

## THE EIGHTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE

Theme: "The inalienable rights of the Palestinian people"

9 - 13 May 1983

Jakarta, Republic of Indonesia

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### 1. REPORT OF THE SEMINAR

- The eighth United Nations Seminar on the Question of Palestine with "The inalienable rights of the Palestinian people" as its central theme, was held in the Hotel Indonesia, Jakarta, Republic of Indonesia, from 9 to 13 May 1983, in accordance with the terms of General Assembly resolution

36/120 B. Seven meetings were held and 16 panellists presented papers on various aspects of the question of Palestine.

2. The United Nations Committee on the Exercise of the Inalienable Rights of the Palestinian People was represented by a delegation consisting of H.E. Mr. Massamba Sarré (Senegal), Chairman of the Committee, H.E. Mr. Farid Zarif (Afghanistan), Vice-Chairman of the Committee, Mr. T.P. Sraenivasan (India), Mr. Boer Mauna (Indonesia), Mr. Khalid Mahmood (Pakistan), Mr. Darko Silovic (Yugoslavia) and Mr. Z.L. Terzi (Palestine Liberation Organization). Mr. Sarré was Chairman and Mr. Boer Mauna Rapporteur of the Seminar.

3. The opening session of the Seminar on 9 May 1983 was addressed by H.E. Mr. Mochtar Kusumaatmadja, Minister for Foreign Affairs of the Republic of Indonesia, who stated that the Government and people of Indonesia had maintained a long-standing policy of unswerving support for all efforts by the international community to achieve the effective exercise by the Palestinian people of their inalienable rights. Indonesia's position had always been based on the firm conviction that lasting peace could only be established in the Middle East when the question of Palestine had been settled on an equitable and just basis.

4. The Seminar was being convened during a time when the Palestinians were being subjected to ever greater brutal oppression and killings. All of these heinous acts that had brought untold tragedy to the Palestinian people and to Lebanon, had sharply increased the danger of world-wide conflagration and had brought neither peace nor security to Israel.

5. While the terrorization of the Palestinian inhabitants of Lebanon continued, the population of the occupied territories had also experienced intensified repression, intimidation and a reign of terror.

6. A comprehensive, just and lasting solution must be achieved through the restoration to the Palestinian people of their inalienable rights to self-determination and independence and to the establishment of their own sovereign State. No solution could be comprehensive and just unless the Palestine Liberation Organization fully participated in the negotiations of that solution and its implementation. Peace and security in the region could only be based on Israel's total and unconditional withdrawal from all occupied Arab territories, including Jerusalem.

7. The Foreign Minister expressed the hope that on the basis of the deliberations at the Seminar, both the participants and the large international press corps in Jakarta would do their part in heightening awareness and strengthening solidarity with the Palestinian people. He appealed particularly to the Indonesian press to give maximum coverage to the Seminar.

8. At the same opening session, Mr. Massamba Sarré, Chairman of the Committee, gave a brief account of the Committee's work. He emphasized the importance of the Seminar as a step towards ensuring that the rights of the Palestinians would be implemented. The Seminar itself was part of a programme to ensure that the facts relating to the question of Palestine reached not only those who were willing to listen but also those who had hitherto consistently refused to do so or had been denied access to the facts. For a long time biased reporting had had the unfortunate effect of always presenting the Palestinian people and their hopes and ambitions in an unfavourable light or of completely ignoring them. If all the facts were known, the resultant understanding of the question would convince the international community of the just cause of the Palestinians. The International Conference on the Question of Palestine later in the year was a further step in the search for a solution to the problem. It was absolutely essential that every Government should participate in that Conference and play an active role in it.

9. A message from H.E. Mr. Yasser Arafat, Chairman of the Executive Committee of the Palestine Liberation Organization, was conveyed to the Seminar by Mr. Zehdi L. Terzi, Permanent Observer of the Palestine Liberation Organization to the United Nations. Mr. Arafat's message referred to the heroic Palestinian people who had confronted and frustrated the military assault in Lebanon. The Zionists had then resorted to the act of genocide of unarmed defenceless civilians whose only protection was an assurance by the United States that adequate safeguards would be guaranteed. No such safeguards were in sight. The Palestine Liberation Organization had affirmed its adherence to all relevant United Nations resolutions on the question of Palestine. The Palestinian people would persist in carrying the olive branch on the road to peace but would carry, as well, the gun to secure and ensure the peace process and to secure their safety and survival and the attainment and exercise of their inalienable rights.

10. Mrs. Rasil Basu, principal officer of ICQP, made a statement on behalf of the Secretary-General of the International Conference at the opening session. She outlined the objectives of the International Conference on the Question of Palestine and reviewed the work done by the four regional preparatory meetings, held in Africa, Latin America, Asia and West Asia, in preparation for the Conference. Those regional meetings were designed to build a firm political, juridical and socio-economic foundation for the International Conference. Each focused on a specific aspect of the larger Palestinian question. All four meetings underscored that the United Nations must be challenged to sharpen its focus and undertake more concrete steps regarding the question of Palestine.

11. H.E. Mr. H.Z.A. Oesman, Assistant Secretary-General of the Organization of the Islamic Conference, made a statement at the opening session. He said that despite numerous United Nations resolutions on the recognition of the historical rights of the Palestinian people, and the approval of the Fez Peace Plan by the Non-Aligned Movement, the Organization of the Islamic Conference and the League of Arab States including the Palestine Liberation Organization, the State of Israel was becoming more and more obstinate and oppressive without the least consideration for the official and popular international public opinion that stood by the Palestinian people in their legitimate struggle. The international community must put pressure not only on Israel but also on the country which was behind that entity in order to compel it to abide by United Nations resolutions and particularly by those relating to the problem of Palestine and its people. The big Powers in the world, with the support of other States, should impose peace by cutting the Zionist, racist entity to its proper size, by depriving it of supplies and assistance and by imposing necessary sanctions against it, he concluded.

12. Dr. Muhammad H. El-Farra, Assistant Secretary-General of the League of Arab States, addressed the second meeting of the Seminar. In reviewing the historical transformation in the status of Palestine since the time of the Ottoman Empire up to the present, he cited the 1917 Balfour Declaration as Britain's "worst breach of faith". The League of Arab States wanted to see a just and lasting peace in Palestine which took Palestinian rights into account. It was against the basic concept of Zionism, which created an exclusively Jewish State on land purloined by force; a "master race" based on a religion, and a militant, expansionist policy, which was implemented in total disregard of the national rights of the Palestinian people. There could be no peace as long as Israeli leaders continued to gloss over the realities of the Palestinian people. The United States must realize that in dealing with the future of a people, the people must be consulted. Their future must be discussed with their representatives. The PLO was the sole legitimate representative of the people of Palestine and without its active participation there could be no peace.

13. The closing meeting was addressed by H.E. Mr. Munawir Siadzali, Minister for Religious Affairs of the Republic of Indonesia.

14. Five panels were established to consider different aspects of the central theme "The inalienable rights of the Palestinian people". These panels and their panellists were as follows:

(i) Israeli Policies and Practices in the Occupied Palestinian and Arab Territories in the Light of the Recent Events in the Region  
H.E. Mr. Ignatius Benedict Fonseka (Sri Lanka); Mr. Raja Shehadeh (Palestinian); Dr. Muhammad Aziz Shukri (Syrian Arab Republic)

(ii) Asia and Palestine: Measures to Promote Solidarity and Mutual Support in the Search for Peace  
Mr. Hardi (Indonesia); Mr. Nobuo Asai (Japan); Professor K.P. Saksena (India); Mr. Yu Menjia (China); Mr. Saeeduddin Ahmed Dar (Pakistan)

(iii) The Status of the Holy City of Jerusalem  
Dr. Abdelwahab Bouhdiba (Tunisia); Mr. August Marpaung (Indonesia); Dr. Raouf Nazmi (Egypt); Dr. Kemal Oke (Turkey); H.E. Mr. Kacem Zhiri (Morocco)

(iv) The Role of the Palestine Liberation Organization in the Social, Cultural, Economic and Political Development of the Palestinian People  
Mr. Janusz Zebrowski (Poland)

(v) The Role of the United Nations in the Search for Effective Measures to Enable the Palestinian People to Attain and to Exercise its Inalienable Rights with Special Emphasis on the Importance of the International Conference on the Question of Palestine

Dr. Oleg V. Kovtunovich (USSR); Dr. Amin Rais (Indonesia)

15. The Seminar decided that in accordance with previous practice, the papers presented by the panellists should be published in full by the United Nations together with the report of the Seminar. It was felt that that would be a valuable contribution toward an objective appraisal of the question of Palestine.

16. The discussions that followed the presentation of papers covered several aspects of the question of Palestine and demonstrated a general consensus on the issues relating to the problem.

17. The Seminar agreed that the attainment by the Palestinian people of its inalienable rights was a *sine qua non* for a just and durable peace in the Middle East. The attainment of those rights as well as international law and the provisions of the relevant United Nations resolutions required that Israel should withdraw immediately from the Arab lands it had illegally occupied since 1967. The continued occupation merely served to exacerbate tensions in the area and posed a threat to international peace and security.

18. In spite of the fact that the United Nations had consistently reaffirmed the inalienable rights of the Palestinian people, Israel had continued to violate them and prevent their realization in defiance of international public opinion and in violation of international law.

19. The Seminar noted that the vast majority of the international community was already convinced of the justice of the cause of the Palestinian people and that many constructive suggestions had been made in attempts to enable the Palestinian people to exercise its rights.

20. Asia's interest in and commitment to the cause of the Palestinian people was highlighted by many participants. It was pointed out that while diplomatic relations had existed between some Asian States and Israel, Israel's policy of aggression and expansion had resulted in changing the attitudes of several of the States. It was only natural that those who had emerged from the status of colonies should be sympathetic to the struggle of the Palestinian people, who were now being subjected to similar oppression. The conflict in the Middle East, at the core of which was the question of Palestine, was of immediate concern to all Asian States since the struggle of the Palestinian people was inseparable from peace in Asia and the world as a whole.

21. Attention was drawn to the fact that Asian support for the rights of the Palestinian people could be traced to the very beginnings of the problem and that Asian nations had supported the just cause of the Palestinians when the question was first discussed in the United Nations in 1947. That support had continued throughout the years.

22. It was recalled that special attention had been paid to the problem at the Asian African Conference in Bandung in April 1955. The final communique of that Conference had contained the following paragraph:

"In view of the existing tension in the Middle East, caused by the situation in Palestine and of the danger of that tension to world peace, the Asian African Conference declared its support of the rights of the Arab people of Palestine and called for the implementation of the United Nations resolutions on Palestine and the achievement of the peaceful settlement of the Palestine question."

23. That support was based on the fundamental and universal principles of peace, freedom, independence, justice and human rights that the Bandung Conference upheld.

24. In order to strengthen the support for the Palestinian cause that already existed in Asia, it was suggested that special United Nations information centres should be established in various cities in Asia in order to establish closer liaison with the media and to ensure that factual information on the question of Palestine was disseminated. The media, particularly the more influential sections of the press, had a special responsibility in this regard.

25. In order to promote solidarity with the Palestinian people, it was suggested that Asian States which had not already done so should sever diplomatic relations with Israel and declare contraband all produce extracted from land and water resources expropriated from Arab lands. Further, Governments should build up pressure on the United States to act in accordance with United Nations resolutions.

26. Israel's policies and practices in the West Bank and Gaza and other occupied Arab territories were condemned as violations of the human rights of the inhabitants of those territories. Those policies and practices were seen as clear precursors of annexation in violation of international law and opinion. They were seen as aimed at creating "facts" which would make any negotiation on the future of the occupied territories a negotiation on the future of the Arab inhabitants rather than on the sovereignty of the Palestinian people.

27. The Seminar held that military occupation did not and could not displace or transfer sovereignty and that annexation of occupied territory was a violation of the United Nations Charter and the tenets of international law. The Geneva Convention relative to the Protection of Civilian Persons in Time of War, 12 August 1949 of which Israel was one of the signatories, applied to the occupied Palestinian and other Arab territories. Any step towards annexation, therefore, would be illegal just as the annexation of Jerusalem and the Golan Heights were declared null and void and without legal effect by resolutions of the United Nations.

28. Israel's illegal policies of land acquisition, settlements and repression in the West Bank and Gaza were also clear violations of international law and practice. Those Israeli policies and practices had been extensively documented by the United Nations Special Committee to Investigate Israeli Practices affecting the Human Rights of the Population of the Occupied Territories which was established in 1968. The repeated renewal of that Special Committee's mandate in spite of Israel's refusal to co-operate with it, reflected the international community's concern over the situation in the occupied territories. However, in spite of all the efforts of that Committee and the General Assembly of the United Nations, the human rights situation in those territories had continued to deteriorate.

29. The Special Committee, after objective consideration of the evidence, both oral and written, presented to it, had come to the conclusion that the fundamental right to self-determination in the occupied territories had been disregarded. A policy had been elaborated and was being implemented which was designed to extend Israeli sovereignty over the occupied territories.

30. In violation of the Fourth Geneva Convention of 1949, Israel had established over 130 settlements in the West Bank, Gaza and the Golan Heights and was proceeding with plans to establish several more. Those settlements were now inhabited by Israeli citizens transferred by the Government of Israel. The progression of settlements and encroachment which commenced in 1967 still continued and was facilitated by illegal acquisition of land which belonged to the Arab inhabitants. The establishment of settlements and all that it was giving rise to by way of changes in the legal and administrative institutions in the occupied territories as well as in the way it effected the human rights situation there were increasingly becoming the backbone of Israel's policy of annexation.

31. In addition, there were other measures such as Military Order 854, which was clearly aimed at preventing the evolution of the higher educational institutions and at suppressing every manifestation of Palestinian patriotism. Military Order 854 and its implications, the Seminar noted, had been widely condemned not only by Governments, but also by leading academics.

32. The reality reflected in the reports of the Special Committee showed that the Government of Israel, was in the process of annihilating, if not eliminating, a people by illegally creating a situation designed to drive them out of their homeland or to remain in a state of perpetual subjugation.

33. Concern was expressed by the Seminar at the speed with which those policies were being implemented in spite of the international outcry against them. The Seminar felt that a halt and reversal of those policies was urgently required. Recent developments had greatly increased the importance of the time factor. Each day's delay permitted Israel to tighten further its grip on the illegally occupied Arab and Palestinian territories and to carry out its policy of annexation, which was increasingly acknowledged as a major obstacle to peace.

34. The policies and practices pursued by Israel in the occupied territories were illegal because in the final analysis, the occupation itself was illegal.

35. The status of the Holy City of Jerusalem was the subject of considerable discussion. Its history was traced and the conclusion reached that the final status of Jerusalem would be among the most difficult of the issues to solve. The Seminar confirmed that the occupation and Judaization of Jerusalem posed a challenge to the universal conscience and that Israel's unilateral acts to annex the city should continue to be condemned and declared null and void and without legal effect in accordance with relevant resolutions of the United Nations. The Security Council should adopt measures to enforce its decisions.

36. It was not its sacred or religious aspects which gave rise to problems. Israel had annexed Jerusalem by force and was attempting to Judaize it. The annexation of Jerusalem and its gradual Judaization by Israel were calculated to obliterate the unique character of the holy city. The Israeli practices in Jerusalem had caused an impediment to the decolonization of Jerusalem which was inseparable from the emergence of Palestine as a state.

37. It was stated that the right of self-determination, an inalienable right of the Palestinian people, extended to the population of Jerusalem itself and the Palestinians, represented by the Palestine Liberation Organization, were justified in insisting on Jerusalem as the capital of the State of Palestine when it was established. Ultimately it was within the framework of respect for the fundamental principles of the right of the Palestinian people to self-determination that the status of Jerusalem would find its solution. The status of Jerusalem as envisaged in United Nations resolutions remained the basis of a solution.

38. The Seminar heard an analysis of the socio-economic contribution of the Palestinian people in the countries throughout which they were dispersed. As a result of the loss of their land, they had turned from agriculture, which had been their main occupation, to urban employment such as light industry, building and the commercial and social service sectors. Some had entered the legal, medical and other professions and a few had attained high positions in the lands of their adoption.

39. Economic activity at present constituted a very modest part of Palestinian potential, since the majority of the Palestinians were still employed by non-Palestinian employers and only political independence and the end of the Palestinian diaspora would enable Palestinians to build up their own economy.

40. The Palestine Liberation Organization's success in organizing the Palestinian people, not only on the political level but also on the social, economic, cultural and administrative levels had created a structural framework for the Palestinian national identity and would be available when a Palestinian State was established.
41. The Seminar urged all States which had not as yet done so to recognize the Palestine Liberation Organization as the sole, legitimate representative of the Palestinian people, and to extend full diplomatic recognition to it.
42. The Seminar noted that the United Nations had given its constant attention to the question of Palestine and that apart from the General Assembly and the Security Council where various aspects of the problem were continually discussed, several other United Nations bodies also dealt with the problem. However, a solution was no nearer now than it had been in 1947.
43. The inability of the United Nations to resolve the problem was traced to the gross violations of its resolutions and of international law and conventions by Israel even though Israel had acceded to those conventions. It was stated that Israel was able to persist in this defiance because it enjoyed the support of the United States which, by the use of the veto in the Security Council, was able to block any action to implement the recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People.
44. A proposal was made that certain issues could be referred to the International Court of Justice for an advisory opinion. Among these, special emphasis was given to the value of obtaining an advisory opinion on what the legal consequences are for other States, of the continued presence of Israel in the Palestinian and other occupied Arab territories in violation of Security Council resolutions and International law and conventions. Some participants, however, questioned the advisability of adopting that course of action.
45. The path to peace lay in the attainment by the Palestinian people of its inalienable rights and required that the right of all States in the area to security should be guaranteed and that all parties to the conflict, including Israel and the Palestinian State, when it was created, must assume obligations to respect the sovereignty, independence and territorial integrity of each other and to settle any disputes that might arise by peaceful means.
46. Such a settlement required international guarantees. The role of guarantor could be assumed by the Security Council.
47. The Seminar was reminded that proposals for a peaceful solution based on United Nations decisions and resolutions such as those of the non-aligned States, the Fez Arab peace plan and the Soviet proposal, should and could contribute to a just settlement of the problem.
48. The Seminar agreed that the implementation of the relevant United Nations resolutions would lead to a just, durable and comprehensive solution of the problem of Palestine.
49. The International Conference on the Question of Palestine scheduled for August 1983 could make a valuable contribution to a peaceful solution by drawing the attention of world public opinion to the tragedy of the Palestine people and by fostering activities in the search for a just solution. That Conference should stress the responsibility of all States Members of the United Nations for the attainment of a lasting peace in the Middle East. It was urged that participation at the Conference should be at the highest possible level.
50. A suggestion was made that the United Nations, particularly UNESCO, should arrange a new system to gather and pool information on all the world-wide activities relating to Palestine.
51. It was suggested that the Committee on the Exercise of the Inalienable Rights of the Palestinian People should send missions to capitals of Governments which had not so far extended their full support to the just cause of the Palestinian people, in order to endeavour to persuade them to adopt a more positive attitude in promoting the attainment of Palestinian rights.
52. The Seminar expressed its appreciation to the government of the Republic of Indonesia for its kind co-operation in providing a venue for the Seminar and for all the courtesy and assistance it had extended to the participants to ensure that the Seminar was a success. The interest in the Seminar shown by the Government was a reflection of its deep commitment to the just cause of the Palestinian people.

## 2. STATEMENT BY H.E. PROFESSOR DR. MOCHTAR KUSUMAATMADJA, MINISTER FOR FOREIGN AFFAIRS OF THE REPUBLIC OF INDONESIA

On behalf of the Government and people of Indonesia, it gives me great pleasure to welcome you all to the Asian Regional Seminar on "The Inalienable Rights of the Palestinian People". It is for Indonesia an honour to have had Jakarta selected as the site and for the Government of Indonesia to be the host for this Eighth United Nations Seminar on the Question of Palestine. We are further heartened by the presence here of so many distinguished panellists, scholars and other experts which heightens our confidence in the success of this important Seminar.

I am sure you are all aware of the successes achieved at the just concluded Kuala Lumpur Asian Regional Meeting in preparation for the International Conference on Palestine that will be held in August this year. And it is with this all important international Conference in mind that my Government would like to assure you of our complete co-operation and assistance in the discharge of your important task. Let the deliberations over the course of the next four days add substantively to the constructive efforts already made during the past seven seminars and most importantly make their positive input in the search for justice and freedom for the Palestinian people that we all hope can be brought closer to fruition through the International Conference.

With so many distinguished participants from the academic community, the Committee on the Exercise of the Inalienable Rights of the Palestinian People, as well as intergovernmental and non-governmental organizations, who share an expertise on various aspects of this seemingly intractable question, I would like to briefly provide some of the salient and long-standing positions of my Government.

The Government and people of Indonesia have maintained a long-standing policy of unwavering support for all efforts by the international community to achieve the effective exercise by the Palestinian people of their inalienable rights. This policy is based on the provision contained in the Preamble of our National Constitution proclaimed in 1945 which declares and I quote "since independence is the right of every nation, any subjugation in this world is contrary to humanity and justice and must therefore be abolished". Thus during the first years of its independence, the young Republic of Indonesia, has on many occasions expressed its full support and rendered assistance to all peoples striving for independence. Particularly with regard to the Middle East, the Final Communique of the Bandung Conference of April 1955 declared its support to the rights of the Palestinian people and called for the implementation of the United Nations Resolution on Palestine and the achievement of the peaceful settlement of the Palestinian question.

Indonesia's position is always based on the firm conviction that lasting peace can only be established in the Middle East when the question of Palestine has been settled on an equitable and just basis. In this regard, we view the heroism of the Palestinian people as having clearly shown the world that despite the inhuman actions by the Israeli occupier to crush their opposition, their determination to achieve their rights cannot be broken.

Time and again, Indonesia, in concert with other countries of the Non-Aligned Movement, the Organization of the Islamic Conference as well as the United Nations, has called for concrete measures and actions to force Israel to cease its repressive measures and to relinquish its illegal control over all occupied territories. Therefore, a just settlement of the Palestinian question is an absolutely essential pre-condition for solving the problem of the Middle-East as a whole.

The Seminar is being convened during a time when the Palestinians are being subjected to ever greater brutal oppression and killings. The world was particularly horrified by the massive Israeli invasion and occupation of Lebanon, the wanton mass killings of civilians and notably the massacres perpetrated against the Palestinian refugee camps of Sabra and Shatila. All of these heinous acts that have brought untold tragedy to the Palestinian people and to Lebanon, have sharply increased the danger of world-wide conflagration and have brought neither peace nor security to Israel.

While the terrorization of the Palestinian inhabitants of Lebanon continues, the population of the occupied territories has also experienced intensified repression, intimidation and reign of terror. It is beyond doubt that the blatant acts of terror and intimidation, taken together with the imposition of a new illegal régime, pose the real danger that the occupied territories will be annexed and the Arab inhabitants will be exiled or forced to live under even more unbearable conditions. A comprehensive, just and lasting solution must, therefore, be achieved through the restoration to the Palestinian people of their inalienable rights to self-determination and independence and to the establishment of their own sovereign state. Moreover, no solution can be regarded as either comprehensive or just unless the PLO fully participated in its negotiations and implementation. Finally, peace and security in the region can only be based on Israel's total and unconditional withdrawal from all occupied Arab territories, including Jerusalem.

Thus, the topics of the five panels on the agenda of the Seminar are most timely and highly relevant to the major questions confronting the future of Palestine. And, it is our hope that on the basis of these deliberations, the distinguished representatives of various Governments represented at this Seminar and the large international press corps based here in Jakarta will inform their peoples about the ramifications of the problem and thereby heighten their awareness and strengthen their solidarity with the Palestinian people in their struggle for national emancipation. Particularly to the Indonesian press I would urge them to give maximum coverage in order to increase the support of the Indonesian people to the Palestinians to establish their own independent state.

Your work here is also made all the more important in the light of the upcoming International Conference to which we are confident this Seminar will make an important contribution. At the same time, we hope that the participants during their stay in Indonesia will be able to sample our culture, traditions and to get to know Indonesian hospitality.

I would like to assure you that the Indonesian Government and people will do all that we can to facilitate your tasks and to make your stay in Jakarta pleasant and comfortable.

3. STATEMENT BY MRS. RASIL BASU, PRINCIPAL OFFICER FOR THE  
INTERNATIONAL CONFERENCE ON THE QUESTION OF PALESTINE ON BEHALF OF  
MRS. LUCILLE MAIR, SECRETARY-GENERAL OF THE INTERNATIONAL CONFERENCE ON  
THE QUESTION OF PALESTINE

I feel greatly honoured at being present in this distinguished gathering on behalf of the International Conference on the Question of Palestine.

Mrs. Lucille Mair, Secretary-General of the Conference asked me to convey her deep regrets at being unable to be present here due to pressing official matters in New York. She conveys her sincerest wishes for a most successful Seminar.

We are fully aware and appreciative of the significant contribution which this Seminar and the papers presented here will make to the preparation for our Conference. If I might be permitted to repeat and underline what has been stated once again, it is that the United Nations responsibility for resolving the question of Palestine is unmistakable, imperative and urgent. The International Conference on the Question of Palestine recommended by the Committee on the Exercise of the Inalienable Rights of the Palestinian People under your chairmanship, Mr. Chairman, and mandated by the General Assembly, which is scheduled to be held from 16 to 27 August in United Nations Educational, Scientific and Cultural Organization (UNESCO) headquarters in Paris is a most serious attempt by the United Nations to meet with its responsibility on the question of Palestine.

The objectives of this Conference, as most participants are doubtless aware are to increase international awareness of the issues and to seek more effective ways and means of ensuring the achievement of Palestinian rights. The importance and timeliness of these efforts have been heightened sharply by the war in Lebanon and the massacres of Sabra and Shatila as well as the continually deteriorating situation in the West Bank and Gaza.

The path to the International Conference, under your capable guidance, Mr. Chairman, and the guidance of the Preparatory Committee which is represented by several members, has already been prepared by four regional preparatory meetings conducted in Africa, Latin America, Asia and West Asia. These regional meetings were designed to build a firm political, juridical and socio-economic foundation for the International Conference. Each focused on a specific aspect of the larger Palestinian question.

The African regional meeting which inaugurated the series of preparatory meetings took place in Arusha, United Republic of Tanzania, from 29 March to 1 April 1983. It concentrated on the political and juridical aspects of the question of Palestine. The Latin American meeting held in Managua, Nicaragua, from 11 to 15 April examined the legal aspects of the Palestine question. This meeting confirmed that the Palestinian struggle is deeply rooted in law, because the basic rights of the Palestinian people, including their right to constitute their own state, are based on customary and treaty laws.

The Palestinians' socio-economic conditions and the status of Jerusalem were the agenda items of the West Asian Regional Preparatory Meeting which was held in Sharjah, United Arab Emirates, from 25 to 29 April. I am happy to report to you, Mr. Chairman and to the Committee and distinguished guests that a careful analysis of the economic viability of a Palestinian state was made for that meeting - the Sharjah meeting also recommended a census of the Palestinian people.

The strategic and geopolitical aspects of the Palestine issue were examined at the Asian regional meeting which concluded last Thursday in Kuala Lumpur, Malaysia. It was attended by 40 States and 16 foreign ministers, which amply demonstrates the interest of the Asian region in resolving this issue.

All four meetings underscored the similar theme that the United Nations must be challenged to sharpen its focus and undertake more concrete steps regarding the question of Palestine.

The Kuala Lumpur recommendations went beyond appeals for Security Council action in the maintenance of peace and security in the Middle East to a strong urging for the establishment of appropriate institutional arrangements for the actual formation of an independent and sovereign state to be governed by and for the Palestinian people. The United Nations is also requested to administer such a territory in the transition after Israeli withdrawal. The meeting also called upon the United Nations to supervise elections in which all Palestinians will participate in the exercise of their right to self-determination.

In conclusion, I would like to summarize by stating that, since we came into existence as a Conference secretariat seven months back, we feel that significant progress has been made in raising levels of public understanding and formulating recommendation for action in these regional meetings.

However, it would be naive to minimize the difficulties that lie ahead and the work that still needs to be done for which no effort is too great. Seminars like this are invaluable towards that effort. Not only will a solution to the question of Palestine bring justice where justice is long overdue for the 4.5 million Palestinian people and peace to a region which has been fraught with wars but it will amount to a restoration of faith in the United Nations and the principles of the Charter upon which it was founded.

4. STATEMENT READ BY MR. ZEHDİ L. TERZİ, PERMANENT OBSERVER OF THE  
PALESTINE LIBERATION ORGANIZATION OBSERVER MISSION TO THE UNITED NATIONS  
ON BEHALF OF MR. YASSER ARAFAT, CHAIRMAN OF THE EXECUTIVE COMMITTEE OF  
THE PALESTINE LIBERATION ORGANIZATION

In the name of my colleagues, members of the Executive Committee, and on behalf of our Palestinian brothers and sisters under Israeli occupation and in dispersion, I convey to you our great appreciation for yet a further effort to bring to the international community more awareness and more facts about the plight of our Palestinian people and the justice of our cause.

The memory of the genocide at Sabra and Shatila refugee camps lives with us and the persistence of the Zionist régime in Tel Aviv to eliminate our people is a shocking nightmare. This process of elimination - cultural, economic, social and physical - would not have been possible without the financial and political concrete support the Washington Administration offers Tel Aviv. I shall refrain from describing the horrors of the Israeli Palestinian war in the summer of 1982 which took place on Lebanese soil. Seventy-thousand dead and wounded Palestinian and Lebanese women, children and the aged, hundreds of thousands made homeless - and all with the help of the Washington Administration which supplied Tel Aviv with the most recent and sophisticated weaponry. Our heroic people confronted and frustrated the military assault. The Zionists then resorted to the act of genocide of unarmed defenceless civilians whose only protection was an assurance by the United States of America that adequate safeguards will be guaranteed. No such safeguards were in sight.

Your Seminar will consider the policies and practices of the Israeli occupation forces in the Palestinian territories. I shall leave it to the learned panellists to inform on all aspects including the criminal toxication or poisoning of our school children, which will result in the sterilization of our young women.

On Jerusalem - Al Quds Al-Sharif - I wish to recall that the Palestine Liberation Organization has affirmed its adherence to all the resolutions of the United Nations relevant to the question of Palestine.

I seize this opportunity to recall at this most appropriate moment on the eve of the Isra' of our Prophet to Heaven: In God's words "Glorified He who carried His servant by night from the Inviolable Place of Worship to the Far Distant Place of Worship the neighbourhood whereof We have blessed". Jerusalem, in the hearts of the Muslims, is the most sacred. To the Christians, it is the City of Redemption. It is the holiest - and equally so - to all of the three religions - Islam, Christianity and Judaism. The Zionist Israelis are rewriting history - with their guns - distorting the facts.

To our brothers in Indonesia we convey our gratitude and appreciation. What more proper place could be selected to host this Seminar? To my friends, Brother President Suharto and Foreign Minister, H.E. Dr. Mokhtar Kusumaatmadja, I wish to convey my personal, respectful greetings. To the Indonesian people, I wish to convey the greetings of the Palestinian people and say thank you for your support and solidarity.

In conclusion, I wish you success and reiterate that the Palestinian people will persist in carrying the olive branch on the road to peace but will carry as well the gun to secure and ensure the peace process and to secure the safety and survival of our people and the attainment and exercise of our inalienable rights to return, to self-determination and the establishment of the sovereign, independent Palestinian State in Palestine.

Revolution until Victory!

5. STATEMENT BY H.E. MR. ZAINOEL ARIFI OESMAN, ASSISTANT SECRETARY-GENERAL  
OF THE ORGANIZATION OF THE ISLAMIC CONFERENCE ON BEHALF OF  
H.E. MR. HABIB CHATTI, SECRETARY-GENERAL OF THE ORGANIZATION OF THE  
ISLAMIC CONFERENCE

I deem it a great honour to participate in this Seminar on Palestine on behalf of His Excellency the Secretary-General of the Islamic Conference, Mr. Babib Chatti, who has charged me with the pleasant task of representing him in this meeting.

The Secretary-General very much wanted to be present here today but in view of his other pressing engagements he was unable to travel to Indonesia. I would like to utilize this opportunity to express the appreciation of the Organization of the Islamic Conference to the United Nations for the choice of the Republic of Indonesia to host this important conference on Palestine. We should not be surprised by this since Indonesia has always stood firmly and constantly by the just and right cause of the Palestinian people and its inalienable historical rights.

I shall not fail to seize this opportunity to extend my profound gratitude and appreciation to the President, Government and People of Indonesia for the hospitality and warm welcome extended to us since our arrival in this great country.

I also address my greetings and appreciation to all those who have contributed to the arrangements for this meeting, while hoping every success for this august conference.

The problem of the Middle East, whose basic core is that of Palestine, has been the most important and dangerous problem in the world throughout the second half of this century since the area has been subjected to a series of destructive wars that were basically aimed at the peace, security and freedom of the area and as a result of the Israeli persistence in depriving the Palestinian people of its right to its homeland and to self-determination.

This truth makes it imperative that we have to look back at the recent history of the Middle East when Britain made, in 1917, its ill-fated pledge to establish a national homeland for the Jews in the land of Palestine: when Britain, a Great Power at that time, wanted to round up the Jewish people from all parts of the world and to present them with a land that belonged neither to them nor to Britain; and by so doing, to deprive the real owners of the land who used to live on it from time immemorial.

It is natural that the Palestinian people should reject this naked aggression on them and on their land and should, instead, declare their historical decision to counter and resist these machinations. The Palestinian people were engaged in this resistance since the beginning of this century. But their simple potentials did not enable them to succeed in their resistance to this project which is supported by the big Powers with all the material and human potentials available to them until the State of Israel was established on Palestinian land.

Since that time, the Palestinian problem was on the top of all other international problems and there was no international meeting in which this problem was not studied and resolutions adopted on it. On the other hand, we see each one of the parties to the conflict trying its best to further consolidate its position. Israel, the alien entity in the area since its establishment in 1947, has been pursuing a policy of terror, expansionism, annexation, oppression and, indeed, extermination against the Palestinian people. You are aware, Mr. Chairman, that Israel has now extended its military domination over the remaining Palestinian territories in addition to the Golan Heights and to most of the Lebanese territories.

On the other side, the Palestinian people, who since 1948 when it declared its rejection of the establishment of this alien entity on its territories, has been pursuing armed struggle against its enemies who had usurped its rights, and is still steadfastly resisting the occupation.

Since 1967, the problem of Palestine has been the core of the Middle East problem and as a result of the international dealings with this problem, it has become a basic formula that is repeatedly adopted in the resolutions of the United Nations General Assembly or in its Security Council, or in the other international fora. The gist of the stipulations of these resolutions is as follows:

(a) The just solution of the problem of Palestine lies in the Palestinian people's achievement of its inalienable rights including its right to return to its homeland, its exercise of the right to self-determination without external intervention and its right to establish its independent and sovereign Palestinian State with its capital of Al-Quds Al-Sharif, under the leadership of the Palestine Liberation Organization, its sole legitimate representative;

(b) Affirmation of the fundamental principle of non-permissibility of occupation of territories by the use of force as well as the pertinent need for complete, speedy and unconditional withdrawal from all the Palestinian and Arab territories occupied since 1967 including Al-Quds Al-Sharif;

(c) That it is not possible to discuss the future of the Palestinian people behind its back. Therefore, the Palestine Liberation Organization, the representative of the Palestine people, must be invited to participate in all the efforts, deliberations and conferences related to the Middle East and on an equal footing with the other parties.

This formula and that concept of dealing with the Palestinian problem have become the fundamentals of the issue in the United Nations General Assembly which had issued hundreds of resolutions on the recognition of the historical rights of the Palestinian people.

The member States of the Non-Aligned Movement, the Organization of the Islamic Conference and the League of Arab States including the Palestine Liberation Organization have also approved through their Summit Conferences the Fez Peace Plan, which is also based on the recognition of the historical and inalienable rights of the Palestinian people. In addition to all of these, the European States have recently developed their stand on the issue of the Fez Plan and the self-determination of the Palestinian people.

In spite of all these facts which have become the political axioms of our present world, we still see the State of Israel becoming more and more obstinate and oppressive and throwing overboard all of these resolutions and without the least consideration for official and popular international public opinion that stands by the Palestinian people in its just struggle.

Furthermore, we see Israel waging today a war of extermination against the Palestinian people: the poisoning of thousands of Palestinians schoolgirls in the occupied territories, the intensification of settlement construction in the occupied territories, the sequestration of the agricultural lands and the damages inflicted on the local industries.

The historical and eternal capital of the Palestinian people and its State - the Holy City of Al-Quds Al-Sharif - has been desecrated by the State of Israel and by so doing it has desecrated all Muslim and Christian shrines in the city.

The State of Israel has, in violation of the resolutions of the international community on Al-Quds Al-Sharif and as a challenge to the will of the Muslims and Christians throughout the world, declared in 1980 the annexation of the City of Al-Quds Al-Sharif, a Holy City for the entire Muslim world and in which is found the Al-Aqsa Mosque, the first of the two Qublas and the third of the Holy Harams. Israel has also sequestered the lands, demolished the historical buildings in the city and undertaken excavations that threaten the holy shrines. Furthermore, it has established settlements around the city and has evicted the real owners from the city.

All of these acts which Israel perpetrates in defiance of the entire world and its resolutions, views and concepts are aimed at the Judaization of practically everything there so as to complete the uprooting of the remaining Palestinians from their land as well as the obliteration and assimilation of the Palestinian personality.

Israel, whose population is only 4 million persons and which requires daily more than 15 million dollars for its survival, cannot produce anything without external support.

The economic, human, material and military data of the State of Israel are such that it is not in a position to do what it is doing today.

"Why is it that this "Israel" dares to challenge the will of the entire world, rejects its resolutions and throws them overboard? Something must be behind this obstinate Israeli stand. It must have a guarantee of its protection and another of the provision of all kinds of military, economic and financial support to it from one of the super Powers which, in its turn, ignores the rights of the Palestinian people and thereby ignores the will of the United Nations and the peoples of the world with regard to granting the Palestinian people its right to self-determination, its right to return to its homeland and its right to establish its own independent State.

The fact is absolutely clear. All the cards that can make this alien entity conform to and abide by the resolutions of the international community and accept the right of the Palestinian people to its land, its freedom and national independence, are in the hands of the United States.

What is required to be done by the international community is to put pressure not on Israel but on the Government of the United States of America in order to use the cards in its hand and to compel Israel to abide by the resolutions of the United Nations and particularly by those related to the problem of Palestine and its people.

The international community is required to put pressure on the United States of America to pursue a policy for the achievement of peace and security in the area by both action and word. Otherwise, the area will continue to be under continuous danger and, consequently, international peace and security will continue to be in danger as a result of the Israeli policies that are backed principally by the United States of America.

We, the organization of the Islamic Conference, which represents 43 Islamic States, consider the cause of Palestine as the primary cause of the Muslims; and the Organization of the Islamic Conference member States have pledged their full support to the Palestinian people in its just struggle. We declare we shall put all the potentials available to the Muslim world, all our energies, at the disposal of and for the support of the Palestine Liberation Organization, out of our conviction as to the justness of the cause and out of the need to uphold and support right against wrong.

We have already been declaring, in our regular conferences, our commitment to all proposals and solutions that guarantee the rights of the Palestinian people.

In its pursuit of this declared policy, the Organization of the Islamic Conference has espoused and adopted the Arab Peace Plan, the Fez Plan, which constitutes the minimum upon which all Arabs including the Palestine Liberation Organization have agreed. This Plan (Fez Plan) affirms support for the Palestinian people until such time as it becomes able to exercise its historical inalienable rights that stipulate its right to self-determination, to return to its homeland, to establish its own independent Palestinian State with its capital in Al-Quds Al-Sharif, under the leadership of the Palestine Liberation Organization, its sole and legitimate representative. The Middle East region lives in a state of continuous conflict and its people knew no peace and security since the beginning of this century and the victims of this state of turbulence are uncountable. This region, however, has the right to live in peace and tranquility, and its people has the right to enjoy the life which Almighty God has granted them. It is on these grounds that we turn today to the peoples and Governments throughout the world, through the United Nations, that it is high time for a firm position that imposes peace and security to be adopted. We must all exert pressure upon the United States to help in the adoption of the necessary measures and sanctions against the State of Israel so as to deter it from committing its repeated acts of aggression and to force it into recognition of the Palestinian people's right to self-determination, its right to establish its own independent State under the leadership of the Palestine Liberation Organization, its sole legitimate representative, which has shown great flexibility in its dealings with this issue. The big Powers in the world, with the support of other States, should impose peace by cutting this Zionist, racist entity to its proper size, by depriving it of supplies and assistance and by imposing sanctions necessary upon it. Otherwise, Mr. Chairman, there should be no surprise if the region remains afire since the last card in the hands of the Palestinian people and the only alternative open to it is to wage an armed struggle that is supported by most States in the world in order to achieve its objectives. I am confident that victory will be on the side of this people. This is the logic of history.

#### 6. STATEMENT BY H.E. AMBASSADOR MASSAMBA SARRE, CHAIRMAN OF THE COMMITTEE ON THE EXERCISE OF THE INALIENABLE RIGHTS OF THE PALESTINIAN PEOPLE

While welcoming all of you to this, the eighth United Nations Seminar on the Question of Palestine, I would like first on behalf of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and on my own behalf, to extend to H.E. Prof. Dr. Mochtar Kusumaatmadja, Minister of Foreign Affairs of Indonesia, who is with us today and graciously opened this Seminar, and through him to the Government of the Republic of Indonesia, our thanks for their kind co-operation and assistance in enabling us to hold this seminar in their beautiful country. I am sure that the modern facilities at our disposal, the friendly attitude of the people and the soothing influence of these congenial surroundings will have a beneficial effect on our important deliberations in the next few days. In convening this seminar we continue to fulfil the mandate entrusted to us by the United Nations General Assembly at its Thirty-Fourth regular session in 1979 and subsequently. The results of our previous seminars have convinced us both of the usefulness of the exchange of views such as we are about to embark on, as well as of the importance of the contribution our deliberations will make towards an understanding of the problem of Palestine. The situation in the Middle East vitally affects not only international peace and security but the interests of the world community as a whole. The question of Palestine, which is at the core of the problem of the Middle East, has engaged the attention and the energies of the United Nations almost since the creation of the Organization in 1945. Today, over a generation later, it remains at the forefront of our concern. In that intervening period certain irrefutable propositions have emerged. Chief among these are that at the core of the problem of the Middle East is the question of Palestine, and that no durable peace in the region can be envisaged without a just solution of that question. The international community clearly understands that such a solution is of overriding importance. The history of mankind is replete with tragedies that have befallen people in all parts of the world. What we have met to discuss today is one of those tragedies. A tragedy which man has brought upon his fellow man. The tragic events in Lebanon last year underline the urgency of a solution. They added a new dimension to the problem and made us aware even more forcefully that time was running out and that the longer a solution to the problem of Palestine was postponed, the greater the danger to civilization as we know it. Past events in the tragic history of the Palestinian people pale before the magnitude of the tragedy that was enacted in Lebanon commencing in June 1982 and culminating in the horrendous massacres of Sabra and Shatila in September. The events of that brief period brought home to us the fact that the situation is fraught with possibilities which can have dire consequences for all of mankind. We can no longer remain silent nor complacent. Now, as never before, the absolute necessity for the attainment by the Palestinian people of its inalienable rights has been forcefully thrust upon us. Now, more than ever, the question of Palestine requires our special attention. This is not a question that suffers from a lack of attention. As I have said already, it is a question that has been before the international community for more than 30 years. In fact, for almost 40 years. If something is to be salvaged from the tragedy of 1982, and if the sacrifices made by the Palestinian people last summer are not to be in vain, it is our responsibility to take advantage of the renewed interest in the plight of the Palestinian people. It is not too much to hope that this new interest in the question will result in some progress being made towards justice for that embattled people. Although the question has engaged the attention of the international community for many years, for several years the humanitarian aspects of the problem were the sole point of focus. However, while this was an essential approach, it was clearly not enough. It is a credit to the indomitable will of the Palestinian people no less than to the reawakening conscience of the international community that in recent years the United Nations has reverted to a serious consideration of the national rights of the Palestinian people. A reflection of this is the fact that since 1974 several important resolutions have been adopted by the General Assembly which deal with the political aspects of the Palestinian problem. Prominent among these are resolutions 3236 (XXIX) adopted by the General Assembly at its Twenty-ninth session which reaffirmed the inalienable rights of the Palestinian people and resolution 3375 (XXX) adopted at the Thirtieth session of the General Assembly which called on the Palestine Liberation Organization to participate in all efforts for peace made under the auspices of the United Nations on an equal footing with other parties. These resolutions mark the turning point in the United Nations' efforts to restore to the Palestinian people its legitimate rights. When it became evident that its recommendations were not being implemented the General Assembly established in 1975 the Committee on the Exercise of the Inalienable Rights of the Palestinian People to draw up and present to the General Assembly a programme designed to promote the Palestinian people to exercise the rights recognized in resolution 3236 (XXIX), taking into account in the formulation of those recommendations "all the powers conferred by the Charter on the principal organs of the United Nations". From the beginning the Committee, of which I now have the honour of being the Chairman, set itself the task of looking into the question of Palestine and its evolution impartially and objectively. It kept itself open to all sectors of opinion and attempted to restore equity by highlighting rights that have been overlooked in discussion and trampled on in practice. In its work the Committee was guided by the following principles:

- (a) The Question of Palestine is at the core of the problem of the Middle East and no solution can be envisaged which does not take full account of the aspirations of the Palestinian people;
- (b) The implementation of the inalienable rights of the Palestinian people to return to their homes and to achieve self-determination, national independence and sovereignty will contribute to a settlement of the Middle East crisis;
- (c) The participation of the Palestine Liberation Organization, the representative of the Palestinian people, on an equal footing with other parties on the basis of the General Assembly resolutions 3236 (XXIX) and 3375 (XXX) is indispensable in all efforts, deliberations and conferences on the Middle East which are held under the auspices of the United Nations;
- (d) Inadmissibility of the acquisition of territory by force and the consequent obligation of Israel to evacuate speedily any territory so occupied.

Working by consensus, the Committee adopted a report which contained specific recommendations founded on legality and morality which were designed to facilitate the exercise of the recognized rights of the Palestinian people and to contribute towards a peaceful solution satisfactory to all States and people in the Middle East through the utilization of all the latent possibilities of the United Nations for promoting peace and the strict adherence to international law and the relevant resolutions of the United Nations. It will be noted that, contrary to persistent protestations that Israel's interests were not safeguarded, the recommendations aimed at a peaceful solution satisfying all States and peoples in the Middle East. However, in spite of the fundamental equity of those recommendations which have been endorsed repeatedly by the General Assembly and despite the moral and legal authority they command, their implementation has been consistently blocked mainly because of the inability of the Security Council to take any decisive action owing to the negative vote of a permanent member.



This has been most discouraging. Just as discouraging is the fact that the many solutions proposed outside the United Nations have not found acceptance either, although many of them contained positive elements which could form the basis of a just and durable solution. No significant progress, therefore, has hitherto been made.

The Committee has felt all along that on the question of Palestine the facts speak for themselves and that a thorough knowledge and proper understanding of the facts as they really are, and not necessarily as they are reported, would help to ensure that justice will be done and that the Palestinian people will attain its rights.

