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PERMANENT SOVEREIGNTY OVER
NATIONAL RESOURCES IN THE
OCCUPIED PALESTINIAN AND
OTHER ARAB TERRITORIES

Permanent sovereignty over national resources in the occupied Palestinian and other Arab territories

Report of the Secretary-General

1. By its resolution 37/135, the General Assembly requested the Secretary-General to prepare and submit to it at its thirty-eighth session, through the Economic and Social Council, the two reports requested in its resolution 36/173. In the latter resolution, the General Assembly requested the Secretary-General to submit a comprehensive report on permanent sovereignty over national resources in the occupied Palestinian and other Arab territories, including Jerusalem, and to make proposals for follow-up and implementation. It also requested the Secretary-General to submit a report on the implications, under international law, of the United Nations resolutions on permanent sovereignty over natural resources, on the occupied Palestinian and other Arab territories and on the obligations of Israel concerning its conduct in these territories.
2. The report of the Secretary-General on the implications, under international law, of the United Nations resolutions on permanent sovereignty over natural resources appears in document A/38/265-E/1983/85 of 21 June 1983.
3. The comprehensive report requested by the General Assembly has been prepared by consultants under the supervision of the Natural Resources and Energy Division, Department of Technical Co-operation for Development. The report is reproduced in the annex to the present document.

^{*} A/38/50/Rev.1.

^{**} E/1983/100.

ANNEX

Comprehensive report on permanent sovereignty over national resources in the occupied Palestinian and other Arab territories

I. INTRODUCTION

1. The question of permanent sovereignty over national resources in the occupied Palestinian and other Arab territories has been a subject of concern to the General Assembly since its twenty-seventh session, when it adopted resolution 3005 (XXVII) of 15 December 1972.
2. This question has been dealt with in some detail in two reports submitted by the Secretary-General to the General Assembly at its thirty-second session (A/32/204) and thirty-sixth session (A/36/648). The present report endeavours to cover a wider range of this complex question, in the light of General Assembly resolutions 36/173 and 37/135 by focusing on specific Israeli occupation policies - laws, regulations, military orders, administrative practices - which are particularly relevant for permanent sovereignty over the national resources of the people concerned. Some of the aspects of the question of permanent sovereignty over national resources in occupied territories are also covered in the reports of the Secretary-General concerning

the living conditions of the Palestinian people in the occupied territories (A/37/238, A/38/278-E/1983/77), the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, the reports of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, recent reports by the World Health Organization (WHO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Labour Organisation (ILO) and the United Nations Conference on Trade and Development (UNCTAD) and other documents of the United Nations. To avoid duplication, and in conformity with the directive of the General Assembly concerning control and limitation of documentation, the information already covered in the reports mentioned above will be dealt with only briefly in the present report and appropriate references made to the documents concerned.

3. The report is based on information and data contained in reports of the various United Nations organs and specialized agencies concerned; on information supplied by Governments and the Palestine Liberation Organization; on information supplied and available in publications of specialized research organizations; on material published in books, periodicals, journals, the press and other publications dealing with the situation in the Middle East and in the occupied territories. It is clear that, in order to present the objective and balanced assessment necessary, the co-operation of all parties concerned would have been necessary. As an essential element, such an investigation would require an on-site inquiry in the occupied territories themselves and discussions with representatives of the Government of Israel. As the efforts to obtain access to the occupied territories were unsuccessful, ¹ the substance and the scope of the information presented must necessarily be of a limited nature. However, every effort was made also to use Israeli sources ² and to obtain first-hand information from the occupied territories, through fact-finding missions to the occupied territories organized by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the ILO, WHO and UNESCO, through United Nations experts visiting the neighbouring countries and through co-operation and consultation with UNCTAD, WHO, the ILO, the United Nations Industrial Development Organization (UNIDO), UNESCO, UNRWA and other organizations.

4. In this connection, it should be noted that the extension of Israeli law to the Golan Heights by the Israeli Knesset in December 1981 has rendered it very difficult to obtain relevant information regarding conditions in the Golan Heights. Consequently, published data are not readily available. The same difficulty applies to East Jerusalem.

II. NATIONAL SOVEREIGNTY AND POLITICAL INSTITUTIONS

5. The right of peoples and nations to permanent sovereignty over their natural resources has been accepted as a principle of international law although its exact content and relation to other principles of international law have yet to be fully developed and defined (see A/38/265-E/1983/85; E/C.7/1983/5). Sovereignty over national resources is generally interpreted as the right of a people to determine how its resources in the natural, human, economic, cultural and political field will be used, conserved and preserved. These choices are normally made through political institutions. In the occupied territories, however, comprising the West Bank including East Jerusalem, the Gaza Strip and the Golan Heights, the development of authentic Arab institutions has been affected by a variety of Israeli measures. Many of these measures bear the character of legislative enactments with far-reaching and long-lasting effects. Israel declares that it voluntarily observes most of the provisions of the Fourth Geneva Convention, although it does not accept that the occupied territories are within the purview of the Convention. ³

6. The most important of these measures is the extension, by the Knesset, of Israeli law, administration and jurisdiction to East Jerusalem and the Golan Heights. Such extension is declared, by the former legal adviser to the West Bank Military Government, to be tantamount to annexation. ⁴

7. In the West Bank (excluding East Jerusalem) and Gaza, Jordanian law, in theory, still applies. A different path has been followed by the occupation authorities by issuing, since 1967, more than 1,000 military orders. Although these laws are termed "security legislation", they deal mostly with civilian, economic, administrative and judicial matters. ⁵ In most cases, the Military Government has consistently endeavoured to avoid issuing new legislation with no reference to existing Jordanian law. It prefers to find a Jordanian law which can be amended, rather than pass a totally new law. ⁶ This, however, does not bar the Military Government from introducing, in this way, new norms which follow the Israeli model, for example, the introduction of the value added tax (VAT) system by amending a Jordanian law on taxing local products (Law No. 16/1963) through Military Order No. 658. Selectively, the Military Government issues orders that copy existing Israeli laws, without referring to a Jordanian law.

8. Finally, Israeli norms are introduced to the West Bank on a personal basis, that is, addressing only the Israeli population in the territory. This is done either by issuing military orders applicable only to Israeli settlers or Jewish settlements in the West Bank or by the Knesset extending territorial laws of the State of Israel to the Israeli population residing outside the borders of Israel. ⁷ Using these three possibilities, it appears that the Military Government tends to establish a dual legislative, administrative and judicial system in the West Bank, namely, one system for the Arab population, and one system for the Israeli population in the West Bank and the Gaza Strip. ⁷

9. For the Israeli population living in the West Bank and Gaza Strip, Military Government Orders No. 783 of 20 March 1979 and No. 982 of 1 March 1981, established municipal councils whose powers and responsibilities are almost identical to those of local councils and municipalities in Israel. While regional councils were to be elected in Jewish non-urban settlements, local councils were to be elected in urban settlements.

10. The municipal councils have been granted wide de facto powers, particularly in boundary and planning affairs.

11. The determination of the councils' jurisdictional boundaries determines the territorial framework within

which that authority will operate. Within those boundaries, only Israeli authorities will operate, and these areas will be under de facto Israeli control. ⁴ Thus, the municipal councils are termed "Israeli islands" in the West Bank. According to the Israeli expert quoted, they are channels through which the Israeli Government authorities can operate in the West Bank. In order to increase the territorial contiguity of Jewish populated areas in the West Bank, not only the area currently in use, but also any area, the use of which is planned in the future, is included within the borders of most of the settlements.

12. A situation of territorial contiguity exists already with respect to the regional councils in the Jordan Valley and the Dead Sea area, where the roads connecting the settlements have also been included in the jurisdictional boundaries of the councils. In these areas, there are almost no Arab inhabitants and most of the land has been expropriated, or declared State domain. ⁴

13. The granting of planning and building licensing powers, as in Israel proper, to the West Bank Israeli councils is, therefore, of essential importance; they are "the lifeblood of Israeli settlement". ⁸ According to these policies, Israeli regional and local councils in the West Bank were appointed as "special planning commissions". In the framework of "district planning commissions", their members co-operate with Israeli Government officials in elaborating settlement planning. According to Israeli sources ⁹ major criteria of this planning process are the following:

(a) Each settlement should be economically and socially independent and self-sufficient but interrelated with the other neighbouring Jewish settlements, for instance, in matters of defence and services.

