1978, p. 17.

[31] Yehuda Litani, "Settlement Under Military Disguise," *Ha'aretz*, September 30, 1977.

[32] *Al-Hamishmar*, October 11, 1977.

[33] John K. Cooley, "Israeli settlers vow to hold disputed areas," *Christian Science Monitor*, December 1, 1977. Under Secretary of State Atherton, before the House Committee on International Relations, *cited* above in Note 4, p. 146, listed the names of eight such settlements in military camps: Givon (north of Jerusalem), Nabi Saleh (northwest of Ramallah), Dotan (near Jenin), Shomron (near Sebastia), Beit El (near Ramallah), Tirza (Nablus-Damya Road), Sanur (Nablus-Jenin Road), and Horon (Latrun Salient).

[34] *Ha'aretz*, December 8, 1976. The extent to which military (Nahal) settlements are employed is reflected in the fact that "a majority of the civilian settlements are former Nahal camps." Testimony of Prof. Raymond Tanter, in Hearings Before House Committee on International Relations, *cited* above in Note 4, p. 52.

2. *Material Incentives*

The Israeli Government has provided extensive material aid to settlers, including water, electricity, telephone service, concrete, bulldozers, and transportation facilities. While the Government claims it has difficulty "controlling" settlers of the Gush Emunim, the ultra-nationalist group, an Israeli journalist comments:

> The most outstanding phenomenon is the close cooperation between the military government [in the West Bank] which supposedly takes care of law and order, and the Gush Emunim settler.[35]

The Government provided Jewish settlers in the occupied areas sizable income tax exemptions[36] and inexpensive loans. *Davar* (newspaper of the Histadrut Labor Federation) noted that in 1975 the exemption averaged $1,500 for the year.[37] Government loans to settlers for building expenses are accorded on "very good terms."[38]

The primary method by which the Israeli Government encourages settlers to transfer to the Occupied Territories is with direct subsidies to the settlements. The Government acknowledged that through June 1977, it had allocated $400 million to settlements in the Occupied Territories.[39]

The 1978 Israeli budget provides a considerable increase in expenditures for the absorption of new settlers into the settlements already established in the occupied areas.[40] Finances for the establishment of another 11 new settlements approved by the Government before the beginning of the negotiations with Egypt are also included in the 1978 budget.[41]

The 1978 allocation to the Ministry of Agriculture includes the highest amount ever set aside for new settlements—426 million Israeli Pounds (it was 267 million Israeli Pounds in 1977).[42] In the Ministry of Housing's budget, 840 million Israeli Pounds have been allocated for the construction of 1,550 building units in the new settlements.[43]

D. Motivation for Settlements

1. *Homeland Doctrine*

Over the years successive Israeli Governments have made it clear that they

---

[35]Boaz Evron, "Little Stories from the Occupied Territories," *Yediot Aharonot*, April 8, 1977.

[36]*Jerusalem Post*, February 18, 1975. The *Jerusalem Post* is an English-language daily newspaper.

[37]February 18, 1975.

[38]*Davar*, "Hundreds of Families Interested in Purchasing Apartments in Yamit," September 15, 1977, and *Yediot Aharonot*, January 16, 1978.

[39]Jerusalem Radio, June 11, 1977.

[40]*Yediot Aharonot*, January 10, 1978.

[41]Seventeen more settlements are planned, but no money has been allocated for them in the 1978 budget, *Yediot Aharonot*, January 10, 1978.

[42]The 1978 conversion from Israeli Pounds to U.S. dollars has fluctuated between 14 and 18 Israeli Pounds per U.S. dollar. I£43 million in compensation for settlement expenses incurred by the Gush Emunim movement in 1977, prior to their settlement "legalization" is included in this figure. *Idem*.

[43]*Idem*.

actively encourage settlement and view settlements as permanent. They see the West Bank and Gaza as part of the natural boundaries of the Jewish "homeland," since both formed part of the ancient land of biblical Israel.

Under this "homeland" doctrine, the Israeli Government regards the Palestinian inhabitants of the West Bank and Gaza as being there by sufferance only. Prime Minister Menachem Begin and others refer to the West Bank as "Judea and Samaria"—the ancient names for the region.[44] Israeli Ministry of Tourism maps obtained by the delegation at the border crossing show the West Bank and Gaza as part of Israel, with no indication of their status as occupied areas. The maps refer to the West Bank as "Judea" and "Samaria."[45]

Likud Cabinet Secretary Aryeh Naor told delegation members in a taped interview that "it would be an act of anti-Semitism to say that a Jew could not settle in Judea and Samaria." The *Jerusalem Post Magazine* has quoted Naor as saying, "Israel cannot be deemed to annex that which is rightfully hers . . . Jews cannot be barred from settling anywhere within their eternal, pre-ordained domain."[46]

The French weekly *L'Express* quotes Prime Minister Begin's statement that "Judea and Samaria are Israeli lands belonging to the Jewish people." In response to Egyptian President Anwar Sadat's speech of November 20, 1977, to the Israeli Knesset, in which Sadat called for the return of the territories as a necessary pre-condition for true peace, Prime Minister Begin stated: "We did not take any strange land—we only returned to our own land."

The Israeli Government's encouragement of settlements in the West Bank and Gaza is not a Likud innovation. Then Defense Minister Moshe Dayan stated in 1973 that Israel should remain forever in the West Bank "because this is Judea and Samaria, this is our homeland."[47] In 1976, *Ha'aretz* reported the statement of Dayan's successor, Shimon Peres, that "the Jewish people has a basic right to settle anywhere provided that this be carried out without the dispossession of Arabs and without hurting their feelings . . ."[48] And the April 22, 1976, *Jerusalem Post* quoted then Prime Minister Rabin as saying that "no settlement has been set up in order to be taken down again." Three months later, Moshe Dayan stated it was important "to emphasize that we are not foreigners in the West Bank. Judea and Samaria is Israel and we are not there as foreign conquerors but as returners to Zion."[49]

---

[44] Shmuel Katz, Prime Minister Begin's Counsellor for Foreign Information, has given instructions that only the terms "Judea and Samaria" may be used by Israeli officials when speaking of the West Bank. *Al-Fajr*, September 29, 1977.

[45] Neither color codings nor border markings were used to distinguish the Occupied Territories from Israel. The Israeli settlements in the Occupied Territories appeared simply as new towns.

[46] "Defence wall or barrier to peace," September 12, 1977. *See also* Nathan Feinberg, "The Legal Status of the West Bank," *Ha'aretz*, October 9, 1977.

[47] *Jerusalem Post*, May 15, 1973.

[48] January 25, 1976.

[49] *Jerusalem Post*, July 15, 1976.

2. *Annexation*

Israeli Government statements make it clear that the Government views the settlements as creating the basis for eventual annexation of the West Bank and Gaza into Israel.[50] Both Israelis and Palestinians speak of this process as "creating facts." Professor Ra'anon Weitz, head of the Jewish Agency's Settlement Department, in a June 1977 Jerusalem Radio interview, explained:

> Where an Israeli settlement is established, it should be a permanent settlement that should not be removed under any military or political change. Our settlements have always established the facts of the map of Israel. Therefore, before establishing a fact, it is necessary to think carefully whether it will be possible to maintain this fact even if political and military conditions change.[51]

In that same interview, Minister Israel Galili, then Chairman of the Ministerial Committee on Settlement,[52] said:

> . . . what we have accomplished . . . constitutes an extremely significant reality from a political, security and national point of view. The settlements constitute a deployment of extreme value that expands the infrastructure of the State of Israel and offers a dimension of entrenchment and firmness.

a. *Jerusalem*

Immediately following the 1967 war, Israel "officially" annexed the

---

[50] It is important to be aware that Israeli settlers themselves may have motivations different from those of the Government. These motivations may not necessarily reflect "expansionist" desires. However, according to Prof. Raymond Tanter, settlements established for religious, sentimental, or industrial reasons comprise only a small proportion of the total. Hearings Before House Committee on International Relations, p. 52, *cited* above in Note 4.

Kfar Etzion settlement, near Bethlehem, was first founded in 1943 by the Religious Kibbutz Movement. During the 1948 war, this kibbutz was destroyed. In September 1967, the kibbutz was resettled by members of the same kibbutz movement, including children of some original settlers. Anne Sinai and Allen Pollack, Editors, *The Hashemite Kingdom of Jordan and the West Bank: A Handbook* (New York: American Academic Association for Peace in the Middle East, 1977), p. 207. *See also* testimony of Ann M. Lesch, Hearings Before House Committee on International Relations, pp. 10 and 21, *cited* above in Note 4.

In 1929, the Jewish community in Hebron was forced to leave, but two years later, thirty-five families returned. In 1936, during the Palestinian uprisings, all the families but one were killed. Sinai and Pollack, *cited* above, p. 206. After 1967 a Jewish community was re-established in the vicinity of Hebron to replace those earlier ones. *See also* testimony of Ann M. Lesch, Hearings Before House Committee on International Relations, p. 10, *cited* above in Note 4. Institutions like the Hebrew University and the Hadassah Hospital have already been referred to.

The point of these examples is that intentions and motivations for establishing settlements or building facilities in the Occupied Territories are complex, reflecting the historical particularities of the region, including the desire to continue the former Jewish presence. However, the overall Government policy is to be distinguished from this.

[51] Interview on Jerusalem Radio, June 11, 1977, transcribed in *MERIP Reports*, No. 59 (August 1977), p. 22.

[52] Ministerial Committee on Settlement is presently under the chairmanship of the Minister of Agriculture. It is composed of seven Government ministers and seven members of the World Zionist Organization.

eastern portion of Jerusalem into Israel,[53] in direct violation of Article 47 of the Fourth Geneva Convention, which states, in part:

> 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 annexation by the [Occupying Power] of the whole or part of the occupied territory.

To solidify its control, Israel has promoted Jewish immigration into East Jerusalem. As with its promotion of other settlements, this policy constitutes a violation of Article 49(6) of the Fourth Geneva Convention.

In 1975, then Housing Minister Avraham Ofer stated that the peopling of East Jerusalem and the surrounding area with Jews was a "matter of top priority."[54] In May 1977, the Israeli Government proposed a new program of construction in East Jerusalem, intended to accelerate Jewish migration there by construction of 18,000 apartments.[55]

Delegation members visited the Jewish Quarter of the Old City (located in the heart of East Jerusalem), where a ten-year Israeli Government plan calls for reconstruction and substitution of Jewish families for Palestinians. By 1975, more than 6,000 Palestinians had been evicted after being offered some compensation, and their homes were destroyed; 200 Jewish families had already moved in, while only 20 Palestinian families remained.[56]

Delegation members also visited the Wailing Wall in the Old City. A large, paved, open space adjacent to it required the destruction of hundreds of Palestinian homes and removal of more than 4,000 Palestinian residents.[57]

---

[53] Law and Administration Order (No. 1) 1967, dated June 28, 1967.

> The equalization policy was first spoken of in the declaration of the Israeli Foreign Ministry on 28 June 1967 (Annexation day). The spokesman stated that "the basic purpose of the ordinance was to provide full municipal and social services to all inhabitants of Jerusalem. They would enjoy complete equality in respect of services, welfare and education." . . .
>
> For some time "the Israeli Government assumed an ambiguous position. Outwardly, it stressed that the step taken did not constitute annexation, while for internal consumption it emphasized that annexation was full and complete. The effect of the Government legislation however, was not in the least ambiguous. The law of annexation clearly applied Israeli law, jurisdiction and administration to the annexed area." [Benvenisti, Meron, "Jerusalem, the Torn City " (Jerusalem: Isratypeset Ltd., 1976), pp. 110-11.] [Other notes deleted.] [Ibrahim Dakkak, "Sole [*sic*] Aspects of the Israeli Annexationist Policy As Practiced In Jerusalem: 'A Case Study of the Potential Annexation of the Occupied Territories'," reprinted in Hearings of the Senate Subcommittee on Immigration and Naturalization, p. 103, *cited* above in Note 8 to Introduction.]

[54] *Ha'aretz*, December 25, 1975.

[55] *Ha'aretz* and *Jerusalem Post*, May 8, 1977; the program proposed construction in Ramot, Gilo, Talpiot, and the area between French Hill and Neve Yaacov.

[56] *Jerusalem Post*, December 26, 1975; *see also* U.N. Special Committee, "Protection of Human Rights in the Occupied Territories: Conclusion," Report A/31/218 (Background Papers, U.N. Office of Public Administration No. OPI/582-77-35308-10m), p. 8.

[57] U.N. Special Committee, Background Papers, p. 8; *see also, Guardian* (London), March 4, 1968, p. 9, and testimony of Ann M. Lesch, Hearings Before House Committee on International Relations, p. 10, *cited* above in Note 4. Israel claims these Palestinians were offered alternative housing, but Jerusalem Mayor Teddy Kollek has said that "some Arab families were removed from their homes at too short notice and without replacement housing for them having first been found." *Washington Post*, May 2, 1968, Sec. A, p. 23.

Israel's annexation of East Jerusalem has met world-wide condemnation. The General Assembly and the Security Council have repeatedly declared invalid all measures by which Israel has purported to annex the occupied part of Jerusalem.[58] The U.S. Government has consistently taken the same stand:

> It remains the U.S. position that the part of Jerusalem which came under the control of Israel in the June [1967] War, like other areas occupied by Israel, is occupied territory and therefore subject to the provisions of international law governing the rights and obligations of an occupying power.[59]

On November 11, 1976, the United States joined in a Security Council Consensus Statement which stated in part:

> It [the Security Council] considers once more that all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon and the transfer of populations which tend to change the legal status of Jerusalem, are invalid and cannot change that status, and urgently calls upon Israel once more to rescind all such measures already taken and to desist forthwith from taking any further actions which tend to change the status of Jerusalem.[60]

To date approximately 50,000 Jewish people have moved into East Jerusalem and its immediate environs. Plans call for more extensive populations to be developed there.[61]

b. *West Bank and Gaza Strip*

A 1971 *Jerusalem Post* report summarized a statement by present Minister of Defense Ezer Weizman that "the Jordan River would make the best eastern border for Israel; Judaea and Samaria [the West Bank] must remain under Israeli control."[62] In an interview about the political future of Gaza during

---

Attempts to obtain the space in front of the Wailing Wall had been made as early as 1918. *See, e.g.*, Allen, *Imperialism and Nationalism in the Fertile Crescent*, p. 265, *cited* above in Note 29, which describes the efforts of Chaim Weizmann.

[58] General Assembly Resolution 2253, July 4, 1967, and Security Council Resolution 252, May 21, 1968. *See also, e.g.*, U.N. Special Committee Report, Doc. A/9148 (1973), para. 140, p. 44.

[59] Statement of Robert J. McCloskey, officially released March 8, 1968, *cited* in *Israel and the Geneva Convention*, Institute for Palestine Studies, Beirut, 1968 (Anthology Series No. 3).

[60] *New York Times*, November 12, 1976. This same position was stated by Ambassador Scranton when he stated that "resettlement of the Israeli civilian population in occupied territories, including in East Jerusalem, is illegal under the Convention . . ." *New York Times*, March 12, 1976.

[61] A number of plans have leaked to the press:

1. New Jewish settlements were suggested by the planner Shmuel Shaked, to be built around Jerusalem. Three of these settlements and four villages are suggested to accommodate 75,000-150,000 inhabitants, and five satellites are to accommodate 25,000 inhabitants. *as-Shaab*, December 9, 1975;

2. It was reported that 10,000 dwellings are to be built between Ramot and Neve Yaacov by 1982. Abraham Rabinovich, "On Building a Fortress Around Jerusalem," *Jerusalem Post Magazine*, November 8, 1974.

Cited in Dakkak, Hearings of the Senate Subcommittee on Immigration and Naturalization, p. 105, *cited* above in Note 8 to Introduction.

[62] March 21, 1971.

the same year, then Information Minister Israel Galili replied: "I believe it can be said definitely that the Gaza region will not be again separated from the State of Israel."[63]

Three years later, the *Jerusalem Post* reported the statement by the Minister of Tourism, Moshe Kol, that Israel was establishing settlements in the territories in order to remain there, "as this represents the future map of Israel."[64]

The Official Text of the Likud Government's Basic Policy Guidelines includes a statement that "the Government will plan, establish and encourage urban and rural settlement on the soil of the homeland." Given the opportunity to implement this goal, Ariel Sharon, Minister of Agriculture and head of the Ministerial Committee on Settlement,[65] released a plan for accelerated settlement, projecting a Jewish population of two million within twenty years.[66] Sharon said: "By declaring it every Jew's right to settle in the whole of the land of Israel, the present government gave both a green light and political moral base to settling."[67]

The Likud Government has speeded plans to "thicken" older settlements near the "green line," in the Jordan valley and in the heartland area north of Jerusalem.[68] Minister Sharon, interviewed by *Time* magazine, explained

---

[63]*New York Times*, July 5, 1971.

[64]May 15, 1974.

[65]A serious conflict has arisen between the Government and the Jewish Agency. A second Ministerial Committee on Settlement Affairs, composed exclusively of Government ministers (no Jewish Agency representation) has begun to meet, composed of the Minister of Agriculture, Minister of Finance, Minister of Building and Development, Minister of Defense, and Foreign Minister. *Yediot Aharonot*, October 7, 1977. The "Zionist Executive members charge it is . . . aimed at neutralizing their influence on settlement affairs. Ariel Sharon said this committee would deal with 'special and secret' cases—and, indeed, it seems the very creation of this committee was taken at a secret session, as the Zionist members of the Joint committee learned about it only from the press." *Yediot Aharonot*, October 7, 1977. The anger voiced by the zionist organizations is apparent: "Ra'anon Weitz, Chairman of the Zionist Settlement Department, said that any settlement that had not been approved by the joint committee would be considered illegal. Also, the World Zionist Organization would only help and assist those settlements approved by joint decisions." *Yediot Aharonot*, October 25, 1977.

Since April 16, 1978, operational decisions regarding the creation or enlargement of settlements have been transferred from the Ministerial Committee on Settlement Affairs to the Ministerial Committee on Security Affairs, headed by the Prime Minister. *See Ha'aretz*, April 19-21, 1978, and *Jerusalem Post*, April 20, 1978.

[66]*Jerusalem Post*, September 2, 1977. In opposition to Sharon's plan of dotting the West Bank with as many settlements as possible, Israeli Defense Minister Ezer Weizman submitted a plan to the settlement committee which proposed the expansion of six West Bank settlements into urban centers (which would settle 38,000 families), and then a halt to new settlements. *See New York Times*, "Israel's Defense Chief Proposes Expansion of 6 West Bank Sites," May 19, 1978: "Backers of Mr. Sharon said agricultural settlement in . . . the West Bank, was preferable to urban colonization because it brought more of the land under Israeli control."

[67]*Ma'ariv*, September 9, 1977.

[68]Dr. Israel Shahak, Professor of Chemistry at the Hebrew University and Chairman of the Israeli League for Human Rights, before the Senate Subcommittee on Immigration and Naturalization, p. 6, *cited* above in Note 8 to Introduction, suggested two reasons for the Israeli settlements in the Occupied Territories: the establishment of new frontiers for Israel, and the holding down of the Arab population in a permanent state of subjugation. He described Israel's intentions this way:

> . . . to divide the Arabs of the Occupied Territories into small segments, divided one from another by the "lines" or "wedges" of Jewish settlements, in order to make them "manageable" for the future permanent subjugation. It should

that "Settling is a protracted business, and whoever thinks that the Government plans withdrawal from Judea and Samaria suffers from visions."[69]

In 1978, Labor Party (opposition) leaders affirmed their opposition to the abandonment of settlements beyond the "green line." They appealed to the Government to take steps to assure that the Territories already settled be included inside Israeli borders if a peace treaty is signed.[70]

While the delegation believes Israel's settlement policy is intended to make any solution other than annexation of the West Bank and Gaza impossible, it is argued that Prime Minister Begin's December 1977 proposals in response to the Sadat initiative demonstrate this conclusion to be mistaken. It is claimed that "self-rule" means an end to the military occupation; Begin's proposals, therefore, constitute movement in a direction away from annexation and not toward it.

However, Begin's "self-rule" proposal does not mean an end to military occupation.[71] While municipal authorities would be given greater authority to run local affairs, Israeli Defense Forces would retain jurisdiction over security.[72]

Israel's current interpretation of U.N. Resolution 242—that it does not require Israel to withdraw from the West Bank or the Gaza Strip—confirms the delegation opinion that, while Israel says it wants peace, it also wants the Occupied Territories.[73]

The previous Labor Government indicated as early as 1970 that Israel considered Resolution 242 as calling for a withdrawal from the West Bank; this was passed to Jordan in a memorandum through the United Nations. Such a position was adopted by the Cabinet and approved by the parliament. In fact, Menachem Begin, who was then a member of the coalition government, re-

---

be clearly stated and as clearly understood that for General [Ariel] Sharon, the Israeli minister in charge of settlement, Arabs constitute a danger just because they are Arabs and for no additional reason. For example, the sole reason for "the insertion of a wedge of Israeli settlements" on "the western slopes of Samaria" is given as the presence of "a string of Arab villages" inside the area of the State of Israel, whose population numbers close to 100,000 and "another band of dense Arab settlements" which also numbers "close to 100,000 inhabitants" on "the other side of the former green line" (my emphasis, but Sharon's expression!). The sole purpose of inserting this "wedge" of Jewish settlements is "the danger," as General Sharon says, of one block of Arabs joining the other block. It is especially important to note that one of the "blocks" of Arabs which constitutes "a danger" according to General Sharon, is composed of Israeli citizens, whose danger consists apparently in the fact that they do not happen to be Jews, and this racist argument is then used as the reason for the establishment of a "wedge" of Jewish settlements. (All quotations are from the *Jerusalem Post*, September 9, 1977.)

Interviewed by members of the delegation, Bethlehem Mayor Elias M. Freij confirmed Shahak's views, describing the purpose of the Israeli settlements as the cutting up of the West Bank and Gaza.

69 *Cited* in *Yediot Aharonot*, September 12, 1977.

70 *Davar*, January 6, 1978.

71 *New York Times* text of Begin plan, December 29, 1977, p. 8.

72 "All that Israel insists upon is to remain responsible for security," is how Simcha Dinitz, Israel's ambassador put it in a guest column in the *Washington Post*, "Israel's Stand on the Settlements Issue," March 12, 1978, Sec. C, p. 7.

73 H.D.S. Greenway, "Hope for Settlement Waning," *Washington Post*, March 6, 1978, p. 17.

signed in protest because, as he then explained, he was opposed to committing Israel to territorial concessions on the West Bank.[74]

The Israeli decision of August 14, 1977, to "equalize" the services in the West Bank and the Gaza Strip with those of Israel comes as a logical outcome to the designs of the Likud Government. The statement of Secretary to the Cabinet Naor (that Israel cannot annex "that which is rightfully hers") leaves no room for doubt that the Begin Government has committed itself to the total annexation of the West Bank and Gaza into Israel.

The equalization decision prepares the ground for total annexation and takes practical steps in that direction so that, when the right moment comes, legislation can be passed and the annexation made "legal."[75] The East Jerusalem newspaper *Al-Quds* commented:

> This decision amounts to the annexation of the Territories without annexing the citizens at the same time. Israel wants the territory, but is afraid to grant political rights to the people living here.[76]

In the light of the process by which Jerusalem was annexed in 1967, it is reasonable to consider the Israeli equalization decision as a prelude to the total annexation of the West Bank and Gaza Strip.

The delegation's conclusion that the settlements are aimed at annexation is shared by the International Commission of Jurists, which stated:

> . . . in the light of the permanent character of most of the settlements and the pronouncements of Israeli leaders to the effect that they are permanent, it would seem naive to regard this policy as anything other than a step towards eventual assertion of sovereignty over the territories or part of them.[77]

The U.N. Special Committee has also stated that the settlements are promoted by the Israeli Government as a step toward annexation of the West Bank and Gaza.[78]

E. Views Opposing the Occupation

It is unclear how many Israelis approve of the settlement of the Occupied Territories and their ultimate annexation. The election victory of the Likud coalition in 1977 is not necessarily indicative of support for this policy; domestic issues, like corruption in the Labor Government and economic

---

[74] Former Foreign Minister Abba Eban wrote that "the question whether [the Begin Government] can act with cavalier indifference to the commitments of its predecessors deserves a passing reflection . . . The fact that the Likud Party obtained 39 percent of the election votes does not constitute a national endorsement for the principle of no foreign rule west of the Jordan." *Cited* in Greenway, *Washington Post*, March 6, 1978, *cited* above in Note 73.

[75] *Al-Hamishmar*, August 15, 1977; *see also* Note 53, *supra*.

[76] *Cited* in *Davar*, August 15, 1977.

[77] International Commission of Jurists, "Israeli Settlements in Occupied Territories," *The Review of the International Commission of Jurists*, No. 19, December 1977, p. 30.

[78] All U.N. Special Committee Reports; *see, e.g.*, Doc. A/32/284 (1977), para. 245, p. 37 or Doc. A/31/218 (1976), para 321, p. 49.

difficulties, contributed to the Likud victory.[79] One indication of lack of support for the settlement policy is that, despite the Government's substantial material incentives to settlers, few Israelis have been willing to live in these settlements (outside of Jerusalem) and many housing units stand vacant.

Based upon discussions with Israelis from all points of view, the delegation concludes that Israeli public opinion favors settlement in the Occupied Territories. However, there is substantial disagreement among Israelis as to the appropriate scope of the settlement policy.

One force within zionist political circles which opposes settlement is the small but active Council for Israeli-Palestinian Peace and its electoral arm, the Sheli Party (with two seats in the Knesset).

The delegation met with leaders of this movement—Meir Pail (Knesset member), Gen. Mattityahu Peled, and others. The Council asserts that Israel's security would be better served with a return of the Occupied Territories in the context of a comprehensive peace agreement. The Council concedes the right of Palestinians to self-determination "in the political framework of its choosing," while at the same time emphasizing the "inalienable" link of Israel to zionism.[80]

Officials of the Mapam Party, which defines itself as zionist-socialist, and which, along with the Labor Party, formed the Government of Israel until the May 1977, Likud victory expressed sharp criticism of the Gush Emunim and Likud expansionist settlement policy. However, Mapam is linked to several settlements and has recently expanded its settlement activity,[81] and as

---

[79] In a public opinion poll carried out by the PORI Institute during October 1977,

> . . . 46.7% of the people polled said that the continuation of establishing settlements in the territories will have a negative influence on the chances for peace. 23.5% of the polled think that this will not have a negative influence . . . Among the more advanced strata of the population from the point of view of their education, their occupation and standard of income more than 50% think that the establishing of further settlements will have a negative influence on the chances for peace . . . [*Ha'aretz*, October 31, 1977, p. 8.]

However, opposition to the return of the Occupied Territories has grown in the last two years—from 40.3% in September 1975, to 51.3% in October 1977. The support for the return of the Territories went down by 22.9%, from 50.5% in September 1975, to 27.6% in October 1977. *Ha'aretz*, November 7, 1977, p. 5.

Assistant Secretary of State Alfred L. Atherton. Jr. stated before the House Committee on International Relations, p. 138, *cited* above in Note 4, that the official U.S. position was that the settlements were

> an obstacle to peace because their establishment could be perceived as prejudging the outcome of negotiations dealing with the territorial aspects of final peace treaties.
>
> The Arabs perceive Israel's settlements in the occupied territories as indicating that Israel intends to retain permanent control in the areas where the settlements are located . . . In our view . . . once settlements are established, they inevitably create psychological and political conditions which will make it more difficult to negotiate the final disposition of areas where they are located. . . . [T]he settlements complicate the work of beginning the negotiations . . .

[80] Council *Manifesto*, paragraphs 3 and 10.

[81] In addition to the Al-Kativ settlement in Gaza, there are five settlements in the Golan Heights (Merom haGolan, Ein Zivan, El Rom, Ortal and Moran). *Davar*, August 15, 1977 and September 29, 1977. And in a January 1978 press conference, Yaakov Tzur, Secretary General of the haKibbutz haM'ukhad Movement, close to Mapam, "called for the strengthening of settlements in the Jordan Valley. He said that the es-

part of the previous Government was intimately involved in the early development of the settlement policy. Mordecai Bentov, with whom the delegation met, was one of those who helped implement the early settlement strategy in his capacity as Housing Minister.[82] Bentov indicated to one member of the delegation, however, that he opposed the settlement policy and that this opposition was a factor in his being forced from the Government.

The delegation also met representatives of the non-zionist Left, including the Committee for Peace and Equality between Israel and the Arab States (it was formed prior to the development of the Palestine Liberation Organization), Shasi, Rakah (Israeli Communist Party), the Israeli Socialist Organization, and the Revolutionary Communist League. These groups oppose the settlements and support self-determination for the Palestinian people.

The reaction of Palestinians to the settlements is universal condemnation. To Palestinians the settlements illustrate the expansionist nature of Israel and its settler-colonialist nature. In interviews with the delegation, the mayors of Ramallah (Karim Khalaf), Bethlehem (Elias Freij), and Nablus (Bassam Shakaa) condemned the settlements. Freij, who refers to himself as a conservative, said: "Each settlement is a nail in the coffin of peace."[83] Each mayor stressed that public references in Israel to "Judea and Samaria" and the "liberated" territory (West Bank and Gaza) evoke greater resistance from the Palestinians. The view that the settlements obstruct any peace effort is shared by the U.S. State Department.[84]

In response to Israeli settlements, West Bank peasants are organizing "committees to defend the land." Basheer Barghouti, editor of the weekly *At-Taliya*,[85] and former editor of the Arabic-language newspaper *Al-Fajr* (East Jerusalem), told the delegation settlements are "popularizing" the resistance throughout the area, involving all sectors of Palestinian society and making the struggle "a true people's struggle." As an example of the activity of these committees, Barghouti said that in early July 1977, near the village of Attara, a small Israeli army contingent arrived to camp for the night. Believing that this contingent's arrival indicated creation of a new settlement, a peasant committee armed with sticks came to meet them. The peasants retired only after the Israeli commander convinced them that the contingent would leave the next day.

---

tablishment of three Kibbutz-settlements belonging to the haKibbutz haM'ukhad in the Jordan Valley has been carried out according to security guidelines, along borders Israel is supposed to have, following negotiations for a peace settlement." *Al-Hamishmar*, January 23, 1978. If these are really negotiations, it seems difficult to imagine how Mr. Tzur knows what the borders are supposed to be "following negotiations for a peace settlement."

[82] On August 22, 1968, the *Jerusalem Post* reported Minister Bentov's statement to the effect that 18 new settlements had been set up since the June 1967 war in the newly-occupied Arab territories, including 10 in the Golan Heights, 3 on the West Bank, and 5 in the Negev and Sinai; he noted that two more settlements on the West Bank were being planned, and that expenses on these projects amounted to I£ 18 million.

[83] In testimony before House Committee on International Relations, p. 13, *cited* above in Note 4, Ann M. Lesch reported a May 13, 1976, conversation with Mayor Freij, who "saw Jewish settlement as a clear sign that Israel does not want to withdraw from the West Bank, and therefore it does not want peace."

[84] *See* Note 79, *supra*.

[85] *Yediot Aharonot*, February 28, 1978.

F. Conclusion

Israeli promotion of settlements in the West Bank and Gaza constitutes a violation of Article 49(6) of the Fourth Geneva Convention. Although settlement policy must be evaluated in the light of various motivations, ultimately Israel's policy must be evaluated and condemned in the light of repeated assertions by its leaders that the settlements are intended to establish the new borders of Israel. The annexation of East Jerusalem, in violation of Article 47 of the Convention, is representative of Israel's desires, as are its interpretation of U.N. Resolution 242, the "equalization" decision, and the tremendous amounts of material assistance provided to settlements.

Beyond that, the settlements represent a serious obstacle to peace, since the Palestinians perceive them (correctly) as Israel's attempt to create permanent institutions; Israeli policy is designed to "create facts" to render impossible any solution other than incorporation and annexation of the West Bank and Gaza Strip into Israel.

II.

INVOLUNTARY RESETTLEMENT OF THE GAZA POPULATION

Article 49 of the Fourth Geneva Convention prohibits "individual or mass forcible transfers . . . regardless of their motive."[1] If the evidence shows that the transfers of Gaza residents, which are acknowledged to have occurred, were forcible, then Israel stands in violation of Article 49 for those actions.

In 1948, Gaza was occupied by Egypt. When Israel occupied Gaza in 1967, there were some 210,000 refugees, 170,000 of whom lived in large camps without water, electricity or other amenities.[2] The camps were run by the United Nations Relief and Works Agency (UNRWA) whose mandate, according to a representative, is to "care for refugees with shelter, relief services, social assistance, education and health care. We are restricted to the sites as they are. Elimination of the camps is not in our mandate."[3]

---

[1] Article 49(6) reads as follows: "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."

[2] Shlomo Yogev, "Gaza Without Refugees: The Policy and Its Purpose," 55 *New Middle East* 3 (1973).

[3] *Chicago Daily News*, October 6, 1977.

In the French weekly *L'Express*, an aide to then Prime Minister Golda Meir said: "Do you really think that we are investing millions here in order to leave one day? We will remain in Gaza however heavy the burden because it is vital for us. There will never again be an economic barrier between Gaza and Israel."[4]

The Israeli desire is to retain Gaza, but have large numbers of Gaza's one-half million[5] residents settle elsewhere. In the early days of the occupation the Israelis sought to encourage their emigration to Jordan. When this did not work, they sought to lure the Palestinians to the West Bank area; this effort did not succeed either.[6] By 1970 there was open discussion of the need to "thin out" the Gaza population. "The best solution, it is believed here, would be to transfer the surplus population from the Gaza Strip to the West Bank of the Jordan."[7] Gen. Shlomo Gazit, the military administrator of the Occupied Territories stated the desire: ". . . the intention is to remove [tens of] thousands of people for whom the Strip is too narrow and too poor."[8]

The major concern of the Israeli authorities was not a regard for the standard of living of Palestinians, nor the "beautification" of the camps; rather, their wish to transfer the Gaza population was "motivated by the Israeli intention, which Israeli leaders readily acknowledge, not to return the occupied Gaza Strip to Egypt, not even as part of a peace agreement. . . . [M]ost expect that Israel ultimately will annex the Gaza Strip outright."[9] Addition-

---

[4] August 24-30, 1970.

[5] In 1967, the Gaza population was approximately 450,000; by 1977 it had grown to approximately 540,000. *See* Ann Mosely Lesch, "Israeli Settlements in the Occupied Territories, 1967-1977," VII *Journal of Palestine Studies* 28 (Autumn 1977).

[6] *New York Times*, October 12, 1970, and *Guardian* (London), July 30, 1971. By the middle of 1971, the number of persons who had left the Gaza Strip for the West Bank, Jordan and the Arab World since June 1967 was 70,000. This figure did not include the 80,000 persons who left the Strip for education, trade, and other purposes. *Ha'aretz*, reprinted in *Al-Ittihad*, July 27, 1971. *See also Ma'ariv*, July 26, 1971. According to *Ha'aretz*, January 19, 1971, emigration from the Gaza Strip to the West Bank alone had reached 1,000 per month.

[7] *London Times*, July 22, 1971; *see also* Shlomo Gazit, *Israel's policy in the administered territories*, Jerusalem, Information Service of the Prime Minister's Office, Publications Department, 1969, p. 12 (condensation of a speech by Brigadier General Gazit, Coordinator of Government Activities in the Administered Areas, at a seminar in Rehovat on April 21, 1969, conducted by the Israel Academic Committee on the Middle East), where Gen. Gazit said: "We do not believe there is any real possibility of solving the problem of the Gaza refugees in Gaza. . . . The possibilities are to do something in the West Bank or perhaps in Sinai."

[8] *Ma'ariv*, August 20, 1971. General Gazit, now a Major General, is presently Israel's Chief of Military Intelligence.

[9] Terrence Smith, "Israel's Refugee-Resettling Project Is Transforming Gaza Strip," *New York Times*, April 2, 1973. *See* Amos Haddad, *Ha'aretz*, January 4, 1972:

> The main problem in the Strip now is how to reduce the [population] density of the Strip, not that of the camps. A way must be found of moving part of the Strip to other places. The second problem that requires attention is that of dismembering the Strip . . . the Strip must not be allowed to remain a single political, administrative and economic unit. Soon we shall see Jewish settlements in the Strip, which will help to merge it with Israel.

See also Dani Zidconi, *Davar*, January 9, 1972:

> To prevent any such crystallization [of political forces seeking to consolidate the Gaza Strip as an Arab political and economic territorial unit], which would inevitably constitute a danger to the political future of the area as part of Israel, Jewish settlement is now spreading between Gaza and Deir Balah, between Deir Balah and Khan Yunis, and between the latter and Rafah towards the sea.

ally, it was an effort to break the growing Palestinian resistance to the Israeli occupation of Gaza. The process which Israel adopted to accomplish this was a massive "collective punishment" against the Gaza population.

Israel initiated an effort to remove Palestinians from Gaza which could not fail, since it did not depend on voluntary emigration as before. Israel began systematically to destroy homes in refugee camps, forcibly removing thousands of Gaza residents to Al-Arish in the Sinai Desert and to unoccupied camps in the West Bank.[10] Gen. Gazit explained what happened:

> We began . . . to thin out the population . . . We have removed more than a thousand families from Jabaliya and Shati [refugee camps]. Together there are about eight thousand people. We have supplied housing to only 360 displaced families, to whom we gave empty apartments . . ."[11]

According to the ICRC, by August 1971, the Israeli army had removed more than 14,700 refugees to Al-Arish and the West Bank.[12] In August 1971, then Transport Minister Shimon Peres said that 10,000 refugees had been transferred from the Strip to Al-Arish, and that 20,000 more would be resettled in the northern Sinai.[13] Major Amir Cheshin, Israeli liaison officer for Gaza, acknowledged that Palestinians transferred from Gaza to Al-Arish in the Sinai were forced out.[14]

The *New York Times* described the removal procedure:

> Every day Israeli jeeps roll up to 35 or 40 of the cinder-block houses. A soldier paints a black cross on the wall and another tells the family they will have to move.
>
> Twenty-four hours later, after the families have loaded their possessions onto trucks furnished by the army and departed, the bulldozer arrives and knocks the houses down.[15]

The bulldozers cleared paths through the rubble and roads forty to fifty yards wide were built.[16]

At the beginning of the removal operation, those for whom Israel provided housing were relocated "in housing as makeshift as what they had left."[17] In 1972, Israel began construction of alternative housing for Gaza residents in Al-Arish and other parts of the Gaza Strip and Sinai Desert to replace some of the houses destroyed by the "thinning out" process and the bulldozers.