We have always felt the need for objective information as a means to build up public opinion and ensure objective coverage of the developments of the situation in the region. Biased reporting over a long period has had the unfortunate effect of always presenting the Palestinian people and their hopes and ambitions in an unfavourable light or of completely ignoring them. The first hopeful note is that there is now a discernible change in the reporting of events in the region. The Committee is convinced that it is essential to present all the facts surrounding the question of Palestine because there is no doubt that, once these facts are known, the resultant understanding of the question will convince the international community of the just cause of the Palestinian people.

Consequently the Committee has made every effort to ensure that the facts reach not only those who are willing to listen but also those who have hitherto consistently refused to do so or have been denied access to the facts. It was on the Committee's initiative that, in 1977, the General Assembly requested the Secretary-General of the United Nations to establish within the Secretariat a special unit, now a Division, on Palestinian Rights, which, under the guidance of the Committee and in consultation with it, would prepare and distribute studies on the question of Palestine and organize seminars such as we have here today in order to promote a better understanding of the problem.

It is essential that we must continue our efforts to persuade the public in those areas which have chosen to turn a blind eye to the problem to take an interest in it, to keep an open mind and indeed to look for the facts.

The Committee is convinced also that an objective presentation of the facts will not only lead to a proper understanding of the problem but also make it abundantly clear that it is the intransigence of Israel that has made a just and durable solution to the problem impossible. Israel has continued to defy world public opinion and the numerous resolutions of the United Nations. Over and over again, it has persisted in violating the Fourth Geneva Convention of 12 August 1949 through the establishment of new settlements in the illegally occupied Arab territories, through the harassment of the Arab inhabitants of the occupied territories and through the pursuance of policies clearly intended to lead to annexation. Its decisions to annex Jerusalem and to move its capital to that city, its invasion of Lebanon and the tragic loss of life that that entailed have attracted the condemnation of people all over the world including those who previously had been regarded as Israel's closest friends and supporters.

The international community cannot stand by in silence in the face of such violation of international law and defiance of world public opinion. A solution of the problem of Palestine remains urgent. Absence of action on our part will make us equally guilty of the genocidal and colonial policies being followed by Israel. As a step in the search for such a solution the United Nations is as you are aware organizing the International Conference on the Question of Palestine later this year. It is absolutely essential that every Government participates in that Conference and plays an active role in it. The success of that Conference will be a vital factor in the equation of Palestinian survival. It is our hope that there will be maximum participation at the Conference and that that Conference will be an outstanding success.

Our unceasing and tireless efforts must continue. Our seminars on the question of Palestine are also a step in the same direction. What we do here will constitute a major contribution towards a better understanding of the problem of Palestine by helping to shape world opinion and to draw world attention to the extremely important question of Palestinian rights. In fulfilling the mandate entrusted to us by the General Assembly we are helping to achieve one of the tasks incumbent on us under the Charter of the United Nations, that of ensuring that the fundamental rights of one of the peoples of the world are recognized. Our participation in this seminar marks a further effort to ensure that the Palestinian people can one day enjoy its political and civil rights on its own soil. This is a noble task, and one of which we can all be justifiably proud.

On behalf of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, I should like to take this opportunity to express my gratitude to all of you, who have found time to be with us today, and to those of you who have devoted valuable time to preparing papers which will contribute to the success of this seminar. Thank you.

#### 7. STATEMENT BY H.E. DR. MUHAMMAD H. EL-FARRA, ASSISTANT SECRETARY-GENERAL OF THE LEAGUE OF ARAB STATES

The subject that has drawn us together today is so broad, deep and complex that it would be impossible for me to deal with all its aspects in a totally satisfactory manner. I will, therefore, deal with one aspect of "the question of Palestine" relevant to the Seminar. This may help as a background to our discussion.

The Seminars convened in various parts of the world together with the main Conference that will take place this summer in Paris reflect world awareness of the serious problem the Middle East poses in world affairs today.

With this awareness comes knowledge and with knowledge comes understanding, which is an essential quality to bring to the Middle East scene.

Possibly never before has a political problem so baffled the statesmen of the world as does the Arab-Israeli question.

What to do about it has been before the United Nations General Assembly every year since 1947, and the two sides are farther apart today than when the conflict began with the creation of a Jewish State on the Palestinian land.

I know you scholars, experts and panellists do not want me to take you through the long history of the Palestine problem. Nor even to the details of the last 36 years of dispute; the result of the many conferences convened: the agreements signed and revoked by the other side. To you it is the present that counts.

At the same time there are some points about the past which I would like to make in this Seminar since they have a direct bearing on the present.

As you probably know Arab lands, including Palestine, were part of the Ottoman Empire until the First World War. During that war we fought on the side of the British in order to throw off Turkish domination and earn our freedom. But Arabs were never allowed to take possession of it. They found they had, in fact, merely traded one set of masters for another. Arab Unity was not achieved; self-determination of the Palestinian People was not exercised; promises were broken.

The worst breach of faith was undoubtedly Britain's so called Balfour Declaration of November 1917 which very generously stated that:

"His Majesty's Government views with favour the establishment in Palestine of a national home for the Jewish People."

To the British Government, the Balfour Declaration was undoubtedly a logical part of its divide-and-rule colonial policy.

To the Jews it represented a major victory for the whole concept of Zionism.

To the Arabs it was a complete sell out and obvious betrayal of Britain's commitment to Arab unity and Arab independence which include the inalienable rights of the people of Palestine.

The Balfour Declaration was given by a British gentleman and, as some of our jurists here will show, was null and void and has no legal foundation. Almost immediately after it, Jewish immigration to Palestine began to increase. There were only 24,000 Jews and half a million Palestinians in Palestine in 1888. This figure began rapidly to increase after the First World War. And as their numbers grew, so did Zionist demands and tactics.

Not satisfied with a "national home", they began to lay the groundwork for the establishment of a purely Jewish State in Palestine. Britain's attempt to halt this development were, at best, half-hearted; they reminded the Zionists of a proviso in the Balfour Declaration which maintained that:

"nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish Communities in Palestine."

Jewish immigration to Palestine jumped from 13 percent in 1922 to 19 percent in 1929 and Jewish settlements there developed rapidly. The Zionists said they came to Palestine, "not to hurt and not to wound, but to serve and to enrich, to bless the land and all its people."

This kind of statement sounds a little ironic in the light of present day events.

The end of the Second World War saw a further mass exodus of Jewish refugees to Palestine, then under British mandate. The British were powerless in preventing this immigration. Subsequently, in light of strong American pressure, as particularly voiced by President Truman, it was recommended by the United Nations that both a Jewish and a Palestinian State, be established in Palestine.

This was the partition plan. A Jewish State was recommended against the will of the majority of the people of Palestine, who lived there for time immemorial.

Through wars and expansion Israel occupied all of Palestine with almost two million Palestinians left homeless, deprived of their national inalienable rights.

Foreign elements who came from the four corners of the earth usurped the lands of another people, expelled them and then started singing the song of peace. They ignored and utterly denied the national rights of the people of Palestine and shifted their claims from a "homeland" to a "state" to "secure borders" and meanwhile displacing more Palestinians and confiscating more of their lands and property.

This, in short, is the background of the present Middle East conflict. And what exactly is it the League of Arab States wants to see in Palestine? The answer



is very simple: we want a just and lasting peace there which takes Palestinian rights into account.

No one seeks to drive the Israelis into the sea, as they themselves so incessantly maintain. For centuries Arab and Jew have lived side by side in the Arab homeland, and would have continued to do so had it not been for the Zionist ideals. It is for this reason that we are against the basic concept of Zionism, which creates an exclusively Jewish State on land purloined by force; a "master race" based on a religion, and a militant, expansionist policy, which is implemented in total disregard of the national rights of the Palestinian people.

The United Nations General Assembly, which had proposed the partition of Palestine in the first place, recognized, in 1969, by a large majority, and reaffirmed "the inalienable rights of the people of Palestine". In the following years other resolutions declared that the Assembly "recognized that the people of Palestine are entitled to equal rights and self-determination in accordance with the Charter of the United Nations."

This was rejected by Israel. On the other hand, the Palestinians refuse to accept the Zionist claim that a Jew, because he is a Jew, can oust him and his fellow Palestinians from their lands, deprive them of their inalienable rights – from their lands and homes where they have lived for generations. This, to the Palestinians to the Arabs, and, indeed, to the world at large, is discrimination of the very worst kind. It makes of Israel another South Africa in the Arab homeland.

What brought us together in this gathering is the desire to see peace with justice prevail in the land of peace, the Holy Land. But there can be no peace as long as Israeli leaders continue to gloss over the realities of the Palestinian people - to dismiss the very real problem will not make it go away. There are people; they do exist; they do have rights recognized by the world family of nations. And if they are continually denied them - as they have been for the last 36 years - then there will never be peace in the Middle East.

The people of Palestine are entitled like any other people to exercise their inalienable rights to self-determination. To deprive a people of self-determination by enforcing upon them foreigners is gross injustice that has no place in the United Nations Charter or in International Law. In 1970 the United Nations General Assembly emphasized that "full respect for the inalienable rights of the people of Palestine is an indispensable element in the establishment of a just and lasting peace in the Middle East. "This right is therefore formally and fully recognized by the family of nations. It is common knowledge now that the vast majority of the international community supports the aspirations of the Palestinian people to exercise their natural and inherent rights. This is reflected in the resolutions of the General Assembly of the United Nations which have become stronger every year.

Of course, the Israelis do not want to see the people of Palestine enjoy their natural rights. They say "No State for the Palestinians, no self-determination, no homeland."

Yet, when the problem of Palestine was debated in 1947 in the United Nations the Jews were a minority in Palestine. Dr. Weizman, who became later the first President of Israel, insisted on having a Jewish State for the Jewish minority. He said, and I am quoting from the United Nations records, the following:

"A separate national community could not be forcibly subjected to another people in the name of majority rule."

Weizman insisted that unity could not be imposed without consent. He added:

"Historical and legal considerations were secondary as compared with immediate realities. In Palestine there was a Jewish community of 700,000 people with its own language, its own religion, its own traditions, its own distinctive social outlook, its own scientific, industrial, agricultural and artistic achievements, its own schools and universities. That community was profoundly democratic; it had its own distinctive organization."

He said further:

"It was (the Jewish minority) confronted with another group which had reached a different state of development, which was numerically superior and which had no characteristics in common with the Jewish community. The Assembly had to decide who was to govern that community, and who was to regulate its life."

See 18th Meeting of the Ad Hoc  
Committee on the Palestinian Question  
18 Oct. 1947 P. 124 - 125.

I need not take much of your time explaining the background of the 700,000 Jews who were in Palestine in 1947 when the partition plan was recommended. They are divided into four categories. Only about 55,000 Jews had been settled in Palestine for more than 20 years when the question was brought to the United Nations in 1947. Other category consists of those who had settled in accordance with the Mandatory Immigration Regulations and had become Palestinian citizens. The third category comprised those who had entered legally but had not become citizens. The fourth category consisted of the illegal immigrants. According to British statistics about 250,000 Jews were Palestinian citizens. Most of others Jews entered illegally. It is for this Jewish minority that Dr. Weizman insisted on having a State.

Today most of the 4.5 million Palestinians who lived in Palestine for centuries are scattered in refugee camps, outside their homeland. They call on every peace-loving State to help them to exercise their rights to self-determination. They have their own language, their own religion, their own scientific, industrial, agricultural and artistic achievements, their own schools and universities. Their national right is recognized by the world community. Yet Israel which championed a state for a Jewish minority consisting, as I have shown earlier, of not more than 250,000 Jews in Palestine is denying this right to 4.5 million Palestinians?

Thus the failure to reach a just solution in the last five years was because the people of Palestine have always been set aside and neglected. Today international attitude has changed. The world realized today the need for a just settlement of the Palestine question. Your presence over here reflects this desire. Let me emphasize in this connection that the Big Powers have special responsibility under the United Nations Charter to work for peace and security based on justice and equal rights. Let me emphasize that the United States of America, which has special responsibility for the present tragedy, must realize that, in dealing with the future of a people, the people must be consulted. Their future must be discussed with their representatives. The Palestine Liberation Organization is the sole legitimate representative of the people of Palestine and without its active participation there can be no peace. This is the way to achieve peace. And it is this challenge which this family of nations is facing today.

Thank you.

8. CONTRIBUTION BY M. ZEINALOV, SECRETARY OF THE SOVIET AFRO-ASIAN  
SOLIDARITY COMMITTEE, ON THE ROLE OF PUBLIC (NON-GOVERNMENTAL)  
ORGANIZATIONS IN SUPPORT OF THE UNITED NATIONS EFFORTS TO IMPLEMENT  
THE INALIENABLE RIGHTS OF THE PALESTINIAN PEOPLE

Allow me first of all to convey to you and all the participants in the United Nations International Seminar in Jakarta sincere greetings of the Presidium of the Soviet Afro-Asian Solidarity Committee, wishes of success and fruitful work. I would also like to thank the host country for its warm hospitality. I have the honour to represent an organization that has been coming out for over a quarter of a century on the side of the national liberation movement of the oppressed nations, rendering moral support and humanitarian aid in their struggle against imperialism and colonialism, racism and Zionism. Therefore it is quite natural that a special place in the activity of the Soviet Afro-Asian Solidarity Committee is devoted to the Palestinian problem, to the actions of solidarity with the just struggle of the Arab people of Palestine for the implementation of its inalienable national rights, in support of the insistent United Nations activity in that direction.

Within the framework of the topic of our Seminar and particularly its first panel I would like to submit to your attention a brief retrospective review of the multifarious work of my organization in that field. I must note here that my organization is an integral part of the broad international movement of solidarity of Afro-Asian peoples, which came into being soon after the historical Bandung Conference and whose national organizations are active in many countries. I might begin by saying that the Soviet Afro-Asian Solidarity Committee was the first public and political organization in my country that has established contacts with the Palestine Liberation Organization. These relations date back to the period after the Israeli aggression in June 1967 when the Afro-Asian People's Solidarity Organization (AAPSO) together with the World Peace Council and other non-governmental organizations launched a large-scale international campaign aimed at condemning the Israeli aggression, in support of the Arab peoples.

Contacts between representatives of the Soviet public and the Palestine Liberation Organization were taking place against the background of these events. Soon they were crowned by a remarkable event: in February 1970 at the invitation of the Soviet Afro-Asian Solidarity Committee the Soviet Union was for the first time visited by a delegation of the Palestine Liberation Organization led by the Chairman of the Executive Committee, Mr. Yasser Arafat.

A process was started in establishing and successfully developing ties and co-operation between the Soviet and Palestinian organizations - trade unions,

youth, women's and creative unions.

The Fifth Conference of the Afro-Asian People's Solidarity Organization held in January 1972 in Cairo was a major event in the process of international recognition of the Palestine Liberation Organization as the vanguard of the liberation struggle of the Palestinian people. The Conference adopted a decision on the full-fledged membership of the Palestine Liberation Organization in the Solidarity organization. Thus AAPSO has become the first international non-governmental organization that has granted the full status membership to the Palestine Liberation Organization. Soon afterwards the Palestine Liberation Organization was given a similar status within the framework of the World Peace Council and a number of other non-governmental organizations. The culminating point of the international political and diplomatic recognition of the Palestine Liberation Organization at this stage was the historical decision of the twenty-ninth session of the United Nations General Assembly on the Palestinian issue which confirmed the inalienable national rights of the Palestinian people, while the Palestine Liberation Organization was granted the status of an observer at the United Nations. That was an outstanding moral and political victory of the just Palestinian cause and the principles of the United Nations Charter.

Over the same period another major event in the Soviet-Palestinian relations took place. During the visit in the Union of Soviet Socialist Republics in December 1974, the Palestine Liberation Organization delegation led by Mr. Yasser Arafat reached agreement with the Soviet Government on setting up a Palestine Liberation Organization representative in Moscow. At first he was accredited to the Soviet Afro-Asian Solidarity Committee. But from the very outset the Palestine Liberation Organization representative in Moscow enjoyed all diplomatic privileges and immunity accorded to foreign embassies.

The second half of the 1970s was full of heavy trials for the Palestine Liberation Organization, the Palestinian and the Lebanese peoples, for the just Arab cause. Zionists have provoked a civil war in Lebanon aimed mainly at eliminating the Palestine Liberation Organization. When the failure of this plot became obvious, its initiators undertook another anti-Palestinian and anti-Arab venture - by inspiring the so-called "peace process" in the Middle East. The Camp David process from the outset to the inglorious end was in deep contradiction with international legality, with the well-known United Nations decisions on the question of the Middle East settlement and a solution of the Palestinian problem.

During this period the Soviet public organizations have considerably stepped up their actions of moral and political support of the Palestine Liberation Organization. They regularly, on an annual basis, held mass manifestations devoted to the Palestinian Revolution Day (1 January 1965), the Day of Land (30 March), and the International Day of Solidarity with the Palestinian People (29 November). As a rule, Palestinian delegations are invited to mark these events. The Soviet Committee of Friendship and Solidarity with the Arab People of Palestine was established in our country in 1978 on the eve of the first International Day of Solidarity with the Palestinian People. This Committee consists of prominent representatives of Soviet science, culture and art from various parts of the country and concentrates its efforts on holding several major exhibitions of Palestinian decorative and applied art, concerts of dance groups, etc. Several scientific studies and documentary films were prepared on the Palestinian problem.

It is without exaggeration that one can describe as colossal the activity of the non-governmental organizations in support of the Palestinian people in the period of the Israeli aggression in Lebanon in the summer of 1982. This barbarous war against the Palestinian and the Lebanese peoples unleashed by Israel fully supported by the United States Administration has been the result of the frontal offensive of the bellicose circles of Zionism and imperialism against the forces of the national liberation movement in the Arab world. The Afro-Asian People's Solidarity Organization, the World Peace Council, the international youth, women's, religious organizations and their national detachments in many countries of the globe held mass demonstrations and meetings whose participants strongly denounced the aggression of Israel and the United States stand, voicing their warm solidarity with the heroic Palestinian people and its vanguard, the Palestine Liberation Organization, with the courageous national patriotic forces of Lebanon. All of us are well aware of these actions held in many Asian, European, African, Latin American and other countries.

Thousands of actions in support of the Palestinian and Lebanese peoples took place in the Soviet Union. Millions of their participants have denounced the aggressive criminal alliance of the United States and Israel, they demanded an immediate cessation of the aggression and withdrawal of Israeli troops from Lebanon. The Soviet public organizations have not confined their efforts to the expression of moral support. The Soviet Solidarity Committee and the Soviet Peace Fund alone have sent to the Palestinian Red Crescent Society four transport aircraft with medical supplies, tents, clothing and other primary goods to aid the victims of the aggression. The USSR Youth Organizations Committee organized rest facilities for more than 100 Palestinian and Lebanese children at the pioneer camps. The Red Cross and the Red Crescent Society of the USSR took care of medical treatment for more than 1.00 heavily wounded Palestinian fighters. Fifteen skilled Soviet doctors worked for over two months in the Palestinian hospitals in Syria. They have performed hundreds of successful operations on the heavily wounded Palestinian combatants and civilians. One can continue the number of such humanitarian deeds.

The present day situation in the Middle East is of serious concern for all. Of course, Israel continues its occupation of Lebanon and refuses to withdraw its troops, flagrantly violating resolutions 508 and 509 of the United Nations Security Council. Moreover, consolidating its hold on the occupied territories, Tel Aviv intensifies its provocations against Syria, getting ready for another military adventure.

It was necessary at any cost to make Israel and its patrons respect the just aspirations of the Palestinian and other Arab peoples, the clear-cut demands of the world community of nations expressed in the United Nations decisions.

I would like to conclude my contribution by the following three points:

- Along with the Governments and parliaments of the overwhelming majority of the countries in the world, together with the international and regional governmental organizations, the non-governmental public organizations -national, regional and international - are coming out in support of the United Nations decisions on the Palestinian issue.
- The non-governmental public organizations through their activity have contributed tangibly toward explaining to the broad popular masses of various countries the meaning of the Palestinian problem, to the propaganda of the United Nations resolutions on the Palestinian question.
- The co-ordination and the pooling of efforts of the official governmental and non-governmental public organizations is an important condition of their successful activity for the sake of implementing the inalienable national rights of the Palestinian people.

## 9. PAPERS PRESENTED AT THE SEMINAR

### ASIA AND PALESTINE: JAPANESE EXPERIENCE IN PROMOTING SOLIDARITY

Nobuo Asai

As there are many Muslims in the countries of Asia, many of whom have been sent to work in the Middle East, it can only be supposed that people of the region have strong interests in peace for Palestine and must be doing something useful to promote it.

Unfortunately, we have a problem in promoting solidarity in the search for peace with Middle East, for there is no system through which we can exchange our experience and teach each other how to go about it. This kind of meeting is one golden opportunity to do just that.

For the reason I just mentioned above, it is Japan's experience in seeking peace in Palestine that I would like to speak about as concretely as possible.

I

As for many countries in the world, it was the oil crisis in 1973 that aroused strong Japanese interest in the Middle East situation, and prompted many to undertake a serious study of the question of Palestine for the first time. Japan has been slow in approaching the Middle East - in both the good and the bad sense. Now, various activities began there dealing with the Palestinian question.

On the governmental level, Japan's policy towards Palestine is different from that of the United States and the Europeans, a difference the Japanese Government proudly describes as "more advanced". In fact, although Japan and the United States have much in common in international politics, one of the widest gaps between them is seen on the question of Palestine. Of course, one must add that the independent policy of the Japanese Government is not without its own political and economic calculations.

Shortly after the oil crisis, the Japanese Ambassador in Abu Dhabi had secret contacts with Palestine Liberation Organization (PLO) officials to explore mutual relations. The first result of these contacts was the opening in Tokyo, in February 1977, of a Palestine Liberation Organization Information office, which nominally had the status of a foreign business office. In substance, however, it began to enjoy de facto diplomatic status. For instance, Fathi Abdel Hamed, the Palestine Liberation Organization office chief, has been provided with appropriate security precautions by the Japanese Government since the opening of the office.

Then came the birth of the Parliamentary League for Japan-Palestine Friendship, on a bipartisan basis, with the former Foreign Minister, Toshio Kimura, as its president. There are two vice-presidents, Mr. Michuyuki Isurugi, a Liberal-Democrat and Mr. Tetsu Uyeda, a Socialist. The Secretary-General is Mrs. Toshiko

Yamaguchi, a Liberal-Democrat. The board is composed of Parliament members of all the political parties. At the moment, the League has 92 registered members.

In March 1981, four years after its opening, the Palestine Liberation Organization office was allowed to hoist the Palestinian flag.

In October of the same year, Palestine Liberation Organization Chairman Yasser Arafat came to Japan, invited by the Parliamentary League, and met the then Prime Minister Zenko Suzuki, in the Parliament building. (It should be noted that he was invited by the Parliamentary League, not by the Government, and met Suzuki in the Parliament building, not in the Prime Minister's office.) From this episode, we can guess that both sides managed to overcome some procedural difficulties.

In May last year, the speaker of the Palestinian National Council, Khaled Fahoum, came to Japan. Last March, Mohammed Milhem, the ex-mayor of Halhoul on the West Bank, from which he had been expelled by Israel, was invited to Japan by the Foreign Ministry. The Palestine Liberation Organization office chief, Fathi Abdel Hamed, has met the Japanese Foreign Ministry twice, as a member of the Arab diplomatic corps. And he was finally invited to the Emperor's birthday party, sponsored by Foreign Minister Shintaro Abe, on 29 April of this year. This was a very symbolic event for the status of the Palestine Liberation Organization in Japan. At the party, he was assigned a seat in the area reserved for foreign diplomats. No official statement from the Government has mentioned the change in the Palestine Liberation Organization status, but it has clearly gained more and more diplomatic privileges as its status has changed slowly and steadily.

The Foreign Minister never says that the Palestine Liberation Organization is the sole and legitimate representative of the Palestinian people, as the Arab Summit calls it, but uses the expression, "PLO represents Palestinians".

Last September, a few days after the Reagan Peace Plan was announced, the Japanese Government made it clear that it supported Palestinian rights of self-determination, including the right of establishing an independent State and that it also supported the "participation" of the Palestinian Liberation Organization in the peace process. It is known that what Europeans support is merely Palestinian Liberation Organization's "involvement" in the peace process.

## II

As for non-governmental activities, in November 1977, a symposium "to study and think about the question of Palestine" was held in Yokohama, in the suburbs of Tokyo. This was the first meeting of this kind in Japan. The idea was initiated by a scholar of modern Middle Eastern history, and some ten prominent figures accepted to be the convenors. I was a member of the organizing committee. Scholars, journalists and politicians from all over Japan joined the symposium for three days and worked as panellists, commentators, moderators and so on. I might add that they were all volunteers, paying for their own travel and accommodation. The symposium itself was financially supported by donations from individuals and companies without strings. The City of Yokohama provided its splendid international conference hall, free of charge, with a few city officials helping us.

More than 600 people were counted in the audience seats, many of them being school teachers and students. The topics ranged from the historical roots of the Palestinian question to current matters like settlements, definition of borders and terrorism.

The speakers spoke in their individual capacity, not representing any organizations. The symposium was reported by some foreign news agencies outside Japan, but almost ignored in the Japanese mass media.

Another major symposium was held in Tokyo in November 1982. Its purpose was "to study and think about Palestine, the Arabs and the Middle East".

There were three sessions: first "The Palestine image in Japan"; second "Life and culture of Palestine"; lastly "The Jewish image in Japan". The discussion was conducted in terms of education and of history.

When Israel invaded Lebanon last summer, a very active group was organized in Tokyo. Its name is "The Citizens League Seeking for Peace in the Middle East". Its organizing committee is composed of researchers, artists, peace activists and journalists. Emphasis is given to action in the streets as well as educational activities.

The League published a book entitled "What is the question of Palestine" which is selling well, reflecting a high degree of popular interest in the question. The League also has collected more than 8,000 signatures on four appeals, one of which against "the position that the elimination of the PLO is the way to the solution of the Middle East crisis". The appeals with the collected signatures were handed over to the embassies of Israel and United States of America in Tokyo. The League tried to send them to the United Nations, too, but gave up the idea, possible because considering the moderate United Nations influence in international politics, the members recognized there was no use in doing it.

It succeeded in raising a fund of US\$25,000 and presented it to the Palestinian Red Crescent Hospital. It publishes a newsletter regularly and sponsors lecture meetings and teach-ins in various parts of Japan.

Last March, an ambitious international gathering was arranged in Tokyo, the International People's Tribunal on the Israeli invasion of Lebanon, to which about 30 foreign representatives were invited - lawyers, politicians, researchers and artists from the Middle East, Asia, Latin America, the United States and the Soviet Union. Each of them played a role as a witness, as a member of the jury and as an adviser.

The Tribunal was organized on principles of various human rights declarations, including the United Nations Charter. The main aim of the Tribunal was not to judge Israeli action, but to study how the invasion was carried out, whether or not there was any violation of Palestinian rights of self-determination. In short, it tried to clarify the mechanism and process through which human rights were violated.

Nearly 100 volunteers co-operated in arranging the Tribunal and raised a fund of US\$50,000. The event was widely covered in the Japanese press.

## III

There is Japanese interest in another field concerning Palestinian rights: the work of re-evaluating the Palestinian cultural heritage. Artists keep in touch with Palestinian artists and writers with Palestinian writers. Some are working to produce Japanese versions of Palestinian films.

One Palestinian fairy tale was translated into Japanese and recently published as a children's book. The story is by an unknown Arab and the illustrations by an Egyptian artist. The title is *The Fish Swims*. Although it contains not a single word of Palestine, those who have knowledge of the question can readily understand the aspirations of Palestinians by reading it. Even to those who, like most young children, know nothing at all of Palestine, it conveys the real meaning of human life and what it means to be alive. It is a very short little book, but it has aroused deep sympathy among ordinary Japanese.

Another fascinating recent publication is a book of photographs of Palestinian national dress, with the title *Costume Dyed by the Sun*. According to a Palestinian, this kind of work has never been done by Palestinians.

In order to preserve the Palestinian cultural heritage, there is the International Association for the Safeguarding and Enhancement of the Palestinian Cultural Heritage, whose steering committee has a Japanese member. I am told that the Association is organizing national committees in as many countries as possible in the world.

This is a brief outline of what Japanese have done for the exercise of the inalienable rights of the Palestinian people. One thing I should perhaps emphasize is that the official policy of Japan on the Palestinian question has been shaped mostly on the basis of political and economic considerations, while non-governmental activities are based on principles of justice, humanity and peace. At this moment, both are encouraging and influencing each other in a fairer handling of the Palestinian question and promoting peace in Palestine.

At the first symposium in 1977 I mentioned earlier, one of the panellists said "In the Japanese understanding of history, the Palestinian question is almost nothing. The Palestinian question is beyond the common sense of the Japanese people". In the five years since that time, the situation has greatly changed. In view of Japan's experience, I am quite sure that one of the most urgent tasks before us is to expunge and correct the wrong and distorted image of Palestine and Palestinians, an aim in support of which I would like to point out the United Nations can play an important role in two fields.

Firstly, it is in the field of communications. In Japan as well as in other countries, the Palestinian image is built and shaped by the mass media. The mass media in Japan depend very much on the Western media. I can recognize that the unfriendly relationship between the United States and the Palestinian people has had an unfavourable effect on Japanese news reporting of the Palestinian question.

We have to encourage UNESCO to accelerate its efforts to establish a new order in international communications. Of course, this takes much time. Therefore, we are required to make other efforts at the same time.

It seems preferable that the United Nations establish a new system to gather and pool information on all the activities in the world concerning the question we are focusing on now and provide it to anybody for use in similar activities.

Second is the field of education of history, including the work of rewriting school textbooks.

Reading through a few textbooks of history, we easily find that many descriptions on Middle East adopt the European point of view, which unfairly ignores the Palestinian role in history and its culture and traditions.

Rewriting textbooks is a very sensitive work, as the Japanese have recently experienced, and still are, so it should be approached cautiously.

I know that Palestinian historians are now rewriting their own history and the history of the world. It is important for us to read various kinds of histories and to compare them. Not everybody has this opportunity, and this is something the United Nations may well help to provide.

## ZIONISM, PALESTINE AND PEACE

Saeeduddin Ahmad Dar

The conquest of Palestine by the Romans led to the dispersion of the Jews throughout the world. Nevertheless, some Jews continued to live in Palestine, their number fluctuating in proportion to the degree of toleration extended to them by the rulers. This situation offered little hope to any visionary who thought in terms of political rather than spiritual return of the Jews to Palestine. However, it always remained the ideal of religious Jews to die and get buried in Palestine. Thus the idea of immigration remained confined to the realm of melancholy poetry until the emergence of Zionism towards the end of the nineteenth century. Zionism was the product of anti-Semitic policies of the European States. Originating in Germany, it was nourished in Russia and flourished in France. Theodor Herzl transformed it into an ideology and started a movement for its achievement. His objectives were more political than religious. In 1896 he wrote in Der Juden Staat (The Jewish State): 1/

"The idea which I have developed in this pamphlet ... is the restoration of Jewish State ... let the sovereignty be granted to us over a portion of the globe large enough to satisfy the rightful requirements of a nation, the rest we shall manage ourselves."

The first Zionist Congress organized at Basle, Switzerland, on 29 August, 1897 styled itself as the "Jewish Nation" and declared that the goal of Zionism was to "create for the Jewish people a home in Palestine". 2/ Five years later in 1902, a Zionist delegation, led by Herzl, waited on Sultan Abdul Hameed, the ruler of Turkey, pleading permission for the Jews to settle in Palestine and as a bait offered to pay off Turkey's foreign debts. The Sultan turned down the offer. 3/ The First World War provided the Zionists an opportunity to give practical shape to their long cherished dream. Dr. Chaim Weizmann, who had succeeded Herzl as the head of the Zionist movement, came to the conclusion that the British could prove a reliable and strong ally of the Zionists in the achievement of their goal. He devised a tactful strategy and won over Sir Mark Sykes, Chief of the British War Cabinet, who, in turn, convinced the British Cabinet of Dr. Weizmann's proposals. The British Cabinet was not only "sympathetic towards the Palestinian aspirations of the Jews" but was prepared to see "their aspirations realized." 4/ The result of the secret dealings was the Balfour Declaration, in which the British Government promised to "use their best endeavours to facilitate" the establishment of "a home for the Jewish people" in Palestine. 5/ From the beginning a "national home" for the Zionists meant a "Jewish State." Commenting on the Basle declaration Herzl had remarked:

"No need to worry (about the phraseology). The people will read it as Jewish State." 6/ Commenting on the Balfour Declaration, Lord Curzon observed: "He (Dr. Weizmann) contemplates a Jewish State .. ruled by Jews, in possession of the land and directing the administration" 7/

The Balfour Declaration, the first important success of the Zionists, established an unhealthy practice that in Palestine anything which suited the Zionist, whether it was legal or illegal, moral or immoral, was fair. The British Government had no right to make any commitment to the Zionists regarding a land which was still a part of the Ottoman Empire. No one bothered that the Declaration ignored and violated the interests and rights of the native Palestinians.

The first step towards the establishment of a Zionist State in Palestine was the large-scale immigration of the Jews from Europe and systematic programmes of acquiring land for the settlers by fair or foul means. Immigration accelerated after the Balfour Declaration. In late 1922 when the British mandate came into effect officially, the Jews constituted 10 per cent of the total population of 750,000 in Palestine. The actual ratio was even less. During 1920 to 1929 about 100,000 "immigrants" arrived mainly from Europe, raising the Jewish population from 10 to 17 per cent. During the same period the Jewish land holdings doubled, the ratio rising from about 2.5 to 5 per cent of the total land area of Palestine. Between 1930 and 1939, over 230,000 "immigrants" entered Palestine and the Jews now composed almost 30 per cent of the total population. 8/ By 1947, the number of Jews rose to 600,000 while the Arabs numbered 1,200,000. 9/ Similarly, by the end of 1939 Jewish holdings of land had risen to almost 1.5 million dunums compared to the 50,000 of the total area of 26 million dunums held at the start of the Mandate. 10/ The Zionists achieved all this under the screen and shelter provided by the British mandate.

The Zionists now embarked upon the next phase of their plan. They gained confidence by large-scale immigration, well equipped force, with the Jewish Brigade providing the nucleus, and powerful foreign support. They found themselves very close to their long-standing objective - a Jewish State in Palestine. In May 1942, the "Jewish Executive", meeting in New York, formally made public what is known as the "Biltmore Programme." It demanded that "Palestine be established as a Jewish Commonwealth integrated in the structure of the new democratic world". The Zionists established "a virtual non-territorial State with its own executive and legislative organs, parallel in many respects to the Mandatory Administration, and serving as the concrete symbol of the Jewish National Home". 12/ The United Nations was used to give legitimacy to this illegitimate State within a State."

The United Nations took up the question of Palestine in February 1947 on the request of Britain. The first special session of the United Nations General assembly was held on 2 April, 1947, and the decision to partition Palestine was approved on 29 November, 1947. The promptness of the United Nations action was unprecedented. Britain ended unilaterally the mandate on 14 May, 1948. That very day the Zionists proclaimed the establishment of the State of Israel. Their forces moved to occupy more territory than that specified by the Partition resolution. In May 1948, in compliance with the Arab League's resolution, the forces of the neighbouring Arab States declared war on Israel, but were defeated. As a result of the war, Israel occupied 77.4 per cent of the Area of Palestine instead of 56.47 per cent given by the United Nations. With the exception of the "West Bank, Gaza Strip and East Jerusalem, Israel now controlled virtually the entire territory claimed by the Zionist movement at the Peace Conference in 1919 as the "Jewish national home." The Security Council ordered a ceasefire on 29 May 1948, by this time Israel had consolidated its occupations.

The State of Israel, for the Zionists, was meant to serve as a foot-hold for further expansions. Their leaders made it clear in their writings and pronouncements. Their expansionist designs were never unclear or vague. For them the State of Israel is simply a springboard to realize their dream of "Greater Israel", which would include the Nile delta region of Egypt, the northern part of Saudi Arabia including Medina-tul-Munawara, the whole of Jordan, Syria and Lebanon, the southern regions of Turkey and the greater part of Iraq. 14/ Ben Gurion asserted that the "establishment of a new State was never the fulfilment of Zionism and that the movement was more necessary now than ever." He warned that "there will be no peace for the people of Israel or for Israel itself or for the Arabs so long as we are unable to liberate our entire homeland, notwithstanding the signing of a peace treaty." 15/ Dr. Arye Alkman, leader of the Labour Party, said on 13 March, 1952: 16/ "The Greater Israel which extends from Iraq up to Suez is the only powerful State which can ensure peace and stability in the Middle East internally and externally." The motto adopted by the Jewish parliament: "Your boundaries: Eretz Israel, extend from Euphrates to the Nile" needs no comment. In 1956, in collaboration with Britain and France, Israel made an unsuccessful attempt to extend its frontiers. However, in 1967, armed with the most modern weapons supplied by the West, Israel in a pre-emptive attack on Egypt, Syria and Jordan was able to occupy an area of 24,000 square miles as compared to 800 square miles conquered in 1948. The Arabs lost the West Bank, Gaza, Sinai and the Golan Heights. Since then Israel has become increasingly intransigent in its dealings with the Arabs. It has annexed Jerusalem and declared it as its capital. What was once the spiritual centre of the followers of the three major religions - Islam, Christianity and Judaism - has become nothing more than the political centre of an ambitious, militant and aggressive expansionist State. Israel has embarked upon a series of measures aimed at transforming the geographical and cultural features in the occupied territories. The Israeli decision to set up Jewish settlements on the West Bank has far-reaching political implications. According to Elias Freij, the Mayor of Bethlehem, Israelis already hold 60 per cent of the land on the West Bank and have confiscated about 80 per cent of the area around Bethlehem. 17/ About 15,000 Jews have settled in more than 100 settlements. By the middle of 1983, 6,000 new housing units will be completed and 35,000 Israelis are expected to move to the West Bank. Israeli officials expect this number to reach 100,000 by 1987, if not sooner, and talk proudly of the year 2010, when, they say, the West Bank will contain 1.4 million Jews alongside 1.6 million Arabs. 18/ When in September 1982 President Reagan offered a peace plan and called on Israel to stop the construction of settlements on the West Bank, Menachem Begin angrily rejected the Plan, claiming once again that the West Bank, which he refers to by the biblical names of Judea and Samaria, belongs to the Jewish people for ever. 19/ To ensure Israeli control over the West Bank, he expedited the building programme. If the Israelis succeed in settling 100,000 Jews in the occupied territories, as they plan to do, all chances for a peaceful settlement of the Palestine problem will be finished. No Israeli Government, regardless of its political leaning, would be able to ask 100,000 of its citizens to leave the places where they live.

Limited Arab successes in 1973 opened the door for negotiations. Attempts were made to hold a Conference under the auspices of the United Nations; Dr. Kissinger's 'step by step' diplomacy resulted in the signing of Sinai Agreements; Israel, Egypt and the United States signed the Camp David Accords; President Reagan presented his plan and the Arabs came out with the Fez Plan. The Palestine Liberation Organization also softened its attitude. In 1974 it made a basic change in its original stand. Instead of a secular democratic State in the whole of Palestine where both Arabs and Jews, with roots preceding the Zionist invasion, would participate in the political process, the PLO now aimed at the establishment of a national authority in any part of Israeli-occupied Palestine that could be liberated. By 1977, the Palestine Liberation Organization made its stand more explicit. It called for the establishment of an independent State of Palestine in the occupied West Bank, East Jerusalem and Gaza. By June 1982, the Palestine Liberation Organization was ready to accept the partition of the historic Palestine (the territory West of the River Jordan) along lines envisaged in United Nations resolution 242 of 1967. 20/ However, the attempts at finding a negotiated settlement failed. There were two major reasons for this failure:

(a) Both Israel and the United States refused to recognize the Palestine Liberation Organization as the spokesman of the Palestinian people. While Israel considered the Palestine Liberation Organization as the main obstacle in its ambition to annex the West Bank and Gaza the United States Government felt constrained by a secret agreement concluded by the Secretary of State, Dr. Kissinger, with Israel pledging that the United States would not negotiate with the PLO before it recognized Israel. <sup>21/</sup>

(b) The Camp David Accords as well as the Reagan Plan fell short of the basic right of the Palestinian people - the right of self-determination and the establishment of an independent Palestinian State consisting of Gaza, the West Bank and East Jerusalem. Meanwhile two significant developments took place. First, Egypt signed a peace treaty with Israel, which transformed the entire situation. The Arabs fell apart and the Palestine Liberation Organization on its own was unable to carry out a meaningful struggle. Secondly, Begin was re-elected in the June 1981 elections. The second Begin Government, which is without a doubt the most hawkish Government in Israel's history, <sup>22/</sup> decided to liquidate the Palestine Liberation Organization and fulfil the dream of 'Eretz Yisrael' (Great Israel). The Israeli invasion of Lebanon was the logical outcome of this aspiration. The initial Israeli war aim was to "clear" a 25-mile zone in south Lebanon so as to stop the alleged Palestine Liberation Organization shelling of areas in north Israel. Within a few days, as Israeli forces moved rapidly north to lay siege to Beirut, Israel's stated war aims were expanded to include the eviction from Lebanon of the military presence and the political headquarters of the Palestine Liberation Organization. The physical removal of the Palestine Liberation Organization apparatus was seen as a means to a larger end. That end was the destruction of the organized Palestinian movement. With a fragmented and dispersed Palestine Liberation Organization, Israeli leaders foresaw the Palestinian population of the West Bank and Gaza - deprived of outside moral support - coming to accept permanent Israeli control there, in a situation in which much of the Palestinian population could be induced or gradually coerced to migrate across the Jordan River into Jordan. In short, the most important Israeli objective was to resolve the Palestinian problem once and for all, by making the remaining Palestinians merely an ethnic minority within an enlarged Israel and ultimately by transforming Jordan into a Republic of Palestine. <sup>23/</sup> Israeli Foreign Minister Yitzhak Shamir stated frankly that the only Palestinian "homeland" was to be Jordan. <sup>24/</sup> This is the Israeli way of settling the Palestine problem.

Now Israel is refusing to withdraw from Lebanon. There are serious possibilities that fighting might resume. The Palestine problem has spilled over to the neighbouring countries. Israel has become a threat to the peace in the region. In 1967 the victims were Egypt, Jordan and Syria; in 1981 Iraq, and in 1982 Israel openly violated the sovereignty and territorial integrity of Lebanon. The human costs of the war in Lebanon to the Palestinians will probably never be known. Palestinian sources assert the death toll in the Sabra and Shatila massacres was at least 4,000. The overall death toll from the summer of 1982 ranges from the figures of 17, 850 compiled by the Lebanese authorities to an estimate of at least 30,000 offered by the Palestinian sources. According to medical personnel the overwhelming majority of the dead were civilians. <sup>25/</sup> Israel has become a menace to the peace. There cannot be peace in the Middle East, and there will always be a danger of its repercussions on other parts of the world as long as "the inalienable rights of self-determination, independence and national sovereignty" are denied to the people of Palestine. No effort to bring peace can succeed which does not resolve the root cause of the problem. The essential ingredients of a just peace plan, as laid down in the Fez peace plan, must include the complete withdrawal of Israel from all the occupied territories, restoration of Arab sovereignty over Jerusalem and the establishment of a independent State of Palestine consisting of the West Bank, Gaza and East Jerusalem.

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## ASIA AND PALESTINE: MEASURES TO PROMOTE SOLIDARITY AND MUTUAL SUPPORT IN THE SEARCH FOR PEACE

Mr. Hardi

### I. INTRODUCTION

The topic of this seminar viz. "Asia and Palestine, measures to promote solidarity, and mutual support in the search for peace" reminds me of the Final Communiqué of the Asian and African Conference in Bandung on 24 April 1955, since this document contains one paragraph which reads as follows:

"In view of the existing tension in the Middle East, caused by the situation in Palestine and of the danger of that tension to world peace, the Asian-African Conference declared its support of the rights of the Arab people of Palestine and called for the implementation of the United Nations resolution in Palestine and the achievement of the peaceful settlement of the Palestine question".

By reminding this Seminar of the above mentioned resolution, I also want to emphasize that the early support of the Bandung Conference for the rights of the Palestinian people was based on its mission to uphold the fundamental and universal principles and to express:

- its full support of the fundamental principles of human rights;
- its full support of the principles of self-determination of peoples and nations;
- its support of the cause of freedom and independence for all people, since colonialism in all its manifestations is considered an evil which should be speedily brought to an end.

Besides upholding the above mentioned fundamental principles, efforts to intensify solidarity and mutual support in the search for peace are also pressing, not only in connection with the tense international situation, but also because of all the evils of Israeli malpractices violating the United Nations resolutions as mentioned below.

Notwithstanding the existence of the United Nations General Assembly resolution 181 (II) of 29 November 1947, in which are reaffirmed the inalienable rights of the Palestinian people in Palestine, including the right to self-determination without external interference and to national independence and sovereignty and the right to establish its own independent State, up to now, the Palestinians have not been allowed to establish their own independent State.

On the other hand, only 16 minutes after the announcement of the proclamation of Israel's independence on 14 May 1948, the new State enjoyed the recognition of President Truman.

Israel was admitted to the United Nations on 11 May 1949 and exchanged diplomatic representatives with a number of States, including the United Kingdom, the United States and the USSR. The latter broke off its diplomatic relations with Israel on 10 June 1967.

It is clear that such is an injustice towards the Palestinian people.

Since its proclamation, Israel's habitually aggressive, expansionist, colonialist and terrorist policies in the region have given a terrible shock to the whole world, especially to the peoples of Asia.

- (a) Its aggressive and expansionist policy will be obvious, if one compares the draft map of the Israeli State as it was planned by the United Nations Special Committee on Palestine and the one showing the present territories occupied by the Israeli armed forces. To be short but to the point, the so-called Israeli State now comprises an area approximately four times bigger than the area in the original draft map of the Special Committee;
- (b) Besides its continued occupation of Palestinian and other Arab territories, e.g. the Syrian Golan Heights, West Jerusalem, etc., Israel has also established settlements on every spot considered to be strategic for its territorial consolidation;
- (c) Israeli armed forces not only committed acts of repression against the Palestinian people, but also acts of terrorism like the cruelties in Beit Yassin perpetrated by the Irgun forces, led by Menachem Begin himself. 1/ It happened not long ago, that Israeli armed forces invaded Lebanese territories and perpetrated acts of genocide against the Palestinian people in the Sabra and Shatila camps and caused destruction in this country;
- (d) Since its occupation of the Arab Palestinian territories, Israel has made changes affecting political, cultural, religious, demographic, physical, geographical and other features in those territories.

## II. ISRAELI POLICIES EXACERBATE TENSIONS

If one analyses the root of all the trouble in the Middle East, one will come to the conclusion that the catastrophe in the Middle East has been caused by Israeli policies and their objectives which have aggravated tensions, obstructed all serious efforts for a comprehensive solution and are contradictory to the objectives of the Charter of the United Nations which every Member State is obliged to observe. As a proof of the foregoing conclusion one may consider the last tragic developments in Lebanon and the occupied territories, which have added a worse dimension to the situation. Israel has long engaged in the practice of forcing one crisis after another upon the international community, of keeping it off-balance and thereby of forcing the United Nations to deal constantly with immediate outbreaks of violence.

## III. ISRAELI CHALLENGE TO THE UNITED NATIONS

The General Assembly, in resumed emergency special sessions, and the Security Council have held virtually continual deliberations in their efforts to prevent new outbreaks of Israeli aggression, expansion and implementation of policies which fundamentally alter the legal status of the occupied territories. However, the resolutions of the United Nations have been defied by Israel in its utter disregard of the wishes of the international community and of the moral authority of the United Nations.

Based on the foregoing, the undeniable reality is that the region has undergone a drastic deterioration which has created even more difficult circumstances, thereby distancing the United Nations further from the ultimate goal of a just and lasting peace in the Middle East.