(b) The choice of the location is affected by security reasons, i.e. overlooking large areas, as well as adjacent to main roads. These roads should circumvent areas of Arab population.

(c) It is planned that the bulk of the Israeli population in the West Bank will reside in urban centres. These centres do not require arable land as do agricultural settlements but even unsuitable terrains can be prepared for vast building schemes. Thus, urban centers appear particularly suitable to accommodate the reportedly planned increase of the Jewish population in the West Bank of between 12,000 and 15,000 per annum.

(d) The physical extension of adjacent Arab villages and farms shall be restricted by the planned settlement.

(e) Possible interaction between the proposed Israeli settlements and the existing Arab population tends to be ignored or downgraded. Instead, it appears that preference is given to a system of complete spatial separation between Israeli and Arab areas. Thus, two separate or partially separate infrastructure systems, one for the Israeli and one for the Arab population, are reported to exist in the sectors of telecommunications, post, water, roads, electricity, industry, agricultural marketing, school busing and vehicle licensing.

14. The Israeli municipal councils in the West Bank benefit from considerable government support. Their budget allocations are included in the general budget of Israeli ministries. In some settlements, more than one third of the household heads are reported to receive their salaries from government sources.

15. The Israeli sources relied upon ⁹ estimate the development and regular budgets of the Israeli Government allocated for Israeli settlements in the West Bank at IS 5 billion (160 million dollars) per annum.

16. In conclusion, it appears that the Israeli settlements and their councils are formally separated from the local Arab municipal and planning system. Although nowhere is it determined that the settlements are not under the jurisdiction of the existing Jordanian law, an involved Israeli expert describes the settlements as being like settlements in Israel for all intents and purposes. ¹⁰ Since the Jewish councils in the West Bank are granted the right to form a common "Council of Jewish settlements in Judea and Samaria", they are reported to constitute "an Imperium in Imperio" with "quasi-governmental status". ¹¹

17. This picture is in contrast to the declining powers of the Arab local and municipal councils. Financial support to them through the civilian budget of the Military Government is decreasing; some local taxes and funds are withheld and, under regulation No. 973, the flow of funds and transfers to the occupied territories is restricted. Prior permits' are required to bring in any amount exceeding \$US 3,000, with full disclosure of sources and uses. Thus, financial aid extended by Arab states to Jordan and the Palestine Liberation Organization in favour of Palestinian local and municipal councils in the West Bank is severely impaired.

18. Attempts by the West Bank and the Gaza Strip mayors to unite legally in a "Committee of National Guidance" have been prevented by the occupying authorities. Individual administrative and judicial measures against mayors and other West Bank leaders are reported to aim at discouraging the building of authentic Palestinian institutions. While Israeli residents in the West Bank can participate in the political process in Israel, there are no political institutions above the municipal level for the Arab population in the West Bank and Gaza Strip. Neither Palestinian political parties nor the Palestine National Front are allowed to operate legally. Attendance at the Palestine National Congress at Algiers in February 1983 by the West Bank and Gaza Strip representatives was discouraged or legally prevented. The last municipal elections took place in 1976. It may be noted that the franchise was extended by the occupying authority to women for these elections. The establishment of a civilian administration under Military Order No. 947 of 8 November 1981 is seen by Palestinians as not changing substantially the powers of the occupying authority.

19. It is reported that the civil administrations, in 1982, played a dominant role in such practices as the dismissal of elected and appointed officials, the deportation of university faculty members, the imposition of house or town arrest and other collective punishments, the banning of newspapers and the implementation of broad restrictions on speech and assembly.¹² The civil administrations also made major efforts to transfer patronage and authority from elected and established Palestinian nationalist leaders. As a key part of this effort, the West Bank civil administration actively promoted the spread of rural based, quasi-political organizations known as "village leagues". These organizations were provided with arms and financial assistance by occupation authorities. Allegations have been made by local inhabitants that the Village Leagues have been involved in graft and violence against other West Bankers.

20. The eventual transfer of statutory powers to these leagues is considered by Arab lawyers as an additional step to increasingly weaken elected Palestinian institutions even at the comparatively modest level of local and municipal councils.

21. However, Military Order No. 947 is viewed by Palestinian lawyers to be "like a unilateral declaration of a constitutional change"¹³ since its effect is seen as possibly elevating the status of certain military orders to the status of full-fledged law.¹⁴ Thus, military orders would possibly no longer be considered as secondary legislation, which is reviewable by the Israeli High Court of Justice, but might be considered as primary legislation, which is de facto only under very limited conditions challengeable before the Israeli High Court.¹⁵ Furthermore, the alteration would place the military orders beyond the authority of Palestinians to alter or to amend since the Israeli Government holds that the proposed Palestinian "self-governing authority", agreed upon in the Camp David framework of September 1978, would be confined to the functions of an "administrative council" without primary legislative powers and without the territorial dimension of government.¹⁶

22. In the final analysis, it appears that the interplay of the different norms introduced by Israel into the occupied territories might indicate a basically dualistic structure of the future relationship between the Jewish and the Arab segment in the area:

(a) Both segments would have a separate, but de facto unequal, status;

(b) To the Arab segment, a guaranteed, but limited, autonomy would be conceded, but only on a personal and not territorial basis; while the Israeli segment, exercising the decisive final control over most of the territory and its inhabitants, would benefit from a de facto predominant position.

23. Obviously, the differentiation between the personal and the territorial dimensions of government displays a major feature of the classical minority régime of the Muslim Middle East as it found expression, for instance, in the Ottoman millet system. The new concept, however, would appear to constitute a fundamental reversal of the classical minority régime since, in the occupied West Bank and Gaza Strip, it would now be the Arab segment which would be confined to a secondary status. The Arab segment being predominantly, although not exclusively, Muslim, the new concept would substantially challenge basic inherent political order concepts of Arab Islam, thus highlighting a core dimension of the Arab-Israeli conflict.

III. JUDICIAL PROTECTION

24. A number of important changes have been brought about in the legal process within the occupied territories, among them the abolition of the death penalty.¹⁷ Many features of the judicial system and legal process in the occupied territories appear to indicate a de facto privileged position for the Israeli population segment and a less privileged position for the Arab segment.

25. The main changes seem to be the increasing role of the Israeli High Court as supreme judicial authority in matters involving decisions of the occupation authorities. This role is being supported by the abolition of the jurisdiction of the Jordanian Court of Cassation and by the exemption of actions by the occupation authorities from review by local judicial bodies. Given that Israeli military authorities have not only assumed governmental functions directly related to security and the public order, but also such functions as, inter alia, the posts of registrar of lands, registrar of companies, registrar of trade marks and patents, and the power to grant permits for land transactions and to authenticate signatures, the role of local courts in comparison to Israeli authorities, quasi-judicial and judicial bodies has been increasingly eroded.

26. While in theory criminal offences by Israeli civilians in the West Bank and the Gaza Strip are subject to concurrent jurisdiction by local Palestinian courts and Israeli military courts, Military Order No. 841, on the closing of criminal files, enables the legal adviser of the Military Government to decide where an offender is to be tried. In respect of offences committed by Israelis in the region, there has been a "tendency to try them in military courts".¹⁸ Local criminal courts, it is reported by the Israeli source, hence have jurisdiction only when "intact" Jordanian law is available, while offences based on military orders are tried by military courts. With the tendency increasingly to amend Jordanian law by Israeli norms and specific military regulations, there remains a continuously narrowing role for Arab local criminal courts, taking care basically of cases where Israeli citizens are not involved and where the military authorities have not yet amended or replaced Jordanian law.

27. As Israeli authorities have taken over the functions of appointment, supervision and dismissal exercised by various governmental organs over the judges under Jordanian law and as they have centralized these functions with the occupation authorities, the independence of the judiciary appears to be substantially weakened. Arab civil courts still retain jurisdiction, apart from actions involving the military, over civil matters. In theory, this jurisdiction also includes cases involving Israeli residents or governmental bodies acting in a commercial capacity. In practice, however, given the bargaining

power situation, most agreements, as is conceded by both sides, stipulate, through choice-of-law clauses, the jurisdiction of Israeli courts.