---

[10] *ICRC Annual Report 1971* (Geneva, 1972), pp. 50-51.

[11] *Ma'ariv*, August 20, 1971.

[12] *ICRC Annual Report 1971* (Geneva, 1972), pp. 50-51.

[13] UPI-AFP, *L'Orient-Le Jour*, August 15, 1971.

[14] "The Israelis admit that these original families were forced out, but they say that their first duty under the Geneva Convention was to establish law and order in the occupied territories." H.D.S. Greenway, "Politics Ties a Second Generation of Palestinians to Gaza," *Washington Post*, November 19, 1976; Terrence Smith, *New York Times*, April 2, 1973, *cited* above in Note 9, also discusses the forced removals from these camps.

[15] August 20, 1971.

[16] *Christian Science Monitor*, August 28, 1971.

[17] William E. Farrell, "Israeli Housing for Gaza Refugees Spurs Friction With U.N.," *New York Times*, November 24, 1976.

The new units stand on 250 square meter plots, which can be linked to running water, sewers and electricity. By 1975, 7,400 residents had moved from the camps into these new units and a waiting list had closed at several thousand names.[18] The houses that the Israelis offer the refugees are not free. The basic cost of a housing unit is approximately $4,500 of which $2,700 is required as a down payment, with the rest payable over ten years.[19] Evicted Palestinians receive only $800 in compensation for their demolished homes.[20] This discrepancy usually means they must borrow from friends and relatives, and in this way they become tied into the Israeli economy; to be able to pay back such large sums, they are forced to find work in Israel. (*See* Chapter IV, *infra*.)

Is this resettlement of Gaza residents simply a benign effort to alleviate overcrowded conditions? The delegation concludes that it is not. Israel admits that one objective was to facilitate access and lighting for security patrols in the refugee camps. The delegation believes Israel's objective is greater: to lay the foundation for its annexation by and incorporation into Israel.[21]

In 1973, former Prime Minister Rabin provided a clear enunciation of Israel's policy during the eleven years of occupation. At a symposium attended by all former Israeli Chiefs of Staff in February 1973, Rabin proposed "to create such conditions that during the next ten years there would be a natural shifting of population to the East Bank . . . I would wish a minimum of refugees in Judea and Samaria. The problem of the refugees of the Gaza Strip should not be solved in Gaza or [A]l-Arish but mainly in the East Bank . . ."[22]

The resettlement of Gaza residents has been forcible for many of those evicted from their homes. Major population transfers occurred, for instance, in the area of Yamit and the Rafah approaches of southern Gaza, where 10,000 families were "removed" from the three major refugee camps, and relocated, to make way for Jewish settlements in the area.[23]

In a November 1976 United Nations General Assembly vote, the United States joined with 117 other nations in calling on Israel to halt refugee re-

---

[18] *Washington Post*, June 1, 1975.

[19] Greenway, *Washington Post*, November 19, 1976, *cited* above in Note 14; no social services are provided such as schools, day care centers, youth centers, etc.

[20] Farrell, *New York Times*, November 24, 1976, *cited* above in Note 17, and *MERIP Reports* (March 1978), No. 65, p. 21; according to this interview with UNRWA worker Mary Khass, two-room houses, costing $4,000 each, consist of one room 4 x 4 meters, a second 3½ x 4 meters, and a kitchen of 1½ square meters. In addition to the $4,000 purchase price, purchasers must supply the sink, the tap, pay for the water and electric connections (about $250), and are required to build fences between families.

[21] *See also, e.g.*, U.N. Special Committee Report, Doc. A/31/218 (1976), para. 324, p. 50, and para. 332, p. 52.

[22] *Ma'ariv*, February 16, 1973. Israel often points to the fact that for twenty years Egypt occupied the Gaza Strip and Palestinian refugees never voiced any complaints. Complaints, of course, were voiced against Egyptian rule. However, it must be remembered that the Egyptian occupation was not viewed as an antagonistic one, whereas the Israeli occupation, with all of the bloodshed, relocation, etc. is clearly antagonistic. Furthermore, the Egyptians never challenged the right of the Palestinians to reside in the area, while Israel claims that Gaza is Israeli soil.

[23] U.N. Special Committee Report, Doc. A/31/218 (1976), para. 61, p. 18. *See also* Eric Rouleau, *Le Monde*, January 9-13, 1973.

settlement efforts in Gaza and to return immediately all the Palestinian refugees of Gaza to their old camps. In response, Israel claimed the resettlement operation was voluntary.[24]

Ha'aretz wrote that during the 1971 transfers, many Palestinians were brought to the hospital with broken bones. At army aid stations, it was seen that many people had been flogged on their bare backs, resulting in blisters. Search patrols pulled down houses, destroyed furniture and property. Members of patrols and Border Guards, claiming they were searching women, stripped them and left them naked in the streests. *Ha'aretz* noted that some nurses driving in a bus on their way to the hospital were searched in this way. The Red Cross protested against this treatment, with the result that later women were stripped in side streets and refugee camps rather than in the main streets. Israeli security men prevented doctors from taking the injured into hospitals.[25]

Forcible transfers did not end in 1971; a July 1975, *Ha'aretz* report describes more recent Israeli methods of obtaining "voluntary" relinquishment of property rights:

> A boy of 9 signs a document by which he "concedes" his land. "Negotiations" with landowners in the Yamit area were held while bulldozers are stationed at the edges of the plots.
>
> . . .
>
> Applicants for identity papers or licenses to enter their property are required to sign written concessions as conditions for receiving the documents.
>
> . . .
>
> People who worked as teachers or in other government service jobs are fired because they refused to sell their land.
>
> . . .
>
> Lately residents of the coastal area near Yamit have been threatened with a transfer to the middle of Sinai. At night they are brought to the authorities, group by group, and heavy pressure is exerted. In at least one instance one man of 55 who refused to sell his land was badly beaten, and his teeth were broken.[26]

In Gaza City, the delegation met with Dr. Haider Abdul Shafi, chief physician of the Palestinian Red Crescent Society, who told of steps which the Israeli authorities are taking presently to reduce the Gaza population. He said the Israeli military continues to paint a large "X" on houses and shops in camps to identify buildings to be demolished. He indicated that this is done arbitrarily and without consulting the residents. Shafi noted that Gaza inhabitants are still being encouraged to resettle in the Sinai, where Israel is constructing some housing for them. He informed the delegation that there are now plans for the settlement of Yamit, in southern Gaza, to be expanded to

---

[24]Peter Grose, "U.N. Calls on Israel to Rescind Resettlement of Arabs in Gaza," *New York Times*, November 24, 1976.

[25]January 26, 1971.

[26]"Democracy Ends at Pithat Rafiah," *Ha'aretz*, July 29, 1975.

100,000 or more inhabitants. A 1977 *Al-Hamishmar* article confirms Dr. Shafi's information.[27] Other articles have related Israeli Government plans to transfer Gaza residents to areas in the West Bank.[28]

In 1969, 10,000 "Bedouins"[29] were dispossessed from 250,000 acres in the southern Gaza region.[30] In 1977, *Al-Hamishmar* described the situation of Bedouins in the Gaza region:

> North of Yamit . . . Bedouin families are being chased away. They were forced to take apart their huts and move to the palm-grove, close to the sea. Bulldozers have covered the Bedouins' plantations and blocked up water-holes. . . . The Bedouins then were forced to the other side of the fence and are now enclosed by this fence on all sides. . . . It seems to be the Authorities' intention to concentrate the Bedouins along the beach so as to expel them later more easily. . . . [N]ot a cent was spent in order to solve the Bedouins' problem—except for one "showcase-project" where only a small number of Bedouins can live, very few indeed compared to those who have been expelled since the Sadot-settlements [new Jewish settlements in the area] were established.[31]

The ICRC has repeatedly approached Israeli authorities to express "concern about the forced transfers . . ."[32] Similarly, then U.N. Secretary General U Thant sent a memorandum to the Israeli Government objecting to the evacuation and demolition of homes in Gaza.[33]

Another U.N. official, Ronald Davidson, Deputy Director for Operations of UNRWA, objected in 1976 "to the fact that people are being forced to

---

[27] "Three plans have been worked out, for Yamit: a prospective one, for 100,000 people to be settled there, a general plan for 50,000 souls only, and an immediate development plan, now being implemented, for about 20,000 people." September 30, 1977.

[28] *Davar*, August 16, 1977, and *Yediot Aharonot*, August 16, 1977.

[29] Israel's apparent definition of Bedouins is different from the common meaning which assumes a nomadic existence. While these are people who roam over an extended area, they return year after year to the same plots to grow food, etc. While during the summer they may be in a different place than they were in the spring or previous winter, they return to the same place they were the previous summer (and in winter return to the same place they were the previous winter, etc.) Thus, they are far from wandering nomads.

[30] Testimony of Ann M. Lesch, former representative in the Middle East of the American Friends Service Committee, before House Committee on International Relations, pp. 12 and 17, *cited* above in Note 4 to Chapter I; *see also* testimony of Alfred L. Atherton, Jr., Assistant Secretary of State for Near Eastern and South Asian Affairs, p. 160, wherein he notes the expulsion of a "sedentary Bedouin population." In a 1972 Israel Supreme Court decision Judge Moshe Landau discussed the applicability of Article 49 to the Bedouin population:

> Article 49 does not apply to our case, for, as will be recalled, the appellants were transferred from place to place within the territory of the Military Government and not from it to territory of the State of Israel. But, in any event, we shall not interfere with the discretion of the army commanders, who believe that the transfer was required to ensure quiet . . . [H.C. 302/72, *Sheikh Suleiman Abu Hilu et al.* v. *State of Israel et al.*, 27(2) Piskei Din 169, reported in 5 Israel Yearbook on Human Rights 387.]

[31] December 22, 1977.

[32] *ICRC Annual Report 1971* (Geneva, 1972), pp. 50-51.

[33] *New York Times*, "Israel Ends Gaza Evacuation, Lists 13,366 Arabs Resettled," August 31, 1971.

move from the camps."[34] Davidson also complained that Palestinian families being "relocated" to an Israeli housing project are required to demolish their camp shelter before leaving the camp. Davidson said that such shelters are U.N. property, and that they are needed for the growing refugee population.

Davidson's charges about forced relocation and demolition of shelters were admitted by Major Cheshin, the Israeli liaison officer for Gaza.[35]

Gaza residents who move to the Sinai have their names removed from the Gaza refugee rolls and, thus, are no longer entitled to rations, medical services, and other UNRWA social services.

Another United Nations official noted that so long as the camps exist, Palestinians can claim a right to return to their original homeland, while by moving to the new housing, "the [Israeli] Government could claim the people are resettled in permanent homes."[36] In June 1973, Defense Minister Dayan identified this as a major goal of the "alternative housing" policy: "As long as the refugees remain in their camps . . . their children will say they come from Jaffa or Haifa;" if they move out of the camps, the hope is they will feel an attachment to their new land.[37]

The delegation was also told that residents of the West Bank are prohibited from moving to Gaza. Residents of Gaza, on the other hand, are permitted to move to the West Bank. Once they do so, however, they must exchange their Gaza identity card for a West Bank card. With this exchange, they are considered West Bank citizens and may not spend more than twenty-four hours in Gaza at any one time.

The delegation concludes that Israeli policy in Gaza has three objectives. The first is to reduce the large, unwanted Palestinian population within its desired borders by resettling a portion of the Palestinian Gaza population beyond the Strip. Second, with the removal and transfer of the population, Israel can claim that the refugee problem has been eliminated. A third objective is to neutralize UNRWA by depleting the refugee rolls.

---

[34] Farrell, *New York Times*, November 24, 1976, *cited* above in Note 17, and Greenway, *Washington Post*, November 19, 1976, *cited* above in Note 14.

[35] *Idem.*

[36] Farrell, *New York Times*, November 24, 1976, *cited* above in Note 17.

[37] *Jerusalem Post*, June 13, 1973.

III.

REFUSAL TO PERMIT RETURN OF PALESTINIANS DISPLACED IN 1967

UNRWA, the body responsible for care of Palestinian refugees, estimates that 500,000 Palestinians have been displaced from the Occupied Territories since 1967.[1] As of 1977, Israel had permitted the return of only 48,000[2] of the 500,000.

According to the ICRC, after the 1967 hostilities ceased "a considerable number wish[ed] to return to their homes in the occupied territories."[3] For some 140,000 persons, 35,184 repatriation applications were forwarded by the ICRC delegation to the Israeli Ministry of the Interior. By the end of the two-week planned period for repatriations (August 31, 1967), the Ministry had approved only 4,699 applications, representing 19,000 persons. Of that number, 14,051 actually returned; among them were none of the 1948 refugees displaced a second time during the June 1967 war.[4]

In 1972, Defense Minister Dayan acknowledged that the Israeli Government was aware that many more Palestinians wished to return; he explained that this was a "difficult problem that will be solved only when broader arrangements [presumably peace arrangements] are made."[5]

A week earlier, however, Dayan had made clear Israeli policy on the issue of return: "Israel will not permit the return of the hundreds of thousands of West Bank residents who left the country before and during the Six Day War."[6] He claimed the military authorities would allow the return of some former residents where humanitarian considerations were involved, as well as of those persons who Israeli authorities decided could contribute to the economic development of the West Bank. The result has been that only about 10% of those Palestinians eligible to return have been permitted to do so.

---

[1]Janet L. Abu-Lughod, "The Demographic Transformation of Palestine," in *The Transformation of Palestine* (Ibrahim Abu-Lughod, editor, Evanston, Illinois: Northwestern University Press, 1971), p. 163, puts the figure at more than 450,000. *UNRWA—A Survey of United Nations Assistance to Palestine Refugees*, 1973, p. 1, puts the figure at half a million. Another UNRWA document, *Palestine Refugees and Other Displaced Persons—Definitions and Statistics—30 June 1976*, pp. 2-3, shows 535,625 Palestinians displaced by the 1967 war, including natural increase since 1967.

[2]Chaim Herzog, Speech to United Nations General Assembly, October 26, 1977.

[3]"Middle East Activities of the ICRC, 1967-1970," p. 447, *cited* above in Note 4 to Introduction.

[4]*Ibid.*, p. 448.

[5]*Jerusalem Post*, June 20, 1972. These visitors and returning citizens complain about the bad behavior of border police and soldiers, the long hours they are forced to wait, humiliating body-searches and the loss of valuables during these searches. "Personal property is taken by the searchers, and arbitrary, and huge customs' duties imposed on those who visit or return." *Zu Haderech*, "Humiliating Behavior on the Jordan's Bridges," August 3, 1977.

[6]*Jerusalem Post*, June 13, 1972.

Numerous Palestinians recounted to the delegation the hardships caused by this policy. Bir Zeit University faculty members said that the University is not permitted to hire as instructors Palestinians who used to live on the West Bank, unless the University can prove that these potential staff members are the sole supporters of their families.[7] Given the size of most Palestinian families and their extended nature, such proof is generally impossible to provide.

Dr. Samir Katbeh, head of the Union of Jordanian Doctors, told the delegation that Israeli authorities frequently deny the request to return of medical specialists, and that this has led to a shortage of personnel in several medical specialties. (*See* Chapter V, *infra*.)

Dr. Darwish Nazzal, Director of the Maqasid Hospital, a Palestinian charitable institution in East Jerusalem, told delegation members of a Palestinian pediatrician who had applied to return to the West Bank. Authorities approved his request on condition that he work in an Israeli government hospital; such a condition would preclude his working at a charitable hospital such as Maqasid.

The Israeli Government claims that it denies requests to return only in cases of serious security risk. Likud Cabinet Secretary Naor stressed this point during the delegation's interview with him. It also asserts there is no duty to permit their return.[8]

Israel has permitted many Palestinians to visit the West Bank and Gaza for short periods under a visitation program which began in 1968. From 1968 to 1972, the program operated during the summer months only, and during that period 352,000 persons visited the Occupied Territories, according to Israeli Government figures.[9] In 1973, the visitation program was made year-

---

[7] Another story related to the delegation by Bir Zeit faculty concerned a Bir Zeit teacher who was born and raised on the West Bank, but in June 1967, happened to be in Cairo. Since then, the Israeli authorities have not allowed him to return to the West Bank on a permanent basis. For many years he was only permitted to return as a visitor, using a monthly permit. Every month he had to leave the West Bank and have the permit renewed. Eventually he received a one year permit. At the end of that school year, he applied for an extension and continued teaching while awaiting his permit. In November, he was told that his permit extension had been denied. The University Administration protested because the academic year had already begun. The Military Governor pressured the University to terminate his contract, but the University refused to do so. His permit was finally extended for another year. Five days after this permit expired, the Israeli authorities ordered him to leave the West Bank. The services of an attorney were retained, and the Military Governor eventually permitted him to remain for one more year. He did not know whether he would be allowed to remain when this permit expired.

At Bir Zeit University, the delegation also learned about the case of Riad Amin, an Israeli Palestinian who was formerly a member of the Bir Zeit faculty. Amin is a Ph.D. candidate at the Hebrew University in Jerusalem, one of approximately 500 Palestinian students there. He wrote a book which demonstrated the need for a junior college for Palestinians in the Galilee (Israel). Since then the Israeli authorities have denied him permission to continue teaching at Bir Zeit. He cannot even obtain permission to visit the West Bank.

[8] The Israeli Supreme Court rejected the right of return in *Abu El-Tin* v. *Minister of Defence et al.*, H.C. 550/72, 27(1) Piskei Din 481 (1973), reported in 5 Israel Yearbook on Human Rights 376-380 (1975). Right of return is specifically recognized in the Universal Declaration of Human Rights (Article 13, paragraph 2), the International Covenant on Civil and Political Rights (Article 12, paragraphs 2 and 4), and the Racial Discrimination Convention [Article 5(d)(ii)].

[9] *Facts About the Administered Areas*, Israel Information Centre (1973), p. 22. *See also* Information Briefing, *Human Rights in the Administered Areas*, Israel Informa-

round. According to Israeli statistics, 467,067 Palestinians crossed the bridge into the Occupied Territories in 1976,[10] about half of whom were Palestinians returning to their West Bank and Gaza homes after completing visits to Arab countries.

The visitation program, however, is no substitute for permitting permanent return. Israel's refusal to permit return of displaced Palestinians desiring to do so violates the Fourth Geneva Convention, which protects persons temporarily absent from an occupied area. Article 4 of the Convention, which includes such persons within its definition of "protected persons," reads:

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

The negotiating history of this article indicates that it covers those temporarily absent at the time of the fighting. During discussion on Article 4, speakers observed that

> . . . the term "nationals" . . . did not cover all cases, in particular cases where men and women had fled from their homeland and no longer considered themselves, or were no longer considered, to be nationals of that country. Such cases exist, it is true, but it will be for the Power in whose hands they are to decide whether the persons concerned should or should not be regarded as citizens of the country from which they have fled.[11]

The clear implication of this comment is that a person who has fled but is still considered a national of the occupied land is a "protected person," under Article 4, and as such is entitled to return to the occupied area. The United Nations Special Committee has repeatedly advocated this position.[12]

---

tion Centre, Jerusalem (August 1976), p. 7. The figures provided are as follows:

1968— 16,000	1972—153,000
1969— 23,000	1973—110,000
1970— 53,000	1974—237,000
1971—107,000	

[10] *Information Briefing* 362, Israel Information Centre, October 23, 1977. Information Briefing, *Human Rights in the Administered Areas*, Israel Information Centre, Jerusalem (August 1976), p. 7, provides additional figures:

Year	*Outgoing*	*Incoming*
1967	No records	No records
1968	203,000	183,000
1969	95,000	101,000
1970	78,000	76,000
1971	57,000	58,000
1972	153,000	133,000
1973	230,000	235,000
1974	284,000	266,000

Note that, according to the above figures, approximately 48,000 more Palestinians left the Occupied Territories than returned.

[11] Jean S. Pictet, *Commentary: IV Geneva Convention Relative to Protection of Civilian Persons in Time of War*, International Committee of the Red Cross (Geneva, 1958), p. 47.

[12] *See, e.g.*, Doc. A/8089 (1970), para. 35, p. 22; Doc. A/31/218 (1976), para. 321, p. 49; or Doc. A/32/284 (1977), para. 247, p. 37.

While the Convention permits an occupying power to do what is necessary to maintain order, this right does not give the occupier the right to keep out persons temporarily absent.

Israel's refusal to repatriate 1967 refugees has been condemned by the U.N. Special Committee[13] and by the International Commission of Jurists.[14] The delegation also concludes that Israel has violated the Fourth Geneva Convention by denying return to Palestinians displaced in 1967. In addition, the delegation concludes that the converse of this policy is Israel's encouragement of those still living in the Occupied Territories to emigrate.

[13] *Idem. See also* Doc. A/8828 (1972), para. 57, p. 31, or Doc. A/8389/Add. 1 (1971), para. 20.

[14] International Commission of Jurists, "Israeli Settlements in Occupied Territories," p. 31, *cited* above in Note 14 to Chapter I.

PART TWO

SUPPRESSION OF EFFORTS AT SELF-DETERMINATION

IV.
DEVELOPMENT OF A COLONIAL ECONOMY

The nature of the Israeli economic regime in the Occupied Territories is colonialist: direct and indirect exploitation of a cheap labor force, domination of the local markets, investment of money in and employment of a small section of petty bourgeois and reactionary elements.

Israel needs the West Bank and Gaza as markets for its goods. It also needs their people as a labor force to do work for which there are not enough Israelis, or which Israelis are unwilling to do.

The goal seems to be to attach the inhabitants of the occupied areas to the Israeli economy—making these areas economically dependent upon Israel regardless of any potential political solution. A so-called "economic revival" in the Territories has occurred with no effort being made toward developing the local economies. It has resulted primarily from employment in Israel itself, as a substitute for a strategy of development. As Brian Van Arkadie, in his 1977 book, concluded, Palestinians from the West Bank and the Gaza Strip "have not participated in the political process that has set the major economic policies affecting them or that has supervised the overall implementation of those policies."[1]

The Israeli economy, more advanced technologically than that of its neighbors, has reached a point at which its domestic population can no longer consume all the goods it produces. It therefore needs foreign markets for its production. The West Bank and Gaza have provided a convenient captive market for Israeli products. The West Bank and Gaza obtain 90% of their imports from Israel (1973 figures).[2] Israel, in that year, obtained 2% of its imports from the West Bank and Gaza.[3] Since the start of the occupation Israel has increased six-fold its exports to the West Bank and Gaza, making those territories Israel's second largest export market, second only after the United States. Israel has built up a tremendous trade surplus with the West Bank and Gaza—$513 million from 1967 to 1974.[4]

---

[1] Brian Van Arkadie, *Benefits and Burdens: A Report on the West Bank and Gaza Strip Economies Since 1967* (New York: Carnegie Endowment for International Peace, 1977), p. 40.

[2] Jamil Hilal, "Class Transformation in the West Bank and Gaza," *MERIP Reports*, No. 53 (December 1976), p. 10.

[3] *Idem.*

[4] *Idem. See also* Bank of Israel Research Department, *The Economy of the Administered Areas in 1971*, Jerusalem, 1972, p. 31, which, citing the Central Bureau of Statistics, provides the following statistics on exports from the West Bank and Gaza to Israel, and imports from Israel into the West Bank and Gaza:

	1968		*1969*		*1970*		*1971*	
	exports	*imports*	*exports*	*imports*	*exports*	*imports*	*exports*	*imports*
West Bank	45	319	45	179	68	191	82	228
Gaza	9	50	7	82	8	100	19	128

trade balance with Israel—in millions of Israeli Pounds

Israel's more advanced industry has given it the opportunity to purchase the manufactured products of the West Bank and Gaza's small industrial capacity, thereby rendering Palestinian industries dependent on Israeli purchases. This aspect of economic relations between Israel and the Territories was discussed in a 1975 report of the Bank of Israel, which described various ways in which the West Bank and Gaza economies had become dependent on Israel. A summary of the Bank's report said:

> . . . the dependence of the territories on the Israeli economy goes much further . . . A substantial part of the modest industry existing in the territories is working on jobbing orders placed by Israeli manufacturers and merchants, and would be unable to find alternative markets.[5]

At the same time, due to its more advanced industry, Israel needs more workers. One of the first things the Israeli Government did after occupying the West Bank and Gaza was to establish employment agencies to recruit Palestinian workers for jobs in Israel. In December 1968, the Israeli Ministry of Labor, which maintains these employment agencies,[6] reported that 44% of the workers hired through them were directed to jobs in the West Bank; by March 1971, 99% were employed in Israel.[7] The *Israel Economist* commented:

> The Israeli government is channelling Palestinian workers into the lowest ranks of the Israeli proletariat by denying work permits to persons from the occupied territories for any job deemed appropriate for unemployed Israelis and by referring workers from the occupied territories only to unskilled or semi-skilled jobs.[8]

The delegation believes that this practice violates Article 52 of the Fourth Geneva Convention, which reads, in pertinent part:

> 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.

Bethlehem Mayor Elias Freij told delegation members in an interview: "We have full employment. Few go to Israel to work. . . ." Other discussions and subsequent research have identified this as an inaccurate statement. Year after year the number of Palestinians working in Israel has increased. While unemployment in the West Bank and Gaza has been reduced dramatically,[9]

---

[5] *Jerusalem Post*, January 29, 1975.

[6] By the end of 1968, seven Labor Exchanges were set up in the West Bank with another five in Gaza. By 1975, there were 24 in the West Bank and 12 in Gaza and Sinai. Elie Rekhess, "The Employment in Israel of Arab Labourers from the Administered Areas," in 5 Israel Yearbook on Human Rights 389, 394. Prof. Rekhess is head of the Israeli-Arab Desk, Shiloah Centre for Middle Eastern and African Studies, Tel Aviv University.

[7] *Israel Economist*, October 1971; according to *Davar*, August 9, 1977, 43,000 workers from the Occupied Territories were active inside Israel through official Labor Exchanges, during 1976-1977, working some 10 million work-days.

[8] *Israel Economist*, October 1971.

[9] Unemployment in the West Bank fell from 13% in 1968 to 0.9% in 1974; unemployment in Gaza fell from 43% to approximately 1%. Pollack and Sinai, p. 226, *cited*

this has occurred because of increased employment within the Israeli economy, rather than because of advancements in the economies of the occupied areas. Local income has not risen; the increase in income results from work inside Israel.[10]

From the West Bank and Gaza, Israel has succeeded in providing itself with a large force of Palestinian labor. The total number of West Bank and Gaza Palestinians working in Israel jumped from only 9,000 in 1969 to 70,000 in 1974.[11] Of the total number of Palestinian wage workers (119,000), fully 50% worked inside Israel.[12]

In the crisis-ridden Israeli economy, West Bank and Gaza workers are expendable labor during periods of economic downturn. The 1975 Bank of Israel report notes this advantage to Israel of West Bank and Gaza workers, indicating that as they are employed in Israel on a day-to-day basis, they are the first to be affected by slowdowns.[13] *Davar*'s Danny Rubinstein was similarly impressed by this situation:

> . . . an Arab worker is extremely movable, one can fire him at any moment and transfer him from one place to another; he does not strike and he has no "claims" as the Israeli worker has. In short, in many economic respects, the workers of the territories are a treasure for the Israeli economy.[14]

---

above in Note 50 to Chapter I, *confirmed* in Danny Rubinstein, "The Recession in the Israeli Economy Emphasizes the Importance of the Workers from the Territories," *Davar*, May 18, 1976. Rubinstein goes on to point out, however, that many thousands of Palestinians, not counted in the official statistics as unemployed, have actually ceased employment: "Those who stopped working were mostly Arab women who, in the past, went to work in Israel and in the territories only when demand for labour was great. This year, many women returned to their housework in the Arab village; the same applies to many children who used to be part of the labour force in the past (mainly in agriculture)."

[10]The 1978 State Department Report, pp. 368-369, *cited* above in Note 6 to Introduction, stated that the economy of the occupied areas themselves "has remained relatively stagnant." The Bank of Israel Research Department, *The Economy of the Administered Areas in 1972*, Jerusalem, 1974, p. 30, states:

> The rise in employment is accounted for entirely by the rise of employment in Israel, whereas the number of persons employed in the administered areas themselves dropped by some 5 percent. In 1971 too, the rise in the employment of area residents in Israel led to a 5 percent decline in the number of persons employed in the administered areas themselves.

[11]Hilal, p. 10, *cited* above in Note 2. *Ma'ariv* put the "real figure" at 80,000 in a September 5, 1974, report. According to Danny Rubinstein, "The Recession in the Israeli Economy Emphasizes the Importance of the Workers from the Territories," *cited* above in Note 9, the average figure was 68,500 for 1974, and 66,000 in 1975. Prof. Rekhess, p. 402, *cited* above in Note 6, provided the following statistics from Israel's Central Bureau of Statistics, Family Survey, 1968-1975, concerning the number of Palestinians employed in Israel (p. 402):

	1968	*1969*	*1970*	*1971*	*1972*	*1973*	*1974*
West Bank	4.0	10.0	14.7	25.6	34.9	38.6	42.6
Gaza	1.0	2.0	5.9	8.2	17.5	22.7	26.1
Total	5.0	12.0	20.6	33.8	52.4	61.3	68.7

(in thousands)

[12]Hilal, p. 11, *cited* above in Note 2.

[13]Rubinstein, *Davar*, May 18, 1976, *cited* above in Note 9, noted this same phenomenon: ". . . If a certain factory was in trouble, the workers from the territories were first to be fired."

[14]May 18, 1976.

Palestinians are recruited to the lowest-paying jobs. But the very lowest paid of the West Bank and Gaza laborers in Israel are those unable to find jobs through ordinary channels and who participate in "illegal" labor exchanges, gathering "every morning in a series of agreed upon junctions and meeting places . . . These are part of the thirty thousand unorganized workers, whose gathering every morning constitutes the stock-exchange of manual labor."[15]

Some of them are kept on a semi-permanent, slave-like basis at the Israeli factories where they work. Reporter Aryeh Egozi described their plight:

> Every evening the doors of the warehouses, which have turned into improvised living quarters, are locked; thousands of laborers from the occupied territories, who work in a variety of factories within the green line, are kept inside. The doors remain locked until the early morning hours, a short time before the beginning of the work day.
>
> This phenomenon, well-known to the police and civilian patrols that make the rounds nightly in the areas of concentrated Arab laborers, was brought to the general public's attention as a result of the blaze that broke out two nights ago in a small mattress factory in Tel Aviv. After extinguishing the fire, the firemen rushed into the structure that was completely destroyed and found three cremated bodies.
>
> A brief investigation brought to light that the victims were young laborers from the Gaza Strip, who worked in the factory and slept there at night.
>
> . . . the police investigation revealed that the three were not able to escape from the room in which they were sleeping, because the door had been locked from the outside.
>
> . . . the phenomenon of locking doors of rooms, leading to where workers from the occupied territories are billeted, is widespread.[16]

Further exacerbating the exploitation of these low-paid workers, the Israeli Government deducts up to 40% of their wages for insurance funds—far more than the portion deducted from an Israeli worker's wage.[17] The

---

[15] Danny Rubinstein, "Hard Times for Arab Workers," *Davar*, January 31, 1975.

[16] Aryeh Egozi, "Slaves at Night—Workers During the Day," *Yediot Aharonot*, March 16, 1976; additional reports in Nathan Dunvitz, "People and Values Go Up in Flames," *Ha'aretz*, March 19, 1976, and London *Economist*, March 20, 1976. This is not the only example of such conditions. According to *Al-Hamishmar*, August 25, 1977:

> Several serious accidents have happened, and various Arab workers have burned to death, because they could not get away when fire broke out. The day before yesterday, a further horrible catastrophe was reported from Jaffa, when an Arab worker burned to death in a locked work-shop. [Another newspaper story said that this incident only caused serious injury, but no deaths.] These terrible incidents have social, political and economic aspects, and it is impossible to exaggerate their seriousness.

And Danny Rubinstein commented: ". . . the social conditions of the workers from the territories can't stand comparison with those of the Israeli workers . . ." *Davar*, May 18, 1976, *cited* above in Note 9.

According to *Davar*, September 9, 1977, Saul Ben-Simhon, Chairman of the Histadrut Labor Federation Committee created to control labor safety conditions of workers from Gaza and the West Bank, declared before the Labor Commission of the Knesset: most non-organized workers are employed in small workshops, where safety conditions are nil.

[17] *Ha'aretz*, August 8, 1969, reported statistics of gross pay and amounts deducted for Palestinian workers which amounted to this percentage. In 1972, according to Prof.

West Bank or Gaza laborer also does not enjoy such benefits given Israeli workers as paid holidays, medical insurance, unemployment insurance, and retirement pensions.

The Palestinian worker is thus forced to pay a tribute to Israel for the privilege of employment, over and above the surplus value extracted by Israeli capital. The total of this tribute, which accrues to the Israeli treasury, has been estimated for the period 1968-1974 at $260 million (based on 1973 value of Israeli Pound).[18]

All the above has had a devastating impact on the economies of the West Bank and Gaza. Between 1969 and 1973, the number of Palestinian workers in Gaza and the West Bank declined by 11,100, while the number working in Israel increased by 50,300.[19] Currently, most West Bank and Gaza wage earners work in Israel. As early as 1972, a count revealed that 50% of all West Bank and Gaza wage workers were employed in Israel,[20] and that count did not include the 30,000 "illegals."

Construction is one Palestinian industry that has suffered as a result of this labor displacement. In 1969, 11,700 workers were employed in construction in the West Bank and Gaza, while 4,600 worked in construction in Israel. By 1973, the situation had reversed itself, with only 5,800 Palestinian construction workers employed in the West Bank and Gaza and 30,000 employed in Israel.[21]

Israeli corporations have been given substantial financial inducements to penetrate the West Bank and Gaza economies. The highest corporate income tax payable in Gaza is 33%, as compared to Israel's 80%; loans are granted on easy terms, and buildings are provided by the Israeli Government practically rent free. Employers in Gaza are not made to contribute towards workers' social insurance, on the ground that Egyptian law contained no such provision.

The dependence of the West Bank and Gaza on Israel's economy is also

---

Rekhess, p. 408, *cited* above in Note 6, 41,000 Palestinians from the Territories were employed through Labor Exchanges, labor costs were 244 million Israeli Pounds, but net income to these Palestinians was only 164 million Israeli pounds (30% being deducted for tax and social benefits). For 1977, *Davar*, September 9, 1977, reported: "The amounts taken by the Employment Agency from salaries paid by employers to Arab workers from the Occupied Territories are no less than 126 million [Israeli Pounds] a year."

Subsequent to the "equalization" decision, *Yediot Aharonot*, August 16, 1977, reported, "At this stage, the [Government] Spokesman said, no plan exists to implement Social Security for the Territories. On the other hand, tax collection will be 'deepened'."

[18] Hilal, pp. 11 and 15, *cited* above in Note 2.

[19] Hilal, p. 12, *cited* above in Note 2; *see* Bank of Israel Research Department, *The Economy of the Administered Areas, First Half 1970*, Jerusalem (December 1970), p. 5, which says: "As a result of the considerable employment in Israel labor shortages began to appear in various places in the territories." On September 5, 1974, *Ma'ariv* reported that the West Bank was suffering from a shortage of labor. Prof. Rekhess, *cited* above in Note 6, after relating statistics as to the numbers of Palestinians employed in Israel, commented: "It is no wonder that employment in the areas themselves dropped at an annual average of 3.5 per cent between 1969 and 1973." (p. 402)

[20] *Davar*, October 4, 1972.

[21] Hilal, p. 12, *cited* above in Note 2.

manifested in the Palestinian agricultural sector, where Israel has imposed a dependent specialization: production of agricultural inputs for Israeli industry, and production of produce for the Israeli domestic and export markets.[22]

Israeli authorities have restricted exports to Israel of competitive agricultural products from the West Bank and Gaza. Thus, while vegetable growing has greatly expanded in the West Bank and Gaza, the *Jerusalem Post* reported in 1975[23] that "acreage under watermelons has decreased to a fifth of its previous size."[24] More recent statistics indicate the watermelon crop, traditionally important in West Bank agriculture, has suffered a 90% decline from former levels; the purpose for this decline is to prevent the West Bank watermelon crop from competing with extensive areas in the Negev (in Israel) which have been developed for melon production.[25]

West Bank economist A.R. Husseini writes that Israel's Department of Agriculture is "anxious to promote certain crops for the benefit of Israeli exporters," thereby creating "production patterns along lines which are not compatible with the long-term interests of West Bank agriculture." Husseini comments that Agrexco (the Israeli food exporting company)

> . . . promotes labor-intensive crops which command high prices abroad, and if Agrexco were to stop this . . . these farmers would be in a difficult position because these crops are not marketable on the West Bank.[26]

West Bank and Gaza agriculture has been hurt by competition from Israel, where the government provides farmers a 15%-30% subsidy plus credit advantages to facilitate modernization.[27] As a result, not only have West Bank

---

[22]According to Bank of Israel Research Department, *cited* above in Note 10, there was a growing trend, in 1972,

> towards changing the composition of crops . . . in an attempt to encompass all three economies—namely, those of Israel, Judaea and Samaria, and the Gaza Strip—in a singe over-all planning framework. The results of these changes in the structure of production were expressed in 1972, as plots devoted to watermelons and the like, for example, gave way to export crops such as peppers, eggplants, marrows, celery, and onions destined for overseas markets, as well as to crops destined for export and industry in Israel, such as tomatoes . . . cucumbers, okra, beans and maize.

The Bank of Israel, on p. 18, continues:

> . . . crops for industry and export went up considerably in both the Gaza Strip and . . . Judaea and Samaria. Some vegetables were selected for their high yields when out of season in Israel. The trend towards overall planning for all three agricultural systems [Israel, West Bank and Gaza] was encouraged and directed by Israeli instructors . . .

[23]January 29, 1975.

[24]*Idem.*

[25]Interview with West Bank economist A.R. Husseini, *MERIP Reports*, No. 60 (September 1977), p. 21. In fact, the Bank of Israel Report, *cited* above in Note 10, noted that watermelons are now even being imported from Israel to the occupied areas: "Watermelons and the like have largely yielded their place to more profitable crops such as ground nuts and vegetables for export. . . . [T]he demand for watermelons and melons in both the Gaza Strip and Judaea and Samaria was supplemented by imports from Israel." (p. 18)

[26]*Idem.*

[27]*Ibid.*, p. 22. In addition, Israeli goods can be marketed freely in the West Bank and

and Gaza farmers experienced difficulty selling their products, but West Bank and Gaza farmers have been drawn into the Israeli agricultural labor force. Agricultural employment dropped 12% in the Gaza Strip from 1969 to 1973. In the West Bank, it fell from 10,400 in 1969 to 3,900 in 1973. During that same period, West Bank farm workers employed by Israeli farmers in Israel increased from 1,700 to 3,400.[28]

All this has caused farming in the West Bank to become prohibitively expensive, with many farmers abandoning their land and becoming workers in Israel.[29]

To further worsen the situation of West Bank and Gaza inhabitants, the value of wages earned and products grown and manufactured has been seriously eroded by Israeli inflation. The consumer price index in Israel in October 1974, was 305% of its 1969 level.[30] The most rapid inflation has been in food, so it has hit poor families the hardest.

