

QUESTION OF PALESTINE: LEGAL ASPECTS

(Document 1)

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the question of Palestine in 1980-1986*

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Note

The papers contained in the present compilation have been reproduced in the form in which they were submitted at the seminars, with minor editorial changes.

I. FIRST UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE

(14-18 July 1980,
Arusha, United Republic of Tanzania)

A. THE PALESTINIAN RIGHTS AND THE UNITED NATIONS

Mohammed Omar Basheer
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Introduction

The Palestinian question was first brought before the United Nations in 1947. Since then the United Nations has increasingly involved itself in the search for a solution. In this process the United Nations and the international community, in the face of continuing opposition from Israel supported by the United States of America, came to recognize it as the core of the Middle East problem.

In the wake of the October 1973 war, a new approach emerged and for the first time it was included in the United Nations agenda as an independent item in its own right. The Palestine Liberation Organization (PLO), as the sole representative of the Palestinian people that had not participated previously in the search for a solution, has granted for the first time, by virtue of General Assembly resolution 3237 (XXIX) of 22 November 1974, observer status. Since then, and as a result of the new level of involvement by the United

Nations and the participation of the PLO, the issue has permeated all activities of the United Nations General Assembly, committees, commissions and agencies.

In 1979 the Security Council, which had previously dealt with the issue in the context of the Middle East situation, was able to overcome the United States veto and adopted resolutions 446 (1979) of 22 March 1979 and 452 (1979) of 20 July 1979 dealing with the Palestinian situation in the occupied territories.

Israel, supported by the United States and Western Powers, had all along opposed these processes. The United States did not fail to use its veto powers when necessary. This did not, however, prevent the international community from concluding that the Palestinian question was the very core of the Middle East problem and the emergence of a comprehensive concept of Palestinian rights.

Palestinian nationalism and Israel

The conclusion by the international community and the emergence of the comprehensive concept regarding Palestinian rights cannot be discussed and understood without reference to the emergence and development of Palestinian nationalism and Israel's attitude to it.

The concept of Palestinian self-awareness, identity and nationalism has existed from the days of the Ottoman Empire. It has developed as part of and side by side with Arab nationalism. During the Mandate period and like other Arab nationalist movements, it developed and came to possess all the attributes of other forms of nationalism. Palestinian nationalism expressed itself in political activities, particularly the demand for an independent Palestinian State. Britain, the mandatory State, failed to meet its obligations to recognize the right of the Palestinians for an independent State as anticipated in the Covenant of the League of Nations. The Balfour Declaration of 1917 committing Britain to support the creation of a Jewish home in Palestine and the large Jewish immigration from outside Palestine from 1922 to 1947 did not dilute the Palestinians' demand for their own State as a matter of right and the fulfilment of Britain's obligation under the Covenant of the League of Nations.

Regardless of the justice or the injustice in the partition resolution of 1947, which created an Arab as well as a Jewish State, this was an affirmation and endorsement by the international community of the existence of Palestinian nationalism and its right of independence on a specific geographical area. Regardless too of the wisdom of rejection by the Palestinians of the partition resolution and their resistance to its implementation, the existence of a Palestinian identity and its right to exist as a nation on its own land was never questioned except by Zionism. The failure to achieve its objectives until now did not in any way weaken that sense of nationalism, identity and right to independence.

The establishment of Israel, the expulsion of a large part of the Arab population, the incursion of an alien Jewish population and the occupation of territories belonging to the Arab people of Palestine did not kindle this nationalism. On the contrary, it has nourished and promoted its self awareness and identity. Israel all along has continued to deny and reject that there is anything called Palestinian nationalism.

This is part and parcel of Zionist ideology and policies. Theodor Herzl took no notice of the Palestinians (about 500,000 at the time) when he visited Palestine in 1898. David Ben-Gurion stated in 1917 that "in the historical and moral sense" Palestine was a country "without inhabitants". 1/ Golda Meir said in 1969: "There was no such a thing as Palestinians." 2/

When the Camp David agreements were signed, Menachem Begin assured the Israelis that the phrase "legitimate rights of the Palestinian people", as contained in the Framework for Peace, "has no meaning".