28. In lieu of local courts, the military authorities have established appeal boards to hear complaints against decisions by military authorities. They are authorized to decide most matters dealing, inter alia, with land, customs, income tax, natural resources, pensions and rights of depositors in local banks (Military Order No. 172). They are composed exclusively of Israeli military officers, sometimes without legal qualifications. Palestinian lawyers claim that a number of practical obstacles make it difficult to obtain a fair procedure with these boards, that decisions are often based on political considerations and that the outcome is rarely favourable. Israeli sources have responded to these allegations by pointing out that, of 34 appeals presented between 1979 and 1980, 5 have been successful.

¹⁹

29. An important factor of the rule of law is the extent to which the affected population is able to be informed about laws and regulations applicable. Wide availability of information in this field would tend to restrain the discretionary powers of the authorities and provide an incentive to abide by the law. In addition, the local population affected by the administrative practices of the authorities and by actions by Israeli settlers would be enabled to appeal against discretionary actions and thus contribute towards a more effective rule of law.

30. Both Israeli and Palestinian sources consulted seem to agree that the decisions of the military appeal boards are not made available to the public nor do they contain extensive legal reasoning. As to the publication of military orders, Israeli sources ¹⁹ refer to the official Collection of Proclamations and Orders, while Palestinian sources ²⁰ claim that these texts are not made widely available and that, in practice, Israeli authorities have shown little interest in their distribution.

31. Furthermore, procedural rules and obstacles are fashioned in a way that renders service of complaints and execution of judgement by Arab local courts difficult. This situation, however, changes when the judgements of Israeli courts are to be enforced, which reduces the role of Arab local courts in favour of the assumption of jurisdiction over West Bank matters by Israeli courts. The Jordanian law on execution of court judgements has also been amended in order to reduce communal control over the execution. Arab West Bank residents are reported to be severely hampered in efforts to bring successfully to justice cases involving Israeli authorities or Israeli residents of the West Bank. In both cases, an effective judicial protection would appear to be highly desirable, particularly if one is to draw on different reports on human rights violations in the area. ²¹

32. In addition, Palestinian sources complain ²⁰ that under the dual system of administration and justice Arab residents have little, mostly nominal protection from the occupation authorities against encroachments by Israeli settlers. No effective protection is reported to have come from Israeli occupation authorities which, on the other hand, are said to be extremely swift and effective when they perceive that safety and public order are affected by Arab residents. In this respect, Palestinian and Arab sources claim that there is wide-spread collusion between occupation authorities and Israeli settlers. The Israeli rebuttal to the Arab source cited makes no objection to these reports. ²²

33. The interplay of these different norms and legislative enactments, under the conditions of a dual system, affects also the exercise of Arab sovereignty over natural, human, economic and cultural resources.

IV. NATURAL RESOURCES

34. The basic natural resources of the occupied Arab territories are land, water and mineral resources. Among these, land and water constitute the major sources of livelihood.

A. Land

35. The total area of the West Bank is approximately 5,500 km². This figure included, in 1980, an estimated 1,853 km² of cultivable land (1,765 km² under dry farming and 87.5 km² under irrigation) and, besides forests and idle land, an estimated 1,850 km² of grazing land in the West Bank and the Gaza Strip. Some 2,612 km², corresponding to about 46 per cent, are cultivated.

36. Since 1967 the Arab inhabitants of the West Bank including East Jerusalem have increasingly lost control over their land, both cultivated and uncultivated. The former Israeli deputy mayor of Jerusalem, Meron Benvenisti, lists different legislative policies used by Israeli authorities to strengthen Israeli hold over the land, ²³ as follows:

(a) "Absentee" property. Land and other property owned by citizens of the West Bank who left the area in 1967. The land is administered by the Custodian of Abandoned Property who has leased large areas to Israeli agricultural settlements in the Jordan valley;

(b) "Registered state domain". Areas registered in the name of the Treasury of the Government of Jordan or in the name of the King of Jordan. The status of the Military Government in these areas is that of a temporary administrator for the duration of the military occupation. However, the Military Government treats these lands as Israeli State domain and leases it to Israeli settlers, including for "build-your-own-home" schemes, that is for long-term leases (49 years, renewable);

(c) "Lands requisitioned for military purposes". Privately owned land which is seized by the Military Government under an order proclaiming that the area is needed for "vital and immediate military requirements". The land remains under private ownership while the Military Government offers a rental payment for the "use" of the land. Many settlements are reported to have been built on these lands;

(d) Lands closed for military purposes. Areas closed by the Military Government for use as training grounds, firing ranges, etc. In some cases, the military allow cultivation when the area is not used by it. "Closed" lands tend to become "requisitioned" lands, for example the Kiryat Arba land acquisition;

(e) "Jewish lands". Lands owned by Jews prior to 1948 and administered by the Jordanian custodian of enemy property;

(f) Lands purchased by Jewish bodies. While until 1979 only public Jewish companies received permission from the Military Government to purchase land in the West Bank and most of these lands were acquired by an affiliate of the Jewish National Fund, since 1979 private Israeli citizens have also been allowed to purchase land in the West Bank;

(g) Land expropriated for public purposes. The Military Government uses the Jordanian Expropriation Law of 1953, inter alia, for acquiring land for roads, including arterial roads and access roads to Israeli settlements, since, in 1972, the Israeli High Court of Justice recognized Israeli settlers as part of the population of the West Bank.

37. The study referred to has estimated that the total area thus seized by Israel amounts to approximately 1,500 km².

38. Since 1979, however, the Israeli authorities have adopted a new approach based on article 103 of the former Ottoman Land Code. According to this law, anyone with the consent of the authorities may cultivate vacant land (mawat land), the ultimate title remaining with the Sultan.²⁴ The new approach of the Israeli authorities consists in claiming, as successors of the Sultan, all unregistered lands as mawat lands and of equating mawat lands with State lands. This equation, whose legal validity is contested by Palestinian lawyers, facilitates the seizure of Arab lands since the cadastral survey within the land settlement process realized in 1967 by Jordan covered only three eighths of the West Bank.²⁵ Moreover, the rights secured by entries into the Land Registry encompass only one third of the West Bank lands.²⁶ Finally, if the Israeli authorities intend to take possession of State land, the Arab appellant has to prove that the contested land belongs to him. Such evidence is hard to come by and is usually not conclusive so that the Arab inhabitants reportedly lose most cases. This procedure, which was sanctioned by an Israeli High Court decision in 1981, enables the Israeli authorities to seize practically any land, as the former Israeli deputy mayor of Jerusalem remarks.

39. As a consequence of these Israeli land policies, the office of the Jordanian Crown Prince points out that a large part of West Bank land has under various legal forms come under effective Israeli control:

(a) As from February 1983, an overall area of 2,453 km², equivalent to 44 per cent of the total West Bank territory including East Jerusalem, has been seized by Israel;

(b) Some 23 per cent of the total West Bank area is designated specifically for Israeli settlements and security purposes;

(c) Approximately 153 settlements were set up by Israel in the West Bank and East Jerusalem by the end of December 1982, of which 31 were in and around Jerusalem;

(d) The total number of settlers in the West Bank including East Jerusalem increased from 91,000 in April 1979 to about 140,000 in 1982. Among these an estimated 25,000 are to be found in the West Bank and over 110,000 in East Jerusalem.

40. Given present Israeli plans, it is expected that these figures are likely to increase over the next years so that by the year 2000 the West Bank, including East Jerusalem, would have 1.4 million Israelis together with 1.6 million Arabs.²⁷

41. According to a long-term master plan prepared by the Zionists' Settlements Department, 57 new settlements should be established in the West Bank by 1987, bringing the total settlements in the area to 165. Under this plan the Jewish population in the West Bank should reach parity with the projected Arab population, to stand at 1.2 million. An analysis of rates of construction in the 108 existing settlements in the West Bank indicated that 6,000 housing units are to be occupied within the near future, and 12,000 are under construction. On this basis it is projected that by 1986 the Jewish population in the area will be over 100,000. Of the 165 settlements envisaged in the long-term plan, five will be large towns and urban settlements (Kiryat Arba and Ariel, and three large urban suburbs with populations of between 10,000 and 30,000 families), 36 smaller urban communities of up to 3,000 families, 65 communities of 400 families, and 59 moshavim and kibbutzim. The anticipated rate of construction is 5,000 to 6,000 housing units per year. The plan calls for the construction of an additional 400 kilometres of roads to improve access and thereby encourage private initiative, the development of 400 to 500 dunum of industrial space per year, and the continued acquiring of privately owned Arab and "state lands" which have been earmarked for afforestation, grazing and tourism facilities. The plan includes a list of priorities which emphasizes rapid development in the greater Jerusalem area, a strip along the main north-south highway, the north-western corner of the West Bank, an area lying between Tulkarm and Kedumim, and the southern Hebron hills. To encourage the Israeli population to move into the West Bank, the plan calls for severe restrictions on construction in Israel's main urban centres, along the coastal plain.²⁸

42. Of the total area of 367 km² in the Gaza Strip, some 55 per cent is suitable for cultivation (about 102 km² under irrigation and 91 km² under dry farming).