All these developments have not been without certain benefits to the West Bank and Gaza. Israeli statistics are that between 1968 and 1975, tomato production in Gaza tripled, citrus production more than doubled, and in the West Bank, wheat production rose 50%, banana production more than doubled, and poultry production more than tripled.[31] However, because of demographic, land ownership, and other changes since 1967, the benefits of these production increases often have not accrued to Palestinians.

Gaza, while no goods from those areas can be marketed inside Israel unless a permit is first obtained. (Interview with Paul Quiring.)

[28] Hilal, p. 12, *cited* above in Note 2; *see also* Bank of Israel Report, *cited* above in Note 10, which said: "The increase in employment opportunities in Israel led to a further decline in the number of persons engaged in domestic agriculture." (p. 20) The London *Economist*, March 18, 1972, reported on a farm of the Arab Development Society near Jericho:

> . . . It was once the biggest dairy and poultry farm in the region. It has had to cut its herds because its principal former customers, the big hotels in East Jerusalem, are now obliged to buy Israeli milk. It used to supply the whole West Bank with day-old chicks and broilers. Now it can no longer do so because it could not compete with similar Israeli products subsidized by the Government that were dumped in the West Bank at half the normal price during its necessarily short trading season. So the ADS was put out of the poultry business . . ."

[29] London *Economist*, March 18, 1972.

[30] From June 1967 through February 1972, the cost of living rose 300%. (London *Economist*, March 18, 1972); between January 1973 and May 1974, the inflation rate was 44% (*New York Times*, May 24, 1974, p. 5); between April 1974 and April 1976, the inflation rate was 120% (*New York Times*, April 19, 1976, p. 5); during 1976, the rate was 38% (*New York Times*, February 22, 1977, p. 45, citing Israel Central Bank Governor Arnon Gafni); Minister of Finance Simcha Ehrlich predicted a 1977 inflation of 38% (*New York Times*, October 31, 1977, p. 1) and a 30% rate for 1978 (*New York Times*, January 10, 1978, p. 5).

[31] Information Briefing 362, *cited* above in Note 10 to Chapter III; according to a 1971 newspaper article, income from growing citrus crops in Gaza decreased by half between 1967 and 1971. "Growers of citrus crops can sell their produce only to Israeli government cooperatives, who pay the citrus grower half the price they received prior to June, 1967." R. Amling, "Gaza 1971—An Eye-witness Account," *Daily Star* of Beirut, March 28, 1971.

In a letter to the United Nations Special Committee, dated July 29, 1970, the United Arab Republic (Egyptian) Government claimed that the interference of the Israeli occupation authorities had virtually ruined the citrus fruit business in Gaza. Doc. A/8089 (1970), para. 136, p. 59. The letter cites the following, among other things, as evidence: (1) prohibition from export to Europe, even where contractual obligations existed, (2) by fixing the picking season, the earlier ripening Gaza crop

Israeli statistics also show that unemployment in the West Bank fell from 13% to 0.9% between 1968 and 1974, and in Gaza from 43% to 1%.[32] In 1976, six times as many households in the West Bank (and nine times as many in Gaza) owned refrigerators as in 1967.[33]

However, as Jamil Hilal pointed out in 1976:

> Temporary or permanent increase in purchasing power among the Palestinian population has largely accrued to the most privileged segments: the bourgeoisie and the professionals. They have generally spent increases in income on Israeli consumer goods rather than on savings and investment. Thus the number of families with a television on the West Bank went from 2% to 19% of the population, while those with refrigerators went from 5% to 21%. Likewise the number of private automobiles increased sharply: from 2,100 at the end of 1971 to 3,800 in the middle of 1973 in the West Bank. The great majority of the people were not able to afford such luxuries, of course. Families without electricity, for example, remained at 65% of the population in the West Bank and 77% in Gaza; those without running water in their homes were 81% in the West Bank and 92% in Gaza; those without bathrooms in their homes were 84% on the West Bank and 87% in Gaza, and so on . . .[34]

The gains in consumption have come at the price, as indicated above, not only of extreme exploitation of the Palestinian work force but also the substantial incorporation of the West Bank and Gaza economies into that of Israel. In the West Bank and Gaza economies there is a clash between two economies—between Israel's grant-aided, intensely capitalized and broadly protected agriculture, and the traditional Palestinian type, which is labor-intensive, manually skilled, but vulnerable and unorganized. As the U.N. Special Committee wrote in 1972:

> . . . the alleged improvement is merely the natural consequence of an underdeveloped economy being brought into a close relationship with and placed unavoidably in a position of dependence on a more developed economy. In such circumstances it is to be expected that the standard of living, wages, prices, etc. in the weaker economy would increase as the impact on it of the stronger economy came to be felt.[35]

---

lost its competitive edge, (3) requiring the waxing of fruit, (4) export duties, and (5) irrigation regulations which affected the productivity of the land. U.A.R. letter of July 19, 1970, reprinted in Annex V, p. 21, of Doc. A/8089.

[32] Sinai and Pollack, *The Hashemite Kingdom of Jordan and the West Bank*, p. 226, *cited* above in Note 50 to Chapter I.

[33] Information Briefing 362, *cited* above in Note 10 to Chapter III; *see also* Information Briefing, *Human Rights in the Administered Areas*, Israel Information Centre, Jerusalem (August 1976), p. 9, which provides similar statistics concerning the ownership of durable goods.

[34] Hilal, Note 7, p. 15, *cited* above in Note 2. In any case, former Finance Minister Pinhas Sapir noted: ". . . those who believe that an improved living standard can compensate for national aspirations have not learned the lessons of history." *Cited* by Eric Rouleau in *Le Monde*, January 9-13, 1973.

[35] U.N. Special Committee Report, Doc. A/8828 (1972), para. 75, p. 37; there is no doubt that the underdevelopment imposed upon the West Bank and Gaza by Jordan and Egypt, respectively, was severe:

In 1972, Defense Minister Moshe Dayan said that, in his opinion, "economics was the fly-wheel that kept Israel and the [occupied] areas connected."[36]

In 1973, the *Jerusalem Post* indicated the economies of Israel and the Occupied Territories had become so dependent on each other that "restoration of the former borders would harm the economies of both Israel and the occupied territories." The report stated that Israel's economic growth "is now vitally dependent on the productive resources of the territories and they are no longer viable without the connexion with Israel."[37] The *Post* added that Israeli economic activities in the Territories are treated like extensions of the Israeli economy. Referring to the influx of laborers from the West Bank and Gaza, the report stated:

> This involves social and national strains and problems, but should this process be reversed—or even stopped—the Israeli economy would be severely handicapped. It is no less evident that the restoration of the Green Line as a frontier obstructing the free movement of goods and people would cause an economic collapse in the territories which have by now become an adjunct to the Israeli economy, even though their inhabitants may resent it . . . [A]ltogether one may estimate that close to one half of the territories' income now depends on ties with Israel.[38]

The U.N. Special Committee, in 1972, described the relationship between Israel and the Occupied Territories as a

> . . . classic pattern of colonial economic dominance and exploitation. Such a policy, if given free rein, would reduce the economy of the Occupied Territories to a position of almost entire dependence on the economy of the Occupying Power for a long time after the end of the occupation. In this sense, the Special Committee has come to the conclusion that the occupation is causing undue interference in the eco-

---

> Eighteen years of Jordanian Hashemite rule left eastern Palestine—the West Bank region of the Jordan River—severely underdeveloped. The West Bank economy suffered not only from the general crisis of the Jordanian economy but also from the Hashemite regime's policy of discrimination against the area which prevented the development of its productive forces. Deprived of any real industrial or agricultural investment, the region had an extremely high rate of unemployment during these eighteen years. [Hilal, p. 9, *cited* above in Note 2.]

[36] *Jerusalem Post*, December 14, 1972.

[37] *See also* Allen Gerson, "Trustee—Occupant: The Legal Status of Israel's Presence in the West Bank," 14 Harvard International Law Journal 1, 47 (1973): ". . . in the long run a pattern may develop in which Israel becomes dependent on the West Bank as a captive market and a source of unskilled labor."

[38] *Jerusalem Post*, March 26, 1973; soon after the "equalization" decision,

> Chairmen of the Chambers of Commerce in the West Bank appealed to the Military Government to cancel economic unification of the Occupied Territories and Israel, and to go back—economically—to the former border-lines, so that Israeli economy should not determine the economic situation in the Territories. . . . They asked to have a check-post set up on the former border ("The Green Line") and to prevent free commerce, as it exists now. [*Davar*, November 2, 1977.]

nomic life of the Occupied Territories and even if, for the sake of argument, it is conceded that certain short-term benefits are accruing to the population of the Occupied Territories the situation could in the long run prove irreversible and, therefore, prove detrimental to the economic future of these territories.[39]

For Israel, the gains have been immense. Israel thus has a tremendous economic motivation for retaining its hold on the West Bank and Gaza. This fact is of great significance in determining the Israeli Government opposition to giving up these areas. It is also key in creating the need for Israel to incorporate the West Bank and Gaza into Israel.

V.
RESTRICTIONS ON LOCAL INSTITUTIONS

The Israeli Government has limited the development of West Bank and Gaza institutions which might serve as an infra-structure for self-governance, thereby keeping the West Bank and Gaza dependent on Israel for vital services. It has interfered with the work of municipal councils, and of medical, education, and social welfare institutions.

A. Municipal Councils

Israeli officials point with pride to the fact they they instituted election of municipal officials for the first time in the West Bank and Gaza. While this is so, it is also true that Israel has given the elected officials little power, retaining for the military governor of each district all important decisions. In addition, Israel's stated policy of non-interference in municipal affairs[1] has been less than universal.

Mayor Karim Khalaf of the West Bank town of Ramallah and Mayor Bassam Shakaa of the city of Nablus told the delegation that actual authority of elected mayors has been limited under the occupation, particularly since 1976, when candidates openly supportive of the Palestine Liberation Organization came into office in a number of cities.

Mayor Shakaa said, in particular, that the Israeli military authorities have taken administration of elementary and secondary schools away from the

---

[39] U.N. Special Committee Report, Doc. A/8828 (1972), para. 77, p. 38.

[1] *See, e.g.*, Information Briefing, *Human Rights in the Administered Areas*, Israel Information Centre, Jerusalem (August 1976), pp. 3-4.

municipal councils.[2] Mayor Khalaf stated that the Military Governor has even assumed control of some purely ministerial matters, like issuance of building licenses and certain permits.[3]

Mayor Shakaa also indicated recent Israeli efforts to undermine the mayors' authority. He claimed that the military governors of each region now make citizens deal directly with them rather than with the mayors.[4] He asserted that the military governors are also attempting to raise the importance of the more conservative municipal chambers of commerce as a countervailing force to the municipal councils.

A more direct effort to limit anti-Israel sentiment among the mayors was the expulsion, two weeks prior to the April 1976 elections of two mayoral candidates whom the military authorities found unacceptable but had been unable to disqualify from the candidate list. (*See* Chapter VIII.) At other times they have simply removed municipal officials from office as with Gaza City Mayor Rashad Shawa (he was reinstated by the Israeli authorities two years later).[5]

The City Engineer of Nablus, Abbass Abdel Haq, as well as Mayor Shakaa, complained that military authorities had denied them permission to expand Nablus' electrical generating capacity. The Nablus municipal council was told by authorities that if more electricity were required, then the city would

---

[2]Israel says that it does not interfere with the educational system. *See* Note 41 to Chapter VII.

[3]As an example: Palestinians in Ramallah who wanted to found a job training school for young women needed permission from the Ramallah Military Governor. *See* p. 52, *infra*.

[4]According to *Zu Haderech*, September 7, 1977:

> The military administration has refused, in the last year, to receive any demands from West Bank municipalities concerning arrests, permits, etc. Two weeks ago a new procedure was set up. . . . The Ramallah Military Government named Abd El-Nur Janho as its representative for citizens' demands affairs. Whoever wants to address the Military Governor must go, first, to Janho. Janho is a very rich man and close to the Military Governor. He confessed, not long ago, having murdered [a political opponent] but was soon after released by the authorities. Any requests to the Military Administration have to pass through Janho, and "then we will see."

Janho also participated in the Military Government's deliberations on Ramallah's linkage to the Israeli water works, although he had no official or public position. Two weeks later, on September 20, 1977, *Zu Haderech* reported that "The local Water Department protested against its task being circumvented by a private individual, and sent a memorandum on this subject to the Military Government."

[5]On August 24, 1977, *Davar* contained the following report: "The Commanding Officer of Judea and Samaria [West Bank], General Hagoel, yesterday abolished the Municipal Council of Kabatyeh, nearby Jenin, and ordered a committee, members of which were named by Hagoel, to take its place." This contrasts with Israeli claims that "The authorities encourage local government in towns and villages . . . by refraining from intervention in its work" and that "There is no interference in the independent activity of town and village councils . . ." Information Briefing, *Human Rights in the Administered Areas*, Israel Information Centre, Jerusalem (August 1976), p. 4

In addition, meetings among various West Bank mayors have been prevented. *Ha'aretz*, June 16, 1977, contained the following:

> The Mayors who came to Kabatia were from Nablus, Tul-Karem, Ramallah, Jericho, Halhul, Dura and Jenin. The Mayor of Halhul said yesterday that he asked the military government for an explanation of why they were prevented from entering the town. He was told that the meeting was of a political nature and, according to the law, requires a special permit.

have to tie into the Israeli electrical grid.[6] City Engineer Abdel Haq and Mayor Shakaa viewed this as an effort to make Nablus dependent on Israel for its electricity.[7] Similar concerns have been raised by West Bank officials concerning the linking of water supplies to the Israeli system.[8]

The mayors also complained about the size of the municipal budgets given them by Israeli authorities, who collect taxes from the West Bank and Gaza populations. Mayor Shakaa charged that municipal budgets were being reduced by the military governors. Mayor Khalaf said that Ramallah's 1977 municipal budget was no larger than that for 1967, though expenses had increased five-fold. He also indicated that the military government does not permit municipal councils to levy new taxes to cover expenses.

Mayor Elias Freij of Bethlehem complained of high taxes on the population (necessitated largely by Israel's military costs) and successive devaluations of Israeli currency. Freij added that, unlike Israeli towns, Bethlehem receives no development budget for improvements. And he said that his regular operating budget is one-tenth of that of an Israeli town of comparable size.

Mayor Shakaa presented the delegation with numerous petitions protesting Israeli restrictions on local government that the Nablus Municipal Council and the mayors of various West Bank towns had directed to the Israeli

---

[6]The West Bank Military Governor has already incorporated the Hebron electrical system into the Israeli grid. This action was unsuccessfully challenged in the Israeli Supreme Court. *See Electrical Corporation for Jerusalem District, Ltd.* v. *Minister of Defence et al.*, excerpted in 5 Israel Yearbook on Human Rights 381-383 (1975). Thomas S. Kuttner, "Israel and the West Bank: Aspects of the Law of Belligerent Occupation," 7 Israel Yearbook on Human Rights 166, 189 (1977), questions the legality of such action: ". . . if the measure results in the integration of the electrical system of the occupied territory into the electrical grid of the metropolitan territory of the Occupant, does this not impinge on the reversionary interest of the disseised sovereign?"

[7]The situation has developed further. On September 24, 1977, *Davar* said that the previous week, the Military Government informed the Nablus Municipal Council that it, and neighboring villages, would be linked to the Israeli Electrical Network. Mayor Shakaa "rejected this plan and again demanded permission to import three giant electrical turbines [already paid for with funds collected abroad] that would solve the deficiency of the present local electrical works."

And on January 5, 1978, *Al-Fajr* carried the following item: "Israeli police arrested several residents of Beit Fajr, for obstructing the building of a power-station in the village. The villagers oppose, as do most West Bankers, the linking up of the area to the Israeli electric grid."

Gideon Eshet, in *In These Times* (June 28-July 4, 1978, p. 7) reported that Defense Minister Ezer Weizman had personally approved the purchase of generators for Nablus in early June 1978. (It was reported by John K. Cooley, "Arabs still resist Israeli control in border zones." *Christian Science Monitor*. May 23, 1978, that Minister Weizman had also recently approved a list of requests to implement projects for Ramallah, all previously unanswered, delayed, or rejected. However, Ramallah Mayor Khalaf noted that, as yet, "nothing has happened.")

[8]"The Judea and Samaria [West Bank] Military Government signed an order ensuring that the water supply for Ramallah should be provided from now on by Israeli waterworks. The water-supply to this town has caused political tension in this city, in the past, as the local Municipal authorities refuse to accept Israeli water-supply and want their own water-works to continue supplying the town to an increased degree." *Davar*, October 17, 1977. The legality of this action was based on a meeting which the Military Governor had with Abd El-Nur Janho (*see* Note 4, *supra*) "concerning the connection of Ramallah to the Israeli water system, though they have no legal power in the matter. Not invited by the Governor—the members of the Municipal Council in charge of the problem. Thus Ramallah's approval was given by Janho, who has no legal right to do so." *Zu Haderech*, September 7, 1977. Janho was assassinated on February 8, 1978.

Government, to heads of Arab states, and to the United Nations Secretary General. Translations of some of these documents are appended to this Report.

Elected officials in the West Bank and Gaza are not immune from the humiliations visited upon other Palestinians by Israeli soldiers. (*See* Chapter VII.) Mayor Khalaf described an incident that occurred in 1976, shortly after he and other West Bank mayors resigned to protest suppression of student demonstrations by Israeli soldiers. Mayor Khalaf said that soldiers came to his house and forced him and a number of relatives to go outside, where the soldiers gathered them together and fired shots over their heads.

The Fourth Geneva Convention requires the Occupying Power to respect the status of public officials. Article 54 states: "The Occupying Power may not alter the status of public officials or judges in the occupied territories . . ." That article assumes that the occupier will permit public officials to function, save for matters of military necessity or security of the occupier.

Although Article 54 retains for the Occupying Power the right to remove individual officials who act against it,[9] such a right only extends to the first year of occupation.[10] In addition, that article does not permit general dilution of the powers of local officials. The *Red Cross Commentary* on the Fourth Geneva Convention explains:

> The purpose of the stipulation that public officials and judges must be allowed to retain their pre-occupation status is to enable them to continue carrying out the duties of their office as in the past, without being the object of intimidation or unwarranted interference.[11]

Israel has violated Article 54 by giving extensive power to its own military governors. It has divided the West Bank and Gaza into districts, each with a military governor appointed by the Defense Minister. That governor has effective control over every facet of life, whether it be issuing a permit for commercial transport, restricting public assembly, or deciding the opening or closing of schools. Such extensive authority in the hands of military governors has displaced Palestinian officials as the real powers.

B. Medical Institutions

Israel's policy with respect to medical institutions in the West Bank has been to encourage the Palestinians to become dependent on medical services from Israel. It has done this by (a) inhibiting development of autonomous medical institutions, (b) failing to improve existing medical services, and (c) taking up the slack by offering services in Israel.

The Palestinian Red Crescent Society is a privately-funded medical organi-

---

[9] *See* Article 6, *cited* above in Note 13 to Introduction.

[10] Article 54 states that its prohibition against alteration of status of officials "does not affect the right of the Occupying Power to remove public officials from their posts." The *Red Cross Commentary*, *cited* above in Note 11 to Chapter III, explains (p. 308) that this proviso "prevents public officials and judges who have been retained from using their authority in a manner detrimental to the Occupying Power, as they would otherwise be liable to be removed."

[11] Pictet, *Red Cross Commentary*, p. 304, *cited* above in Note 11 to Chapter III.

zation organized and operated by Palestinians in the West Bank and Gaza. At a P.R.C.S. clinic in Ramallah, 20-30 out-patients are provided service daily at no charge.[12] While in Gaza City, Dr. Haider Abdul Shafi showed delegation members the P.R.C.S. facility there.

The Israeli Government forbids the West Bank P.R.C.S. to engage in fund-raising. It does not permit the P.R.C.S. to receive drugs from outside sources or buy drugs at reduced prices on the same basis as official health institutions.[13] These measures have kept the P.R.C.S. from developing an indigenous health care delivery system in the West Bank.

The delegation spoke with four physicians who alleged that medical care in the West Bank is worse than in 1967.[14] At best, from information the delegation has been able to obtain, it appears that Israeli authorities have allocated only enough resources to medical care in the West Bank to maintain them at roughly their 1967 levels, while the demands for medical care have greatly increased.[15]

For example, the number of government hospital beds in the West Bank (excluding the mental hospital in Bethlehem) in 1968 was 623.[16] By 1977, it was only 621.[17] Given the population rise, this meant a decline in government hospital beds per 1,000 population from 1.50 to 1.37.

These figures were provided to the delegation by Dr. Samir Katbeh, a Ramallah pediatrician and President of the Union of Jordanian Doctors (a West Bank group). Dr. Katbeh provided this data, along with other statistics he had recently compiled as part of a study of medical care on the West Bank.[18]

Dr. Katbeh said that the number of medical staff (doctors, nurses, non-

---

[12] World Health Organization Report, "Health Conditions of the Arab Population in the Occupied Arab Territories, Including Palestine: Report of the Special Committee of Experts," 31st World Health Assembly, Doc. A31/37 (May 3, 1978), p. 6.

[13] *Idem.*

[14] Samir Katbeh, Darwish Nazzal, Haider Abdul Shafi, and Gabby Baramki.

[15] The World Health Organization Report, *cited* above in Note 12, says:

> . . . the infrastructure has not advanced significantly during the period 1967-1977 with regard to both the construction of new hospitals and the increase in the number of beds. . . . Urban health centers and rural clinics continue to fall short of the growing requirements of the population.

[16] *Confirmed* in *The Israel administration in Judaea, Samaria, and Gaza, a record of progress*, Tel Aviv, Ministry of Defense, 1968, pp. 24-28. Prior to the occupation, 22 non-government hospitals provided another 481 beds, and there were an additional 126 clinics and 22 mobile rural clinics. (p. 25)

[17] Statistics for Gaza were 947 beds in 1967, compared to 1,070 for 1977. *Davar*, September 5, 1977.

[18] Dr. Katbeh also discussed a rise in infant mortality rates, citing both Israeli Government statistics, and the results of his own survey of a Palestinian camp on the West Bank, conducted with the assistance of an UNRWA employee. According to official statistics on infant mortality, the figure rose from 30.7 deaths per 1,000 live births in 1974 to 38.1 in 1975. Dr. Katbeh's statistics, based on one particular refugee camp, show an increase from 70.3 in 1974 to 80.3 in 1975. (According to a report in the London *Sunday Times*, May 3, 1977, which cited an Israeli Ministry of Health study, infant mortality has been reduced by over half in Gaza—from 120 to 50 per 1,000.) He showed us various charts and figures he had compiled to support his statements. He indicated that this information was supplied to the Special Working Group of Experts, established by the U.N. Human Rights Commission, as well as the World Health Organization. As a result, Dr. Katbeh was discharged from his position as head of pediatrics

professionals) in West Bank hospitals had increased very little during the occupation: from 929 in 1967 to 1,032 in 1974.[19] At the same time, he indicated, admissions to government hospitals increased from 23,593 in 1968 to 36,260 in 1975; the number of surgical operations has increased by 85%.

Such statistics confirm the need for increased hospital facilities. An enormous increase in admissions and operations without a commensurate increase in staffing and space means that patients are being subjected to assembly-line medical care in overcrowded and understaffed facilities.

The number of hospital beds has remained static because no new hospital construction has been undertaken by Israel since the occupation began in 1967. In addition, Israeli authorities reduced the available beds in 1968 by confiscating and then converting three hospitals (in Ramallah, East Jerusalem, and Nablus) into police stations.[20] That action violates Article 57 of the Fourth Geneva Convention, which states:

> The Occupying Power may requisition civilian hospitals only temporarily and only in cases of urgent necessity for the care of military wounded and sick, and then on condition that suitable arrangements are made in due time for the care and treatment of the patients and for the needs of the civilian population for hospital accommodation.[21]

Dr. Darwish Nazzal, Director of the Maqasid Hospital in East Jerusalem,

---

at Ramallah Hospital. *See Al-Fajr*, August 30, 1978. Israeli authorities said that Dr. Katbeh's discharge was the result of his giving "false information" to the World Health Organization, and contacting that organization without permission.

[19] The number of nurses has increased from 322 in 1967 to only 342 in 1974; the number of non-professional employees has decreased from 419 in 1967 to 323 in 1974.

[20] Another one was closed in Al-Arish. *See* "The Middle East Activities of the International Committee of the Red Cross June 1967-June 1970," published in *International Review of the Red Cross*, September 1970, pp. 492-493. In addition, eight West Bank hospitals have been converted into Israeli Government hospitals.

[21] Altogether the Fourth Geneva Convention contains three major articles relative to medical care in an occupied territory. The pertinent portions are reproduced below:

> Article 55. To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the . . . medical supplies of the population; it should, in particular, bring in the necessary . . . medical stores . . . if the resources of the occupied territory are inadequate.
>
> The Occupying Power may not requisition . . . medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account. . . .
>
> Article 56. To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties. . . .
>
> Article 57. The Occupying Power may requisition civilian hospitals only temporarily and only in cases of urgent necessity for the care of military wounded and sick, and then on condition that suitable arrangements are made in due time for the care and treatment of the patients and for the needs of the civilian population for hospital accommodation.
>
> The material and stores of civilian hospitals cannot be requisitioned so long as they are necessary for the needs of the civilian population.

It is clear that the Convention imposes a duty to maintain hospitals in the Territories under occupation and allow medical personnel to carry out their duties; they

told delegation members that his hospital is severely hurt by Israel's imposition of taxes and customs duties on purchases of new equipment, even though the hospital is run by a charitable association. Dr. Nazzal said that Israeli charitable hospitals are exempt from such taxes and duties.

A particular shortage is found in the medical specialties. Dr. Nazzal said his hospital currently needs (and is not permitted to hire) a radiologist, a pathologist, a hematologist, and a urologist. He noted that Palestinians requiring these services must go to hospitals in Israel.

Dr. Katbeh confirmed the shortage in specialists. He attributed it in part to Israel's refusal to permit repatriation of Palestinians who had gone abroad for specialized medical training. He said that many Palestinian medical students who were at institutions abroad in 1967 have not been allowed to return.[22] He indicated that in West Germany alone there are 800 Palestinian physicians, many of whom have applied to return to the West Bank. None has been allowed back.

Due to travel restrictions imposed by Israel, hospitals in Arab countries are, for the most part, no longer accessible to Palestinians; however, hospitals within Israel are available to Palestinian patients. One thousand Palestinians from the Occupied Territories use these facilities each year.[23] Dr. Nazzal complained of the high cost to Palestinians of the medical treatment they receive in Israel. Hospital charges are about $75 a day. The individual pays one-third, and the remaining two-thirds is deducted from the health funds Israel allocates to the West Bank. (If the patient is indigent, the entire amount is deducted from the West Bank health budget.)

Dr. Nazzal said that these deductions have a tremendous impact on West Bank health care, since its annual health budget is only $6 million.[24] For comparison, Dr. Nazzal pointed out that the Israeli Sharay Zedek Hospital (West Jerusalem), with only 250 beds, has an annual budget of $10 million.[25]

---

permit the Occupying Power to requisition civilian hospitals only temporarily and only if the needs of the civilian population are taken into account. There is no exception provided which would permit them to "rationalize" health care by closing some hospitals and opening clinics or other facilities somewhere else as "substitutes."

In addition, Articles 56 and 57 are among those whose operation ceases after one year of occupation. Therefore, even assuming the legitimacy of a hospital requisition, pursuant to Article 57, the power to requisition ceases after one year of occupation. (*See* Note 13 to Introduction.)

[22] Katbeh also provided the delegation with the names of twelve physicians who had been imprisoned, either under administrative detention without charge or on security charges, or who had been ordered to leave or had been deported. The physicians included Yahya Wehbe, Ahmed Hamza, Sobhi Ghoshi, Alfred Tobassi, Abdel Aziz-el-Jah, Nabih Muammar, Mustafa Milhem, and Adli Dalla. Dr. Farhat Abu Leil was in prison under administrative detention for two and a half years. Another physician, Abu Hilel, was imprisoned on security grounds, charged with an offense, and Mohammed Wuhadi was currently in prison under a three-year sentence for membership in the Palestine National Front.

Katbeh also cited the case of Tariq Khalaf, brother of the Ramallah mayor, who had been working in the Ramallah Government Hospital. In 1976, this physician was warned by Israeli military authorities that he had 24 hours to get out of the West Bank; as a result of this threat, he left and has been unable to return.

[23] "The Health Services of Judaea and Samaria," Department of Health, Military Headquarters, 1974, p. 42.

[24] According to an Israeli source, there has been a per capita increase in Israeli health expenditures, in all the Occupied Territories combined, from 17 Israeli Pounds (1968) to 50 Israeli Pounds (1974). Corrected for inflation, this represents only a slight increase.

Medical services available to West Bank Palestinians have, at best, remained constant during the years of occupation; certain indicators have even shown declines. Services available on the West Bank have remained static, according to four different physicians, and statistics support their assertions. An annual health budget of $6 million is clearly inadequate for a population of 800,000. Medical services should improve over time; for services to remain static during an eleven-year period is unacceptable.

C. Educational Institutions

When we visited Bir Zeit University, the West Bank's major institution of higher education, Dr. Gabby Baramki, its dean, told the delegation that taxes and customs duties imposed by the Israeli Government on books and equipment purchased by the University have severely hampered its work. The cost of equipment is often doubled or tripled, he explained, by various taxes and duties. (Customs duties alone are 120% of the base price.) Jewish institutions like the Hebrew University, Dr. Baramki said, are exempt from such taxes and duties (or receive full refunds). He said that due to the taxes and duties which Bir Zeit University must pay, most laboratory and research equipment becomes prohibitively expensive, and Bir Zeit must do without.

Dr. Baramki said that the University is also hampered by Israel's prohibition against its receiving Arabic-language periodicals from Arab countries.

Numerous Bir Zeit faculty members complained of difficulties the University faces from the expulsion of staff (*see* Chapter VIII) and, more significantly, the Israeli Government's refusal to grant residence permits to potential teachers, as explained in Chapter III.

Restrictions have also been placed on secondary education in the West Bank and Gaza. In 1974, the United Nations Education, Scientific and Cultural Organization (UNESCO) charged that Israel's education policy is aimed at "paralyzing Palestinian culture." UNESCO said that Palestinian education syllabi had been changed, textbooks altered and censored, and scores of textbooks banned.[26]

---

[25]Dr. Katbeh provided statistics concerning the pediatric section of Sharay Zedek Hospital: in 1975, there were 1,182 admissions served by 10 physicians and 27 nurses, as compared to the Ramallah Hospital pediatric section, where 1,200 admissions were served by only 2 physicians and 8 nurses. Both pediatric sections had 32 beds.

Dr. Katbeh has also compared Sharay Zedek Hospital with the totality of West Bank government hospitals during 1975:

	Sharay Zedek	*West Bank Gov't. Hospitals*
No. of beds	280	*943
Total admissions	14,678	37,046
Total employees	788	629
Total physicians	101	76
Total nursing staff	269	265
Total paramedicals	133	61
Total non-medicals	275	227
Employees/bed	2.81	0.76
Nurses/bed	1.09	0.28

*Includes 322 beds for mental care at Bethlehem (accounting for 786 admissions during 1975)

[26]18th Session, November, 1974.

The books used contained inflammatory propaganda against the State of

The delegation interviewed Mrs. Sameeha Salameh Khalil, who heads the Society for the Preservation of the Family, which opened in Al-Bireh in 1975 to provide job training for young Palestinian women. The Society also serves as a cultural center. Mrs. Khalil said it had taken four years to get permission from the Military Governor of Ramallah to open the Society, though no conceivable security risk was involved.[27]

Khalil also complained of petty harassment of the Society by Israeli military authorities. She mentioned an incident where Israeli military, under orders of the Military Governor, confiscated the sewing machines of the Society, used in their training classes. She said that the Society publishes a yearbook, but has been prevented by the Israeli censor from including recipes of Palestinian dishes and photographs of Palestinian costumes. She alleges these prohibitions are aimed at curbing efforts to maintain Palestinian culture.

D. Conclusion

Israeli restrictions on governmental, medical, educational, and social welfare institutions in the West Bank and Gaza reflect a policy of suppression of self-governance. This policy is consistent with the aforementioned Israeli aim of incorporating the West Bank and Gaza into Israel. Further, this policy exceeds the authority of an Occupying Power under the Fourth Geneva Convention, which permits no interference with local institutions save for security considerations.

Israel . . . It was first decided to introduce the textbooks used in schools serving the Arab population of Israel. This met with resistance from the local teachers, and the decision was altered, leaving the Jordanian curriculum in existence but eliminating from the offensive textbooks all the passages [according to Gen. Gazit in *Israel's policy in the administered territories*, p. 2, *cited* in Note 7 to Chapter II, whole chapters were eliminated] containing propaganda. Some 55 books were cut in this manner. [*The Israel administration in Judaea, Samaria, and Gaza, a record of progress*, Tel Aviv, Ministry of Defense, 1968, p. 29. For further discussion of the "textbook crisis" from the Israeli perspective, *see* Shabtai Teveth, *The Cursed Blessing—the Story of Israel's Occupation of the West Bank* (New York: Random House, 1971), pp. 179-188.]

Another perspective is presented by Ibrahim Abu-Lughod:

After Israel occupied the West Bank and the Gaza Strip, it raised objections to several books used and exerted pressure on UNESCO/UNRWA to replace them. Long discussions and negotiations ensued which resulted in several substitutions and revisions of existing textbooks used by the Arab states where UNRWA functions. This had the actual effect of permitting Israel to interfere with the curriculum not only of the Palestinians under occupation, but also of all students in Jordan, Lebanon and Syria. ["Educating a Community in Exile: The Palestinian Experience," II *Journal of Palestine Studies* 95, Note 1 (Spring 1973).]

[27]Though the process was lengthy, and harassment persists, the Society did obtain permission to operate. In May 1973, twelve citizens of Nablus (including two physicians, three teachers, one civil, one chemical, and one electrical engineer, one journalist, one pharmacist, and one geologist) requested permission to open a club of intellectuals to hold symposia on scientific and cultural subjects, establish a library for culture and music, show films, promote folklore and artistic activities, struggle against illiteracy, beautify the country, propagate health-consciousness, form sports groups, and organize excursions. Permission for the club was denied.

VI.
RESTRICTIONS ON POLITICAL ACTIVITY

The Fourth Geneva Convention does not require an occupier to allow political expression directed against the occupation. One authority summarized the law:

> . . . Public meetings of all kinds are subject to the control of the occupant. Normally, all political meetings as well as all other political activities, regardless of purpose, will be forbidden, although occasional exceptions have been recorded.[1]

Free political expression is not attainable within the context of a military occupation. However, while the Convention permits an occupier to do that which is necessary to maintain order and security, the occupier is also obliged to maintain as normal a situation as possible.

Israeli military authorities do not permit political meetings or demonstrations in the West Bank or Gaza. On numerous occasions, as indicated below in Chapter VII, Israeli soldiers have broken up public demonstrations.

Authorities also do not permit circulation of anti-Israel newspapers or other printed matter.[2] Basheer Barghouti, former editor of *Al-Fajr* newspaper

---

[1] Gerhard Von Glahn, *The Occupation of Enemy Territory—A Commentary on the Law and Practice of Belligerent Occupation*, (Minneapolis: University of Minnesota Press, 1957), pp. 140-141.

[2] The Importation and Distribution of Newspapers Order, July 11, 1967, requires a permit for the importation or distribution of any publication (defined as "any document"); a violator is subject to five years' imprisonment. The Defense (Emergency) Regulations of 1945, Regulations 86 and 87, have provisions regarding censorship. Regulation 87 reads as follows:

> (1) The Censor may by order prohibit generally or specially the publishing [defined in Regulation 86 as circulating, dispersing, handing over, communicating or making available to any person or persons] of matter the publishing of which, in his opinion, would be, or be likely to be or become, prejudicial to the defence of Palestine* or to the public safety or to public order.
>
> (2) Any person who publishes any matter in contravention of an order under this regulation and the proprietor and editor of any publication in which it is published and the person who wrote, printed [defined in Regulation 86 as including "lithography, typewriting, photography and all other modes of representing or reproducing words, figures, signs, pictures, maps, designs, illustrations and other like matter"], drew or designed, the matter shall be guilty of an offence against these Regulations.

Regulation 96 of the Defense Regulations pertains to political matter:

> (1) No notice, illustration, placard, advertisement, proclamation, pamphlet or other like document containing matter of political significance (whether in the form of an article or statement of facts or otherwise) shall be printed or published in Palestine** unless a permit has first been obtained under the hand of the District Commissioner of the District in which such printing or publishing is intended to be effected . . .

(East Jerusalem),[3] told the delegation that persons caught with such publications are likely to be imprisoned.[4]

All political parties in the West Bank and Gaza are banned,[5] and party activists are subject to administrative detention, arrest or expulsion.

It is one of the continuing burdens of the occupation that the Palestinian population is not guaranteed, and in fact does not enjoy, the freedoms of speech, assembly or the press.

The delegation attempted to assess what political activity does occur under these severe limitations. Conversations with the mayors of major West Bank cities[6] revealed solid opposition to continuation of the Israeli occupation, a high level of political resistance to it, and overwhelming support for the Palestine Liberation Organization as the sole representative of the Palestinians under occupation.

Editor Barghouti described how, in the aftermath of the 1973 Arab-Israeli war, a Palestine National Front emerged in the West Bank and Gaza. The Front was a broad coalition of Communists, independent nationalists, Ba'athists, and persons associated with various political organizations of the Palestinian resistance movement. Communists played a central role in organization of the Front.

The Front's program called for Palestinian self-determination and the right of return for Palestinians displaced in 1948. It also called for recognition of the P.L.O. as the sole legitimate representative of the Palestinian people. The Front adopted the 1974 10-point Transitional Program of the P.L.O.'s Palestine National Council and began to agitate around this program, using strikes, clandestinely printed leaflets, demonstrations and petitions to the Military Governor, the U.N. Secretary General and Arab heads of state.