The Israelis not only reject Palestinian nationalism, they also fear it because of its demand for an independent State. The Israeli hawks and doves are united on this. Meir Merhan, a senior correspondent for The Jerusalem Post, argued that this consensus is partly the result of a false perception of reality, partly the outcome of faulty logic and partly the product of an irrational mixture of mystical belief, aggressive romanticism and traumatic fears which cannot be upheld in today's world.

The policy did not, of course, lack its critics from among Israel's supporters. Nahum Goldman rejected the claim by Israeli leaders that Palestinian nationalism and statehood were illegitimate. As recently as May 1980, Don Roven, an Israeli who describes himself as a survivor of the Holocaust, and a dove, wrote the following:

"Having studied the issue of self-determination in world politics, I recognize this as a right that the Palestinians must be accorded. The Palestinians should have the right, both in principle and in practice, to control their lives and not be ruled by Israelis or anyone else. If independent statehood rather than 'mere' autonomy is what they want, I for one support their quest for statehood." 3/

Notwithstanding all of this, the Israelis in the final analysis reject the inalienable rights of the Palestinians, as defined and expressed by the international community represented by the United Nations, the only international forum.

Inalienable rights of the Palestinians

The inalienable rights of the Palestinians, as defined in different resolutions of the United Nations at different times, include the following:

- (a) The right to self-determination without external interference;
- (b) The right to national independence and sovereignty;
- (c) The right to territorial integrity and national unity;
- (d) The right to regain their rights by all means;
- (e) The right to be represented as a principal party in the establishment of a just and durable peace;
- (f) The right to their homes and property from which they have been displaced and uprooted;
- (g) The right in the occupied territories to permanent sovereignty and control of their natural resources;
- (h) The right to full compensation for the damages done to their natural and human resources;
- (i) The right to education and culture and the means for enjoying these and to preserve their national identity.

Right of self-determination

The right of self-determination and equality is entrenched in the Charter of the United Nations (articles 1 and 55) and the Universal Declaration of Human Rights. It is a natural right. In the context of United Nations resolutions, this right was spelt out for the first time in clear and unambiguous terms in General Assembly resolution 3236 (XXIX) of 22 November 1974. It was the first time that the United Nations had reasserted that this fundamental right was not negated by the United Nations decision in 1947 to partition Palestine and to create an Arab and a Jewish State. The United Nations, in subsequent resolutions during the period 1975-1980, repeatedly reaffirmed these rights (see resolutions 3376 (XXX) of 10 November 1975, 31/20 of 24 November 1976, 32/40 A and B of 2 December 1977, 33/28 A-C of 7 December 1978, 34/65 A and B of 29 November 1979 and 34/65 C and D of 12 December 1979).

Analysis of the voting will show how the international community had come to a consensus, if not unanimity, on this issue while Israel and the United States continued to oppose and frustrate it. The European Community countries, which had in the past either opposed or abstained, have recently departed from their previous path. In their Venice declaration on the Middle East, made on 13 June 1980, the European Council moved towards this consensus. It is not surprising that Mr. Begin, true to himself, reacted in the violent way he did.

As for the Security Council, it discussed the issue of political rights of the Palestinian people first in January 1976 and since then, in the context of the renewal of the United Nations Disengagement Observer Force (UNDOF), the situation in the Middle East or Lebanon. It was only in 1979 that the Security Council was able to overcome the traditional United States veto by adopting two resolutions regarding the Palestinian situation in the occupied territory (resolutions 446 (1979) of 22 March 1979 and 452 (1979) of 20 July 1979).

The most recent resolution (465 (1980) of 1 March 1980) unanimously adopted by the Security Council, and later repudiated by the Carter Administration, deplored, among other things the actions and policies of Israel in the occupied territories. A senior member of the Palestine National Council, commenting on the United States action, wrote as follows:

"The claim that the United States representative's vote on 1 March 1980 was 'unprecedented' in any way, or represented in any sense a 'change in policy' is ... a vicious nonsense'. What is truly unprecedented is the repudiation by a chief of state of his country's vote in the Security Council two days after it has been passed. What does represent a basic change in policy indeed, a conspicuous retreat from established, principled positions, is the reinstatement of American policy on Israeli settlements and on the future of Jerusalem, contained in President Carter's statement of 3 March 1980 and in his press conference of 14 March 1980.