It is important to stress that the Israeli invasion and continued occupation of Lebanon, its annexation of the Golan Heights and the declaration of Jerusalem as its capital, as well as its imposition of civilian rule in other occupied territories and intensified oppression of the Arab population, do not in any way alter the basic principles for a comprehensive settlement.

Alas, the only obstacle to the realization of the conditions for a just and lasting peace remains Israeli obstinacy.

## IV. PRINCIPLES TO BE UPHOLD IN THE SEARCH FOR PEACE IN THE MIDDLE EAST

If we study the world map, it will be clear that Asia is inextricably dovetailed with the rest of the world. Because Asia is closely linked with the Middle East, problems of the Palestinian people automatically involve Asia.

Based on geopolitical considerations, solidarity between Asia and Palestine is a conditio sine qua non. Solidarity has been cemented a long time ago because we have the same objectives viz. the struggle against colonialism and racism, and because of the common desire to bring about peace.

We are all aware that Asia does not possess the necessary power for its hard mission in the struggle against colonialism, racism, and in the efforts to bring about peace.

In view of the foregoing, I would like to refer to the speech by President Sukarno at the opening of the Asian-African Conference in Bandung in 1955, which reads as follows:

"What can we do? The people of Asia and Africa wield little physical power. Even their economic strength is dispersed and slight. We cannot indulge in power politics. What can we do? We can do much!

"We can inject the voice of reason into world affairs. We can mobilize all the spiritual, all the moral, all the political strength of Asia and Africa on the side of peace."

While keeping up the foregoing idealism, in practice we are also aware that no State can accomplish everything it wishes in its foreign policy. The means of policy are sharply limited, both in logic and in fact. So, in the efforts to find the measures to promote solidarity and mutual support in the search for peace, Asia must possess a system of priorities that governs its policy choices.

First of all, there are some basic principles to be upheld in trying to achieve the ends of the Asian policy.

(a) The core of the Arab-Israeli conflict is the Zionist occupation of Palestine and the usurpation and denial of the inalienable rights of the Palestinian people for the liberation of their homeland and the recovery of their inalienable national rights. This means that a just solution of the problem of Palestine and a durable peace in the Middle East can only be established through a total and unconditional withdrawal of Israeli forces from all Palestinian and other Arab territories occupied by them since 1967;

(b) The Palestine Liberation Organization is the sole legitimate representative of the Palestinian people and the Palestine Liberation Organization has the right to participate, on an independent and equal footing, in all endeavours, international conferences, activities and international bodies, organs and agencies on the basis of resolutions of the United Nations relevant to the question of Palestine with the view to ensuring attainment and exercise of the inalienable rights of the Palestinian people in Palestine.

## V. THE SEARCH FOR PEACE IN THE MIDDLE EAST

In his report of 12 October 1982, the Secretary-General of the United Nations stated that "the Palestinian problem and the Israeli-Arab conflict in the Middle East, have been a major concern of the United Nations for 35 years. The past 35 years have seen a long series of efforts to resolve that conflict by peaceful means, many of which have been undertaken under United Nations auspices. Instead of general peace, there has been in the Middle East a succession of cease-fires."

In that context it is gladdening to hear about the efforts made by the United Nations Committee to bring about the exercise of the inalienable rights of the Palestinian people in the search for a just solution to the question of Palestine, especially the measures to organize an International Conference on the Question of Palestine, to be held in Paris in August 1983. I personally do hope that such a Conference will make a positive contribution to the realization of the exercise of the inalienable rights of the Palestinian people.

In order to contribute to the success of the International Conference concerned, it is advisable that high-ranking representatives of Asia take an active part in the International Conference and in the regional preparatory meetings.

In order to meet the aspiration of all parties concerned, I want to stress the opinion of the Secretary-General of the United Nations that a settlement must meet the following conditions:

- the withdrawal of the Israeli forces from occupied territories, which now must include those in Lebanon;
- respect for an acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries, free from threats or acts of force; and, lastly,
- a just settlement of the Palestinian problem, based on the recognition of the legitimate rights of the Palestinian people, including the right to self-determination. In this context, the question of Jerusalem also remains of primary importance.

We are all aware of the formidable difficulties which form obstructions in the search for peace in the Middle East.

Up until now the prospect of peace in the Middle East has given reason for pessimism, although some peace proposals have been submitted by some influential leaders after the failure of the Camp David agreement between Egypt and Israel. It is quite possible that within two or three years the situation in the Middle East will not change at all.

All peace proposals will fall to the ground, as long as Israel maintains its present position.

The situation of conflict will continue as long as support is still given by the United States of America to the Israeli entity in all fields, especially the military and political which, in fact, should be considered a "strategic alliance".

Meanwhile, within the next two or three years, the Arab countries will not be able to reach a consensus of opinion about concrete measures to be applied to solve their conflict with Israel.

Since the Arab countries are not able to establish a united front among themselves, their position is not strong enough to meet the challenge.

One factor which is still considered a big obstacle from the side of the Arab countries in creating peace in the Middle East is their reluctance to recognize the

existence of Israel.

Besides, the conflicting parties continues to be divided by extreme distrust and fear.

Because of such a psychological handicap, it will be very difficult to expect that the parties concerned will achieve concessions and make adjustments without which no compromise is possible.

Based on the foregoing, I do suggest that Asia should mobilize the moral strength to appeal to the Governments and leaders concerned, to apply special measures to create understanding and feelings of compassion to solve the problems.

In the efforts to create understanding and consensus of opinion amongst the conflicting parties, Asia could also mobilize the disinterested support of all Governments that are in a position to help, particularly the big Powers. Recalling the ideals of Dr. Sukarno, I am convinced that Asia should and could play a constructive role in this respect, both in the peace-making process and the peace-keeping efforts, which would be essential to promote an atmosphere conducive to negotiations.

Some influential personalities and some Governments have submitted peace proposals, e.g. the peace proposal of King Fahd in September 1981, the peace proposal of the Arab League, the Reagan peace proposals and the peace proposal of Brezhnev which all were submitted in September 1982.

While the tragedy in Lebanon can never be justified, it has led to a heightened sense of urgency and realism. In this regard, it is gladdening to note the initiative of some members of the United Nations, which reflects a new orientation and a greater willingness to view the realities in the region and to co-operate with the international community.

In connection with the foregoing, I want to stress the importance of the Arab Peace Plan as proclaimed at the twelfth Arab Summit Conference held at Fez, Morocco. The last Conference of the Non-Aligned Countries in New Delhi emphasized that this Arab Peace Plan constitutes a framework for establishing a just and durable peace in the Middle East.

Realizing that many Asian nations were represented in the Conference of the Non-Aligned Countries, I may conclude that the above-mentioned resolution is also a manifestation of Asian support in the search for peace in the Middle East.

Besides, being convinced that the peace plan of Fez is a momentum in the search for peace, I do hope that the Fez peace plan may become the right measure to have a just solution of the problem of Palestine on the basis of the attainment and exercise in Palestine of the inalienable rights of the Palestinian people.

#### VI. MEASURES TO PROMOTE SOLIDARITY

As has been mentioned before, when I was referring to the Bandung Conference in 1955, the solidarity of Asia for the struggle of the Palestinian people is based on its mission to uphold the fundamental and universal principles of human rights, self-determination, its support of the cause of freedom and independence, etc. Therefore mutual solidarity has been manifested on many occasions:

- (a) Sincere support of Asia towards the struggle of the Palestinian people has been given in the United Nations sessions, in the conferences of Non-Aligned Countries, in the Islamic Conference, etc.
- (b) Most of the Asian countries do not have diplomatic relations with, or are reluctant to open diplomatic relations with Israel.
- (c) Most of the Asian countries exclude Israel in many fields viz. in the field of trade, shipping, sport, etc.
- (d) In many formal conferences, delegations of Asian countries without any hesitation condemn all malpractices committed by Israel.
- (e) In formal conferences Asia affirms its full solidarity for the Palestine Liberation Organization.

Up until now, the Palestine Liberation Organization has been admitted as Permanent Observer to the United Nations.

It would give greater effect in the context of the struggle, if the Palestine Liberation Organization could participate in the United Nations regional commissions, for example in the Economic Commission for Western Asia.

The efforts made by the United Nations Committee on the Exercise of the Inalienable Rights of the Palestinian People were appreciated by the last Non-Aligned Conference.

In order to intensify mutual solidarity, I find it advisable for the Committee to set up centres of information in the big cities in Asia. Such information centres will be qualified to give the right information about the aspirations, the struggle of the Palestinian people and the situation in the Middle East to the people of Asia. A good relationship between such information centres and the local press may be the right way of giving the best information to the peoples of Asia, so that mutual solidarity will be rooted in the mind of the people.

Inevitably, the fundamental problem of international peace and security brings us back to the United Nations. Although palpably powerless in the main sphere of influence of the super-Powers, the United Nations has become an indispensable agent for maintaining peace in the Middle East.

We all do hope that the United Nations and especially the Security Council will be able to play a constructive role in the question of the conflict in the Middle East.

#### ASIA AND PALESTINE: MEASURES TO PROMOTE SOLIDARITY AND MUTUAL SUPPORT IN THE SEARCH FOR PEACE K.P. Saksena

While initiating a discussion on such a theme as noted above, in the context of the inalienable rights of the Palestinian people, one is, to begin with, confronted with some pertinent questions: To what extent, are the quest for peace and realization of the legitimate aspirations of the Palestinian people dependent on measures to promote solidarity and mutual support in Asia? Where is it that the crux of the problem lies, in Asia or elsewhere?

It is true that the problem has its physical existence in a part of the soil of Asia and that a crime against humanity is being perpetuated here and, therefore, the Asians have to bear the burden and a major share of responsibility. But the germs which led to the tragic situation were bred, nurtured and are being fed today by elements outside Asia. The problem has acquired global dimensions and such a cross current of economic/military and political pressures as are not found in any other conflict situations. None the less, the fact remains that Asian solidarity (which in more practical terms implies solidarity among Arab States), on the question, could make a vital difference and that hitherto Asian/Arab solidarity towards securing of the inalienable rights of the Palestinians has demonstrated itself more in words than in deeds. More on this aspect of the situation later. Let us first recall some historical facts to place the question of the rights of Palestinians in perspective.

We know how it all began with the Zionist movement in Europe. It is noteworthy that when European Jews, aided and abetted by some European Governments having vested interests, were scheming a plan of a Jewish home <sup>1</sup>/ in Palestine, Palestinians (as other Asian) were quite unaware of it. When the British Government made its notorious Balfour declaration (1917), which set the ball rolling for the developments confronting us today, there was no Arab/Asian Government free from European colonial rule or "protectionism" and one which could take an independent bold stand to nip the evil in the bud. The Asian Arabs in and around Palestine were lulled by false promises made by the same British Government (Mc Mahon-Hussein Correspondence, 1916-1917), promising them independence from the Ottoman Turkish empire.

What followed is a story told and retold in thousands of publications which cannot be capsuled in a paper of this size. It is a story of blood and tears, of deception and deceit, conspiracy and betrayal perpetrated by the European Powers (as well as the United States of America and the Union Soviet Socialist Republic) on the innocent people of Palestine. The Asians were at the receiving end, the victims, or at best, the bystanders watching the cruel development on which they could exercise no control. How could Jews from Europe force themselves in a country and render the inhabitants homeless in their own homeland? But all this did happen. The forcible Jewish migration that followed, accompanied by death, destruction and expulsion, for local people resulted in the increase in the Jewish population from 9 per cent in 1918 to 12 per cent in 1922 and 32.9 per cent in 1946. In other words, in 1918, the Arabs outnumbered the Jewish population by ten to one; by 1938 they outnumbered them only by two to one.

Mahatma Gandhi spoke not only for the Asians but also for those millions all over the world who could distinguish the right from the wrong, when he wrote in 1938:

"My sympathies are all with the Jews. I have known them intimately ... some of them have been my life-long companions. Through these friends I came to learn of their age-old persecution. They have been the untouchables among European Christians ... But my sympathy does not blind me to the requirement of justice. The cry for a national home for the Jews does not make much appeal to me ... Why should they not, like other people of the earth, make that country their home where they are born and where they earn their livelihood... Palestine belongs to the Arabs in the same sense that England belongs to the English or France to the French. It is wrong and inhuman to impose the Jews on the Arab. What is going on in Palestine today cannot be justified by any moral code of conduct ... It would be a crime against humanity to reduce the Arabs, so that Palestine can be restored to Jews, partly or wholly as their



own national home." 2/  
Ghandi reiterated his views in 1946:

"In my opinion they (Jews) erred grievously in seeking to impose themselves on Palestine just with the aid of America and Britain and now with the aid of naked terrorism ... Why should they depend on American money or British arms for forcing themselves on an unwelcome land? Why should they resort to terrorism to make their forcible landing in Palestine." 3/

It should be noted that, by 1946, Jews were in occupation of 5.6 per cent of the land in Palestine, most of it transferred to them by the British Government out of public lands. That much they could have claimed as their homeland within the sovereign State of Palestine. But "expansionist" motives were clear from the very beginning. The same year (1946), an Anglo-American Commission recommended a partition plan envisaging allotment of 15 per cent of the Palestinian land to Jews. Jewish claims and manoeuvring by outside Powers did not end there. A year later at the British initiative, the question of Palestine was taken up by the United Nations General Assembly. Here a cobweb netted by European Jewry and European Governments of both the East and the West having acquired vested interest, succeeded in (mis)using the instrumentality of the United Nations for providing legitimacy to a claim which had no justification in law and was atrociously immoral. Furthermore, while a United Nations Special Committee had recommended 38 per cent of the land for Jews, both the United States and the Union Soviet Socialist Republic 4/ joined hands in increasing it to 56 per cent. It may be noted in parenthesis that at that point of time, there were only 11 Asian States, only one, the Philippines, could be coerced 5/ into changing its abstention to an affirmative vote; nine voted against and one (China) abstained.

The war that followed in 1948 led to 78 per cent of Palestine passing into the hands of Jews; hundreds of thousands of Palestinians were turned homeless and refugees. Yet another war in 1967 left Jews not only in occupation of the whole of Palestine, but also of vast territories of neighbouring Arab States.

As of now it is estimated that, out of 4.39 million Palestinians, 1.82 million live in territories occupied by Israel, some one million are in refugee camps in neighbouring States and the remaining are scattered in different countries.

## II

At the end of the 19th century, Theodore Herzl, founder of the Zionist movement, coined the phrase: "a land without people (meaning Palestine)... for a people without land". In June, 1969, Golda Meir, then Israeli Prime Minister, was quoted saying: "There was no such thing as Palestine ... they did not exist".

Indeed, after successfully seeking "legitimization" of its birth by the United Nations (May 1949), Israel has incessantly pursued a policy through diplomacy, propaganda and violence to eradicate both Palestine and Palestinians. Indeed, the two words became conspicuously non-existent, except in the context of refugees, beginning in 1949, even from United Nations documents. But a just cause and brave people cannot be suppressed for long. The Palestinian people's struggle to seek justice, passing through vicissitudes and bloodshed involving sacrifices and martyrdom of thousands of Palestinians eventually gained recognition, beginning in 1970. The inalienable rights of the Palestine people, including the right to self-determination and the right to statehood and sovereignty, have now been fully recognized by the international community as represented in the United Nations.

Beginning in the early 1970s as recognition of Palestinian rights increasingly gained ground, Israel was getting increasingly isolated in the world community. Why this "sea-change" after 20 years? Of course, the heroic struggle of the Palestinians was largely responsible, but Israel itself contributed in a negative way to the change. Intoxicated by its military victory in 1967, Israel began to indulge in demonstrating arrogance of power and intransigence to all rational proposals for peace. It continued to dupe the world successfully by its propaganda that Israelis were the "doves" and the Arabs the "hawks" it explained its intransigence with the plea that Arabs refused to recognize its right to exist. However, once a number of Arab States led by Egypt agreed to the United Nations mediator Gunnar Jarring's peace plan, linking Israeli withdrawal to Arab recognition of Israel, the cat was out of the bag. As Israel continued demonstrating its arrogance of power and acts of defiance of the international community, it was getting exposed in its true colour - a mixture of racism and expansionism. In July 1973, the changing pattern reached a new peak, when the United States of America was obliged to exercise its veto for the first time in blocking a Security Council draft resolution which would have, *inter alia*, deplored Israel's continued intransigence, and would have stressed that Palestinian rights must be the basis for a peaceful settlement. The voting was 13 for, to one against with China not participating because it felt that the resolution was too mild in denouncing Israel. Since then the United States veto and support has been the main refuge for Israel. 6/ But even on many issues, for instance, the question of the status of Jerusalem, the question of the destruction and distortion of the historical, cultural and demographic pattern of the occupied territories, the establishment a new settlements in occupied territories, where the United States also had extended its support, at least for the record, to United Nations resolutions, Israel had refused to comply, with impunity.

How does one explain Israeli defiance? How does one go about seeking a peaceful solution to the problem when one party continues to hold a negative, aggressive attitude.

This brings us to the question of what the quest is for.

## III

The theme for this panel discussion is: measures to promote Asian solidarity in the search for peace. What framework of peace, one may ask, is the objective? Should that framework seek restoration to Palestinians of all that belonged to them in the first place? Should Israel be eradicated and Jewish people sent back to where they came from? Retributive justice to problems having human dimensions would be as cruel as inhuman as the crime which was committed several decades back. Indeed no one has put forth such a proposal, not even the Palestine Liberation Organization.

What is being sought is that while Israel exists, Palestinians too should have a home where they could live with honour and dignity. Such a framework is contained in the "Basic Consideration and Guidelines" endorsed by the United Nations General Assembly in resolution (adopted in 1976) and which the Assembly has reiterated year after year. What is the fate of this framework?

After four years of intermittent debate and protracted informal negotiations, the draft plan (S/13911) which had been considerably watered down to accommodate Israel-United States criticism of it failed to be adopted by the Security Council on 30 April, 1980 because of the United States veto.

This framework, to outline its content briefly, called for arrangements which would guarantee the sovereignty, territorial integrity and political independence of all States in the area (including Israel) and their right to live in peace within secure and recognized boundaries. It would have affirmed that Palestinian people should be enabled to exercise their inalienable national right of self-determination including the right to establish an independent State in Palestine. Other provisions included that Israel should withdraw in a phased manner from all the territories occupied since June 1967, including Jerusalem. The Secretary-General was requested to take all the necessary steps for the implementation of the resolution and the Council would have decided to convene again within a period of six months to consider the Secretary-General's report in order to pursue its responsibilities regarding implementation of the resolution.

Subsequent efforts to seek implementation of the peace plan have not materialized because of Israeli opposition accompanied by the United States veto.

What is it that Israel wants? Is there any peace plan which Israel would agree to?

Israel has variably been, over the years, referring to Security Council resolution 242 (1967) and the Camp David agreement as providing the basis of settlement. Resolution 242 unjustly refers to rights of Palestinians in terms of "refugees" but at the same time calls for a just settlement. Israel however, would not like to do anything with this part of the resolution. It refuses to accept General Assembly resolution 194 (III) of November 1948 (asserting the right of refugees to return home and/or to compensation) - a commitment which Israel made at the time of seeking admission to the United Nations. 7/

What about the Palestinian/Arab territories which Israel occupied as a result of 1967 war and which resolution 242 demands that Israel should vacate? Far from agreeing to do that, Israel continues to destroy and distort the cultural, religious and demographic pattern in the occupied territories. And all this in open defiance of United Nations Security Council and General Assembly resolutions.

The Camp David agreement, a framework highly biased against legitimate Palestinian rights, did provide the minimum which Israel had agreed to. If this agreement, couched in a language of sibyllic ambiguity, had been interpreted by Israel in the most liberal way possible, it could have, theoretically at any rate, led to the establishment of a Palestinian State after the transitional five-year period. But having no desire to adhere to the letter and spirit of the agreement, Israel interpreted it in a way as to reduce it to mockery. For instance, "full autonomy" was supposed to be applied to the people and not the land, a distinction which would permit the confiscation of land and the continuation of new Jewish settlements in the area; Israel would continue to control water and power supplies. Some peaceful settlement, indeed. Israel probably now seems to know how to annex this territory without having to make its Arab inhabitants citizens of Israel.

That explains why it has rejected outright even the so-called "Reagan plan" (1 September, 1982) envisaging the establishment of an "autonomous" West Bank and Gaza Strip for the Palestinians in association with Jordan and which fails to ensure statehood and national sovereignty to Palestinians.

That Israel does not really believe in peaceful settlement of the problem but in physical liquidation of the Palestinians, and expansionism of its territorial gains and military power was amply demonstrated anew in Lebanon.

How could Israel indulge in such aggression and open defiance of international codes of conduct? The answer lies in the Israel-United States connection.

## IV

It is an open secret that without the United States financial and material support, Israel could not have continued its posture of defiance and arrogance.

Besides the official economic and military assistance including the supply of the most sophisticated weapons, American Jewry is another major source of financial and material inflow. Within two weeks of the outbreak of the 1967 war, American Jewish organizations, had raised more than \$170 million in emergency aid for Israel. Again all American Jews could acquire Israeli citizenship without losing United States citizenship. This double citizenship greatly helped to build up Israeli technical manpower at a critical juncture, as it did during the 1967 and 1973 wars. American pilots serving American commercial airlines took leave of absence from their work and joined the Israeli airforce and played a crucial role.

Why is such support from the United States available? There are several reasons. In the first place Israel has, over the years, served the purpose of a "strategic ally" against alleged external threats from the Soviet Union and from Soviet proxies (to quote Reagan). Again it could carry out many tasks, military as well as political, on behalf of the United States - a task that if performed by the United States itself might lead to serious implications. For instance, the premeditated attack (in June 1981) with the use of United States-built aircraft and sophisticated weapons against Iraqi nuclear installations; or to act as a go-between for Washington in the context of aid and supply of arms to safeguard United States strategic interests, and to avoid difficulties with the United States Congress in certain countries (South Africa, Zaire, etc). Furthermore, the Israeli posture of defiance and aggression promotes the military industrial complex, since it leads to supplies of United States manufactured arms not only to Israel but also to Arab countries. Indeed, Israel, Egypt, and Saudi Arabia have obtained the largest supply of sophisticated weapons from the United States during the last three years. Israel also helps in the testing process of American arms and sophisticated weapons & as it did, much to the satisfaction of the United States arms manufacturers, in Lebanon recently.

There is more to it. Over the decades, Jews although constituting only 3 per cent of the United States population, have acquired such a position of influence and pressure as to exercise much larger role in the political system of the country than their size would permit. More than 55 per cent of the American Jews are in professional careers or holding executive jobs in business, industry and the media. There are powerful Jewish merchant and banking families (Cardoza, Baruch, Nathan, etc). Thus Jewish control over United States business, finance and the media is a powerful factor in United States domestic politics. <sup>9/</sup> Again, their population concentration is in such key States as New York, New Jersey, Massachusetts, Pennsylvania, Florida, Illinois and California. In presidential elections, their votes, one way or the other, are crucial to the outcome. Hence, no presidential candidate can afford to disregard the Jewish lobby. It should be noted that only once was Israel compelled to respect United Nations resolutions. That was in the wake of Suez crisis (1956) when Israel was obliged to vacate the territories occupied during the war. Israel was obliged to do so because of pressure from Eisenhower - a pressure which amounted to economic military sanctions. Eisenhower was able to do so because he was in the second term of presidency and could afford to disregard the Jewish lobby. It is interesting to note that after Eisenhower, no United States President has been able to occupy office for a second term, except of course, Richard Nixon. But Nixon did not last long and the United States media was largely responsible in forcing him to resign in the aftermath of the Watergate scandal.

It is also noteworthy that recently (October 1981) three former Presidents, Richard Nixon, Gerald Ford and Jimmy Carter, when no longer under pressure of office, made a joint statement strongly asserting that the question of Palestinian's rights holds the key and that the United States should extend recognition to Palestine Liberation Organization - something which they never did when in office and which President Reagan refuses to do in his present term.

So we know where the crux of the problem lies. To what extent can Asian solidarity effect a dent in the Israeli citadel of defiance that is largely built on the support of vested interests in the United States of America?

## V

Let us turn to the question of Asian solidarity in the context of seeking a peaceful solution to the problem.

Asian solidarity on this problem, in a sense, has never been lacking. Besides Arab States and others, the two largest countries in Asia (India and China), have all through stood for justice to Palestinians.

It is, however, true that much of the solidarity has been in words and not in deeds. This can be said particularly in regard to Arab States. Several of them continue to curry favour with the United States. Indeed, a factor which has throughout been to the advantage of Israel - in terms of manoeuvrability indeed for achieving its political-military objects for retaining fruits of aggression and resisting pressures from external sources including that of the Palestinian national movement - has been inter-State Arab rivalries. These rivalries have further been aggravated by competitive politics of the super Powers.

What followed the Camp David agreement is often referred to as the first serious cleavage in the Arab World. But in reality it was merely the surfacing of the differences that had already existed. The Iraq-Iran war had added a new dimension to the growing tension in the area. When Israel carried out its massive aggression and massacre of Arab Lebanese and Palestinians recently, Arab solidarity did not move beyond rhetorics. No oil embargo threat against the United States, which was the chief supplier of sophisticated military weapons, was made. It is reported that the United States as also some of the Arab States including Saudi Arabia, knew in advance of Israeli designs. <sup>10/</sup> No attempt was made to dissuade Israel from carrying out its barbaric attack.

Strangely enough, developments in Lebanon again brought them together, so it seemed and they did agree on the Fez plan (20 September, 1982), although vital differences exist. Indeed, at people's level in the Arab world there is so much solidarity and support for Palestinians, as to compel the Governments, no matter how dictatorial, to come together in support of a just cause.

It is necessary that efforts should be directed to further strengthen whatever rudiments of solidarity exist for Palestinians among the Asians; public opinion should be built up to demand that all Asian States sever, if they have not already done so, diplomatic and trade relations with Israel. Asian Governments should declare all products extracted from land and water resources expropriated from the Palestinians West Bank and Gaza Strip as contraband and such products to be held in trust for the Palestine people. Governments should institute scholarships and other educational facilities for Palestinians and the Asian Governments should build up pressure on the United States to do justice to the Palestinians as demanded in various United Nations resolutions. NGOs and individuals should undertake lecture-tours in the United States, Canada and Western European countries to build up public opinion there.

The media in Western countries are largely controlled by local Zionists, and project an image of the situation favourable to Israel. Such reporting is also included in the Asian press. These reportages undermine the legitimate expression of Palestinians. Asian countries should ban such Zionist biased reporting and should see that UN debates and resolutions adopted in regard to Palestinian people are given due coverage in the national press.

All Asian countries should extend, if they have not already done so, full diplomatic status to the representative of Palestinian Liberation Organization.

## Notes

1. It is not possible to list all the existing literature bearing evidence to the conspiracy of European powers and Jewry. By way of illustration attention is invited to Alan R. Taylor, *Prelude to Israel - An Analysis of Zionist Diplomacy, 1897-1947* (Beirut: Institute of Palestinian Studies, 1970); Howard M. Sachar, *A History of Israel - From the Rise of Zionism to our Time* (Oxford: Basil Blackwell, 1977); George David Lloyd, *Memirs of the Peace Conference* (New Jersey: Yale University Press, 1939); Menachen Begin, present Prime Minister of Israel in his *Memoirs, The Revolt* (New York: Nash Pu. Co., 1978) provides ample evidence of Jewish, British, United States collusion. See for instance p.31.

2. Harijan, 26 November 1938, reproduced in D.G. Tendulkar *Mahatma*, 1961, Ed., vol. IV, pp.311-12

3. *Ibid.*, vol VII, 1945-1947, pp.158-159.

4. It is intriguing to note that both the Union Soviet Socialist Republic and the United States of America, at a point of time when they were at loggerheads and the cold war was in full swing, agreed to provide full help to the creation of Israel; indeed both were vying against each other to appear as a greater champion of the cause of Zionism. When the *Ad hoc* Committee of the General Assembly was discussing the partition plan, it was agreed that there be three subcommittees as such an arrangement would enable intensive discussions to help work out the details. Three subcommittees were thus formed relating to (i) The Partition Plan; (ii) The administration of Jerusalem; (iii) Conciliation. All the 57 States which were then members of the United Nations were given option to join any of these committees, depending on their interest. Both the United States and Union Soviet Socialist Republic opted for the subcommittee on the partition plan. No wonder that what territories UNSCOP had proposed for a Jewish State were extended from 38 per cent to 56 per cent of Palestine. See *General Assembly Official Records Ad hoc* Committee, Summary Records, 1st to 34th meetings, 25 September-25 November 1947, and *ibid.*, Plenary, Verbatim Records, 124th-128th meetings, 26-29 November, 1947.

5. It is intriguing to note that a large number of delegations from Europe and Latin America included nationals belonging to Judaism and were committed Zionists. Officially, of course, they were known as Belgians or Guatemalans, but they were working for the Jewish Agency. Sir John Fletcher Cooke, who was adviser to the British delegations in 1948, has disclosed how conspiracy at the United Nations against the Arabs was worked out and that the representatives of Guatemala and Uruguay who served on the United Nations Special Commission on Palestine which recommended the partition plan were committed Zionists. *International Journal* (Canadian) XXVIII, Autumn, 1973. The votes cast in the *Ad hoc* Committee on the partition plan were: 25 for, 13 against, and 17 abstentions. It was clear that such a voting pattern could not assure the passage of the plan in the Plenary, where a two thirds majority was needed. Frantic efforts were made by the European Governments including the United States of America and the Union Soviet Socialist Republic to obtain the necessary votes. The representative of the Philippines who had abstained in the *Ad hoc* Committee, saying that he could not be a party to the dismemberment of Palestine was replaced by a new representative with new instructions; New Zealand and some other countries were also made to change their abstentions to Yes votes in the Plenary.

6. During 1982 alone, the United States cast the single negative vote seven times on various issues regarding the Israeli-Arab/Palestinian conflict situation. On many occasions the voting pattern was: 14 for and one (United States) against. Isolation of the United States and Israel reached its nadir on General Assembly resolution ES-7/9 of 24 September, 1982 when it was adopted by a record vote of 147 for, no abstentions, with only Israel and the United States voting against.

7. Reference to this resolution as also relating to the partition plan was made in the General Assembly resolution admitting Israel to the United Nations. For Israeli commitments see *GAOR* Third Session, *Ad hoc* Political Committee, Summary Records, 29th-54th meetings, 6 April-10 May 1949.

8. The United States having global interest, has often depended on its use of its arms for vital information on the capabilities of those arms. For instance, until 7 June, 1981, the McDonnell Douglas F-15 and General Dynamics F-16 were not tested aircraft. Ordered in large numbers by United States and NATO air forces, the Americans were keen to see how the F-16 would perform in war. They did not have to wait long and the Israeli aid raid on Iraq's nuclear reactor gave the American manufacturers of these aircraft valuable

information on their products and capabilities, as well as the dubious pride of seeing their planes to be of effective use.

This was of course not the first time the United States armament manufacturers had benefited by the experiences gained by their strategic ally, Israel. A Skyhawk aircraft, virtually demonstrated how to attack defence missile site and the United States put this experience to their own use against Viet Nam in the early 1970s. In the recent Lebanon crisis, Israelis have also used the latest Bell and Hughes helicopter gun ships and demonstrated their effectiveness. Likewise AWACS aircraft, designed to guide attack aircraft was tested in Bekaa valley successfully at the beginning of the Israeli invasion of Lebanon against Syria's Soviet arms.

9. How Jewish people constituting only 3 per cent of the United States population could exercise a crucial impact on the election may be understood by recalling the following facts: (i) Jewish people are the most organized among the ethnic groups in the United States population. The percentage of them exercising right to vote is much higher than that of any other group; (ii) What is more pertinent is that their vote one way or the other could tilt the election outcome. For example, in the United States Presidential election, each State has a voting strength of delegates ranging from three (District of Columbia) to 45 (California). Thus, the combination of 11 States which invariably include the largest two States (California-45; New York-41) could yield 270 delegate votes (out of 538) for winning an election. Again in each State, because of two-party system many party obtaining 51 per cent of votes obtains the entire delegates votes. In other words, if a Democrat obtains 50.1 per cent votes in New York State as against 49.9 per cent in favour of the Republican, the entire 41 delegate votes allotted to the state will go in favour of the Democrat candidate for presidency. Thus, one, could see how Jewish vote (14.5 per cent in New York State) could tilt the election results. In more than 11 key States Jewish votes constitute 3 per cent (District of Columbia) to 14.5 per cent (New York). Thus no presidential candidate can ignore the Jewish lobby.

American Jews concentrate in business, finance, education and media. They represent the highest percentage among various ethnic groups in regard to university education. Seventeen per cent of them acquire university education, while the figure for the total population is 7 per cent. More than 10 per cent of college/university teachers are Jews and in such prestigious universities like Harvard, Jews account for 33 per cent of the faculty positions. The figures given here are based on a Special Issue of Newsweek (1 March, 1971) on "American Jews", also ibid., 11 August, 1982.

10. See in particular, Joseph C. Harsch, "What Mr. Reagan Knew", The Christian Science Monitor, 8 July 1982 and Claude Wright, "US Stepped-up Arms for Invasion", New Statesman, 20 August, 1982.

## ASIA AND PALESTINE: MEASURES TO PROMOTE SOLIDARITY AND THE MUTUAL SUPPORT IN THE SEARCH FOR PEACE

Yu Menjia

I

Over the past 30 years or more, large-scale wars broke out on several occasions in the Middle East, which brought untold misery to the Arab people, especially the Palestinian people. The question of Palestine has for long remained the core of the Middle East question. With the backing and connivance of imperialism, Israel has, from its birth, pursued a policy of aggression and expansion, plunging the Middle East into continuous disasters of war. Consequently, the Palestinian people were deprived of their national rights and their homeland was ruthlessly trampled upon. The Palestinian people's struggle to obtain the right to return to their homeland and exercise self-determination as well as to regain their national rights is a component part of the struggle for national liberation in our era. There can be no comprehensive and lasting peace in the Middle East without a just and reasonable solution to the Palestine question. Over a long period of time, the heroic Palestinian people, in order to regain their sacred national rights, have carried out unyielding struggles and won wide sympathy and support from the international community. The Palestine Liberation Organization, the sole legal representative of the Palestinian people, has been recognized by more and more countries and international organizations. It has established relations with more than 100 countries and has sent representatives to over 80 countries and international organizations.

II

The Palestinian people's struggle for national rights has, from the very beginning, aroused concern and won support in varying degrees from the Governments and peoples of various Asian countries. It is well known that the Asian and Arab countries are among the earlier supporters of the Palestinian people, and their support is most extensive and resolute. A clear proof of this is the voting record of the resolutions concerning the question of Palestine adopted at the United Nations at different periods. On 29 November 1947 when the second session of the United Nations General Assembly adopted resolution 181 (II) known as the Palestine partition resolution, there were 12 negative votes, of which nine were from Asia. On 22 November 1974 when the twenty-ninth session of the United Nations General Assembly adopted resolution 3237 (XXIX) granting the Palestine Liberation Organization the status of an observer, among the 95 votes in favour, 30 were cast by Asian countries, whereas among the 17 negative votes, none, except that of Israel, was from Asian countries. On the resolution on the Palestinian question adopted at the United Nations in December 1982, almost all the Asian countries, except for very few abstentions, voted in favour. The Palestinian people's struggle for their inalienable rights has won support from almost every Asian country. The Palestine Liberation Organization has set up missions in about 30 Asian countries.

While supporting the Palestinian people's just cause, Asia is strongly opposed to the policies of aggression and expansion pursued by Israel. As early as April 1955 when the Asian-African Conference was being held in Bandung, Israel was not invited but was condemned for its acts of aggression. The Chief Justice of Jerusalem was, however, invited to the conference as the representative of the Palestinian people and he delivered a speech. From then on, the vast number of countries and people in Asia have voiced their support in various forms to the Palestinian people in their struggle against the numerous atrocities committed by Israel.

It should be pointed out that the Asian countries have no prejudice against the Jewish nation. Friendly relations between many Asian countries and the Jewish people date back to ancient times. Asian countries cherish profound sympathy for the Jewish people who were oppressed under the feudal system and slavery in history and, worse still, were subjected to inhuman holocaust committed by Hitler in World War II. The entirely different attitudes of Asia today towards the Palestinian people and the Israeli authorities result from many causes:

(a) The struggle waged by the Palestinian people to regain their national rights is a just one. The Balfour Declaration of 1917 on "the establishment of a national home for the Jewish people in Palestine" was made at the price of sacrificing the Palestinian people's interest. During the British mandate period from 1923 to 1948, large numbers of Jews went to settle in Palestine. In 1919, there were only 58,000 Jews in Palestine, accounting for 9 per cent of the total local population. The number increased to over 700,000 in 1948, or 32 per cent of the total population. In 1982, after the four Middle East wars, there were 3,330,000 Jews in Israel, which represented 83 per cent of the total population of 4,010,000. During the same period, more than 1,800,000 Palestinians were driven out of their homeland and became refugees. Their just struggle for the right to return to their homeland, exercise self-determination and establish a state has received widespread sympathy and support.

(b) The policies of aggression and expansion pursued by the Israeli authorities have enraged the public. The Jews were once an oppressed nation in history. But, with the change of situation, the Israeli authorities have become oppressors themselves, out to enslave other nations. Over the past 30 years, the Israeli ruling clique, in disregard of various United Nations resolutions and world condemnation and opposition, has obstinately clung to its policy of aggression and expansion. As a result, those countries which used to be relatively sympathetic to Israel have either severed or downgraded their political and economic relations with it. The isolation of Israel is fully revealed by the fact that in recent years, the United States and Israel are the only countries to cast negative votes on United Nations resolutions relating to the Palestinian question.

(c) In Asia, there are quite a few Arab and Islamic countries where Moslems reside, and large numbers of Moslems also live in other countries. They have special affection for their Moslem brothers in Palestine who are suffering in dire misery, and it is entirely understandable that they should sympathize with, and express support for the struggles of the Palestinian people.

(d) Many Asian countries used to be colonies or semicolonies of the Western Powers. Holding high the banner of opposing imperialism and colonialism and achieving freedom and liberation, these countries waged long years of struggles in all forms and finally won national liberation. The hearts of the oppressed peoples and nations are linked together. They have learnt from their own struggles that they could not achieve genuine liberation unless all the oppressed people are liberated. It is, therefore, natural that these countries deeply sympathize with the one million or more displaced and miserable Palestinian refugees and render them effective support in their struggle to return to their homeland.

Like many other countries, China has taken a clear-cut position on the Palestinian issue. China has been firm and steadfast in supporting the Palestinian and other Arab peoples in their struggle to recover their lost territories and regain their national rights. In China's view, Israel must withdraw unconditionally from the Arab territories occupied since 1967, including Arab Jerusalem; the national rights of the Palestinian people, including the right to return to their homeland and the right to self-determination and to the establishment of their own state, should be restored; and, provided that the legitimate rights of the Palestinian people are recognized and lost Arab territories recovered, all countries in the Middle East should enjoy the right to independence and existence. The Palestine Liberation Organization as the sole legal representative of the Palestinian people is entitled to participate in all endeavours to seek a fair and comprehensive settlement of the Middle East question.

Soon after its founding, the Palestine Liberation Organization set up its mission in Beijing in May 1965, which enjoys diplomatic privileges. The Palestine

Liberation Organization leaders visited China on many occasions at the latter's invitation and were warmly and cordially received by the Chinese Government and people. In addition to political support, necessary material assistance has been rendered by China to the Palestine Liberation Organization. China regards its support to the just struggle of the Palestine people as its bounden duty.

### III

As the critical situation in the Middle East resulting from the Israeli aggression and expansion poses a grave threat to the peace of Asia and the world, the Palestinian question has in recent years aroused the special concern of the people of various countries in the world. Last June, defying world opinion, Israel outrageously invaded Lebanon, trampled on Lebanon's sovereignty and impaired its territorial integrity and massacred Palestinians and other Arabs. Through the unswerving struggle of the Palestine Liberation Organization and the Arab countries as well as the international community, the Israeli authorities' scheme to eliminate the Palestinian armed forces was foiled at last. The indomitable fighting will of the Palestinian people in defiance of brute force has won sympathy and admiration from the third world and all the other justice-upholding countries and peoples in the world. The Israeli atrocities of aggression, on the other hand, are strongly condemned. At present, the Palestinian and other Arab peoples are summing up their experience and formulating unified strategies in the light of the new situation in order to facilitate their future struggle. The Fez plan put forward at the Arab Summit Conference and the Political Statement adopted at the 16th session of the Palestine National Council show that the Palestinian and other Arab peoples are united on a new and more extensive basis, and have become stronger. The revolutionary struggle of Palestine has entered a new stage. Darkness will soon be over and the dawn is in sight.

### IV

The Palestinian people's struggle to realize their national rights is arduous and tortuous, but the future is bright. In the present circumstances, it is of special importance to further strengthen unity and integrate firm principle with flexible tactics.

Unity means strength, and unity means victory. The Israeli tactics is to divide and defeat the Arab peoples one by one. In order to win victories, the Palestinian and other Arab peoples must counter the Israeli tactics by further strengthening unity. The efforts to strengthen unity are multiform, and primary efforts should be made to strengthen the unity and solidarity of the forces at the core. It is entirely correct for the 16th session of the Palestine National Council to stress the need for strengthening solidarity among various revolutionary organizations inside the Palestine Liberation organization, and strengthening unity among various revolutionary forces of Palestine within the National Liberation Army.

Increased unity between the Palestine Liberation Organization and Arab countries is in the Arab national interests and is a fundamental guarantee of victory in the struggle against Israeli aggression. Further political support and material aid as well as other facilities provided by Governments of various Arab countries to the Palestine Liberation Organization will considerably help to promote the just struggle of the Palestinian people. The Arab countries, speaking with one voice at the Fez Summit, charted the future course of the common struggle, and after the Summit a Committee of Seven was set up to explain their plan to the permanent members of the United Nations Security Council. The success of the Fez Summit has demonstrated greater Arab strength through unity. The Fez Plan, which is reasonable and realistic, has provided a sound basis for a comprehensive and just settlement of the Middle East question. By strengthening their unity with all the other peace-loving and justice-upholding countries and peoples, especially with those in the third world and Asia, the Palestinian people will be able to further advance their cause. Begin and his followers by no means represent the interest of the Israeli people. The Jewish people have seen from the thirty odd years turmoil that the Israeli ruling clique has not only created tragedy for the Palestinian people, but also brought misfortune to themselves. The Israeli policy of aggression and expansion is the root cause of the catastrophe. As a Palestinian leader rightly stated not long ago, the Palestinians would hold out their hands to all friendly democratic forces that reject colonialism and racism of all forms, and the Palestinian revolution does not want to destroy any nation in this region, nor does it want to throw anyone into the sea. But the Palestinians do not want to be wiped out or driven into the desert either. By properly integrating firmness of principle with flexibility of tactics, the Palestinian people will be able to win even wider sympathy and support and realize their objectives at an early date. The Palestinian people, long tested in struggle, have accumulated rich experience in this respect. With its political influence steadily increasing, the Palestine Liberation Organization has become a force not to be ignored in the Middle East or the international political arena. The just struggle of the Palestinian people is inseparable from peace in Asia and the world as a whole. All countries and peoples who sympathize with and care for the destiny and well-being of the Palestinian people and especially their neighbouring Asian countries and peoples have the obligation to give the Palestinian people all forms of support and assistance and help them to overcome difficulties and obstacles on their road to progress. With the sympathy and support of the world's people, the Palestinian people's just cause will surely win final victory and make valuable contributions to world peace.

## ISRAELI POLICIES AND PRACTICES IN THE OCCUPIED PALESTINIAN AND ARAB TERRITORIES IN THE LIGHT OF RECENT EVENTS IN THE REGION

I.B. Fonseca

The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories has been in existence since 1968. Its creation followed immediately after the efforts of the Security Council which had started immediately after the hostilities of June 1967. The reports of the Special Committee have attempted to bring before the United Nations General Assembly the reality of the human rights situation which the Special Committee has catalogued from year to year, and each year the Assembly has renewed the mandate of the Special Committee.

The renewal of the mandate constitutes a sign of concern with the situation and of confidence in the Special Committee. However, in spite of this, the human rights situation in these territories has steadily deteriorated over the years. This deterioration provokes the need to enquire into its causes to see what could be done not only to stop this deterioration but also to reverse a dangerous situation.

Fifteen years of occupation have been utilized by the occupying Power to impose an infrastructure aimed at the eventual eviction of the Palestinians and Syrians from their respective homelands. Indeed, in the case of the occupied Syrian territory in the Golan Heights the Government of Israel in December 1981 promulgated legislation purporting to annex this territory.

The Special Committee has found that the fundamental right to self-determination is being utterly disregarded. It is a matter of record because it has been so stated by the present Government of Israel at least during the last five years that this disregard is a natural result of the so-called "homeland" doctrine.

According to this doctrine, international law notwithstanding, the territory occupied in 1967 constituted part of the "Jewish homeland" and therefore ceased to be "occupied territory" in the eyes of the present Israeli authorities. Based on that assumption, a policy has been elaborated and implemented which would envisage the extension of Israeli sovereignty over these territories.

It may be pertinent here to dwell briefly upon what constitutes the human rights of the population in the occupied territories. In the first place there is the right to self-determination. As regards the civilian population of the Golan Heights it would mean the reintegration of the territory and the people with the Syrian Arab Republic, and as regards the West Bank and the Gaza Strip the right to self-determination of the Palestinian people as repeatedly confirmed by the international community.

In addition to the right to self-determination, international law recognizes the fundamental rights of civilians under military occupation; these rights protect the person and the property of the civilian during such occupation and include such basic rights as the right to life and integrity of the person. Essentially international law considers military occupation to be a "temporary *de facto* situation" where the only modifications allowed to the legal régime are those required by the need for the maintenance of order and security. Thus the Fourth Geneva Convention of 1949 expressly prohibits any measures affecting the right to life or the physical integrity of the person, the arbitrary destruction of property, any measures affecting the ownership of property in an occupied territory including the attempt at annexing territories under occupation and of course the transfer of civilians from the territory of the occupying Power into the occupied territory.

The Government of Israel has been a Party to this Convention without any reservation since the early 1950s.

At present there are physically established in the West Bank, the Gaza Strip and the Golan Heights over 130 settlements, all of which are inhabited by Israeli citizens transferred thereto by express intent of the Israeli Government.

The map reproduced in annex I to the latest report of the Special Committee (A/37/485) is a graphic representation of officially announced Israeli measures for the establishment of such settlements. It may be noted that by comparison with the territory concerned these settlements constitute a conscious and deliberate infiltration of Israeli presence in the territories occupied in 1967.

In its successive reports the Special Committee brought to the attention of the Assembly that by May 1976 64 settlements had been established (A/31/218, para 329) and by the following year 84 settlements (A/32/284, para. 247.) It will be seen that the establishment of the settlements which was started immediately upon the occupation of 1967 has not ceased. Indeed, it is somewhat ironical to recall the explanation given by the Government of Israel to a complaint by the Government of Jordan about the incursion of a group of Israelis into Hebron in 1968: The Government of Israel then offered the explanation that this group of Israelis were no more than a group of religious Jews intending to celebrate Passover in Hebron; this group was in fact the origin of the Israeli

settlement in Hebron known as Kiri'at-Arba which is to be found today settled on the hills overlooking Hebron. They are today a community numbering several hundreds Israelis, with their own Court and their own militia, still expanding and encroaching steadily on Palestinian property in their periphery and beyond. That progression of settlement and encroachment has not stopped. Attention may be drawn to a report from Jerusalem as reported in the Times of London on 11 November 1982, according to which the number of settlers in the occupied West Bank was to double in the next year. The report reflects a statement by a senior official of the World Zionist Organization (Mr. Ze'ev Yosef) and speaks of a "massive new influx of settlers" and the construction of thousands of permanent new housing units. According to this statement, the number of Israeli settlers in the occupied territories was to double - from 25,000 to 50,000, not including East Jerusalem - over the next year; it will reach 100,000 by 1987 and 1.4 million by 2010.