An additional area of about 60 km² was used in 1981 for settlements, including refugee camps, and for roads. As in the West Bank, a significant part of the available agricultural land has been seized for Israeli settlements. As of the end of 1980, approximately 20 km², or 10 per cent of the total agricultural land, had been appropriated by the Israeli authorities for Israeli settlements.²⁹

43. Precise information on land use in the Golan Heights is not available. In very general terms, roughly 40 per cent of the Quneitra district which, under the disengagement agreement of 1974, has been partly returned to the Syrian Arab Republic, is considered to be suitable for agricultural use. Since the occupation in 1967 and up to 1980, Israel has established at least 30 settlements in the area. However, it has not been possible to calculate the total land area involved. In 1982, about 6,000 to 7,000 Israeli settlers were estimated by the Government of the Syrian Arab Republic to be living in the Golan Heights.³⁰ The extension, on 14 December 1981, of Israeli law, jurisdiction and administration to the Golan Heights, which has been unanimously declared by the Security Council (resolution 497 (1981)) to be "null and void and without international legal effect", is supposed to further reduce the exploitation of the Golan's resources by the Syrian inhabitants of the area. Before the occupation, in 1967, the Golan Heights contributed about 9 to 11 per cent to the overall production of the Syrian national economy. The continuing occupation has created income losses which are estimated at an annual average of £S 235 million. The total loss, by the end of 1981, is estimated at some £S 3,525 million. These losses would be intensified if an additional 20,000 Israeli settlers were to be settled in the Golan Heights area over the next four years, as the Israeli authorities announced on 6 January 1982.³¹

B. Water

44. Together with land, water is a vital natural resource for the inhabitants of the occupied Arab territories. For all practical purposes, the region comprising the occupied territories and Israel is a single water resource area. As the occupying power, Israel is the sole authority for the conservation, control and use of the water resources in the occupied Arab territories. It hence has a powerful means of determining the level of economic activity of the area as a whole.³²

45. Presenting the main criteria of its water policies, the Government of Israel emphasizes considerable improvements in exploitation and distribution of water resources in the West Bank and Gaza Strip. Palestinians, however, point to legal obstacles and to inequitable treatment of Israeli and Arab residents in the occupied territories with respect to water distribution and usage.

46. For both purposes, domestic and agricultural, water use in the West Bank is influenced by a comparatively high water consumption rate in Israel and in the Israeli settlements in the occupied territories. The current water use in the West Bank by the Arab population is estimated at 100 MCM (million cubic metres per year). Of these, about 86 MCM are for agricultural use, irrigating approximately 100 km², with the remainder, some 14 MCM, for domestic use. By comparison, the Israeli population in Israel uses 1,700 MCM, so that their water consumption per capita is three times the use by the West Bank Arabs.³³

47. The pressure on water resources available to the Arab inhabitants of the West Bank is further increased as a result of use of water by the Israeli settlements in the area. The total water consumption of the some 25,000 Israelis living in the West Bank, excluding East Jerusalem, is estimated at about 26 MCM in 1982. Of these, the settlements in the Jordan valley alone use approximately 25 MCM for the irrigation of 20 to 30 km² of agricultural land. This quantity is to be increased to 40 MCM by the late 1980s and is to irrigate 40 to 50 km² of land. Hence, the Israeli population in the West Bank, excluding East Jerusalem, amounting to about 3 per cent of the total West Bank population excluding East Jerusalem, uses 20 per cent of the total water consumption of the area, assigning 96 per cent of this amount to irrigation. Thus the water policies of the occupying authorities deny to Palestinians in the West Bank the use of water resources at the same level as is permitted to Israeli residents.

48. Water consumption in the Gaza Strip is estimated at 100 MCM per year, of which 90 per cent is used for irrigation. The entire amount is pumped by about 1,600 wells.³⁴ The high population density imposes severe strains on water supply in the area. The Arab position is hampered - as reports indicate - by the fact that new Israeli settlements established in the Gaza Strip are reportedly granted preferential access to water by the Israeli authorities. Therefore, the water remaining for the use of the Arab inhabitants is, on a per capita basis, even less than before the Israeli occupation in 1967 (A/36/648, para. 20). The increased use of water by the settlements contributes to the present over-exploitation of water resources which amounts, according to an Israeli expert, to about 30 to 60 MCM per year.³⁵ The over-exploitation has lowered the water table in the last five years by 0.5 to 2.5, while the salinity of the pumped water has increased in this period by 20-200 parts per million (ppm) chloride. A recent study, quoted by the Israeli expert, shows that, if pumping continues at the present rate, the water table will drop 1.0 to 3.5 m below the present levels in the next decade, and in the same period, the salinity will increase by 30-300 ppm chloride. As long as this over-exploitation continues, sea-water intrusion will increase and so will the inflow of saline waters from the east and from aquifers below the zone of utilization. The damage, the Israeli expert concludes, that will be caused to ground-water storage and to ground-water users, who are scattered all over the Gaza Strip, will be beyond repair.³⁶

49. In the Golan Heights, according to Syrian Government information, a IS 100 million irrigation project is being carried out by the occupying authority, in favour of Israeli settlements in the central and southern parts of the area.³⁷

C. Mineral resources

50. Besides building and construction materials, the rich resources of potassium and related minerals in the Dead Sea area constitute the main mineral resources of the occupied territories. The exploitation of the Dead Sea resources and the development of adjacent areas could be adversely affected by the Israeli decision to build a canal linking the Mediterranean Sea to the Dead Sea.³⁸

V. HUMAN RESOURCES

51. For East Jerusalem and the Golan Heights, disaggregated population figures are not available. Regarding the other occupied territories, the figures of the Israeli Statistical Abstract for 1982 refer to the population in the West Bank, the Gaza Strip and northern Sinai. The substantial population rise in the last years in these territories is attributed by the Israeli Government partly to a decrease in infant mortality and an increase in life expectancy. The total population in these territories, at the end of 1981, has been estimated at 1,158,900, almost equally divided between females and males.

52. It would appear that close to half the population was in the non-production age group, while more than another quarter was in only a preliminary stage of contributing to the economy. Less than one fourth of the population, in which females predominate, had to provide the main support for the rest of the population. Considering that the participation of females in the labour force is low by custom and tradition, and owing to the lack of production opportunities in the occupied territories, the main burden of earning a living, providing for the dependents and contributing to the economy has fallen on a very small proportion of the working population in the territories.

53. In spite of an increase in the population as a whole, the number of employed persons living and working in the occupied territories declined from 152,700 in 1970 to 140,000 in 1981.³⁹ This is partly due to the emigration of a considerable number of persons who prefer well-paid jobs in other Arab countries to the unsatisfactory living conditions in the occupied territories, caused, inter alia, by the lack of employment opportunities for educated and skilled people, particularly for recently qualified young people. This annual emigration of Palestinians has been estimated at an average of 20,000 persons per year and amounted in 1981 to 21,200 persons. Many persons who have had to leave have been reportedly debarred from returning under various regulations imposed by the occupying Power. Another reason for the decline in employment is that Arab producers in the occupied territories found it uneconomical to pursue their traditional income-producing activities in face of the unrestricted competition of products from Israel and the new Israeli settlements.