"The new American policy has travelled away from the universal principles to which it once adhered." 3_/

Although the Security Council has failed so far to take action on the right of the Palestinians to self-determination, sovereignty and other political rights, United Nations commissions and agencies have recognized these rights. The Commission on Human Rights has recognized the importance of self-determination as a basic human right and as the prerequisite for the exercise of all other human rights. In its resolution of 1978 entitled "The right of peoples under colonial or alien domination or foreign occupation" (resolution 2 (XXXIV) of 14 February 1978), the Commission affirmed "The inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine". In another resolution in the same year (resolution 3 (XXXIV) of 14 February 1978),

the Commission reaffirmed the inalienable rights of the Palestinians to "self-determination, national independence, territorial integrity, national unity and sovereignty without external interference".

All agencies and committees of the United Nations today recognize the PLO as the only representative of the Palestinian people and accord it observer status in its meetings.

Economic, social and cultural rights

The General Assembly, the Economic and Social Council, the World Health Organization (WHO), the Food and Agriculture Organization of the United Nations (FAO) and the International Labour Organisation (ILO) have in recent years increasingly concerned themselves with the economic and social conditions of the Palestinians both inside and outside the occupied territories. The issues that these different agencies have underlined as adverse and damaging to the economic and social well-being of the Palestinian people and contrary to its inalienable rights include: the misuse of natural resources, the misuse of the Arab labour force, the damaging settlement policy, the increasing emigration of Palestinians to Arab countries, the controlling of water resources, the destruction of Arab homes and interference into family rights and customs. On all these issues, the different commissions and agencies pointed to the illegal exploitation by the Israeli Government of the natural wealth, resources and population, which was adversely affecting the economic and social welfare of the people. These were not merely charges but substantiated findings.

Aspects of educational and cultural rights have been the concern of the United Nations Educational, Scientific and Cultural Organization (UNESCO) since 1950. From 1974 and until now, UNESCO has increasingly dealt with the right of the Palestinians to education and culture to preserve their national identity. UNESCO associates Israel's occupation with colonialism, racism and apartheid in southern Africa. It considers that the PLO is a liberation movement, and allocated funds to it to maintain the unique cultural identity of the Palestinians (see UNESCO General Conference resolution No. 20 C (1.40 of 24 November 1978)).

Human rights issues

In discussing human rights issues, reference should be made to the Charter of the United Nations (1945), the Universal Declaration of Human Rights (1948) and the Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949). The arbitrary arrests, deportation and torture carried out by Israel are grave breaches of articles 5, 9 and 10 of the Universal Declaration of Human Rights. The denial of the rights of the Palestinian refugees and displaced persons to return to their homes and denying students studying abroad the right to re-enter is a breach of article 13 of the same declaration. Land expropriation, the establishment of settlements, the demolition of houses, the barring of Palestinians from entry to the Holy Places, the censoring of magazines, journals and books, the discrimination in wages, the wholesale punishment of families and the practice of torture, are other examples of breaches of articles 13, 17, 18, 19, 20 (1), 23 (1) and (3), 4/ inter alia, of the Universal Declaration of Human Rights.

Conclusion

Over a period of more than 30 years, the United Nations has been able to define the inalienable rights of the Palestinians not only in general terms but in detail. It has been able to provide assistance in some instances. In both cases, this was achieved in the face of Israel's opposition, blackmail and deliberate actions of violence. The United States continuously came to its rescue and prevented necessary action by the use of the veto in the United Nations, by providing Israel with economic and military power, by denying the existence of Palestinian nationalism and by not recognizing the PLO as the sole representative of the Palestinian people.