The settlements are constructed on land which belongs to several types of proprietors; as reflected in the report of the Special Committee, land has been taken over through various devices such as outright expropriation, without reasons being given, expropriation for "security" purposes, which was fashionable in the late 1960s and early 1970s, and more recently purchase of land by the World Zionist Organization through agencies set up for the purpose, albeit illegally, such as the "Himanuta Company" operating from Bethlehem. Its reports to date the Special Committee has repeatedly described the various devices used to take over land in the occupied territories. Nor should one lose sight when speaking of expropriation, of Jerusalem where Palestinians have been systematically removed throughout the occupation leaving today a handful of Palestinian Arab families all of whom may eventually have to go elsewhere if Israeli policy were allowed to continue.

The extent of the expropriation of land in the occupied territories is reflected in a study by Mr. Meron Benvenisti, former Deputy Mayor of West Jerusalem, undertaken for the New York City University, which shows that Israel may seize some 60 per cent of West Bank lands (as reported in *Ha'aretz* on 14 September 1982). Additional reports on the confiscation of large tracts of Arab land have continued throughout the first months of this year. Indeed, no later than the beginning of March 1983, it was revealed that Israel was planning to build a Jewish town above the largest Arab city in the West Bank, Nablus; it may be recalled that it is in Kiri'at-Arba, the Jewish town built above Hebron, that most of the recent anti-Arab acts by Jewish settlers were initiated.

As the number of settlements increased over the years of occupation, so did the number of settlers. Let it be noted in this context that under international law, the Government of Israel bears full responsibility for the acts of the settlers planted in the occupied territories. Reference may be made to article 53 of the Fourth Geneva Convention. Up to some five years ago the role of the settlers in regard to the human rights situation of the civilians was perhaps marginal. However, as the Special Committee had occasion to learn already in 1979, the settlers were involved more and more frequently in reports of forced expropriation of property including acts of violence on local civilians. By 1980 (A/34/631, para. 373) the activities of these settlers had become so marked that the Special Committee found it necessary to single out this phenomenon. During that year there were reports of rampage by Israeli settlers on a large scale, damaging property, afflicting personal injuries and in certain cases death, in the occupied territories (A/35/425, para. 299). One does not need to be reminded of the fate - the maiming - of Mayor Shafiq of Nablus and Major Khalaf of Ramallah in 1980 and the perpetrators of that deed remain at large. During the months of February and March 1983 not one day passed without reports on "punitive actions and acts of vandalism or provocation perpetrated by settlers against the local Arab population". This wave of violence culminated in mid-March in the abortive attempt by a large group of settlers to occupy one of Islam's holiest sites - the Temple Mount (Haram El-Sharif) in Jerusalem. In its 1981 report the Special Committee had occasion to underline this phenomenon once more (A/36/579, para. 394) and indicated its conclusions that the Israeli authorities were indeed conniving at the settlers' activities of which the civilian population was the victim.

The classic case illustrating the policy of annexation of the territories occupied in 1967 is that of the Golan Heights. In December 1981, the Government of Israel formally extended the jurisdiction of the Israeli law to the Golan Heights purporting to "annex" this territory of Syria. The redoubtable resistance of the Syrian Druze population is a matter of record. Few would endure what they were subjected to for months on end in early 1982 at the hands of the Israeli army and what they are at this very moment still undergoing.

The official Israeli view on the future of the West Bank and the Gaza strip was reflected in a declaration by the Israeli Foreign Minister, Yitzhak Shamir, reported on 3 March 1983 in the Jerusalem Post. Mr. Shamir stated that Israel "did not conquer the territories from their legal owners, but liberated them from countries that conquered them in 1948. We have not "annexed" them, and shall not "annex" them. They are part of Eretz Yisrael, and what is part of your country you do not annex".

In addition to the measures that the Special Committee referred to, aimed mainly at alienating land from the civilian population, one would surely have seen if not from the report of the Special Committee, then from the international press about the individual Palestinians in the West Bank, and the Gaza Strip and the Syrians in the Golan Heights, who are the victims of continuing measures aimed at forcing them to leave their homeland or to remain only as second class citizens. For example, it is statistically correct that in the years of occupation, the agricultural community has dwindled significantly, primarily because of the shortage of land and the discouraging prospect for farmers in the West Bank and the Gaza Strip. The labour force thus displaced has had to accept work in the Israeli construction industry or depart as migrant labour in other Arab countries. In the case of those who leave for other Arab countries it should be known that the right to return to their West Bank and Gaza homes once they leave, is subject to severe restrictions. Indeed all aspects of economic activities in the occupied territories are minutely controlled by the military authorities quite contrary to the Geneva Convention.

Military Order No. 854 was promulgated with the avowed purpose of reforming education. It has been used purely and simply as a device to prevent the evolution of the higher educational institutions that had taken root in the early years of occupation, and to suppress every manifestation of Palestinian patriotism.

The efforts at the application of Order 854 have resulted in the dismissal of several academics who refused to sign undertakings not to support the Palestine Liberation Organization as a condition for receiving licenses to teach.

The iniquity of Order 854 was pronounced on last November by the United States Secretary of States, Mr. George Shultz, when he stated that Order 854 was a problem of freedom of thought and an abridgement of academic freedom totally unnecessary for Israel's security. The Secretary of State, himself a former university teacher, appropriately compared order 854 to the highly controversial loyalty oaths sought from the American academic community in the late 1940s and 1950s.

The same question may be posed as to why the military authorities seek to dismantle the municipal structure elected at the initiative of the occupying authorities themselves earlier in the occupation. Order 947 purporting to set up a "civil administration" led to the removal of the lawfully elected municipal councils and mayors and their substitution by the so-called "village league" councils made up of a few hand-picked nominees in the occupied territories having no popular mandate whatsoever.

A valuable study was published by the International Commission of Jurists in 1981 showing how the military authorities had in fact legislated on all aspects of civilian life, changing the entire legal régime applied in the territories. The average civilian finds himself answerable to a completely new legal system in all aspects of his everyday life, and interfering with his day-to-day existence and a normal life.

It is only to be expected that the civilian population finds it hard to live with these limitations. The table contained in paragraph 150 of document A/37/485 gives a calendar of incidents recorded over the period covered by the report, occurring in various towns and villages and attributed to sources which no one has yet questioned. This table is itself a shortened version and is intended only to give an idea of what the average civilian in the occupied territories has to face. It is not shown to justify violence, although each incident reflects violence. It is meant to reflect the tenacity and determination with which the Palestinians in the West Bank and the Gaza Strip and the Syrians in the Golan Heights are in fact resisting the military occupation that has been their lot since 1967. Last year and the first months of this year in particular have been characterized by bloodshed, the extent of which has not been witnessed before. Neither is it realistic to imagine that these people will disappear and thus end the problem. One should remember that these are people who have been under occupation for 15 years, an occupation whose duration is without parallel in this century.

Parallel to the treatment of the civilian population as illustrated in the tables just referred to, one must not overlook the plight of those civilians who are imprisoned for political offences. These persons number in the thousands, their conditions of detention are widely acknowledged to be poor and their treatment during interrogation has been acknowledged to go beyond the applicable norms. Above all one must not forget that these detainees are under imprisonment only because their land remains under occupation.

The reality reflected in the reports of the Special Committee shows that the Government of Israel is in the process of annihilating if not eliminating a people by creating a situation designed to drive them out of their homeland or to remain in a state of perpetual subjugation. This is the reality that cannot but provoke further resistance and further bloodshed; this is the reality which we must defuse by ensuring adequate protection of the Palestinian people in the occupied territories under international law and protection against the policies of the occupying Power. For the Palestinians this must mean a restoration of their homeland, the right to self-determination and for the Syrians the return of the occupied territory in the Golan.

## JEWISH SETTLEMENTS IN THE OCCUPIED WEST BANK - HOW THE LAND WAS ACQUIRED FOR THEIR USE AND HOW THEY ARE STRUCTURED

Raja Shehadeh

This study is being written as the settlement drive which has been going on at a fast pace for several years is still continuing. The passage of time makes it possible, however, to arrive at concise formulations of the methods that have been and continue to be used for the take-over by Jewish settlers of the West Bank Arab lands. It is also clear now what the plans are for those lands that have already been acquired as well as for the remaining parts of the West Bank. The present Israeli Government's policy toward West Bank land is to acquire, for Jewish settlements, all the land that it is possible at this stage to acquire by the legal methods that are being presently employed. As to the remaining areas, the policy is to prevent, as far as possible, Arab development in them. This part will be divided into two sections. The first will describe the methods used for the acquisition of Arab lands and the second will discuss the Israeli settlements and the laws and plans that have been made to restrict Arab development in the lands which have not yet been transferred to the settlements.

The settlement of Jews in the occupied West Bank started with the beginning of the occupation. <sup>1/</sup> Different Governments in Israel have pursued different settlement policies, and the objectives they have sought to achieve through settlements as well as their policies towards the West Bank have gone through many changes. But settlement has always been going on. The methods for acquiring lands have changed and have had to be adapted to the changing policies. When the drive for settlement intensified, new means for acquiring extensive areas of Arab land had to be adopted. It is possible to proceed chronologically to discuss the development of the various methods for acquiring land and the use of each at different historical stages, while at the same time relating these developments to the changes in the Government's settlement policy. However, such an approach may complicate an already complex subject, and there has always been an overlap when different methods have been employed simultaneously according to the conditions applicable to each area of land to be acquired. The order of discussion to be followed, therefore, will be to start with the more usual methods employed for the acquisition of land for Jewish settlement, and then proceed to describe the methods less commonly used.

### A. Acquisition of land by declaring it to be "State land"

When the occupation of the West Bank by Israel began in June 1967, only one third of all West Bank land had been registered under the operation of the Settlement of Disputes over Land Law. <sup>2/</sup> Registration was begun by the British Mandate Government. <sup>3/</sup> The Jordanian Government continued it, but it was a slow, protracted process.

In 1967 the Israeli authorities suspended all operations of the settlement of disputes law. <sup>4/</sup> Ownership of the remaining two thirds is attested by possession of a Turkish or British certificate or registration, or through registration in the tax registers. Title under Jordanian law is also proven through purchase and use. The law which continues to govern land holdings in the West Bank is the Ottoman Land Code, <sup>5/</sup> as amended and developed by legislation passed during the Jordanian régime and the military orders issued by the military authority since the occupation. The theoretical basis of the Ottoman Land Code, however, continues to apply.

According to the Land Code, all lands in the West Bank are classified into the following categories:

- (a) Wakf lands, which are lands that are dedicated to pious purposes;
- (b) Mulk land, which are the lands that were initially given out by the Ottoman conqueror of the area (who considered himself the owner, by conquest, of all the lands he occupied) to the Muslim residents and the Khuraj lands handed over to non-Muslims;
- (c) Miri, Matruke and Mawat lands all considered by the Israeli authorities to be "State lands". Miri lands are lands which the Ottoman Emir did not allow to be dedicated as wakf nor given out to be possessed as mulk. It is land whose Ragabeh (or ultimate ownership) continues to reside with the Emir, but whose use he has allowed for the public under certain conditions.

The theoretical basis of this conforms to the theoretical basis of other systems of land law, such as, for example, English land law. There also, all the land came into the ownership of the Crown with the Norman invasion when it was acquired by conquest. The Crown has given out the land to the people to use in accordance with different rules. But the maxim "no land is without a lord" has always applied, and the ultimate lord is the Crown. However, this only provides the theoretical basis. In practice the only lands which are in the actual ownership and possession of the Crown in England are those areas which are classified as crownhold. The rest are in the actual ownership and possession of their registered owner or user, as the case may be.

Similarly, the theoretical basis of the Palestinian land law was never altered, but the actual implications of the law have been subjected to several amendments during the Turkish, British and Jordanian régimes. Jordanian Law No. 49 of 1953, <sup>6/</sup> for example, removed all the restrictions previously existing on the extent of the use which the possessor of miri land could make of the land, thus removing any practical difference that existed between the powers of the owner of mulk land and the owner of miri land. Similarly, a Jordanian law of 1953 <sup>7/</sup> declared all miri lands falling within the municipal areas as transferred to mulk land. Some differences, however, continue to exist in the way each category of land devolves upon the death of the owner. The present Israeli policy, however, is to consider miri land as "State land", confusing the theoretical with the actual.

Another category of land which is considered to be "State land" by the military authorities is matruke land. This category (as the name in Arabic implies) is land which has been left for public purposes, such as the building of roads, cemeteries, etc. The third category is mawat land which is considered dead land because it lies further from the village "than the human voice could be heard" (in the words of the Ottoman Land Code).

The Ottoman system and all later Governments until 1967 acknowledged that the land surrounding the village was for the use of the villagers either as common pastures or for the future development of the village. The inhabitants of the village did not have any need or opportunity to register their lands. They knew amongst themselves which of the village lands belonged to which families and which were owned in common (Mashaa).

The land which has been registered under the operation of the law for settlement of disputes includes lands which fall under each of the above five categories with the exception of some types of wakf land which, having been inalienably dedicated to the Almighty, cannot be registered in the name of a private owner. Although according to the Ottoman Land Code there was no category of public or State land, the Government of the British Mandate introduced this category through the 1922 Order-in-Council. <sup>8/</sup> Article 2 of the Order-in Council defined "public lands" as "all lands in Palestine which are subject to the control of the Government in Palestine by virtue of Treaty, Convention, Agreement or Succession and all lands which are or shall be acquired for the public service or otherwise".

It differs from the definition that public lands are restricted to lands which are subject to the control of the Government and used in execution of its purposes, such as the erection of Government houses, etc. They do not include all land which is not the subject of a grant to the public, and therefore do not include miri, mawat and matruke lands whose Ragabeh remains with the Sultan, but upon which no actual control is exercised by the Sultan.

The definition includes lands which are to be acquired for the public service, by expropriation, for example. The High Commissioner was vested with all rights in or in relation to such public lands in trust for the Government of Palestine. The position of the Sultan as the ultimate owner of the land (the holder of the Ragabeh) was necessarily transferred to the High Commissioner who replaced him and who inherited the Sultan's ultimate theoretical ownership of all the lands in Palestine.

The Jordanian Government proceeded on a similar basis. The term "State or public land" is defined in two Jordanian laws. The first, passed in 1961 <sup>9/</sup> deals with the protection of state land and property. The definition given is as follows: State lands and properties are all immovable properties registered in the name of the Treasury as principal or on behalf of those having an interest therein, or registered in the registry of Mahlul lands and any other lands or properties of the State. They include mawat lands, but not forested land, the protection of which is vested in the forestry department.

The above definition must be read in conjunction with article 8 (3) and (4) of the Law for the Settlement of Disputes over Land of 1952. These articles provide that "lands used for public purposes which are of the Matruke category shall be registered in the name of the Treasury on behalf of those who have use thereof". (Article 8 (3)). Article 8 (4) provides that "any right in any land or water which is not proven by any claimant shall be registered in the name of the Treasury".

The law of 1961 from which the definition of State land quoted above is taken declared the establishment of a special court to investigate cases of trespass on land. It was intended to provide for the protection of lands registered in the name of the State and lands without a registered owner. That is why mawat lands were included in the definition of State lands given in that law. The other Jordanian law which defines State lands is a 1965 law. <sup>10/</sup> State land is defined there as all immovable property which the State uses or owns according to the laws in force. It is significant that the definition of State land in the later law did not refer specifically to the earlier, 1961 law. When the definition of State land in the two laws is compared, it becomes clear that the definition in the 1965 law is the more general one, whereas the earlier defines State land only "for the purpose of the law". As has been mentioned above, the 1961 law was to provide for the protection of the lands registered in the name of the State and lands without a registered owner. The inclusion of mawat land in the definition of State land is understandable in view of the aim which the law was passed to achieve.



Inspection of the records of lands which have been registered before 1967 shows that a certain (though small) proportion of the land in the West Bank is in fact registered in the name of the State. This includes land which the Jordanian Government expropriated under the Law of Expropriation for Public Purposes <sup>11/</sup> and land which was acquired under the 1935 (Emergency) Defense Regulations. <sup>12/</sup>

It was never the practice under the Jordanian Government before 1967 nor is it now the practice of the present Government in Jordan to consider all lands except land falling in the wakf and miri categories as State land. It is therefore correct to conclude that in June 1967 State lands comprised those lands which were already registered by the operation of one or another of the laws in force in Jordan which allowed the State to acquire land for public or for military purposes. That category of State land was not thought a closed one. Other lands were liable to be included in it in accordance with articles 8 (3) and 8 (4) of the Settlement of Disputes Law quoted above. However, that could not occur after 1967 because order 291 <sup>13/</sup> issued by the West Bank area commander suspended all the operations of the settlement of disputes over land law.

This was the condition of the land law and registration when Military Order No. 59 <sup>14/</sup> was issued by the area commander on 31 July 1967.

The Order defined State property (see annex I) and it provided that the "person appointed to implement the Order may assume possession over State property and carry out whatever action he sees as necessary for this".

It is not difficult to appreciate the justification behind passing Order No. 59 so shortly after the occupation. During the first days of the occupation, many military orders were passed relating to assumption of power and control over various aspects of life in the occupied territory. It is not, therefore, surprising that an order should be passed concerning the assumption of control over State property. Military Order No. 58 <sup>15/</sup> also concerns assumption of possession of another category of property (absentee property, which will be discussed later), and a few days before that, Order No. 25 <sup>16/</sup> was issued. Later, however, Order 59 was amended to serve an entirely different purpose which does not seem to have been foreseen when the Order was issued.

It is by virtue of Order 59 that hundreds of thousands of dunums - which constitutes the majority of land used for settlement - have been declared "State land" and transferred to the settlers.

A careful reading of Order 59 in its original unamended form reveals that it was intended to enable the custodian of Government property to assume control over and to manage the property of the Jordanian Government for the duration of the occupation.

Pursuant to this objective, the Order empowers the military commander to make arrangements concerning the means of supervising Government property. The assumption of such powers over Government property is to enable the custodian to fulfil his duties and powers under the Order of managing the properties of the Jordanian Government pending termination of the occupation.

The present use to which this Order is put, namely to declare non-registered property State land and to transfer it to the exclusive use of Jewish settlers, is clearly an improper and illegal extension of the original Order, which could be justified in its original form. It is also inconsistent with article 2 of the Order which empowers the custodian to assume possession of State property and to take whatever action he deems necessary for this. It cannot possibly be deemed necessary for the fulfilment of intention of the Order to transfer the use and ownership of Government property to private individuals to use for private purposes as owners for long periods.

The present use of Order 59 to declare areas of land State property according to an enlarged definition began in 1979. It coincided with the decision of the Likud Government of Israel to intensify its settlement activities in the West Bank.

Before 1979 smaller areas of land were being acquired for the Jewish settlement of the West Bank. The methods which were used to acquire them will be described later. None of them sufficed to facilitate the transferral of the areas of land required by the Likud Government to fulfil its large-scale plans for Jewish settlement of the West Bank. To assess the availability of legal methods which the military authorities could employ to acquire the areas of land required, a comprehensive survey of the ownership and registration status of all West Bank lands was begun in December 1979 by the Office of the Custodian of Absentee Property (which is under the control of the Israel Land Authority) under Mrs. Plia Albeck, a legal expert working with the Israeli Ministry of Justice.

Palestinian employees of the Land Department, the Survey Department and the Office of the Custodian of Absentee Property were put to work to investigate the land records and make reports. Experts in the local land law, such as Mr. Yusuf Atallah, the Director of the Lands, were encouraged to make available their knowledge about the land law. <sup>17/</sup>

At the same time, an important development took place which made it imperative for new means of acquiring lands for settlement to be found. This was the decision of the Israeli High Court of Justice in the Elon Moreh case. <sup>18/</sup>

The case was the first instance of the Israeli High Court of Justice (because of the presence of special circumstances, such as conflicting affidavits as to the security necessity of the Elon Moreh settlement, and the settler's own statement that the settlement was for ideological and not security grounds) questioning the motives and professional judgements of those entrusted with the security of the State. The decision of the Court was that reasons of security, in this case, did not justify the requisition of privately owned land for the purpose of building a Jewish settlement. The Court also held that the Hague Regulations of 1907 were binding on Israel's governance of the territories it occupied in 1967. The Court imposed two limitations on any future recourse to the High Court in cases of land requisition or possession by military authorities:

(a) The High Court was not prepared to intervene in any dispute over the ownership status of land;

(b) Only seizures of privately owned land could be prevented or reversed by recourse to the High Court.

The decision indicated the method to be employed for future acquisitions of West Bank land for settlement purposes. The ground was already prepared for this new direction. Order 59 was already on the books, and Order 364 <sup>19/</sup> amended article 2 A of the Order to add the following section: "Where the person responsible approved by written certificate, signed by him, that any property is State property, it will be considered as State property until the opposite is proved". This meant that the burden of proof lay on whoever intended to oppose a declaration of land as State land. Order 172 had already given the Objection Committee jurisdiction to hear all appeals submitted against decisions made in accordance with Order 59.

The comprehensive survey had revealed that the majority of land in the West Bank was not registered and fell into the categories of miri, matruke and mawat lands. The Government, therefore, decided to consider all unregistered lands falling into any one of these categories to be State land. Declarations of land as State land began to be made. Under the alterations that were carried out in the judicial system described in part II, the only tribunal competent to hear appeals against such decisions is the Objection Committee, which is controlled and administered by the military authorities who make the declarations. The Israeli High Court of Justice had already decided in the Elon Moreh case (as has been mentioned above) that it was not prepared to intervene in any disputes concerning the ownership of land and that it would only hear appeals concerning seizure of privately owned land. The military authorities have arrived at an arrangement which enables them to have full control over the process of land acquisition for Jewish settlement as well as over appeals submitted against any decisions made pursuant to it. <sup>20/</sup>

Following these changes, the acquisition of hundreds of thousands of dunums of land proceeded at a very fast pace and is continuing at the time of writing. This method is the one most commonly used to acquire possession of lands in the West Bank for Jewish settlements. Before proceeding to discuss the other methods that are used, it is necessary to describe the actual steps by which land in the West Bank is acquired using this method.

When the Ministerial Settlement Committee decides to establish a new settlement in the West Bank or to enlarge an already existing one, the area of land required is considered by the legal experts at the Israeli Ministry of Justice. Their decision is passed to the Israel Land Authority and to the Office of the Custodian of Absentee and State Lands in the area where the land in question is situated. The custodian usually summons the mukhtar (village elder) and takes him to the area which has been declared State land and points it out to him. It then becomes the responsibility of the mukhtar to inform those members of his village whom he believes own plots within this area. They are informed that if they wish to appeal against the decision, they should apply to the military Objection Committee.

With such a vague reference to the land which is the subject of the declaration, confusion as to the exact boundaries and area of the land so declared often occurs. The first indication to landowners that their land has been the subject of a State land declaration is often the sight of bulldozers working the land to prepare it for the establishment of a settlement. This is because many of the mukhtars are appointed by the military authorities and are not on good terms with the residents of the village.

If, however, the landowners are served with a written declaration, a photocopy of a map is usually appended to it. On the photocopy the boundaries of the area, the subject of the declaration, are drawn with a thick pen. The first question, therefore, becomes to ascertain the exact location of the area in question. The Office of the Custodian is rarely co-operative in this regard.

After overcoming the initial difficulty of discovering the exact area of land involved, those claiming ownership can choose to submit an appeal against the declaration to the Objection Committee. However, in deciding whether or not to resort to the Objection Committee, they must take into consideration the fact that the declaration that the land is State land is declarative and not constitutive. A decision by the tribunal in favour of the State can only add legal weight to the authority's decision.

According to the rules provided by Order No. 172 concerning appeals against a declaration of State land, an appellant (upon whom falls the burden of proving that the land in question is not State Land) must submit with his appeal a survey map of the whole area in dispute prepared by a licensed surveyor which



shows the exact boundaries of all the plots claimed by the various appellants.

The area of land involved in such cases is often more than 2,000 dunums (a dunum is 1,000 square meters). The expense involved in preparing a survey map of such a large area of land can be exorbitant. The rules require that each appellant submit with the appeal a sworn statement declaring the basis on which he claims ownership of the land, as well as copies of all documents upon which his claim is based. All these must be submitted 30 days after the declaration is made. The Custodian then submits his reply to this appeal and the case is heard by the Objection Committee.

The Committee is unwilling to accept receipts for payment of tax on the land or registration in the tax department as sufficient proof of ownership. If use is the basis of the ownership claim, the appellant must prove continuous use, that is cultivation for the preceding 10 years.

The Custodian has available to him the aerial photographs of the West Bank which have been taken periodically. These are often presented to the Committee as proof that the land has not been continuously cultivated. It is the case that the authorities have refused to grant permits to Arab farmers for the drilling of artesian wells. Agriculture, in most cases, is therefore dependent upon the uncertain rainfall. Some years of rainfall is so slight as not to make it worthwhile to cultivate the land. It is also the case that since the occupation, West Bank residents have been attracted by the availability of work in Israeli factories to leave their lands and work instead for the more secure wage provided by Israeli employers. These circumstances together with the conditions which the Objection Committee places upon the appellants have resulted in a low success rate for such appeals. It can also be said that the expenses involved, including payment for the professional services of the surveyor and lawyer, are often much higher than what an average villager in the West Bank can afford.

Even if an appellant succeeds in meeting the standard of proof required by the Objection Committee, the Committee could still decide against him. Article 5 of Order 59 provides that "every transaction made in good faith between the Custodian and another person concerning property which the Custodian considered, at the time of making the transaction, to be State property, shall not be cancelled and shall continue to be binding even if it is proven that the property in question was not State property at the time when the transaction was made".

The standard of proof required to satisfy the Committee that the transaction was entered into by the Custodian in good faith is not high.

In December 1974, Military Order 569 21/ established a department for the registration of special transactions in land. Article 2 states that transactions involving land which has been declared State land or which has been taken for military purposes should be registered. Inspection of the register has been restricted (by Order 605 22/ amending Order 569) to those who are empowered to make transactions concerning State lands. Regulations concerning registration of these special transactions were published on 17 December 1974.

It is not very clear what the reasons behind creating this department are. One possibility is that it is to enable registration of sales of property without the public exposure that might discourage some vendors if the transaction were to be registered in the local land registration department, especially in view of the fact that the employees in the local land departments are Arabs.

The more important objective of the order, however, seems to be to facilitate the registration of State land or land acquired for military purposes by the authorities in the name of Jewish corporations or individuals for the establishment of settlements. Article 7 of Order 569 states that registration under this Order shall be considered as proper registration for the purposes of any law requiring the registration of transactions in land.

Because of the prohibition of public inspection of this register, it is not possible to estimate the area of the land that has been so registered. However, if, as appears possible from a careful reading of the Order, the register is intended for the registration, in the name of private and corporate Jewish settlers, of land acquired by the authorities through declarations of the land as State land and by requisition for military purposes, then it is very likely that all land on which Jewish settlements have been established is registered here.

I have discussed above how the law in force in the West Bank has been misinterpreted as far as State land is concerned. Even if the definition of State land were correct, the Hague regulations state that an occupying Power shall be regarded only as the usufructuary and administrator of State property. It must safeguard the capital of the property and administer it in accordance with the rules of usufruct. A usufructuary may enjoy the use of the property but may not impair its substance or alter the character of the property.

#### B. Acquisition of property through declaring it "abandoned"

The concept of "abandoned" property has its origins in the thinking of the early Zionists prior to the establishment of the State of Israel. Consistent with their belief that the Arabs did not have a strong tie to their land, Zionist activists were inclined to believe that many Arabs had abandoned or were willing to abandon their property if offered property elsewhere in the Arab world. The absentee landowners, the feudal lords who lived outside Palestine, were the first targets. After the establishment of the State of Israel in 1948, the exiled Palestinians left behind immovable property with an estimated value of 100,383,784 Palestinian pounds. They also left behind 19,100,000 Palestinian pounds' worth of movable property. This property included extensive stone quarries, 40,000 dunums of vineyards, 95 per cent of Israel's olive groves, nearly 100,000 dunums of citrus groves, and 10,000 shops, businesses and stores. 23/ Many of those Arabs who stayed were termed "internal absentees" and 40 per cent of the lands of those remaining Palestinians was also confiscated as abandoned property. 24/

Islamic wakf land (land which is dedicated for a pious purpose) amounting to hundreds of thousands of dunums in Israel, was also considered to be absentee land. In 1950 the Absentee Property Law 25/ was passed by virtue of which a custodian was appointed to manage this property. The Development Authority - Transfer of Property Law (also of 1950) 26/ established a Development Authority, which was permitted to buy the lands placed by the earlier law under the control of the Custodian of Absentee Property. Lands so acquired may not be alienated. The Development Authority has eight members from the Jewish National Fund and seven representatives of the State of Israel.

The Israeli Absentee Property Law defined an absentee as, inter alia, someone who left for a country which is in a state of war with Israel. The military order on the same subject passed in 1967 by the military commander of the West Bank, Military Order 58 27/ defines an absentee as someone who has left the area of the West Bank before, during, or after the time of the 1967 war. This definition renders even a Palestinian who was resident in June 1967 in the United States, for example, which is not a country in a state of war with Israel, an absentee. This strict application of the definition, however, has not in practice been applied in the West Bank so far.

The control of the military authorities over the land registers and their successful penetration of Arab society in the West Bank helped them to identify which property is (according to the Order) "abandoned" property. However, even when the owner of the property has not left the area (and therefore his property does not qualify as absentee property) and a Jewish settlement is in need of land to establish or develop, the Custodian can still acquire possession of it and enter into transaction with third parties who are either individuals or Israeli development companies. In one such incident involving land registered in the name of an Arab who lives in an area with which the author is personally familiar, the custodian sold over 70 dunums of land to private Israelis who were living in a settlement adjacent to this land and who wanted to enlarge their settlement. When the owner objected, the Custodian invoked article 5 of Order 58, which states that "any transaction carried out in good faith between the Custodian of Absentee Property and any other person, concerning property which the Custodian believed, when he entered into the transaction, to be abandoned property, may not be annulled and remains valid even if it were proved that the property was not at that time abandoned property". The tribunal authorized under the existing orders to hear appeals against decisions by the Custodian of Absentee Property is the Objection Committee constituted by Order 172.

The head office of the Custodian of Absentee Property is in West Jerusalem. The office is called "The State of Israel, The Lands of Authority of Israel, Custodian of State Property and Absentee Property in the Districts of Judea and Samaria". As the title implies, the Custodian of Absentee lands in the West Bank is administered by the Israel Lands Administration (whose director is the Israeli Minister of Agriculture, ex officio) which supervises the use of 93 per cent of Israel's land area and has effective responsibility for the supervision of land acquisition and use in the West Bank.

The Jerusalem head office acts through offices in each of the major West Bank towns. Those employed in these offices (Arabs and Jews) are constantly on the lookout for more land to acquire under the pretext that it is abandoned property. They are helped in this by the legal and administrative changes that have rendered the approval of the Custodian necessary for most transactions in the land. This includes all sales and the re-registration of land, although it does not involve any transfer of land. It also includes registration of land in the name of the heirs of deceased owners. The obvious objective here is to identify any share in the land which devolves upon a non-resident which the Custodian will be able to take.

The administrative network of the offices of the Custodian also have a role in identifying and arranging for the acquisition of land under the pretext that it is "State Land", as has been explained above.

It is clear both from the working of Military Order 58, in particular the provision on transactions made in good faith, and from the practice of Israeli Governments in the past and in the West Bank at present, that it is not the intention of Israel to hold the property of absentees in trust and in accordance with the rules of usufruct pending the resolution of the conflict. The Custodian is handling that property as if he were an absolute owner and transferring it to third parties for use in a long term permanent manner.

#### C. Lands requisitioned for military purposes

Privately owned land can be seized by unnumbered military orders which proclaim that the land is needed for "vital and immediate military requirements". Such lands remain theoretically under private ownership. Many settlements have in fact been built on these lands.

#### D. Lands closed for military purposes

The military authorities may declare under Order No. 5 certain areas in the West Bank to be closed areas. Although the power to make such declarations is wide and can be used for many reasons including, for example, the prevention of reporters from visiting a place where there is a demonstration which the military authorities do not wish to have reported, this power is more often used to "close" areas on the ground that they are "security zones" claimed to be needed by the army as training grounds, firing ranges, etc. Closed lands later tend to become requisitioned, as was the case of the land on which the Jewish settlement near Hebron, Kiryat Arba, was established.

E.

#### Land expropriated for public purposes

According to Jordanian Law No. 2, Expropriation of Land for Public Purposes of 1953, 28/ an authority or corporate body wanting to expropriate land must first publish in the Official Gazette its intention to submit to the Council of Ministers the application for expropriation of the land specified in detail in the Gazette. If no objections are submitted within 15 days, the approval of the Council of Ministers is applied for. When this approval is obtained, it must be endorsed by the King. It is then published in the Official Gazette and thereafter the person, authority or body interested in making the expropriation submits to the Registrar of Lands in the area where the land is situated the list of names of the owners of the land in question, as well as a copy of the decision of the Council of Ministers endorsed by the King. The body requesting the order must then compensate the owners of the land with an amount equal to the market value of the property on the date of expropriation. The competent court to which any of the above decisions may be appealed is the Court of First Instance in whose area of jurisdiction the land falls.

The military orders amending this law have brought about the following changes:

- (a) A military authority appointed by the area commander has been given all the powers and privileges which, according to the Expropriation Law, were vested in the Jordanian Government;
- (b) The requirement to publish the intention to carry out an expropriation, the need to obtain the approval of the Council of Ministers and endorsement of the King, the necessity to publish the approval again and the requirement to submit the pertinent documents to the land registrar are not applicable when the body seeking the expropriation order is one appointed by the Military Commander;
- (c) The right of the owner of the land to appeal against the expropriation or the compensation to be paid for the land has been transferred from the Court of First Instance to the Objection Committee;
- (d) A new article has been added to the law whereby the area commander may order that force be used to evacuate the owner of the land if he refuses to vacate it within the period decided upon by the area commander. Anyone resisting such an order may be imprisoned for a period of five years or fined or made to suffer both punishments.

The effect of the above changes is to make it possible for sponsors of Israeli settlements and any other body of which the military Government approves to expropriate land quietly without having to go through the requirements of announcing his intention or obtaining permission from non-military bodies. It also removes from the local courts the power to review decisions as to expropriation or as to the compensation to be paid for the expropriated land. The aggrieved party is left with the remedy only of appealing to the Objection Committee, which as explained earlier, is composed entirely of military personnel. Finally, in many cases it has imposed a heavy punishment on any owner resisting the execution of the order.

The Expropriation Law as amended has been used by the military authorities to acquire land for roads, including arterial and access roads to Israeli settlements, Israeli settlers having been recognized by the Israeli High Court in one of its decisions 29/ as part of the population of the West Bank. 30/ The use of this method of acquiring land has been on the increase since the amendment of the regional plan (the RJ 5 which will be discussed below).

F.

#### Acquisition of land for Jewish settlement by purchase

All the methods discussed above for acquisition of land for Jewish settlements are based on security grounds, or the authorities have been enabled to use them because of the state of emergency in existence in the West Bank, or they are based on some alteration or special interpretation of local law.

Consequently, if peace negotiations are started or if the status of lands on which Jewish settlements have been established comes under review by a neutral body, the basis on which the land was acquired may be put in doubt. It is for this reason that acquisition of Arab land by purchase remains the method most preferred by the settlers.

It is difficult, in view of the restrictions placed on inspection by the public of the records of the Land Department, to estimate the amount of land that has been sold by the Palestinian to the settlers. It is not estimated, however, that the percentage of land acquired through this method is large in relation to the areas acquired through other methods.

Jordanian law, as it existed at the time when the occupation of the West Bank began, restricted the transfer of immovable property to foreigners. The Law for the Lease and Sale of Immovable Property to Foreigners of 1953, published in the Jordanian Official Gazette No. 1134 on 16 February 1953, prohibits "a non-Jordanian citizen from taking ownership of immovable property in the Hashemite Kingdom of Jordan except under the following conditions:

- "1. That the lands he takes over the ownership of be situated within the municipal boundaries or the blocks of the town;
- "2. That he first obtains a permit from the Council of Ministers;
- "3. That he undertakes to be subject to the laws in force in the Hashemite Kingdom of Jordan".

Article 2 of the above Law also prohibits a non-Jordanian from leasing immovable property in Jordan for a period or periods the total of which exceeds three years, unless he first obtains permission from the Council of Ministers.

Similarly, article 5 (1) of the Law Concerning the Possession of Immovable Property by Juridical Bodies of 1953 31/ (Jordanian Official Gazette No. 1140 of 16 April 1953) prohibits foreign juridical bodies from acquiring ownership or possession of property except with the permission of the Council of Ministers and provided the immovable property is within the towns and villages and that it does not exceed what the organization needs for its purposes and that it is not for the mere possession or for trading. Article 8 (3) of the Law allows such bodies to acquire immovable property outside the towns and villages if public interest requires it and provided the conditions mentioned above are complied with.

The area commander has acquired the powers of the Council of Ministers, and the powers of the Registrar of Companies have been acquired by the Officer in Charge of the Judiciary. The Jewish National Fund, 32/ for example, has registered as local companies in the West Bank branches of the Fund which have as their objectives the acquisition of property. One such branch is Hamanuta, registered in 1971. Although all the shareholders are non-Jordanian and its registration was not in accordance with the Law, having acquired the status of a local company, the restrictions placed upon foreign persons and organizations possessing land in the West Bank do not apply.

Until 1979 this was amongst the most common methods of acquiring land in the West Bank by Jewish organizations. Other public Jewish companies not registered in the West Bank required a permit to acquire lands in the West Bank and they were given that permit by the military authorities. After 1979 the restriction on Israeli citizens to buy land in the West Bank in their own individual names was removed and permits began to be given without difficulty and they continue to be given to date. 33/

Sale of land by Arabs to Jews in the West Bank has always been considered an act of treason by the community (in Jordan it has been made a crime, carrying the death penalty, for a Jordanian citizen - which all West Bankers are - to sell land to Jews). The reason for this is the belief that, since the interest of Israel is to annex the West Bank and prevent Palestinians from having a State of their own, the sale of land is tantamount to assisting a policy of denying the society the opportunity to exercise its basic right of self-determination. Being aware of this, the military authorities have attempted to acquire all the powers of control over matters of land in the West Bank, as well as making whatever changes in the law that could enable those desirous of transferring their lands to Jews to do so in secret and without needing to resort to any public department. The following changes have been made which have bearing on this:

(a) Order 25 has made it mandatory to obtain the consent of the officer in charge of the judiciary for any transaction involving land. Since the Camp David agreement, the powers of the officer in charge of the judiciary under this order and the powers of the director of Lands and Survey Departments which had been transferred to him, are now vested in another officer. The reason for this seems to be that there was a readiness by Israel to hand over the judiciary to the local population and so the changes described in part II were carried out. This was the last in the series of those changes by which all the necessary powers needed for the fulfilment of the plans of Israel over the West Bank were divested on the local judicial system. Similarly, Orders 450 34/ and 451 35/ of 6 October 1979 declared that all the powers by virtue of the law vested in the director of the Lands and Survey Departments are transferred to the Officer in Charge of the Judiciary and as far as the Survey Law is concerned, to the Officer in Charge of Survey Matters 36/;

(b) The irrevocable power of attorney through which land may be sold by an irrevocable authorization which is given by the owner to a named attorney to register the land in the name of the buyer whose name is mentioned in the document was valid under Jordanian law for five years. Military Order Nos. 811 37/ and 847 38/ prolonged the period of validity of such instruments from five to 10 years and later to 15. Israeli notaries public were permitted to authenticate the signatures appearing on these instruments and Israeli consuls were declared the only authority outside the West Bank with power to legalize powers of attorney. The Officer in Charge of the Judiciary was given the authority to legalize the signatures of the Israeli consuls;

(c) Military Order No. 1025 39/ granted a general permission to the juridical bodies whose names are published in the appendix of the

Order the right to acquire immovable property in the West Bank despite the restrictions on acquisition by foreign bodies of immovable property in the West Bank which have been mentioned above;

(d) Public inspection of the Land Registration Department has been completely restricted as far as the local Arab population is concerned. Only an owner or one who holds a power of attorney from him may acquire an extract of the deed of registration of his or his principal's property. If an extract is required for starting litigation in court, the court to which the case is submitted must grant permission to obtain the extract and the registration department will only provide the extract of the deed after receiving the court's written order;

(e) The condition of the local courts, the lack of independence of the judiciary and the power under Military Order No. 841 40/ of the Officer in Charge of the Judiciary to withdraw and inspect files being heard by the courts (there are several land cases which are known to this author where files have been withdrawn by the officer from the court, causing delays and attempting to influence the outcome) make it possible to present to the court cases where one party agrees with another to take up a case concerning land in which the defendant either has some interest or is only remotely connected with. The parties decide before the court to settle their apparent dispute and register the settlement in the court. By virtue of this settlement, the land is registered in the name of the plaintiff. This is one of the illegal means used to register land in the name of someone other than the owner without the owner's consent. There are many other ways in which registration of the property of another is achieved. A method commonly used is to apply for the registration of a plot of land under the Jordanian Law for Registration of Immovable Property No. 6 of 1964, 41/ as amended by Military Order 448. 42/ The process of registration under this Law is used to register land which has not become registered under the settlement of disputes operations. Any application to carry out such registration must be approved by the officer appointed under Military Order No. 25. The Order No. 448 has amended the Jordanian Law, giving the Objection Committee the power to hear appeals and making the presence of the Custodian of Absentee and Government Property a requirement. There are reported instances when the signatures of the owners adjoining the land to be registered and that of the mukhtar have been forged and all other information given incorrectly with the result that the small area which has been sold to Jews is registered as several times larger than the area actually sold. There are also reported cases of threats being used as well as deception to entice owners to sign contracts for the sale of their land;

(f) A special department for the registration of transactions in specific lands has been established by virtue of Military Order 569. 43/ Although the primary purpose for establishing this department is to register the transactions made of what is called State property to Jewish settlers, owners of property which has been requisitioned who wish to sell their property may register the sale with this department.

## II

In Section I the methods used by the military authorities to acquire lands for Jewish settlements have been described. Whatever the method used, the land is eventually transferred to private individuals or corporate bodies for use in establishing or enlarging Jewish settlements. Often land is acquired by the Jewish Agency which then leases it for long terms to private individuals who live in the settlements. Private homes and community facilities are built; roads constructed and the use for which the land is put has all the signs of permanency. A department has been established for the registration of these transactions in land, as has been described above.

The process of the land acquisition is still continuing at the time of writing. On 18 April it came to the knowledge of this author that approximately 10,000 dunums (1 dunum equals 1,000 square meters) belonging to the village of Sourif near Hebron have been declared State land. This is in addition to other such declarations being made in the same period concerning other areas, with the result that a great proportion of all land in the West Bank has already been acquired for the settlements.

This section will deal with the legal structures of the settlements. It will also discuss the Regional Planning scheme (RJ 5) for a large part of the West Bank, which has already been prepared and which determines the planning of the Arab centres and Jewish settlements falling within its area.

It will become clear that methods have been adopted to restrict the development of the Arabs and prevent them from using those areas which have not yet been acquired by the settlers, either because there is already within the settlers possession more land than they can use, or because legal obstacles stood in the way of their possession. It will then become clear how the Israeli policy towards the West Bank is to acquire as much Arab land for Jewish settlement as is possible and to ensure that the development of the Arabs in those areas that have not been acquired is restricted. In this way the development of the Jewish community in the West Bank will be encouraged and that of the Arab community stagnated and stifled.

### A. Region Jerusalem 5

In the first section the methods used by the military authorities to acquire land in the West Bank have been described. The approximate area of land that has been acquired using these methods is 60 per cent of the total area of the West Bank.

This section will describe the plans that have been made to ensure that the areas of land that have not yet been acquired will not be capable of development by Arabs.

The discussion will focus mainly on the Regional Plan RJ 5 (short for Region Jerusalem 5), avoiding all the area of enlarged Jerusalem and concerning only the West Bank without the enlarged Jerusalem area, because at the time of writing this is the only regional plan that has been completed and published, although it is known that other plans are nearing completion and no doubt what applies to RJ 5 will also characterize the other plans to come.

The area which the map includes is divided into several zones, amongst them are the agricultural areas marked with green, the areas where building is allowed marked in red, areas for future development (as Higher Town Planning Council will decide) marked with light green, areas which are natural reserves marked in green and surrounded with black lines, and areas which are called special lands marked in yellow.

The plan does not affect municipalities. But the boundaries of the municipalities are marked and no development is allowed beyond that boundary. Some villages are also marked and their development is limited to within the designated borders; others are completely left out. The plan prohibits building in the areas designated as agricultural lands. There is a category of "special lands" which are not defined, but it is left to the discretion of the Higher Town Planning Council to decide their allocation.

The map also shows the Jewish settlements. The areas where building is allowed for these Jewish centres are large. The areas where no building may now take place, but where it is left to the Council to decide future allocations, are also large.

The general effect of the plan is to allow maximum room for the Jewish settlements to develop, while limiting the possibilities for the development of the Arab towns and villages. The future of the development of the area has therefore been determined. The plan puts into effect the policy of developing Jewish settlements and the consequences of this on the Arab population centres which are denied the opportunity to develop except within the small areas that are designated on the map.

A good case can of course be made for the necessity and desirability of planning. The question is whether planning is according to law and the objectives which the law was designed to fulfil. The Jordanian law for the Planning of Towns and Villages and Buildings, Number 79 of 1966, 44/ declares the establishment of several planning boards and provides the manner in which their work must proceed and the considerations and standards they must observe. At the highest level is the Higher Planning Council, which includes on it representatives of the Government, the municipalities, the housing corporation, the Attorney General, the engineers, union, etc. This council is given the responsibility of declaring planning zones for the towns, their enlargement and amendment, endorsing regional plans, annulling licences issued contrary to this law, hearing appeals against decisions of the District Planning Commission, etc.

The subordinate authority is the Central Department for the Planning of Towns and Villages, which has the duty of making the physical and social surveys necessary to implement the objectives of town and village planning, preparing regional plans for all districts, providing advice to all local town planning authorities, etc.

Then there is the District Town, Village and Building Planning Council which has the duty of approving the detailed planning schemes, hearing objections on regional plans in its area and making recommendations to the High Town Planning Council, and hearing appeals of the decisions of the local town planning council.

The duties of the municipal council of the town, the local town planning council, include issuing building licences according to law.

Military Order 418 45/ of 23 March 1971 transferred the powers of all the above authorities to the Higher Town Planning Council by abolishing some of the lower councils and declaring that the Higher Town Planning Council shall appoint the members of the other remaining authorities. The provisions of the law concerning the constitution of the Higher Town Planning Council have not been followed and the Council only comprises officers of the Israeli military Government without representation of any of the bodies which the law specifies.

When the 1966 law 44/ was passed, many areas in the West Bank had already been declared planning zones according to the laws which were in force before the 1966 law. Article 13 (3) of the law, as amended, provided that any declaration of an area as a planning area made by virtue of previous laws shall be considered as having been made by virtue of this law.