In 1974, Barghouti related, Israeli authorities cracked down, prosecuting or expelling persons suspected of P.N.F. involvement. These arrests and deportations took place even as mass demonstrations were occurring in towns and villages throughout the West Bank and Gaza in support of the P.L.O. and against the Israeli occupation. Concurrent with these events, P.L.O. Chairman Yassir Arafat spoke before the U.N. General Assembly, and the Summit Conference of Arab States, held in Rabat, Morocco, declared the P.L.O. to be the sole legitimate representative of the Palestinian people.

---

[3]"A new Communist weekly 'A-Taliya' edited in Arabic was published in Jerusalem. Its first issue states that residents of Arab Jerusalem are strongly opposed to plans for opening up a new gate in the south wall of the Old City near the Jewish Quarter. The weekly's editor, Bashir Al-Barguti [Basheer Barghouti], former editor of Al-Fajr, promises in his editorial to defend the cause of workers, independence and national unity but not at the expense of peace, socialism and internationalism." *Yediot Aharonot*, February 28, 1978.

[4]*Zu Haderech* (January 15, 1969), for instance, reported the sentencing of various persons to prison terms for selling the Israeli Communist Party bi-weekly *Al-Ittihad* in the West Bank. Regulations 86 and 87 (on censorship) and 96 (on political matter) of the Defense Regulations provide for such imprisonment as does the Importation and Distribution of Newspapers Order. (*See* Note 2 above.)

[5]*Confirmed* in 1978 State Department Report, *cited* above in Note 6 to Introduction, p. 369.

[6]Mayor Bassam Shakaa of Nablus (50,000 population); Mayor Karim Khalaf of Ramallah (35,000 population); Mayor Elias Freij and Vice-Mayor Hazboun Hazboun of Bethlehem (32,000 population).

West Bank mayors told the delegation that several events occurred in 1976 that moved political resistance to a higher plane: a march through the West Bank organized by the Gush Emunim (the Israeli ultra-nationalist group which has founded settlements in the West Bank and Gaza), Israel's imposition of an 8% Value Added Tax on inhabitants of the Occupied Territories,[7] and the April 12 municipal elections which swept a majority of P.L.O. supporters into office.

Discussions with the mayor of the Israeli town of Nazareth, Tawfiq Zayyad, and Nazareth Vice-Mayor Kamel Daher revealed the importance to the strengthening of resistance in the West Bank and Gaza of the 1975 election to office of the Nazareth Democratic Front, headed by Zayyad, a member of Rakah. The Front promulgated demands to defend the land against expropriation within Israel and settlements, to end the Israeli military occupation, and to support self-determination for the Palestinian people.

The mayors described the forms the Palestinian resistance has taken. Eight months after the April 1976 elections, the municipal councils in the West Bank and Gaza resigned *en masse* to protest the bloody suppression by Israeli troops of student demonstrations. Mayor Shakaa, as well as Dr. Baramki of Bir Zeit University, said that blood from the beatings Israeli border guards inflicted on student demonstrators is still splattered in classrooms. After the municipal councils resigned, Israeli authorities retaliated by imposing curfews on many West Bank towns, including an 11-day curfew in Nablus.

Another form of resistance has been confrontations with potential Jewish settlers. Mayor Shakaa gave the delegation copies of petitions which the Nablus Municipal Council had sent to the Military Governor, the Israeli Defense Minister, and the General Administrator of the West Bank, protesting establishment of Israeli settlements. (*See* Appendix.)

He described the first attempt by Jewish settlers to establish a settlement near the West Bank town of Sebastia, an effort which failed because the settlers were confronted by local inhabitants. Subsequently, Mayor Shakaa said, a settlement called Kafr Kaddum was established near Sebastia "by force of arms with the encouragement and protection of the [Israeli] authorities." (*See* Appendix.)

One document Shakaa gave the delegation describes an April 1977 march by Rabbi Meir Kahane and the Gush Emunim on the road between Nablus

---

[7]The Value Added Tax was imposed in Israel and in East Jerusalem on July 1, 1976, and was sought to be imposed on the West Bank and in the Gaza Strip on August 1, 1976, in order to give Palestinian businessmen an opportunity to familiarize themselves with the complexities involved. However, an 8% rise in certain items was imposed in the West Bank and Gaza on July 1, 1976, in order to match the price rise in Israel. As a result, business strikes, demonstrations, clashes with the police and other similar incidents took place in East Jerusalem and in West Bank towns. The tax was levied on merchants whose annual turnover exceeded 75,000 Israeli Pounds. It was opposed by West Bank residents on the grounds that it was (1) contrary to international law and Israel's obligations as an Occupying Power; (2) not part of Jordanian law under which the West Bank is supposed to be administered; and (3) inequitably imposed, since the average salary of a Palestinian inhabitant of the West Bank or Gaza was half that of an Israeli counterpart.

Since that time the Value Added Tax has been raised to 12% as of November 1, 1977. *Jerusalem Post*, October 30, 1977, p. 1.

and Qalqilya. The document indicates the attitude of the settlers towards the West Bank inhabitants, and the West Bankers' reaction to the settlers:

> . . . This extremist group did not stop at holding their march, but further provoked the people of Nablus by cabling the Mayor [of Nablus] and demanding a meeting with the City Council at a time specified by Rabbi Kahane for the purpose of "getting acquainted with his new neighbors," acting as if the indigenous city population were intruders and new to the area. It was only natural that the Mayor would reject the provocative cable and the meeting with Kahane, and so informed the military governor.
>
> The Mayor's conduct expressed the feelings of the masses: their rejection of and resistance to the principle of establishing settlements. In spite of this rejection of such aggressive behavior, Rabbi Kahane came with a group of armed men and tried to enter the [Nablus] City Hall by force. It was only spontaneous action on the part of the city's employees that prevented the provocateurs from entering the building.[8]

Mayor Khalaf described other provocative incidents by settlers and the resulting resistance. He related events that occurred in April-May, 1977, in the village of Deir Abu Mishal, 25 kilometers northwest of Ramallah.[9]

Each night after midnight for 45 days, Khalaf related, Jewish settlers from a nearby settlement[10] came into Deir Abu Mishal. They fired bullets, broke windows and door handles, and shouted obscenities at the sleeping villagers. They also told the villagers that the land belonged to the settlers and that the villagers should leave. The settlers were accompanied by Israeli soldiers.

Mayor Khalaf told the delegation that he and others went to Deir Abu Mishal after the forty-fifth night of such activity, and that they discussed the situation with Israeli authorities, who promised there would be no more difficulties. Khalaf said, however, that the attacks continued, and that he returned to the village. While he was there the village was again attacked.

On the following day, Ramallah Military Governor Yaakov Katz invited Khalaf and the others who had gone to Deir Abu Mishal to his office. Katz then forbade Khalaf and his group from returning to the village. Some time thereafter, Khalaf said, the attacks stopped.[11]

---

[8] Petition dated April 23, 1977, reprinted in full in Appendix; *see also* United Nations Special Committee Report, Doc. A/32/284 (1977), para. 160, p. 24.

[9] *Confirmed* in *Ha'aretz*, May 11, 1977 and May 13, 1977; *Ma'ariv*, May 12, 1977; and *Jerusalem Post*, May 11, 1977 and May 17, 1977. The details of Mayor Khalaf's account were also confirmed by Basheer Barghouti, who had accompanied Khalaf. The incidents were mentioned in the 1977 U.N. Special Committee report. *See* U.N. Special Committee Report, Doc. A/32/284, paras. 180 and 248, pp. 25 and 38.

[10] According to all news accounts, the source of the settlers was unknown. But Yehuda Litani reported in *Ha'aretz*, June 2, 1977 (p. 16) that "in an investigation it was found that the people of the group were in fact Israelis."

[11] During the period of these attacks, Deir Abu Mishal was surrounded by Israeli military at night for "protection" of the inhabitants. In addition, a police officer (Palestinian) from Ramallah district was assigned to the village (one during the day, but four or five at night). In fact, therefore, the villagers were victimized, as if they were guilty. An Israeli military roadblock was established on the road to the village and all visitors were registered with the police—all persons were checked, going in and out. In essence, the entire village was under "house arrest." Interview with Lynne Barbee, who accompanied Paul Quiring of the Mennonite Relief Agency to Deir Abu Mishal during the "siege."

The West Bank mayors with whom the delegation spoke were uniform in their strong support for the P.L.O. They indicated that the population shares that feeling. Mayor Shakaa said that in the 1976 municipal elections in the West Bank and Gaza the key issue related to which candidate was most committed to the P.L.O. Those elections resulted in the ouster of two-thirds of the (generally conservative) officials who were holdovers from the time of Jordanian rule in the West Bank.

Bethlehem Mayor Elias Freij, widely touted as a moderate with whom the Israelis might negotiate to avoid recognizing the P.L.O., stated flat opposition to the occupation:

> We don't like the occupation. We shall continue to resist by any means. We refuse to be part of Israel. We want to be an independent nation. Americans have been hypnotized to think that Israelis are angels. They are not. The United States has made Israel the strongest military power in the Middle East.

Freij also said that he would serve as spokesperson for the Palestinians in any re-convened peace talks only if his invitation comes through the P.L.O.: "The P.L.O. represents us. Anybody who doesn't like it, he can go to hell."[12]

Based on numerous conversations, the delegation concludes that the ability of the Palestinian population of the Occupied Territories to live "as normal" a life as possible has been seriously obstructed.[13] Concurrently, the ability of their elected officials to govern effectively and to deliver necessary municipal services has been reduced as a result of Israeli practices. The delegation concludes that Israel's response to Palestinian political opposition to the occupation has been bloody repression.

Despite the enumerated restrictions on political activity, there is substantial interaction and coordination among the municipal councils: unified petitions of protest, support for mass actions, and land defense committees.

The delegation also finds that the elected representatives of the citizens of the West Bank and Gaza are committed to and support the Palestine Liberation Organization as the sole legitimate representative of the Palestinian people and that Palestinians demand their liberation from Israeli occupation and foreign domination.

So long as the Israeli occupation continues, the Palestinian people will be denied their fundamental rights to free political expression and self-determination.

---

[12] *Repeated* in *Davar*, October 11, 1977.

[13] The World Health Organization team which visited the West Bank and Gaza in 1978 concluded that the overall conditions of the occupation have negatively affected the mental health of residents:

> . . . the Committee considers that occupation by a foreign power whose main concern is security creates conditions inhibiting the exercise of normal emotional life. If the occupation lasts a long time, either forced accommodation or profound frustration is bound to occur. Occupation brings with it a distinction between first-class and second-class citizens. This distinction in the long run creates abnormal mental attitudes such as the decrease of initiative and enterprise on the part of the second-class citizens. This could be considered as a health problem in the broad sense. This view is shared by the psychiatrists with whom the Committee discussed the question. [World Health Organization Report, p. 4, *cited* above in Note 12 to Chapter V.]

PART THREE
SUPPRESSION OF RESISTANCE

PART THREE—SUPPRESSION OF RESISTANCE

Israel controls the West Bank and Gaza, as previously noted, by military rule. To control resistance there, it applies a set of laws called the Defense (Emergency) Regulations.[1] These laws were enacted in Palestine in 1945 by the British Government under its League of Nations Mandate; the British felt the need for strict regulations to control the rising Jewish and Palestinian resistance to their rule.

These regulations were "vehemently denounced by the leaders of [the Jewish] sector and the Zionist movement . . ."[2] At a 1946 conference of the Jewish Lawyers' Association in Tel Aviv, Dov Yosef, later a government minister, stated: "With regard to the security regulations the question is: Will we all be subject to official terrorism?"[3] At the same meeting, Ya'akov Shimshon Shapirah, later an Israeli Minister of Justice, was sharper still:

> . . . The regime built in Palestine on the defense regulation has no parallel in any civilized nation. Even in Nazi Germany there were no such laws. . . . It is our duty to tell the whole world that the defense regulations passed by the government in Palestine destroy the very foundations of justice in this land.[4]

Nonetheless, Israel applied the Defense (Emergency) Regulations against the Palestinian population inside Israel until 1966[5] and soon after the June

---

[1] First published in *Official Gazette of Palestine*, Supplement 2 (No. 1442) 855, September 27, 1945.

[2] Aharon Cohen, "The Cause of the Eruption," *Al-Hamishmar*, May 2, 1976.

[3] Spoken February 7, 1946, quoted in testimony of Fouzi Al-Asmar before Subcommittee on Immigration and Naturalization, p. 111, *cited* above at Note 8 to Introduction. *See also* Sabri Jiryis, *The Arabs in Israel* (New York: Monthly Review Press, 1976), pp. 11-12.

[4] *Ha'praklit*, February 1946, pp. 58-64.

[5] Israel argues that Jordanian law also incorporates these Regulations, while Jordan vigorously denies this. [For the arguments against the validity of the Defense Regulations in the Occupied Territories, *see* U.N. Special Committee Report, Doc. A/8089 (1970), Appendix 5, which includes statements from Jordan, Syria and Egypt; for arguments in support of their validity, *see* Col. Dov Shefi, "The Protection of Human Rights in Areas Administered By Israel: United Nations Findings and Reality," 3 Israel Yearbook on Human Rights 344 (1973) (Col. Shefi is a former Senior Staff Officer, Military Advocate-General of Israel). *See also* Meir Shamgar, "The Observance of International Law in the Administered Territories," 1 Israel Yearbook on Human Rights 274 (Mr. Shamgar is a former Attorney General of Israel), and Alan Dershowitz, "Preventive Detention of Citizens During a National Emergency—A Comparison Between Israel and the United States," 1 Israel Yearbook on Human Rights 310-311 (1971). In any case, the contention that the Defense Regulations do not apply to the Occupied Territories "was not accepted by the Israeli Military Courts . . ." Shefi, 3 Israel Yearbook on Human Rights 345. *See Military Prosecutor* v. *Atef Jamal Aahad Saad and others*, Israel, Military Court Sitting in Nablus, November 1968, 1 Selected

1967 war, put them into effect in the West Bank and Gaza Strip.[6]

These regulations authorize much of the repressive conduct described in Parts Three and Four.

Judgments of Military Courts in the Administered Territories 236, translated in 47 International Law Reports 476 (1974).] Regardless of whether they are part of Jordanian law or not, the Defense (Emergency) Regulations cannot be construed as enacted in the Occupied Territories, since they contain provisions at variance with the Fourth Geneva Convention. This applies to any legal provision, whether it exists in the Defense Regulations, or the Security Provisions Order promulgated by the Israel Defense Forces in any occupied area, or in any other form of legislation or administrative decree concerning the Occupied Territories, which violates the Fourth Geneva Convention. The exceptions provided by the Fourth Geneva Convention for reasons of security are limited strictly by that Convention.

[6]The extension of the Defense Regulations to the Occupied Territories is contained in "Orders, announcements and publications put out by the command of Israel's defense forces in the West Bank," 1 Israel Yearbook on Human Rights 419-420 (1971); *see also* Note 5 above. (Note that regulations similar to those enacted in the West Bank have been issued for the other occupied areas. Only those pertaining to the West Bank have been cited.)

VII.
COLLECTIVE PENALTIES

Various international investigators have accused Israel of imposing punishment on an individual or group for the acts of some other individual or group. The forms of such punishment, according to these allegations, include demolition of houses and other structures where it is alleged criminal activity has occurred, imposition of curfews in retaliation for anti-occupation activities, and other types of harassment of the population in response to acts of resistance. Any such collective punishment or reprisal violates Article 33 of the Fourth Geneva Convention, which states:

> No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measure of intimidation or of terrorism are prohibited.
>
> . . .
>
> Reprisals against protected persons and their property are prohibited.[1]

A. Demolition of Buildings

Regulation 119 of the Defense (Emergency) Regulations of 1945 permits an Israeli military commander to order the demolition or sealing up of a building if there are reasonable grounds to believe that the building has been fired from or where an inhabitant has committed or abetted the commission of a violent act prohibited under the Defense Regulations. In addition, Regulation 119(1) permits the destruction of buildings not used to commit acts prohibited by the Regulations; the building only has to be located in the same general area where a prohibited act has been committed:

> A Military Commander may by order direct the forfeiture . . . of any house, structure or land situated in any area, town, village, quarter or street the inhabitants . . . of which he is satisfied have committed, or attempted to commit, . . . any offense against these Regulations involving violence or intimidation . . .[2]

---

[1] Prior to Article 33 of the Fourth Geneva Convention, there was no express international legal prohibition against collective punishment, reprisals or pillage. Article 33 was a direct consequence of the Nazi practices of destroying entire villages in reprisal for an attack on German troops in the vicinity by unknown individuals, of taking prominent local citizens as hostages and placing them at the front of troop trains to deter saboteurs, and of shooting a hundred local inhabitants in response to the murder of a German soldier. While the drafters may have been responding to more serious depradations, the above language does not make any distinction based on the seriousness of the act nor does it provide any exception.

[2] The complete text of Regulation 119(1) reads as follows:

> 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, detonated, exploded or otherwise discharged or of any house, structure or land situated in any area, town,

The delegation heard complaints from a number of Palestinians with whom it spoke about demolition or sealing up of houses. Nablus' Mayor Bassam Shakaa showed the delegation a cemented-over bakery in Nablus. He explained that the son of the owners had been suspected of illegal activity. Shortly after his arrest, Israeli soldiers ordered his parents out of the bakery and cemented over the windows and doors, thereby preventing them from operating their business.[3]

In the same section of Nablus, the delegation saw a two-family dwelling. The owners were living on the second floor; however, the downstairs flat was boarded up and cemented over. The delegation was told that the family who rented the flat had a relative who had been arrested by the Israeli military. Shortly after his arrest, soldiers evicted the family, boarded and cemented over the downstairs flat.

Several Nablus residents said that in neither case described above was the suspect charged with a crime prior to the buildings being destroyed.

The delegation saw two additional sites in Nablus which contained the rubble of buildings. These houses, rather than being boarded up or cemented over, had been blown up by the military authorities after they had arrested relatives of the families who had lived in the houses. One of the two houses had only recently been destroyed, as could be seen by the state of the debris which remained.

Lutfiya Hawari, a West Bank resident with whom the delegation spoke concerning her arrest and incarceration (*see* Chapter XII, *infra*), told the delegation that after her arrest in 1969, her home was demolished.[4]

Israel justifies its use of demolitions on three grounds: (1) the laws of Gaza and the West Bank incorporate the Defense (Emergency) Regulations of 1945, including Regulation 119;[5] (2) Article 53 of the Fourth Geneva Convention permits demolitions which are necessary because of military requirements;[6] and (3) demolition is an economic punishment and, as such, is preferable to detention.[7]

---

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 or anything in or on the house, the structure or the land.

[3] *Confirmed* in *Ma'ariv*, March 21, 1974.

[4] U.N. Special Committee Report, Doc. A/31/218 (1976), para. 100, p. 25.

[5] Meir Shamgar, "The Observance of International Law in the Administered Territories," 1 Israel Yearbook on Human Rights, 262, 275. *See also* Dov Shefi, "The Protection of Human Rights in Areas Administered by Israel: United Nations Findings and Reality," 3 Israel Yearbook on Human Rights 345 (1973).

[6] *Ibid.*, 1 Israel Yearbook on Human Rights 276, and 3 Israel Yearbook on Human Rights 345.

[7] Alan Dershowitz, Symposium on Human Rights, Faculty of Law, Tel Aviv University, July 1-4, 1971, reprinted in 1 Israel Yearbook on Human Rights 376:

> . . . Let us assume that such destruction would be a technical violation of some Convention. On the other hand, looked at realistically, what is it? It is a monetary punishment. Surely everybody would agree that, in terms of human values, it is better to destroy somebody's house than to destroy somebody's person; it is better to destroy his house than to detain him . . . Any objective person,

In a 1968 radio interview, Gen. Shlomo Gazit, the military administrator of the Occupied Territories, threw light on Israel's demolition program: "The act of blowing up houses is essentially . . . a deterrent action, a punishment which is supposed to deter others."[8] Regulation 119 has been invoked in the West Bank and Gaza Strip to demolish homes inhabited by numerous Palestinians arrested for acts opposing the Israeli occupation and of houses of their relatives. According to some estimates, as many as 20,000 homes or shops have been demolished or sealed up, including the complete destruction of three villages near Jerusalem—Emmaus, Beit Nuba, and Beit Jala.[9] According to the Israeli Government, only 1,224 buildings have been demolished since 1967 in the West Bank and Gaza under this provision. On two occasions the International Committee of the Red Cross has published figures for demolitions during a specific year; for each of these two years, the figure comported with the Israeli figure.[10]

Whatever the precise extent of such demolitions, they violate Article 53 of the Fourth Geneva Convention, which states:

---

looking at the two situations, would have to conclude that detention is a much more serious violation than economic punishment—specifically, the destroying of houses.

Prof. Dershowitz completes his discussion of demolition with the following thoughts (p. 377):

> So in one sense one could argue, and I thus argue, that what Israel did in destroying the houses is, at worst, foolish because it conjures up the image of collective responsibility and because it feeds on the kind of middle-class values which put property over human conditions.

Contrary to Prof. Dershowitz' comments, it should be noted that Israel's use of demolition does not present an "either-or" situation. The demolitions occur in addition to detention, not instead of detention.

[8] Broadcast by Kol Israel, reported in *New Outlook*, Vol. II, No. 6, July-August, 1968, p. 50. At a seminar in Rehovat, April 21, 1969, conducted by the Israel Academic Committee on the Middle East, General Shlomo Gazit stated the following about the deterrent effect of demolitions:

> The effectiveness of the blowing-up of houses lies in the fact that it is an immediate punishment and if we want to deter somebody, we cannot stop and wait for the normal, legal machinery . . . If we want to deter terrorists the effects must be seen immediately by the population. Employing these [Defense (Emergency)] regulations, we have the possibility of doing this immediately. [Shlomo Gazit, *Israel's policy in the administered territories*, p. 5, *cited* above in Note 7 to Chapter II.]

See also, The Israel administration in Judaea, Samaria, and Gaza—a record of progress, Ministry of Defense, Tel Aviv, 1968, p. 7:

> The blowing up of houses owned or used by terrorists, in accordance with the law obtaining in Judaea, Samaria and Gaza—as well as in Israel—has . . . proved an effective deterrent and a humane method . . . There is no doubt that by the blowing up of a few dozen houses of proven terrorists, bent on indiscriminate murder, . . . thousands of innocent lives . . . have been saved. . . .

[9] *Jerusalem Post Magazine*, April 14, 1976; Felicia Langer, "Israeli Violations of Human Rights in the Occupied Territories" in *Palaces of Injustice* at p. 24 (Public Affairs Series, No. 7, published by Americans for Middle East Understanding). U.N. Special Committee Report, Doc. A/8389 (1971), para. 57, p. 45, includes the names of eight other villages in the West Bank destroyed subsequent to the end of 1967 hostilities; *see also* "Middle East Activities of the ICRC 1967-1970," p. 486, *cited* above in Note 20 to Chapter V, and testimony of Ann M. Lesch before House Committee on International Relations, pp. 12 and 71, *cited* above in Note 4 to Chapter I.

[10] *See, e.g., ICRC Annual Report 1976*, Note 15, *infra; see also*, David Krivine, "More Insight on Torture," *Jerusalem Post*, October 28, 1977, which cites 1972 figures in addition to 1976.

> 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.

Lauterpacht explains that Article 53 permits destruction of enemy property "for the purpose of offence and defense . . . whether it be on the battlefield during battle, or in preparation for battle or siege."[11] Since there has been no open warfare in the West Bank and Gaza since June 1967, all demolition of buildings subsequent to that fighting is illegal.[12]

Further, to the extent that the buildings demolished belong to persons other than those suspected of a crime, the demolitions also violate Article 33 of the Fourth Geneva Convention (the ban on collective punishments referred to above).[13]

The International Committee of the Red Cross has vigorously objected to Israel's policy of demolition:

> . . . while deploring all terrorist attacks against civilians, he [head of ICRC delegation in a memo to Ministry of Foreign Affairs] insisted that such attacks in themselves were no justification for resorting to reprisals or any other form of collective penalties, including the destruction of buildings, as expressly prohibited in Articles 33 and 53 of the Fourth Convention. In view thereof, he demanded that the destruction of houses should cease.[14]

The *1976 ICRC Annual Report* complained that Israel had "destroyed

---

[11] *Lauterpacht*, p. 413, *cited* above in Note 14 to Introduction. *See also* Gerhard von Glahn, "The Protection of Human Rights in Time of Armed Conflict," 1 Israel Yearbook on Human Rights 226-227 (1971) who states: ". . . the Geneva Conventions of 1949 prohibit reprisals against Protected Persons . . . [T]he prohibition must be regarded as absolute: no derogations appear to be permitted." Later in the same article, von Glahn presents a hypothetical situation and analyzes it:

> . . . an act of sabotage has been committed against, say, a belligerent occupant; a given member of the indigenous population is suspected of being implicated (or a member of his family, not locatable, is the suspect); the agents of the occupant demolish the house of the civilian suspect; the claim is then made by the occupant that the demolition represents a reprisal to stop others from committing further acts of sabotage. But the question remains: was the blowing up of the house an illegal punishment or did it represent a reprisal taken as a deterrent? The writer believes that, in the example cited, no legitimate reprisal was involved, in view of the explicit and non-derogatory prohibitions found in the Fourth Geneva Convention of 1949. [Note omitted] Invocation of domestic law or of domestic custom on the part of the belligerent occupant could not affect the essential illegality of the alleged reprisal: such law and such custom could not take effect in territory under belligerent occupation, in view of the Fourth Geneva Convention and its provisions. [pp. 226-227]

[12] *Accord* in Fritz Kalshoven, *Belligerent Reprisals* (Leyden: A.W. Sijthoff, 1971), p. 320: "It needs no argument that in the instances discussed here [Israeli demolition of houses in the Occupied Territories] there was no question of military operations, let alone that these could have made the demolitions absolutely necessary."

[13] *Accord* in Kalshoven, *Belligerent Reprisals, cited* above in Note 12, p. 320. "Israeli authorities recently began demolishing homes of Arabs who had been uncooperative in investigations of terrorism or who had declined to come forward with information. Previously demolition was limited to the homes of those actively engaged in terrorism." *New York Times*, November 11, 1969.

[14] "Middle East Activities of the ICRC 1967-1970," p. 483, *cited* above in Note 20 to Chapter V.

further dwellings in breach of articles 33 and 53 of the fourth Convention."[15]

That the Israeli demolitions violate these two articles has also been concluded by the U.N. Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories,[16] the U.N. Commission on Human Rights,[17] the U.S. Department of State,[18] and the Swiss League for Human Rights.[19]

An additional element of illegality involved in the demolitions is the fact that they are typically undertaken within a few days following the arrest of a suspect—well before any judicial determination of guilt;[20] they are also carried out with very little warning to the inhabitants.[21]

Despite the fact that demolitions must be approved by the Minister of Defense,[22] there is no meaningful judicial oversight of the discretion given to the military commanders by Regulation 119. For example, the Hebrew-language daily *Ma'ariv* reported demolition of a house belonging to a Palestinian suspect that took place the day before the Israeli Supreme Court issued an interim order against the demolition.[23] The U.N. Special Committee noted a case in which a suspect ultimately acquitted had his house demolished:

> . . . Suspects who may never be charged or convicted, have their houses demolished without any remedy available against such measures or in-

---

[15] "As far as ICRC knows, 21 houses were destroyed or bricked up in 1976, depriving 109 people of their homes . . . In each case the delegates protested to the Israeli authorities and made sure that the inhabitants had been decently rehoused. When necessary they gave tents and blankets to the affected families [Generally Israel does not provide alternative housing or supplies to those affected by demolitions. To do so would diminish the "deterrent" effect of the demolition.]." *ICRC Annual Report 1976*.

[16] U.N. Special Committee Report, Doc. A/8089 (1970), paras. 123-131, pp. 55-57, and A/8389 (1971), paras. 52-58, pp. 44-46.

[17] Paragraph 4(c) of Agenda Item 4 (Question of the Violation of Human Rights in the Territories Occupied As a Result of Hostilities in the Middle East; 4(c) was approved by a vote of 23 for, 3 against (6 abstentions) on February 15, 1977.

[18] 1977 State Department Report, p. 39, and 1978 State Department Report, p. 366, *cited* above in Note 6 to Introduction, which notes that individuals "have had their homes demolished or sealed up and their families displaced, thereby inflicting a type of collective punishment."

[19] Reprinted at Hearings of Subcommittee on Immigration and Naturalization, p. 184, *cited* above in Note 8 to Introduction.

[20] *Accord* in Kalshoven, *Belligerent Reprisals, cited* above in Note 12, p. 320.

[21] *Zu Haderech*, October 5, 1977, reported the sealing off of a house and water-well when twenty soldiers tore out windows and doors and filled all openings with concrete. The detainee's wife, who "is four months' pregnant, and his six children were ordered to evacuate the house within half an hour."

[22] Gazit, *Israel's policy in the administered territories, cited* above in Note 7 to Chapter II, in a response to a question from the audience:

> Question: On the question of blowing up houses. . . . [W]hat if he is innocent. What do you do about that house?
>
> Gen. Gazit: The first point is that we are very careful in deciding what house is to be blown up. And there is a rather complicated procedure in approving the blowing up of the house. Every single house, before being blown up or destroyed, has to be approved by the Minister of Defense in person. . . . Whenever there is the least doubt—for example, if the man is not in our hands, or is in prison but has not admitted his guilt—the house is not blown up. [p. 14]

[23] *Ma'ariv*, October 17, 1975.

demnity even in cases where they are subsequently acquitted, as in the case of one Ahmed Ali El-Afghani from Gaza in 1975 (A/Ac. 145/RT. 79, p. 13 *et seq.*) whose house was occupied by a family of 11 . . .[24]

The U.N. Special Committee also noted "the case of one Abou Rabaya whose house was demolished because it was adjacent to a detainee's house that was the subject of a demolition order."[25]

The 1977 demolition of a house belonging to the parents of Khader Taweh, a suspect from Beit-Hanina, was reported in the *Jerusalem Post*. This incident provoked a protest by the Mayor of Jerusalem, Teddy Kollek, to the Military Governor, who apologized and reportedly asserted that the Army had not realized that the house was within the boundaries of Jerusalem, and, therefore, beyond his jurisdiction.[26]

It is obvious that there is no military necessity for these demolitions, since in all instances the persons against whom the demolition is supposed to be a punishment are already in custody. Thus, the people who are directly affected, and punished, are innocent victims—children, spouses, old people.

The delegation concurs with the five organizations noted above that Israel's demolitions contravene the Fourth Geneva Convention. The language of Article 53 clearly prohibits what Regulation 119 purports to permit. It is apparent that any system of administrative review which may exist does not provide meaningful protection.

B. Curfews

Another form of collective punishment charged against Israel is its imposition of curfews in reprisal for acts of opposition to its rule in the West Bank and Gaza. The evidence is strong that Israel has in fact used curfews to retaliate against communities for acts of protest.

Regulation 124 of the Defense (Emergency) Regulations of 1945[27] allows a military commander to impose curfews for any purpose; in addition, Article 89 of the Security Provisions Order provides for the imposition of curfews.[28]

---

[24] U.N. Special Committee Report, Doc. A/31/218 (1976), para. 352, p. 59.

[25] *Idem.* U.N. Special Committee Report, Doc. A/9817 (1974), p. 20 cites the May 8, 1974 testimony of H. Gaghoub, a Nablus lawyer (A/AC.145/RT.60, pp. 13-15) that the Israeli military occupation authorities had demolished houses of individuals before charges were brought against them and that some of those individuals had been subsequently acquitted by the courts.

[26] *Jerusalem Post*, September 20, 1977. *Zu Haderech*, September 28, 1977, said that the Military Government's claim that this was done "by mistake" was ridiculous, "since the house stood in the center of Beit Hanina, which is included in the Jerusalem area."

[27] Regulation 124 reads as follows:

> 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.

[28] Article 89 reads as follows:

> A Military Commander may by order require any person within the area indicated in the order to remain within doors during such hours as may be

Israel, which has frequently imposed curfews in the West Bank and Gaza, contends that they have been used only in pursuit of legitimate security interests.

In discussing the use of curfews during occupation, one authority commented: "Curfews are often imposed, especially in the early days of the occupation."[29] Neither the Hague Regulations nor the Fourth Geneva Convention mentions curfews; since they are not illegal *per se*, the legal issue becomes one of interpreting Article 33, *supra*, to determine whether imposition of a curfew in a particular situation is a "collective punishment."

The delegation has found that Israeli military authorities often impose curfews on whole villages in reprisal for a strike or demonstration. In 1976, for instance, curfews were imposed at various times and for varying durations in the West Bank locations of Hebron, Jenin, Ramallah, Nablus, Al-Bireh, Halhul, Tulkarm, and the West Bank refugee camps of Al-Amari and Balata.[30] In 1977, curfews were imposed on Kabatiya and Nablus.[31] All of these curfews were imposed following local anti-occupation demonstrations.

Students and faculty at Bir Zeit University explained to the delegation the hardships imposed by curfews. They indicated that once a curfew has begun, no one is permitted outside their home. Notice that the curfew is to begin is often quite short. Curfews are lifted periodically, they said, to permit residents to replenish supplies and to use outdoor sanitation facilities. Notification of such liftings is often inadequate. As a result, residents are often too afraid of being shot by patrolling soldiers to take advantage of the lifting. In addition, preventing villagers from leaving their homes means their livestock die and their fields go untended.

Rather than being used to contain an immediate threat, curfews are used as a punishment.[32] For instance, a curfew was imposed on five villages in the West Bank (Duma, Aqraba, Beit-Furiq, Majdal, Beni-Fadel) on April 25, 1974; twelve days later, *Ha'aretz* reported the prohibition of grazing in the Jordan valley affecting these same villages.[33]

While a curfew is not *per se* a violation of the Fourth Geneva Convention, it is a violation of Article 33 when imposed on a community to punish its inhabitants for the acts of some of its citizens. The delegation concludes that Israeli use of curfews in the West Bank and Gaza has violated Article 33.

C. Other Reprisals

On numerous occasions, Israeli authorities have imposed collective penalties

---

specified in the order. Any person found out of doors within the said area during such hours without a permit in writing issued by or on behalf of the Military Commander, shall be guilty of an offense under this Order.

[29] Morris Greenspan, *The Modern Law of Land Warfare* (Berkeley: University of California Press, 1959), p. 233.

[30] U.N. Special Committee Report, Doc. A/31/218 (1976), paras. 191-213, pp. 38-39.

[31] U.N. Special Committee Report, Doc. A/32/284 (1977), paras. 171 and 182, pp. 25-26.

[32] *See* Kalshoven, *Belligerent Reprisals, cited* above in Note 12, p. 316.

[33] *Ma'ariv*, April 26, 1974, and *Ha'aretz*, May 8, 1974.

in retaliation for anti-occupation activities. Examples include:

—the closing of an UNRWA-operated women teachers' training college in Ramallah in 1975;[34]

—the closing of business establishments in Al-Bireh in 1977;[35]

—the closing of some shops in Hebron and Ramallah for their participation in a strike on June 5, 1977;[36]

—a ban on travel from Ramallah, Nablus and Al-Bireh to Jordan (and vice versa) in 1976;[37]

—the closing of secondary schools in Al-Bireh for two weeks and another in Tulkarm in 1976;[38]

—the welding closed of the doors and shutters of fifteen shops in Gaza following a strike action.[39]

During the stay in Israel, delegation members read in the newspapers (and Mayor Karim Khalaf of Ramallah confirmed) that the Israeli Military Governor for the Ramallah District had recently announced that due to student participation in a June 1977 Ramallah general strike (held on the tenth anniversary of the occupation), the Hashemite Secondary School in Ramallah was to be closed down for the entire 1977-78 school year.

Following student demonstrations against Egyptian President Sadat's initiative, and against Prime Minister Begin's plan for "self-rule" on the West Bank, the Military Governor of the West Bank ordered the closing of the

---

[34] *Jerusalem Post*, November 1, 1975.

[35] *Jerusalem Post* and *Ha'aretz*, June 8, 1977. Regulation 129 of the Defense (Emergency) Regulations, 1945, permits a military governor to force the opening of businesses, but not the closing:

> (1) A Military Commander may by order—
> (a) if it appears to him to be necessary or expedient so to do in the interests of 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, require that the proprietors and managers of shops or business generally, or any class of shops or businesses, or of any specified shops or businesses, which he may have reason to believe to have been closed in pursuance of any organized or general closure of business shall, either throughout his area or in any specified town, billage, quarter or street, open and carry on business as usual;
> . . .

There is a law effective in the West Bank and Gaza making illegal the closing of businesses (for political strikes). Arie Pach, "Human Rights in West Bank Military Courts," 7 Israel Yearbook on Human Rights 222, 247 (Pach is a former military prosecutor, 1971-1974).

[36] *Idem.*

[37] *Al-Hamishmar*, February 16, 1976; lifted March 4, 1976, according to *Ha'aretz*. *Davar*, November 22, 1974, reported an earlier series of reprisals against the towns of Ramallah and Al-Bireh:

> The military government inflicted a series of penalties on Ramallah and [A]l Bireh. Their inhabitants have been entirely forbidden from crossing the bridge to the East Bank, and freight trucks belonging to the towns were not allowed to carry goods over the bridge to Jordan. The Military Governor has also forbidden merchants in these two towns to export the olive oil crop.

[38] *Ha'aretz*, February 29, 1976.

[39] ". . . on a personal order by General Moshe Dayan, Defence Minister, troops exchanged their steel helmets for welders' masks and welded the shutters of some 15 shops whose owners followed the strike call. . . ." *New York Times*, August 6, 1971; also in Izra Yanov, "Strike in Gaza," *Ma'ariv*, August 15, 1971.

Ramallah teachers' seminary for 21 days. In addition, Mayor Khalaf was forbidden from visiting all of Ramallah's schools.[40]

The closing of schools, in addition to violating Article 33 of the Fourth Geneva Convention as a collective penalty, violates Article 50, which states:

> The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.

It has been argued in Israel's defense that occupiers have the right to supervise schools, including the right to close them temporarily when students and/or teachers manifest an attitude of active resistance.[41] Since students had joined a general strike ("active resistance"), the authorities, therefore, had the right to close the Ramallah school.

A school closing of sufficient duration to quiet a demonstration might be permissible under the Convention, which provides little freedom of speech or assembly. However, any closing beyond the time necessary to end the demonstration violates Articles 33 and 50; if the occupier could interfere in this manner at its discretion, the Convention's protections against collective penalties and interference with schools would be small indeed.