The near consensus reached by the international community is reflected in the voting at the United Nations and other agencies. The Movement of Non-Aligned Countries, the Organization of African Unity (OAU), the Organization of the Islamic Conference, and the World Peace Council have all made their positions on these issues known in very clear terms. The charges and accusations levelled against the United Nations and third world alliances by Moynihan, Begin, Carter, the Israeli lobby in the United States and the hawks have not in any way belittled the United Nations efforts and the positive actions it has taken and which have finally led to the emergence of a framework for a comprehensive proposal for a peace settlement of the Middle East problem based on the recognition of the inalienable rights of the Palestinians supported by the overwhelming majority of countries of the world.

It is precisely because of the departure of the Camp David agreements from this comprehensive approach that they are rejected by the Palestinian people and its sole representative, the PLO. They are, however, not alone in this. The Venice declaration on the Middle East of the European Council recognized the failure of the Camp David agreements in addressing themselves to the Palestinians. Why is there a consensus in rejecting the Camp David agreements?

(a) According to Fayez A. Sayegh, "the Camp David agreements envisage a final solution of the Palestinian problem which precludes the exercise of the inalienable national rights of the Palestinian people to self-determination and statehood in Palestine and the elementary right of the Palestinian people to choose and designate its national representative"; 5/

(b) They divide the Palestinian people into separate categories and offer different formulas for dealing with their respective situations. In this way their unity is brought to an end. The dismemberment of the Palestinian people - which is in itself a symptom of its tragedy - was transformed at

Camp David into a permanent feature; 6/

(c) They represent an imposed settlement. They were made in the absence of the Palestinian representatives and "thereby violate both their inalienable rights and aspirations. Palestinian participation is by proxy and the role of participating Palestinians is limited. The Camp David framework will go down in the history of Palestine alongside the Balfour Declaration, the League of Nations Mandate, the partition resolution of the United Nations General Assembly and Security Council resolution 242 (1967) - all of which dealt with Palestinians as objects and ignored both their inalienable rights and their known aspirations"; 6/

(d) The Camp David framework exclude in practice, not in words, the most important elements of the term "legitimate rights", i.e., sovereignty, statehood, self-determination, and return;

(e) It has been reached outside and in contradiction to United Nations resolutions and approach to reach a comprehensive settlement.

In answer to the question "What does the Camp David framework for peace promise to the Palestinians?" Fayez A. Sayegh, in his excellent study, answers as follows:

"A fraction of the Palestinian people (under one third of the whole) is promised a fraction of its rights (not including the natural right to self-determination and statehood) in a fraction of its homeland (less than one fifth of the area of the whole); and this promise is to be fulfilled several years from now through a step-by-step process in which Israel is able at every point to exercise a decisive veto power over any agreement. Beyond that, the vast majority of Palestinians is condemned to permanent loss of its Palestinian national identity, to permanent exile and statelessness, to permanent separation from one another and from Palestine - to life without national hope or meaning." 7/

The assumptions that the Arab-Israeli conflict is a historical conflict between Jews and Arabs or that it is a psychological one is false. It is a contemporary political struggle, material and physical. The Palestinian struggle is not for autonomy, which is an administrative formula and a negation of self-determination. The Palestinian political struggle, like that of other national liberation movements, seeks to achieve independence, statehood and sovereignty for the Palestinian people. This is its inalienable right and it is entitled to it like other people in the world. It is not asking for something abnormal or exceptional, only for the fulfilment of its inalienable rights, political, economic, social and cultural - as defined by United Nations resolutions and supported by the international community of nations.

Notes

1/ Quoted by S. Tillman, Israel and Palestinian Nationalism, Journal of Palestine Studies, vol. IX, No. 1, Autumn 1979, issue 33, p. 62.

2/ The New York Times, 23 May 1980.

3/ Fayez A. Sayegh, "Another American Flip-Quolf", Arab Perspectives, vol. I, No. 1 (April 1980).

4/ For samples of violations of rights, see Karim Khalaf and Mohamed Milhelum, "Palestinians and Human Rights" (World Peace Council, 1979).