54. This decline in employment, which has been treated in a more detailed way in other reports,⁴⁰ is sharply contrasted by a steady increase in the number of persons who are living in the occupied territories but work in Israel: from 20,600 in 1970 to 75,800 in 1981.³⁹ In addition to those persons engaged through official channels, there are considerable numbers of persons who seek employment on their own or are engaged through unauthorized agents or contractors. This number, being difficult to assess, is estimated at more than a quarter of those recruited officially (A/37/238, annex I, para. 49). In addition, there is the growing number, not easily quantified, of Palestinians who, on their own behalf, are seeking employment in the newly established settlements. Thus it would appear that at least 44 per cent of the employed persons in the Palestinian occupied territories are working in Israel. Estimates provided by Palestine Liberation Organization and Jordanian sources are even higher - up to two thirds. These figures indicate an actual and potential loss of manpower resources for the development of the occupied territories. Most of the work in Israel was in unskilled and semi-skilled jobs in construction (51 per cent), industry (18.2 per cent) and agriculture (12.7 per cent). The Israeli Government holds that, thus, full employment in the occupied territories is secured. It points out a substantial increase in living standards, a narrowing of the income gap between Israel and the occupied territories, the extension of social benefits to those officially engaged and a lack of discrimination (see A/37/347 and Corr.1, annex).

55. However, this kind of employment entails many hardships and insecurities, since Palestinian workers from the occupied territories are debarred from residing legally in Israel and have, subject to inspections, to commute daily from their homes in the territories to their places of work in Israel, which often takes two to four hours.⁴¹ The Palestinians' wages are lower than those paid to their counterparts in the Israeli labour force; for example, the difference in the hourly wages in construction work is, according to Israeli labour union sources, 50-60 per cent.⁴² Yet Palestinian workers are subject to the same taxes and deductions.

56. Furthermore, since the Israeli trade union Histadruth pursues no recruitment policy in favour of Arab workers from the occupied territories and since most of these workers themselves do not wish to join or co-operate with Israeli trade unions, these workers are generally not members of the Histadruth pension funds. Theoretically, pension plans are available through the Ministry of Labour and Welfare, and fringe benefits are collected from the employers. However, the sums accumulated since 1968, believed to be substantial, are kept in the Treasury and are not paid out to West Bank labourers to whom they technically belong. The same source indicates that since 1968 only 152 West Bank labourers have received pension benefits.⁴³

57. A significant loss of manpower resources from the occupied territories is constituted by those who fled the territories or were displaced following the armed conflicts of 1948 and 1967 and who have sought refuge in neighbouring Arab countries. The total number of refugees registered in 1982 with UNRWA amounted to 1,925,726 persons.

58. To the losses of the Palestinian population incurred by the West Bank and the Gaza Strip as well as East Jerusalem should be added the Syrian population which fled the Golan Heights and the Quneitra district during and after the 1967 hostilities. Virtually all the Syrian population of this occupied area, estimated at 140,000, as well as some 16,000 Palestinian refugees then living in the Golan Heights, were forced to leave.

44

59. For 1982, it was reported by the United States Department of State that only Druse Syrians were permitted by the Israeli authorities to live in the Golan Heights. Syrians of other religious and confessional

denominations were not allowed to return to their homes and farms there. When the Israeli Government required all residents of the Golan area to obtain Israeli identity cards and when most of them refused, the Government cut the area's telephone communications and sealed off the area from outside access for more than five weeks. Residents without Israeli identity cards were for several months unable to leave the area, even for medical treatment. As of the end of 1982, they were still subject to fines, according to a United States Department of State report, if caught outside the area without Israeli identity cards.⁴⁵ Since in the Golan approximately two thirds of the active population go to work in Israel, these measures concern a considerable number of the Arab inhabitants of the Golan area.

60. Present population estimates for the Golan areas vary from 8,000 (Security Council commission established under resolution 446 (1979) to 12,500 (Israel) up to 15,000 (Keesing's Contemporary Archives).⁴⁶ The latter source expects that the settling of an additional 20,000 Israelis up to 1986, as announced by the Israeli authorities on 6 January 1982, would bring the Israeli population in the Golan Heights area to some 27,000 and thus to a substantial majority position.

VI. ECONOMIC POLICIES

61. The occupation has had profound effects on the process of economic development in the territories. Arab sources underline the burdens resulting from this new economic status quo while Israel holds that considerable benefits have been created also in favour of the Arab population of the occupied territories. A general feature of this process is the increasing integration of the occupied territories into the Israeli economic system. While the occupied territories increasingly become a protected outlet for Israeli products and a comparatively cheap supplier of manpower, an independent economic development of the local Arab population is affected by Israel's control of those incentives that could stimulate a self-reliant economic development (investment, trade, financing). Important pre-1967 economic links between the occupied Arab territories, on the one hand, and East Bank Jordan and the Arab Middle East, on the other, have decreased substantially. As the results of such policies have been amply discussed, in particular in the reports on the living conditions of the Palestinian people and the UNCTAD review of the economic conditions of the Palestinian people in the occupied Arab territories (TD/B/870 of 26 August 1981), the present report focuses on highlighting specific occupation policies.

62. The changes indicated by these features have been stimulated by market forces but it has to be kept in mind that these forces have operated in a highly controlled environment shaped by the conditions of continuing occupation. The resulting pattern, therefore, appears to reflect key policy decisions by the occupying Power.⁴⁷

63. One of the major characteristics of this pattern is a high growth rate of the two territories' economy. The Israeli Government declares that the gross national product has increased at an average annual rate of close to 13 per cent, in real terms (A/37/347 and Corr.1, annex, p. 2). Judgements may differ about the precise figures that should be used to describe the growth performance, but in absolute terms⁴⁸ the growth has been substantial.⁴⁹ However, the rate of growth is not always a reliable indicator of economic progress. First, there is reason to doubt whether the estimates of output in the period immediately following the 1967 war are a useful baseline from which subsequent real growth ought to be measured since, in 1968, when the Israeli statistical series on the product of the occupied Arab territories began, the economic life of the territories had not yet recovered from the immediate disruptive effects of the 1967 war. Particularly, the high losses of human resources referred to above, caused by the exodus of Arabs from the West Bank and the Gaza Strip,⁵⁰ have to be mentioned.

A. Framework of economic development

64. The framework of economic development is constituted by those legal instruments that establish and maintain the institutions upon which commercial transactions are based.⁵¹ Israeli occupation has, with increasing speed, resulted in a state of affairs where the introduction of Israeli norms and the exercise of far-reaching decision-making powers by the occupying authorities determines the character of such institutions. For example, questions of land law, income taxes, the registration of companies, trademarks and patents, and customs and excise questions are decided by the occupation authorities. Israeli laws on standards and measures have been introduced. Contracts for commercial transactions involving Israeli concerns and contracts for financing as a rule submit to the jurisdiction of Israeli courts.

65. Another characteristic feature of the legal framework for economic activities in occupied territories is the dual and unequal character of economic policies. While Arab companies and businessmen are subjected to Israeli law and to specific restrictions concerning financing, importation and exportation, Israeli business interests obtain - quite apart from the legal enclave status accorded to the settlements - privileges and incentives not available to their Arab counterparts; for example, they enjoy the incentives accorded by Israel for investment and settlement. While Israel receives very substantial flows of capital through voluntary contributions or concessional finance from abroad, a considerable part of which is designated to West Bank settlements, the transfer of Arab funds to West Bank development has been severely curtailed.

B. Agricultural policies

66. Considerable changes have taken place in the field of agricultural production, in particular improvement of production techniques, reduction of agricultural employment and an increase in volume and variety of production (see A/37/347 and Corr.1). To a large extent, these increases are due to the establishment of Israeli settlements in the occupied territories. Details of change in agriculture have been sufficiently documented in the reports on the living conditions of the Palestinian people. The policies that have brought about and which support the establishment and the operations of settlements are mainly related to the question

of land and water use. These policies have already been discussed.

C. Industrial investment

67. The other reports mentioned discuss in detail the development of West Bank industry towards subordinate integration into the Israeli economic system. Lack of investment opportunities, investment capital and incentives characterize industrial investment by West Bank entrepreneurs, while Israeli concerns enjoy considerable privileged treatment, both in law and by way of the specific use of the wide administrative powers held by occupation authorities. The policies bringing about these developments have to be seen in a context of land, building, tariff and trade, finance and investment regulations. The United States Department of State's report on human rights practices for 1982, submitted to the Foreign Relations Committees of the Senate and the House of representatives, mentions that Israel restricts the construction of new factories through a number of regulations. Detailed information on these regulations would have to be collected by an in-depth study of Israeli regulations and economic policies.