An article in *Zu Haderech* (the newspaper of Rakah, the Israeli Communist Party) decries the retaliative use of temporary closings and travel prohibitions by Israeli military authorities in the West Bank:

> Does one want to punish the area of Hebron? Grapes are not allowed to be transported on the roads during picking time, until the "notables" finally fall on their knees before the military governor. Does one want to punish the city of Ramallah? The sale of mutton is forbidden in that town for two months, or the municipality is not allowed to receive contributions coming from natives of Ramallah abroad and sent for purposes of municipal development. Does one want to punish the town of Al-Bireh? An order is issued to take pictures of Palestinian folklore off the walls of the city hall, and to hide them in a cellar![42]

Another account of reprisal was related to delegation members by Lea Tzemel, a Jerusalem attorney. She said that one night Israeli soldiers entered a West Bank village in the middle of the night and forced all adult males (over thirteen years old) out of their homes and made them stand in a cold courtyard. The soldiers did not immediately explain the reason for this action. After two hours, the soldiers informed the men that the village's children had been fined for participating in demonstrations against the occupation, and

---

[40] *Yediot Aharonot*, January 8, 1978. The authorities suspect Mayor Khalaf of inciting the students to organize in order to protest.

[41] In addition, it has been argued that Israel is not interfering with these educational institutions, but is merely carrying out the purposes of Jordanian law. Such an argument, however, does not comport with Israel's claim that it deliberately avoids interference in local affairs, including the educational system, which is the responsibility of local Palestinians. *See* Information Briefing, *Human Rights in the Administered Areas*, Israel Information Centre, Jerusalem (August 1976), pp. 3-4.

[42] Israel Shahak, "What Are My Opinions?" *Zu Haderech*, November 27, 1974.

that the males of the village would be required to pay the fines or be jailed. The fines were not limited to parents of particular children.

In Nablus, the delegation met with the City Engineer, Abbass Abdel Haq, who related that the night before (July 25), he had been awakened at 1:30 a.m. by Israeli soldiers who demanded that he go down to the street to remove slogans painted on the wall outside his home. When City Engineer Abdel Haq told the soldiers the matter could wait until morning, they roused a number of his neighbors and forced them to go outside, dip their hands in buckets of hot tar, and cover over the signs with the tar. Delegation members saw and photographed the tar-covered slogans, the tar still warm. The slogans announced a general strike for Nablus for August 1, 1977.

Incidents like the last two described, in addition to violating Article 33 of the Fourth Geneva Convention, also violate Article 27, which states:

> 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.

The Israeli press has noted the repressive atmosphere in which West Bank and Gaza residents live. Boaz Evron commented:

> . . . The maintenance of the territories has caused the creation of a semi-colonial regime and the rise of a class of small omnipotent despots [reference to the military authorities] who tyrannize a submissive population by using weapons.[43]

A 1976 article in *Haolam Hazeh* described the heavy-handed actions of Israeli occupying troops:

> . . . They seized people in the streets or entered houses at night and turned out the men, ordering them to run round a spot in the middle of the town. They also forced people in Nablus to dance on one leg in the middle of the street, or made men ride on each other's backs or hit each other, under threat from armed soldiers.[44]

Another humiliation technique described in this article is that of Israeli soldiers tearing the keffiya, the traditional Arab headcloth, from the heads of the Nablus men and throwing them on the ground. Soldiers also forced people to go out into the street in the rain and made them stand there without moving.[45]

The U.N. Special Committee has concluded that Israel's use of reprisals as a method of maintaining order has violated Article 33 of the Convention.[46] The delegation concurs with that conclusion.

Strongly critical of the Government's "strong arm" policy, Israeli jour-

---

[43]Boaz Evron, "The Burden of the Territories," *Yediot Aharonot*, May 14, 1976.
[44]April 1, 1976.
[45]*Idem.*
[46]*See, e.g.*, U.N. Special Committee Report, Doc. A/31/218 (1976), para. 321, p. 49.

nalist Danny Rubinstein in 1976 described "Recent actions by the security forces in the West Bank, including the expulsion from Hebron and [Al-Bireh] of candidates for the municipal elections [*See* Chapter VIII, *infra*.] . . . The reaction to the violent demonstrations has more than once been violent and has taken the form of humiliating treatment, accompanied by physical assault, to teach the Arabs a lesson . . ." After providing several examples, Rubinstein concludes:

> It is . . . clearly meaningless to talk of democratic life, free elections, tolerance, and mutual respect when daily life is dominated by acts of terrorism [by Israeli occupation authorities], the expulsion from the country of candidates for elections and other acts of this kind.[47]

Following the March 1978 Israeli invasion of Lebanon, Israel stepped up its harassment of the West Bank population. One Western diplomat commented that "we haven't seen this kind of repression here for years, if ever."[48] At one school in Beit Jala, where classes were in session and no demonstration was occurring, fifty Israeli troops surrounded a school, ordered the students to close classroom windows, and then hurled CS (tear) gas into the classrooms. Ten students who jumped from second floor windows to escape the gas were hospitalized with fractured bones.[49] Similar incidents occurred in Beit Sahur and Bethlehem.

Following the Israeli invasion, there were also confirmed reports of Israeli troops arriving at West Bank villages after dark, forcing the adult males (over age 13) into the street and either having them stand there or perform exercises for hours at a time. A Bir Zeit University student told of being among 100 men who were brought to the local military headquarters to pick weeds for most of the night.[50]

D. Conclusion

On the basis of the above data, the delegation concludes that the Israeli military authorities frequently impose collective penalties on the West Bank and Gaza populations, to intimidate, humiliate, and harass. Israel's imposi-

---

[47] *Davar*, March 30, 1976. Anthony Lewis, "In Occupied Territory," *New York Times*, May 25, 1978, reported the following:

> Every family on the West Bank has its stories of arbitrariness on the part of the occupation authorities: the doctor humiliated by soldiers on the steps of his hospital, the students detained without charge just long enough to miss their exams and lose a year of school, the lawyer forbidden without explanation to publish verbatim reports of judges' decisions. Israelis say they have to act firmly for security reasons. . . .
>
> Some West Bank Palestinians think the occupation, with its frictions and humiliations, is really designed to make the intelligent and sensitive among them want to get out—and ease the way for a permanent Israeli hold on the territory. . . .

[48] *Time*, "West Bank Crackdown," April 3, 1978, p. 32.

[49] *Time*, April 3, 1978, *cited* above in Note 48; military authorities at first denied the incident but *Time*'s Bureau Chief Donald Neff confirmed the events. Israel's military commander, General David Hagoel, was replaced on May 3, 1978, "for covering up the use of tear gas." John K. Cooley, "Arabs still resist Israeli control in border zones," *Christian Science Monitor*, May 23, 1978.

[50] *Idem*.

tion of collective penalties is in violation of Article 33 of the Fourth Geneva Convention. In many instances, these acts of collective punishment have, in addition, violated Article 53 (demolition of buildings), Article 50 (closing of schools), and Article 27 (violation of the duty of humane treatment).

VIII.
EXPULSION

Article 49 of the Fourth Geneva Convention prohibits all deportations of the inhabitants of an occupied territory:

> 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.[1]

Representatives of Israel's Mapam Party told delegation members that one mistake made by the Labor Government (of which it was a member) was the failure to develop leadership among the non-P.L.O. supporters in the West Bank. The delegation learned from others that Israel had indeed been concerned about leadership there. For many years Israel expelled persons in positions of leadership in the Palestinian community.

In November 1977, the American Friends Service Committee (AFSC) issued a study which concluded that approximately 1,500 West Bank and Gaza Palestinians have been expelled by Israeli military authorities since 1967. AFSC listed two tribes plus 1,136 individuals, providing, in the case of the 1,136 individuals, their names, dates of expulsion, age, occupation, residence, and source of the information. Those expelled include mayors, labor and religious leaders, school principals, teachers, heads of women's societies, tribal chiefs, student leaders, doctors, judges, lawyers, journalists, and writers.[2]

In Amman, Jordan, the delegation interviewed one of these expellees —Dr. Hanna Nasir, President *in absentia* of the University in the West Bank town of Bir Zeit.

---

[1]The negotiating history of Article 49 reveals that it was intended as a response to the deportation of innocent individuals and mass deportations of communities, as was done in World War II, when millions of innocent persons were deported to concentration and death camps. It is not, however, limited to deportations carried out with such intent.

[2]American Friends Service Committee Report #35: "Deportations from the West Bank and the Gaza Strip, 1967-1976," compiled by Ann Mosely Lesch (1977, unpublished).

Dr. Nasir recounted the circumstances of his expulsion. In 1974, demonstrations throughout the West Bank celebrated the U.N. proclamation of the Palestine Liberation Organization as the sole legitimate representative of the Palestinian people and Yassir Arafat's speech before the U.N. General Assembly. Bir Zeit students held such a demonstration. When Israeli soldiers came, Dr. Nasir suggested they allow the students to demonstrate; otherwise, he told them, there might be trouble.[3] The situation was tense; P.L.O. flags particularly irritated the Israeli soldiers.

Following the demonstration, one student painted pro-P.L.O. slogans on walls near the University. Soldiers beat and arrested him. Dr. Nasir intervened, negotiating with military authorities for four hours, until the student was released.

At 11:30 that evening (November 20, 1974), Dr. Nasir was telephoned by the Military Governor for the Ramallah District, who told Nasir to come to his office immediately. Dr. Nasir roused several faculty members and took them with him. At the Military Governor's headquarters, Dr. Nasir was separated from the faculty members; one hour later he was surrounded by soldiers, his identification documents were taken, and he was blindfolded, handcuffed and led to a car. In the car were three other Palestinians—an engineer, a high school teacher, and a dentist who was a close friend of Dr. Nasir.

The four were driven to the Lebanese border and forced to cross into Lebanon, through mountainous terrain and minefields. None of the four was charged with any crime. But following the expulsion, each was accused in the Israeli press of working with the P.L.O.[4] Dr. Nasir says that none had had any connection with the P.L.O.[5]

Two weeks prior to the April 1976 municipal elections, Israeli military authorities deported two mayoral candidates—Dr. Ahmad Natshi of Hebron (Director of the Beit Jala Hospital) and Dr. Abdul Haj Ahmed of Al-Bireh (President of the West Bank Dentists' Union). They were taken from their homes under circumstances similar to Nasir and were told they were to be

---

[3]Terrence Smith credited Dr. Nasir with calming a tense confrontation. *New York Times*, "Israelis Deport 6 from West Bank," November 22, 1974:

> In fact, this correspondent, who observed the demonstration, saw Dr. Nasser doing everything he could to avoid a confrontation between the marching students and Israeli soldiers who had been sent in to keep the area quiet. His efforts were successful and the soldiers kept their distance until the demonstration ended peacefully.
>
> Is [sic] seems likely that Dr. Nasser was expelled because of his strong nationalist views and also perhaps in the hope of deterring other prominent West Bank residents who might be considering a more active and public role in support of the Palestine Liberation Organization.

[4]*Davar*, November 22, 1974, said they were charged with engaging in activities hostile to the Israeli authorities and supporting the strikes, demonstrations and "infringements of law and order" in the West Bank. According to *Davar*, the official spokesman for the Israeli army declared that these men were members of a "hostile organization" instigating violence. *Davar* said the expelled men had instigated and organized demonstrations, strikes in schools, and the obstruction of commercial activity. It stated that their expulsion was one of the measures taken in order to restore order in the West Bank.

[5]Dr. Nasir told the delegation that since his expulsion he has become a member of the Palestine National Council.

deported. Then they were told they had the right to a lawyer since, before being deported, they were going to have a trial. There was a summary trial, but during the five-minute deliberation, they were led away and then driven to the Lebanese border.[6] This was a clear violation, not only of Article 49, but also of Article 68, which states that protected persons who commit security offenses may be imprisoned or interned, but that "internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty." Deportation is a form of punishment neither contemplated nor permitted under either of these articles.

Their expulsions so outraged Supreme Court Justice Moshe Etzioni, who was to have heard an injunction request concerning Dr. Natshi's case, that he suggested the appearance of "an effort to evade a hearing." The *New York Times*[7] reported that Judge Etzioni had notified the Attorney General's Office about the pending hearing several hours prior to candidate Natshi's deportation. *Ma'ariv* editorialized that the deportation operation's clandestine nature indicated the possibility that the authorities may not have had solid evidence in the case.[8]

From interviews which the delegation conducted, it became clear that in some instances Palestinians are expelled after serving a prison sentence. This occurred with several of the ex-prisoners whose stories are reported in Chapter XII.

In other instances an individual is subjected to administrative detention (*see* Chapter IX) and given the choice between continued incarceration or "voluntary" emigration.[9] This occurred with Tayseer al-Aruri (*see* p. 80).

In numerous instances the expellees have been prominent individuals who have criticized Israeli practices in the Occupied Territories or the occupation itself, but with respect to whom no evidence exists of actual or planned violent acts, or of any other violations of the law. This is so with the two mayoral candidates, with Dr. Nasir, and with a large number of persons listed in the AFSC study. Examples include Abdul Jawad Saleh (mayor of Al-Bireh), Dr. Walid Kamhawi (Secretary of the West Bank Physicians' Union), Shakir Abu Hajla (Vice-President of Al-Najah College, Nablus), Hussein Al-Jaghub (lawyer), Dr. Mustafa Milhim (Deputy Mayor of Halhul), Azzam Bakr Abdulhak (architect), Ali Al-Khatib (Chief Editor, *as Shaab*, East Jerusalem), Dr. Alfred Tobasi (Secretary of the West Bank Dentists' Union), and Abdul Razzak Auda (architect).

All these expulsions are legal under Israeli law—Regulation 112 of the Defense (Emergency) Regulations of 1945.[10] In addition, Israel says that

---

[6]Dr. Nasir described the details related here; *confirmed* in American Friends Service Committee Report #35, *cited* above in Note 2. *See also Washington Post*, March 28, 1976. Gideon Eshet, *In These Times*, June 28-July 4, 1978, p. 7, reported that Israeli Minister of Defense Ezer Weizman had told Hebron's mayor that Dr. Natshi was now free to return to the West Bank. Dr. Natshi was, in fact, permitted to return to the West Bank in June 1978.

[7]March 29, 1976.

[8]*Idem.*

[9]*Davar*, November 11, 1977, reported the deportation of Fatima Bernawi, "after she signed a document stating that she is leaving the country of her own free will."

[10]"112-(1) The High Commissioner* shall have power to make an order, under his

Jordanian law prevailing on the West Bank permits the deportation of individuals guilty of security offenses.[11] Israel defends its expulsions as protecting its security:

> . . . there have been individual expulsions. All were of persons involved in active incitement to riot or in terrorism . . . Not in a single instance did any such deportee deny what he had done to disrupt security and public order under the Israeli regime; on the contrary, all proclaimed with pride that they had been among the foremost saboteurs . . .[12]

However, the Article 49 prohibition against expulsions and the Article 68 prohibition against penalties other than imprisonment render illegal the expulsion of any protected persons, even of those suspected or convicted of crimes. The Convention permits incarceration for crimes, but not expulsion.

As early as 1968, an Israeli journalist, Amnon Kapeliuk, criticized Israel's expulsion of West Bank and Gaza residents:

> The policy is an imitation of the practices of the [British] Mandatory Government and is a form of punishment that is hard to accept. If people have committed crimes they should be brought to trial. In special cases they could be allowed to choose between exile and prison. To the best of our personal knowledge, at least some of the personalities deported had not occupied themselves with sabotage or terror, but had, within the limits of the given situation, voiced their opposition to Israeli rule on the West Bank. If that is a crime that warrants deportation, we may not be far from the day when thousands of others will have to be treated the same way.[13]

---

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." For a presentation of Israel's argument that deportation is legitimate under the Fourth Geneva Convention, *see* Meir Shamgar, "The Observance of International Law in the Administered Territories," 1 Israel Yearbook on Human Rights 273(1971). Mr. Shamgar was then Israel's Attorney General. The thrust of his argument is that Article 49 does not apply to Israel's use of deportations:

> Deportation of a person to Jordan is, according to the conceptions of the persons deported, neither deportation to the territory of the *occupying power* nor to the territory of *another* country. It is more a kind of return or exchange of a prisoner to the power which sent him and gave him its blessing and orders to act. There is no rule against returning agents of the enemy into the hands of the same enemy. Article 49, therefore, does not apply at all. [Emphasis in original.] [p. 274]

Many persons deported by Israel have been expelled through Lebanon, rather than Jordan. *See, e.g.*, Chapter XII for the accounts of Khalil Hagazi and Suleiman Al-Najjab, and this chapter, *supra*, for the account of Hanna Nasir.

An additional argument put forward by Israel is that expulsion is preferable to detention over an indefinite period. *See ICRC Annual Report 1971*, p. 49, citing a statement by then Prime Minister Golda Meir.

[11] David Krivine, "More Insight on Torture," *Jerusalem Post*, October 28, 1977.

[12] Appears as Appendix III in a pamphlet entitled *Shahak's Complaint*, pp. 23-24, Israel Academic Committee on the Middle East, Jerusalem (November 1976). *See* Shefi, "Human Rights in Areas Administered by Israel," 3 Israel Yearbook on Human Rights 348 (1973), acknowledging the deportation of 80 notables "all engaged in systematic instigation against the military authorities and in supporting the violation of public peace and order—constituted a clear menace to the security of the areas." *See also* Information Briefing *Human Rights in the Administered Areas*, Israel Information Centre, Jerusalem (August, 1976) p. 16: "Most cases of expulsion have involved perpetration of terrorist activity, or enemy agents dangerous to security."

[13] *New Outlook*, November-December, 1968, p. 5. The expulsions have more recently

Dr. Nasir suggested to the delegation that the expulsions are aimed at depriving Palestinians of the West Bank and Gaza of leadership people who speak out against Israel. He charged "a systematic attempt to destroy local leadership. They [the Israeli authorities] want to deprive the people of a class that thinks even a little."

There is a dispute as to the numbers of expulsions which have occurred. In contrast to the figure of 1,500 given to the delegation by Dr. Nasir, and confirmed by the AFSC study,[14] Israel contends that from 1967 to 1973, only 80 Palestinians were expelled.[15] In 1977, an Israeli military official said the number of expulsions since 1967 did not exceed 200.[16]

Aharon Pinhassy, an Israeli lawyer and member of the Council for Israeli-Palestinian Peace, with whom delegation members spoke in Jerusalem, said that the Israeli Government stopped the expulsions in 1976, as a result of "unfavorable publicity and protest" in Israel. Dr. Nasir also informed the delegation that there have been no expulsions since 1976, except for persons being released from incarceration. The delegation spoke with one ex-prisoner[17] expelled in June 1977, upon completion of a prison term.

The expulsions have been condemned as a violation of international law by the U.S. State Department,[18] the ICRC,[19] the U.N. Special Committee,[20] the U.N. Commission on Human Rights,[21] and the Swiss League for Human Rights.[22]

The delegation concludes that the expulsions violate Article 49(1) of the Fourth Geneva Convention. Regardless of their number, or of Israeli motives, or of what those expelled might have done, any expulsion of an inhabitant of occupied territory violates Article 49(1).[23]

Further, given the identity of many of those expelled, the delegation concludes that expulsion has been used by the Israeli Government to deprive the West Bank and Gaza Palestinians of their indigenous established leadership, around whom they could focus their discontent with the Israeli occupation.

---

been condemned by a former Principal Assistant to the Attorney General of Israel, who wrote that "those noxious violations are permitted by laws (most of them relics of the Mandate Period), and are a matter of government and military occupation policy." He suggested that they "are unnecessary, unwise and unsupportable—and are internally criticized within Israel." Leonard Schroeter, "Israel and Torture," *Moment*, November 1977, p. 62.

14 *Supra*, Note 2.

15 Dov Shefi, "Human Rights in Areas Administered by Israel," 3 *Israel Yearbook of Human Rights* 348 (1973).

16 *Cited* in Rami G. Khouri, "Key Palestinian leaders exiled report claims," *Financial Times* (London), November 9, 1977.

17 *See* Statement of Abdul Moneim Mohammad Jibril, Chapter XII.

18 1977 State Department Report, p. 39, and 1978 State Department Report, pp. 365-366, *cited* above in Note 6 to Introduction.

19 *See, e.g.*, "Middle East Activities of the ICRC 1967-1970," p. 427, *cited* above in Note 4 to Introduction.

20 U.N. Special Committee Report, Doc. A/8089 (1970), paras. 57-60, pp. 30-32, and all subsequent reports.

21 Section 4(d), February 15, 1977, Resolution.

22 Report reprinted at Hearings of Subcommittee on Immigration and Naturalization, p. 183, *cited* above in Note 8 to Introduction.

23 This reading is confirmed by the commentary published by the ICRC on the Fourth Geneva Convention on paragraph 1 of Article 49, to the effect that "the prohibition is absolute and allows of no exceptions." Pictet *Commentary*, pp. 277-279, *cited* above in Note 11 to Chapter III.

IX.
ADMINISTRATIVE DETENTION

Article 78 of the Fourth Geneva Convention permits an Occupying Power to use internment or house arrest "for imperative reasons of security," provided that each such case is reviewed every six months. However, the Convention does not permit the use of administrative detention beyond one year from the "general close of military operations."[1] Despite this fact, Israeli military authorities in the West Bank and Gaza continue to use internment and house arrest, based upon Regulation 111 of the Defense (Emergency) Regulations, which provides for the detention of any person named in the military governor's order for an unlimited period at any detention camp mentioned in the order,[2] and Article 87 of the Security Provisions Order. The system of administrative detention employed by Israel in the Occupied Territories is based upon the principles of administrative detention prevailing in Israel itself.[3]

The grounds for issuing an order for administrative detention under the Defense Regulations are "to secure public safety, the maintenance of public order or the suppression of mutiny, rebellion, or riot."[4] There is only one body responsible for pre-detention review of an order: a request for detention (or for its extension beyond nine months) is brought before an "area advisory committee," appointed by the military governor, including the area legal advisor and high-ranking military officers.[5]

Under Regulation 109 of the Defense (Emergency) Regulations, a military governor may force any person to live in any place designated by the military governor or to remain at his or her place of residence for an appointed period of time, "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 . . ."[6]

---

[1]Article 6, *cited* above at Note 13 to Introduction. Article 78, which permits administrative detention, lapses after one year and, thus, cannot be used as a basis for the continued use of administrative detention eleven years after the "general close of military operations." *See* 1978 State Department Report, *cited* above in Note 6 to Introduction, p. 367, for a similar position.

[2]Col. Zvi Hadar, "Administrative Detention Employed By Israel," 1 Israel Yearbook on Human Rights 284. The exact text of Article 111(1) is as follows:

> 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.

According to Dershowitz, *cited* above in Note 5 to Part Three, p. 312: "The preventive detention regulation inherited from the British is written in the broadest possible terms. There are no restrictions on the military commanders' discretion; no limits on the duration of detention; no rules of evidence; and no judicial review . . ."

[3]*Ibid.*, p. 287.

[4]*Ibid.*, p. 284.

[5]*Ibid.*, pp. 287-288. Apparently this committee is provided in internal army orders, since Article 87 provides only for an advisory appeals committee [Article 87(e)].

[6]The complete text of Regulation 109(1) is as follows:

> A Military Commander may make, in relation to any person, an order for all or any of the following purposes, that is to say—

Attorney Lea Tzemel told the delegation that administrative detention can be ordered by the Military Governor or the Minister of Defense. An Advisory Committee of Appeal reviews the detention every six months, but the ultimate decision of continued detention or release remains with the Military Governor or Defense Minister.[7]

Haifa Attorney Moshe Amar informed delegation members that the detained person is permitted to be represented by counsel, but that neither the detained person nor counsel is permitted to know the grounds for suspecting that the person is a security risk. Thus, no effective means is open to the detained person to challenge the detention.

While theoretically, a detainee may petition the Supreme Court for release on a writ of *habeas corpus*, attorney Felicia Langer told the U.N. Special Committee that the Supreme Court informed her on several occasions that it would not intervene "against decisions of the military commanders, who were *prima facie* justified in making them."[8]

In the West Bank, the delegation learned of a particularly notorious case of administrative detention—that of Tayseer al-Aruri. Mr. Aruri, a physicist and member of the mathematics faculty at Bir Zeit University, was arrested in April 1974, and was still being detained at the time of the delegation's visit, with no charges having been filed against him. (Aruri was released in

---

(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.

[7]The appropriate portion of the Defense Regulations is Regulation 111(4), which reads as follows:

> 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.

The Security Provisions Order, Article 87(e), has a similar provision:

> For the provisions of this section, a board of appeal shall be set up appointed by the Commander of the Region. A judge appointed under this order shall act as chairman of the board. The functions of the board shall be to consider every appeal against an order under this section and make recommendations to the Commander of the Region with respect to such appeal. Where a person is detained under this section, the board shall consider his detention at least once in every six months, whether or not the detained person has appealed to the board.

[8]David Krivine, "More Insight on Torture," *Jerusalem Post*, October 28, 1977, confirms this by noting that courts defer to the military authorities in determining security risks. At the Tel Aviv University Symposium, *cited* above in Note 7 to Chapter VII, p. 384, Amnon Rubinstein, Dean of the Law School, commented: "There has been no full judicial review for the simple reason that the Supreme Court has declined to go into the merits of the case and into security grounds . . ."

January 1978.) Every six months his detention was renewed. After Aruri's arrest, Bir Zeit University President Hanna Nasir protested to the Military Governor. Dr. Nasir said the Military Governor replied: "It is not what he has done, but what he is thinking of doing." The delegation was also told that Aruri was offered release to another country if he signed an affidavit stating that he had emigrated "of his own free will."[9] He refused and remained imprisoned for 46 months.

The delegation also interviewed Raymonda Tawil, of Ramallah. Tawil was a press correspondent for Agence France Presse and has also reported for the *New York Times* and CBS television. In 1976, she reported on student demonstrations in Ramallah, noting repressive measures taken by Israeli security forces against demonstrators. She told the delegation that in August 1976, she was ordered to report to the office of the Military Governor, where she was directed to cease her contacts with Agence France Presse. She refused to stop filing reports, and on August 15, 1976, was placed under house arrest,[10] guarded by soldiers. She was permitted to leave only when summoned to appear before the Military Governor; visitors to her home were restricted. Following international pressure, the house arrest order was lifted in December 1976.

While photographing demonstrations which erupted after the March 1978 Israeli invasion of Lebanon, Tawil was arrested and incarcerated under administrative detention for 45 days.[11]

It is argued in Israel's behalf that the military authorities limit administrative detention to situations in which there is evidence that a person is an immediate and serious risk to security.[12] To test this assertion, and to assess whether Israel's use of administrative detention constitutes an abuse of the occupier's Article 78 discretion to detain (even assuming it were permitted), it is helpful to determine the number of administrative detainees. An accurate assessment as to the number of administrative detainees is very difficult to make; numbers have varied over time, depending upon the political situation.

During the early years of the Israeli occupation, when resistance was at a high level in the Gaza, Defense Minister Moshe Dayan informed the Knesset that in May 1970 the number of administrative detainees was 1,131, while in June 1971, the number had decreased to 560.[13] In 1974, Police Minister

---

[9] In testimony before the U.N. Special Committee (A/Ac. 145/Rt. 81, p. 10), Felicia Langer said this was not an unusual offer. She also said she was unaware of any case in which such consent was freely given.

[10] *Confirmed* in *Jerusalem Post*, August 15, 1976.

[11] *Time*, April 3, 1978, p. 32. Tawil, who was arrested on March 22, 1978, and her attorney, Amnon Zichroni, claimed she was beaten. The ICRC representative in Jerusalem "visited her and successfully insisted that her injuries be treated by a doctor. After Israeli journalist Yehuda Litani personally visited Defense Minister Weizman to intercede, she was released May 7." John K. Cooley, "Arabs still resist Israeli control in border zones," *Christian Science Monitor*, May 23, 1978.

[12] A former Principal Legal Assistant to the Israeli Attorney General characterized Israeli administrative detention practice as a "noxious violation of rights." Schroeter, "Israel and Torture," *cited* above in Note 13 to Chapter VII.

[13] *Jerusalem Post*, June 15, 1971.

Shlomo Hillel claimed that in 1970 there were 1,400 Palestinians from the Occupied Territories imprisoned under "preventive detention" laws.[14]

In a two-month period from April to June, 1974, 150 Palestinians in the Occupied Territories were put in administrative detention.[15] (This is when Aruri was detained.) And in July 1974, another 100 Palestinians were administratively detained.[16]

Defense Minister Shimon Peres, on the other hand, put the number at 37 on January 22, 1976, 20 for 1973, and 40 as an average for each year since 1967.[17] In the light of previous figures noted for 1970 and 1971, an average of 40 detainees per year seems low.

Hanna Nasir told the delegation that as of 1977, there were approximately 100 detainees in all the occupied areas. Aharon Pinhassy, a member of the Council for Israeli-Palestinian Peace, and an attorney who frequently represents Palestinian detainees, estimates 30 detainees for 1977. Following the 1978 Israeli invasion of Lebanon, hundreds of West Bank and Gaza Palestinians were administratively detained in what was described by *Time* magazine as an "indiscriminate crackdown."[18]

Article 78 views administrative detention as an extraordinary measure, not a means of incarcerating a person against whom evidence is too weak to sustain a criminal charge. It permits detention only "for imperative reasons of security." Yet, Raymonda Tawil was subjected to assigned residence because of her articles in newspapers and incarceration for her photographs of demonstrations; these hardly qualify as "imperative reasons of security."

Article 78 grants a right to appeal and periodic review; however, these rights are effectively denied by Israeli authorities since a detainee is not informed of the grounds for suspicion.[19]

Israel's use of administrative detention beyond the first year of occupation has been characterized as illegal by the U.N. Special Committee,[20] the U.S. State Department,[21] the U.N. Commission on Human Rights,[22] and the Swiss League for Human Rights.[23] The delegation concludes that Israel has greatly expanded the acceptable limits of Article 78 and has violated any right to detain without charge afforded by Article 78. It is clear that a provision of international law designed for exceptional circumstances has been used indiscriminately and has been arbitrarily converted by Israel into a rule of conduct and policy.

---

[14] *Jeruslaem Post*, April 30, 1974; Minister Hillel stated there were 22 as of May 1974.

[15] *Ha'aretz*, June 19, 1974.

[16] *Jerusalem Post*, July 26, 1974. They were all described as "communists."

[17] Statement in Knesset by Shimon Peres, reported in *Jerusalem Post*, January 22, 1976.

[18] April 3, 1978, p. 32.

[19] According to the 1978 State Department Report, p. 367, *cited* above in Note 6 to Introduction, "these rights of appeal are rarely exercised and appeals have very rarely resulted in a reversal of the decision of the military authorities."

[20] For example, U.N. Special Committee Report, Doc. A/8089 (1970), para. 110, p. 50.

[21] 1977 State Department Report, p. 39, and 1978 State Department Report, p. 367, *cited* above in Note 6 to Introduction.

[22] Section 4(e), February 15, 1977, Resolution.

[23] Report reprinted at Hearings of Subcommittee on Immigration and Naturalization, p. 183, *cited* above in Note 8 to Introduction.

PART FOUR
MISTREATMENT OF DETAINEES

X.

DENIAL OF PROCEDURAL RIGHTS

The Fourth Geneva Convention contains a number of provisions regulating criminal proceedings against an inhabitant of an occupied area. They are reproduced below:

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 . . . [T]he 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 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 country.

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 promptly 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.

. . .

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.

. . . Where the laws applied by the Court make no provision for appeals, the convicted person shall have the right to petition against the finding and sentence to the competent authority of the Occupying Power.

Article 76. Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein. They shall, if possible, be separated from other detainees and shall enjoy conditions of food and hygiene which will be sufficient to keep them in good health, and which will be at least equal to those obtaining in prisons in the occupied country. . . .

. . .

> Protected persons who are detained shall have the right to be visited by delegates of the Protecting Power and of the International Committee of the Red Cross . . .

Consistent with Article 64, courts in the Occupied Territories, staffed by Palestinians, decide all civil and criminal cases according to the appropriate law (Jordanian law in the West Bank and Egyptian rules in Gaza).[1]

However, persons arrested in the West Bank and Gaza for security offenses are tried before Israeli military courts, which are permitted under Article 66 of the Convention.[2] The Israeli military courts apply the Security Provisions Order for the Territories, and the Defense (Emergency) Regulations of 1945, which are periodically amended by orders issued by the military governors or the Israeli Minister of Defense. In addition, they are competent to try all criminal cases.[3] These two sets of regulations define security violations in vague terms, many of which relate to non-violent political opposition. They include such offenses as membership in an illegal organization,[4] contact with "the enemy,"[5] hostile sedition, propaganda, or agitation,[6] and possession or distribution of illegal literature,[7] which would include writing slogans,[8]

---

[1] Law and Administration Proclamation of the Israeli Defense Forces Commander, June 7, 1967, paragraph 2. However, it should be noted that the Jurisdiction in Criminal Offenses Order gives the Military Courts jurisdiction over any criminal case, not just security cases. *See* Note 3, *infra*.

[2] Security Provisions Order (1967), Articles 3 and 7.

[3] In addition to security offenses, the Military Courts have jurisdiction over all criminal cases. Article 2 of the Jurisdiction in Criminal Offenses Order, as amended (June 25, 1967), reads as follows:

> A Military Court shall be competent to try any criminal offense in accordance with the laws in force at the time such offense was committed, whether the offense was committed before or after the Israel Defense Forces entered the Region.

Article 3 of the same Order reads as follows:

> Every criminal offense shall be deemed to be an offense against the Security Provisions Order, whether or not jurisdiction to try such offense is exclusive to a particular court or tribunal.

[4] Regulation 85(1)(a) of the Defense (Emergency) Regulations (with definitions in Regulation 84); *see also* Sh/60/75, *Military Prosecutor* v. *Mustafa Tzwalkha*, 4 Selected Judgments of Military Courts 176 (1976), reprinted in 7 Israel Yearbook on Human Rights 264. *See also Al-Fajr*, January 3, 1978: "The Jenin military court sentenced Ahmed Abush to 17 years in jail, of which 12 suspended. He was charged with adhering to PFLP [Popular Front for the Liberation of Palestine]. The same court sentenced Ahmed Nabhan to three years, for adhering to Palestinian organizations."

[5] Security Provisions Order, Article 46(a).

[6] Order (No. 101) Prohibiting Hostile Sedition and Propaganda (West Bank Region) 1967; section 6 prohibits printing and publishing of political material without permit, while section 7 prohibits "agitation." *Cited* in BL/1114/72, *Military Prosecutor* v. *Sheinboim, et al.*, 3 Selected Judgments of Military Courts 347 (1974), reprinted in 7 Israel Yearbook on Human Rights 253-257.

[7] Regulation 85(1)(f), (g) and (i) of Defense (Emergency) Regulations; *see also Al-Fajr*, January 3, 1978: "Bahia Sha'deh to six months in jail, for distributing leaflets."

[8] Regulation 85(1)(i) of Defense (Emergency) Regulations; *see also Al-Fajr*, January 24, 1978: "The Lod military court in Israel sentenced four persons accused of belonging to the PFLP and of having written anti-Israel political slogans on walls. Sentences were as follows:

> 17 year old Kadri Adkik—ten months in jail
> 19 year old Omar Rashk—ten months in jail
> 17 year old Badawi Kawas—six months in jail
> 17 year old Maher Kotb—12 months in jail."

or distributing cassette recordings of Palestinian songs.[9]

The military courts, created under Regulation 13 of the Defense (Emergency) Regulations and the Security Provisions Order, are quasi-judicial bodies, in that they are convened as needed by the Israeli occupying authorities.[10] For cases where the maximum penalty exceeds five years' imprisonment,[11] a panel of three judges is used: one being law-trained and the other two being military officers.[12] Unanimity is required to convict.[13] For lesser offenses, a single law-trained military officer tries the case.[14] Lea Tzemel, a Jerusalem attorney, noted to the delegation that military judges are often officers who have served in the field, fighting the kinds of people they are now asked to judge. Article 9 of the Security Provisions Order allows considerable flexibility for the military tribunal in selecting procedures to follow in regulating trials.[15]

There is no judicial appeal from the military courts,[16] although on certain

---

In another instance, students of "Bethlehem University charged with writing anti-Israel articles, were sentenced to a six months' jail-stretch by the Ramallah military court. They also were fined 3,000 [Israeli Pounds] each—to be paid within seven days" *as-Shaab*, January 10, 1978. These sentences were in connection with the posting, on campus walls, of a mimeographed student newspaper.

[9] Regulations 86 and 87 of Defense (Emergency) Regulations; *see* Note 2 in Chapter VI, *supra*. *See also*, *Al-Fajr*, January 3, 1978: "Omar Kilani, Mohammed Koradeh, Ahmed Kilani and Issam Zahran, all of them from Nablus Town, charged with selling cassette recordings of Palestinian songs, have each been given a suspended nine-months sentence and fined 2,000 [Israeli Pounds] each."

[10] *See* Security Provisions Order, Article 50(c)(1): "A Single Judge shall sit at such times and places as he shall direct." Regulation 14 of the Defense (Emergency) Regulations has a similar provision: "A Military Court shall sit at such times and places as the President [of the Court] shall direct."

[11] Article 50(c)(3), Security Provisions Order; Regulation 56A of the Defense (Emergency) Regulations has a similar provision, except they have jurisdiction in cases involving imprisonment of more than one year.

[12] Article 4 of the Security Provisions Order only requires that a Military Court "be composed of a President, who shall be a legally qualified officer of the Israel Defense Forces of the rank of captain or above, and two judges who shall be officers." *See also* Regulations 12 and 13 of the Defense (Emergency) Regulations.

[13] Security Provisions Order, Article 20; Regulation 31 of the Defense (Emergency) Regulations has a similar provision.

[14] Article 50(c)(3), Security Provisions Order; according to Article 50(e), a defendant brought before a single Judge may demand a three-judge panel.

[15] It is often argued that military courts utilize procedures and rules of evidence identical to those customary in Israeli criminal courts and in countries which adhere to the principles of British jurisprudence. *See, e.g.*, Information Briefing, *Human Rights in the Administered Areas*, Israel Information Centre, Jerusalem (August 1976), p. 11. However, Article 9 of the Security Provisions Order provides an open-ended exception. Article 9 reads as follows:

> As regards the law of evidence, Military Courts shall proceed according to the rules prevailing in Military Tribunals trying soldiers. However, a Military Court may deviate from the rules of evidence for special reasons which shall be recorded, if it deems it just to do so.

See also Regulations 20 and 21 of the Defense (Emergency) Regulations.

[16] Article 43 reads as follows:

> There shall be no appeal against judgment to a judicial instance but the convicted person may make appeal and application to the Commander of the Region or the Military Commander, as the case may be, concerning conviction or sentence. . . .