5/ Fayez A. Sayegh, Camp David Agreement and Palestine (League of Arab States, 1980), p. 2.

6/ Ibid., p. 3.

7/ Ibid., p. 10.

B. THE LAND QUESTION IN PALESTINE AND EASTERN AND SOUTHERN AFRICA A comparative and historical study of two colonial tragedies

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The land question, in general, is as old as people and nations. It is part of a world problem and must be seen in this context in order to understand the specific land question that is the subject of the present paper. The quest for land and the attempt to recover it when it is lost, is a recurring theme in the drama

of human endurance and survival. Stability on a piece of land that a people can call its own is the basis for its nationhood, its culture and religion: in essence, its humanity.

In my assessment of the fundamental rights of the Palestinian people, I will be, figuratively, looking through several historical windows. My main focus will be the land question. I will emphasize the importance of the land question in Palestine by comparing it with the land question in Eastern and Southern Africa. My intent is to show that the method and rationale that were used by the Europeans to take the land from the Africans in the so-called White Highlands of Kenya, in Zimbabwe, then called Rhodesia, and in South Africa, where the Dutch or Boers encountered the Khoisan people whom they called Bushmen and Hottentots, were basically the same. 1/

Further, I intend to show that the pattern of land encroachment by the Europeans was part of a war against the cultures and customs of non-European people and it differed, only by degree, at different times and in different places. In her Ph.D. thesis, "The dominant modes of Western thought and behavior: an ethnological critique", Professor Donna Richards referred to this behaviour of Europeans as "the concept of the cultural other". She says:

"It is in the nature of the Western ethos that one of the most accurate indices of Western man's self-image is his image of other ... The essential characteristics associated with this concept, within the Western world view, are control and consequently power - the theme which reverberates endlessly in the ethnological unfolding of Western culture, echoed in every Western statement of value." 2/

In another work, entitled "The ideology of European dominance", Professor Richards continues her examination of the European world view. She says:

"It is possible to isolate certain seminal ideas which have served as organizing principles in Western scientific thought ... These themes are intimately related to the Western European attitude toward other peoples and imply a particular relationship to them, which will subsequently be referred to as 'ethos'. ... The Western European ethos appears to thrive on the perception that those who are culturally and radically different are inferior. It relates to other cultures as superior or inferior, as powerful or weak, as 'civilized' or 'primitive'. The European world view reflects these relationships. It was the Western European ethos that created 'the savage'." 3/

If we understand what Professor Richards has said, we will also understand, at least in part, that temperament and attitude of the Ashkenazi Jews who control that part of Jerusalem that is called Israel.

They are more European than Jewish. They are, in fact, a European nation. Their problem, however tragic it is, was started in Europe by Europeans and should have been resolved in Europe by Europeans. In the books "Democracy in Israel", the writer Norman F. Dacey calls our attention to the main aspect of this dilemma when he says:

"Jews in Israel don't persecute just Arabs - they persecute each other. The discrimination which is the hallmark of the life in the Zionist State is responsible for a widening gap between Western Ashkenazi Jews and the oriental or Sephardi Jews." 4/

Discrimination against the oriental Jews continues in housing, in jobs and in education. Their plight in Israel is the plight of a subject people. These oriental Jews once lived all over Western Asia, called the Middle East. Zionist propaganda enticed them to come to Israel, when the State was created. The European Jews never accepted them as their equals, although they belong to the same religion.

Oriental Jews had established communities in Baghdad in Iraq and in other Middle Eastern countries 12 centuries before Islam arrived. These Jews have not related to zionism because zionism was not created by them or for them. 5/

Zionism has a direct relationship to European colonialism. It developed out of the same political incubator at about the same time. In its racist attitudes and treatment of Arabs, oriental Jews and the small number of American blacks who have settled in Israel, zionism relates more to the Calvinist Christianity of the Boers in South Africa. The Arab communities in Israel and on the West Bank are surrounded by Jewish settlements that are armed camps, established to contain the Arabs and control the land.