D. Trade regulation policies

68. The occupied territories continue to witness the consequences of a dramatic change in the pattern, direction and terms of their trade relations. Whereas prior to 1967 the West Bank and the Gaza Strip had no trade relations whatsoever with Israel, the latter has become the main trading partner. Twenty-five per cent of Israeli exports are sold in the occupied territories.⁵² The total value of exports from the occupied territories to Israel accounted for 64 per cent in 1979 and 72 per cent in 1981.⁵³ Imports from Israel increased from 88 per cent in 1979 to 90 per cent in 1981. On the other hand, trade with the East Bank of Jordan has decreased; the value of exports from the occupied territories to the East Bank amounted to only 26 per cent in 1981. Imports from East Bank Jordan to the West Bank fell to 1 per cent in 1981, while figures on official import relations from the East Bank to the Gaza Strip, in Israeli statistics, are not available. It is difficult to relate these figures to the "open bridge policy" and trade liberalization policies as alleged by Israel (see A/37/347 and Corr.1).

69. Policies underlying these developments contain restrictions concerning both importation and exportation. Imports into the West Bank require an import permit issued by the occupation authorities. Israeli sources⁵⁴ state, in concurrence with Arab sources,⁵⁵ that while imports from Israel are encouraged, the Israeli imports licensing law (Export and Import Ordinance of 1979) applies to imports from abroad through Israel. According to the Arab source cited - which is not contradicted in the rebuttal by the Israeli source - the import licensing system is used to prohibit direct importation of equipment from outside Israel and to force Arab purchasers to buy through Israeli trading companies. The Arab source cited reports as illustrative a case where an Arab electricity company applied for permits to import electrical generators; the authorities attempted to pressure the company to hook up their lines to the Israeli electric grid. Subsequent to a refusal by the Arab electricity company to integrate with the Israeli electricity system and the Israeli refusal to authorize the importation of new equipment, the Arab company's generating capacities proved insufficient to satisfy the increasing needs of new Israeli settlements. This, in turn, was used by the Israeli Ministry of Energy to terminate the company's concession on the grounds of its failure to satisfy customers. The Israeli source cited makes no objection against this presentation of evidence by the Arab source.⁵⁶

70. Given the present economic structure of the occupied territories, the only meaningful type of export from the occupied territories to Israel consists in agricultural products. Military Order No. 47 requires authorization for such exports. Arab commentators claim that permits are only then given when Israeli agriculture would not be affected by such exports and when the Israeli marketing agencies agree. The Israeli rebuttal, on the other hand, claims that Military Order No. 47 is not designed to restrict export, but primarily to facilitate the statistical control of the quantity of produce entering Israel (see also A/37/347 and Corr.1).

E. Credit and financing policies

71. The availability of sufficient credit and other forms of financing - equity investment, loan guarantees - is an essential component of the framework for economic development. While Israel's balance-of-payments position is strengthened considerably by exports from the occupied territories to other countries, by imports from Israel and by transfer of foreign exchange by public and private sources from abroad to the occupied territories, financing of agricultural, industrial and infrastructural projects in the occupied territories has been severely hampered. Occupation policies have focused on restricting the transfer of Arab funds from abroad to the occupied territories. For example, under Military Order No. 973 of 1982, no more than JD 3,000 may be brought into the occupied territories by one person at a time; higher amounts require prior permits and full disclosure of sources and uses.

72. In addition to the restrictions limiting the amount of financial assistance available through transfers by Palestinians working abroad and through Arab financial subsidies, loan financing through banks is at a minimum. At present, only authorized Israeli banks operate in the occupied territories. While in 1976 22 per cent of the total bank assets in the occupied territories were in credits, this percentage dropped in 1980 to 10.5 per cent. Moreover, credit facilities were mainly based on a special government fund which was recently abolished. Loans from Israeli banks apparently require approval by the occupation authorities which has resulted in long delays and few permissions being granted. Arab sources report that Arab co-operatives have received grants and loans from abroad; Israeli authorities are said not to have allowed most co-operatives to receive such loans and grants. The Israeli rebuttal has not contradicted these statements.⁵⁷

F. Fiscal occupation policies

73. The legality of the collection, use and imposition of new taxes by the occupying force has been a subject of considerable concern to international law on military occupation. In addition to previously existing taxes, Israeli occupation authorities have imposed a new value added tax - in the form of an amendment to Jordanian law - of, at present, 15 per cent to harmonize the fiscal situation of the occupied territories with that of Israel (Military Order No. 658). In addition, excise taxes and customs duties have been imposed up to 15 per cent on several articles produced in the West Bank. Income taxes are collected under Israeli supervision; tax assessment is subject to an appeals procedure with the military "appeals committee". Taxes on real estate were also amended by several military orders (Nos. 28, 84, 120, 238 and 283). In addition to taxes, Israel collects substantial fees for crossing the bridge to and from Jordan. It is estimated (in the reports on the living conditions of the Palestinian people) that Israel collects annually about \$US 15 million in the form of such bridge fees.

74. Palestinians working in East Jerusalem or commuting to work in Israel - that is, the largest part of the active Palestinian labour force - are subject to the Israeli tax system, which includes health insurance and national insurance. United Nations experts on mission were informed that in addition a 4 per cent special tax has recently been imposed to cover the costs of military operations in Lebanon.

75. No detailed information is available on the volume and the use of the taxes collected in the occupied territories and from Palestinians working in Israel, nor is any precise information available on the tax situation of the Israeli settlements, for example on taxes or fiscal incentives.

VII. CULTURAL RESOURCES AND VALUES

76. It appears that the religious, cultural, national and popular identity of the Arab inhabitants of the occupied territories continued to be impaired. The reference to Palestinian loyalty symbols by the Arab community in East Jerusalem, the West Bank and the Gaza Strip is legally prevented. Many of these issues have been discussed in recent United Nations reports (A/37/238; A/37/485).

A. Religion

77. In the religious field, conflicts continued to occur between the Muslim community and the Palestinians, on the one hand, and Jewish individuals and the Israeli authorities, on the other, over the property of and rights to Al-Haram Al-Sharif, containing Muslim sanctuaries, and excavations in and around these sanctuaries; the application of Israeli law to Muslim religious affairs in East Jerusalem and over the use of the Ibrahimi mosque at Hebron.

78. With reference to the Golan Heights, the Syrian Government emphasizes losses and damages which have affected, since 1967, mosques and religious properties.⁵⁸

B. Education

79. The educational system continues to face serious obstacles. Some of the instances cited are:⁵⁹

(a) Closure of schools and universities. Particularly, institutions of higher education were to be found among the 14 establishments closed temporarily between February 1982 and February 1983: eight secondary schools, one teacher training institute and the three universities of Bir Zeit, Bethlehem and Al-Najah at Nablus;⁶⁰

(b) The occupying authorities continued to arrest students and to inflict physical punishment on them. In some cases, demonstrating students were shot fatally. Eleven persons out of 16 Palestinians fatally shot between February 1982 and February 1983 did not exceed the age of 21;⁶¹

(c) School and university teaching activities continue to be controlled by the occupying authorities. All professors and lecturers at Arab universities who enter the West Bank with a visitor's permit must sign a formal document to the effect that they denounce the Palestine Liberation Organization,⁶² otherwise, they will be expelled from the territory, which has happened to 22 professors;

(d) Restrictions on importing library reference materials continue to be cited. For instance, Bir Zeit University is not allowed to subscribe to 50 Arab periodicals even though most of these are reported to be available at Israeli universities.⁶³

C. Books

80. The distribution of a number of books published in Arab countries continues to be banned. Over half of the 83 titles, reported in a 1983 Jordanian Government report⁶⁴ to have been banned recently, treated subjects with direct relevance to the major determinants of Palestinian identity, namely Arab and Palestinian nationalism and Islam and the Muslim world.⁶⁵ An official Israeli blacklist is reported to comprise some 2,000 books, including some translations from the Hebrew.⁶⁶ The Israeli Government declares that it disallowed 14 Jordanian and 23 Egyptian textbooks between 1967/68 and 1977/78 and denied the introduction of 648 books into the West Bank and Gaza Strip (see A/37/347 and Corr.1, annex, p. 17).

D. Newspapers

81. There are continued reports about interference of the Israeli authorities with the editing and publishing of Arab newspapers in the occupied territories. Particularly, the three East Jerusalem Arab dailies Al-Fajr,

Al-Sha'b and Al-Quds were, on different occasions and to different degrees, exposed to measures of censorship and confiscation. Several times their distribution in the West Bank has been prevented by the Israeli authorities. The English edition of Al-Fajr and the Arab newspaper At-Tala'i' Al-Maqdisiya were also the subject of interventions by Israeli authorities. This holds true also for a certain number of Arab journalists and editors.