See also G/1410/74 *Military Prosecutor* v. *Jayi et al.*, 4 Selected Judgments of Military Courts 25 (1976), *cited* in 7 Israel Yearbook on Human Rights 259-261 (1977). Regulation 30 of the Defense (Emergency) Regulations has a similar provision.

grounds one may petition the Israeli Supreme Court for a writ of *habeas corpus*.[17] The Supreme Court must hear such cases within twenty-four hours.[18] In late 1977, Israel announced plans to establish, for the first time, a military appeals court for the Occupied Territories. The target date was March 1978.[19]

According to Israel's Security Provisions Order, military trials in the West Bank and Gaza should be open to the public[20] and press, and the accused should have counsel of his/her choice or by court appointment without charge.[21] Other protections which Israeli law provides to an accused include the right to remain silent,[22] to cross-examine witnesses,[23] to bring witnesses,[24] and to have a simultaneous translation into Arabic of all court proceedings.[25]

---

[17] *See Abu Hilu* v. *Government of Israel*, 27 P.D. 2, 419 (1970); David Krivine, in his *Jerusalem Post* article of October 28, 1977, "More Insight on Torture," particularly stressed the point that the Supreme Court does not hear "appeals":

> What the High Court is asked to deal with is not an appeal, but a petition. Its job is to check that the organization whose conduct is queried acted within its terms of reference, and that its decisions conformed with the rules of justice. . . . There is only one topic on which the judges do generally defer to the military branch . . . and that is the expert assessment of what constitutes a security risk.

[18] Transcript of Press Conference of State Attorney Gabriel Bach, July 29, 1977.

[19] Letter from Israeli attorney Aharon Pinhassy to Howard Dickstein, December 8, 1977.

[20] Article 11; however, pursuant to Article 11, testimony given by interrogators, such as Shin Beth members, is closed to the public for security reasons (to protect the identities of the interrogators). Article 11 reads as follows:

> A Military Court shall hold the hearings which take place before it in open court; however, a Military Court may order that the whole or any part of a hearing before it shall take place in closed court if it is of the opinion that it is proper to do so for reasons of the security of the Israel Defense Forces, the interest of justice, or the security of the public.

Regulation 22 of the Defense (Emergency) Regulations has a similar provision. Since most cases revolve around the admissibility of the confession (whether it was voluntary), the testimony of interrogators often constitutes the bulk of the oral evidence heard by the court. To close such testimony to the public means that most of the court session is not open to the public.

[21] *See* Security Provisions Order, Article 8, and Defense in a Military Court Order (October 8, 1967), Articles 2, 3, 4, 5, and 10 and David Krivine, "More Insight on Torture," *Jerusalem Post*, October 28, 1977. Israeli attorney Felicia Langer was barred in 1977 from practicing before military courts. Further, a complaint against attorney Lea Tzemel was filed in 1977 with the Israeli Bar Association by a member of the Knesset, Likud member (and attorney) Roni Milo. The complaint includes a motion to disbar her, on the ground that she is "vilifying the good name of the State of Israel and its judiciary, by spreading libelous information . . ." In addition, in a July 13, 1977, ruling of the Israeli Supreme Court, Tzemel was named a "security risk" and a "champion for enemies of the state."

If lawyers publicly critical of the Israeli Government are prevented from trying military court cases, the right to counsel is clearly circumscribed.

[22] Security Provisions Order, Article 31(a).

[23] Security Provisions Order, Article 18.

[24] Security Provisions Order, Article 31.

[25] Security Provisions Order, Article 12; in testimony before the U.N. Special Committee in 1976, Felicia Langer described this procedure as satisfactory. The Swiss Leage report, *cited* above in Note 19 to Chapter VII, reports on observing a military trial of Palestinians on security charges at Lod, June 29, 1977. The Swiss observer, Ms. Moutinot, reports that "A military interpreter translated sporadically from Hebrew into Arabic . . ."

In addition, the allegation is that confessions are written in a language that suspects do not understand; the fact that after the confession is signed, court proceedings are translated into Arabic is really not at issue.

Israel's procedures do provide on paper some elements of due process standards. However, many of the enumerated protections are not always available in practice.[26] Trials are sometimes not open to the families of defendants,[27] let alone to the public[28] or the press.[29] In a number of cases attorneys have had gag orders placed against them, which make it illegal for them to discuss the cases, under threat of severe penalties.[30] Although one has the right to remain silent, one's silence may be difficult to maintain under physical or psychological coercion. (*See* Chapter XII, *infra*.) Since guilt or innocence is often based almost exclusively on a confession, the right to cross-examine witnesses is not very valuable.

Palestinians arrested in the West Bank and Gaza for security offenses do not have the right to see an attorney during the period of their interrogation. The 21-day period during which the authorities may deny counsel, can be extended indefinitely.[31] The Order (for the West Bank) Regarding the Instrumentalities of Confinement (Article 11) stipulates:

> When a confinee requests to meet his lawyer, and when the commander [of the prison] is convinced that the request has been submitted with the intention of arranging a judicial matter relating to the prisoner, he will permit a meeting in the premises of a confining institution, provided that there is no security reason against such meeting, and provided that the meeting will not hinder the progress of the investigation.[32]

The military officials have absolute discretion in interpreting this Order.

Attorney Tzemel told the delegation that prison officials routinely find that a meeting with an attorney before interrogation is completed would "hinder the progress of the investigation":

> . . . in the orders of the Occupied Territories it says that the director of any prison can prevent lawyers, family or anybody from visiting

---

[26] Dershowitz, *cited* above in Note 7 to Chapter VII, p. 316, has also suggested that one examine practice as well as written laws: "My own academic bias leads me to be at least as interested in actual practices as written laws."

[27] The 1977 case of Terre Fleener is an example. Ms. Fleener's mother, Mary Boettcher, from Dayton, Ohio, was not permitted to attend the trial, even after completion of her testimony as a character witness. This case was conducted in Israel; there is no reason to believe that procedures in the Occupied Territories are more liberal than those in Israel.

[28] *Confirmed* in 1978 State Department Report, p. 368, *cited* above at Note 6 to Introduction.

[29] Given the censorship of the media, both in Israel and the Occupied Territories, particularly Arabic-language newspapers, this provision does not seem very beneficial.

[30] The 1977 case of Terre Fleener and the 1978 case of Sami Esmail are examples. In both cases, attorney Felicia Langer was ordered not to discuss the case with anyone but her clients. In the latter case, the gag order was eventually lifted.

[31] Until the interrogation has been completed; Krivine, "More Insight on Torture," *cited* above in Note 8 to Chapter IX, argues that the period can only be extended for six months, and must be approved by the military court. Krivine also noted that the courts "defer" to the military branch on what constitutes a security risk, which is precisely the issue in determining the extension of the interrogation period.

[32] As amended, June 23, 1967; *confirmed* in Krivine, "More Insight on Torture," *cited* above in Note 8 to Chapter IX.

> when he thinks that it can damage the interrogation or it can hurt the security.
> . . . Attorney or family or the Red Cross could be limited forever.
> . . . they wait until the interrogation is over [and] the wounds heal. Then you can see them.

The Israeli Supreme Court has suggested that in security cases it is preferable for a lawyer to refrain from demanding to see the detainee prior to the interrogation reaching "an appropriate stage."[33] In other words, whenever state security is involved, the interrogators should be permitted to proceed with the interrogation without being "disturbed" by lawyers.

Israel claims that Article 5 of the Fourth Geneva Convention empowers military authorities to deny counsel to security suspects during interrogation.[34] Article 5 reads:

> Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention.

The right to deny communication to a detainee is conditioned on "absolute military security" so requiring. This phrase limits that provision to situations where the detainee is legitimately suspected of being involved in some impending military operation against the Occupying Power. This is seldom the case with West Bank/Gaza detainees.

The Israeli practice of denying access to a lawyer during interrogation violates Article 72 of the Fourth Geneva Convention, which states that suspects

> . . . 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.[35]

The U.N. Special Committee has also concluded that detainees are not assured counsel at the interrogation stage.[35]

Several other Israeli practices impair the right to counsel in military proceedings. A lawyer intending to visit a client in prison must first obtain the approval of the prison administration for an agreed upon date.[37] The prison commander has discretion to order the presence of a guard during the inter-

---

[33] High Court of Justice, 150/76.

[34] In Israeli law this period must be limited to 21 days (Security Provisions Order, Chapter VII(6), Section II); however, the delegation was told that this period is often extended until the interrogation has been completed and that determination is made by the interrogators themselves. *See also* Note 31.

[35] Israel uses the Article 5 argument to deny counsel to virtually all persons detained for alleged security violations. If Article 5 were meant to have such a broad meaning, then Article 72 would have no place in the Convention.

[36] U.N. Special Committee Report, Doc. A/31/218 (1976), para. 352, p. 62.

[37] Contrary to the claims of State Attorney Gabriel Bach at a July 29, 1977, press conference (that lawyers have easy access to prisons and clients), attorneys must interview clients in special "lawyers' rooms" and have no access to the cells or other premises in which prisoners are held.

view and may terminate the interview at any time without explanation.[38]

Tzemel indicated that with respect to her clients held in solitary confinement at Ramleh Prison, she is not permitted to see them at all.[39]

Tzemel also said that charges against a suspect are not always revealed before the day of trial, making preparation by counsel extremely difficult.[40]

XI.
PRISON CONDITIONS

Israeli prisons where Palestinians are incarcerated are severely overcrowded. Israeli Commissioner of Prisons Chaim Levi admitted in 1977 that "the overcrowding of the prisons has reached intolerable levels." Levi reported that in the Hebron Prison (West Bank), each detainee has less than one square meter of living space, which makes that prison among the most overcrowded in the world. He said that two prisons in Israel where Palestinians are incarcerated are little better: average space per prisoner in Ramleh Prison was 2.6 square meters and in Beersheba Prison 4.2 square meters.[1] Average space in other countries is about 8 square meters.[2] A 1973 *Jerusalem Post* report cited prison officials as claiming that overcrowding in the Ashkelon Prison (in Israel but containing many Palestinian prisoners), was "making it impossible to ensure the safety of each individual prisoner."[3]

The International Committee of the Red Cross, which pursuant to its role under the Fourth Geneva Convention monitors Israeli prisons, reported in 1975 that "just over 3,000" Palestinians from the Occupied Territories and Arab countries were being held in Israeli prisons, seven in Israel and seven in the Occupied Territories.[4]

ICRC has repeatedly complained to Israeli authorities about the overcrowding and other adverse conditions resulting from it. In its *1975 Annual*

---

[38]Interview with Lea Tzemel.

[39]Letter to the London *Sunday Times*, in response to the Israeli Embassy's July 2, 1977, reply to the Insight Team report.

[40]Article 21(a) of the Security Provisions Order regulates this aspect of proceedings: "A copy of the charge sheet shall be delivered to the defendant *prior to his trial.*" (Emphasis added)

[1]*Ma'ariv* and *Jerusalem Post*, February 4, 1977.

[2]*Idem.*

[3]*Jerusalem Post*, May 6, 1973.

[4]*ICRC 1975 Annual Report*, p. 21.

Report, ICRC noted that "various approaches were made to the detaining Power on the subject of the conditions of the prisons, especially overcrowding."[5] The *1976 ICRC Annual Report* stated that the overcrowding

> . . . had become alarming and was adversely affecting all conditions of detention. The [ICRC] delegates made repeated approaches to the detaining authorities asking them to remedy the situation. However, no tangible result has been obtained by the end of the year.[6]

In January 1977, ICRC again complained of inaction on the overcrowding issue:

> . . . a number of problems that have been raised regularly by the Red Cross have not been solved. One such problem is overcrowding. In addition, some improvements relating to medical services, cultural facilities and family contacts suggested by the delegates and mentioned to the Red Cross by the detainees on strike in Ashkelon [Prison] . . . have not been implemented.[7]

In September 1977, ICRC suggested that commissions of inquiry be established to investigate prison conditions.[8]

On January 27, 1977, Amnesty International appealed to Prof. Aharon Barak, Israel's Attorney General, to initiate immediate improvements in prison conditions, as recommended by the ICRC, which had particularly stressed the issue of overcrowding. Although Prison Commissioner Levi, at a meeting of prison officers in February 1977, gave details of plans to expand prisons, Amnesty noted that, to its knowledge, "no improvements in prison conditions have yet been made."[9]

In its *1977 Report*, Amnesty International noted that the number of

---

[5] *Idem.*

[6] As early as 1970, detention under such conditions of overcrowding was deemed unacceptable and inconsistent with the Fourth Geneva Convention. "Middle East Activities of the ICRC 1967-1970," p. 504, *cited* above in Note 20 to Chapter V.

[7] *Cited* in Palestine Human Rights Campaign pamphlet; *confirmed* in 1978 State Department Report, p. 366, *cited* above in Note 6 to Introduction and London *Sunday Times*, "Israel and Torture," June 19, 1977.

[8] ICRC Press Release No. 1303, September 19, 1977. The ICRC suggested a commission of inquiry as early as December 1974. U.N. Special Committee Report, Doc. A/9817 (1974), para. 15, p. 9.

[9] *Amnesty International Report 1977*, p. 303. On July 7, 1977, reporter Bernard Edinger, of Reuters News Service, after visiting Gaza Prison (selected for him by the Israeli authorities), described it as very clean and well-kept, and said inmates looked "well-fed." Edinger's report was partly reproduced in *Jerusalem Post*, July 8 and 10, 1977. However, when Edinger requested to see the military interrogation camp near Gaza, he was refused permission to see it.

There have also been reports of plans to improve prison conditions, one being that appearing in the *Jerusalem Post*, quoting Minister of Interior Yossef Burg, and Commissioner of Prisons Levi (August 8, 1977). Another report made reference to " . . . improvements introduced in the jails in the territories several months ago, following a visit held by the Defense Minister Mr. E. [Ezer] Weizmann to those prisons." (*Ma'ariv*, September 21, 1977) However, allegations of severe prison conditions continue to be made. For instance, the February 22, 1978 edition of *Zu Haderech* carried a report on the "bad prison conditions."

In a Supreme Court hearing Judge Moshe Landau acknowledged that conditions in prisons were bad: "It is a fact that the jails are very crowded." *Ma'ariv*, December 6, 1977.

prisoners in Israel and the Occupied Territories convicted for alleged security offenses "has considerably increased during the past year, leading to what is admitted by the Israeli authorities to be intolerable overcrowding of prisons."[10] At the February 1977 meeting mentioned *supra*, Commissioner Levi announced that there then were 3,227 Palestinians convicted of security offenses in Israeli prisons, 502 more than the previous year.

The delegation made a number of efforts to gain access to Israeli prisons, to see first-hand the conditions under which Palestinian detainees are incarcerated.[11] Although unsuccessful in this endeavor, the delegation did interview two ex-prisoners who described prison conditions in some detail.

Saji Salameh Khalil told the delegation that in the early period of his imprisonment (he was arrested in 1967), prisoners were only allowed a half hour each day for exercise, at which time they had to walk in a yard with their hands tied and their heads bowed. He charged that prisoners had an insufficient diet and a lack of clothing during cold weather. He further stated:

> The work they offer is also an insult. For example, they oblige

---

[10] *Amnesty International Report 1977*, p. 303.

[11] After receiving a request from the delegation's Israeli hosts to provide them with "preferences" concerning the Israeli portion of the delegation's trip, the Kibbutz Artzi hosts were informed of the delegation's desire to meet with the Commissioner of Prisons and the Military Governor of the Occupied Territories, as well as to visit a juvenile prison (near Ramallah) and the Ashkelon Prison.

A direct request to visit prisons was lodged on the day of the delegation's arrival in Jerusalem, when members of the delegation went to the office of the Prison Administration but were told it was closed (it was Friday afternoon and the Jewish Sabbath was about to commence). Early the next week, delegation members again tried to speak with Chaim Levi, Commissioner of Prison Administration, both to interview him and to obtain permission to visit prisons and interrogation centers. His office directed them to request such permission from the Israeli Bar Association in Tel Aviv. After a telephone call from their Tel Aviv offices to the Bar Association headquarters, the delegation members were told they would not be allowed admission into any prison unless it were to represent a client, and then only if they could obtain special permission (required of non-Israeli attorneys). The Bar Association directed them back to Commissioner Levi. When the delegation members returned to his office, a staff member informed them he was on vacation and that no one else in the office could consider the request.

Without prior arrangements, four members of the delegation went to the Ramallah Prison, hoping to speak with an official about torture allegations and visit the prison. These delegation members, too, were denied an interview as well as permission to enter.

The above information is not presented as evidence that Israeli prisons are impenetrable. Some attorneys, reporters, and others, particularly those who are predisposed to the Israeli position, have gained access to certain areas. (None, however, including the ICRC, has been able to view interrogation centers.) Alan Dershowitz, Professor of Law at Harvard University, and a well-known defender of Israel, wrote in 1971: "On the basis of my experience, I find it difficult to understand the criticism leveled against Israel by groups such as Amnesty International and the United Nations Commission on Human Rights who claim that Israel will not open its doors to their investigatory teams. Almost every door in Israel seemed unlocked; all that was needed was some initiative, and, sometimes, a gentle push. . . ." 1 Israel Yearbook on Human Rights 316. David Krivine, "More Insight on Torture," *Jerusalem Post*, October 28, 1977, discussed his success in obtaining information from the authorities:

> I am not ashamed to admit that I used the prospect that I might have to appear on Israel's behalf before an international tribunal [the U.N. Special Committee hearings of 1977] as a lever to extract information from the military, police and prison authorities—who were generally sluggish in responding to enquiries . . ."

Note that Krivine was not trying to visit prisons, but was simply trying to obtain information, documents, statistics, etc.

prisoners to do military camouflage pieces for the army. We refused this kind of work and they used the old prisoners, the bedouins, to press them to work. . . .[12]

Also they oblige the prisoners to build the prisons. In Beersheeba [Prison], for example, they obliged the 200 prisoners to work hard work, building and digging and carrying cement—all the building work—and they don't give enough food, clothing in the same conditions. Sometimes they bring the work inside the rooms and you can imagine that this room is very crowded. In a room like this, sometimes they put more than 20 and we ate inside. They put a pot for a WC. We don't have a WC. We don't have the right to go outside for the general WC which is outside the rooms all the days and all the nights except [during] one hour of the day we have the right to go out.[13]

Khalil said these conditions led to hunger strikes throughout his imprisonment.

Abdul Moneim Mohammad Jibril, who served nearly ten years in several different prisons, told the delegation about daily life in prison:

There is a difference from one prison to another prison. We return to our cells. Sometimes our rooms would have 80 people in them. Some of them would have 47 in them. Some of them would have 15 in them, in a room [the same size]. . . .

Day after day it was the same. If they see anybody doing anything—exercise or playing—they take him out of the cell immediately. They used to have us strip naked and then lay on the floor and your head against the wall. They would throw dirty water on you. The form of searching was the provocative searches. Many, many times when they would do this, they would hit them and beat them and they would lose consciousness. They would complain to the International Red Cross, but to no avail.[14]

Citing a pamphlet published by Arab Israeli students, *Ha'aretz* described prison conditions thusly:

Arab security inmates have no changes of clothes, no mattresses, no beds; they receive underwear only once every year. . . . [M]edical attention is lacking, food is insufficient . . . The dining room allowance has been reduced from thirty to twenty Israeli pounds per month; in contrast a Jewish inmate gets seventy Israeli pounds per month.[15]

Police Minister Shlomo Hillel acknowledged that prisoners do not have beds "for security reasons," but denied all the other allegations.[16] The report of the Swiss League for Human Rights details the "serious discrimination" which

---

[12] Article 51 of the Fourth Geneva Convention prohibits the Occupying Power from forcing inhabitants to work on military preparations.

[13] For an account of Khalil's statement, *see* Chapter XII.

[14] For an account of Jibril's statement, *see* Chapter XII.

[15] Yehuda Litani, "Live Like a Criminal Inmate," March 11, 1977.

[16] *Idem.*

exists in regard to the prison conditions which face Palestinian detainees as compared to Jewish detainees.[17]

In an article in *Haolam Hazeh*, Sylvia Adiv reported:

> The physical conditions in jail are subhuman: the prison is terribly overcrowded; the cells are dark and damp; the prison's walls hardly let the sun penetrate even into the jail's yard. Food is meager both in quantity and quality. . . . The sanitary conditions are miserable.
>
> . . . Medical care is given to the prisoner only when his condition is critical.
>
> The assumption, which underlies the policy of the Prisons' Service is that a denial of liberty is not enough; the prisoner should be oppressed by every possible means. The slogan is: "A good prisoner is a broken prisoner." The means to carry out the slogan are degradation, creating dependence of the prisoner upon the authorities, and control far beyond that which is described as requirement for security.[18]

The incarceration of West Bank and Gaza Palestinians in Israeli prisons violates the Fourth Geneva Convention in several ways. First, Article 76 requires that "Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein." Many Palestinian prisoners are kept in prisons in Israel rather than in the West Bank or Gaza.[19]

Article 76 also states: "They shall, if possible, be separated from other detainees." Palestinians kept in prisons within Israel are not kept separate from Israeli prisoners.[20]

Article 76 further requires that prisoners ". . . shall enjoy conditions of food and hygiene which will be sufficient to keep them in good health . . . They shall receive the medical attention required by their state of health." Adequate hygiene can clearly not be maintained under conditions of extreme overcrowding, and food and medical care are widely reported to be inadequate.

---

[17] Swiss League for Human Rights Report, p. 181, *cited* above in Note 19 to Chapter VII.

[18] "Political Prisoners in the Infernal Jails," May 14, 1975.

[19] Order Regarding the Instrumentalities of Confinement (also known as Operation of Gaols Order), Article 2, apparently permits this. According to the 1978 State Department Report, pp. 366-367, *cited* above in Note 6 to Introduction: "As of July 1977, there were about 3,100 non-Israeli-citizen Arabs under arrest or in prison in Israel proper, most of whom were residents of the occupied territories." *See also* Information Briefing, *Human Rights in the Administered Areas*, Israel Information Centre, Jerusalem (August 1976), p. 13, which states: "Prisoners are confined in Israeli prisons and in prisons formerly used by the Jordanian Government . . . and by the Egyptian military government . . ."

[20] Order Regarding the Instrumentalities of Confinement, Article 2, also requires residents of the West Bank and Gaza to be kept separate from Israeli prisoners (section a) and that those convicted be kept separate from pre-trial detainees (section b).

XII.
TORTURE

A. Introduction

It has been alleged that one method Israel employs to suppress opposition in the West Bank and Gaza is to torture Palestinian detainees to get information or confessions from them, to intimidate the population, and to deter others from doing things which might put them into the hands of Israeli interrogators.

To assess these charges the delegation sought out a variety of sources. In Beirut, Lebanon, and Amman, Jordan, five Palestinians whom Israel had imprisoned in the Occupied Territories were interviewed. All of them stated they had been tortured by Israeli interrogators. In the West Bank and Gaza the delegation interviewed Palestinians who had been detained or imprisoned, or who had knowledge from other sources of the practices of the Israeli security forces. The delegation interviewed two journalists, including a former editor of *Al-Fajr*, an East Jerusalem Arabic-language newspaper, medical doctors and various West Bank municipal authorities and personalities.

Further evidence was provided by Palestinian and Israeli attorneys who have represented Palestinians before Israeli military courts in the Occupied Territories—Lea Tzemel (an Israeli attorney from Jerusalem), Moshe Amar (an Israeli attorney from Haifa and a Mapam Knesset member), and Kamal Daher (a Palestinian attorney and Vice-Mayor of Nazareth). Delegation members also interviewed Mordecai Bentov, a former Minister of Housing and Development of Israel, and Aryeh Naor, the present Secretary to the Likud Cabinet. There was disagreement among the persons with whom the delegation spoke.

The Fourth Geneva Convention prohibits use of force against a detainee. Article 31 states:

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

And 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 punishments, 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 civilian or military agents.

According to these two articles, even a single instance of torture would place Israel in violation of the Convention. The delegation has concluded, along with many other commentators and investigators, that substantial

evidence exists that Israeli police, military, and intelligence interrogators have, on numerous occasions, tortured West Bank and Gaza detainees.

In deciding whether this finding is based on the weight of the evidence, a number of criteria must be analyzed, including the methodology of the investigation, the credibility of the persons interviewed, the consistency of available documentation with the allegations, and the findings of other organizations which have studied these issues.

B. Case Histories

The more primitive forms of torture commonly alleged by the prisoners interviewed, and by many others as well, include beatings (particularly of the back, feet, sexual organs and other sensitive areas), burning by cigarettes, forcing detainees to stand naked for long periods exposed to heat or cold; dousing naked detainees with hot or cold water; cutting the body with razor blades, use of dogs to bite or scratch detainees; sensory deprivation (withholding of food, blindfolding for long periods); insertion of bottles or sticks into a detainee's anus or vagina; insertion of a wire into the penis.

These are forms of torture which require little advance preparation. However, other forms of torture alleged by West Bank and Gaza detainees require planning. Some detainees have alleged their bodies were suspended from the floor by tying their hands or feet to a pulley device. Others have alleged that electrical shock was applied to sensitive parts of their bodies with wires specially prepared for that purpose.

Below are summaries of the information provided to the delegation by five former prisoners. The first, Khalil Hagazi, was interviewed in Beirut, Lebanon; the other four were interviewed in Amman, Jordan.

1. *Khalil Hagazi*

Formerly a prominent Palestinian trade union official in the West Bank, Khalil Hagazi was arrested in the spring of 1974. He remained in prison until April 18, 1975, when he was deported across the Israeli border into Lebanon. No formal charges were ever filed against him. He was not allowed to speak to an attorney during his detention. His wife and family still live on the West Bank, and the family is unable to be re-united unless they emigrate.

Hagazi said that during his interrogation at Nablus Prison, he was hung by his feet with his head to the floor and beaten until he lost consciousness. His genitals were burned with an acidic substance. His wife was brought before him as a threat and inducement for him to sign a confession, which had already been prepared for his signature, stating he was a saboteur and a disrupter of labor; in addition, the confession stated Hagazi caused strikes and was a member of the Palestine National Front (on which *see* Chapter VI).

Hagazi said he was transferred to the Moscobiya (Russian) Compound (an interrogation center in Jerusalem) where he was tortured further. At the Moscobiya Compound, interrogators placed lit cigarettes between Hagazi's toes and beat the bottoms of his feet with sticks and rods. He showed the delegation members scars on his feet which he said were caused by the beatings.

Hagazi was later returned to Nablus Prison, and kept in solitary confinement there. He was subsequently moved to Sarafand Prison (near Lod), where he was kept in a small cell which had a rough gravel floor and no bed. He was finally transferred back to Nablus Prison before being deported from the West Bank.

2. *Lutfiya Hawari*

Lutfiya Hawari, who was deported to Jordan on February 5, 1975, had been a school teacher in the town of Al-Bireh, near Ramallah. Between 1967 and 1969, she was arrested on five occasions, but no charges were ever lodged against her. Each time she was released after pressure had been applied by United Nations officials and West Bank municipal authorities.

She said her last arrest occurred on August 7, 1969. She was held on charges of possessing explosives, which she contends were planted in her home by Israeli agents. After her arrest she was interrogated for three months in an attempt to obtain a confession. One of the prisons she was held in was the Beit Shemesh Prison. During her interrogation she was forced to strip naked and was beaten with sticks. She was also jabbed with needles or pins. Because of this treatment, her limbs often failed to have reflexes. Her mother and fiancé were brought to the detention center to witness her condition. [In testimony before the United Nations Special Committee, Felicia Langer said Hawari was threatened with her house being blown up unless she confessed to knowledge of the detonators; in fact, her house was demolished a few days after her arrest.[1]] She was tried, convicted, and sentenced to a ten-year prison term.

Hawari said that during her imprisonment she suffered from anemia and had five slipped discs caused by the beatings during her interrogation. Due to forced feeding with rubber hoses, she developed an inflammation of her respiratory tract and chronic stomach pains. Her physical condition deteriorated. In 1974, doctors at the prison claimed she had cancerous growths and a swelling on her womb, and they recommended a hysterectomy. Hawari, fearing she would be sterilized, requested that Dr. Antone Tarazi, a Palestinian physician, witness the operation. Dr. Tarazi attended the surgery, determined there was no cancer, and prevented Israeli doctors from performing a hysterectomy. Hawari was deported on February 5, 1975, after almost six years of imprisonment. She told the delegation that the fact that she cannot return to the West Bank is the worst punishment she must endure.

3. *Suleiman Al-Najjab*

Suleiman Al-Najjab had been a school teacher in the 1950's. As a militant in the Jordanian Communist Party, he was imprisoned by Jordan, spending eight years in a West Bank prison from 1957 to 1965. He was arrested by the Israeli authorities in Jerusalem on April 30, 1974.

Najjab told the delegation that during his interrogation in the Moscobiya Compound in Jerusalem, he was hung by his tied wrists and suspended from

---

[1] U.N. Special Committee Report, Doc. A/31/218 (1976), para. 100, p. 25.

the floor. He was stripped naked and beaten on his back, the bottoms of his feet and his genitals. Like Khalil Hagazi (who was interviewed in Beirut), he said his genitals were sprayed with an inflaming substance. After some days of this treatment, his wife was brought to the Compound and put in a nearby room where he heard her voice, as well as male voices which were overheard threatening to rape her.

After several weeks in the Moscobiya Compound, Najjab was transferred to what he thinks was Sarafand Prison. Here he was subjected to other forms of psychological intimidation, which he described:

> In Sarafand, they ordered me to creep on my feet and my hands, but I refused. And then they began to drag me. There were stones and [inaudible] . . . I refused all the time. They began to drag me and they threatened me that if I don't creep on my own self—they would bring a dog. I heard a dog not far from me barking. But they didn't bring it. They left me with bruises on my knees and my back. I tried to show Felicia Langer [his attorney] these bruises. The investigator of the policemen cut this short—our interview—and took me once again to the cell.

Najjab persisted in refusing to confess, and he was never put on trial. On February 28, 1975, he was taken to the Lebanese border and ordered to walk across, after refusing to sign a document stating he had freely emigrated.

4. *Saji Salameh Khalil*

Saji Salameh Khalil was arrested in Jerusalem during the fall of 1967. He was held for eighteen days in the Moscobiya Compound where, he alleged, he was beaten and tortured. Khalil was transferred to Ramallah Prison, where he spent three months in solitary confinement. He also described prison conditions during the period of his confinement. (*See* Chapter XI, *supra*.)

5. *Abdul Moneim Mohammad Jibril*

Abdul Moneim Mohammad Jibril was arrested in Jerusalem on September 25, 1967, charged with membership in the resistance. He was convicted by an Israeli military court and served almost ten years in prison. In June 1977, he was deported to Jordan. Jibril described his arrest and initial interrogation:

> They started immediately beating and there are still some marks on his head from that. They bound his hands and feet and blindfolded him. They put him on the floor of the car like this [he demonstrates] and the Israeli soldiers started stepping on his face and his head and his whole body. They took him to a place that he doesn't exactly know where it is. He was put up in a corner. He was made to stand facing a corner blindfolded tied like he was. And all the time they were beating him and at one time they took off the blindfold and he could look down and see a pool of blood between his legs. His shirt was stuck to his back from the blood the way they were beating him.*

He told the delegation that on another occasion his hands were tied be-

*Transcript of the tape of interpreter translating from Jibril's Arabic and speaking in the third person.

hind his back and he was suspended from the ceiling. He said he was slashed with a razor blade. He was later moved to what he thought was Sarafand Prison (other inmates told him that it was Sarafand).

He said that on two occasions he was forced to sit on a bottle, and that the bottle went up his rectum; he said that the same thing was done with sticks. He claimed that a small wire was inserted by the interrogators into his penis and that they would then hit his penis and squeeze his testicles; he said that this kind of thing happened on an almost daily basis for seven months of interrogation.

Delegation members observed that Jibril's face was badly scarred, especially a gash across the left side of his forehead. Some of his teeth were missing. He showed spots on his arms which he said were cigarette burns; he said there were burn marks on other parts of his body also. Jibril said he still suffers great pain and swelling as a result of beatings to his genitals. The delegation could see, when he left the room, that he had great difficulty standing upright and walking. He also said his spine had been damaged from beatings. The process of relating his experiences was clearly quite difficult for him; as he spoke, he broke into a sweat and the veins in his neck stood out.

The Israeli authorities refused Jibril's family in Jordan permission to visit him until 1973.

C. Methodology and Credibility

One factor which was considered in reaching the conclusion that torture of Palestinian prisoners occurs was the delegation's assessment of the veracity of the witnesses. As lawyers, the delegation believes the witnesses' demeanor. The detail of their testimony lent credence to their allegations. Moreover, confirmation was available for many specifics of their testimony through independent sources, including attorneys, news reports, and persons detained at the same time and place, as well as viewing the physical scars which remained on their bodies.[2]

In our interviews with persons who had been imprisoned, the delegation heard testimony concerning Israeli interrogation practices for the period from 1967 to 1975. In three cases the delegation was able to corroborate testimony which it had been given. Khalil Hagazi, interviewed in Beirut, Suleiman Al-Najjab, interviewed in Amman, and Basheer Barghouti, interviewed in the West Bank (Ramallah), were all detained in West Jerusalem at the same time. Each gave similar testimony regarding the methods used to interrogate him.[3] Najjab and Hagazi, detained at the same location and time, both complained that their genitals were sprayed with an inflaming substance. Hagazi, Lutfiya Hawari, and Abdul Jibril talked of burns from cigarette butts. Hagazi, Najjab, and Hawari testified that spouses or other family members were brought to

---

[2] *See* Section D3, wherein is described a similar methodology upon which Amnesty International reached its 1970 conclusions.

[3] The U.N. Special Committee in its first Report, Doc. A/8089 (1970), para. 78, p. 39, used similar corroborative evidence in discussing allegations of torture.

the place of interrogation as a means of intimidating them into signing confessions.[4]

Lacking sufficient funds and time, the delegation was unable to confirm every allegation which was made, nor was it possible to arrange for medical examinations of persons claiming to have been tortured. No medical reports were made available or were requested by the delegation from the Israeli authorities. Such a request would appropriately, of course, be directed to Chaim Levi, Commissioner of Prisons; unfortunately, as already mentioned, the delegation was unable to meet with him or a representative from his office.

Taking into account these limitations on the delegation's work, but equally mindful of the urgency of the situation and the peculiar problems of evidence inherent in alleging torture, the delegation also relied, in part, on the findings of other reputable bodies.

D. Findings of Other Organizations

1. *London Sunday Times*

The delegation made particular reference to the June 19, 1977, report of the highly regarded London *Sunday Times* Insight Team, which, in the course of an exhaustive five-month investigation, included review of medical records and independent medical examination. The Insight Team concluded:

a. Israel's security and intelligence services ill-treat Arabs in detention;

b. Some of the ill-treatment is primitive, but more refined techniques are also used, including electric shock and confinement in specially-constructed cells. This removes Israel's practice from the lesser realms of brutality and places it in the category of torture;

c. Torture takes place in at least six centers (four prisons, a detention center and a military intelligence center);

d. All of Israel's security services are implicated, including the Shin Beth, which reports to the office of the Prime Minister; Military Intelligence, which reports to the Minister of Defense; the border police; and Latam, Israel's "Department for Special Missions," both of which report to the Minister of Police;

e. "Torture is organized so methodically that it cannot be dismissed as a handful of 'rogue cops' exceeding orders. It is systematic. It appears to be sanctioned at some level as deliberate policy."

f. Torture is used for three purposes: to extract information, to induce people to confess to offenses of which they may, or may not, be guilty, and to persuade Arabs resident in the Occupied Territories to be passive.[5]

---

[4]In assessing the credibility of the ex-prisoners interviewed, it should be borne in mind that those interviewed in Amman were together in the interview room and heard the delegation's questions and other persons' responses. Israel also points out some interests such persons may have to lie about torture. These interests, it is said, include: (a) political motives—the desire to discredit Israel; (b) legal motives—one must allege a confession was involuntarily obtained in order to challenge it in court; and (c) explanation to other prisoners.

[5]There have been numerous denials and responses to denials since publication of the

The London *Sunday Times* Insight Team cross-checked details of stories given by the former detainees—where they were detained, what methods of torture were used, etc. The Insight Team interviewed forty-four Palestinians who alleged having been tortured (and printed the names of twenty-two who so agreed) in coming to its conclusion that torture is systematic.

2. *International Committee of the Red Cross*

The body entrusted with ensuring that treatment of West Bank and Gaza prisoners meets the standards of the Fourth Geneva Convention is the ICRC. Article 30 states:

> Protected persons shall have every facility for making application to . . . the International Committee of the Red Cross . . .
>
> [It] shall be granted all facilities for that purpose by the authorities, within the bounds set by military or security considerations.

And Article 76:

> Protected persons who are detained shall have the right to be visited by delegates of . . . the International Committee of the Red Cross . . .

Although, as indicated, Israel does not recognize the applicability of the Fourth Geneva Convention to its occupation of the West Bank and Gaza, it has permitted ICRC to monitor its detention practices. That cooperation has, however, been less than what is required by the Convention.

In 1970, ICRC agreed that a prisoner could no longer contact ICRC with a complaint of torture unless that complaint had first been made to Israeli military authorities.[6] That procedure, which has been in effect ever since, has greatly reduced the number of complaints,[7] as many tortured detainees

---

London *Sunday Times* report. They include:

(a) an Israeli reply, prepared by the Israeli Embassy in London, London *Sunday Times*, July 3, 1977;

(b) the *Times'* Insight Team prepared a response to the Israeli reply, published in the London *Sunday Times*, July 10, 1977;

(c) on July 29, 1977, at a press conference in Jerusalem, Israeli State Attorney Gabriel Bach disputed the *Times* charges.

(d) on August 5, 1977, *Jerusalem Post* reporter David Krivine published an article "Flawed Insight on Torture," which resulted from four hours of interviews with Andre Tschiffeli, at that time the head of the ICRC in Israel. Tschiffeli expressed his opinion that systematic torture did not occur;

(e) on September 18, 1977, the Insight Team prepared a report entitled, "What the Red Cross secret reports show," which, quoting ICRC sources, contradicted Tschiffeli;

(f) in another *Jerusalem Post* article, September 20, 1977, "An inexcusable smear," David Krivine disputed the Insight Team's report on the ICRC;

(g) on October 28, 1977, Krivine, in a *Jerusalem Post* article, entitled "More Insight on Torture," provided further documentation.

[6] London *Sunday Times*, September 18, 1977. "[I]n a deal with Israel, the Red Cross agreed to cut out all details of complaints. . . . But the Red Cross made another and more significant change. Trying to filter out those complaints that were manifestly false, the Red Cross decided that before its delegates would take up any complaint, the prisoner must first be willing to repeat his allegations in front of Israeli army 'liaison officers'—who could cross-question the prisoner."