These Arab communities are similar to the black communities in South Africa that the Boers call bantustans. In both cases the intent is the same: to deny the Arabs and the Africans any kind of sovereign rights in their own land. Whether the system is practiced in Israel or in South Africa, it is what the Boers call "apartheid". 6/

The word apartheid was coined by the Boer intellectuals for the general election of 1948 that brought the Boers to political power. The condition of apartheid existed long before the word, and the British are more responsible for creating the condition than the Boers. The word, with the promise to keep the Africans "in their place", caught on immediately among the white racialists who saw apartheid as a means to advance themselves at the expense of the Africans. The condition of apartheid also meant that the Africans, like the Arabs in Palestine, could be made to feel alien in their own land.

The Palestinian writer and scholar, Fayez A. Sayegh, emphasized this point in his pamphlet, "Twenty Basic Facts about the Palestine Problem" when he said: 7/

"... Israel has additionally imposed a system of apartheid upon the Arabs who stayed in their homeland ... More than 90 per cent of these Arabs live in 'security zones'; they alone live under martial law, restricting their freedom to travel from village to village or from town to town; their children are denied

equal opportunities for education; and they are denied decent opportunities for work, and the right to receive 'equal pay for equal work'."

Dr. Sayegh remind us that, in spite of this fact, Israel is generally portrayed in the Western press as the "bastion of democracy" and the champion of peace in the Middle East. The propaganda in Israel's favour could not turn the facts around. This nation was established, at the expense of the Arabs, at the intersection of three continents. Geographically, Israel is located at the back door of Europe, the side door of Asia and the front door of Africa. Since its inception as a State the rules of Israel have behaved as though they were the colonial masters in this part of the world. The Arabs in Israel are treated like colonial subjects.

Dr. Sayegh explains this dilemma more precisely in his pamphlet, "Palestine, Israel and Peace", when he said: 8/

"The crux of the Palestine problem is the fate of a people and its homeland. It is the piecemeal conquest and continued seizure of the entire country by military force. It is the forcible dispossession and displacement of the bulk of the indigenous population, and the subjugation of the rest.

It is also the massive importation of alien colonists - to replace the evicted, and to lord it over the conquered. And it is the colonization, by the foreign settlers, of both the expropriated private land and the seized national resources of the overpowered people. It is, indeed, the destruction of the native Palestinian society of Christian and Muslim Arabs, and its replacement by a society of transplanted Jews and a foreign body politic - which views itself as the vanguard of the 'Jewish nation', currently spread throughout the world but declared destined sometime to assemble in the seized land.

"The refusal of the Arab world to acquiesce in this fate of Palestine and its people explains both the bitterness and the persistence of the Arab-Israeli conflict. It also underscores the essential difference in character between this conflict and ordinary international disputes. And it explains why the Arab-Israeli conflict cannot be resolved until the Palestinian problem is settled through restoration of the rights of the Palestinian people."

There is no intent on the part of the Israelis, not even the liberals or the Communists, totally to restore the rights of the Palestinian people. The liberals and Communists want an improvement in the living condition of the Palestinians. They do not want the Palestinians to come to power, nor are they willing to share power with them. What is called Israel and the West Bank is European-controlled territory. This means Ashkenazi control. The slight improvement in the living and political conditions of the oriental Jews in Israel in recent years does not mean that they will ever come to power. In an article contributed to the book Zionism and Racism, the writer Naseer H. Aruri explains the plight of the oriental Jews of Israel in this manner: 9/

"That Israel's oriental Jews have been subjected to social, economic and racial discrimination is no longer considered controversial. Although constituting about 60 per cent of the population, they are less than first-class citizens. Their representation in the State's social, economic and political institutions is strikingly incompatible with their numerical majority, while the European-American (Ashkenazi) communities are represented far out of proportion to their numbers. Disabilities imposed on the oriental sector are rampant in employment, education, housing, income, social welfare and political participation. Disparities between the two Jewish communities have grown worse in all these areas since the establishment of the Zionist State in Palestine; and there are no indications that the social gaps are narrowing. On the contrary, the available statistical data reveal a widening of the gaps.