VIII. INTERNATIONAL CO-OPERATION FOR PALESTINIAN DEVELOPMENT

82. International co-operation has become an important mechanism of support to Palestinian development. At the Ninth Arab Summit Conference, held at Baghdad in 1978, the Arab States established a special fund to channel resources to the development projects in the occupied territories, which is administered by the joint Jordanian-Palestinian Committee. These funds, designated principally for assistance to Arab municipalities in the occupied territories are estimated to amount to some \$US 150 million per annum. While no precise figures are available, it is estimated that these funds are used mainly to finance municipal infrastructure - roads, schools, hospitals and municipal construction - with some assistance going to agriculture and industry. It has been estimated that these funds cover 60 per cent of municipal operating budgets and 100 per cent of their development budget. Since August 1981, the military authorities have imposed increasingly severe restrictions on the transfer and use of these funds. The "village leagues" appointed by the military authorities, on the other hand, are reported to receive considerable financial support and patronage from the occupation authorities.

83. Co-operation has also come through the United Nations system. In 1979, an inter-agency task force, established pursuant to General Assembly resolution 33/147, identified a number of possible areas for project activities. Most United Nations organizations have been requested by their legislative bodies to give special emphasis to supporting Palestinian development within their scope of activities.⁶⁷ As a result, UNIDO, UNICEF, UNRWA, WHO, the ILO, the United Nations Centre for Human Settlements and others have carried out technical assistance projects; however, in the majority of cases implementation has been outside the occupied territories. UNCTAD, the Economic Commission for Western Asia (ECWA) and UNIDO have been, or are at present, engaged in surveys of industry in the occupied territories, on options for economic development in the event of the establishment of an independent Palestinian State, and on a census of Palestinians living within and outside the occupied territories. Of particular importance has been the assistance executed directly by the United Nations Development Programme (UNDP) in the territories themselves. About \$US 3.5 million has been committed up to now and another \$4 million is allocated for the 1982-1986 programming cycle. UNDP is searching for additional funds to execute a number of projects already prepared. Agencies such as UNESCO, the ILO, WHO and the United Nations Secretariat regularly monitor the conditions in the occupied territories within their jurisdiction, and are submitting periodic reports on the situation.

84. Most organizations, for example the ILO, WHO, UNESCO, the World Intellectual Property Organization (WIPO), UNIDO and the Food and Agriculture Organization of the United Nations (FAO), grant fellowships or organize specialized training courses for Palestinians. Assistance to infrastructure projects seems to be another important form of co-operation, for example health and education. A large part of the co-operation consists of activities carried out outside the occupied territories, such as the many studies and surveys being done, feasibility studies, fellowships and training seminars, technical assistance to Palestinian refugee camps in Jordan, Lebanon and the Syrian Arab Republic, while activities being undertaken directly in occupied territories are limited and are executed by only a few international organizations, primarily UNDP and UNRWA, sometimes with assistance from the ILO, WHO, UNESCO and others. Some studies have been done in co-operation with West Bank residents. The reason for the limited extent of assistance directly executed in the occupied territories has been the considerable reluctance of Israel to authorize project execution. While a number of organizations, such as UNIDO, have not been allowed access, it is primarily with UNDP that special procedures have been developed to obtain the necessary Israeli consent. UNDP is organizing its projects under the direct supervision of its Administrator with the agreement of all parties concerned. It places emphasis on appointing highly qualified and impartial international consultants, obtains prior approval from the authorities for visits to the occupied territories and exercises particular caution with respect to funds paid to subcontracted agencies.⁶⁸

85. There are also a number of international non-governmental organizations engaged in co-operation projects, in particular those based in the United States which often involve United States Agency for International Development (US/AID) funding. Up to 1979, an estimated \$9 million were spent in this manner. It seems that under Israeli rules such projects obtain authorization more easily when the Palestinians act primarily as consumers of services and supplies, as opposed to projects which involve active participation of West Bank residents as part of the project.

86. As has become clear from these observations, the consent of Israeli authorities is of paramount importance for the selection and effective implementation of co-operation projects. The military authorities play an important role by granting or withholding consent. A recent UNRWA report⁶⁹ notes that, apart from the obligation to obtain building permits for school construction, the authorities have intervened by ordering construction work to stop, by delaying permits, by detainment of contractors and other measures. While there is no clear-cut policy on the part of the occupation authorities, it would seem that certain agencies and certain types of project are more acceptable to Israel than others.

87. In view of the difficulty in making an overall evaluation of the benefit of the co-operation discussed for national sovereignty - and no such evaluation has been made to date - it appears necessary to highlight several principal criteria to evaluate projects. Furthermore, given that national sovereignty seems strongly affected by policies that encourage emigration and the giving-up of land, it seems relevant to emphasize such forms of co-operation as they strengthen the residents' ability to hold on to the land and to maintain and obtain stable employment opportunities in the occupied territories.

IX. PROPOSALS FOR FOLLOW-UP AND IMPLEMENTATION

88. In connection with the preparation of the comprehensive report on permanent sovereignty over national resources in the occupied Palestinian and other Arab territories, the General Assembly also requested the Secretary-General to make proposals for follow-up and implementation.

89. It seems evident that this complex question can be fully resolved only with the settlement of the basic political problem which had led to the occupation of the territories concerned. The Secretary-General has called for the search and achievement of a just and lasting settlement of the Middle East problem on numerous occasions, in particular in the comprehensive report on the situation in the Middle East which he submitted to the General Assembly at its thirty-seventh session and to the Security Council A/37/525-S/15451). Pending the settlement of the basic political issues certain interim measures of a practical nature are set forth below.

90. Given the importance of conservation of lands by Palestinians and the importance of maintaining and creating jobs to reduce the flow of emigrants, land conservation and job creation should guide United Nations-sponsored technical co-operation. Technical co-operation could, in the future, give priority to supporting agricultural production and expansion of industries, such as small-scale and family-based crafts, and small-scale manufacturing, capable of providing ample job opportunities in the local economy for the Palestinian labour force. The need to strengthen financing for Palestinian business could result in an intensification of efforts to create and support appropriate indigenous financial institutions in the occupied territories. For example, one could consider, in addition to other measures, a system of loan guarantees given abroad for development loans granted within the occupied territories. The United Nations could study the possibility of facilitating the transfer of funds to the occupied territories through procedures acceptable to all parties concerned, in particular funds designated to assist municipalities and job-creating industrial and agricultural projects. Also, the establishment of a development bank within the occupied territories on the model of national and regional development banks and development agencies could be considered. Such a development bank could seek capital from international financing institutions and from States. External support could be mobilized to fund such an organization and to guarantee its borrowing. When it comes to elaborating studies and surveys, more emphasis could be given to recruiting consultants residing within the occupied territories. Educational support and training could focus more on qualifications which are greatly needed in the occupied territories to discourage emigration of trained and qualified manpower.

91. It is important to devise adequate measures of follow-up and implementation, in particular to continue monitoring developments affecting permanent sovereignty over national resources in the occupied territories. Special emphasis should, in this context, be given to Israeli policies, laws, regulations and administrative practices in the occupied territories, both with respect to Arab residents and to Israeli citizens. An object for an in-depth study could be a survey of the natural resources in the occupied territories, with a focus on the policies relating to water, but also dealing with the quarrying industry and other natural resources available. In order to avoid duplication and for the sake of economy, the General Assembly could consider entrusting this task to existing committees where appropriate.

92. Furthermore, the General Assembly could consider ways to increase the opportunities for marketing Palestinian products to assist existing agriculture and industry. It could also call upon States to increase their financial commitment to pertinent programmes of United Nations assistance. Lastly, it could call upon States to strengthen bilateral technical co-operation programmes in the occupied territories and request the United Nations to encourage such assistance and prepare suitable projects.

Notes

¹ In response to a note verbale from the Secretary-General requesting the co-operation of the Government of Israel in the preparation of the report, the Government of Israel, in a note verbale of 3 September 1982, referred to its previous note verbale, of 3 August 1981, reprinted in A/36/648, appendix VII.