[7] *Idem.* "Since that decision [described above in Note 6], the reports we [the London *Sunday Times* Insight Team] have seen indicate that complaints of ill-treatment and torture have dropped to an average of about six a year. The problem the Red Cross has been trying to resolve ever since is how much this fall reflects the change in its own reporting techniques, and how much a genuine improvement in treatment."

are understandably reluctant to file a complaint with the government that, in their view, authorized their torture.

The ICRC, which rarely makes critical public statements in order to protect its limited access to Israeli detainees, has nonetheless been reported to have received hundreds of allegations of torture. The London *Sunday Times* obtained 336 (and inspected an additional 80) of the approximately 550 periodic ICRC reports to the Israeli Government on prison conditions and treatment of prisoners. These reports indicate that ICRC has passed to Israeli authorities at least 200 formal complaints of ill-treatment or torture.[8]

As early as 1968, the ICRC issued a finding of torture—its Report on Nablus Prison—which stated:

> A number of detainees have undergone torture during interrogation by the military police. According to the evidence, the torture took the following forms:
>
> 1. Suspension of the detainee by the hands and the simultaneous traction of his other members for hours at a time until he loses consciousness.
> 2. Burns with cigarette stubs.
> 3. Blows by rods on the genitals.
> 4. Tying up and blindfolding for days.
> 5. Bites by dogs.
> 6. Electric shocks at the temples, the mouth, the chest and testicles.[9]

Israel has consistently refused to allow Red Cross delegates to see prisoners during the period when they are under interrogation. Furthermore, the London *Sunday Times* Insight Team noted ICRC is not immediately notified of arrests, they have access only to prisons (not to police stations or military camps, where most of the torture is alleged to occur), and there are certain cells attached to prisons which the Red Cross personnel are never permitted to view.[10]

ICRC has protested this lack of cooperation. It has complained that Israel does not permit it to visit those undergoing interrrogation, that "police stations and military camps remained closed to the delegates."[11] Former ICRC chief in Israel, Andre Tschiffeli, indicated the limitations:

> We are not allowed to inspect the interrogation centres [where much of the torture is alleged to occur]. We have access to all the prisons. Not infrequently we manage to peep into an interrogation cell while our escort's attention is distracted. We have never seen anything untoward.[12]

---

[8] *Idem.*

[9] ICRC, Report on Nablus Prison (February 26, 1968), *cited* in U.N. Special Committee Report, Doc. A/8089 (1970), para. 107, p. 50. Paragraph 106 indicates the Nablus Prison report was made public in a September 1969 publication entitled "Violations of the Geneva Convention of 1949," presented by the Arab Red Cross and Red Crescent Societies to the 21st International Conference of the Red Cross held in Istanbul, Turkey. The report, however, was prepared by the ICRC.

[10] London *Sunday Times*, "What the Red Cross secret reports show," September 18, 1977; *see also* London *Sunday Times*, "Israel and Torture," June 19, 1977.

[11] "Middle East Activities of the ICRC 1967-1970," p. 503, *cited* above in Note 20 to Chapter V.

[12] Krivine, *Jerusalem Post*, August 5, 1977, *cited* above in Note 5.

Tschifelli continued:

> I must add that this is not exhaustive. There are cells we never get to.[13]

In a July 29, 1977, press conference, Israeli State Attorney Gabriel Bach admitted that Israel does not afford ICRC access to detainees from the time of arrest. Bach explained that Israel does not permit ICRC into interrogation centers, or to other places where suspects are undergoing interrogation "because of security."[14]

At a February 1, 1978, press conference, ICRC international president Alexandre Hay announced Israel had agreed to permit ICRC delegates to visit detainees, without witnesses, after fourteen days of incarceration, even if they are still being interrogated.[15] Information is not available on whether this arrangement has been implemented. Interrogation centers themselves, however, remain off limits to ICRC personnel, and Israel still refuses to cooperate with the international inquiry suggested by ICRC.

Israel does provide ICRC copies of medical reports concerning detainees.[16] It also informs ICRC of the commencement and result of trials of Palestinian suspects[17] and allows ICRC to attend the trials.[18]

---

[13] *Idem.* Tschiffeli adds:

> . . . I cannot give a clean bill of health to the Israeli authorities. We do not have access to the places where the captives are detained before trial. There may be individual examples of ill-treatment.
>
> But systematic torture, authorized and approved by the Israeli administration—no, I do not believe that exists. We have no evidence of that.

Subsequent to the above statement, ICRC headquarters in Geneva publicly repudiated the statement. Although the cause is not absolutely clear, it should also be noted that Tschiffeli was soon afterwards transferred from his post in Israel.

[14] Bach also explained that Israel could not disclose the contents of the Red Cross reports because they were submitted confidentially. Israel, however, has not asked the ICRC for permission to reveal their contents. London *Sunday Times* editorial, September 18, 1977.

[15] *Al-Hamishmar*, December 7, 1977, contained the following on this arrangement:

> The International Red Cross in Geneva has announced that new instructions concerning visits to Arab prisoners in the Occupied Territories have been adopted, after negotiations with Israel. The State of Israel agrees that the Red Cross should be notified, within 14 days, about any arrest of Arabs for security reasons. The Red Cross representatives will be permitted to visit all security prisoners, including those that are being interrogated. The Red Cross representative will enquire about the prisoners' health and, if necessary, the prisoner will be visited once more, by a Red Cross doctor. These instructions were agreed upon by a Red Cross delegation headed by Richard Pestalucci, who negotiated with high-ranking Israeli officials, including Foreign Minister Moshe Dayan, Defense Minister Ezer Weizman, and Yossef Burg, Minister of Police and Interior Affairs. Israeli observers note that although Israel does not accept the Geneva Conventions as concerning the Territories, Israel granted the Red Cross all the rights mentioned in the Conventions. This, in accordance with the Israeli Government's policy to allow complete and free access to public opinion, in the Territories. [*Al-Hamishmar*, December 7, 1977.]

See also 1978 State Department Report, p. 365, *cited* above at Note 6 to Introduction, that detainees may be visited on the fourteenth day after arrest.

[16] Aharon Barak, "The Observance of Human Rights in the Occupied Territories," (manuscript to be published in 1978, made available to delegation member Howard Dickstein), p. 13.

[17] Letter from Permanent Representative of Israel to the Secretary General of the United Nations, U.N. Doc. A/31/429, December 9, 1977.

[18] Letter from Permanent Representative of Israel to the Secretary General of the United

3. *Amnesty International*

In February 1969, the Secretary General of Amnesty International was permitted to visit a few Israeli prisons during an investigation of Israeli practices. In April 1970, Amnesty International "reluctantly"[19] published its finding of "prima facie evidence of the serious maltreatment of Arab prisoners under interrogation in Israel":

> If these allegations are true, then extremely brutal torture is used on a not inconsiderable number of those detained. They would also seem to imply that such ill-treatment is continuing up to the present time.
>
> . . . the allegations made to Amnesty's representatives during their investigations cannot be brushed aside. The forms of the alleged tortures were clearly described. The prisons, centres of interrogation, the periods within which torture was alleged to have taken place and the descriptions, names—or pseudonyms—of the alleged torturers were also given. The material in Amnesty's possession includes not only the foregoing, but also photographs and medical reports relating to complainants now in Jordan. Amnesty has, moreover, received from sources inside Israel and the Occupied Territories as well as from outside the names of men and women still (up to January 1970) in Israeli prisons who are alleged either themselves to have been tortured or to have been witness to the effects of torture on their fellow prisoners. (Appendix I gives four typical case histories. These are selected from the larger number of similar cases compiled by Amnesty investigators as a result of their inquiries in both Israel and the Arab countries.)
>
> . . . At the present point in time, Amnesty restricts itself to claiming that the serious nature of these allegations warrants immediate inquiry so that their truth can be tested and the practice of torture, if it exists, can be brought immediately to an end.[20]

A member of the Executive Committee of Amnesty International, Mr. Arne Haaland, stated in a 1970 interview:

> We never claimed that the allegations about torture had been proved . . . but we have in our possession very extensive material to support the assumption that torture does in fact occur.
>
> . . .
>
> We have rarely—if ever—had such reliable material on which to base

---

Nations, U.N. Doc. A/31/429, December 9, 1977; *The Observer* (London), December 14, 1975.

[19] Amnesty International explained their hesitation in the following passage:

> For twelve months now, Amnesty has pressed this point of view on the Israeli government and has gone to considerable lengths in delaying its own action in order to give the government time to consider its proposals. . . . The Israeli government has, however, up to the present, not acceded to this proposal. Amnesty has, with the greatest reluctance, come to the conclusion that no useful purpose would be served by further delay and has, therefore, taken the decision to publish. [Report on the Treatment of Certain Prisoners under Interrogation in Israel, April 1970, (Press Statement from Amnesty International), p. 5.]

[20] Report on the Treatment of Certain Prisoners under Interrogation in Israel, pp. 2-5, *cited* above in Note 19.

the establishment of the fact in relation to torture taking place—or not taking place—in a particular country.[21]

Since issuance of its 1970 report, Amnesty International has not been permitted by Israel to enter into the Occupied Territories and/or conduct an investigation into the question of torture. Also, since 1970, it has periodically requested that Israel conduct an investigation, in cooperation with an international representative, or allow an international investigation with an Israeli representative; these requests have gone unanswered.[22]

In October 1976, the Secretary General of Amnesty International wrote to Israel's Prime Minister Yitzhak Rabin, referring to previous inquiries into allegations of ill-treatment, and suggesting there should be an independent investigation of them:

> . . . the conclusion seems unavoidable that abuses in the past, directed against Arab detainees, have had a brutalizing effect on the conduct of law enforcement agencies, and strong counter-measures by your government are clearly a matter of great urgency, especially now that relevant authorities, including the Minister of Police and the courts, have admitted that "unnecessary force" had in at least some cases been used during interrogation. Amnesty International therefore respectfully repeats its request for an independent inquiry into all aspects of this problem.[23]

4. *United Nations Special Committee*

In 1975, the U.N. Special Committee noted:

> . . . despite the compelling nature of the evidence it had received, it was unable to reach a conclusive finding, since this would only be possible after a free investigation by the Special Committee inside the occupied territories. Nevertheless, in these reports the Special Committee has stated its conviction that, on the basis of the evidence before it to date interrogation procedures very frequently involved physical violence.[24]

In 1976, the Special Committee took a stronger position, stating it was

> . . . in a position to state that civilian detainees are not afforded the protection given by the Fourth Geneva Convention and the applicable international humanitarian law. This refers both to general conditions and to particular cases. The existing arrangements with the ICRC are obviously inadequate even though that organization is to be commended on the efforts it has made, within the limits imposed by the occupying Power, on behalf of the civilian detainees.

---

[21] *Arbeiderbladet* (Norway), April 4, 1970.

[22] *See Christian Science Monitor*, April 3, 1970, and *New York Times*, April 4, 1970. The 1978 State Department Report, p. 370, *cited* above in Note 6 to Introduction, cites a summer 1977 Amnesty International press release to the effect that "none of the letters had received a reply."

[23] Letter of October 12, 1976, reprinted in *Monthly Bulletin of Amnesty International Campaign for the Abolition of Torture*, November 1976, p. 1.

[24] U.N. Special Committee Report, Doc. A/10272 (1975), para. 183.

. . . military courts' procedures do not provide adequate opportunity to establish allegations of ill-treatment.

In its 1977 report, the U.N. Special Committee strengthened its position still further, stating that "a strong *prima facie* case has been established that detainees in occupied territories are subjected to treatment which cannot be described as other than torture."[25]

5. *Other Organizations*

The U.S. State Department has concluded that at least some of the torture allegations are true, although it did not find evidence to indicate "a consistent practice or policy of using torture during interrogation."[26]

The Swiss League for Human Rights concurred in the *Sunday Times* position, stating that "torture is commonly and systematically practiced."[27]

E. Additional Sources

Two Israelis with whom the delegation spoke substantiated many of the allegations concerning Israeli interrogation practices. They contend, however, that excessive force against detainees occurs only in isolated instances and is not a systematic practice. Mordecai Bentov, a Mapam Party official, and former Minister of Housing and Development, told delegation members that he knows of cases when interrogators on the West Bank use force to get confessions from Palestinian detainees. He said interrogators had reported to him that they must use force to get information from detainees. He related that interrogators say it is sometimes necessary to beat detainees in order not to risk lives of Israelis who may be hurt by planned terrorist activity that might be revealed by the detainee.[28] Bentov said that his party opposes such practices and has worked to end them.[29]

Moshe Amar, a Haifa attorney and Mapam Knesset member, discussed with delegation members one tactic with which he was familiar, which he said was used by military interrogators on the West Bank. A tape recorded voice, played in a room near where a detainee is being interrogated, cries, "I'll talk, don't beat me," and the suspect is led to believe someone else has just been beaten into confessing. Amar said Israeli Jewish defendants allege this tactic is also used against them.

---

[25] U.N. Special Committee Report, Doc. A/31/218 (1976), para. 348, p. 59, and Doc. A/32/284 (1977), para. 252, p. 40.

[26] 1977 State Department Report, p. 39, and 1978 State Department Report, p. 366, *cited* above in Note 6 to Introduction, which states: ". . . there are documented reports of the use of extreme physical and psychological pressures during interrogation, and instances of brutality by individual interrogators cannot be ruled out."

[27] Swiss League Report, p. 184, *cited* above in Note 19 to Chapter VII.

[28] Bentov also said he had knowledge of complaints from arrested Israeli Jews that force was used to extract confessions from them. He said his knowledge came from Israeli Jews who had been charged with drug sales.

[29] David Krivine, in his October 28, 1977, report, *cited* above in Note 5, distinguishing between beatings and torture, provides what he considers to be an appropriate definition of torture: ". . . the infliction of physical pain, beyond the rather elementary bullying necessary to persuade terrorist suspects that the interrogators are not to be trifled with . . ."

A former Principal Assistant to the Israeli Attorney General has stated that "torture . . . apparently does occur," although he doubts it is widespread or officially approved.[30]

David Krivine, who scoffs at the allegations of widespread or systematic torture, concedes in a *Jerusalem Post* response to the London *Sunday Times* allegations that some mistreatment occurs:

> What the government refrains from saying—and should be saying openly—is that physical force is applied by the security services where necessary, and that they do practice rigid secrecy.
>
> All this is justified, the government could add because the country has to be defended against its enemies. The system is normal; it exists in every sovereign state. It plays a bigger role in a country at war; a point which Insight chooses to overlook.
>
> Given that a measure of severe handling does take place, the questions must be asked: What exactly is its nature, and what provisions exist to make sure that it is not excessive.
>
> According to my information, the situation is roughly as follows: When soldiers capture terrorists in the field, they are liable to knock them about. They need urgently to elicit information (about where other members of the band are posted, what arms they possess, etc.) There may be a blow too many if the particular platoon are rough types, or have been given a hard time in battle.[31]

---

[30] Leonard Schroeter, *Moment*, November 1977, p. 62.

[31] Krivine, "Flawed Insight on Torture," *Jerusalem Post*, August 5, 1977. Krivine also indicated the use of psychological intimidation to obtain confessions:

> In order to get information from a particularly recalcitrant suspect, rough treatment may be used. He may, according to my information be pushed about, he may have his face slapped, he may be blindfolded. He may be stripped and have his manliness mocked by a girl soldier to make him feel small.
>
> He can be kept in isolation; he can be threatened with a dire fate; he can be subjected to other psychological pressures.

New York Times, August 23, 1974, confirmed "what one official described as 'psychological pressure' during interrogation."

Concerning the torture of Suleiman Al-Najjab (*see* Section B, *supra*), Gideon Eshet, editor of *Pi-Haaton*, wanted to publish a story concerning Najjab's alleged torture in the Ramallah prison (he was to reprint a story from *Zu Haderech*). Shocked by the content of the story, the editorial staff "decided to turn to the authorities to find out the truth . . .":

> . . . On Wednesday morning, we turned to B. Leshem, the Assistant to the Police Minister. His office told us to contact the Police spokesman, Deputy Inspector N. Bosmi. This person was not in his office and we were told that the matter was not being dealt with by the Police, but was the responsibility of Army Headquarters in Judea and Samaria. We immediately called the spokesman there. He too was not present. We spoke to one Chaya who, we were told, was his assistant. We told her, in outline, what the excerpts reported and asked her [a series of questions concerning the case]. The Spokesman's assistant promised to give us a reply not later than Friday morning, June 28, 1974. After a further chat with Army Headquarters in Judea and Samaria, we were told that the matter is "delicate and political and therefore we are not dealing with it. Please turn to the Spokesman of the Defence Ministry."
>
> On Friday, June 28, 1974, we called Mr. N. Lavie, the spokesman. When we informed him of the above, Mr. Lavie claimed he knew nothing about the matter nor had he heard of S. Najjab. . . .

In a further comment concerning the evasive response he received, Eshet said:

> The reaction of the authorities to its publication and the facts it poses are

F. Admissibility of Confessions

Adequate judicial procedures to ensure the reliability of confessions reduce the ability of interrogators to get convictions based on coerced confessions. Strong judicial measures are, thus, potentially an important means by which brutalization of detainees by interrogators can be minimized. Israeli officials claim that West Bank and Gaza courts utilize strict procedures to preclude convictions based on coerced confessions.[32]

Under Israeli procedure, if a confession is to be introduced by the prosecution, an accused has the right to challenge its voluntariness at a pre-trial hearing (sometimes called a "trial-within-a-trial" or "little trial"), at which the prosecution bears the burden of proving that the confession was voluntary. The person who took down the confession can be required to testify at such a hearing,[33] although, for "security" reasons, the testimony of interrogators is normally closed to the public and press.[34]

If the court admits the confession, the accused may appeal that decision to the Israeli Supreme Court by petition.[35] In at least two cases Israeli officials have been convicted for abusing Palestinian prisoners.[36]

One important potential device for filtering out coerced confessions is a strict procedure requiring that confessions be corroborated by independent evidence. This is particularly important for those very frequent cases involving

---

curious and amazing. . . . The fact that the spokesman did not bother either to refute or to relate to the report not only casts doubts on the manner in which he is doing his job but lends greater importance and credibility to the report's content. This entire matter dismays me. *As one who is interested in a total denial of the facts in the article; as one who finds it difficult to believe such things do actually occur in Israel* . . . I am shocked by the manner in which the authorities are dealing with the matter. [Emphasis in original] [Article published in *Pi-Haaton*, the newspaper of the Hebrew University of Jerusalem, July 1, 1974.]

There have also been a number of articles in the Hebrew-language newspapers, alleging torture, *e.g.*, Moshe Ronen, "Scars were found on the back of a detainee, under murder charge," *Yediot Aharonot*, May 22, 1977; Marcel Zohar, "Torture by Electric Shocks," *Haolam Hazeh*, June 16, 1976.

[32]State Attorney Gabriel Bach Press Conference, July 29, 1977.

[33]State Attorney Gabriel Bach Press Conference Summary, July 29, 1977, p. 8; *see also Military Prosecutor* v. *Wallid Katin-Dahals* and *Military Prosecutor* v. *Salik Mustafa Alidalaya*.

[34]*See* Security Provisions Order, Article 11, *cited* above at Note 12 to Chapter X.

[35]State Attorney Gabriel Bach Press Conference Summary, July 29, 1977, p. 5.

[36]State Attorney Gabriel Bach Press Conference Summary, July 29, 1977, p. 8; *see also* 1978 State Department Report, p. 366, *cited* above in Note 6 to Introduction. Discussing one of these cases, David Krivine, October 28, 1977, *cited* above in Note 5, said:

> I have read the verdict of the appeals court. It confirmed the officer's relegation to the ranks, but reduced his two-year sentence, by a majority decision, to one year, for the following reason. The officer did not personally beat the prisoner, nor was he present while the prisoner was beaten. He had given an order: "Break his bones."
>
> The soldiers beat Dahdoul hard enough to cause his death, though the officer had not intended them to take his instructions so literally. (During the Yom Kippur War, the late David Elazar, who was the Chief-of-Staff—had used the phrase, "We shall break their bones," in describing how the Israel Army would resist the invading enemy.)

Krivine is suggesting that the statement "Break his bones" was only a figure of speech, recalling Elazar's words.

a charge of membership in or contact with illegal organizations. In these cases, there is typically no physical evidence of the alleged crime. The prosecution's case is based almost entirely on an out-of-court confession which, at trial, the accused has claimed to be coerced.

The rules of evidence applied in Israeli military courts on the West Bank and Gaza do require introduction of "something else" (sometimes translated "thing in addition") in addition to the confession.[37] That "something else" need not implicate the accused but must show (1) that an offense has been committed and (2) that the accused had the opportunity to commit it.[38]

Arie Pach, an Israeli lawyer who served as a military prosecutor in West Bank military courts from 1971 to 1974, indicates that Israeli military courts require very little to satisfy this requirement:

> The Military Courts in Israel require a very slight "Something Else," as shown by a 1971 decision, to the effect that an information submitted to the court, showing the actual existence of certain persons whom the accused mentioned in his confession, constitutes "Something Else."[39]

Information the delegation received from attorney Lea Tzemel about the "something else" requirement in the West Bank military courts is in line with Pach's assessment of the practice of the military courts inside Israel. According to Tzemel, the "something else" may be no more than a photograph of the accused at the place of arrest, or the testimony of the interrogator that the accused signed the confession. It often consists, Tzemel said, of evidence that corroborates some detail in the accused's confession—date or place of birth, names of relatives—or the confession of a co-defendant implicating the accused. Tzemel estimates that the prosecution has actual physical evidence in only about 10% of the cases.

In a letter to the London *Sunday Times*, Tzemel quoted from a June 1972 Military Court in Lydda sitting as a court of appeal,[40] which indicated that not much corroboration is required:

> . . . The existence of persons referred to by the appellant in his confession has been confirmed through their identification before the court. They are the appellant's co-defendants, some of whom have confessed to offenses charged against them in the bill of indictment,

---

[37] *Israeli Military Government* v. *Amira*.

[38] Arie Pach, "Human Rights in West Bank Military Courts," 7 Israel Yearbook on Human Rights 244-245 (1977).

[39] *Ibid.*, p. 245. Pach claims, however, that the West Bank military courts require more as "something else" than the military courts in Israel. He provides no substantiation for this assertion. Nonetheless, Pach says that the corroboration rules used in West Bank military courts are too lax. He recommends that they be strengthened and predicts that if they were, it would "reduce the number of petty cases (such as 'mere membership' cases) brought to trial, and would increase the certainty that justice is really being done." *Ibid.*, pp. 251-252. Pach's statement corroborates Lea Tzemel's assertion that a high percentage of security violation convictions rest on virtually uncorroborated confessions.

[40] The Military Court in Lydda is inside Israel. There are no military appellate courts in the West Bank or Gaza.

which also contained charges against the appellant. Accordingly, it is possible to view these proofs as that very "thing in addition" which is required for the validation of evidence.

Tzemel explained:

> In day-to-day practice, it is the "indication report" which routinely serves as a "thing in addition." The "indication report" is a report made by a police interrogator who escorts the defendant to the site [at] which the offense had been committed—for instance a site at which a defendant had been recruited to an outlawed organization. The police cameramen photograph the defendant while he fingertips the site, and the whole report, when appended to the report of the extension-of-arrest hearings, also serves as a "thing in addition." In other words, in a considerable number of cases no evidence unrelated to what the defendant himself said or did at the time of interrogation is ever presented to the court.[41]

The Israeli Government has suggested that one reason a coerced confession may be admitted into evidence is that the lawyer fails to challenge it.[42] Tzemel admitted that attorneys now hesitate to raise the question of torture in military courts, fearing that a complaint of torture will only result in a more severe sentence. Tzemel said she warns her clients that

> . . . their punishment is apt to become more severe as a result, and I tell them that their chances to win that "trial" [the proceeding to challenge the confession] are non-existent. Only if in spite of my warning my client is willing to undertake the risk, [will] I raise the issue of his interrogation in the court.[43]

Lea Tzemel estimated that in 90% of the cases brought to trial, a confession is the main piece of evidence.[44] She told delegation members that 30% of her clients are subjected to torture while another 30% are subjected to beatings.[45] She based her estimates on these data: (1) hundreds of her

---

[41] Letter to the London *Sunday Times*. Ernest Goodman, "Guild Report: On the Trial of Sami Esmail," *Guild Notes*, July 1978, p. 12, noted that no "independent corroboration of an *element* of the crime . . . was available to the prosecution."

[42] Israeli Embassy Reply to London *Sunday Times* report, published in London *Sunday Times*, July 3, 1977.

[43] Tzemel letter to London *Sunday Times*.

[44] Goodman, *cited* above in Note 41, noted that in the Esmail case, "the confessions constituted the *sole* basis for the prosecution's case. . . . Under these conditions, security police are likely to be tempted to use illegal means, if necessary, to obtain a confession." The dangers of such heavy reliance on confessions have been outlined by the United States Supreme Court:

> We have learned the lesson of history, ancient and modern, that a system of criminal law enforcement which comes to depend on the "confession" will, in the long run be less reliable and more subject to abuses than a system which depends on extrinsic evidence independently secured through skillful investigation. *Escobedo* v. *Illinois*, 378 U.S. 478 at 488-489 (1964).

David Krivine, "More Insight on Torture," *Jerusalem Post*, October 28, 1977, surmised why so many Palestinian detainees confess: "The desire, among guilty people, to blurt out their secret is—as the Catholic Church can testify—a very common one."

[45] *See also* U.N. Special Committee Report, Doc. A/32/284 (1977), para. 228, p. 29.

clients have alleged they were tortured during interrogation; (2) attorneys are not permitted access to their clients until the interrogation is completed;[46] (3) confessions are written in Hebrew, a language that few Palestinians know; and (4) confessions contain certain stock phrases ("boilerplate" language) which Palestinians would not use, such as "I joined a terrorist organization to commit illegal acts against the State of Israel," or "I spoke with my friend who could help me join a terrorist organization to commit illegal acts against the State of Israel." ("Terrorist organization" is the language of the interrogator and not the detainee, as are the references to "illegal acts" and "the State of Israel"; the detainee would refer to a resistance or liberation group, would commit acts of liberation, and would refer to the Zionist state.[47])

Tzemel said she has challenged hundreds of confessions but has never won. Tzemel explained that when a challenge is made, the prosecution typically produces the police officer who wrote down the confession. This officer testifies that he did not torture the defendant, which is usually true, since police officers do not normally conduct interrogations, but merely record a confession after it has been secured by special security police (like the Shin Beth).

Felicia Langer says that, based on her experience defending Palestinians accused of security offenses, judges never believe that torture was used, even when it is possible to show marks of torture and ill-treatment on the body of the accused.[48] Tzemel indicated similar experience.

G. Israeli Denials

Israel has consistently, although perhaps not very convincingly, denied the numerous allegations of its use of torture. In responding to the allegations of the London *Sunday Times*, the Israeli Government stated that prisons are open to inspection and that the *Sunday Times* reporters had failed to contact the Government for its response before publishing its findings, thereby presenting only one side.

The experience of the delegation controverts these assertions; the delegation was denied access to the prisons despite a number of attempts to obtain permission to visit.[49] In regard to the failure of investigative groups to obtain the official Israeli position, the delegation repeatedly asked for such interviews and was not received.

The delegation did discuss the allegations of torture in its interview with

---

[46] For all intents and purposes, during the period of interrogation, a detainee is under the sole control of his interrogators; such procedures as may exist to ensure access by attorneys are only implemented at the discretion of the interrogators, who normally refuse access on the ground that this would interfere with the conduct of the interrogation.

[47] Swiss League report, *cited* above in Note 19 to Chapter VII, noted the same problem: "Je suis un terroriste" (I am a terrorist).

[48] U.N. Special Committee Report, Doc. A/31/218 (1976), para. 118, p. 29.

[49] As already noted, the delegation does not make this statement to prove that Israeli prisons are inaccessible. Some persons, particularly those known to be friendly toward Israel, have been permitted to visit certain prison facilities. But even then, access is not complete, nor is information readily available. *See* Notes 9 and 11, Chapter XI.

Aryeh Naor, Secretary to the Likud Cabinet. He stated that the allegations contained in the London *Sunday Times* report were a fabrication. Mr. Naor said that to his knowledge, the only source for the allegations of Israeli use of torture was Jerusalem attorney Felicia Langer. Her allegations were false, according to Naor, because she is a communist and because she takes her orders from Moscow. When Moscow states in its press that there is torture in Israel, "Felicia Langer must offer the proof," he said. He denied that the *Sunday Times* Insight Team had conducted interviews with dozens of witnesses to torture in the Occupied Territories. Naor's claim that torture does not occur is inconsistent with the delegation's research and interviews with attorneys and former prisoners, as well as those of international organizations. In addition, Naor's denial is contradicted by the fact, as earlier mentioned, that several Israeli interrogators have been prosecuted for mistreating detainees.[50]

At his press conference held on July 29, 1977, State Attorney Gabriel Bach also denied the *Sunday Times* allegations: "We do not discount the possibility that such things may occasionally happen," but denied torture was widespread, systematic or a matter of policy.[51] He discussed the legal safeguards available under Israeli administration; he also provided facts on specific cases, which were intended to contradict various allegations. But he could not give figures on how many complaints of torture or duress were made by Palestinian security prisoners (or other prisoners) each year, how many "little trials" were held, how many torture complaints were found justified, and how many resulted in action against interrogators.[52]

An indication of awareness of the situation at the highest level of government is Prime Minister Menachem Begin's response in September 1977 to U.S. President Carter's expression of concern about the torture allegations. According to one report, Begin's office indicated it had mounted an inquiry, but that the inquiry had convinced him that Israel "was not pursuing a policy of systematic torture." This report indicated that Begin denied, therefore, any need to remedy the situation.[53]

But a September 1977 *Ma'ariv* dispatch indicated that Begin had ordered cessation of mistreatment of detainees during interrogation, in response to Carter. Begin's office denied that such an order had been issued, saying it was unnecessary to ban what did not exist.[54]

H. Extent of Torture

A number of factors provide evidence that the torture is more than the

---

[50]London *Sunday Times*, June 19, 1977.

[51]*Jerusalem Post*, August 3, 1977, p. 2.

[52]*Idem.*

[53]Paul Eddy and Peter Gillman, "Israel and torture: Carter steps in," London *Sunday Times*, September 18, 1977. *See also* 1978 State Department Report, p. 365, *cited* above in Note 6 to Introduction.

[54]*Idem.*

isolated acts of individual interrogators. First, torture is alleged to be committed by agencies directly responsible to high government officials. Were the torture alleged to be committed only by local police or only by soldiers who had recently apprehended suspects, it might be dismissed as an overreaction in the heat of the moment. But that is not the case. The allegations include all of Israel's security services, including four that report directly to officials at the highest level of government. As already mentioned, they are Shin Beth, a special security force responsible to the office of the Prime Minister; Military Intelligence, which reports to the Minister of Defense; and the border police and Latam (another special security force), both of which report to the Police Minister.[55]

The fact that credible allegations have regularly been levelled against agencies under the direct control of these high officials means at the least that they are aware of the allegations; it may indicate more than mere knowledge.[56]

A second factor indicating the extent of the torture is the circumstance, for which substantial evidence exists, that a particular military camp in Israel is used for purposes of torture. Numerous former detainees testify to having been taken to a secret-location camp from their initial place of detention and to having been tortured in that camp.

Many former detainees believe that this camp is an army supply depot between Jerusalem and Tel Aviv called Sarafand. The London *Sunday Times* reporters, who researched this issue, initially concluded that the camp is indeed the Sarafand depot,[57] but later decided it more likely that the camp is located in the south of Israel, near Gaza.[58]

Whatever the location, the accounts of numerous former detainees who had been there, including three interviewed by the delegation,[59] indicate that there probably is a location to which Palestinian detainees are removed from various local detention facilities and that much of the most brutal and sophisticated torture occurs there.

This circumstance further indicates the likelihood that high Israeli officials

---

[55]London *Sunday Times*, June 19, 1977.

[56]Indeed, international law imposes criminal liability on a commander in a military occupation situation who fails to take reasonable measures to prevent atrocities by subordinates. (Article 29 of the Fourth Geneva Convention reads: "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.") After World War II, the United States executed the former Japanese military governor of the Philippines because Japanese soldiers had unjustifiably killed large numbers of civilians, even though there was no proof that the military governor was aware of the atrocities. *In re Yamashita*, 327 U.S. 1 (1945).

[57]London *Sunday Times*, June 19, 1977.

[58]U.N. testimony of London *Sunday Times* reporters Eddy and Gillman. U.N. Special Committee Doc. A/SPC/32/L.12, November 11, 1977. When Bernard Edinger of Reuters, who gained access to the Gaza Prison, asked to see the military interrogation center nearby, his request was rejected. Testimony of Peter Gillman at p. 53. The Insight Team reporters took this as an admission that such a camp exists, since the request was denied, rather than the existence of the camp being denied.

[59]*See* Section B.

are implicated in the torture. It would seem improbable that such a camp could be used as a torture center without the knowledge of high officials.

A further circumstance indicating the likelihood of high-level awareness of the torture is that there appears to be in use at this military camp a tiny windowless cell into which detainees undergoing torture are placed between periods of torture.

Some of the ex-prisoners talked of having been placed in such a cell for periods of several hours between torture sessions. According to these accounts, the cell is too small to permit an adult either to stand or lie down. Sharp objects embedded in the floor make it impossible to squat or sit without pain.[60]

Such a cell constitutes a fairly sophisticated torture method. The cell is one that, if the stories are true, was likely constructed for torture purposes. Unless the cell is hidden from higher-ups by interrogators, which seems unlikely, it would appear that at least some higher officials (at the very least, the head of the camp) are aware of its existence.

In its reply to the London *Sunday Times* allegations, the Israeli Government did not mention the issue of the military camp or of the special cell.[61] In its response to the Israeli defense, the *Sunday Times* took this as a concession that such a cell is used.[62]

A third indication of the extent of the torture is that, while some of it is done by primitive methods, some is done in more sophisticated fashion. The ICRC, in its above-mentioned 1968 report on torture in Nablus Prison, found that electric shocks were applied to the temples, mouth, chest, and testicles.[63]

The use of pulley and electrical devices means that torture equipment is to be found in interrogation centers.

A fourth indication is that Israel, while consistently denying the torture allegations, has resisted repeated calls upon it to permit effective international investigation.[64] In 1977, the U.S. State Department called for outside investigation.[65] Amnesty International made a similar demand as long ago as 1970, stating that the "serious nature of these allegations warrants immediate inquiry so that their truth can be tested."[66] The ICRC and the U.N. Special Committee have also called upon Israel to permit an international investigation.

A fifth factor is the inadequacy of legal safeguards against torture. Some of these have been discussed in Chapter X, *supra*. Israel often responds to torture allegations by claiming that the Israeli legal system contains numerous

---

[60] *See* Terrence Smith, "Israelis Combating a Terrorist Surge," *New York Times*, August 23, 1974.

[61] London *Sunday Times*, July 3, 1977.

[62] London *Sunday Times*, July 10, 1977.

[63] *See* Section D.

[64] *See* Section D.

[65] 1977 State Department Report, p. 39, *cited* above in Note 6 to Introduction.

[66] Amnesty International Press Statement, p. 4, *cited* above in Note 19.

safeguards which prevent use of coerced confessions in court. Therefore, torture would do interrogators no good. State Attorney Bach took this approach at the July 29, 1977, press conference he called to respond to the London *Sunday Times* charges.

Israeli law indeed does contain some provisions which might curb the use of coerced confessions. However, the application of those procedural safeguards which are available does not provide adequate protection against their use. The right to counsel is circumscribed, and confessions of questionable validity are accepted by the military courts and used to convict with virtually no corroborating evidence.

Given the restrictions on access to counsel during interrogation and the manner in which confessions are in fact admitted, the delegation finds that Attorney General Bach's assertion that the fairness of procedures indicates that torture does not happen is without merit. The delegation concurs, rather, with the U.N. Special Committee that adequate safeguards do not exist to protect detainees from torture and that allegations of torture are not taken seriously by the military courts. The Special Committee stated in 1976 that "military courts' procedures do not provide adequate opportunity to establish allegations of ill-treatment."[67]

The delegation believes that the lack of safeguards apparent in actual practice lends credibility to the torture allegations. If the courts provided better protection, it would be less likely that torture, leading to coerced confessions, would occur.

I. Conclusion

The delegation's accusations concerning torture in the West Bank and Gaza are very serious. For this reason, care was taken in arriving at conclusions.

Since torture typically occurs in the presence of only the victim, the perpetrator, and accomplices,[68] it is difficult to prove. However, the implications of such a practice are so great that conclusions must be drawn on the basis of available evidence.

The delegation concludes substantial evidence exists that torture has been used in numerous instances against detained Palestinians by Israeli police, military, and intelligence authorities. This conclusion is based upon the following:

1. The delegation's interviews with Palestinians who alleged having been tortured during detention.

2. The delegation's interviews with attorneys who defend Palestinians accused of security offenses.

---

[67] U.N. Special Committee Report, Doc. A/31/218 (1976), para. 348, p. 57.

[68] Only one person has stated having seen another tortured in an Israeli prison—an Israeli legal assistant named Hedva Sarid who says she accidentally wound up in a corridor in a Jerusalem police station from which she observed a severe beating being administered to a Palestinian detainee. London *Sunday Times*, June 19, 1977.

3. The prosecution and conviction of at least two Israeli interrogators for using force to compel information from Palestinian detainees.

4. Reports concluding the use of torture by highly respected groups such as Amnesty International, the International Committee of the Red Cross, the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, and the London *Sunday Times*. These reports have not been adequately refuted by the Israeli Government.

5. The lack of effective legal safeguards which might serve to exclude the use in court of confessions extracted by torture.

6. Israel's continued use of detention and interrogation centers with facilities which remain closed, even to investigators who normally have access to Israel's prisons.

The delegation calls upon the Government of Israel to cooperate with an international inquiry into these allegations.

CONCLUSION

The delegation spent three weeks in the Middle East to learn about the situation there, especially the allegations of violations by Israeli authorities of the human and political rights of the Palestinian people in the West Bank and Gaza Strip.

Based on observations and interviews, as well as examination of relevant studies and documents, the delegation concludes that many of the allegations commonly made are valid. Repression is a fact of life in an occupation; Israel's occupation is no different. Israel has violated the rights of West Bank and Gaza Palestinians in a variety of ways, all aimed at incorporating the West Bank and Gaza into Israel and at suppressing resistance to that goal.