Within the areas declared as planning zones, those areas affected in the RJ 5 are included. The British planner Kender had apparently worked, during the time of the British Mandate, at preparing a regional plan for the Jerusalem area - RJ 5 (which was referred to as the Kendel Plan). But it was not completed or subsequently finalized. The plan had not come into effect when the occupation began in 1967. According to article 16 of the 1966 law, the Director of the

Central Department for Town and Village Planning had the duty under the law to submit to the Regional Planning Council regional planning schemes within two years from the date of the passing of the order declaring an area to be a planning zone. The two years had not elapsed when the war began. When the occupation began in 1967, there was no regional plan in existence for the area included in RJ 5. The Kendel plan was, according to all concerned, lost, but the area was declared a planning zone. In an affidavit submitted by Mr. Shlomo Khaiat, head of the Regional Town Planning Committee and a member of the Higher Town Planning Council, in the case of the Society for Teachers' Housing, he stated in paragraph 13 that the Kendel plan (RJ 5) was lost. Later on the authorities claimed that a copy of the plan was found with an Israeli professor.

Until April 1982, building permits continued to be given by the municipalities within the areas over which they had jurisdiction and the Higher Town Planning Council gave permits for building in all other areas. Although permission was never given to build in areas where Jewish settlements were established or planned, the great limitation placed on the development of the existing Palestinian communities only became clear with the publication of the RJ 5 Regional Planning Scheme.

Article 8 of Jordanian Planning Law of 1966 imposes on the Minister of Affairs of Municipalities and Village Councils (all of whose powers were transferred by Order 418 to the person whom the area commander appoints) the responsibility of ensuring that there is co-ordination in the use of all lands in Jordan in the interest of the public and in accordance with the region's economic planning. He also has the duty to ensure that the planning of all towns and villages is consistent with the Government's social policy, the development of the society and its progress.

The "person responsible" who has been appointed by the area commander to replace the Minister apparently considers his obligation and that of the Higher Town Planning Council to be to fulfil the Israeli Government's economic and planning policy as far as the Jewish population of the West Bank is concerned. As for the Palestinians who constitute the majority of the population, the only policy is one of ensuring that they are not permitted to develop outside the confines of their towns and villages (when the existence of these has been recognized). Only if this is considered to be the primary objective of the authors of RJ 5 can one understand why it was drawn up in the way that it was.

The existence of the Higher Council to serve only the best interests of the Jewish settlers is confirmed by the fact that the main office of the Council, where the plans are drawn up, is now located in the Jewish settlement Maaleh Adumin. Considering the restrictions imposed on a Palestinian's entry into a settlement, the office is practically out of reach for the majority of the population. It should also be noted that the statutory notices of the Higher Council are placed in the English language Jerusalem Post and the Arabic Al Arba which are published by the Israeli authorities. Both papers have a very limited readership amongst Palestinians.

The other office of the Council is in Ramallah and is where the Arab employees of the Council work. They are employed to execute the bare minimum requirements of the law by which the Council has in theory been concerned to abide.

The Jordanian law of 1966 provides for a number of steps which must be taken before work can begin on preparing a planning scheme. Surveys must be made of the area to investigate the demographic and topographic aspects, the existence of public places, communications, natural resources, etc. The Director of the Central Department for the Planning of Towns and Villages must consult with the district and local planning committees; then for two years after the order declaring an area to be a planning area, a regional plan is prepared.

RJ 5 has been announced not as a new plan made by virtue of article 16 of the 1966 law. It is referred to as an "amendment of the Regional Plan RJ 5". This means that what the Higher Town Planning Council considered to be the case is that the regional plan was already in existence and it only amended it. However, it is clear from article 13 (3) of the 1966 law, as amended, that the RJ 5 was not a recognized plan when the occupation took place. And even if it were, there is no power according to the existing law for the Higher Town Planning Council to amend an already existing plan, unless it is obliged to do so in accordance with the objectives of the law as provided in article 4 (referred to above) for the benefit of the population. If the newly announced amended version of RJ 5 is in fact based on the Kendel plan, then it seems to be the case that the plan of the Mandate times has been used to keep the areas where Palestinians live as they were more than 40 years ago with very slight changes, while the rest of the area has been planned to enable the numerous newly created Jewish settlements to develop to fill up as much of the areas in between as they could possibly handle.

At present the amended regional plan RJ 5 has just been announced and objections are being submitted by those affected. Hundreds of people have submitted their objections. Some of those have already been heard. By virtue of Military Order 604, 46/ amendment No. 2 to Military Order 418, the area commander is empowered to appoint a "special planning council" in a planning area if, *inter alia*, the planning area does not include the areas of a municipality or village council. The order also empowers the area commander to transfer to this special planning council all the powers of the District Planning Council. This includes the power to hear objections to the regional planning schemes and send its recommendations to the Higher Planning Council. It is this special board that now hears objections submitted to the RJ 5. The objections are heard by one of the assistants to the legal adviser of the military Government and a senior employee of the Higher Planning Council who is known to be amongst the authors of RJ 5. Already the consequences of RJ 5 are being felt by the society. Building licences outside municipal areas have not been issued on the grounds that only after more detailed schemes are prepared could this be done. The Arabs in the few areas left where development is allowed cannot do so until detailed schemes are made. The scheme prohibits anyone from submitting an application to the District Council (replaced by the Special Planning Council) until he proves his ownership of the land through registration or in another manner which the Council deems appropriate, which is not required by law. No building is allowed in an area designated as an agricultural area (the areas with the oblique green lines on the map) except buildings necessary for water and electricity installations or which are specified for agricultural reasons or which are for a guard or for storage. One residence for the farmer is allowed in the area when the area is not less than 1,000 square meters and provided that the residence is not more than 150 square meters. The use of all non-agricultural lands in this green area shall only be as authorized by the Higher Planning Council. On 24 January 1983, Order 1043 47/ amended the Planning Law to increase the fines payable for building without a licence to twice the value of the building concerned. It also provides for the punishment of any employee of a planning authority or local authority who decides orally or in writing that it is possible to give a licence or who issued or recommended issuance of a licence contrary to the regional planning schemes. The stated sentence is one years' imprisonment or a fine of I.S. 100,000.

The use to which the lands designated as reserved for future development and those designated as special areas maybe put shall be, according to the plan specified by the Higher Planning Council. Another matter from which many landowners have already been suffering is the large areas which are being expropriated to build roads. Most of these roads are needed to connect the settlements with Israel. They cross the lands of Palestinians who are not allowed to use the land for building in an area of 150 meters on either side from the centre of the road in the case of arterial roads, 100 meters for district roads, and 75 meters for main local roads.

#### B. The legal structure of the Israeli settlements

The two units of local government possible under Jordanian law are the municipality and village council. The Jewish settlements in the West Bank are organized as regional and local councils. The regulations which apply to these two structures seem identical to the Israeli regional and local council laws. They have been introduced to the West Bank in the form of regulations passed by virtue of military orders.

The first legislation relating to the organization of settlements was issued on 25 March 1979. Order No. 783 48/ provided for the creation in the West Bank of regional councils for "any one of the settlements listed in the appendix to the order which is given the name appearing in the appendix". Article 2 of the Order stated that the administration of regional councils would be in accordance with the wishes of the area commander.

The second major legislation on the settlements was Order No. 892 of 1 March 1981 concerning the administration of local councils. The regulations passed both by virtue of Orders 783 and 892 are published either by posting them on the notice board in the offices of the council, or by publishing them in the collection of the council's regulations. Since Palestinians do not have access to the settlements, the regulations are beyond their reach.

Following is a comparison between the powers and functions of the local councils of the Jewish settlements with those of the Arab municipalities according to Jordanian law.

#### Functions

The municipal council has power over such areas and functions as roads, buildings, water, electricity, gas, sewage, crafts and industries, health, cleanliness, public places, parks, etc. Some of these powers are similar to the ones given in the local councils. However, the local councils enjoy additional powers. To begin with, a local council acts as the trustee, custodian or representative in any public case involving the inhabitants of the locality. 49/ It is also empowered to administer, implement and establish services, projects, and institutions which it believes are important for the welfare of the inhabitants living within its area. 50/

It is empowered to oversee the development of the locality, the improvement of life within it, and the development of the financial, social and educational affairs of its inhabitants or any sector of them. 51/ It can also organize, restrict, or prevent the establishment or administration of any service, project, public institution, or other organization, craft works, or industry of any kind. 52/ It is also empowered to oversee irrigation, pastures, the preservation of the soil, and any other matter of agricultural significance, provided that it is administered for the benefit of the various farmers within the area of the local council. 53/ The council may establish any corporation, co-operative, or other organization for the execution of any of its functions and may buy shares in it. It is empowered to prepare emergency facilities and to operate them at a time of emergency, including the organization of rationing and provision of the necessary services. 54/ The council is also empowered to give certificates and to issue licences for any of the matters included within its powers.

According to article 88 of the regulations made by virtue of Order 892, the council administering a locality may, with the agreement of the person responsible, make regulations concerning any matter over which the council has jurisdiction. Article 93 stipulates that these regulations shall be considered security legislation issued by the area commander. They shall be posted on the notice board in the offices of the council and in other public places within the locality or in any other way that the council shall decide. Municipal courts, on the other hand, may make regulations only after a decision to this effect is taken by the Council of Ministers with the agreement of the King.

#### Taxes

A local council may, with the agreement of the person responsible, impose taxes called amona, membership fees, and other obligatory payments. <sup>54/</sup> The council is empowered to impose any additions on the amona after publishing a notice to this effect in the area of the local council. <sup>55/</sup> The council may likewise reduce the tax or fine for late payment, taking into consideration the financial situation of those on whom it is levied, or for any other reason. <sup>56/</sup> A municipal council, on the other hand, may impose taxes on vegetables and fruits for sale in the market, and on other items included within its owners in article 41 of the Municipalities Law. Amounts and percentages are determined in regulations issued by the council with the agreement of the Council of Ministers. <sup>57/</sup>

#### Finances

A municipal council may borrow money only after obtaining the agreement of the Minister of the Interior, who will consider who the lender is and the purpose for which the fund is to be used. <sup>58/</sup> It is on the basis of this stipulation that many municipalities in the West Bank are prevented from collecting money contributed to them from Palestinians outside.

Property tax payable to the municipality is collected by the Ministry of Finance. The customs authority collects customs duties on combustible liquids according to percentages specified in the law (article 59). By virtue of article 52, all funds collected for the municipalities by the Ministry of Finance are kept in trust for the municipalities and distributed by the percentage which the Council of Ministers, on the recommendation of the Minister of the Interior, decides. Criteria for distribution are mentioned in article 52 (2). Some of these funds may be allocated to finance other matters.

The yearly budget for the municipality is acted upon after it is approved by the council and authorized by the Minister of the Interior (article 56).

A local council needs the approval of the person responsible for its yearly budget (article 97 of the regulations). However, it does not need to get approval for borrowing money or for receiving contributions (article 101).

Whereas the accountant who inspects the finances of a municipality is selected by the Council of Ministers, a local council appoints its own accountant. Also, the Minister of the Interior, with the agreement of the Council of Ministers, publishes regulations concerning the proper administration of the municipalities' financial matters; a local council has discretion to administer its own finances without any interference. Regulations are made for the municipalities as to tenders, purchase of material, and all other financial matters; a local council decides these matters without interference except when the sale involves a monopoly or a concession.

Chapter 16 of the regulations mentions powers which the area commander and the person responsible have in special cases. These include interference in the administration of the local council if they see that the council is failing to carry out any of its functions under the regulations or under a security order. In case of an emergency and when there is no possibility for convening the council to take a decision which needs to be made, the person responsible may order the head of the council to act in accordance with the regulations, if he deems that the prompt execution of such action is necessary for the safety of the locality. The area commander may also appoint a new council if it has been proven to him that the council is not carrying out its duties according to the regulations or that there are financial misdealings. But he can do this only after he has warned the council and it did not make heed of his notice.

#### The defence of the settlements

When considering the powers and functions of a local council, it is necessary to mention a number of related orders dealing with what is called "the defence of villages". These orders are modelled after the Israeli Local Authorities Regulation of Guard Service of Law of 1961. <sup>59/</sup> This Law states in its preamble that "the officer in charge of the guard service" is to be appointed by the brigadier in command or a person empowered by him. In instances where the guard service is in the hands of the police, the brigadier in command is to empower the person responsible on behalf of the police for the guard service. "Guard service" is defined as including exercises and any activity which, in the opinion of the officer in charge, is required for protecting the security of the inhabitants of a settlement or their property. "Local authority" is defined as a municipal or local council. Article 2 of the Israeli law states that "the Minister of the Interior may, after consultation with the Minister of Defence, impose, by order, the duty of guard service on the inhabitants of any settlement or settlements".

The military orders in question are not simply modelled on Israeli law. Article 2 of Order No. 432, <sup>60/</sup> the first of the orders passed by the West Bank military commander, provides that anyone injured while performing guard service in the settlements shall be considered similarly to someone injured during performance of guard service in accordance with the above-mentioned Israeli law. This direct reference to an application of an Israeli law was one of the first to be made in the military proclamations in force in the West Bank.

Order No. 432 defines a village as a community that has been established after 1967. Defence is defined as training or any other activity deemed necessary by the person appointed by the military commander of the West Bank as the officer responsible under the Order. The officer is empowered by the Order to impose upon every settler the duty to defend the settlement. He is also empowered to appoint an authority to carry out the defence. Order No. 669 <sup>61/</sup> amends the definition of a resident in Order No. 432 to include "whoever lives in the village and is unregistered as a resident in its registers whether he was from the West Bank or from Israel and who does not carry out guard duty in any other village". The Order also sets the age of persons eligible for guard duty as from 18 to 60 and provides that, whenever guard duty is imposed on a person, he shall be presumed to be eligible as long as he has not proven otherwise in a way that shall be provided by order. A fine is imposed on persons who refuse to carry out guard duty. Order No. 817 <sup>62/</sup> empowers "whoever has been appointed director of guard duty according to Order 432" to oblige pupils of any institution (defined as "a kindergarten, elementary school, junior high school, field school, advanced sport cultural institution in which education is provided") over 16 years of age, as well as their parents, the principal of the institution, the teachers, and the workers, to do guard duty (article 2). In special circumstances the director may order that an institution be guarded by paid policemen. If the director believes that facilities should be installed in the institution for its protection, he may, with the consent of the police, order the institution's owners to install them. Order No. 844 <sup>63/</sup> of 18 June 1980 increases the number of hours per week of guard duty per person to six and enables the director to order that the number of hours be increased to 10 per week for a 30-day period. An increase above 10 hours needs the approval of the commander of the area.

A fifth amendment to Order No. 432 <sup>64/</sup> substantially increased the powers of the settlers. Article 3 of Order No. 898 empowers them to: (1) oblige the person whom the settlers have any reason to suspect of having committed any offence contrary to any military order to show them his identification card; (2) to arrest any person whose identity has not been proven and to transfer him to the nearest police station; and (3) to arrest any person without a warrant: (a) if he commits before them a felony punishable by five years' imprisonment, or if they have reason to believe that he has of late committed a misdemeanor or a felony punishable by the military orders with five years' imprisonment; or (b) if they saw him in suspicious circumstances taking precautionary measures to disguise himself without being able to give any reasonable explanation for his actions. A person who arrests another in such circumstances must turn him over to the police as soon as possible. Anyone refusing to obey the orders of the settlers will be considered to be contravening the military order on security of 1970. <sup>65/</sup> Appended to the order is the format of the card with which the settlers will be issued. The above powers are printed on the card. As with all the other 1,049 military orders in force in the West Bank, the power to interpret the provisions of this order are vested in the military courts.

It has been common practice for settlers to exceed their powers of guard duty and interfere with Arab inhabitants of the West Bank. For example, there have been many reported instances of settlers setting up roadblocks and searching passers-by. Two members of the Israeli military reserve were quoted in the Israeli English newspaper, *The Jerusalem Post*, as saying after Jewish student settlers from the local yeshiva and from Kiryat Arba in Hebron manned the army checkpoint alongside them, "This is the first time and the last time we will serve in this area". The settlers had joined them at a checkpoint because they said they preferred to defend themselves after the incident in Hebron where several of them were killed.

With the promulgation of the orders for the defence of the settlements, the organization of the military territorial defence system of Jewish settlers in the West Bank has been completed.

It is clear, therefore, that the Jewish settlements have a distinctive and separate legal structure from the Palestinians. The Israeli ministries use the councils of the settlements as providers of State services -with the budgetary allocations for such services incorporated in the general budgets of the respective ministries. Although theoretically the powers of the Israeli councils are limited to municipal affairs, "because of the special status of the municipal authorities", explains Moshe Drori <sup>66/</sup> "and the fact that they constitute an Israeli 'island' in Judea and Samaria, there is room to consider extending the powers of these local councils so that they may serve as channels through which the Israeli Government authorities can operate".

Drori also writes that "in Judea and Samaria, the determination of the boundaries of the Israeli municipal authorities involves a clear political aspect: within those boundaries, only Israeli authorities will operate, and these areas will be under *de facto* Israeli control". <sup>67/</sup>

There are at present three types of regional councils: <sup>68/</sup> (a) Regional councils with "contiguous boundaries: the Jordan Valley and "megillot" (Dead Sea) councils. In these areas there are almost no Arab inhabitants and most of the land has been expropriated or declared State land; (b) Local councils whose jurisdiction is limited to the planned areas of the urban centres; (c) Regional councils with non-contiguous areas encompassing all "uncultivable" lands. The

areas are irregular in shape. It is clearly the case that enough land has been acquired by now to enable hundreds of thousands of Jewish settlers to move into the West Bank. It is also the case that the "legal problems" involved in ensuring that Israeli law applies to settlers in the West Bank, while the area is not de jure annexed to Israel and while the non-Jewish population continues to live under different laws, have all by now been solved. It is also true that the construction of the infrastructure, as well as the physical structure of the settlements, is well on the way. The only remaining question as far as the feasibility of Jewish settlement in the West Bank is concerned, is whether the required number of Jews will come to live in the settlements. There is no doubt that the Government is providing all the possible economic inducements at its disposal to encourage settlement. Whether the people concerned will use their better judgement or not remains to be seen.

As this study is being written reports are coming of thousands of dunums of land being declared State land or acquired for Jewish settlements using one or another of the methods described above (e.g. in January 1983, 35,000 dunums south of the village of Thahveh were declared State property).

It is clear from the above analysis that the legality of the methods used is questionable. Furthermore, in some cases methods are used to force the co-operation of landowners in the transfer of their lands and in operations which, even under the changes that have been made to the law in force, are illegal so that the transactions end up being registered with all the traces of the illegal steps erased from the record.

The land question is at the heart of the Palestinian-Israeli conflict. If all the land is acquired by one side, peaceful resolution of this conflict will be forever frustrated. Most countries of the world do not accept that Israel has any other status in the West Bank except that of an occupier. If the present take-over of Arab lands through "legal" methods continues, the time will soon come when Israel will be able to declare that its hold on the West Bank is not based upon its occupation of the land by force, but upon the fact that it is now the owner of the majority of it. Such a claim will frustrate the efforts of those who hope that a resolution which is fair and just will be reached through negotiations.

If such an eventuality is to be avoided, the appointment of an international body to look into the present status of West Bank land may be necessary before events have moved too far for it to be feasible for such a body to make its investigation and discover the true status and legality of all methods used for the acquisition of Arab lands by Jews.

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State Property is:

1. All property which was on the specified date pertaining to one of the following:
  - (a) The enemy state
  - (b) The judicial body which the enemy state possessed any right in whether directly or indirectly and whether this right referred to control or not.
2. The property which was registered on the specified day in the name of one of the above two mentioned.
3. The property which one of the above two was a partner in on the specified date.
4. The property which was on the specified date pertaining to a juridical body which one of the above two mentioned in one above was a partner of, registered as owner of or having possession over.

## ISRAEL'S POLICIES AND PRACTICES IN THE ARAB OCCUPIED TERRITORIES IN THE LIGHT OF PREVAILING INTERNATIONAL LAW

Mohammad Aziz Shukri

The aggressive war launched by Israel on June 1967 culminated in the military occupation by the Israeli armed forces of certain undisputedly Arab territories, i.e. Sinai, the West Bank, Gaza and the Golan Heights. All peaceful means to restore these territories to the legitimate sovereignties to which they belonged prior to that unlawful occupation have so far failed, save the Sinai Peninsula and a small part of the Golan Heights. Thanks to the now universally exposed, expansionist Zionist policies, Israel still maintains its firm control over the West Bank, Gaza and the remainder of the occupied parts of the Golan Heights. Israel furthermore found it convenient, in 1980, to annex officially the Arab part of the Holy City of Jerusalem thus proclaiming the whole city as its "eternal and permanent capital", and by the end of 1981, it declared the applicability of Israeli laws and regulations to the Golan Heights, a mischievous way of factually annexing this integral part of the sovereign Syrian Arab Republic to its domain. Notwithstanding the abhorrence of the whole civilized world, especially through the United Nations, the Israeli authorities lent a deaf ear to the cry of morality and law and arrogantly refused to yield to the voice of wisdom and logic. On the other hand, in the West Bank and Gaza, the Israeli authorities have persistently and rudely carried out a policy, the aim of which, in the long run, is to prepare these undisputedly Arab territories for annexation by creating facts which would, to say the least, make any so called peaceful negotiation on the future of said territories a negotiation on the future of the Arab "inhabitants" there are not on sovereignty which the Palestinian people wish to choose freely. The aim of this short paper is to examine the legality of Israel's behaviour regarding two central questions: the policies and practices of Israel concerning annexation of occupied territories; and the policies and practices of Israel in the Arab occupied territories.

### Israel's annexation of Palestinian and other Arab territories

It is a cardinal rule of the international law of armed conflicts that occupation does not displace or transfer sovereignty. This rule, which was first heralded by Vattel and later elaborated upon by Heffter in his treatise "Daseuropaisch Volkerrecht der Geynewart" <sup>1/</sup> is now firmly upheld not only by the most highly qualified publicists in the world, but also by international treaties, the most important of which is indeed the Constitution of International Relations, i.e. the United Nations Charter. Oppenheim states that "... the authority of the occupant is not sovereignty". <sup>2/</sup> Castren likewise points out that "sovereignty over occupied territories is not transferred to the occupying Power ... occupied territory may not be annexed and any unilateral declarations to this effect are consequently void of legal effect". <sup>3/</sup> Stone expresses the same view stating that "an occupant is not legally entitled to annex...", <sup>4/</sup> Hans Kelsen is rather clearer on this point when he strongly states that:

"It is a rule of general international law that by mere occupation of enemy territory in the course of war, the occupied territory does not become territory of the occupying belligerent or - as it is usually formulated - the occupying belligerent does not acquire sovereignty over this territory". <sup>5/</sup> Ironically, even a well known Israeli authority, Yehuda Z. Blum, presently Permanent Representative of Israel to the United Nations writes that:

"Just as annexation of occupied territory by a belligerent occupant is obviously prohibited before the ceasefire or the armistice, it is equally prohibited under the international law, after the cease fire or armistice as long as this remains in force". <sup>6/</sup> It seems, however, that pure political expediency made Prof. Blum contradict his own opinion all the way when he spoke before the Security Council and the General Assembly of the United Nations justifying his Government's annexation of the Golan Heights. <sup>7/</sup> What a mockery! Likewise, the lawlessness of the annexation of an occupied territory for the occupying authority, has long since been declared by international tribunals such as the Permanent Court of International Justice. <sup>8/</sup> And many celebrated multilateral treaties went further to outlaw the mere infringement upon the territorial integrity of any State:

- (a) The Hague Regulations of 1899 and 1907;
- (b) The Covenant of the League of Nations;
- (c) The Geneva Protocol of 1924;
- (d) The Kellogg Briand Pact 1928 (known as the Paris Pact) ;
- (e) The Charter of the United Nations which pronounced as one of the principles of the Organization, which should be strictly observed by Member States, that "all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the Purposes of the United Nations".

It was certainly in the light of the above mentioned basic norms that Security Council Resolution 242 of 27 November 1967 emphasized, in its second preambular paragraph the "inadmissibility of acquisition of territory by war". In its first operative paragraph, the Council affirms that the fulfillment of the Charter's principles requires the establishment of a just and lasting peace in the Middle East which should include the withdrawal of Israel's armed forces from territories occupied in the recent conflict. Read as one single document, as it should be according to the well established rules of interpretation of international legal documents, <sup>9/</sup> resolution 242 (1967) could not have meant but the withdrawal of Israel from occupied territories. The debate of the Council preceding the adoption of said resolution undoubtedly supports this argument. <sup>10/</sup> Be that as it may, resolution 242 (1967) which is legally binding in the light of Article 25 of the Charter and the jurisprudence of The International Court of Justice, <sup>11/</sup> could not, in any way, be interpreted so as to allow the aggressor to cultivate the fruits of his aggression, especially by annexing the occupied territories. <sup>12/</sup>

Yet, Israel did it twice so far, once in Jerusalem <sup>13/</sup> and again in the Golan <sup>14/</sup> despite the fact that by resolution 3314 (XXIX) 14 December 1974, the General Assembly unanimously declared annexation of other territories as an act of aggression against which Chapter VII of the Charter should be invoked. Moreover, individuals committing such aggressions are considered to have committed a crime against peace to which the principles of Nuremberg and Tokyo apply. <sup>15/</sup> I, therefore, consider that Security Council resolutions 478 (1980) and 497 (1981) and General Assembly resolutions 226/36 of 1981 and A/RES-9/1 of 1982 are of a declaratory character in as far as the inadmissibility of the annexation of territories as a consequence of military occupation is a well established principle of international law. With this, all States in the world concur except one: Israel, whose history in breaching the rules of international law is a phenomenon in contemporary international relations.

It follows, therefore, that:

- (a) The annexation of Jerusalem and the Golan Heights to use the term of the competent United Nations organs are "null and void and without international legal effect";

- (b) All Palestinian and other Arab territories presently under Israeli occupation are subject to the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949.

Further, all other States Members of the United Nations should direct their relations with Israel along the above stated two conclusions, i.e. they should in no way (*de facto* or *de jure*) recognize "the change of title" for the Golan or Jerusalem. Otherwise, they could be held responsible for violating a well founded principle of international law according to which no recognition could be extended to a forcible acquisition of territory (The Stimson Doctrine) <sup>16/</sup> "Ex injuria jus non oritur".

## II

### The policies and practices of Israel in the Arab occupied territories

It took the whole of the nineteenth century to develop the rules of international law regulating occupation which are now universally recognized, and in many respects have been enacted in articles 42 to 56 of the Hague Regulations. They were supplemented and expanded in the Fourth Geneva Convention of 1949



relating to the Protection of the Civilian population in Time of War. And still another supplementary document was enacted in 1977, i.e. the First Geneva Protocol. All parties involved in the Arab-Israeli armed conflict are signatories to the Geneva Law. (Syria: 4 May 1954, Jordan 29 November 1951, Lebanon 10 October 1951 and Israel 6 June 1952. 17/

The central question at this juncture is how far and to what extent has Israel, as an occupying Power and not merely as an invader, IV abided by the Geneva Law, especially in recent time.

The clauses of the Convention pertinent to the question at hand are as follows:

Article 1:

"The high contracting parties undertake to respect and to ensure respect for the present Convention in all circumstances".

Article 2:

"...the Convention shall also apply to all cases of partial or total occupation of the territory of a high contracting party even if the said occupation meets with no armed resistance".

Article 4:

"...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".

Article 6:

"...The present Convention shall apply from the outset of any conflict or occupation mentioned in article 2." 19/

The essence of the Geneva Convention in question is to determine clearly the rights and obligations of the occupying power vis-à-vis the civilian inhabitants of an occupied territory. 20/ Articles 47 and 48 of said Convention are of relevance in this connection.

Israel has consistently and insolently taken the position that "The Fourth Convention is not applicable to the Israeli occupation of the West Bank and Gaza showing particular concern regarding a clause in article 49 which prohibits the occupying Power from taking measures to transfer parts of its own civilian population into the territory it occupies". 21/ The Committee on The Exercise of The Inalienable Rights of the Palestinian People, published an invaluable paper in 1979 on "The question of the observance of the Fourth Geneva Convention of 1949 in Gaza and the West Bank, including Jerusalem occupied by Israel in June 1967". It is enough, here, to refer to this paper as it contains all arguments 22/ and facts concerning the non-observance by Israel of said Conventions and a resume of the voluminous condemnation of this Israeli misconduct by the various organs of the United Nations, the Red Cross and even some Israelis.

What should seize our special attention at present, since we are to focus on the policies and practices of Israel in Palestinian and other Arab territories in the light of recent events in the region is the escalation by the Israeli occupant of its annexionist policies through land expropriations, colonial settlements and the campaign of terror against the Palestinian people. Let it be noted that by placing special emphasis on the foregoing policy, we in no way attempt to undermine other Israeli unlawful policies and practices which the United Nations paper referred to above examined. It is just because, I believe, that, the final usurpation of the West Bank and Gaza is the ultimate goal of the Israeli authorities that prompts me to consider it the central issue.

Contrary to articles 47 and 49 (b) of the Convention and notwithstanding worldwide condemnation, Israel does not conceal its intention to annex the West Bank and Gaza by all factual means in order to face the world with a fait accompli with which any Arab negotiator, the United Nations and the whole world would have to live.

Israel is steadily, surely and audaciously continuing its policy of establishing more and more colonial settlements in the West Bank according to what is known as a "Master Plan for the Development of Settlement in the Judea and Samaria 1979-1983", prepared by the World Zionist Organization. The first principle of this plan states "settlement throughout the entire land of Israel is for security and by right". 23/ The plan envisages the settlement of 27,000 families (over 100,000 persons) by both establishing new settlements and "thickening of existing settlements on the West Bank". Aside from the reports of the Special Committee on Israeli Practices up till 1979, BBC television recently broadcasted a documentary programme entitled "People Without a Land" in which many high-ranking Israeli officials were interviewed. The essence of their statements could be summarized in two main points:

(a) The transfer of the whole West Bank to become an integral part of Israel is the main goal of the Israeli Government;

(b) The presence of Arab inhabitants is undesirable. They may stay under Israeli sovereignty or they may leave. The second choice was the preference of those Israeli officials.

On the other hand, Arab populations interviewed in the programme indicated strong willingness to defend their land or die on it.

Thus, it is now a direct and, most likely, a bloody confrontation between the Arab Palestinian residents of the West Bank supposedly protected by international law, and a ruthless aggressive expansionist occupant quite determined to turn them into a people without a land.

In light of this painful, yet true phenomenon, many recent Israeli practices can be well understood. The following observations should not be overlooked:

(a) It was not a mere coincidence that the inalienable right of the Palestinian people, systematically upheld by the various organs of the United Nations since 1970, especially their very right to self-determination was in the Camp David "Frame for Peace in the Middle East" minimized to the mere right of the inhabitants of the West Bank and Gaza to "autonomy". The term autonomy, ambiguous as it may be, is far less than "independence" or even "self-government" according to prevailing international law. 25/ Autonomy, especially as foreseen by the Camp David accord, (however illegal that accord may be according to the Law of Treaties) 26/ cannot legally be interpreted to mean self-determination which in its simplified form means the right of a people to choose the sovereignty to which they wish to belong and the form of government which they freely wish to have, politically, economically, socially and otherwise. 27/ On the contrary, the will of the population of the West Bank and Gaza in the Camp David accord, is subject to the Israelis' decision alone. A closer and objective reading of that accord and the exchange of letters annexed thereto makes any further elaboration unnecessary;

(b) It was not a sheer coincidence for Israel to obstruct negotiations on the implementation of the future of the West Bank Gaza in as much as Israel and has not yet fulfilled its real objective, i.e. to Judaize the said area before facing the Arab side and the world with the fact, that the West Bank and Gaza became factually part and parcel of Israeli land. In the light of this purpose, we may understand the replacement of the military commander in the Bank by a civilian authority which is against the international law of armed conflict; 28/

(c) It was very meaningful to appoint Ariel Sharon, former Minister of Defence and a war criminal, according to the Nuremberg and Tokyo principles, as a Minister responsible for the settlement in the West Bank. He will undoubtedly accomplish, through terror and horror, what he did in Lebanon (e.g. Sabra and Shatila);

(d) It should be stressed that the ruthless Israeli campaign to expropriate more and more Arab land in the West Bank has been increased and intensified. Thanks to objective press media, the facts of this unholy campaign have reached every home in the world. There is, thus, no excuse for any peace-loving humanitarian official to claim lack of information or ignorance of facts;

(e) The campaign of terror against Arab civilians in the West Bank has become a daily headline in the news. This terror includes, inter alia, repression, administrative detention, destruction of homes, collective punishment, intoxication by gas and drinking water, biological experiments and above all premeditated attacks on the holy shrines of Muslim and Christian Arabs. The Aqsa Mosque has recently become an open target for gangs sponsored by the Israeli Government. One of the latest reports reaching consulates of many Western States in Jerusalem, affirmed that certain Israeli groups, in full collaboration with the Likud, are conspiring for sabotage and blood baths in the West Bank, particularly in Jerusalem, with the purpose of driving civilians to Jordan. 29/ According to these reports, a Zionist foundation has been instituted in New York with branches in many other American States. The main theme of this foundation is "Palestine means Jordan". The said foundation is financially sponsored by Zionists and Israeli sources to publish advertisements and articles in the main newspapers warning the Arab people in the West Bank to leave for Jordan before it is too late. This practice is the exact implementation of what Rabbi Meir Kahana wrote in his book "Let Them Go".

It follows, then, that unless stopped, somehow, Israel will not be satisfied before it consolidates an effective and forceful Jewish presence in the Bank to leave any so called negotiation on its future meaningless. My fear is that when the time matures in its favor, Israel will be willing to negotiate, but on a single point, i.e. how to dispose of the "inhabitants" of the remainder of Palestine: No more nor less. It is doing so in flagrant violation of all principles of international law or of the call of the international community. Mention should be made here of the fact that, while this paper was under preparation, Israel challenged the Security Council again, when it rudely refused to abide by its resolution of 4 April 1983 to investigate the mysterious poisoning of young Arab women in the West Bank numbering over 1,000 in a week's time.

On the other hand, in the Golan Heights, let it be recalled, that the Security Council by resolution 497 (1981) instructed Israel to continue the observance of all provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, but Israeli refused this mandatory directive, let aside General Assembly resolution A/RES/9/1 of 1982.

Thus, the Permanent Representative of Syria to the United Nations, in a series of complaints, addressed the world organization on the agony of the Syrian nationals in the Golan, pursuant to the Israeli decision to annex the Heights. The Israeli breaches to the Fourth Geneva Convention of 1949 may be categorized, inter alia, as follows:

- (a) Repression of civilians who staged a peaceful strike against annexation;
- (b) Collective arrest and detention of civilians;
- (c) Demolition of houses and sealing of stores;
- (d) Confiscation of more Syrian land for the establishment of more colonial settlements;
- (e) Prevention of civilians from completing the irrigation of their agricultural projects;
- (f) Prevention of civilians farmers from marketing their crops;
- (g) Imposition of continuous curfew;
- (h) Replacement of Syrian educational curriculum by that of the occupying Power;
- (i) Imposition of high Israeli taxes and duties on Syrian civilians in the Heights;
- (j) Prohibition of leaders in the Golan from meeting with the representatives of international organizations, etc.
- (j) Prohibition of leaders in the Golan from meeting with the representatives of international organizations, etc.

Ambassador Fattal quoted Israeli Communication Minister as saying that "The Golan Heights is ours and anyone who regards himself a Syrian should be allowed, in a democratic fashion to move to Syria (New York Times, 18 February 1982). Again, on 3 March 1982, Ambassador Fattal addressed the Secretary-General about the continuation of the above mentioned breaches plus a new set of violations, the meaning of which is that despite the mandatory power of Security Council Resolution 497 (1981) and the basic rule of international law against annexation, Israel was acting in the Golan as if it became a part of its territory, and a second class part too. 30/

So, the Israeli defiance was brought once more before the Commission on Human Rights at its 38th session in 1982. Ambassador Daoudi of Syria presented the Commission with abundant examples of the ceaseless illegal policies and practices of Israel in Arab occupied territories including the Golan and indicated facts and figures that Israel has persistently and presumptuously refused to observe the Geneva Convention of 1949 on the Golan as an occupied territory. The Commission, having heard all points of view, issued its resolution 1/1982 concerning the Israeli breaches of human rights in the Arab occupied territories including Palestine and resolution 2/1982 on the Israeli breaches of human rights in the Golan. In the latter resolution, the Commission recalled General Assembly resolution 3314 (XXIV) of 14 December 1974 on the meaning of aggression (which includes annexation of territories), Security Council resolution 497 (1981) of 17 December 1981 on the illegality of the imposition of Israeli laws on the Golan (considering that such imposition as null and void), the Commission's own resolution 1 (XXXVII) of 11 December 1981 whereby the Commission strongly condemned Israeli policies and practices in occupied territories including annexation of same and General Assembly resolution 36/226 B of 17 December 1981. It went on to condemn strongly the Israeli decision of 14 December 1981 annexing the Golan by imposing its laws, legislation and administration on that Syrian soil. The Commission reiterated the position of all organs of the United Nations and specialized agencies that said annexation was null and void and without legal effect and that the persistence of Israel in its policies and practice endangered international peace and security. Further, the Commission called on all Member States to apply measures indicated in paragraphs 11 to 13 and 15 of General Assembly resolution ES-9/1 of 5 February 1982. By resolution I, referred to above, the Committee, in a near unanimous vote, insisted that the Fourth Geneva Convention of 1949 apply to all Arab occupied territories. The United States Delegate was the only one who cast a negative vote, and no wonder: 31/

### III. Conclusion

To say that the policies and practices of the Israeli occupant in Palestinian and other Arab territories have not recently worsened to a totally unacceptable degree according to any moral or legal standard would be the understatement of the decade. Such policies and practices, not only run contrary to universal ethics, but flagrantly breach the most fundamental principles of international law, both customary and conventional. The various political organs of the United Nations have, so far, given the Palestinian people voluminous resolutions and decisions acknowledging their inalienable rights, including their sacred right to self-determination. They have also deplored and condemned Israel's behaviour toward Arab States (e.g. Syria) on the most certainly illegal annexation of the Golan Heights. But is this all that the United Nations can do? In other words, what is the real value of all United Nations resolutions recognizing the inalienable rights of the Palestinian people against the bitter fact that Israel is about to dispose of the remainder of the territory of Palestine in toto? How effective, in reality, are the Security Council decisions and the General Assembly resolutions considering the annexation of Jerusalem and the Golan Heights against the bitter fact that Israel is carelessly ignoring such decisions and resolutions. What is worse, is that a permanent member of the United Nations, i.e. the United States has spared no effort to veto any draft resolution, the purpose of which would be to apply Chapter VII of the Charter to Israel as an aggressor, by the very standard of the United Nations or even to apply Article 6 of the Charter against Israel as a United Nations member which has "persistently violated the principles contained in the Charter." Also Israel, the United States of America and certain member States will argue that United Nations General Assembly resolutions, even under the "Uniting for Peace resolution", are mere recommendations without legal force.

The worst of all, in my opinion, as a jurist, is to witness the discrepancies between the attitudes of certain members who concur with United Nations resolutions imposing certain sanctions on aggressive Israel and yet refrain from implementing such resolutions in their individual relations with it. It is high time for the organized international community to go a step beyond rendering "lip service" to just causes; and what could be a more just cause according to prevailing international law than to contest the sanctioning of annexation of territories of others and the infringement of the inalienable right of a people to self-determination, now recognized not only as the most fundamental human right, but as a part of "jus cogens".

At this juncture, and out of my believe in the inability of the executive organ of the United Nations (i.e. the Security Council) to function properly because of the American veto and the still argumentative legal value of the General Assembly, I may submit the following proposal with a view to adding more pressure on Israel, its allies and friends. Let us consider having the General Assembly request an advisory opinion from the International Court of Justice on specific legal questions such as:

- (a) Can any State Member of the United Nations annex a territory or a part of a territory of another Member State or a territory to which it has no legitimate title as a result of military occupation? If the answer is in the negative, what are the legal consequences of such annexation in as far as the annexing State and other States are concerned?
- (b) Does the Fourth Geneva Convention of 1949 apply to the West Bank and Gaza presently under Israeli occupation? If the answer is in the affirmative, what is the legal consequence of the non-observance of this Convention by the occupant?
- (c) Can a State Member of the United Nations be considered a "peace-loving State" if it maintained the position of annexing the territories of others and the non-observance of the Fourth Geneva Convention of 1949 in occupied territories. If the answer is in the negative can it not be assumed that such Member State has lost one of the conditions of membership provided for in Article 4 of the Charter?
- (d) Can a permanent member of the United Nations cast a negative vote (i.e. right to veto) on purely political ground while debating a question of legal nature such as the expulsion of a Member State in accordance with Article 6 of the Charter?
- (e) What are the legal consequences for States of the continued presence of Israel in the Palestinian and other occupied territories, notwithstanding Security Council resolutions?
- (f) According to the rules of international law, is the following breach by the occupant not a war crime and are the officials of the occupant responsible for it not war criminals:

"The transfer by the occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory".

An objective opinion of the International Court of Justice on these and similar questions, though advisory, will add more legal weight to the decisions and resolutions of the Security Council and the General Assembly and thus do away with the so-called Israeli legal position. They will furthermore face members of the United Nations with their legal responsibilities to honour and give due respect to the action of the United Nations.

Unless we move forward in the way of effectively preserving the rules of international law of armed conflict, Cicero's old saying that "laws are silent in time of war" becomes so true. And to be more blunt, a new definition of international law, i.e. "the formula imposed by the victorious on the vanquished" would become a reality and a heartbreaking one, too.

The stalemate in which the just Palestinian cause found itself is a tempting invitation to everlasting bloody conflict, the effect of which will not be confined to the region. An this is what the members of the international community should prevent at all costs if they are really sincere about having durable peace in an age of the balance of terror.

#### Notes

1. "Oppenheim's International Law". Lauterpacht (ed) 7th ed. (1960) pp. 432 - 433.
2. *Ibid.* p. 439.
3. Castren "The Present Law of War and Neutrality" (1954), p. 215-216.

4. J. Stone, "Legal Controls of International Conflict" (rev. ed. 1959) p. 720
5. H. Kelsen, "Principles of International Law" (2nd ed. 1967) p. 139. See to the same effect Glahn, "The Occupation of Enemy Territory" (1957), p. 274 and L. Fenwick, "International Law" (3rd ed. 1948) p. 149.
6. Yehuda Blum, "The Missing Reversioner: Reflection on the Status of Judea and Samaria", in "The Arab Israeli Conflict" edited by John Norton Moor, vol. II (1974) p. 299.
7. United Nations Document S/14796.
8. P.C.I.J. repeatedly held that a unilateral act which is not in accordance with law cannot confer upon a state a legal right. See the order of 6 December 1930 in The Case of Free Zones of Upper Savoy and the District of Gex (2nd phase). Cited together with similar cases by Oppenheim, *op.cit.*, p. 142.
9. See for guidance article 31 of the Vienna Convention on the Law of Treaties of 1969.
10. "The Arab Israeli Conflict", *op. cit.* vol. III, p. 1008 et seq.
11. ICJ Reports 1971, p. 16. The Court held that all resolutions of the Security Council were mandatory within the terms of the Charter. See also Brownlie, "Principles of Public International Law", 3rd ed. 1979, p. 515.
12. This is an argument used at times by certain partisan writers such as S. Schwebel. "The Middle East; Prospects for Peace", in *The Arab Israeli Conflict*, *op. cit.*, p. 133 et. seq.
13. See United Nations Security Council resolutions 252 (1968), 267 (1969), 271 (1969), 298 (1971), 465 (1980) and 478 (1980). With regard to Jerusalem, annexation was effected gradually.
14. Security Council Resolution 497 (1981).
15. Articles 11 and 25 of the First Geneva Protocol (1979), MA. Shukri, "History and Nature of International Humanitarian Law" a paper presented to the First Arabic Middle East Seminar on International Humanitarian Law, Amman, 5-13 April 1981, p. 39 et. seq. of the final report.
16. Professor Fenwick writes "Ethiopia was annexed by Italy in 1936, but in this case the annexation being in violation of the Stimson Doctrine and the principle announced by the Assembly of the League of Nations was not recognized by other States", *op.cit.* p. 150. The Stimson Doctrine becomes pertinent for those States, however, few which transferred their embassies in Israel to Jerusalem. It must not be forgotten that above cited Security Council resolutions are "erga omnes".
17. The Committee on the Exercise of the Inalienable Rights of the Palestinian People: "The Question of The Observance of the Fourth Geneva Convention of 1949 in Gaza and the West Bank including Jerusalem occupied by Israel in June 1967", New York, 1979, p.3.
18. For the differences between invasion and occupation see Oppenheim, *op. cit.*, p. 430, et. seq. and Van Ghahn, chapter 31, p. 664, et. seq.
19. Committee on the Exercise of the Inalienable Rights of the Palestinian People, *op. cit.*
20. Oppenheim and Van Ghahn, *op. cit.*
21. Committee on the Exercise of the Inalienable Rights of the Palestinian People, *op. cit.*
22. The argument of Yehuda Blum (Israel) and Shebel (United States) for Israel, on p. 5-6 of the document cited in note 17 and that of Professor Malison (United States) who correctly refuted the Zionist point of view, p. 7 are rather intriguing. I may add, however that the Israeli position in general is baseless on any legal grounds. Legally, Israel cannot simply base its title to "sovereignty" on so-called historic rights of the Jewish people. Israel owes its existence as an entity to General Assembly Resolution 181, (II) of November 1947. So neither Gaza nor the West Bank was allocated to the Jewish State. In fact the whole of Palestine was unlawfully partitioned to allow Israel to come into being within the border defined by said resolution which means that according to the United Nations itself, the remainder of Palestine was left for the Palestinian people who were uprooted and displaced by Israel itself and were consequently deprived of exercising their right to self-determination, including forming their own State, but who are now legally represented by the Palestine Liberation Organization and the claim of Israel for "Yiretz Israel" is legally a fallacy. On the other hand, the position taken by the Israeli Supreme Court is bewildering indeed. The fact that the Geneva Conventions of 1949 were not admissible because they had not been promulgated by municipal legislation runs contrary to the Law of Treaties (article 27). Thus the Israeli Government's legal argument is self contradictory to say the least.
23. Committee on the Exercise of the Inalienable Rights of the Palestinian People *op. cit.* page 19.
24. MA. Shukri, "Palestine and Self-Determination", a paper presented to Colloque Palestine in Brussels 1976.
25. MA. Shukri, "The Concept of Self-Determination in the United Nations", A Doctoral Thesis published by Dar El Fikr, Damascus, Syria; 1965, p. 71, et seq. and Chapters XI and XII of The Charter.
26. It is illegal in as far as the Palestinian people were concerned since it created rights and obligations to a third party, contrary to articles 34 and 35 of the Vienna Convention on The Law of Treaties without their consent.
27. See article I of the two covenants on Human Rights of 1966 and Shukri, *op. cit.*, p. 239 et. seq.
28. This is illegal according to international law. Oppenheim writes "The administration of the occupant is in no wise to be compared with ordinary administration for it is distinctly and precisely military administration", *op. cit.*, p. 437.
29. The Daily "Al-Qabas", Kuwait, No. 3906, pp. 1 and 24, 29 March 1983.
30. For the many Syrian complaints on Israeli breaches to the Geneva Convention of 1949 see United Nations documents A/36/850-S/14808, A/37/106-S/14893, A/37/192-S/14876.
31. Ministry of Foreign Affairs in the Syrian Arab Republic "A report on the thirty-eighth session on the work of the Commission on Human Rights", 1982.