² Of considerable value has been a study published by the Israel National Section of the International Commission of Jurists, The West Bank and the Rule of Law (1981), written with assistance from the military authorities, which is intended to be an explicit rebuttal of the study by R. Shehadeh (assisted by J. Kuttab), International Commission of Jurists, The West Bank and the Rule of Law (1980). In a report submitted in 1982 to the General Assembly (see A/37/347 and Corr.1, annex), the Government of Israel emphasized the progress achieved in the occupied territories subsequent to the occupation in terms of economic, industrial, infrastructural and agricultural development, in employment matters, supply and consumption of water, freedom of trading, financing, education, public health, human rights and the rule of law; however, as that document does not provide disaggregated information for Israeli settlers on one hand and for Arab residents on the other in a number of essential issues (economic and agricultural development; land ownership; water development; population), it can be relied upon only to a limited extent.

³ See Yehuda Z. Blum, "The Missing Reversioner", in Israel Law Review 3 (1968), and the conflicting views of Crown Prince Hassan Bin Talal, Palestinian Self-Determination: A Study of the West Bank and Gaza Strip, London/Melbourne/New York, 1981, and Henry Cattán, Palestine and International Law, 1973. See also A. Gerson, "The legal status of Israel's presence in the West Bank", Harvard International Law Journal, 14 (1973), 1, and M. Arsanjani, "United Nations competence in the West Bank and Gaza Strip", The International and Comparative Law Quarterly, 31 (1982), 426.

⁴ Moshe Drori, "The Israeli settlements in Judea and Samaria: legal aspects", in Daniel J. Elazar, ed., Judea, Samaria and Gaza: Views on the Present and the Future, American Enterprise Institute for Public Policy Research, Washington/London, 1982, p. 54.

⁵ Meron Benvenisti, The West Bank and Gaza Strip Project; pilot study report, American Enterprise Institute for Public Policy Research, 1982, p. 41.

⁶ Jonathan Kuttav and Raja Shehadeh, Civilian Administration in the Occupied West Bank, Ramallah, 1982, p. 20.

⁷ Benvenisti, op. cit., p. 42.

⁸ Drori, loc. cit., p. 67.

⁹ Benvenisti, op. cit., pp. 57-67.

¹⁰ Drori, loc. cit., p. 68.

¹¹ Benvenisti, op. cit., pp. 45 and 47.

¹² United States Department of State reports on Israel's human rights record in the occupied territories (excerpts from the Department's country reports on human rights practices for 1982), Focus, vol. 6 (No. 5), 1 March 1983, p. 1.

¹³ Kuttav and Shehadeh, op. cit. (1982), p. 8.

¹⁴ Ibid., p. 18.

¹⁵ Ibid., p. 21.

¹⁶ Rainer Büren, Ein palästinensischer Teilstaat?, Baden-Baden 1982, p. 199, and Jerusalem Post, 1 February 1982, regarding Israel's proposals in the autonomy negotiations.

¹⁷ See Shehadeh, op.cit. (1980), p. 122.

¹⁸ See Israel National Section of the International Commission of Jurists, op. cit.

¹⁹ Ibid, p. 19

²⁰ Shehadeh, op. cit. (1980).

²¹ Practices committed by the occupation authorities affecting the human rights of the Palestinians have been described in the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories and in the 1982 United States Department of State's Report on Israel's human rights record in the occupied territories.

²² See Israel National Section of the International Commission of Jurists, op. cit.

²³ Benvenisti, op. cit., p. 29. For a defence of Israeli practices of land acquisition, see Israel National Section of the International Commission of Jurists, op. cit. The Palestinian view on the legality of these actions is expressed by Shehadeh, op. cit. (1980).

²⁴ Raja Shehadeh, "The land law of Palestine: an analysis of the definition of state lands", Journal of Palestine Studies, vol. 9, No. 2 (winter 1982), p. 87.

²⁵ Ian Lustick, "Israel and the West Bank after Elon Moreh: the mechanics of de facto annexation", Middle East Journal, vol. 35, No. 4 (autumn 1981), p. 568. Map on p. 569.

²⁶ Benvenisti, op. cit., p. 33.

²⁷ Office of the Crown Prince, op. cit., pp. 7-10.

²⁸ Jerusalem Post and Ha'aretz, 10 April 1983.

²⁹ See P. G. Sadler and B. Abu Kishk, "Options for development", report prepared for UNCTAD, 1983 (unpublished), pp. 30 and 31; A/36/648; and Israeli Settlements in Gaza and the West Bank (including Jerusalem): Their Nature and Purpose, United Nations, New York, 1982.

³⁰ Information provided by the Syrian Government, dated 27 May 1983.

³¹ See Keesing's Contemporary Archives, vol. XXIX, (January 1983), p. 31914.

³² See the reports of the Secretary-General on permanent sovereignty over

national resources in the occupied Arab territories (A/36/648) and the living conditions of the Palestinian people in the occupied Palestinian territories (A/37/238).

³³ Benvenisti, op. cit., p. 23.

³⁴ J. Schwarz, "Water resources in Judea, Samaria and the Gaza Strip", in Daniel J. Elazar ed., Judea, Samaria and Gaza: Views on the Present and the Future, American Enterprise Institute for Public Policy Research, Washington/London, 1982, p. 99.

³⁵ Schwarz, op. cit., p. 99.

³⁶ Ibid., p. 100.

³⁷ See note 30.

³⁸ See A/37/328-S/15277 and Corr.1 and General Assembly resolution 37/122.

³⁹ Statistical Abstract of Israel, 1982, p. 754.

⁴⁰ A/37/238, annex I, chap. IV, sect. A, and reports of the Director-General of the International Labour Organisation.

⁴¹ The Israeli Government report (A/37/347 and Corr.1) states that some Arab workers have been granted special residence permits.

⁴² Benvenisti, op. cit., pp. 7-8.

⁴³ Ibid., p. 8.

⁴⁴ Official Records of the Security Council, Thirty-fifth Year, Supplement for October, November and December 1980, document S/14268, para. 208; A/36/648, annex, para. 14.

⁴⁵ United States Department of State, op. cit., p. 2.

⁴⁶ A/36/648, annex, para. 31; Keesing's Contemporary Archives, vol. XXIX, (January 1983), p. 31914.

⁴⁷ Brian van Arkadie, Benefits and Burdens: A Report on the West Bank and Gaza Strip Economies since 1967, New York/Washington, 1977, p. 137.

⁴⁸ Statistical Abstract of Israel, 1982, pp. 736 and 737.

⁴⁹ See van Arkadie, op.cit., p. 116.

⁵⁰ See Peter Dodd and Halim Barakat, River without Bridges: A Study of the Exodus of the 1967 Palestinian Arab Refugees, Beirut 1969 (The Institute for Palestine Studies, Monograph Series No. 10).

⁵¹ See T. Wälde, "The evolution of international development law", German Yearbook of International Law, 23 (1980), 59, on the general relationship of legal instruments to economic development.

⁵² Benvenisti, op. cit., p. 14.

⁵³ Statistical Abstract of Israel, 1982, p. 741.

⁵⁴ Israel National Section of the International Commission of Jurists, op. cit., p. 64.

⁵⁵ Shehadeh, op. cit., (1980).

⁵⁶ See Shehadeh, op. cit. (1980), p. 66, and Israel National Section of the International Commission of Jurists, op. cit., p. 64.

⁵⁷ Shehadeh, op. cit. (1980), p. 68; Israel National Section of the International Commission of Jurists, op. cit., p. 64.

⁵⁸ See note 30.

⁵⁹ Jordanian Ministry of the Occupied Territory, "The living conditions of the Palestinian people in the occupied Arab areas", (February 1982 to February 1983); report to the mission of the United Nations Centre for Human Settlements, Amman, 1983 (in Arabic).

⁶⁰ Ibid., annex 8.

⁶¹ Ibid., annexes 5-7.

⁶² Letter dated 2 December 1982 from Mr. H. Nasir, member of the Executive Committee of the Palestine Liberation Organization to the Director-General of UNESCO.

⁶³ Office of the Crown Prince, op. cit., p. 16.

⁶⁴ Jordanian Ministry of the Occupied Territory, op. cit., annex 10.

⁶⁵ Rainer Büren, op. cit.

⁶⁶ Office of the Crown Prince, op. cit., p. 16; Newsweek, 5 April 1982.

⁶⁷ See the report of the Secretary-General on assistance to the Palestinian people (A/37/214 and Add.1).

⁶⁸ See UNDP, informal report on project plans for the programme of assistance to the Palestinian people, December 1982.

⁶⁹ See Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 13 (A/37/13), para. 72.