Many of these practices, and others noted in this Report as well, violate the explicit provisions of the Fourth Geneva Convention, which has been formulated by the nations of the world to protect populations in precisely the situation in which West Bank and Gaza Palestinians find themselves—military occupation.

Israel has violated the Palestinians' territorial rights in the West Bank and Gaza, first by maintaining its presence in those areas in violation of international law prohibitions against acquisition of territory by force. In addition, Israel has endeavored to solidify its control over the West Bank and Gaza by promoting settlement of those areas by its own citizens, by illegally annexing East Jerusalem into Israel, by resettling Gaza residents into the Sinai, and by refusing to permit the return of Palestinians displaced from the West Bank and Gaza during the 1967 fighting. The following provisions of the Convention have been violated by these Israeli practices:

Article 47—prohibition against annexation of occupied territory;

Article 49—prohibition against individual or mass forcible transfers and deportation; prohibition against transfer of its own population into the occupied area.

A major Israeli strategem for strengthening its control over the West Bank and Gaza has been its efforts to suppress self-determination of the local population by rendering the economies of these territories dependent on the Israeli economy and by restricting development of local institutions that might form the basis for self-governance: municipal councils and medical and educational institutions. The following provisions of the Convention have been violated by these Israeli practices:

Article 51—prohibition against compulsion to perform work which is related to military operations;

Article 52—prohibition against restricting opportunities of employment;

Article 54—prohibition against altering status of public officials;

Article 56—requirement to maintain hospital and medical facilities, and to permit medical personnel to carry out their duties;

Article 57—prohibition against requisitioning of civilian hospitals.

In addition, Israel has used harsh methods to suppress manifestations of resistance to its continued hold on the West Bank and Gaza. It has imposed severe limitations on political activity by outlawing any anti-occupation activities. It has punished whole populations for the resistance activity of individuals. Israeli authorities have expelled many Palestinians from their native West Bank and Gaza when they have voiced opposition to Israeli rule. Another repression technique has been to hold Palestinians without charge for substantial periods of time, on mere suspicion of anti-Israel activity. The following provisions of the Convention have been violated by these Israeli practices:

Article 27—requirement of humane treatment and prohibition against violence, insults and public curiosity;

Article 33—prohibition against collective penalties, intimidation, or reprisals;

Article 49—prohibition against individual or mass forcible transfers and deportation;

Article 53—prohibition against destruction of property;

Article 68—prohibition against measures other than internment or imprisonment;

Article 78—prohibition against administrative detention.

Those Palestinians convicted by Israeli courts are sent to prisons which are among the most overcrowded in the world. And substantial evidence exists that Israeli police, military, and intelligence interrogators have, on numerous occasions, tortured West Bank and Gaza detainees. The following provisions of the Convention have been violated by these Israeli practices:

Article 30—unfettered access to detainees by the ICRC;

Article 31—prohibition against physical or moral coercion;

Article 32—prohibition against torture;

Article 66—requirement that all military courts sit in the occupied territory;

Article 71—requirement to inform accused person promptly of the charges and to afford a fair trial;

Article 72—requirement that accused have right to be assisted by counsel, that counsel be able to visit accused freely, and enjoy facilities to prepare defense;

Article 76—requirement that accused be detained and/or serve sentence in occupied territory, be separated from other detainees, enjoy sufficient conditions of food and health, and be no distinction in treatment of detainees from Occupying Power.

One of the intended consequences of the totality of oppressive conditions in the West Bank and Gaza is to encourage Palestinians to leave by emigration.

Israel does not want the West Bank and Gaza with its people; this would change the demographic composition of Israel. Thus, Israel has sought to create circumstances which would make emigration an attractive alternative to the hardships that a Palestinian under occupation faces daily. Torture, arrests, curfews, economic and psychological pressures, blowing up of houses, all have the objective of impelling the Palestinians to leave their land by the force of the converging factors of fear, insecurity and destitution. Persecution is deliberately used by the Israeli authorities as a political weapon to intimidate the population into leaving the occupied areas.

It is not necessarily cruel deeds that lead the delegation to condemn the Israeli occupation, but, rather, the humiliation and harassment that are imposed upon the population. No authority exists to which Palestinians can appeal, no protection which they can invoke. Their every movement and action is subject to the arbitrary authority of the occupying force. Their very right to live in the area is questioned by the Occupying Power. This Report is intended to be part of the considerable international presure which must be exerted upon Israel to curtail those violations of the Palestinians' human rights which can be remedied short of Israel's total withdrawal from the West Bank and Gaza. But the violations by Israel of the Palestinians' human and national rights cannot be terminated so long as Israel occupies the West Bank and Gaza. One professor at Bir Zeit University told the delegation:

> We are trying to live normally while living under an abnormal state. We are living under conditions of total insecurity as a people. Even the concept of self-government is denied us—and so it is not a question of timetables, as in South Africa. And we are living under conditions of total insecurity as individuals—there is no definition of right or wrong, no constitution, no basic law. . . .

The professor's statement is, unfortunately, all too true. The rights of West Bank and Gaza Palestinians will be realized only when they control their own destiny in an independent state. This Report will have served its purpose if it assists, however marginally, in achieving that end.

APPENDICES

APPENDIX A

PERSONS INTERVIEWED

The following is a list of persons whom the delegation interviewed and whose testimony has been incorporated into this Report. Some of the delegation's sources are not named, in particular, those individuals who gave information about resistance activities in the West Bank, because of concern that they could be subjected to reprisals.

Abbass Abdel Haq, City Engineer of Nablus
Moshe Amar, Israeli Attorney and Knesset Member, Mapam Party
Dr. Gabby Baramki, Dean, Bir Zeit University; and several faculty members
Basheer Barghouti, former editor of *Al-Fajr* newspaper, East Jerusalem
Dr. A. Barkejian, United Nations Officer for Jerusalem and Jericho
Mordecai Bentov, Mapam Party official
Kamal Daher, Palestinian Attorney and Vice-Mayor of Nazareth (Israel)
Elias M. Freij, Mayor of Bethlehem
Khalil Hagazi, former prisoner, now in Beirut
Lutfiya Hawari, former prisoner, now in Amman
Abdul Moneim Mohammad Jibril, former prisoner, now in Amman
Dr. Samir Katbeh, Pediatrician in Ramallah
Karim Khalaf, Mayor of Ramallah
Saji Salameh Khalil, former prisoner, now in Amman
Sameeha Salameh Khalil, Society for the Preservation of the Family, Ramallah
Suleiman Al-Najjab, former prisoner, now in Amman
Aryeh Naor, Secretary to the Cabinet, Likud Government
Dr. Hanna Nasir, President of Bir Zeit, deported, now in Amman
Dr. Darwish Nazzal, Director of Maqasid Hospital, East Jerusalem
Paul Quiring, Director of the Mennonite Relief Agency, Jerusalem
Dr. Haider Abdul Shafi, Palestinian Red Crescent Society, Gaza
Bassam Shakaa, Mayor of Nablus
Raymonda Tawil, West Bank journalist
Lea Tzemel, Israeli Attorney
Tawfiq Zayyad, Mayor of Nazareth (Israel)

Representatives of the Mapam Party, the Council for an Israeli-Palestinian Peace, the Committee for Peace and Equality Between Israel and the Arab States, Israleft publication, and Matzpen Party provided helpful insight into the situation within Israel.

APPENDIX B

Your Excellencies and Majesties, the Kings and Presidents in attendance at the Arab Summit Conference in Cairo

From inside the occupied lands, the land of Arab Palestine, the land of perseverance and continuous struggle on the road to Palestinian Arab rights, we affirm our loyalty and allegiance to the Palestine Liberation Organization and its leadership, brother Yassir Arafat, and we consider this Organization, under all circumstances, the sole legitimate representative for the Palestinian people.

We reject any attempt to contain or make the Organization subservient.

We hope that your Conference will support the perseverance of our people inside the Occupied Territories, both mutually and morally, because we are capable of defeating the plans of the enemy to make our people submit to these plans.

Signed by:

Mayor of Municipality of Anabta
Mayor of Municipality of Nablus
Mayor of Municipality of Qalqilya
Mayor of Municipality of Hebron
Mayor of Municipality of Ramallah
Mayor of Municipality of Tulkarm
Mayor of Municipality of Halhoul
Mayor of Municipality of Beit Jala
Mayor of Municipality of Bethlehem
Mayor of Municipality of Al-Bireh

APPENDIX C

His Excellency the Defense Minister
c/o The Honorable Military Governor of the City of Nablus

The decision of the Israeli Ministerial Special Committee concerned with new settlements [in the Occupied Territories], recently published in local newspapers, was no surprise to the Nablus City Council nor to any of the patriotic Councils signatory to this Memorandum. This decision was only a reflection of the expansionist settler-state policy, the implementation of which started immediately after the June War with the annexation of Jerusalem, contrary to and in defiance of U.N. resolutions, international law, and the Geneva and Hague Conventions.

This expansionist policy is based on the forced expropriation of property, land, and our Palestinian people's right to these lands; it is a policy based on robbery which will impede the efforts of the international community to institute a lasting and just peace based on the exercise by the Palestinian people of their rights to self-determination.

This policy, which has continued throughout the period of occupation, deprives Palestinian citizens of their property and encircles their cities with a ring of settlements designed for still further expansion at the expense of our people. Regrettably, all this creates "new facts," and leads us further away from peace.

After the establishment of numerous settlements in the Jordan Valley, settlement and expansionist attempts commenced in the proximity of the city of Nablus. The first was the attempt of a group of Jewish extremists to establish a settlement near Sebastia. The citizens' steadfast rejection of settlement policy in principle, and their continued protest and resistance prevented that fanatic group from carrying out their objectives. A similar attempt was made in Kafr Kaddum, where the extremists established a settlement by force of arms with the encouragement and protection of the authorities. This led to further expressions of protest and resistance. Recently the Rabbi Meir Kahane group surfaced and moved into the areas of Kufr Lakif and Mas'ha in an attempt to establish a settlement in that area. The infamous march, held by this group, escalated the tension and indignation of the people, placing another obstacle on the path to peace. This extremist group did not stop at holding their march, but further provoked the people of Nablus by cabling the Mayor and demanding a meeting with the City Council at a time specified by Rabbi Kahane for the purpose of "getting acquainted with his new neighbors," acting as if the indigenous city population were intruders and new to the area. It was only natural that the Mayor would reject the provocative cable and the meeting with Kahane, and so informed the military governor.

The Mayor's conduct expressed the feelings of the masses: their rejection of and resistance to the principle of establishing settlements. In spite of such aggressive behavior, Rabbi Kahane came with a group of armed men and

tried to enter the City Hall by force. It was only spontaneous action on the part of the city's employees that prevented the provocateurs from entering the building.

The occupation authorities, instead of discharging their responsibility to protect the citizenry, their holdings and property, condoned and protected Rabbi Kahane's march. All this leads one to conclude that what is taking place is nothing but the implementation of the expansionist and settler-state policy followed by the occupation authorities. The claim that existing or yet-to-be established settlements are only military outposts should not be accepted because of the agricultural nature of these settlements.

The City Council of Nablus and all the patriotic groups signed below condemn in principle the idea of establishing settlements in the occupied Arab territories, and demand of the occupation authority:

1. Respect of and compliance with the U.N. resolutions and principles of international law.
2. Return of all expropriated lands to their owners.
3. Abandonment of the settler-expansionist policy.
4. Stopping the extremists from carrying out provocative actions.
5. Heeding the appeals of the international community and moving toward establishment of a just and durable peace in the area.

Nablus, April 23, 1977

Mayor of Nablus
Nablus City Council
The General Confederation of Workers' Union—Secretary General
Red Crescent Society—President
Nablus Pharmacists
Representative of Engineers—Nablus
Nablus Chamber of Commerce
For Dentists of Nablus
For the Doctors of Medicine—Nablus
Arab Women's Federation
For the Lawyers of Nablus
Private citizens—Former mayor

* * *

Municipality of Nablus
No.: 1/11/3271
Date: 4-11-77

His Excellency the Minister of Defense
His Excellency the General Administrator for the West Bank
His Excellency the Military Governor for the City of Nablus

The Municipal Council, interacting with its constituency and representing them, conscious of what is taking place in the Occupied Territories, presented a memorandum to you explaining the provocative acts which are taking place in these Occupied Territories and our expectation relative to the extremist movements in Israel and their programs of settlement in the Occupied Territory. That which we warned about has already occurred. Provocative acts have continued. The marches of the extremist movements have begun, creating a crisis and worsening situation on April 6, 1977. The Gush Emunim movement held a march in Nablus and the Arab villages extending on the road between Nablus and Qalqilya challenging the feeling of the local inhabitants with the plan of seizing their lands by erecting a settlement and they gave the settlement a name. The group made decisions aimed at realizing the aims of the movement to seize the lands of the local inhabitants and expelling the inhabitants. We are sorry to say that all of this has taken place under the protection and full knowledge of the legal authority. Instead of prohibiting the march by force, and caring about the feelings of the local inhabitants and protecting their property, the authorities imposed a curfew in some of the areas and surrounded the march with protection from the beginning to the end of the march.

This challenge was repeated and citizens in the city of Nablus undertook to express their feelings, fears and insistence on defending their legitimate rights. They announced a general strike affirming their repeated protests and defending their violated rights. What happened? As usual, whenever the inhabitants express their opinions, the authorities resorted to violence and provoked the people.

Because the Municipal Council feels responsibility, it views as its duty to repeat here what was stated in a prior memorandum. What follows is an example of what occurred but is not inclusive of the provocative and irresponsible behavior:

1. Intentional or unintentional ignoring of the repeated protests which the Municipal Council has presented concerning the announcement by the Gush Emunim Movement about its intentions and its insistence on holding the march; as a result, tension was widespread among the inhabitants and it made them feel that extreme danger surrounded them and threatened their existence and property. There was no way of defending themselves except by protesting through a general strike.

2. The repeated attacks on students inside the schools, attacking students and teachers and insulting them all in an uncivilized fashion which was not justified. This led to paralysis of the administration in the schools and its loss of prestige. This prevented the administration from carrying out its responsibilities and prevented students from continuing and benefiting from their studies.

3. Preventing the machinery of the local government from providing services and carrying out its obligations to help the citizens and put out fires during the incidents. This was because the occupation soldiers prohibited

municipal workers from moving about when they were performing municipal functions. Also, occupation soldiers required municipal employees to perform jobs which were not part of their regular work, such as guiding soldiers to the homes of various citizens. On this occasion, we wish to call attention to the fact that contact with the employees of the Municipality should be made only through the Mayor of the Municipality in accordance with the laws governing municipalities. The authorities are not abiding by this and this leads to non-performance of jobs by municipal employees and the administrative routine is interrupted.

4. Confiscation of automobiles of citizens without any justification or legal excuse, with the aim of using these cars by intelligence officers, soldiers and security personnel. The authorities forced transport vehicles to stop in designated places and used the vehicles as barricades, even though this caused harm to the vehicles and their drivers.

5. The arbitrary collective arrests at night and during the day of peaceful citizens and minors without reason. These arrests occurred repeatedly on a daily basis so that they became part of our daily life.

As a result of the provocations and behavior which we have mentioned, part of the life in the city has been halted and a decline in the economic, commercial, social, and educational life. The economic and commercial conditions worsen under the burden of increasing taxes and the arbitrary measures of the authorities. As for the educational and social aspects, the repeated arrests have left their painful consequences in every home and everyone in the city has been affected by the arrest of one of its members or because the children could not benefit from school.

These are the bad conditions that resulted from the measures of the authorities and their provocative actions. The Municipal Council records in this Memorandum its protest against and denunciation of this behavior. It sees, at the same time, that the continuation of these actions and the lack of regularity in work are matters about which the citizens cannot remain silent.

* * *

Municipality of Nablus
No.: 1/11/6518
Date: 1977

His Excellency the Minister of Defense
His Excellency the General Administrator for the West Bank
His Excellency the Military Governor for the City of Nablus

Our city of Nablus, like other cities in the occupied West Bank, is going through an agonizing period. The military authorities attempt to hinder the

operations of the Municipal Councils, and place obstacles in their path, preventing them from exercising their tasks and obligations, without any justification.

The Municipal Council in Nablus, in view of its obligation to protect the security and interests of its constituency and to meet their expectations, presents to you the details of such hindrances, which stand in the way of the Council carrying out its duties:

1. The Nablus Municipal Electrical Project. One of the major functions of the Municipality is to supply electricity to the inhabitants and to provide specifications for electrical generators, transformers, and a distribution network, and to set consumption rates, in accordance with Paragraph 41(A)(4) of the Law of Municipalities of 1955. Since the erection of the electrical station in the city, the successive Municipal Councils have tried hard to carry out this municipal function, to direct the project according to the electrification plan of 1957 for the Municipality, and to work to improve it according to the needs of the city.

Technical studies done by the engineers in the Municipality made it clear to the Municipal Council that the electrical project was in need of development to meet the needs of the future. This development required three new generating units. The Municipal Council then presented a complete study to the authorities for approval of the project prior to its execution. However, the officer for Internal Affairs recently advised the Municipal Council that the project was rejected in the form in which it was presented. The occupation officials suggested in a separate meeting that the Nablus electrical scheme be tied in with the Israeli regional network. The city's engineers explained, however, to the occupation officials at that time that the incorporation with the Israeli scheme would not help develop the Nablus electrical system and was not technically feasible. The development project presented to the authorities by the Municipal Council as a result of technical studies is a legal function of the Municipal Council. There is no legal or technical justification for the intervention of the occupying authorities or for their opposition to the Council's exercise of its legal function.

2. Municipal Budgets. After a study of the conditions of the Municipality and the needs of the city, the Municipal Council decided, according to the authority vested in it in Paragraph 41(A)(38), on the fiscal municipal budget and presented it to the officer of Internal Affairs for approval. The Council was surprised by substantive alterations in the budget dealing mainly with the following matters:

a. Reduction of the amount of money allocated for sidewalks and streets. This occurred with the knowledge that the allocated sum does not exceed the needs of the city.

b. Cancellation of the sum allocated for emergency assistance to members of the community.

c. Cancellation of the sum allocated annually to assist the Union Hospital

of the Arab Women's Charitable Union in Nablus. This assistance, always given in the past, enabled the hospital to carry out its humanitarian duties.

d. Cancellation of the amount allocated for maintenance of the electrical project. The generators, the distributional network, and other existing equipment will deteriorate without such maintenance.

e. Cancellation of the sum allocated for building schools despite the knowledge that school building is a function of the Municipal Council vested in it according to Paragraph 41(A)(17) of the Law of Municipalities of 1955. The education administrator had previously agreed to the construction of two urgently needed schools.

These changes in the budget, made by the authorities, prevent the Municipal Council from carrying out its legal functions and securing the services necessary for the population. The financial independence of the Municipality is guaranteed to it by Paragraph 3 of the Law of Municipalities of 1955: Section A considers the Municipality a private institution with financial independence. The interference by the occupation authorities in the provisions of the budget means the abrogation of existing legal statutes concerning this financial independence.

3. Employees. It is well known that the difficult economic circumstances the country is experiencing bring special hardship for people of limited income among whom are employees of the Municipality. The Municipal Council feels itself responsible to participate in reducing the burdens on the employees, burdens which have been caused by the successively higher taxes imposed in contravention of international agreements. Prices are continuously increasing and the value of the Israeli currency is continuously declining. The Municipal Council, in keeping with this responsibility, decided to pay a part of the electric costs of the employees pursuant to authority vested in the Council by Paragraph 10(A) of the electrical project of the Nablus Municipality of 1957. It also decided at the same time to limit water rates according to authority vested in it by Paragraph 16 of the waterworks project for the Nablus Municipality of 1947. In spite of the fact that providing electricity to municipal employees does not require the approval of anyone, the occupation authorities informed the Municipal Council that they did not approve these two decisions. This denial of approval affirms the opinion that the interference of the occupation authorities in the functions of the Municipal Council is aimed at hindering the efforts of the Council and preventing it from exercising its functions.

4. Financing. The Municipal Council found that the financing of necessary municipal projects required the support of people from the city who work abroad. These former residents of Nablus contacted the Council during their visits to the city and indicated their readiness to donate funds to the Municipality in order that it might complete its projects. They also told us of a similar desire on the part of fellow townspeople abroad. The Council then sought to send a delegation representing the Municipality to contact these former residents living abroad and to discuss the possibility of gaining their

material support. But the occupation authorities have yet to approve the departure of such a delegation. Delaying the departure of a delegation obstructs the efforts of the Council to finance the development of the city and to maintain municipal services.

It is hoped, by presenting this Memorandum, that all the problems can be eliminated for the sake of the development of our city and for the protection of our accomplishments and the future of our people.

Signed by:
Bassam Shakaa
Mayor of the city of Nablus

APPENDIX D

His Excellency Secretary General of the United Nations

The arbitrary measures by the military authorities are continuing in the occupied West Bank against the civilian populace without any concern for international law and the resolutions of the United Nations. The occupying power still is seizing lands owned by the civilian populace to create Israeli settlements on them. Likewise, new taxes, the latest of which was the Value Added Tax, impose a heavy burden upon the Arab inhabitants.

The continuous arbitrary measures of the occupying power led to strikes and demonstrations which expressed the feelings of protest of the people. But the military authorities responded to this protest, which is a natural right of self-expression, by intensifying these arbitrary measures. The following are only a few of many possible examples:

1. The military authorities arrested many children between the ages of 11 and 15 and put them on trial in military courts in contravention to accepted legal principles, without giving them or their families the opportunity to defend themselves directly or through legal counsel.

2. The authorities imposed on those who were brought before military courts very high fines which were not in keeping with the alleged facts, as well as penalties of prison and administrative detention.

3. The military authorities prevented the Arab inhabitants from traveling abroad without giving the reasons, thus infringing on their freedom and jeopardizing their livelihood.

4. The military authorities imposed restrictions on commerce and prohibited importation of essential goods as well as prohibiting the exportation of the products of the West Bank. Restrictions were also imposed on the supply of fuel to the city of Nablus; the aim was to impose individual and collective economic punishments.

5. The military authorities carried out collective punishment on the population by imposing curfews on some of the cities or on sections of them. Moreover, army patrols forced people to come out of their homes and automobiles into the streets, while at the same time, soldiers insulted and sometimes beat the inhabitants. In addition, soldiers forced people out of their homes in the middle of the night to erase slogans written on the walls using only their hands.

6. Our imprisoned sons and daughters have been physically and psychologically tortured in contravention of the most basic rules of human rights. The military authorities have fabricated confessions and forced the detainees to sign them.

7. The military authorities have forced educational administrators to transfer students from schools in the city to distant schools in the villages with the aim of terrorizing the students and their families and preventing the students from continuing their education.

8. The military authorities persisted in creating divisions among the people and between the people and their institutions with the aim of dividing the people and preventing them from protesting the measures of the military authorities which contravene internationally recognized principles and human rights. One of the methods the military authorities used was to transmit false information from one party to another.

9. The authorities summoned many people, interrogated them, and then stamped their identity cards without explaining the reasons or the consequences of such action: all for the purpose of terrorizing the population and keeping them in fear.

10. The military authorities prohibited students who were studying in universities outside the occupied West Bank from continuing their education.

11. The military authorities prohibited persons who had been previously arrested and released, without having been convicted, from traveling abroad.

This situation compelled us to submit this Memorandum. We do so calling upon the international conscience represented by the United Nations to take all necessary measures to protect the civilian populace, their lives and property, and their enjoyment of fundamental liberties according to the principles of the United Nations and the provisions of the Geneva and Hague Conventions. We hope you will make this document known to all those concerned in the United Nations.

[Signatories uncertain, presumably West Bank mayors]

APPENDIX E

UNION OF JORDANIAN DOCTORS—JERUSALEM

Working Paper No. 1 [Excerpt]
A Conference to Evaluate Medical Services in
the West Bank in the Past Five Years

The West Bank was occupied ten years ago. Barricades were set up and the Arab inhabitants lost their freedom and were prevented from planning or participating in the planning of their future.

Just as all public services were affected by the occupation, so were medical services.

The preservation of health, the prevention of exposure to disease, and the provision of necessary treatment are purely humanitarian matters; it is the national and humanitarian duty of the Union of Doctors to be sensitive to the feelings and problems of a people who have been the victims of many disasters.

It is very important to evaluate the adequacy of the medical services which are provided under the conditions of occupation, both in terms of quality and quantity.

If such services have indeed deteriorated we must develop solutions and then find the financial means to implement them.

The medical services have been adversely affected in several ways:

1. Policy. On many occasions the military authorities have said that their responsibility only extends to maintaining the public services as they were in the pre-occupation period. Even if this were their only responsibility, it is incumbent upon the occupying power not to apply this policy to humanitarian services, especially medical services.

A natural development in services would require: building new hospitals, or completing those already under construction, creating new departments in the hospitals and opening new positions, raising the level of services offered, and providing the departments with modern equipment—all these are items in the health budget.

2. Freedom of Movement. The people of the West Bank enjoyed freedom of movement before the occupation. The patient was free to select the doctor and place of treatment, inside Jordan or abroad, in the Arab world or elsewhere. This freedom to travel is greatly restricted now.

Moreover, before the occupation, the doctor was free to work where he liked. Since the Palestinians have among them one of the highest percentages of doctors in the Arab world, it would be expected that the number of doctors working in the West Bank would continuously increase. However, doctors, like others, do not have the right to return to their country after completing their studies or specializations. The problems involved in the family reunion

procedures and the expulsion of a number of doctors have prevented many of them from offering their services in the West Bank.

3. Costs of Treatment. Before the occupation, government medical services were free or nominal in cost. Now the sick must pay large sums for treatment and medical examinations. If we take into consideration the limited income of the population, the rise in the cost of living, and rising prices, we find that sick people must deny themselves medical treatment. The number of patients in most of the government hospitals actually decreased recently after a rise in the daily hospital rate.

4. Technical and Scientific Aspects. The doctors in the West Bank have not been given scholarships. There is a great deficiency in the various medical specialties, such as pediatricians, and pathologists and radiologists are nonexistent. The level and number of the staff in the nursing system does not enable it to function adequately. The supporting facilities, such as labs, blood banks, radiology departments, physical therapy centers, and pharmaceutical departments are insufficient.

5. Material conditions. The income of the medical specialist, the resident doctor, or trainee does not keep pace with the cost of living. The high income gained in Arab and western countries is also a factor in the drain of skills and resources.

The doctor does not have assistants or substitutes so that he must be on call day and night for long periods of time.

Workers in the medical sector are also subject to psychological pressure as they find themselves incapable of providing the required care because of limited resources and the reported denials of their requests.

. . .

APPENDIX F

National Lawyers Guild Resolutions

(a) February 1948 Convention (Chicago)

Resolved that the National Lawyers Guild urge adoption of the following measures to implement the United Nations Plan:

1. That our State Department immediately modify our arms embargo and allow the shipment of arms to those forces within and without Palestine who are abiding by the verdict of the U.N. and who need those arms for self defense.

2. That our State Department permit American volunteers to go to the aid of those who are defending and complying with the dictates of the U.N. in the enforcement of the Partition Plan.

3. That President Truman should immediately reaffirm the position of our delegation to the U.N. General Assembly supporting partition with Economic Union and forthwith direct the officials of the State Department in charge of Middle East policy to comply and to carry out the open commitments and policy of our delegation at the U.N. Assembly.

4. That our delegation to the U.N. Security Council call upon the Council to constitute and equip the Haganah and other recognized co-operating forces in the interim, as a U.N. police force under the supervision of the U.N. Commission on Palestine, to defend the Jewish State and help implement the partition plan—and that the Security Council adopt and execute the Commission's request for an armed international force for the maintenance of peace within the entire State of Palestine.

5. That our delegation to the U.N. Security Council place before the Council the question of acts of aggression, now brazenly perpetrated in Palestine and declare the action of the Arab states a threat to peace and call upon the Arab states to end their opposition to the General Assembly's decision. That upon failure to comply—the U.S. and such other powers as may participate, employ the power vested in them by the United Nations Charter and the Security Council to enforce its demands—and particularly by the use of sanctions.

6. That our delegation to the Security Council call upon the Council to demand that Britain comply with the terms of the Plan of Partition and particularly to

a) Make available, forthwith, the port of Tel Aviv, or some other port, for adequate Jewish immigration.

b) That Britain evacuate forthwith and by gradual process—strategic positions within Palestine and allow local militia to defend and maintain order.

c) That the International Commission be allowed into Palestine forthwith and proper safeguards be provided for the Commission.

d) That the Mandatory enforce law and order in the interim and prevent Arab infiltration of men and arms into Palestine for the purpose of creating strife and the defeat of the Partition Plan.

(b) 1950 Convention

The National Lawyers Guild, in convention assembled, deplores the policy of our Government in forbidding the sale or shipment of arms to the State of Israel.

(c) February 1975 National Executive Board (San Francisco)

The National International Committee (by a vote of 12-7-3) recommends that, at present, the National Lawyers Guild resolve to study the many complex historical/political/social issues flowing from the Palestinian-Israeli conflict.

The National International Committee further resolves that the process of study should take place between now and the next National Executive Board meeting with a view toward deciding at that time, whether or not the NLG can or should take a position on the issue; if so, what that position is, if not, the reason why taking such a position is impossible or inadvisable. The National International Committee further resolves that those delegates from the NLG to the upcoming International Association of Democratic Lawyers conference abstain from voting on questions relating to the Palestinian-Israeli conflict.

The National International Committee further suggests the following in furtherance of implementing that course of study:

A. that between now and the next NEB, *Guild Notes* publish position papers reflecting the major differing points of view with respect to the Palestinian-Israeli conflict;

B. chapters should organize educational programs, including debates, seminars, films and teach-ins in order to increase the understanding of our membership of the many complex issues;

C. that, in preparing educational programs, the positions of the various Israeli political parties, as well as member organizations of the Palestine Liberation Organization be adequately reflected;

D. that the National Office Collective prepare and publish in *Guild Notes* a representative bibliography on the issues before the NLG.

It is further suggested that each chapter address itself to the following questions:

1) Do the Palestinian people have a right to self-determination?

2) Are the Palestinian people waging a struggle for national liberation?

3) Do the Jewish people have a right to self-determination in the Middle East?

4) Should Israel exist as a Jewish state?

5) Should Palestinians have a right of return to their homes and lands?

6) Was the establishment of the Jewish state in the Middle East a legitimate response to the oppression of Jews in Europe?

7) What was the role of the U.S., British and French ruling classes in the promotion of and/or establishment of Israel?

8) To what extent, if any, has racism against Jews and/or Arabs affected the ability of the U.S. left to arrive at a principled position with respect to the Palestinian-Israeli conflict?

9) In what ways are Israel and/or some Arab states agents of Western imperialism in the Middle East?

(d) August 1975 National Executive Board (Columbus)

The National Executive Board, at its August 1975 meeting resolves as follows:

1. The NEB commits the resources of the organization to continuing and expanding our internal political education on the Palestinian question and authorizes the National Office, National Executive Committee and the International Committee to explore ways in which the views of the Palestinian people and progressive Israeli Jews can be heard and become known to our communities.

2. The Guild recognizes the importance of studying violations of the civil and political rights of Palestinians in Israel and occupied territories and will compile and distribute studies detailing these violations and further explore the incidence of repression against progressive Israeli Jewish peoples within Israel.

3. The NEB goes on record in support of full civil rights of Arab peoples in this country and we call for:

(a) An end to the harassment of Arab foreign students and resident aliens by the Immigration and Naturalization Service and to the harassment and surveillance of the Arab-American community in the US by the FBI, which harassment was brought about by the political support for the Palestinian people voiced by that community.

(b) An end to the limitations on the rights of representatives of the Palestinian people to travel freely in this country (representatives of the Palestinian people at the United Nations cannot travel beyond a 25-mile radius from the U.N.).

(c) An end to the failure of local governments to take actions against violent attacks by the Jewish Defense League, and similar reactionary groups on Arab people and organizations in this country.

The NEB authorizes the NO, NEC, International Committee and Immigration Committees to explore ways in which such support can be implemented with Guild legal resources.

4. The NEB calls for an end to the U.S. foreign policy of diplomatic isolation and non-recognition of the Palestinian people and their representa-

tives as a political force and as a necessary party to a just peace in the Middle East.

5. The NO and the NEC and the International Committee are authorized and directed to provide legal support and resources, if requested, in connection with political action (for example, demonstrations, rallies, celebrations, etc.) which are supportive of the civil and political rights of the Palestinian people and progressive Israelis. The NO and NEC and International Committee are not authorized to lend the name of the Guild to sponsor or endorse such political actions, rallies, demonstrations. The NEB encourages the NO, NEC and local chapters, along with the International Committee, to undertake and initiate political education around the political and civil rights of the Palestinian people as are contemplated under section 1 above.

(e) August 1977 Convention (Seattle)

Whereas, the National Lawyers Guild has resolved to study the question of the Middle East, and to educate itself and its members on the issues involved, and;

Whereas, the Middle East is a strategic location for United States imperialist interests in Asia and Africa as well as Europe, and whereas the United States has maintained a policy of support for repressive regimes and is engaged in efforts to impose a settlement on the countries of the Middle East without the independent participation of the Palestinian people which is contrary to the interests of the peoples of the Middle East, and;

Whereas, the National Lawyers Guild recognizes that the core of the Middle East conflict is the issue of the national rights of the Palestinian people, and whereas the Palestinian people have been subjected to inhuman repression in each of the countries to which they have been forced to go; namely, the massacre of some 20,000 Palestinians by the United States backed Jordanian regime during Black September in 1970, the attacks on the Palestinians in Lebanon by the Phalangists and other right wing elements maintained in power by the U.S. military intervention in Lebanon in 1958, and the massacre by the rightists at Tal al-Zaatar refugee camp in Beirut in the Spring 1976, the military invasion of Lebanon by Syria in the Spring of 1976 against the Palestinians and progressive democratic front in Lebanon, and the continued Syrian occupation of the country under the guise of "keeping the peace," and the open and acknowledged military cooperation between the Israelis and the fascist Phalangists in Southern Lebanon; and

Whereas, the Palestinian liberation movement is a national liberation movement which represents a destabilizing threat to both United States imperialist interests in the area as well as the repressive Arab and Israeli regimes, and;

Whereas, it is the declared policy of the State of Israel to deny the national rights of the Palestinian people through such acts as continued occupation of and absorption into Israel of the West Bank and Gaza Strip territories, and the refusal to negotiate with the recognized representatives of the Palestinian people, and;

Whereas, the progressive movement of Jews in Israel is isolated and under attack within Israel and has called for progressive forces in the United States and internationally to pressure the United States government and to educate the people in the United States on the necessity of a national solution for the Palestinian people, and;

Whereas, the Palestine Liberation Organization is overwhelmingly endorsed by the Palestinian and Arab people, progressive Israelis and by 120 countries in the world as the sole legitimate representative of the Palestinian people.

Therefore be it resolved that the National Lawyers Guild:

1. Calls for the cessation of all Israeli settlement in the occupied territories and effect a complete withdrawal from all territories occupied in 1967;

2. Recognizes the right of self-determination and national independence for the Palestinian people;

3. Recognizes the Palestine Liberation Organization as the sole legitimate representative of the Palestinian people and its right to participate on an equal footing as a principal party in any discussion of the Palestinian-Israeli conflict;

4. Recognizes the right of return or compensation for all Palestinians displaced or dispossessed in the creation of Israel in 1948 pursuant to the United Nations resolution # 194;

5. Calls for the elimination in all the states in the Middle East of laws, institutions, regulations and practices which have the purpose or effect of discriminating on the basis of religion, national or ethnic origin, sex or race;

6. Calls on the Palestine Liberation Organization to commit itself to the exchange of mutual recognition between an independent sovereign Palestinian state and the state of Israel.

(f) February 1978 National Executive Board (Washington, D.C.)

Human rights in the Middle East is intimately related to the central issue of that region—the right of the Palestinian people to self-determination and independence. The continued illegal occupation of the West Bank and Gaza and the repressions there committed by the Government of Israel constitute the gravest violation of the rights of the Palestinian people whose struggle for national liberation has also been brutally oppressed at various times by the Government of Jordan in 1970, the Phalangists in Lebanon in 1975, the Syrian invasion of Lebanon in 1976 and the Israeli incursions in Southern Lebanon in 1977.

The progressive movement in the United States must develop a greater sensitivity to the nature, character and interrelationship of the anti-democratic forces in the Middle East. Support for these forces motivates the Middle East policy of our own Government. The key to that policy is opposition to, in President Carter's words, a "radical" Palestinian Government.

The Palestinian national liberation struggle is the cutting edge of the move-

ment for democracy throughout the Middle East and the success of this struggle may hasten the transformation of the backward political and social institutions everywhere in that region. It is no accident, therefore, that the forces who have repressed the Palestinians have also denied their own citizens fundamental rights of speech and assembly and persecuted religious minorities in their countries. Religious discrimination, in particular, has been used as a cynical device to obstruct the unity for basic social and economic change.

Therefore be it resolved, we urge consideration and support for the following propositions:

1. Consistent with the Resolution adopted by the August 1977 Seattle Convention of the National Lawyers Guild, which called for mutual recognition between an independent and sovereign Palestinian state and the State of Israel, we condemn the policy of the Government of the United States in opposing the right of independence for the Palestinian people as violative of the fundamental human rights of all peoples to self-determination and national independence and sovereignty.

2. We condemn Israel's illegal occupation of the West Bank and Gaza and the violations there being committed of the civil and political rights of the Palestinian people including

a. creation of settlements by citizens of Israel in the West Bank and Gaza;

b. numerous incidents of torture committed by police, military and intelligence authorities of detainees during interrogation, of which there is substantial evidence;

c. demolition of houses and other forms of collective punishment for the acts of individuals;

d. numerous instances of deportation of detainee inhabitants from the West Bank and Gaza;

e. detention of persons without charges for long periods;

f. operation of severely overcrowded prisons;

g. failure to allow reasonable reunion of family members.

3. We condemn the repression of the Palestine national liberation movement wherever it occurs in the Middle East by governments in that area.

4. We condemn the violation of the civil and political rights of their own people by governments throughout the Middle East and their persecution of and discrimination against religious and racial minorities, and consistent with the Resolution adopted by the August 1977 Seattle Convention of the National Lawyers Guild call upon all states in the Middle East to abolish discriminatory practices and institutions.

5. The National Lawyers Guild shall urge consideration and support of these propositions by all progressive and democratic organizations in the United States and shall communicate this resolution to the relevant governmental and other bodies.

Any further implementation of this resolution prior to the next NEB will be determined by a committee composed of the Steering Committee of the International Committee and the International Committee liaison person of the National Office.