#### AL-QUDS: A HOLY CITY WITHOUT A STATUS

Abdelwahab Bouhdiba

Unquestionably, the existence of Israel cannot fail to appear to an impartial observer who has sufficiently distanced himself from the heat of the events as the result of a series of disasters the tragic consequences of which have been borne by the Arabs in general and by the Palestinian people first and foremost. It is equally certain that the existence of Israel will appear also as the product of a series of legal frauds for which the United Nations and the international community will be paying for a long time. From the League of Nations Mandate, which incorporated the essential features of the Balfour Declaration, to the forces of UNIFIL, defied and humiliated - to say the least - during the invasion of Lebanon, the denial of justice to the Palestinian people has been systematically accompanied by a challenge launched on a permanent basis to international law and a constant violation of its least controversial principles. Nothing illustrates better this constant of the international attitude, tragically impotent and itself caught in numerous contradictions, than the current situation of Jerusalem, a city "without a status".

More than any other place in the world, Jerusalem presents a challenge to the universal conscience. But what are we doing about it and what can we do? The minimum is to endeavour to accord it a *de facto* position in accordance with the right of peoples to self-determination and with the eminence conferred on it by the three monotheistic religions. For once, the United Nations, Judaism, Christianity and Islam converge at a deep level. The question can be cleared up and the confusions and intricacies of the current situation straightened out only by positing that the status of Jerusalem derives not only from religious awareness and sacred symbolism but is also historical, legal and political. Thus, only a sense of justice and all that can satisfy it can restore to the Holy City a status worthy of all that it has symbolized and still symbolizes for man.

It is an understatement to say of Jerusalem that it belongs to all mankind. By the place which it occupies in the symbolism of the three revealed religions, by the affective and mythical resonances which it evokes, by the weight of the real or imaginary past, it belongs not only to all believers, Jews, Christians or Moslems, but even to agnostics. Jerusalem is the earthly round city: it is the celestial four square city; it is heaven on earth, it is earth in heaven. It is the archetype par excellence beyond all our experiences and this side of any revelations. Is it necessary to recall its history that is inseparable from Genesis? At all events, the site was mentioned as early as the second millennium before Christ. That makes it one of the earliest places to be exalted by mankind. However, it was David who, in the tenth century before Christ, made it the capital of his kingdom. Solomon built the Temple of the Lord there. Destroyed on several occasions, in particular by Nebuchadnezzar, the Temple had been regularly rebuilt before Antichius Epiphane made it a bridgehead of triumphant paganism. Jerusalem had to stand up to Rome. As elsewhere, favouring radical solutions, the Romans razed the City. The Temple disappeared definitively, and the Jewish city ceased to exist in 132 A.D., after the failure of the revolt of Simeon Bar Kokhba. The Colonia Aelia Capitolina was built on the site, and access to it was, moreover, forbidden to Jews.

After Judaism and the pagan interlude came Christianity, for which Jerusalem was one of the birthplaces and, in any event, the scene of many "crucial" events: the passion, the crucifixion, the resurrection ... for Christians, the celestial City is more than a sacred area or a place of pilgrimage; it is the witness to the suffering of the Son; it has lived the mystery of the incarnation of the Father; it bears the eternal mark of the manifestation of the Holy Ghost. It is the symbol of peace, justice and union. It is the promise of the Messianic Kingdom. It is the Mother Church open to all the peoples of the earth. It is even, in the words of the Book of Revelation (21/23), the place sent by God.

"And I ... saw the holy city, new Jerusalem, coming down from God out of heaven ... And I heard a great voice out of heaven saying, Behold the tabernacle of God is with men, and he will dwell with them, and they shall be his people, and God himself shall be with them, and be their God. And God shall wipe away all tears from their eyes; and there shall be no more death, neither sorrow, nor crying, neither shall there be any more pain: for the former things are passed away".

More than a symbol, Jerusalem bears witness to man's faith in his own future. Constantine, by building the first Basilica of the Holy Sepulchre and, by inaugurating a new and Christian era for the City, set up new and lasting symbols.

Islam further strengthened this sacred character of the City and was to preserve it with the utmost care up to the present. The first easterly focus of prayer, the royal path chosen for the ascension and for the entry into heaven of the Prophet Muhammad, Jerusalem ranks as one of the three Holy Cities of Islam. The Al-Aqsa mosque is the subject of a Koranic revelation and a "divine blessing extending round about" (The Koran, chapter XVII, verse 1). Thus, as early as 637, while Jerusalem continued to belong to the other revealed religions, Islam assumed responsibility for it. It made it the common heritage of the children of Abraham. Apart from the brief occupation by Frederick II - between 1229 and 1240 - it was to remain under Islamic control until the 1967 war. It was the Arabs who gave it the form and configuration that we still know today. The Umayyad Caliph Abd-al-Malik built the Dome of the Rock and the Mosque of Umar there; it was he and his successor, Al-Walid, who built, on the very precinct of the former temple, the Al-Aqsa Mosque. There was no Muslim sovereign who did not pay court to the City and bring it tribute. All made it a point of honour to embellish it and, if possible, to sanctify it further. They vied in dedicating ramparts, monumental gates, citadels, madrasas, caravanserais and public fountains to the monotheistic religions. After eight centuries of Jewish presence, three centuries of Roman paganism and four centuries of Christianity, Jerusalem came under the protection of Islam for 14 centuries. The secret of this permanent presence of the sacred lies in the spirit of tolerance with which Islam made Jerusalem accessible to the three monotheistic religions. The covenant of Umar, guaranteeing the Jews and the Christians freedom of worship, remains a rare model for the epoch - and even today - of an international text whose scope, intention and effect have, throughout the ages, been protection of freedom both of religious persuasion and of ritualistic practice.

Islam did this - and kept its promise - not for tactical reasons or calculation but because of the very essence of the message - ecumenical from the outset - of which it was the bearer. For Islam, there could not be several divergent and true religions. The unity of God is echoed at the level of the unity of the faiths, which, in turn, is reflected in the union of those who are the bearers of the same truth. The Koranic revelation is but a reprise of the very basis of Judaism and Christianity. Muhammad, far from renouncing Jesus, Moses, David, Solomon, Abraham and the whole line of the Prophets of the Bible and the Gospels, takes the stand of one who continues and restores. Islam is the culmination of all revelations. It is the sum and the summit of all revelations. As such, it appreciates rightly the portion of truth borne, in the Jewish and Christian religions, by the beliefs, the believers, their relics and their monuments. The sacred is an absolute which admits of no exclusivity. Jerusalem, therefore, has remained throughout the centuries, from the seventh century to the present, a living and effective symbol of Islamic ecumenism. Free access to the Holy Sepulchre and the Wailing Wall has never - except perhaps in times of local or generalized unrest or war - suffered any lasting restriction. In all logical rigour, Islam has furnished proofs, unique in their kind, of tolerance towards others.

Thus, it is not the sacred aspect which raises problems, and the religious status of Jerusalem is clear: all religions participate by right. The problem of Jerusalem is, in fact, a national problem. It results from a blocked decolonization and is indissociable from the emergence of a modern nation in the very heart of an environment full of meaning and a vehicle of the sacred. Palestinian nationalism began to manifest itself on the eve of the First World War, as one component among others of the differentiation of the Ottoman Empire which was disintegrating rapidly into nations in the modern sense of the world. At that time, the Bilad-al-Sham comprised many administrative subdivisions, from which Jordan, Syria, Lebanon and Palestine proper were to emerge. The latter was formed, roughly speaking, of three sanjaks. One of these, Jerusalem, enjoyed a special status by reason, precisely, of the ecumenism that we have mentioned. Governed directly from the Sublime Porte, moreover, it sent its own delegates there. The sanjaks of Balqa and Acre, belonging to the velayet of Beirut, made up, roughly speaking, the rest of Palestine.

However, whereas all the peoples of the region were shortly to be called upon to form nations, the Palestinians saw their future mortgaged, their aspirations shattered and their history diverted because of the intervention of factors that were totally alien not only to themselves but also to the region as a whole. These factors were the Balfour Declaration and the Hitlerian genocide perpetrated under the conditions which all know in Europe against the innocent Jewish people. However, in 1917, the Palestinian people, on the same footing as the other peoples of the Ottoman Empire, already possessed the two principal attributes of a nation as accepted in international practice and law: a people established for centuries on a well defined territory. Moreover, these two attributes were, in the unanimous opinion of observers, much more patent and obvious than in the case of many other States which have emerged since. The Palestinian nation, while it had not, to be sure, become fully conscious of itself - but that was also the case of Jordan or Saudi Arabia - formed a part, just as much as the others, of those entities which the League of Nations recognized as communities whose "existence as independent nations can be provisionally recognized". The Covenant of the League of Nations - in flagrant contradiction with itself and in order to take account of the Balfour Declaration - stipulated that the mandatory Power should provide for an administrative framework designed to facilitate transition to full independence, while facilitating the establishment of a "Jewish national home".

It would be impossible to be less serious or more pharisaical. On the one hand, consultation with the indigenous people of Palestine on a policy involving its very existence is neglected, and, on the other hand, most important, two nations, the one rooted in the soil and in the history and the other to be assembled from the rest of the world, but mainly from Europe, are cynically invited to fight over the same tiny territory. The later, highly foreseeable failures, whether of the mandatory Power or of the League of Nations or the United Nations, far from "facilitating" anything, were to bring both of the two nations invited to settle in Palestine to an impasse. The international community, when called upon to resolve such difficult questions arising from these aberrant political choices, could only advocate false compromises in the guise of partitions unacceptable to both and painful transfers of persons. That natural incapacity, which is written in the very order of things, to organize the situation on the spot rationally, must leave, ultimately, no other ways than that of force. And we know what that did to Deir Yassin and to Sabra and Shatila.

Thus, the status of Jerusalem cannot be dissociated from that overall situation prevailing in Palestine, which both from the political viewpoint and from the viewpoint of the situation on the spot, is daily becoming more complicated.

However, from the legal viewpoint, nothing has happened to effect a transfer of sovereignty, neither the Mandate, article 5 of which explicitly prohibits any alienation, nor the United Nations partition plan, which has remained a dead letter. On the contrary, the General Assembly, since 1969 and by an overwhelming majority, has recognized and reaffirmed in a manner which allows of no ambiguity "the inalienable rights of the Palestinian people". Year after year, the General Assembly constantly reaffirms its wish to allow the Palestinian people effectively to enjoy the right of self-determination. This right is and remains imprescriptible, and nothing could render this fundamental principle of jus cogens obsolete.

It is obvious that this right of self-determination includes the population of Jerusalem itself as composed before the British Mandate.

The study prepared by W. T. and S. V. Mallison, at the request of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (ST/SG/SER.F/4, pp. 49-54) analyzes objectively and precisely the legal status of Jerusalem as the various resolutions of the United Nations have sought to determine it. The authors demonstrate its ambiguous character. At the time of the 1947 partition, the United Nations sketched the outlines of a special status. However, it seems to have resigned itself since to the de facto partition imposed by armed forces by Israel in 1949.

General Assembly resolution 303 (IV) of 9 December 1949 reaffirms, in operative paragraph I:

".....the intention of the United Nations that Jerusalem should be placed under a permanent inter-national régime, which should envisage appropriate guarantees for the protection of the Holy Places, both within and outside Jerusalem, and to confirm specifically the following provisions of General Assembly resolution 181 (II). (1) the City of Jerusalem shall be established as a corpus separatum under a special international régime and shall be administered by the United Nations; (2) the Trusteeship Council shall be designated to discharge the responsibilities of the Administering Authority ... 1 and (3) the City of Jerusalem shall include the present municipality of Jerusalem plus the surrounding villages and towns, ..."

Those provisions were to remain a dead letter, and the United Nations would - to our knowledge - revert to the question only on the occasion of the measures taken by Israel following the annexation of Jerusalem in 1967. Resolutions 2253 (ES-V) and 2254 (ES-V) of the General Assembly of the United Nations call upon Israel to rescind all the measures which it had taken to alter "the status of Jerusalem". But it is not really known what status is meant. Is it the status prevailing before the 1947 partition or that which the United Nations itself dreamed of and which would establish Jerusalem as a corpus separatum or, again, that which existed de facto when Jerusalem was partly under Jordanian control and partly under Israeli control? We can only share the view of Mr. and Mrs. Mallison, who denounce the lack of clarity in the resolutions adopted after 1967 by the General Assembly and the Security Council. The two jurists ask whether it is a question of "the legal status of the corpus separatum ..." or the factual status of the pre-June 1967 divided City. However, in examining the Security Council resolutions along with those of the General Assembly it appears that there is, at the least, an implicit intent to preserve the principle of the corpus separatum even though these resolutions, following the intense hostilities of June 1967, put special emphasis upon the post-1967 Israeli actions". It emerges from all this analysis that Jerusalem has really no status and that the various forms of control exercised in the course of the last 65 years are but the successive products of on-the-spot situations which relate only distantly to the right of peoples to self-determination and the principles of the Charter of the United Nations.

In a remarkable document, "Cisjordan and the rule of law", the International Commission of Jurists sums up the situation by saying that, with regard to the status of the West Bank of Jordan (including East Jerusalem), the United Nations, supported by a majority of countries, regards this region as an occupied territory and the State of Israel as an officially belligerent occupier; the majority of the countries of the world adopt the same position. They all want cessation of the occupation and the retreat of the Israeli forces.

The United Nations, taking cognizance of the emergence of the Palestinian nation, now recognizes it formally and explicitly. It constantly and vigorously

reaffirms its inalienable rights to self-determination and resolutely stresses the inadmissible character of the acquisition of territories by force. More specifically, on 10 December 1981, the General Assembly:

"Demands that Israel should withdraw completely and unconditionally from all the Palestinian and other Arab territories occupied since June 1967, including Jerusalem ...

"Further demands that Israel should fully comply with all the resolutions of the United Nations relevant to the historic character of the Holy City of Jerusalem, in particular Security Council resolutions 476 (1980) of 30 June 1980 and 478 (1980) of 20 August 1980, and rejects the enactment of a "Basic Law" by the Israel Knesset proclaiming Jerusalem the capital of Israel".

The right to self-determination, the withdrawal of the forces of occupation and the totality of the recognized inalienable rights of the Palestinian people thus include Jerusalem. When the Palestinians, represented by the PLO, call for the establishment of a State in Palestine with Jerusalem as its capital, they are in the direct line of international legitimacy.

It will be for the Palestinian people, which is, moreover, made up of Christians as well as Muslims, once it has recovered and given concrete expression to its independence, to determine freely what status it will give to Jerusalem.

Thus, however complex the question of Jerusalem may be there are certain established facts which should be taken into account and which may be summarized as follows:

- (a) Jerusalem is an Arab city and has been since the seventh century;
- (b) The question of Jerusalem is not a religious question but a national and colonial question;
- (c) The United Nations has envisaged a special status but has been unable to ensure respect for it;
- (d) Israel has annexed Jerusalem by force and is trying to Judaize it at any cost;
- (e) The United Nations and the international community reject these pretensions;
- (f) The right of self-determination extends to the indigenous Arab population of Jerusalem.

Ultimately, it is within the framework of respect for the fundamental principle of the right of the Palestinian people to self-determination that the status of Jerusalem will find its solution.

## JERUSALEM: THE PLIGHT OF THE HOLY CITY

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### Introduction

The question of the status of the Holy City of Jerusalem has not had, in recent years, the glaring exposure before world public opinion that would be commensurate with its immense importance not only to the Arab world, but also to the three monotheistic faiths: Islam, Christianity and Judaism, representing some 1.5 billion souls on this earth. Indeed, none of the previous seminars in this series has had any papers devoted to this burning question. Therefore, I believe that it is timely and appropriate that at this eighth United Nations Seminar on Palestine, held here in Jakarta, capital of the largest Moslem country in the world, the question of Jerusalem has been included as a subject for our consideration.

This paper will attempt to cover the status of Jerusalem from the period of World War I onward, focusing specifically on the developments that took place during the League of Nations Mandate for Palestine, Jerusalem and the United Nations from 1947-1967 and the post-1967 period.

### Prior to the League's granting of the Palestinian Mandate to Britain

On 24 July 1922, the League of Nations officially designated Great Britain as the Mandatory Power in Palestine. The League Mandate was specifically and openly designed to facilitate the establishment of a "Jewish National Home", as incorporated in the Balfour Declaration of 1917 which states:

"His Majesty's Government view with favour the establishment in Palestine of a National Home for the Jewish people, and will use their best endeavours to facilitate the achievement of the object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country".

This clear statement of British policy fully exposed the intent of the British to allow unrestricted Jewish immigration into Palestine, that would lead to a demographic domination by Jews and which would create the conditions necessary for the wholesale seizure of the territory by them. Indeed, the British could hardly claim ignorance as to the Zionist's ultimate designs since a Zionist draft was submitted to the British Government on 18 July 1917 calling for the British to adopt as their policy "the establishment of a Jewish National Colonizing Corporation that would further the resettlement and economic development of the country", (emphasis added).

The reference to a "National Home for the Jewish people" contained in the League's mandate to Britain can only be understood as a smokescreen by Britain because, as early as 1897 and again in 1903 the Zionist Movement unabashedly declared that their objective was the establishment of a Jewish State in Palestine endowed with all of the attributes of sovereignty and not a Jewish National Home. Thus, when on 26 April 1920 the Allies adopted the Balfour Declaration designating Britain as the Mandatory Power in Palestine, the stage was already set for the treacherous abandonment of the promises made to Sherif Hussein regarding the establishment of the Arab people's sovereignty on the former territory of the Ottoman Empire. Throughout 1916, 1917 and 1918 repeated assurances were made by Britain affirming that the independence of the Arab countries was definitely recognized by the British Government.

All subsequent developments must be understood in the context that Britain was simultaneously making separate agreements with the Arabs and the Zionists. The Arabs, who rose in revolt against the Turks and allied themselves with Britain, were promised independence, which was always understood to include Palestine. On the other hand, the Zionists were promised "a national home in Palestine" which they always intended to convert into a national State.

During the period before the League of Nations' official designation of Great Britain as the Mandatory Power in Palestine, and even before the British were able fully to establish administrative control over Palestine and Jerusalem, the Zionists were already making a physical claim to areas in Jerusalem as demonstrated by their founding of the Hebrew University on Mount Scopus in July 1918. The behaviour of the Jews in Palestine, including the two Zionists battalions in the British Army stationed there and the Zionist Commission under Weizmann, which in March 1918 held political demonstrations that they called "public service" at the Wailing Wall, posed an overt provocation that led to 1,920 riots in April alone, in the course of which over 230 inhabitants were killed or wounded. And, if this is not enough, Weizmann, totally impervious to Arab sensitivities and exposing an audacity devoid of any consideration or respect for Moslem religious devotion, went so far as to offer to buy the land around the Wailing Wall which fully confirmed Arab fears that the Zionists were preparing to seize property of a Muslim religious site, particularly one that is connected with the third holiest place in Islam, the western wall of the Haram. The British attitude toward this was not as one might expect, immediately to forbid the Zionists to make such a potentially explosive move, but rather the Military Governor of Jerusalem actually took upon himself the task of acting as an intermediary in this venture that can only be described as an affront to all of Islam.

These events clearly demonstrate that the question of Jerusalem is not one that manifested itself only with the creation of the United Nations Special Committee on Palestine in 1947. Rather, the Zionist movement had as early as 1918 made overt efforts to alter what has come to be known as the "status quo" of Jerusalem by making territorial claims on areas in the Holy City in the guise of religious rights. Thus, the stage was already set in 1920 for the struggle against Zionist usurpation of Jerusalem.

This was no doubt an inauspicious beginning to the British mandatory régime: a tiny minority of about 8 per cent of the population claiming, with the protection of British bayonets, not only political dominance over the vast Arab majority, but also possession of part of the Haram itself in the Holy City of Jerusalem. Further, in 1917, the Jews owned 1.5 per cent of the land; by the end of the mandate, it increased to 5.7 per cent but by 1947-1948 they held 73 per cent of Palestine.

### The British Mandate under the League

Throughout the period of the British Mandate under the League of Nations, 1922-1947, the question of the status of Jerusalem was by and large limited to the maintenance of the status quo with regard to the Holy Places.

It should be noted, however, that the Mandate was granted without reference to the wishes of the people of Palestine, a violation of the Covenant of the League. What is more, the Balfour Declaration, which was incorporated into the Mandate was itself of dubious legal value since Great Britain had, at that time, no sovereignty, no title of ownership, and no right on the basis of which it could offer Palestine to the Zionist movement without the consultation of its population. Hence, it may be said and proven that this Declaration is a violation of the right of the Palestinian people to self-determination.

Further, the illegality of the Mandate for Palestine lies in the fact that Article 22 of the Covenant of the League of Nations States that the mandatory Power has an obligation to maintain these territories in their original integrity and hence to respect the full rights of their population. The League of Nations, by including the Balfour Declaration in the Mandate for Palestine, violated Article 22 of the Covenant to which it owed its existence. Moreover, the Mandate for Palestine was class A by which the Mandatory Power was to recognize its provisional independence and provide, within a very short time, for its full independence. According to Article 29 of the Covenant of the League of Nations and the Mandate itself, the exercise of sovereignty by the Palestinian people was suspended only temporarily. Upon the expiry of the Mandate, that sovereignty over Palestine including Jerusalem should have reverted in its original integrity to its legitimate holder: the Palestinian people. That was not the case. On the contrary, with waves of Jewish immigration facilitated by Great Britain and the expulsion of the Arab population by force and terror, the Zionists took possession of Palestine in order to find there, not a Jewish National Home in accordance with the Balfour Declaration, but a Zionist State.

In recognition of the special significance of the Holy Places which were on the whole Moslem and Christian and since the people of Palestine were overwhelmingly Moslem and Christian Arabs, the Mandate made special provisions for assuming full responsibility for preserving existing rights in all the Holy Places which can be considered the modern origin of the so-called "status quo".

Article 13 of the Mandate states:

"All responsibility in connection with the Holy Places ... including that of preserving existing rights and of securing free access ... is assumed by the Mandatory Power who shall be responsible solely to the League of Nations ... nothing in this Mandate shall be construed as conferring upon the Mandatory authority to interfere with the fabric of the management of purely Moslem sacred shrines, the immunities of which are guaranteed".

Article 14 states:

"A special commission shall be appointed by the Mandatory Power to study, define and determine the rights and claims in connection with the Holy Places and the rights and claims relating to the different religious communities in Palestine". While Jerusalem is not specifically mentioned, the significance of these provisions in the Mandate for the Holy City should be obvious.

The Arab-Jewish struggle for the political, economic, military and administrative control of Jerusalem and Palestine began and intensified during the Mandate. However, the Wailing Wall was to become the focal point of the struggle for Jerusalem.

During the 1920s there was a mass immigration of Jews to Palestine which precipitated a heightening of tension throughout the region, particularly Jerusalem. The specific reasons for the hostilities shed light on the fact that for centuries oriental Jews and Arabs lived side by side in Jerusalem without incident and as good neighbours. However, with the massive influx of European Jews who not only were culturally alien to the indigenous population and who brought with them, not religious piety and respect for the other two monotheistic faiths of the Holy City, but rather a political movement which blurred any distinction between religion and political power and whose programme was designed to impose their ideological prescription for Palestine irrespective of the rights and wishes of all others. In a word, Zionism was the harbinger of perpetual turmoil and conflict in Jerusalem, a Holy City that had for so many centuries represented the highest ideals of tolerance and respect between the three faiths of Christianity, Islam and Judaism. Thus, the Zionists were gathering strength in Palestine under the protectorate of the British and were already in the 1920s using religion, the question of Holy Places and Jerusalem itself, in their campaign to disenfranchise the Palestinians and the whole of the Arab world from their beloved land, especially their sacred Holy Places. During the period 1920-1929 alone, some 100,000 Jews had been admitted into Palestine, with many of them settling in West Jerusalem.

#### The Wailing Wall - Al Buraj

By the end of the 1920s the cauldron of enmity was to spread over the Holy City. All that was needed was a spark to ignite the fires of open hostility and the Wailing Wall was to provide that spark. During the first decade of the British Mandate, the Government in Jerusalem, assumed responsibility for maintaining the "status quo" which had existed during the Ottoman Empire. This requirement was indirectly established in Article 13 of the Mandate which makes reference to "existing rights", an allusion to the conditions and rights that existed under the Ottoman Empire. However, the Zionist Movement was determined to undermine these provisions in any way possible and in 1925 under the pretext of religious rights, the Jews began to make good on the demands of Weizmann in 1918 and of the Chief Rabbi, Kuk, in 1920 that the Wailing Wall must be handed over as they claimed it to be the possession of the Jews throughout the world. That year the Jews decided to test the veracity of British determination to uphold the principle of the "status quo", which was based on a Turkish decree of 1852 that subjected the Holy Places of Jerusalem to a rigorously enforced set of rules, by introducing accessories to their religious ceremonies at the Wall.

Subsequently, a ruling by the Government banned the introduction of benches, seats and other items before the Wall. Despite this decree the Jews again attempted to place unacceptable objects in front of the Wall. In 1928 they placed a screen in front of the Wall in violation of the government's decision.

Although the screen was eventually removed by the British, the Jewish protestations and manoeuvres further convinced the Arab population that the Zionist aim was to take possession of the Mosque of Al-Aqsa gradually.

The politicization of the Wailing Wall issue was fully realized when the Zionists triggered a new outbreak of violence on 15 August 1929. They used a Jewish holy day, Tisha B'Av, commemorating the destruction of the Temple, to stage a political demonstration at the Wall, including political speeches, the raising of the Zionist flag and the singing of the Jewish Nation Anthem. This provoked a counter-demonstration by Arabs and the following week open violence broke out. Jews and Arabs battled from 23 to 29 August resulting in some 500 Jews and 350 Arabs killed or injured. If there was any positive result from this incident it is that it prompted the British to appoint a commission to investigate and which issued a report that concluded: "A National Home for the Jews, in the sense in which it was widely understood, was inconsistent with the demands of Arab nationalists while the claims of Arab nationalism, if admitted, would have rendered impossible the fulfilment of the pledge to the Jews".

Thus, the question had come full circle. The British were now ready to admit that their plan for a Jewish National Home, as stated in the Balfour Declaration and incorporated in the League's Mandate, was unworkable as it would deny to the Arab population their national rights. Having made this finding, the Commission limited itself to issuing detailed instructions regarding the use of the Wall to preserve the status quo of the holy places.

By 1936, the situation became untenable as Arabs of Palestine recognized that if something was not done, they would, by virtue of Jewish immigration, become a minority in their own land. During the period of 1919-1932, 24, 000 Jews had immigrated into Palestine. However, between 1933-1936, the number totaled over 164,000. Even though the total population of Jews in all of Palestine was 30 per cent of the general population, it was clear to all that, at the 1936 rate of immigration, European Jews would overwhelm the indigenous Arab population in a few brief years. In fact, by 1936 there were 49,000 Arabs in old Jerusalem, while the walled city was surrounded by 76,000 European Jews. Even the Royal Commission (the Peel report) reported that Palestine could become predominantly Jewish in only a decade.

It was this real threat to the very survival of Palestine and Jerusalem as a land of the indigenous population that incited the riots of April 1936. This was the most serious outbreak of violence during the Mandate period. It was also different in that not only did Arabs and Jews stage violent confrontations, but the Arabs also recognized the British as an adversary, owing to the refusal of the British Government to change its policy on Jewish immigration. Thus, the conflict went beyond Arab and Jewish enmity. It also involved open and violent incidents against the British by the Arabs. By the time the violence subsided, the killed or wounded numbered over 1,000 Arabs, 388 Jews and 243 of the Mandatory Government.

These repeated violent outbreaks of hostilities prompted the British to propose, in the Peel report, the partition of Palestine between Arabs and Jews, with a separate régime for Jerusalem. With regard to Jerusalem the report states:

"The partition of Palestine is subject to the overriding necessity of keeping the sanctity of Jerusalem and Bethlehem inviolate and of ensuring free and safe access to them for all the world. That, in the fullest sense of the mandatory phrase, is a sacred trust of civilization, a trust on behalf not merely of the people of Palestine but of multitudes in other lands to whom those places, one or both, are Holy Places". The partition plan was not implemented. However, it is very significant in that its basic elements were to become incorporated into the subsequent United Nations partition plan.

The one overriding conclusion that can be drawn from the period of the British mandate is that the Mandatory Power was a total failure because its policies included the abrogation of agreements and promises to the Arabs by the British. In the end, in fact, the British were clearly identified by the majority of the Arab population as an impediment to the securing of their rights and thus their struggle became not only against the Zionists usurpers but also against the Mandate itself.

#### Jerusalem under the United Nations

When the Palestine Question was taken up by the United Nations in 1947, the country was ravaged by conflict and war. Because of its religious significance and symbolism, Jerusalem became a centre of convergence and Arab-Jewish confrontation. A large number of Jewish immigrants had settled in a new expanded Western sector while the ancient eastern sector, including the walled city, remained predominantly Arab. The United Nations Special Committee on Palestine, appointed by the General Assembly to submit proposals, estimated that there were about 100,000 Jews and 105,000 Arabs (and others) in Jerusalem. The Committee, recommending the partition of Palestine, called for the territorial internationalization of the Jerusalem area as an international conclave which was subsequently approved by the General Assembly on 29 November 1947 as resolution 181 (II). The resolution, *inter alia*, states: "The City of Jerusalem shall be established as a corpus separatum under a special international régime and shall be administered by the United Nations". It also stipulates that "the City of Jerusalem shall be demilitarized, its neutrality shall be declared and preserved..." and "free access to the Holy Places and



religious buildings or sites and the free exercise of worship shall be secured in conformity with existing rights ...". Thus, the principle of upholding "existing rights" in the Holy Places was maintained in that resolution. Other articles stipulate that these provisions " ... shall be under the guarantee of the United Nations, and no modification shall be made without the consent of the General Assembly ...".

However, with the outbreak of war between the Palestinian Arabs and Zionist military organizations during early May 1948, Israeli territorial control expanded into the western sector of the Jerusalem conclave destined for internationalization under the resolution cited earlier, while the eastern sector including the walled city came under the occupation of Jordan. All of these developments led to the de facto partition of Jerusalem.

It is pertinent to note that another resolution of the General Assembly resolution 194 (III) of 11 December 1948 - resolved, *inter alia*, " ... that the Holy Places - including Nazareth - religious buildings and sites in Palestine should be protected and free access to them assured, in accordance with existing rights and historical practice ..." and that " ... in view of its association with three world religions, the Jerusalem area ... should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control".

Between them, these two resolutions maintained the principle of the internationalization of Jerusalem and the maintenance of "existing rights" and historical practice. Nonetheless, the Knesset proclaimed Jerusalem as the capital of Israel on 23 January 1950 and by 1951 Israeli ministries moved into the New City. Earlier in September 1948, the Israeli Supreme Court was established in "New" Jerusalem. In fact, back in February 1949 the Knesset assembled and the President took the oath of office in the city.

Despite these serious setbacks, the United Nations continued its efforts to establish an international régime. The Arabs, notwithstanding their initial rejection of resolutions 181 (II) and 194 (III), supported the principle of internationalization before the Conciliation Commission for Palestine, which was spurned by Israel.

In December 1949, the General Assembly, referring to its previous major resolutions, reiterated the principle of internationalization of Jerusalem and requested the Trusteeship Council to finalize a statute, specifying that the Council "shall not allow any actions taken by any interested Government or Governments to divert it from adopting and implementing the statute of Jerusalem". On 4 April 1950 the Council approved a statute which conformed to the territorial internationalization plan embodied in resolution 181 (II) of 29 November 1947. Thus, during the period 1947-1950, the General Assembly reaffirmed the principle of maintenance of "existing rights" and an international corpus separatum status for Jerusalem, despite its de facto division between Israel and Jordan.

The division of Jerusalem from 1950 to 1967 between two hostile States brought with it certain consequences. As this division became protracted and progressively integrated into two hostile countries, the political barriers consolidated. The psychological rift also deepened as an essentially Arab society continued its traditions in East Jerusalem while West Jerusalem became more Europeanized.

United Nations efforts to secure the internationalization of Jerusalem faded after 1950 and the international acquiescence in the status quo of a divided Jerusalem was abruptly ended by Israel's occupation of East Jerusalem in 1967, which resulted in serious repercussions to the status of Jerusalem. With West Jerusalem already declared as its capital, subsequent Israeli actions through legislative measures brought evidence of Israel's intentions to annex the entire city. As a result, it refused to accept Security Council resolution 237 of 14 June 1967 which stipulated that the Geneva Conventions of 1949 were applicable to areas under military occupation. Further, Israel's refusal to heed two resolutions of the General Assembly - 2253 (ES-V) of 4 July 1967 and 2254 (ES-V) of 14 July 1967 - declaring, *inter alia*, that measures taken to alter the status of Jerusalem were invalid, left little doubt of Israel's intent of annexation.

Both of these resolutions had received overwhelming support with no dissent but were nevertheless ignored by Israel, which defiantly moved its Supreme Court to East Jerusalem and extended its law to the newly occupied territories.

The Security Council also censured Israel and called for the rescinding of measures that affected the status of Jerusalem. Resolution 242 of 1967 called for Israeli withdrawal from occupied territories which also applies to Jerusalem. In addition, the Council adopted a number of resolutions specifically directed to the status of Jerusalem. Resolution 252 of 21 May 1968 considered that all measures taken by Israel were invalid and called upon Israel to rescind all such measures and desist forthwith from taking further action which tended to change the status of Jerusalem. Resolution 267 of 3 July 1968 censured Israel for its non-compliance with resolution 252 (1968).

Following the outbreak of fire in August 1969 in the Al-Aqsa Mosque, one of the holiest places for Islam, the Council, in resolution 271 of 15 September 1969 took the strong step of condemning Israel for flouting United Nations resolutions on Jerusalem. Yet another Security Council resolution 298 of 25 September 1971 declared all past Israeli actions and legislation in respect of Jerusalem "totally invalid".

All of the foregoing confirms the non-recognition of Israeli occupation of Jerusalem. It is relevant to draw attention in this context to the conclusions of the study entitled "The Status of Jerusalem", prepared for the Committee on the Inalienable Rights of the Palestinian People, which, *inter alia*, concluded that:

"The resolutions of the General Assembly and the Security Council in relation to Jerusalem following the occupation of the entire city of Jerusalem by Israel in June 1967 also maintained the original principle of internationalization. Further, they required Israel to withdraw from territories occupied during the conflict, and to rescind all measures taken, as well as to refrain from taking further measures, to alter the status of Jerusalem".

It is clear, therefore, that the United Nations since 1947 has maintained the principles that the legal status of Jerusalem is that of a corpus separatum under an international régime as originally formulated in resolution 181 (II).

Thus, the United Nations has maintained a constant policy, either through the General Assembly, in particular in resolution 181 (II) of 1949, 194 (III) of 1948, 2253 (ES-V) and 2254 (ES-V), or through the Security Council, in particular in resolutions 252 (1968), 267 (1969), 298 (1971), 446 (1979) and 465 (1980). The Security Council has condemned, in particular the occupation régime which aims at gradually establishing a process of annexation. The General Assembly, the Security Council and the whole international community, in this regard have been unanimous in considering as null and void any unilateral measures taken by the occupation régime with the aim of transforming a de facto situation into a de jure one.

#### Jerusalem after 1967

The 5 June 1967 occupation of the remnants of what, until 1948 had been a sprawling, heterogeneous and prosperous city and environs, predominantly Palestinian Arab in population as well as in lands and properties was only the final act in the relentless implementation of a carefully laid plan for the demise of a historical Jerusalem which, under all rules of law and equity, should have remained a sacred trust, a tolerant and ecumenical city and the inalienable procession and legacy of the indigenous inhabitants, who were predominantly Palestinian Arabs, without in the least dispossessing, excluding or discriminating against the Jewish faith or Christianity.

On 27 June 1967, the authorities of occupation adopted a resolution whereby the Government of Israel was authorized to apply "Israeli law" in any land area which it deemed necessary to annex to Israel. Thus, the Israeli army dissolved the legally elected Municipal Council of the Arab City of Jerusalem. On 30 June 1967, the military authorities abolished Jordanian laws and regulations, replaced them with Israeli laws and regulations, and set up an Israeli military body which subjected all of the Arab inhabitants to oppression.

Slowly but consistently, the Israeli authorities have implemented their expansionist designs and have enlarged the area of the city, by annexing to Jerusalem additional portions of the occupied West Bank. As a result of this deliberate policy, it is estimated now that approximately 30 per cent of the West Bank had been absorbed within the city limits.

The Israeli occupation of Palestine and all of Arab Jerusalem has, in fact, cut off tens of millions of Christian Arabs throughout the Middle East and hundreds of millions of Moslems from performing their prayers at their Holy Places for three decades in three fourths of Palestine and for over 16 years in Arab Jerusalem and the rest of the territories occupied since 1967. Further, after 1967, Moslem and Christian Holy Places in Jerusalem were placed under the jurisdiction of an Israeli Ministry and the Higher Islamic Council, Al-Haya al-Ilmiyyah al-Islamiya, was refused recognition by the occupation authorities. Also the encirclement of the 1967 occupied sector has become virtually complete with a massive ring of high-rise buildings to the north, south, west and east, thus effectively isolating Jerusalem from the Arab population in the West Bank.

After the occupation of the Old City, Israel embarked upon a programme to enlarge the three-metre-wide area between Al Buraq-as Sharif, or Wailing Wall, and the adjacent Moroccan and Bab-Al Silsila quarters. Both quarters, and many others, were Islamic Waqf religious endowments. They were all bulldozed to the ? round in spite of condemnation by the international community.

After all of these actions came a plan to plunder Arab property. During the period of 1968-1976, the authorities of occupation committed wide-scale and wanton acts of confiscation and plunder. These include expropriation of vast tracts of land outside the city walls. Within the city walls the occupation authorities illegally seized over 600 buildings, composed of residential Arab property. In addition, over 500 commercial buildings belonging to Arab proprietors were also seized and confiscated. The Israelis even turned into rubble all Arab buildings on over 89,000 dunums of Arab land seized between 1969 and 1976. In their place, they constructed industrial and residential complexes for Israeli settlers. By means of this plan the authorities of occupation acquired one third of the occupied West Bank.

Along with this destruction and seizure, the Israeli occupier has undermined and destroyed Moslem religious property under the pretext of archeological excavations. The result of these actions has been the collapse of Waqf property surrounding the Haram as-Shareef, which was of high religious and cultural value to all Moslems. In addition, the excavations have damaged Al-Zawiyah A1-Fakrieh and adjoining buildings. In fact, these excavations have reached under the southern wall of Al-Haram as-Shareef, the lower courts of Al-Masjid Al-Aqsa, Masjid Omar and the south-eastern halls of Al-Aqsa, which threaten the



structural integrity of the Al-Aqsa Mosque itself.

These steps evoked protests by the international community, especially UNESCO, against the destruction of millennia-old structures and the bulldozing of holy sites. It was determined that, if continued, these policies would alter the universal and indigenous character of the Holy City, both territorially and demographically and destroy the Arab character of the city.

Having seized so much Arab property outside and inside the walled city, the Israelis embarked on the physical removal of the Arab population. They initiated a programme on 25 June 1974 that resulted in the forcible removal of nearly 20,000 Arabs from within the walled city alone. As a result over 5,000 Israelis now live within the city walls in the four Arab quarters from which the population was driven.

The Israeli occupiers have planned the total elimination of Arabs from Jerusalem through attrition by mortality of the old, the exodus of the young abroad for education and gainful employment and through intimidation and seizure of Arab property and by refusing to recognize Arab ownership if the owner is not permanently living on the property. At the same time, it should be noted, the Israelis are attempting to sell Arab property to Jews in other countries who have never even been in Israel.

A part of this despicable policy has been the exile of the social, political, religious and economic leadership of Arab Jerusalem to deprive the people of their representatives thereby making them more easily controllable by the occupation régime.

In tandem with all of the aforementioned, Israelis have committed heinous attacks against Muslim Holy Places in Jerusalem. With Moslem Holy Places placed under the direct control of the Israelis, we have witnessed repeated attempts to destroy those sites. In August 1969, there was an arson attempt against the Aqsa Mosque. Then a month later a plot was uncovered to blow up the venerated Aqsa Mosque and the unmatched Dome of the Rock, the first Kiblat in Islam and the third holiest sanctuary.

As recently as last year, an Israeli soldier invaded the Al-Aqsa Mosque. His murderous designs resulted in many Arab deaths and the destruction of various portions of the Dome of the Rock. In this regard, Christian Holy Places have also not been spared, having been subjected to various forms of destruction, robbery, arson and seizures.

The aim of all of these policies has been the ultimate Judaization of all of Jerusalem, including the essential infrastructure dealing with all aspects of Arab society. With regard to the economy, all Arab banks were closed including the Arab Bank, the Cairo Bank, the Jordan Bank, the Real Estate Bank, the National Bank and Intra Bank. These banks were not only closed, but their assets were confiscated. Israeli currency was introduced as also the Israeli system of taxation, including the supplementary tax and the defence tax which is collected from the Arabs for the benefit of the Israeli army, occupiers of their land. The result was a total paralysis of the Arab economy and a continuous Arab exodus from Jerusalem to the East Bank into Jordan. The effect of these measures was to force the Arab economy, in all of its aspects, into dependency on Israel so that the Arab population would become an inseparable part of Israel's economy.

In this same way the Arab educational system including its curriculum was totally taken over by Israel. The occupiers seized all government schools and educational organizations. They subjected those institutions to the same Israeli curriculum which had been forced on Arabs since 1948. About 20,000 Arab students in the city of Jerusalem are now obliged to study the Israeli curriculum and Hebrew history, without any reference to the history, culture and religion of the Arabs. The Israelis have, in this way, used psychological warfare through which the Arabs are forced to accept Israeli ideological prescriptions for their expansionist schemes.

Yet another aspect of Judaization was the sully of the official Islamic judiciary. They removed the High Court of Appeal from Jerusalem and they amalgamated the Courts of Peace and the Courts of First Instance with the Israeli courts. They forced Arab judges and employees to become part of the Israeli Law Ministry. Thus, the official judiciary of Arab Jerusalem was completely linked to the judiciary of Israel. Because of the total refusal of Arab lawyers and judges to submit themselves to these illegal actions, the Israelis ignored all judgements of Muslim religious courts and refused to accept the petitions from the Muslim Waqf or the Muslim Committee on Jerusalem.

The inevitable result of Israeli policies in Arab Jerusalem since 1967 has been to preclude any chance for peaceful coexistence between Arabs and Jews. The plan of economic, political and social strangulation has polarized Jerusalem into two camps one Jewish and free and the other a prison for Arabs who are deprived of all rights and means of economic, social and national sustenance.

The Israeli Government took the further step, in the face of international condemnation, to decree on 30 July 1980 that Jerusalem, complete and united, is the eternal capital of Israel; that Jerusalem is the seat of the President of the State, the Knesset, the Government and the Supreme Court.

The international community was quick and forceful in its response. The Security Council unanimously adopted resolution 465 (1980) which declared that the Israeli move had no legal validity. Those few States which had embassies in occupied West Jerusalem withdrew their embassies from Jerusalem. And even Israel's friends in Europe adopted the EEC Venice Declaration which stresses that they will not accept any unilateral initiative designed to change the status of Jerusalem and that any agreement on the City's status should guarantee freedom of access to the holy places. What is more, the leader of the Catholic Church, His Holiness Pope Paul II, in June 1980 issued a categorical, ecumenical and universal statement on Jerusalem, which called for the internationalization of the Holy City. It can be said that, if there is unanimous agreement among all countries in the world, among all peoples of the world, among all the different political and social institutions in the world and among all of the major religions, including some of the leaders of Judaism, it is that Jerusalem and all of the Holy Places in the city must be protected and preserved for all of humanity. It is with that objective in mind that the United Nations has maintained an unwavering commitment to General Assembly resolutions 181 (II) and 194 (III).

#### Conclusion

For over 1,000 years Jerusalem has been an Arab city, the capital of no State and open to all men of faith. It has always been al-Quds (the Sanctuary).

Through the centuries, Muslim law, later as British policy, had preserved the character of the city in its entirety until 1948 and in its eastern half until 1967.

However, after the conquests of the June 1967 war and the subsequent process of Judaization, secularization and oppression, the Holy City (the trust of humanity) has been subordinated to the ideological commitments of Zionism. It thus became the capital of a secular State and the victim of military, political and ideological aggression.

It has been universally recognized that the core of the Middle East conflict is the Palestinian cause and that the core of the Palestinian cause is the denial to them of their right to self-determination including the establishment of an independent State. The case of Jerusalem is analogous to this. Jerusalem has for a millennium been the home of the Arab people and its holy places have always been a sacred trust of the respective faiths. The unavoidable conclusion is that until the day comes when the rights including sovereignty of the Palestinian people are restored in the occupied territories and Jerusalem and until the rights of the Muslim and Christian faithful in the Holy City are re-established, it is difficult to foresee peace in the Middle East.

The status of Jerusalem has been time and again reaffirmed by the United Nations on the basis of General Assembly resolution 181 (II) and 194 (III). While these and subsequent resolutions remain unimplemented they do serve an important, indeed, crucial purpose. These resolutions have established the proper and legal status of Jerusalem irrespective of all Israeli claims to the contrary. Further, they reaffirm that for any comprehensive settlement of the Middle East conflict the status of Jerusalem will be of an importance that will not allow this question to become relegated to the background. To the Arab nation and the faithful of the three monotheistic religions, the United Nations internationalization plan is an important component of, and perhaps the litmus test for the durability of any general Middle East settlement.

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No capital in modern times has aroused as much interest as Al-Quds/Jerusalem. Differences of opinion have existed about many cities. After the Second World War and the subsequent division of many countries all over the world, there were many disagreements, specifically about the capitals, and generally about the future, of these divided countries. However, the disagreement about Al-Quds/Jerusalem is more complex. It is not only a matter of which side will take it, as is the case with Berlin, or whether it remains a capital or is transferred, as is the case with Hanoi or Saigon. The problem about Jerusalem touches on the political, social, human and historical levels. This problem goes beyond the sovereignty of a group of people to the character of the place itself. It goes beyond the present situation to thousands of years back. It goes beyond, with regard to origin, history and historiography, the conflict between two human groups now present in the area. Jerusalem is an administrative entity involving people living very far from the City, but very closely affected emotionally by it because of its religious character. In fact, millions or hundreds of millions in Asia, Africa, Europe and the two Americas believe in its holiness. The Muslims are as much attached to it as they are to Mecca. Christians are as much involved in it as they are with the Vatican or any other holy or religious place. Similarly, people following the Judaic creed believe in the holiness of the City and go there on pilgrimage, just as the others do.

The numerous invasions, conquests, wars and armies that have attacked Al Quds/Jerusalem and they departed from it and the many nations and monarchs that have made it their capital, starting from 3000 B.C. up till today, reflect the political struggle of the different Powers to dominate this Holy City. This struggle was not limited to the regional Powers but included many armies coming from outside the area. In recent history, the Tartars came from Asia, the Franks from Europe, then Napoleon, and between these two the Ottoman Turks from Asia Minor, then the English and finally, the waves of colonizing Jewish immigrants (also a foreign occupation) from eastern Europe, mid-Europe, then from western Europe and finally from all parts of the world.

In each case, the holy city was the target and motive of the armies. This is because its holiness among different peoples goes back in history to the time of its foundation. It therefore stands to reason that the "liberation" of Jerusalem was an expressed motive for each new army coming towards it. Today the Holy City has maintained the same position and the same impact. The simplest example that illustrates this point is the title of the present Seminar on the Holy City of Jerusalem. This city occupies a prominent place in the realities of today and in the lives of many people; it plays a crucial role in the eventual establishment of peace or of war in the Middle East and beyond it.

What are the factors behind the importance of this city? The answer to this lies both in its geography and its history. Geographically, the city lies on the crossroads between the two most ancient known civilizations, the Babylonian to its east and the Egyptian to its south-west. Moreover, it overlooks the shores of the eastern Mediterranean with all the civilizations there. It was also a stop for caravans coming from the Arabian peninsula in the south-east and from India and Iran in the east. The geographic location of Al-Quds/Jerusalem is in itself important because of the strategic position of the land of Palestine among three continents, Asia, Africa and Europe. It is therefore not by chance that some historians of Jerusalem have said it was the centre of the Holy Land and the meeting points of nations, "the centre of the planet upon which we live".

The historical factor coincides with the geographical one. The unique geographical location of the city helped to build up its human heritage and its religious character. All three great monotheistic religions with all their sects believe in its holiness and have sites to which they go on pilgrimage. All year round, the city receives pilgrims from different sects and with different beliefs. The Israeli occupation, especially after the war of 1967, put an end to the pilgrimage of Muslims and of Christian Arabs, even after the peace treaty between Israel and Egypt, since Arab Jerusalem is under Israeli occupation.

It is therefore ironic that this Holy City, which has been called the House of Peace (Dar al Salam), the City of Peace (Madinat al Salam) and the Village of Peace (Qariat al Salam) is today a major problem in the Middle East conflict. It is the most complex problem standing in the way of any agreement between the conflicting parties and, unless an agreement can be reached, it will be a cause for future wars and their ideological cover too.

The unique situation of the Holy City has led to its unique status, in relation to the activities related to the Arab-Israeli conflict be they military, cultural, political or economic. The dispute about the Holy City covers all fields. The conflicting parties try by different means, such as research and publications, etc., to prove their right to the city and to justify the prevailing situation or the one that they are calling for. In fact, the Israeli side is characterized by the practical steps it takes, i.e., occupation, settlements, expulsion, destruction of houses, changing the legal status etc. In addition to challenging international will and neglecting the resolutions of international organizations, it undertakes effective propaganda aimed at world public opinion to the effect that the Holy City has been a Jewish city from the time of its foundation up till now. One must also mention that a great effort is being undertaken by Palestinian, by Arab and by international organizations to clarify the truth about the history of the city. More work is necessary in this respect. But in spite of the importance of propaganda and of clarifying historical truths, many people in our world today are directly interested, in a pragmatic way most of the time, to find a "solution" that saves the region, peoples and the world further suffering from wars. In any case, in a seminar like the present one, everyone agrees that Al-Quds/Jerusalem is a unique city in its situation and in its character, that its problems are very intricate and sensitive, that the spiritual side plays a fundamental role in involving a wide geographic area and a number of parties interested in its fate and future.

Let us abandon optimism and pessimism and the dispute about the past without neglecting its effect on the present. We will try to examine the present status of the Holy City and the different projects that have been proposed, as well as other possibilities for the future.

During the British Mandate of 1922-1948, Al Quds/Jerusalem was the capital of Palestine. Before that, when it was under Ottoman rule, it had had a special administrative status, since it was directly linked to the capital of the Ottoman State. Jerusalem remained the capital of Palestine until its western sector was occupied in 1948, at which time it became considered part of the State of Israel. In January 1950, Israel announced that Jerusalem had been its capital since the foundation of the State. The main Government offices were transferred there from Tel Aviv and the Israeli Knesset was meeting there before the end of 1949. This was not a surprise to those familiar with the history of Zionist advances on Palestine. With each of these advances, the international organizations recommended that the Holy City be under international supervision, but Zionist leadership rejected this. But in 1949, the Jewish agency accepted the principle of internationalization as part of the agreement of the United Nations to the partition project (which the Arab States totally rejected). When Israel applied for membership at the United Nations, the Israeli delegate gave assurances that Israel would not "follow any policies about any matter ... not in agreement with the resolutions of the United Nations and the Security Council". The Israeli delegate then gave written assurances that Israel would not oppose the internationalization of Al-Quds/Jerusalem. The resolutions of the United Nations mentioned these assurances. But as soon as it was granted membership, it voted against resolutions concerning the system governing the city under internationalization.

In April 1950, the West Bank was joined to the Hashemite Kingdom of Jordan, with Amman as its capital. The sector of the City that remained was called Arab Jerusalem. A protocol was established as part of the Israeli-Jordanian truce and a line was drawn between Arab Jerusalem and West Jerusalem. Both the Israeli and the Jordanian sides considered the city as part of their territory and it was then that the term "the two Jerusalems" appeared and became familiar to the world. During the war of June 1967, the Israeli forces hurried to occupy the remaining part of the city, in addition to what was left of Palestine (the West Bank of the Jordan River and the Gaza Strip). Although during 13 years the occupation forces had been taking steps to annex the western sector of the city, administratively, municipally, economically, culturally and educationally, its annexation was not officially announced until 30 July 1980 by a decision of the Knesset - this against all international resolutions denouncing these steps. In the meantime, the international community with the exception of the Arab States and those States that have not recognized the State of Israel, have maintained their position about the internationalization of the Holy City. General Assembly resolution 181 (II) of 29 November 1947, which recommended the partition of Palestine, specified that Jerusalem and the surrounding area (including Bethlehem) have a separate identity under an international system supervised by the United Nations. Generally speaking, the United Nations has maintained this position over the years. It is true that between 1950 up to the announcement by the State of Israel of the annexation of the western sector of the City, the international community did not undertake any action about Jerusalem. But most of the Member States made a point of not accepting the annexation by refusing to set up their embassies in Jerusalem and by refraining from going on official visits to the occupied city.

After 1967, several resolutions were made by international organizations condemning the steps taken by the occupying Israeli authorities in such matters as expelling the Arab inhabitants, confiscating their property, destroying their houses, changing the architectural character of the City, and changing its legal status, etc. At the same time, they maintained their position with regard to General Assembly resolution 181 (II) of 29 November 1947, 194 (III) of 11 December 1949 and 303 (IV) of 9 December 1949 concerning the situation of the city under international supervision.

The Arab States, after having rejected the steps undertaken by the Israeli occupation and the Jordanian annexation, maintained this position towards the Israeli occupation and accepted *de facto* the Jordanian annexation, continue to reject the idea that Jerusalem is the capital of Israel. The Arab summit meeting at Fez in September 1982 supported the idea of an independent Palestinian State with Al-Quds/Jerusalem as its capital. It asked for the complete withdrawal from the

Arab territories occupied in 1967, including Arab Jerusalem. However, one can notice that the Arab States always accepted the United Nations resolutions of the General Assembly and the Security Council which condemned the Israeli measures, even though the United Nations resolutions in question were based on older ones like 181 (II) on the internationalization of the City.

The only exception among the international community, specifically among the permanent members of the Security Council, was the United States. The United States supported the resolutions on the internationalization of the city from the start, but after 1967, it abstained from voting on any resolution condemning the activities of the occupying authorities. The probable motive was its protection for the State of Israel and generally, its sympathy and support for it. Nevertheless, the United States, can if it wishes, exchange the option of "internationalization" for others. In fact, one could interpret the declarations made by its officials, such as the refusal to "divide the city again." or the fact that it does not mention internationalization in any of the peace projects for the Middle East, as such. It is possible that the motive behind this position is to postpone the question of Al-Quds/Jerusalem to the last stages of the peace process led by the United States because it is the most complicated problem. One new point was recently made obvious in an article entitled "Support Reagan's Initiative" by Allan G. Kreczko in *Foreign Policy* (vol. 49, winter 1982-1983). The writer is Assistant Legal Adviser for Near Eastern and South Asian Affairs at the State Department. He had served as Legal Adviser to Ambassador Robert Strauss and Sol Linowitz during their tenures as United States negotiators in the Camp David process and as Legal Adviser to Ambassador Richard Fairbanks. The importance of his statements is increased by the fact that Ambassador Fairbanks thinks they reflect precisely the present position of the United States Government, which is in agreement with the Camp David accords. Because of its importance, we quote the text about Jerusalem:

"Jerusalem. The President's position is that Jerusalem should be undivided and that its final status must be negotiated. In letters accompanying the Camp David framework and signed on the same day, Egypt, Israel, and the United States set forth their conflicting views concerning Jerusalem. The U.S. letter said: The position of the United States on Jerusalem remains as stated by Ambassador Goldberg in the United Nations General Assembly on July 14, 1967, and subsequently by Ambassador Yost in the United Nations Security Council on July 1, 1969." The Goldberg statement affirmed the U.S. position that Jerusalem 'must necessarily be considered in the context of a settlement of all problems arising out of the recent conflict,' and the Yost statement emphasized that 'we (the United States) have consistently refused to recognize these (unilateral) measures as having anything but a provisional character and do not accept them as affecting the ultimate status of Jerusalem.' The President's position was fully in accord with these statements and reflects a long-standing position of the United States". (p. 146)

Then, at the end of his article, he said,

"Also, the United States has consistently advanced the view that the City of Jerusalem should be undivided. When questioned about the relationship between the U.S. view that East Jerusalem is occupied territory and that the City of Jerusalem should be undivided, former Secretary of State Cyrus Vance replied in testimony before the Senate Committee on Foreign Relations on March 20, 1980.

"If you will go back to 1970 and the statements which were made at that time, we said then that there was occupied territory in Jerusalem, namely East Jerusalem, yet, at the same time, the U.S. Government believed that it should be a united or undivided City. What that meant, very simply, was that it should be physically undivided: that never again should there be barbed wire between the various parts. It did not purport to say what the final political solution should be. It did not speak to the ultimate question of sovereignty. It talked to the question of what the City would be in terms of its physical characteristics". (p. 153) Another new attitude is obvious on the part of the great Powers regarding Jerusalem: the appendix of the friendship and co-operation treaty between the Soviet Union and Syria considered that the Israeli occupiers should withdraw from the West Bank, including Arab Jerusalem. A prominent Soviet spokesman and orientalist, Kirilian, the Deputy Director of the Oriental Institute of Moscow, explained the Brezhnev project during a seminar held in Beirut in 1981 on peace in the Middle East. It asks for withdrawal from Arab Jerusalem. There has recently, moreover, been repeated official Soviet support and support from the media for an Israeli withdrawal from all Arab territories, including Arab Jerusalem. The declarations of Brezhnev during a dinner party in honour of the Yemeni Prime Minister, Muhammad Ali Nasser, after the Fez Summit, stand out particularly. The Soviet-Palestinian final communiqué after the visit of Yasser Arafat to Moscow in the second week of January 1983 repeats the demand for immediate and unconditional Israeli withdrawal from all the territories occupied after 1967, including the eastern part of Jerusalem.

But the most important new element is the emergence of the Palestinians as an independent party with an organized framework, which is the PLO. This organization has increasing recognition from the international community. It announced an interim programme years ago for an independent Palestinian State on Palestinian land from which the Israeli occupation force would withdraw, with Al-Quds/Jerusalem as its capital. Al-Quds-Jerusalem has in fact, become the symbol of the Palestinian homeland and nationality. This cannot be overlooked.

In other words, the international position about the internationalization of Al-Quds/Jerusalem is not as it was before. It is true that internationalization remains as one alternative but there are other alternatives as well.

At the present time, the attitudes of the different parties with regard to the Holy City can be summarized as follows:

- (a) The Arab Palestinian people and their representative, the PLO, insist that Al-Quds/Jerusalem be the capital of an independent State on liberated Palestinian land;
- (b) The State of Israel and all the Israeli community want Jerusalem to be the eternal capital of the State, never to be divided again;
- (c) The Arab States support the Palestinian attitude;
- (d) The Islamic States support the Arab-Palestinian position, specifically with regard to Al-Quds;
- (e) The international community continues to reject the measures regarding the annexation, officially at least, and to support resolution 181 (II) of 29 November 1947;
- (f) Obscure changes in the attitudes of the United States and the Soviet Union open to further discussion;
- (g) The Vatican adopts the idea of internationalization in some of its declarations.

All these parties have means at their disposal to realize their objectives with methods varying in their effectiveness.

The PLO continues the struggle by different means available to it. But it faces a rejection from the West, especially from the United States, with regard to its recognition as the sole legal representative of the Palestinian people and its role in the peace negotiations and negotiations about the Holy City.

As for Israel, it utterly rejects any negotiations with, or recognition of, the PLO. It also absolutely rejects Reagan's proposal. At the same time, it continues to change the character of the land in Al-Quds/Jerusalem and its surroundings and in all the West Bank, in preparation for its political annexation of the occupied lands.

Until now, the United States has been using the method of separating the different problems related to the conflict and dividing the concerned parties, postponing the complicated issues, one of which is that of Al-Quds/Jerusalem. From time to time, it declares that it objects to a particular Israeli measure. The objection is usually made outside the United Nations framework. But it uses no real pressure against the State of Israel to make it change or to stop or freeze what it is doing.

The Israelis know, however, that there are limits to the United States protests and that is why they are quickly changing the character of the land and creating new realities, with the hope that the United States will find that something in its own interest, as with the Israeli attack of Lebanon and the siege of Beirut.

As for the Arab side, its activities are limited to international organizations and getting declarations of condemnation, and the international community usually complies. The situation with Islamic States and States supporting the Arabs and Palestinians is the same.

In the meantime, there is the unchanging fact that the occupying Power continues to modify the character of the City, mindless of all protests and condemnations. So the question arises, what is to be done?

This is not an invitation to despair or war.

However, it is clear that what is being done now is insufficient, in spite of the great changes in world public opinion regarding the justice of Arab demands on Jerusalem. Moreover, it is not possible to maintain that time is to the advantage of the geographical and historical factors. They may be stable truths, while the Israeli measures are changeable, but the passing years are not simply paper calendars. The inhabitants of Jerusalem live under occupation, with threats of expulsion and continual attacks of religious sites. The month of March 1983 witnessed more than ten such attacks from Jewish extremists. The Israeli authorities detained hundreds of Arab youths who protested and severely wounded some of them with their shooting. The only positive point in these events is that the Zionist propaganda that says that the Israelis protect religious freedom for all beliefs is shown to be false. Perhaps they wish to maintain freedom for

tourism to all religious places but religion is not the same thing as tourism. In fact freedom of tourism can be an encroachment on the religious sites. We can now leave aside the stress under which the Palestinian Arabs live and the humiliation for Christians and Muslims all over the world at the actions of the extremists who are protected by the occupying authorities, and turn to take a look at the future.

The continued Israeli measures against the city and its inhabitants and the creation of new residential quarters on confiscated land in order to settle Jewish inhabitants and expel the Arab population will not negate the struggle. In fact, it is likely to give it a new motivation in trying to modify the balance of power and create more bitterness. The settlers of Yamit in Sinai had to be convinced by physical force. In fact, there is still a group calling itself the "return to Sinai group". One can easily imagine the situation with regard to settlements established in and around the Holy City.

One has, unfortunately, to expect that every measure by the Israeli authorities against the city and its inhabitants is like a bill that will have to be repaid in the future. Perhaps the interest will be high, too. If the international community does not move to put pressure against the aggressors to stop their acts and make them withdraw from the Holy City and force them to respect human rights and international conventions and resolutions, the suffering of these people will increase and peace and security will be more and more endangered every day (as referred to in Security Council resolution 478 (1980)).

The possible solution for the international community is to adopt the PLO programme by considering it the sole legal representative of the Palestinian Arab people. The PLO also asks for the realization of the inalienable rights of the Palestinian people, such as the right to return to their homeland and the right of self-determination and of setting up an independent State with Arab Jerusalem as its capital. In the light of such a programme, the creation of a State in the framework set up by the PLO, with its commitment to set up a democratic State on the land of Palestine where all, whether Christians, Muslims or Jews, will have the same legal rights, we open a door to the road of a just and lasting peace in the Middle East and Jerusalem will become, as it has always been, the capital of all the faithful in the world, of all human beings and of all Palestine.

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#### JERUSALEM (AL-QUDS/KUDUS-I SERIF) UNDER THE OTTOMAN EMPIRE

Mim Kemal Oke

The Question of Palestine, which, in broad terms entails the struggle for the rights of the Palestinian people to return home and to assert their national determination, has been identified by the United Nations and other international organizations and authors alike as the core of the Middle East conflict. For some authors, the status of Jerusalem is not only the heart of the Palestine question, but would also, among all the issues concerned, prove to be the most difficult to resolve <sup>1/</sup>. If the roots of the Palestine question could be traced to the emergence of the Zionist movement which around the 1880s set its eyes upon Jerusalem and environs as the future Jewish State, then the history of the Arab-Israeli conflict could be examined, by using the legal sovereignty over the country as the determinant, under three periods: Ottoman, British and Israeli. Although pioneering efforts have been made in the investigation of the Palestine conflict from the Turkish primary sources <sup>2/</sup>, not much is known on the status of Jerusalem under the Ottomans whose occupation over Palestine dated back to 1517, encompassing four centuries of uninterrupted rule.

When mentioned, however, the status of Jerusalem under Ottoman rule is mostly sketched in most derogatory terms. Under the Turks, it is stated in a recent hook, Jerusalem "sank into four centuries of political obscurity until British sentiment, influenced by Christianity and the romance of the Crusades, rehabilitated Jerusalem as the administrative capital of Palestine under the Mandate" <sup>3/</sup>. The Ottoman provincial administration is portrayed as "repressive" and "corrupt", and that the people were ground to poverty by crippling taxation and corruption at all levels of administration till honest enterprise was killed; and the land fell derelict and was bought up by native landlords and by Levantine speculators and moneylenders, who eventually sold the land to the Jews" <sup>4/</sup>. It must have been obvious that the author aims to whitewash the subsequent British (Christian) and Israeli (Jewish) colonial practices in Jerusalem by using the Turkish (Muslim) rule as a pretext. If the Turkish rule could be presented in darkest colours, then, perhaps the "achievements" of the British and Israeli "civilizing missions" could be appreciated and their excesses could be excused. In the following account, an attempt will be made to give a truer picture of Jerusalem under the Ottoman Empire with special emphasis on the nineteenth and early twentieth centuries.

During the early centuries of Ottoman rule, Palestine was a geographical expression commonly known as the Arz-i Filistin or Arz-i Mukaddese, but did not form a political administrative unit on its own. It was divided into several districts (sancaks), which, up to the beginning of the seventeenth century, were part of the Damascus province (eyâlet). Later on, most districts in central and southern Palestine, as well as those in the area east of the Jordan River continued to be at least nominally under the jurisdiction of Damascus, while the Galilee districts were transferred to the newly established eyâlet of Sidon. In 1841, after a decade of Egyptian occupation, all the Palestinian districts except for the area east of Jordan were placed in the province of Sidon (later called the vilayet of Beirut) <sup>5/</sup>. In the second half of the nineteenth century, however, Palestine began to assume a distinct administrative entity of its own. The sancak of Jerusalem was given higher status, and organized as a mutasarrıflik - an enlarged administrative unit which included also the sancaks of Nablus and Gaza and was governed by a mutasarrıf. During the Crimean War, this area was elevated for a short time to the status of an independent province, and its governor, a pasha with the rank of vali, was directly responsible to Istanbul. The Ottoman Provincial Regulation of 1876 not only confirmed this reorganization of Palestine, but also incorporated Acre with the Mutasarrıflik of Jerusalem <sup>6/</sup>.

When in 1517, the Ottoman Sultan, Selim I, put an end to the Mamlūk dynasty, Jerusalem with the rest of Syria passed to the Ottomans who gave the land a new life. One of the most notable of these sultans, Süleyman I (1520 - 1566) was not only a great soldier, but took a considerable interest in building and Jerusalem also benefited from this. Lavish sums were spent on the restoration and maintenance of all holy places, Christian, Jewish and Muslim alike. The Sultan also had the city walls renovated and gave them the form they still have today <sup>7/</sup>. Since Jerusalem, due to its international prestige as the holy place common to all the three monotheistic religions, attracted pilgrims and travellers all over the world, the successive Ottoman sultans took great pride in keeping the city in exemplary shape and order. Thus, under the Turkish rule, law and order reigned, and the government administration was properly organized. The population grew and the economy developed <sup>8/</sup>.

The status of holy places became, especially since the nineteenth century, a growing problem in the Sultan's relations with the European Powers Jerusalem had, since the times of the Crusades, been the theatre of operations for missionary societies, religious orders and educational establishments characterized by rivalries among these different denominations. The Ottomans, despite their peace-making efforts among the communities in Jerusalem, inherited such problems. With the nineteenth century, the question of the holy places was carried from the halls of the Divan to the international arena. It is necessary, therefore, to look very briefly into the interests of the Powers in Palestine.

The French connection with Palestine in this respect was the oldest of all European Powers, stretching back to the rule of Francis I <sup>9</sup>. As a result of the privileges granted by Suleyman the Magnificent, France had monopolized the custody of the sanctuaries and the protection of the Latin clergy in its relations with the Turkish Government <sup>10</sup>. The tendency of France to regard itself as the sole protector of Roman Catholic interests in Palestine was reduced when Italy <sup>11</sup> and Germany <sup>12</sup> in the 1880s decided to champion the cause of their Catholic subjects in the Holy Land. In the face of desertions from its protégé system, France could have only retained its prestige by offering better facilities to pilgrims, and occupational services to local converts <sup>13</sup>. This could have been possible with more funds, but the statesmen of the Third Republic did not share Louis Napoleon's religious convictions, nor thought that Christianity was worth exporting. In contrast with the French religious establishment, Russian interests in Palestine were endowed with both resources and government backing <sup>14</sup>. With the Treaty of Küçük Kaynarca in 1774 Russians had secured the claim to protect and intercede for the Orthodox Christians of the Ottoman Empire. In 1882 Russians established, under the presidency of the Grand Duke Sergei, the Imperial Orthodox Palestine Society whose *prima facie* aims included helping the pilgrims, the founding of schools, hospitals, hostels, granting of material aid to the local inhabitants, churches, monasteries and clergy, and supporting its creed in the Holy Land <sup>15</sup>. Similar functions were also undertaken by the British whose mission in Palestine during the last quarter of the nineteenth century was represented by the London Jewish Society and the Church Missionary Society as well as an Anglican Bishopric <sup>16</sup>. The only German interest in Palestine was the Templar (*Tempelgemeinde*) Society whose followers were part of the pietistic stream of Protestant theology who wished to revive the way of the life of the early Christians <sup>17</sup>.

Religious considerations as outlined above were not the only interests of the Powers in the Near East, for more importantly, each had certain strategic, political and economic commitments as dictated by their respective national policies. Considering the scope of this paper, there is no need to go into detail with the policies of the Powers, but, nevertheless it is indispensable to mention the effects of the Capitulations and the protégé system upon the relations between the Porte and the Powers.

One of the most important avenues through which the Powers tried to place Turkey under their tutelage was by the extensive use of the Capitulations <sup>18</sup>. Turks never had a great disposition towards commercial activities which they considered to be degrading to their chivalric culture. The rationale, therefore, behind the issuing of extraterritorial privileges was to attract foreign merchants and companies to Turkey. This was how the early Ottoman sultans thought they could cultivate the rich economic resources of the Empire. These Capitulations were issued from a position of strength, and as far as the Sultan was concerned, possessed no binding obligations. He had then the power to cancel them altogether. With the advent of the nineteenth century, the Ottoman Empire, having lost its initial vitality, was placed within the pale of the European political system whose more powerful members in 1856 at the Congress of Paris undertook to preserve its territorial integrity. As a result, the Capitulations acquired the features of law, becoming, *inter alia*, and instrument of exploiting Turkey's economic resources on the one hand and of swelling the Turkish market with European industrial products on the other. The most objectionable abuse of the Capitulations, from the Turkish point of view, was the way in which it led to the emergence of the "protégé" (*Himâye*) system. The protégé system was an institution by which Ottoman subjects could acquire foreign nationality or foreign protection without being required to reside in the country granting the protection, and thereby be entitled to the capitulatory privileges enjoyed by the nationals of the donor country in Turkey. With the nineteenth century, however, the protégé system became very attractive to the non-Muslim subjects of the Empire. First of all, at a time when the Ottomans levied higher taxes to make up for the depleted sources of the Empire, the protégé system proved to be a convenient device in escaping such a burden, for the protégés of foreign Powers, according to the Capitulations, were immune from the Ottoman fiscal system altogether. Secondly, the protégé system, as far as the non-Muslim subjects of the Sultan were concerned, brought with it an important political advantage. Under the protective wing of the Powers, the nationalist movement within the Empire could afford to become more militant in the pursuit of their separatist ambitions. The Turks thought that the extension of the protégé system was a step in the direction of the secession of the territories inhabited by the protected nationals <sup>19</sup>. The Great Powers also reaped substantial benefits from such an alliance with the non-Muslim groups in the Ottoman Empire. First of all, the influence of the West in the Orient had increased. The greater the number of its protégés, the greater would be the concerned country's exploitation of the Capitulations. Secondly, the non-Muslim protégés in Turkey had also provided the Great Powers with the pretext to intervene in Ottoman internal affairs. By upholding the so-called rights of the Ottoman minorities, the Great Powers more often than not tried to shape Ottoman policies to fit their imperial interests. In Palestine too, the Great Powers were exploiting religious differences in order to establish their respective spheres of interest in the region <sup>20</sup>. It was France, as the champion of Catholicism, which placed the Maronites, Jacobites and Uniates under its protective wing, while Britain did the same for the Druze, Protestants and Jews, Germany for the Templars, and finally Russia for the Orthodox, Copts and Abyssinians. Viewed within the context of international politics, Jerusalem appears to me more than an arena of inter-missionary activity and struggle between various religious sects. In this connection, the co-operation of the activities of the missions and their Governments was crucial. The Templars, for example, thought that if they could convince the German Government of their usefulness in the cause of the *Drang Nach Osten*, then the latter would, in turn, reward them with material benefits that they had been denied by previous administrations <sup>21</sup>. The British evangelical missions, with the help of Consul Finn who was a member of LJS, had plunged deep into the troubled waters of religion in the Holy Land, and attempted to create an English party by issuing certificates of protection to their converts. Policies of one mission caused deep-seated resentment and suspicion to others, the manifestations of which resulted in violent clashes between their followers <sup>23</sup>. When these incidents were communicated to Europe, Powers came to believe that the other party was harbouring aggressive designs over Jerusalem at their expense.

This belief in the zero-sum-game of Palestinian politics led the European Governments to participate directly in the affairs of the land, trying to redress the balance of power whenever they felt that it was disturbed by another party. A typical example was provided by the funeral of M. Ledoux, the French Consul in Jerusalem. "The feeling that Latin interests have for some time been giving way to those of the Greek Church, and that French prestige has been losing ground whilst Russian influence has been on the increase, caused the French clerical party, supported by the Franciscan monks and the Roman Catholic community in general, to avail themselves of the death of the French Consul-General for making as great a religious demonstration and display as was possible" <sup>24</sup>. It was true that Russia managed to "destroy the influence in Palestine of the Greek Oecumenical Patriarch of Constantinople, and to put that of Russia in its place" <sup>25</sup> and in doing so, it enhanced its political influence in the area. A British official wrote from Damascus that "Russian influence gains in strength almost daily, and it would hardly be an exaggeration to say that steady and persistent efforts are being made to "Russianize" the Greek Orthodox community in this province" <sup>26</sup>. These proceedings of Russia seriously occupied the attention of the French Government which believed in the "*importance du protectorat religieux pour le prestige de la politique française*" <sup>27</sup>. As observed by the British Consul in Jerusalem, the "establishment by Jesuits of a medical school at Beirut is no doubt a counter-move to Russian scholastic activity" <sup>28</sup>. Both the Russians <sup>29</sup> and the French <sup>30</sup> were worried about increasing German activities in Palestine. The Templars were believed to be the "outposts of Teutonism whose services to the Fatherland were harnessed by the Wilhelmstrasse to further Germany's political and economic penetration into the Middle East" <sup>31</sup>. International rivalry was so intense in Palestine that even allies like France and Russia could not form, at the suggestion of Mouravieff <sup>32</sup>, the Russian ambassador in Istanbul, a common front against their mutual enemy, Germany <sup>33</sup>.

## II

International rivalry in Jerusalem was bound to arouse the suspicion of the Turkish rulers whose prime consideration was to preserve the territorial integrity and political sovereignty of the Ottoman Empire against the incursions of the European Powers. The sultans knew that the rivalries among the Powers in the Middle East and their lack of consensus with respect to the fate of Turkey prevented the impending partition of their empire, but they realized that they could not rely on external factors for the well-being of the country. Thus, from the second half of the nineteenth century, the Ottoman rulers carried out an extensive reform programme with the aim of modernizing their declining empire. The rationale behind the *Tanzimat* reforms was to curtail, if not entirely terminate, foreign intervention in the affairs of the Sultanate <sup>34</sup>.

Before the *Tanzimat*, the Porte delegated its power to the leading families in the provinces. With the decline of the central authority to supervise their affairs, these local notables (*esraf* or *âyan*) assumed feudal prerogatives, taxing and policing the region and their free will, a practice which caused great discomfort to the populace at large. Thus, the successive reforms initiated in the second half of the nineteenth century aimed in principle to establish the democratization and secularization on the one hand, and centralization of the Ottoman administration on the other. The Porte centralized the control over its civil servants in Palestine, establishing direct lines of communication between them and Istanbul. Turks also insured that Jerusalem was filled with able, honest and efficient personnel. Associated with the governor (*mutasarrıf*) were administrative departments whose officials, such as the provincial accountant, public works supervisor, and the judge, were appointed by Istanbul and were responsible to their superiors in the capital. The activities of the different departments in

Jerusalem were coordinated by the Administrative Assembly, consisted of the *mutasarrif*, department heads, and six representative members, three Muslims and three non-Muslims, elected from among the inhabitants. Moreover, advisory councils were formed to introduce the elective representative principle into the functioning of local government, for the first time in the history of Palestine under Turkish rule. The Provincial General Assembly of Jerusalem was composed of a combination of two Muslims and two non-Muslims elected by Acre, Nablus, Beirut and Jerusalem. Convoled by the governor, the Assembly was charged with matters related to the construction and the upkeep of roads and bridges, tax collection, improvement of agriculture and commerce in the region. At the lowest level, the Council of Elders, one of the oldest representative organs in the Ottoman Empire, was retained. Each *millet* in the village elected its own Council and a headman, the electors consisting of male Ottoman subjects over the age of 18 who paid a specified sum in direct taxes annually <sup>35/</sup>.

The new provincial system also brought some improvement in the distribution of justice in the provinces. Palestine shared with the rest of the country and the most characteristic tenet of the Ottoman judicial systems its lack of unity <sup>36/</sup>. There were at least four court systems operating at the same time supervised by different governmental authorities. While the consular courts had jurisdiction in trade disputes involving their own subjects and other matters reserved for them by the Capitulations the non-Muslim subjects of the crown had their own *millet* courts, to arbitrate disputes that might arise within their communities. Muslims had their own *Seriat* (sharia) court, based upon the legal precepts established by the *Quran*, and directly responsible to the office of *Seyhülislam* in Istanbul. To put an end to this state of judicial anarchy, the *Tanzimat* introduced the *Nizamiye* courts which aimed to set the standards and procedures in the criminal and civil courts for all Ottoman subjects, irrespective of their creed and nationality. Although the minorities and their Christian patrons refused to adopt the new system, it was nevertheless true that the judicial improvements in Palestine as well as in other sections of the Empire did materialize.

Effective measures of public security were also introduced <sup>37/</sup>. Keeping peace and order in Palestine and Syria was the duty of the Fifth Army, called the Army of Arabia, based in Damascus. In line with the Sultan's centralizing tendencies, these forces were placed under the command of a field marshal who was appointed by and responsible to the War Ministry in Istanbul, thus completely ending the governor's control of the military forces within his domains. The Fifth Army, thanks to the modernizing efforts of the Sultan, was better organized and equipped than before insofar as financial stringencies permitted. The Sultan, however, was not going to be content to rely on the regular army to prevent or suppress any upheavals that might occur which would lead to general intervention on behalf of the Powers. When Muslim refugees in the face of growing repression in the Balkans and Russia fled to Turkey, Abdulhamid II settled them in the valley of Hauran and organized them as a militia force <sup>38/</sup>. The Sultan knew that the local gendarmerie formed by the Muslims would be the most effective way of suppressing any disintegrative tendencies among the various minority groups in Palestine. It was obvious that the Muslim refugees, living with the memories of how their loved ones had been murdered and their homes and properties stolen, would not be accommodating towards the ambitions of their prosecutors' coreligionists in Palestine. The Muslim militia proved itself to be so effective a deterrent to possible breaches of peace that the British consul in Jerusalem wrote that "more readiness was manifested on the part of the police to cope with evil-doers and to maintain order" <sup>39/</sup>.

Finally, certain steps were taken to improve the province in the economic sense. First of all, model farms were established in arable districts as experimental stations to demonstrate new techniques of cultivation and use of equipment. Considering the importance of trade and commerce in the prosperity of a region, Abdulhamid II, the Sultan granted a concession to a French concern, *Chemin de fer de la Palestine*, in 1888 to build railways between Jaffa and Jerusalem, Haifa and Jaffa. Before this line was actually completed in 1892, similar concessions were made to the French to link Palestine with Beirut, Damascus and Aleppo, all of which opened their services to freight and passengers not later than 1906. Abdulhamid II also made it clear to the Germans that both the Berlin-Baghdad and the Hejaz railways should establish subsidiary connections with Palestine. As a result of these efforts, Jaffa and Haifa prospered as commercially successful ports, opening Syrian and even Arabian markets to European customers. Exports consisting of oil, wine, cereals, citrus, sesame, tobacco and silk from Palestine were shipped to most European countries, yielding a substantial profit to the local producers and revenue to the Ottoman economy. To organize and improve commercial transactions, chambers of commerce were founded in Beirut, Jerusalem, Jaffa and Hauran as early as 1880, to be followed by banks. The Imperial Ottoman Bank with French capital was formed in 1887, opening branches in Haifa, Beirut, Hama, Homs, Jaffa, Jerusalem and Saïda; whilst its German counterpart, the *Deutsch Palastina Bank* was established in 1889 with branches in Beirut, Damascus, Gaza, Haifa, Jaffa, Jerusalem, Nablus and Nazareth. Economic activity was in such a flourishing state that Palestine during the entire reign of Abdulhamid II and of Resad never faced a deficit in its provincial economy. On the contrary, the financial situation in Palestine contrasted very favourably with that of the Empire as a whole, with the revenues constantly exceeding the expenditures necessary for the maintenance and improvement of the province.

As an overall view, one can confidently state that Jerusalem and environs under Ottoman administration was in process of gradual improvement in the various spheres of life: religious, economic, political and physical security <sup>40/</sup>. The British Foreign Office commented with surprise, and perhaps with considerable regret, that "taken as a whole the (Turkish) régime in Palestine marked imperial progress, and is open to less criticism than elsewhere in Turkey. There were, of course, bad <sup>41/</sup> features - the same nervousness of foreign encroachment as in other provinces, the same suspicious and jealous system of administration. But, there was no general sense of oppression and terror" <sup>42/</sup>.

Suspicion of European encroachment over Jerusalem was not the only apprehension entertained by the Ottomans in the late nineteenth century. Palestine in the 1880s also became the focus of Zionists who were aiming to deliver their followers to the Promised Land. Their leader Theodor Herzl, admitted that the "decision is in the sole hands of His Majesty the Sultan" <sup>43/</sup>. His strategy to convince the Sultan was to make him a financial offer he would not dare to refuse. Herzl came to Istanbul in the middle of June 1896, and requested the Sultan to issue a Charter, enabling the Jews to colonize Palestine in return for twenty million pounds. Sultan Abdulhamid II however, was adamant. He told Herzl "not to take another step in this matter. I cannot sell even a foot of land, for it does not belong to me, but to my people" <sup>44/</sup>.

Upon the emergence of the Zionist movement in Europe, the Ottoman ambassadors were alerted to these disconcerting developments. The Ottoman ambassadors in Berlin (Ahmed Tefik Pasha) and in Vienna (Mahmud Nedim Pasha) not only interviewed Herzl and other Zionist notables, but also sent agents to the congresses to obtain healthy information respecting the ultimate aims of the Zionists. In a detailed report to the Porte, Ahmed Tefik Pasha wrote on 17 August 1900 that "we must have no illusions about Zionism. Although the speakers at the Congress dwelled upon vague generalities such as the future of the Jewish people, the Zionists, in effect, aim at the formation of a great Jewish State in Jerusalem and environs, which would also spread towards the neighbouring countries". According to the Ottoman ambassador, the Zionists would use a Judaized Jerusalem as a base for their future expansionist activities <sup>45/</sup>.

Ahmed Tefik Pasha's worries fell upon sympathetic ears in Istanbul. Abdulhamid worried that, by allowing the Jews in Jerusalem, the Turkish Government would sign the death warrant of its Arab coreligionists, since the new settlers would, in no time, gather great power in their hands and use it against their Arab hosts <sup>46/</sup>. The Porte stressed that it "does not desire to sell any part of its Arabian country, and no matter how many millions of gold are offered this determination will not be altered" <sup>47/</sup>. Instead the Porte came to believe that the "time has come for His Majesty to take certain measures to repair the fault which his ancestors had committed by allowing the non-Muslim communities to settle in Palestine" <sup>48/</sup>. The Ottomans were determined to preserve the dominant Muslim and Arab characteristics of Jerusalem and Palestine. Thus, the Ottoman Government should to the best of its efforts prevent Jewish immigration and settlement in the *mutasarriflik* of Jerusalem. A series of "entry restrictions" were immediately imposed, and those Jews who managed to penetrate the country were denied ability to acquire land, either urban or rural <sup>49/</sup>. These restrictions were kept in force by the Young Turks even after the fall of Abdulhamid II until 1917 when Palestine passed to the hands of the British.

In the light of evidence drawn mostly from Turkish and Western sources, it appears that, under the Ottomans, Jerusalem was a "city of peace" characterized by public security and prosperity. Jerusalem, of all the provinces that fell to the Turks - with the possible exception of the Hejaz lands - commanded a special place in the eyes of its rulers. As faithful Muslims, the sultans were extremely keen to preserve the city to match the dignity of the Aksa and the Omer Mosque. Moreover, knowing that Jerusalem was the home both for Christianity and Judaism, Turks also took great pride in keeping these sanctuaries in good order and in providing free access to their followers. Nevertheless, weary of Western involvement in their internal affairs, the Turks had no tolerance for European meddling with the affairs of missions. Most of the improvements introduced in the nineteenth-century Jerusalem sprang from their determination to curb, if not completely dissociate international rivalry among the Powers over Palestine. The regional history of Jerusalem was the history of a tug of war between the Porte who wished to maintain the native Muslim predominance in Jerusalem and the Powers who were craving to place the city under their respective spheres of interest. The Ottoman struggle to uphold Jerusalem's Muslim character in the late nineteenth and early twentieth centuries also involved an effort to stop Zionist settlement and immigration in Palestine. It was true that the Ottomans, though they formulated exceptional restrictions against the Zionists, feared the Judaization of Jerusalem more than they had Western influence. Abdulhamid II admitted in 1911 that the efforts of the Zionists in Palestine



were just an introduction preparing the groundwork for accomplishing their ultimate goal: "I am sure that with time, they can and they will be successful in establishing their own State in Palestine" 50/.

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## JERUSALEM FROM THE STANDPOINT OF THE HISTORIC RIGHT AND THE PRINCIPLE OF SELF-DETERMINATION

Kacem Zhiri

"For the second time, Israel has conquered Palestine, the land of the Philistines. It is curious to note that the various phases of this second conquest present many similarities with the events at the time of the patriarchs, Joshua and David. First of all, there is the peaceful infiltration of isolated families, the purchase of land, co-existence with the inhabitants of the country, followed by mass immigration, consolidation of positions acquired, and lastly, military conquest of the whole country. Over a span of three or four millennia, history repeats itself".

It is in these terms that Carl Keller, professor of the Old Testament and history of religions at the University of Lausanne, examined the relationship between the beginning of the conquest of Canaan in the thirteenth century B.C. and the spectacle which is now taking place before our very eyes in Jerusalem - the centre of convergence of the three great monotheistic religions and "Land of Peace". In their appeal to the Christian conscience, the Eastern patriarchs meeting at Damascus in May 1971 declared that "the aim - sometimes acknowledged, sometimes disguised - of Zionism is to suppress the heritage of Palestine in general and of Jerusalem in particular, which were the cradle of civilization in its two forms, human and superhuman, and to turn the land into a racist and religious State".

At its thirtieth session, the United Nations General Assembly, established, by its resolution 3376 (XXX), the Committee on the Exercise of the Inalienable Rights of the Palestinian People, and defined the terms of reference of that Committee in paragraphs 5 and 6 of resolution 31/20. In pursuance of the resolution which requested that seminars should be organized on the question of Palestine during the 1982-1983 biennium and since this eighth seminar should be devoted to the overall problem of Jerusalem viewed in its historical, juridical, political and human aspects, we shall try to focus our contribution on the status of Jerusalem from the standpoint of the historic right and the principle of self-determination embodied in international law.

Three essential facts should be considered first, before examining the status of Jerusalem:

- (a) The problem of Jerusalem cannot be dissociated from the general problem of Palestine from which it arises;
- (b) It cannot be regarded in terms of the ancient city, occupied from 1948 to 1967 by Jordan, and the new city, occupied by Israel during that period and later, when it conquered the ancient city and the rest of Palestine. It may be recalled that, in resolution 181 (II) of 29 November 1947, whereby the General Assembly had recommended that Israel should be established as a corpus separatum, the city had been defined as including the present municipality of Jerusalem plus the surrounding villages and towns of Abu Dis, Bethlehem, Ein Karim and Shu-fat;
- (c) Lastly, the problem of Jerusalem cannot be viewed as a problem of religious conflict over the Holy Places. The above-mentioned resolution 181, in enumerating the extensive powers of the government and administration of Jerusalem, had guaranteed religious rights, minority rights and property rights.

Let us briefly examine first of all the claim of the historic right or "biblical right" invoked by the Government in Tel Aviv for the annexation of Jerusalem. By virtue of that right, it proclaims that "Jerusalem was and remains the unified and eternal capital of Israel". In reality, that right is no more than a myth, according to the words of Pastor Georges Pidoux, former professor of the Old Testament in the faculty of theology of the University of Lausanne, who adds, "Fanaticism, like racism, feeds on myths. In the case of Israel, this is not difficult to demonstrate. What is serious, however, is that myths are like a neurosis which no reasoning can cure".

In evoking the "Promised Land", the land of Canaan, to the Jewish people, the "chosen people", the Zionist movement has claimed that it was King David 3,000 years ago who built Jerusalem after his victory over the Jebusites. However, history - or more accurately, pre-history - gives the lie to that claim following the latest archaeological discoveries, which have proved that Jerusalem existed some 2,000 years before Christ, in other words, about a thousand years before the

arrival of David. John Gray, professor of Hebrew and Semitic languages at the University of Aberdeen, relates in his *History of Jerusalem* that the first historical documents mentioning Jerusalem are texts written in hieratic hieroglyphs found at Luxor in Upper Egypt. They date from the nineteenth century B.C.

According to those documents, the Jebusites, Canaanite tribes that had emigrated from the Arabian peninsula, had built Uru-Shalem, the name given to Jerusalem and signifying "house of peace". From the time of the Arab king Malki Sadek in the nineteenth century B.C., the city experienced tremendous growth. It was the period of Abraham and the third dynasty in Egypt. The pharaohs maintained trade and political relations with all the countries of the region, and Egypt had a profound influence on the land of Canaan (Palestine). Jerusalem, its capital, was known well before the arrival of the Israelites in Canaan. It is mentioned in the texts of that period. We know of some of its kings, including Malki Sadek and Abdi Hiba, who allied himself with Egypt and called on the Pharaoh Amenophis IV for help against the Hapiru invaders from Transjordan. "Hapiru", in the Canaanite language, meant "country people", from which was derived the name "Hebrew" given to the Jews.

Jerusalem subsequently passed under the Amorite dynasty, and it was not until the thirteenth century B.C. that the Amorite kingdom was attacked by the Jews under the command of Joshua. The King of Jerusalem at that time was Adoni Sadek and was allied with four minor kings of the land of Canaan. The battle went in Joshua's favour and the five kings were put to the sword. But Jerusalem did not fall into the hands of the invader. Neither did it fall into the hands of the Judges, because its inhabitants were able to hold out after barricading themselves on Mount Zion.

For more than three centuries after the reign of Joshua, the attacks against Jerusalem continued ceaselessly and it was not until the year 1000 B.C. that David entered Jerusalem through cunning much more than through conquest, since he had previously been in the service of the Amorite kings and had learned their methods of combat. Having become King of Israel, after the death of Saul, David achieved resounding victories against the Philistines. He chose for himself another capital, Sichem, and found in Jerusalem an Amorite population, a considerable number of them having remained after the conquest. Thus, the Israelites did not reach Jerusalem until 2,000 years after it had been founded.

We turn now to the invasions which took place before and after David and which were of short duration. Jerusalem was, in fact, invaded and destroyed 16 times in the course of its history. Its Canaanite - and therefore Arab - population remained and constituted the majority. At the time of David, the Jews were in the minority, although they had established their authority over the city. Neither David nor King Solomon sought to Judaize the city. The latter had the Temple built which bears his name.

The pharaohs of the twenty-second dynasty began to attack the kingdom of Judea after the death of Solomon in 931 B.C., following the divisions which had occurred in that kingdom. Then came the turn of the Assyrians, the Persians and others. The Kingdom of Israel enjoyed peace for only 70 years, and experienced the vicissitudes of fortune until its final collapse. After many wanderings, disasters and the deportation of Israelite kings and leaders, particularly to Babylon, Persia and Mesopotamia, Jerusalem was captured by the Assyrian King Nebuchadnezzar in the sixth century B.C., its king was deported, his sons were beheaded and the Temple of Solomon was destroyed in 587. The population was also deported and that was the origin of the diaspora. Thus, the kingdom of Israel and that of Judea, the outcome of a split, collapsed.

After reconquering Jerusalem, Cyrus, King of Persia, in 538 B.C. invited the Jews who had been deported to Mesopotamia to return to the ancient city, which had been rebuilt. Only a few thousand, coming from Babylon, accepted, whereas members of a prosperous Jewish community preferred to remain where they were. Indeed, it was in Babylon that the Hebrew scribes composed the definitive text of the Torah. Jesus Christ was born in Jerusalem, and it was within its walls that the new message resounded, following the example of the messages brought previously by dozens of prophets. The Holy City changed hands after the advent of Christianity. The Eastern Church was established at Jerusalem, where there were few Jews and where virtually all that was left was the Wailing Wall beside the churches and temples that were built and which remain to the present day. Fifteen years after the death of the prophet Mohammed, the second Caliph Omar-Ibnu Al-Khattab received from the hands of the representative of the Eastern empire of Constantinople the keys of Jerusalem without a shot being fired. Thus, the Holy City returned to its Arab origins. Abdulmalek-Ibnu Marwan, the Umayyad caliph, built the Al-Aqsa mosque beside the dome of Al-Haram Al-Ibrahimi. There was an interruption of one century in which Jerusalem was besieged by the crusades until the time when Salah Addin Al-Ayyubi defeated them at Hittin and liberated the Holy City in 1187. It retained its Arab character under the Ottoman Empire, which succeeded the Arab caliphate. Palestine being part of that empire, the Palestinians, on the same footing as the other Arabs of the Middle East, were full citizens enjoying the same rights as the Turkish citizens and shared with them sovereignty over all the provinces of the empire. Thus, the sovereignty of the Palestinian people was exercised continuously over Jerusalem until the establishment of the British mandate over Palestine. Before the end of the First World War, Palestine was invaded by British forces and detached from the Ottoman Empire to be administered by the Government in London. Jerusalem became the capital of Palestine. Following peace negotiations, Palestine was placed under a League of Nations mandate with Great Britain as the mandatory Power, and the text adopted by the Council of the League of Nations on 27 July 1922 assumed force of law in September 1923. Although the Palestinian people have been ignored in the international debate on the fate of their country, the Covenant of the League of Nations in article 22, paragraph 4, stipulated:

"Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory".

Under the terms of that article, the fact that a mandate had been assigned to a mandatory Power to administer Palestine did not affect the identity of that country and did not divest the Palestinian people of their sovereignty, over their territory. "The rights to sovereignty are enjoyed in fact and not in theory by the societies in the mandated territories" stated E. Pélichet (in *La personnalité internationale des collectivités sous mandat*). Consequently, the mandatory Power acquires no attribute of sovereignty over the country under its mandate. With regard to the international status of South-West Africa, the International Court of Justice is as explicit as can be when it declares that the mandate implies neither the cession of territory nor the transfer of sovereignty. Thus, there is no doubt that sovereignty over Jerusalem as an integral part of Palestine has belonged to the Palestinians since the seventh century and during the Ottoman period. That sovereignty, although not respected by the mandatory Power from 1922 to 1948, has not been formally affected by the detachment of Palestine from Turkey. It was, however, sorely tested as a result of the Israeli invasion.

At the request of the Government of Great Britain, the problem of Palestine was in 1947 brought before the United Nations, which concluded by partitioning Palestine into two independent States, Arab and Jewish, and by internationalizing Jerusalem under General Assembly resolution 181 (II) of 29 November 1947. As in the case of the establishment of the mandate, the Palestinian people, not even the population of Jerusalem, participated neither in the debate nor the decision concerning internationalization. Nevertheless, resolution 181 (II) did not confer on the United Nations sovereignty over the Holy City. Neither did it divest the Palestinians of their sovereignty over Jerusalem. "The legislative and fiscal powers as well as the judicial power, which are the attributes of sovereignty, were reserved for the inhabitants". An example is provided by the city of Tangier, which, although subject to an international, six-Power régime, remained under the sovereignty of the Sultan of Morocco even when that country was a protectorate.

The clauses of the new Statute of Jerusalem provided for its establishment as *corpus separatum* under special international régime administered by the United Nations. The Trusteeship Council was designated to discharge the responsibilities of administering the city. However, neither the Trusteeship Council nor the General Assembly could implement the Statute, because of the opposition - each party acting for its own reasons - of Jordan and Israel to internationalization. For their part, the Arab States and the High Arab Committee for Palestine rejected resolution 181 (II), declaring that the United Nations had exceeded its competence by deciding on the partition of Palestine.

The subsequent course of events is well known: it ended in the occupation by the Israeli Hagana of the new city of Jerusalem, while the Jordanian Legion took possession of the old city; this situation lasted until 1967. Israel took over jurisdiction of the part of Jerusalem which it had conquered, while Transjordan became the Hashemite Kingdom of Jordan. Thus, Jerusalem remained divided for about two decades instead of being international in accordance with the wish of the United Nations General Assembly. The internationalization was not, however, rescinded. On the contrary, it was reaffirmed by the Assembly in its resolutions 194 (III) of 11 December 1948 and 303 (IV) of 9 December 1949. Both the Assembly and the Security Council continued to draw attention to the international status of Jerusalem in their subsequent resolutions concerning that city.

From 7 June 1967, after the outbreak of the Six-Day War, Israel occupied East Jerusalem and extended its legislative measures to that part, thereby giving advance indication of its intention to annex it. That stand was reinforced by measures of a municipal nature, the most notorious being the demolition of the historic Maghreb Quarter situated in front of the Wailing Wall. Furthermore, the Government in Tel Aviv did not hide its intention to annex Jerusalem on the pretext of the historic or biblical right to restore the capital of David and Solomon, a right the futility of which has been proved.

When, however, we examine the claim of the Zionist theoreticians, we feel obliged to emphasize that the Jews who emigrated to Palestine during the period of the British mandate and who were for the most part the promoters of the creation of Israel, are not descendants of the biblical Jews, but converts of Judaism who exploited religion for political and nationalist ends.

Immediately after the Six-Day War, the United Nations General Assembly adopted, on 4 and 14 July 1967, resolutions 2253 (ES-V) and 2254 (ES-V), in which it considered that all the measures taken by Israel were invalid and called upon Israel to "rescind all measures already taken and to desist forthwith from taking any action which would alter the status of Jerusalem". The Security Council, for its part, condemned Israel on several occasions and called for the rescission of measures altering the status of the Holy City. In the well known resolution 242 of 22 November 1967, it emphasized "the inadmissibility of the acquisition of territory by war" and called for the withdrawal of Israel armed forces" from the occupied territories. The same call was reaffirmed by the Security Council in its resolution 267 of 3 July 1969, after having censured "in the strongest terms all measures taken to change the status of the City of Jerusalem." The Council reiterated its call in vain in resolutions 465 of 1 March 1980 and 476 of 30 June 1980.

Since Jerusalem (Al-Quds) is the clear custodian of the spiritual heritage of the three monotheistic religions, the fire which was set in the Al-Aqsa mosque on 21 August 1969 aroused the indignation of the Islamic world and led to the birth of the organization bearing its name.

The Organization of the Islamic Conference, at its first summit meeting, held in September 1969, solemnly proclaimed that the Islamic Governments and peoples resolutely rejected any solution to the problem of Palestine that refused to restore Arab sovereignty over Jerusalem. Since its establishment, that Organization has adopted resolutions declaring null and void all measures of judaization which had been implemented in the Holy City and which had culminated in its annexation on 30 July 1980.

The Sixth Conference of Ministers for Foreign Affairs, meeting in July 1975 at Jedda, decided to establish the Al-Quds Committee comprising elected representatives of 14 Islamic countries and to institute a fund to promote action to safeguard the Arab character of the Holy City. At the Tenth Islamic Conference, held at Fez in May 1979, the chairmanship of the Committee was unanimously assigned to His Majesty Hassan II, King of Morocco. Since then, the Al-Quds Committee, under the chairmanship of the Moroccan sovereign, has held seven meetings at the level of ministers for foreign affairs. The latest was its culmination, since it also included the Committee of Seven set-up at the Arab Summit Conference held at Fez in September 1982, which adopted the well known Arab plan for a just solution of the problem of Palestine. The Moroccan sovereign thus wished to have the Islamic world join with the Arab world in order to propose a comprehensive and just solution to the thorny problem of Palestine and Jerusalem.

The action of the Al-Quds Committee over the past five years has taken place at three levels - Arab, Islamic and international. It has tackled the various aspects of the problem, and has helped to promote world-wide awareness of the gravity of the problem, the adoption of positions favourable to the cause of Palestine and the increasing international isolation of Israel.

None the less, the Zionist entity, because of its annexationist nature and its methods that recall the era of terrestrial conquest by armed force, continues to ignore international opinion expressed in resolutions of the United Nations and its competent bodies and in resolutions of other international organizations, and the positions taken by various Governments or groups of States. Relying solely on brute force, Israel persists in the conquest of new Arab territories with a view to annexing them as an ultimate step.

The annexation of Jerusalem following the adoption by the Israeli Knesset of a "basic law" making Jerusalem the "unified and eternal capital of Israel" was the subject of Security Council resolution 478 of 20 August 1980, in which the Council:

- "1. Censures in the strongest terms the enactment by Israel of the 'basic law' on Jerusalem and the refusal to comply with relevant Security Council resolutions;
- "2. Affirms that the enactment of the 'basic law' by Israel constitutes a violation of international law and does not affect the continued application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian and other Arab territories occupied since June 1967, including Jerusalem;
- "3. Determines that all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent "basic law" on Jerusalem, are null and void and must be rescinded forthwith;
- "4. Affirms also that this action constitutes a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East;
- "5. Decides not to recognize the "basic law" and ... other actions by Israel and calls upon:

- (a) a Member States to accept this decision;
- (b) those States that have established diplomatic missions at Jerusalem to withdraw such missions from the Holy City..."

It is obvious that the occupation and annexation of Jerusalem violate United Nations resolutions. Israel cannot with all impunity acquire rights and achieve territorial gains by infringing United Nations resolutions, particularly General Assembly resolution 181 (II), to which it owes its existence.

It is accordingly well established that an occupying Power acquires no attribute of sovereignty over the occupied territory and that "its occupation does not annul the sovereignty of the legitimate sovereign".

That principle, which corroborates that of the peoples, has become one of the fundamental rules of Nice and Savoy were finally reunited with France in plebiscite by their population and by virtue of the self-determination of international law since 1860 following a Treaty of Turin.

The First World War gave a new impetus to the principle of self-determination and led to a decline in the practice of acquisition of territories by hostilities and the use of force. President Wilson solemnly proclaimed the principle in his speech of 8 January 1918 when presenting his 14-point peace plan. The principle of the self-determination of peoples was explicitly enunciated by the signatory Powers to the 1928 Pact of Paris in these terms:

"Conquest has ceased to be means of acquisition of territories since the general prohibition of the resort to force".

The Atlantic Pact solemnly proclaimed in August 1941 also prohibited the acquisition of territory by military conquest, and that principle was embodied in Article 2 of the United Nations Charter.

It is through the application of that principle and the principle of self-determination that the existence of Poland as a State was restored despite the occupation and annexation of its territory from the end of the eighteenth century until 1919. It was the same in the case of Ethiopia after its conquest and annexation by Italy in 1936, Austria after its invasion and annexation by Nazi Germany, and so on.

By annexing Jerusalem through conquest and the use of force, Israel infringes one of the fundamental principles proclaimed by the United Nations and which forms the basis of international security. In doing so, it deliberately violates the United Nations Charter and calls into question one of the foundations of international law.

Thus, we may state in conclusion that:

- (a) The annexation of Jerusalem by Israel is a violation of the principle of self-determination. It was undertaken on the basis of a myth

which stands up neither to historic reality nor to international law. Like all myths, it is deceptive and lingers on. It shall constantly be reiterated that Jerusalem was built by the Jebusites, an Arab tribe, and has always been the capital of Canaan (Palestine);

(b) The right of sovereignty over Jerusalem with its two parts, East and West, belongs to the Palestinian people, who, to the exclusion of all other parties, are masters of their own territory. Apart from several periods limited in time and space, the Palestinian people have always enjoyed sovereignty over Jerusalem. Furthermore, they have always rejected the faits accomplis imposed from outside;

(c) Any solution to the question of Palestine, including the problem of Jerusalem, behind the backs of the Palestinian people is contrary to the principles of international law and consequently null and void. The same therefore applies to the internationalization of Jerusalem, which was decided without the Palestinian people having taken part in the debate and the decisions. The same goes for the annexation of Jerusalem by Israel: that measure is bereft of legitimacy, because it is the outcome of military conquest. The other measures resulting from that conquest and aimed at changing the specific nature of the Holy City, expropriating land and establishing settlements are null and void;

(d) The status of Jerusalem based on the resolutions and decisions of the international community may be envisaged only in accordance with two criteria:

(i) The return to the interim situation of the Holy City before the Six-Day War that erupted on 5 June 1967;

(ii) The return to international status on the basis of United Nations General Assembly resolution 181 (II), with the creation of two States, Arab and Jewish. Those two solutions having been rejected by the Palestinian people on the basis of the above-mentioned considerations, only a solution based on the self-determination of the Palestinian people is valid. That implies the rescission of all measures which contravene that principle and, in particular, the return of the Palestinian people to their territory in order to exercise their right to self-determination in full freedom and to determine the status of Jerusalem.

#### ACTIVE ROLE OF THE PALESTINE LIBERATION ORGANIZATION IN CREATING STATE AND SOCIAL STRUCTURES

Janusz Zebrowski

In 1964 the emergence of the Palestine Liberation Organization (PLO) marked a new stage in the history and struggle of the Palestinian people for implementation of their inalienable rights, including the right to a sovereign State. After the 1948 disaster, bitterly disillusioned with the domestic Palestinian and international developments, the Palestinian people themselves took charge of the struggle for regaining their homeland. The emergence of an independent centre of the Palestinian movement became a fact of life and soon the PLO was to prove that a new partner had appeared in the Middle East arena to command ever growing attention.

Among the many positive effects of the PLO's emergence one deserves special mention: it responded to the call for a qualitatively new structure, different from the old ones and capable of embracing Palestinian problems in a comprehensive manner. For the Palestinians and their fight, the lack of such a structure, of a comprehensive socio-political institution, was a source of weakness that denied, or at least limited the independence to their movement. The creation of the PLO, therefore, met such needs half way, provided a broad framework of co-operation among a wide variety of the movement's streams, a platform for joint actions in the military, political, social, cultural and propaganda, spheres, as well as a pattern of Palestinian unity.

There is yet another factor that cannot be overlooked. Both the political aspirations of the Palestinians and of the organizations that had operated before the PLO, such as politico-military, labour and student groups, required a coordinated programme of action. This task could be managed only by a strong political and social organization close in character to a national front with a structure fitted for the immediate needs of the Palestinians to organize themselves and to express their will and aspiration.

The nearly 20 years of PLO history show that it has met the hopes of the Palestinians. This concerns also its essential role in consolidating the already existing Palestinian organizations and creating new political, social, economic and other institutions.

The first to join the PLO were trade unions, the General Union of Palestinian Workers, recognizing the PLO as the sole representative of all Palestinians, their struggle, and the General Union of Palestinian Students, whose members at the Gaza Conference adopted a resolution calling on all Palestinians to join the PLO. The show of support to PLO that came almost immediately after its birth, in April and November 1964, was repeated on almost all congresses of Palestine's professional and social organizations in the years that followed.

As the two leading workers' and students' organizations preceding the PLO receive mention, we shall devote more attention to them. It is justified by the role they had played before 1964. The labour movement of the Palestine Arabs began to form in 1925. In 1939 the Haifa-based Arab Palestinian Workers' Union was founded. It promoted pan-Arab solidarity among workers and dealt mostly with labour matters.

In 1946 its membership grew to nearly 90,000. Many of its members took part in the fights in 1948. After the participation of Palestine the organization shared the lot of the Palestinian people. For many years it operated underground. The foundation of the PLO accelerated the process of unification and boosted trade union activities. In 1965 the first Congress of the General Union of Palestinian Workers was held in Gaza where the so far clandestine labour organizations joined forces. GUPW is one of the most numerous PLO affiliates, with a membership of over 100,000 workers from the major centres of the Palestinian labour force, i.e. occupied Transjordan, Lebanon, Iraq, Egypt, Kuwait, the Libyan Arab Jamahiriya, the Federal Republic of Germany, Sweden, Denmark and other countries. The prominence of GUPW among other members of the national movement is manifested by the fact that more than ten of its members sit in the Palestine National Council, the Parliament of Palestine. The affiliation with the PLO has helped GUPW to boost its international position. It maintains active contacts with Arab and other foreign labour organizations. It has the status of observer in the ILO to which it was admitted despite strong opposition from the imperialist States and Israel. At international and regional labour congresses it presents Palestine's raison de guerre and unmask the activities of the occupier against the working masses in the seized territories.

Also the General Union of Palestinian Students increased its activities after joining the PLO. The student for years had played an essential role in the Palestinian revolution. After the 1948 defeat and the collapse of the political structures of the Palestinian people the movement became the first organized form of Palestine's activities. Students' organizations were formed in the early 1950s in Cairo, Alexandria, Damascus and Beirut. In 1958 the organizations fused into GUPS. The Union has been and still is the hatchery of Palestinian leaders. It is composed of a few dozen chapters in all the countries where there are Palestinian students. It is also represented in the Palestine National Council. It maintains vast international contacts. From the beginning it has been a member of the International Students Union.

Among the many unique organizational concepts initiated by the PLO during its existence, attention should be given to the Association of Workshops for the Sons of Palestinian Martyrs (SAMED). Founded in 1970 in Jordan the organization aimed at the following: providing jobs and subsistence for orphans and widows of the fallen fighters, creating economic structures in Palestinian centres, providing material support for the centres, supplying the Palestinians living camps with reasonably priced goods, cultivating and popularizing Palestinian folk art and the national heritage, establishing economic contacts with Arab and friendly countries. The underlying concepts of SAMED envisaged the creation of a nucleus of the Palestinian economy capable of supporting the revolution and providing a model State sector for a future Palestinian State.

The above presented tasks have been successfully implemented. Until the Israeli invasion of Lebanon in 1982 the industrial sector alone had grouped 35 work establishments with 4,500 workers and over 20,000 apprentices who had received training in workshops and factories.

SAMED has a film company whose productions such as Key and Day of the Land have been awarded at international festivals. Positive experience has also been gained in agriculture, cattle and poultry breeding, afforestation, production of vegetables and fodder, sponsored by SAMED in such countries as Guinea-Bissau, the Congo, Somalia, the Sudan, Syria and Uganda. SAMED participates in six permanent foreign exhibitions and 31 international fairs. The democratic forms of management in SAMED factories also deserve mention. Revolutionary committees representing the workers are present in each factory 'to supervise social and production problems. Workers have 60 per cent of the seats on the executive boards. In factories there are also political committees which maintain liaison with the leadership of the Palestinian movement.

In sum, SAMED is one of the most essential achievements of the Palestinian movement providing Palestinian masses with the sense of nationhood, and cementing the bonds between various spheres of the fighting people.

A somewhat similar function is performed by the Institution for Social Affairs and Care of Martyrs' Families, which was founded also after the creation of the PLO in 1965 to provide care and support for the fighters' families, imprisoned victims, fedayeen and even civilians who have died in Israeli attacks against the Palestinian and Arab population. Apart from direct financial support (allowances) and medical care, the institution provides organization and sponsorship for professional training, courses of rehabilitation, elimination of illiteracy, etc. It runs centres in Syria, Lebanon, Iraq and Kuwait. It also provides care for the veterans of the Palestinian liberation struggle.

In order to provide medical and social care for the broad masses of the Palestinian people, in 1969 the Palestine National Council established the Palestinian Red Crescent Society (PRCS). Since 1975, as a member of the League of Red Cross and Red Crescent national associations, PRCS has had chapters in Syria, Kuwait, Egypt, The Libyan Arab Jamahiriya, Lebanon and other Arab countries. In Lebanon PRCS has several hospitals and numerous health centres where treatment is provided every day to several thousand people (in hospitals there is merely a token charge). It deals with rehabilitation of the disabled, mostly war veterans, by providing them with professional training, among other things. By co-operating with counterpart associations in other countries it represents the Palestinians at international congresses. Socially meaningful charity work is also done by the Palestinian Society for the Blind.

The above activities, in a great measure inspired by the PLO, are remarkable for two reasons. They not only ensure the present and future livelihood of the fighters and broad masses of the Palestinians in critical times, but also build strong ties between the people and the movement and consolidate the dispersed nation. They create structures which teach public functioning and organizational skills, also with a view to a future independent State.

Recently, in the late 1960s and early 1970s, with serious PLO assistance, many social and professional organizations and institutions began to grow dynamically. The organizations emerged in the following sequence: The General Union of Palestinian Women (1965), the General Union of Palestinian Teachers (1969), the General Union of Palestinian Artists (1969), the Writers and Journalists (1972), the General Union of Palestinian Engineers (1973) and the General Union of Palestinian Peasants (1975).

Some of them are worth elaborating upon. As regards women, their participation in the Palestinian national movement has always been essential (the first organization was founded in 1921). The Palestinian women have taken and are taking active part in political demonstrations, they help the wounded and assist the families of the killed fighters. Frequently their work is clandestine. Their organization, the General Union of Palestinian Women, apart from social work, also in the camps, and the management of co-operatives for female workers, plays a part in the political work of the PLO as well as in the warfare. The women maintain broad international contacts to disseminate the reasons for and aims of the Palestinian revolution.

The objectives of the General Union of Palestinian Peasants include mobilization and organization of Palestinian farmers in the occupied homeland and in exile and providing instruction and union structures for this sector of the society. The Union aims at building national consciousness and strengthening attachment to the land, obstructing by all means the plans of the occupant to deprive the Palestinian farmer of his land. The Union is particularly active among the farmers living in the occupied territories, as well as in Jordan, Syria and Lebanon. As a member of the PLO, like other Palestinian social organizations it provides a broader basis for the PLO. It also maintains contacts with the progressive peasants' organizations world-wide.

The enormous share in organizing and educating the cadres, preserving and consolidating national identity, strengthening patriotic orientation and preserving the historic heritage should be attributed to the unions of teachers, writers, journalists and engineers. The PLO was also active in founding these organizations. According to an official of the General Union of Palestinian Teachers, only after the emergence of the PLO did the Palestinian teachers, with arms in hand, pave the way to their own union. It is remarkable that for the modern Palestinian, education is a way to consolidate national identity.

For people living in exile education provides a great opportunity to find wanted jobs which help support the families in the camps and the movement itself. Many Palestinians deeply believe that by acquiring knowledge they take an active part in the revolution. Such figures as over 50,000 members of the General Union of Palestinian Teachers 24,000 members of the General Union of Palestinian Engineers, several thousand Palestinian university graduates every year, stand as good proof of this belief.

In a summary of the activities for creation and consolidation of the Palestinian social, economic and cultural structures one should note that all the above-mentioned organizations and institutions working under the auspices of the PLO and with its inspiration and active assistance play an essential part in mobilizing various sections of the Palestinian people, preserving Palestinian identity and preparing for life in an independent State. They are represented in the Palestine National Council, and form a significant part of it.

It is well-known that during the 19 years of its existence, the PLO has worked out concepts of all-national political structures. The first of them is, above all, that of the Palestine National Council as a parliament-in-exile. It assumed the present name at a session of the Palestine National Congress in 1968. It constitutes the supreme PLO body and has a highly representative composition: members of the Palestinian resistance movement, social organizations, Palestinians living away from their land, and a sizeable (122-strong) group of deputies from the occupied territories (in all, PNC consists of 384 deputies according to the count at the last session in Algiers). At its sessions (there have already been 16 of them) which are usually held every two years, PNC elaborates on the strategy and programmes of activities of the Palestinian movement and its leadership. The PNC forum provides an opportunity to confront opinions and positions of a variety of political trends within the PLO on the major issues. According to observers, it is done in a most democratic manner.

At particular sessions decisions are made on the essential issues facing the Palestinian revolution. Thus, the February 1983 session in Algiers for the first time mapped out the territorial range of a sovereign Palestinian State with the capital in Jerusalem. Another important decision made at the session concerned foundation of an armed force.

In the periods between the Palestine National Council sessions the Central Council of the PLO is at times convened. The body, composed of some 60 members plays a role similar to that of PNC.

PNC elects members of the PLO Executive Committee, which supervises the organization of interim sessions. It is composed of 15 members.

The Executive Committee is composed of representatives of main Palestinian politico-military formations, such as Al Fatah (three members), Popular Front for the Liberation of Palestine (PFLP), Democratic Front for the Liberation of Palestine (DFLP), Popular Front for the Liberation of Palestine - General Command (PFLP-GC) Saika and Arab Liberation Front (ALF) (one member each) and of seven independent representatives among them from occupied territories. The composition shows the attention of the PLO to the principle of representation of this important body of the Palestinian revolution. In the decision-making process of the Executive Committee democratic principles are strictly observed. A quorum of the Executive Committee as well as the Palestinian National Council consists of two thirds of their members and resolutions require simple majority of votes.

It should be stressed that the Executive Committee is the collective leadership of the Palestine Liberation Organization, aimed to lead the current military and political struggle of Palestinians. It also represents the PLO in political and diplomatic relations and supervises all PLO organizations and institutions. Its task is also to co-ordinate the current plans of the organization and to supervise their execution.

Taking into consideration the goals and its functioning, the Executive Committee could be compared with the highest central executive body. Its structure includes departments devoted to political, financial and military affairs, health, social security and work, popular organizations and information, culture and education. Under its authority there remain institutions such as the Palestinian Press Agency, WAFA, a research centre and the central planning body. From among the departments under the Executive Committee, the activities of the Political Department are most striking. It supervises and controls the network of PLO representatives abroad. Several of them have obtained full diplomatic status. This fact as well as the maintenance of normal partnership relations with the great majority of States proves that the PLO position is worldwide and indicates the constant growth of international importance of the Palestinian resistance movement.

The Executive Committee extends its supervision over the Palestinian National Fund. That institution was established by a decision of the first session of the Palestine National Council. Accordingly all Palestinians wherever they are subscribe a certain percentage of their income to this fund. Means derived from these sources, together with funds raised by Arab countries, form the main financial basis of the revolution.

#### Conclusion

Among several important tasks placed before the Palestine Liberation Organization from the beginnings of its existence, the question of organizing the Palestinian people has always been of prime importance. Notwithstanding the difficult conditions of occupation and dispersion in which the implementation of this task must take place, efforts have scored a number of successes. This is the demonstration of a consolidation of a whole system of organizations and institutions acting in the framework of the PLO.

While uniting individual Palestinians as well as political, social, military, professional organizations and trade unions, and fulfilling economic tasks, the PLO provides the structural framework for the political and economic life of the Palestinian people.

The Palestine Liberation Organization fulfils certain duties similar to those of a State through its own political structures, organizations and institutions, which manifest the unique nature of the PLO far exceeding the tasks of the national liberation movement. It also forms the framework of Palestinian national identity. Some organizational solutions as well as constitutional steps carried to that effect intend to prepare Palestinian society for living conditions of independence.

Their distinctive feature is high level of democracy. It is worth underlining that this feature plays an important role in unification of the Palestinian people as well as in realization of aspirations aimed at creation of their own statehood and establishment of a democratic system of power.

## UNITED NATIONS ROLE IN THE SEARCH FOR EFFECTIVE MEASURES TO ENSURE THE INALIENABLE RIGHTS OF THE PALESTINIAN PEOPLE

Oleg Vitalevich Kovtunovich

For decades now the Arab-Israeli conflict has remained a source of dangerous international tension. The conflict has repeatedly escalated into critical situations producing hundreds of thousands of victims and causing enormous destruction. According to the unanimous opinion of the world community, which only the Zionist leaders of Israel and the aggressive circles of the United States do not share, the crucial aspect of the conflict is in the Palestinian question, which must be solved before any settlement can be reached. The solution of this problem is particularly important not only for the Arab people of Palestine, but also for the cause of peace and security in the Middle East and throughout the world.

The United Nations, naturally, has been giving its utmost attention to this conflict from the moment it arose up to the present time. Year after year the General Assembly considers the question of Palestine at its meetings. The various aspects of this problem are continually discussed in the Security Council. Several United Nations Committees and Commissions deal with them. A number of important resolutions containing basic principles for the solution of the question of Palestine have been adopted by the General Assembly. United Nations General Assembly resolution 181 (II) on the creation of two States, a Jewish State and an Arab State, was adopted on 29 November 1947. General Assembly resolution 3236 (XXX) reaffirms the inalienable rights of the Arab people of Palestine, their right to self-determination without external interference, and the right to national independence and sovereignty. This resolution reaffirms also the inalienable right of the Palestinians to return to their homes and property. The resolution contains yet another provision of paramount importance. It emphasizes that the Palestinian people is a principal party in the establishment of a just and lasting peace in the Middle East. Subsequently, this position of the General Assembly was developed and concretized.

In its resolution 3375 (XXX), the General Assembly invited the Palestine Liberation Organization (PLO) to participate as the representative of the Palestinian people, on an equal footing with other parties, in all international efforts within the framework of the United Nations to achieve a settlement in the Middle East. In subsequent years, the United Nations adopted numerous other decisions in support of the legitimate rights of the Palestinians. The Soviet Union participated directly and on a first-hand basis in the drafting of many formulations, *inter alia*, on such important questions as the right of the Palestinians to the creation of their own independent State and the recognition of the PLO as the sole legitimate representative of the Palestinian people.

In point of fact, the General Assembly decisions set forth the basic lines along which a just and comprehensive settlement of the Middle East conflict can be achieved, account being taken of the desire of all peoples of the region, including the Israeli people, for peace and security. As is well known, the United States and Israel are deliberately undermining the creation of an Arab Palestinian State, which is provided for in the above-mentioned General Assembly resolution 181 (II). In that connexion, the question naturally arises: if one part of that resolution has remained unimplemented because of American and Israeli obstruction, does this not also call into question the other part, dealing with the creation of the Jewish State?

The ruling circles in Israel systematically undermine all efforts to settle the conflict. The Zionist leaders in Tel Aviv are not at all interested in a just settlement, since that would prevent the realization of their expansionist plans to create a "Greater Israel". The policy of Israel constitutes a blatant violation of Security Council and General Assembly resolutions and of numerous international agreements and conventions, including those which bear the signature of Israeli representatives (for example, the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War). Tel Aviv has rejected nearly all initiatives which might give impetus to the settlement process and achieve a settlement through political means in the interests of all peoples living in that region of the world. The main efforts of the fascist-like rulers of Israel are designed to annex the Palestinian territories occupied in 1967.

With each year and each month of Israeli occupation, the expansionist policy of Tel Aviv grows in scale. The aim of that policy is perfectly clear - to perpetuate the seizure of the age-old Arab lands and deprive the Palestinian people of their homeland.

Israel is thereby grossly violating the provisions of Security Council resolution 465 of 1 March 1980, which stated that:

"...all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof have no legal validity..."

The Security Council called upon Israel "to rescind those measures, to dismantle the existing settlements and in particular to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967".

The Israeli occupants selected in their own special way, outright terror vis-à-vis the indigenous Arab Palestinian population. The United Nations General Assembly has adopted numerous special resolutions devoted to the violation by the Israeli authorities of human rights in the occupied territories. Those resolutions draw attention to the inadmissibility of the annexation of the occupied territories and the establishment in them of Israeli settlements. They also note such violations as the destruction and demolition of Arab homes, the confiscation and expropriation of Arab property, transactions for the acquisition of lands, the evacuation, deportation, expulsion, displacement and transfer of the Arab inhabitants of the occupied territories and the denial of their right to return, mass arrests, administrative detention and ill-treatment of the Arab population, the pillaging of archaeological and cultural treasures, the infringement of religious freedom and the unlawful exploitation of the natural wealth, resources and population of the occupied territories.

It is perfectly clear why the Israeli State conducts itself in such a defiant way and brazenly ignores the decisions of the most representative forum of the international community. The expansionist, racist policy of Tel Aviv enjoys the full support of the United States, which regards Israel as a true and faithful ally and partner that is expected to contribute to the fulfilment of American hegemonistic plans in the Middle East.

At session after session, the General Assembly requests the Security Council to discharge its obligations under the Charter and to recognize the inalienable rights of the Palestinian Arab people, including the right to self-determination and the creation of their own independent State. Because of Washington's position, however, these appeals to the Security Council continue to be futile. The United States vetoes any draft resolutions aimed at finding a just solution to the Palestinian question and appealing to the unrestrained Israeli leadership to respect international law and legality. It is surprising that such acts, in defiance of world public opinion, are resorted to by a State which was one of the founder Members of the United Nations.

The Security Council, despite repeated appeals by the General Assembly to support the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, which contains recommendations for a just solution of the question of Palestine, has hitherto been unable to do so, because of the obstructionist posture of the United States. The Soviet Union, as is well known, supports the contents of that report. In resolution 37/123 A of 16 December 1982, the General Assembly strongly deplored the negative vote by a permanent member of the Security Council - the United States - which had prevented the Council from adopting "appropriate measures" against Israel under Chapter VII of the Charter. The resolution further deplored any political, economic, financial, military and technological support to Israel - so liberally furnished to it by the United States - that encouraged Israel to commit acts of aggression and to consolidate and perpetuate its occupation and annexation of occupied Arab territories.

Thwarting United Nations efforts, the United States is at the same time pursuing in the Middle East a policy which merely impedes the attainment of a comprehensive, just settlement and further whets the rapacious appetites of Tel Aviv. That was precisely the way in which the Camp David accords were assessed: whereas the United States Administration trumpeted the accords as being the sole practical path to a just settlement of the conflict, in fact they merely untied the hands of the Israeli aggressors in Lebanon. There is no doubt, moreover, that the agreements on strategic co-operation of 30 November 1981 encouraged Israel to conduct an aggressive and expansionist policy and practices in the West Bank, the Gaza Strip, the Golan Heights and Lebanon. It is no coincidence that the United States on three occasions vetoed draft resolutions designed to put an end to the bloodshed in Lebanon. Furthermore, even the implementation of Security Council resolutions 508 (1982) and 509 (1982), which received the affirmative votes of the United States representative, was in fact thwarted by the United States itself.

After the events in Lebanon in the summer of last year, Washington put forward the so-called "Reagan plan", a patent attempt to rekindle the "spirit" of Camp David in new circumstances.

The major blemish of the American plans for a settlement of the Middle East conflict is the fact that they ignore fundamental United Nations decisions of principle on the question of Palestine and seek to impose an "American-style" peace on the peoples and States in that area. The United States is simply donning the guise of "peacemaker". In reality, it is interested in maintaining the tension and the explosive situation; this, according to its scheme, would keep the door open for further military and political penetration and enable it to establish control over the natural resources of the countries of the region and bring



them within the orbit of its policy. Washington's Middle East policy is, of course, a part of the comprehensive, global strategy of the present American Administration. The essence of that policy is to foment international tension, to strive after military supremacy by all available means and to establish its control over whole areas of the world.

The "Reagan plan" in fact deprives the Arab people of Palestine of their legitimate rights, it denies them the right to self-determination and establishment of their own independent State. It entirely ignores the PLO, the sole legitimate representative of the Palestinian people, and accepted as such by the United Nations. At first sight it might appear from that plan - albeit couched in nebulous terms - that Washington would oppose the annexation of the West Bank of the River Jordan and the Gaza Strip. From time to time the United States expresses the view that the Israeli settlements on Palestinian lands impede the search for a solution. In practice, however, the activities of the United States and the stepping up of its aid to Israel, a major part of which is used precisely for the colonization of the Arab territories seized in 1967, are a vivid indication of what such statements are worth. The very refusal of the United States to acknowledge that the solution of the question of Palestine is of pivotal importance for a just settlement of the Arab-Israeli conflict testifies to the fact that Washington, in putting forward its plans, is seeking aims that bear no relationship to a genuine settlement. The "Reagan Plan", like the Camp David accords, seeks to bring about partial agreements and separate treaties, despite the fact that General Assembly resolution 37/123 F of 20 December 1982 rejected "all agreements and arrangements in so far as they violate the recognized rights of the Palestinian people and contradict the principles of just and comprehensive solutions to the Middle East problem to ensure the establishment of a just peace in the area".

As a matter of principle, the Soviet Union will continue steadfastly to oppose Israel's expansionist and aggressive policy and to advocate the attainment of the legitimate rights of the Arab people of Palestine. For many years the Soviet Union has consistently played an active role in the search for a peaceful, political settlement of the Middle East conflict and has proposed just principles for a solution of this problem. The Soviet Union has always actively followed a policy aimed at supporting the struggle of the Arab peoples to remedy the consequences of the Israeli aggression and at the establishment of a just and lasting peace in the Middle East in the interests of all peoples living in that area. The proposals for a settlement of the Middle East conflict put forward by the Soviet Union on 15 September 1982 constitute a realistic and constructive plan for a political solution of the conflict. These proposals embody principles that are in keeping both with the general norms of international law and with the specific decisions of the Security Council and the General Assembly on the problem of establishing a just and lasting peace in the Middle East.

First, the principle of inadmissibility of the seizure of others' lands through aggression must be strictly observed. That means that all the territories occupied by Israel since 1967 - the Golan Heights, the West Bank of the River Jordan, the Gaza Strip and Lebanese lands - must be returned to the Arabs. The frontiers between Israel and its Arab neighbours must be declared inviolable.

Second, the inalienable right of the Arab people of Palestine to self-determination and to the establishment of their own independent State on Palestinian lands, which will be freed from Israeli occupation - in the West Bank and the Gaza Strip - must be realized in practice. The Palestinian refugees must be given the opportunity as provided for in United Nations decisions, to return to their homes or to receive the appropriate compensation for property left behind.

Third, Eastern Jerusalem, which was occupied by Israel in 1967 and in which one of the major Muslim shrines is situated, must be returned to the Arabs to become an inseparable part of the Palestinian State. Throughout Jerusalem, the freedom of access of believers to the Holy Places of the three religions must be ensured.

Fourth, the right of all States in the area to a secure, independent existence and development must be guaranteed - with, of course, the observance of full equality, since the security of some must not be ensured at the expense of the security of others.

Fifth, the state of war must be brought to an end and peace must be established between the Arab States and Israel. That means, however, that all parties to the conflict, including Israel and the Palestinian State, must assume obligations to respect the sovereignty, independence and territorial integrity of each other and to settle by peaceful means, through negotiations, any disputes that may arise.

Sixth, it is necessary to elaborate and adopt international guarantees for a settlement; the role of guarantor could be assumed, for instance by the permanent members of the United Nations Security Council or by the Security Council as a whole.

Such a comprehensive, truly just and lasting settlement could be worked out and implemented only through the collective efforts and participation of all concerned parties, which must necessarily include the PLO - the sole, legitimate representative of the Arab people of Palestine. The USSR proposal for the convening of an international conference on the Middle East would serve that very purpose.

The Soviet plan for a settlement as noted on other occasions, closely resembles the proposals put forward by the Arab countries in Fez.

That similarity is to be found above all in the fact that both the Soviet and the Arab proposals proceed from the relevant United Nations decisions.

This seminar, as is well known, is one of the measures for the preparation and holding of the International Conference on the Question of Palestine, the convening of which is provided for in General Assembly resolutions 36/120 C of 10 December 1981 and ES-7/7 of 19 August 1982. The aim of the Conference is to make concerted efforts in the search for effective ways and means to enable the Palestinian people to attain and enjoy their legitimate rights. That international Conference and the preparatory arrangements preceding it are designed to draw once again the attention of world public opinion as a whole to the tragedy of the Palestinian people as well as to help in fostering activities in the search for a just solution to the question of Palestine in order to establish a situation of peace and security in that region in the interests of all the peoples living there. The Conference must stress the responsibility of all States Members of the United Nations for the attainment of a lasting peace in the Middle East on the basis of a just solution of the problem of Palestine.

## THE ROLE OF THE UNITED NATIONS IN THE SEARCH FOR THE SOLUTION OF THE PALESTINIAN QUESTION

Mohammad A. Rais

To a great extent the United Nations has been responsible for the present Arab-Israeli conflict, the essence of which is the Palestinian question. The United Nations General Assembly by its resolution 181 (II) of 29 November 1947 approved the partition of Palestine. The Security Council was requested by the resolution to implement the partition plan which divided Palestine's territory into eight parts: three linked areas forming an independent Jewish State, plus an Arab enclave (Jaffa) in the Jewish State and, lastly, Jerusalem and its environs as a corpus separatum under an international régime. The General Assembly also called upon the inhabitants of Palestine to take actions to put the plan into effect.

What must never be forgotten is that the partition plan stemmed from the British Royal Commission's concept. The commission itself, after investigating the causes of the Palestine malaise in 1937, concluded that it had no doubt as to the underlying causes. They were the desire of the Arabs for national independence and the Arabs' hatred and fear of the establishment of the Jewish national home. The Commission also concluded that they were the same underlying causes which brought about the disturbances of 1920, 1921, 1929 and 1933 and they were the only underlying causes.

The Commission commented:

"...To foster Jewish immigration in the hope that it might ultimately lead to the creation of a Jewish majority and the establishment of a Jewish State with the consent or at least the acquiescence of the Arabs was one thing. It was quite another thing to contemplate, however remotely, the forcible conversion of Palestine into a Jewish State against the will of the Arabs. For that would clearly violate the spirit and intention of the Mandate system. It would mean that national self-determination had been withheld when the Arabs were a majority in Palestine and only conceded when the Jews were a majority. It would mean that the Arabs had been denied the opportunity of standing by themselves; that they had, in fact after an interval of conflict, been bartered about from Turkish sovereignty to Jewish sovereignty".

The partition plan recommended by the Royal Commission was of course an historical irony. The Commission, by recommending the partition of Palestine, had pretended not to know the partition's implications on the part of the Arabs. Even more ironical was the United Nations General Assembly's approval of the partition plan which proved to be a Palestinian disaster. Whether or not there was a major Powers' conspiracy in the United Nations in establishing Israel is something one can study objectively. But it is doubtless that the United Nations, as a body, must be held responsible in the present Israeli-Palestinian conflict. Arab-Israeli military confrontations already happened five times (1948, 1956, 1967, 1973 and 1982), each with its heavy toll of material and, more tragically, human souls from both sides. In the first Arab-Israeli war Israeli forces controlled the major part of the territory of Palestine, including West Jerusalem, thus fulfilling Ben Gurion and Begin's goal to make the State larger and Jewish by the Hagana. The school of thought in Israel which might be called territorial-military was in fact dominant in the country and the second and third Arab-Israeli wars were meant by Israeli leaders to "ensure the necessary margin of strategic safety". The expansionist school of thought viewed the existing Israeli boundaries as terribly insecure and inviting catastrophe in case of Arab-Israeli military confrontation.

The acts of the United Nations in the aftermath of the 1967 war which deserve mention are the following: (a) the General Assembly voted to condemn Israel for its virtual annexation of East Jerusalem; (b) Security Council resolution 242 (1967) of November 1967 called for the withdrawal of Israeli armed forces from occupied territories and a just settlement of the refugee problem; (c) Dr. Gunnar Jarring was appointed United Nations representative with the task of searching for a peaceful settlement (d) General Assembly resolutions censured Israel for the violations of human rights in the occupied territories and, (e) the General Assembly condemned Israel for its policy of establishing Jewish settlements in the occupied territories.

The United Nations attitude towards Israel changed markedly compared to its earlier history. In 1947 the United Nations went against the express will of the Arab countries and the local Palestinians by voting to partition Palestine and appearing to be on the side of Israel. The change of the United Nations attitude is not surprising for its membership in the 1960s was weighted in favour of the countries of the third world, many of which tended to view Israel as an aggressive and expansionist State.

The fourth Arab-Israeli war (1973) shattered the "Maginot line" mentality prevailing on both sides and after the war Arab States doubtlessly regained self-respect and self-confidence. The war also destroyed the myth of the Israeli military invincibility. Previously Israel had believed that its military could not even be scratched by the Arabs.

The euphoria of the world leaders in the aftermath of the October war was so obvious. It was considered then the best time to achieve peace. Security Council resolution 242 (1967) which so far had failed now seemed easy to accomplish post 1973. The United Nations Security Council resolution 338 (1973) of October 1973 not only decreed a cease-fire between the belligerents but also called "upon the parties concerned to start immediately after the cease-fire the implementation of Security Council resolution 242 (1967) in all its parts".

All Arab States eventually accepted United Nations Security Council resolution 242 (1967). The PLO, the sole representative of all the Palestinian people has also formally accepted it except the paragraph that describes the Palestinian problem as a refugee problem or refugee question. Undoubtedly such a description is unjust and unreasonable, even the United States, the direct and indirect protector of Israel, has abandoned the paragraph. Practically every condition put forward by both Israel and the United States has been met by the PLO. In 1975 Kissinger stated that the United States would not recognize the PLO until it recognized Israel's right to exist and accepted Security Council resolution 242 (1967). Successive United States administrations in fact have made the Kissinger commitment the basis of their Middle East policy.

Responsive to those conditions, not only did the PLO accept all the principles of resolution 242 (1967) but also the Palestine National Council in April 1981 endorsed the Brezhnev initiative calling for "ensuring the security and the sovereignty of all the states in the region including those of Israel". This unquestionably leads to an explicit recognition of Israel by the PLO.

So what does Israel really want to achieve in the Middle East? Israel already rejected United Nations resolution 242 (1967), the Fez peace plan of the Arab States which recognizes Israel's right to exist and even Reagan plan or initiative which favors Israel too much. Israel has annexed illegally the Golan Heights and is now actively building illegal Jewish settlements in the West Bank and Gaza Strip. After eliminating PLO strongholds in Beirut during the longest Arab-Israeli war – more accurately the Israel-PLO war – in 1982 and inducing the wholesale slaughter of innocent Palestinians in Sabra and Shatila camps, Israel now occupies parts of Lebanon. It is not exaggerated therefore to conclude that Israel is the obstacle to peace.

However, a political settlement is much more preferred to a military settlement to the Arab-Israeli conflict. To paraphrase Dr. Issam Sartawi, the late PLO diplomat, a negotiated settlement is "the only civilized solution for the Middle East". Although Israel and Egypt already established peace through Camp David agreement and Ronald Reagan has not totally abandoned his peace initiative for the Middle East, the United Nations still has the task to make the principles of resolution 242 (1967) work out. Actually the Security

Council is to blame for its failure to ensure the implementation of those principles with the parties concerned. The task before the United Nations now is to bring out clearly that the Israeli attitude towards and interpretation of resolution 242 (1967) which are against that of practically all members of the United Nations are based in essence not only on Israel's reluctance, but also on its disapproval of peace in the Middle East. If the United Nations General Assembly can annually through its resolutions pressure Israel to accept the resolution 242 (1967) there will be likelihood that Israel, the Zionist State, might gradually come to reality, i.e. Israel would abandon its logic of force and be convinced that the only feasible solution of Middle East conflict is by carrying out the principles of resolution 242 (1967). There is no better alternative. Permanent United Nations pressure upon Israel can frustrate and paralyze Begin's arguments about Eretz Israel being "God covenanted". It is also wise for the United Nations General Assembly to seek an advisory opinion of the International Court of Justice under Article 96 (1) of the Charter as to the proper meaning and operation of resolution 242 (1967).

By 1974 the United Nations had recognized:

- (a) The justice of the struggle of the Palestinian people for their rights of national self-determination and sovereignty;
- (b) The centrality of the Palestine issue in the Middle East dispute,
- (c) The representative nature of the PLO.

In the 1970s an international consensus grew solidly for the essential role of the Palestinians in any general future settlement for peace in the Middle East. Only Israel and the United States, for reasons impossible to understand, still doubt that no fruitful negotiations concerning the future status of the West Bank and Gaza, Jerusalem and the repatriation of the refugees can take place without the participation of the PLO. The participation of the PLO is categorically indispensable and it is inevitable if a just and lasting peace is seriously pursued by the parties concerned. As long as Israel, and for that matter the United States decline to accept this established political fact, any future negotiations for the implementation of resolution 242 (1967) are simply illusory. Therefore the United Nations has to make every effort to ensure the implementation of resolution 242 (1967). All available means, including United Nations conferences and those sponsored by the United Nations must be marshalled to achieve this goal. Retreat from this just goal means that the United Nations will repeat its gross moral and political mistake of 26 years ago when it voted to partition Palestine against the express will and human rights of the Palestinian people.

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United Nations specialized agencies

Food and Agricultural Organization (FAO)  
United Nations Development Programme (UNDP)  
United Nations High Commissioner for Refugees (UNHCR)  
United Nations Children's Fund (UNICEF)  
United Nations Industrial Development Organization (UNIDO)  
World Food Programme (WFP)  
World Health Organization (WHO)

Intergovernmental organizations

League of Arab States  
Organization of the Islamic Conference

Non-governmental organizations

Afro-Asian Peoples' Solidarity Organization (AAPSO)  
Soviet Afro-Asian Solidarity Committee

Press

AFP  
Antara News Agency  
Berita Buana  
Indonesian Muslim Magazine  
Central News Agency  
Sinar Haropan Daily  
Reuters News Agency  
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