"The largest share of the national income in Israel goes to the highest strata of capitalists and managers, workers and government bureaucrats are strategically situated to push for higher incomes. Jews of the oriental communities have no professional skills to speak of and, consequently, are unable to compete in their category. Their presence is most prominently observed in the lowest strata of the socio-economic pyramid, that of the manual workers in industry and agriculture, 'the only group whose share of the national income has increasingly diminished'. Poverty in Israel is closely linked with ethnic origin."

There is no need at this point to argue whether zionism is a form of racism. In the face of so much persuasive evidence, proving that it is redundant and a waste of time. The Arabs in Israel, and to a lesser extent, that is slight, the oriental Jews, live in a condition that does not differ appreciably from the system of apartheid in South Africa. The Ashkenazi Jews of Israel have almost complete control over their lives - their land, their jobs, their housing, and their education.

The Chairman of the Israeli League for Human and Civil Rights, Israel Shahak, states that, "Israel is about as apartheid as South Africa". He referred first to the difficulty Arabs and oriental Jews have in obtaining decent housing. 10/

His comments are:

"This isn't the only thing. If you go any place where there are so-called twin cities, like Nazareth and New Nazareth, you will see that the old Nazareth is an open city. Anyone can come, and by buying or selling or by agreement can dwell there. But in New Nazareth, the so-called Upper Nazareth, to obtain a flat, you have to bring proof that you are a Jew.

"A society in which such a thing is required for more than 90 per cent of its inhabited areas has no other name than an apartheid society. Exactly the same proof is required in Johannesburg. The only

difference is that people know about Johannesburg, but not about Nazareth.

"This goes for many other areas too. For example, you have now an official plan in Israel for what is called the 'Judaization' of Galilee. This means that the Government thinks there are too many Arabs in Galilee, so it has decided officially and openly to confiscate some of their land, convert it into pure Jewish land, and settle only Jews there."

What we need to consider here is that the treatment of the Arabs and the oriental Jews in Israel has no justification in Judaism or Christianity. This treatment violates the moral codes of both of these religions.

Again referring to the treatment of the Arabs and oriental Jews in Israel, Mr. Shahak says:

"We are on a much lower level than blacks in the United States because there is no recourse. No one can even do the same sort of job that the NAACP [National Association for the Advancement of Colored People] does in the United States. There is no possibility of bringing any case about discrimination, even the most blatant, to any court, because in Israel there is no law forbidding discrimination against non-Jews. On the contrary, all discrimination against non-Jews is completely legal."

What we have here is the lack of recognition of the Arab people as human beings. This attitude towards the Arabs is as racist as any attitude the Nazis ever held toward the Jews. In a booklet on the subject, "Looking beyond coexistence - prospects of a binational Palestine", Alan R. Taylor recalls the official nature of this attitude. 11/

In 1967, just after the June War, a delegation from the United Kingdom representing the House of Commons, visited Jerusalem and was told by the Chairman of the Knesset Foreign Affairs Committee that the Palestinians "are not human beings, they are not people, they are Arabs". The same sentiment was expressed by Golda Meir two years later in a Sunday Times interview:

"There was no such thing as Palestinians ... It was not as though there was a Palestinian people in Palestine considering itself as a Palestinian people and we came and threw them out and took their country away. They did not exist."

This inclination to dehumanize an entire people, to deny its very existence, comes out of Western racism. Israel's main difficulty in the Middle East stems from the failure to recognize the Arabs as a people with the right to live in peace, in all or part of Palestine. Before the introduction of Zionism this was no problem. Jews and Arabs had met many times on the crossroads of history and most of the time they complemented each other. Zionism introduced a conflict between the Arabs and the Jews that did not previously exist. The pogroms and persecutions that the Jews suffered in Europe had no counterpart in the Arab world. The early settlement of European Jews in Palestine, in the late nineteenth and in the early part of the twentieth century, had the goodwill and cooperation of the Arabs. The early settlers presented themselves as a simple humane people escaping from the religious and political persecution of Europe. Behind this idealistic guise the real and previously unannounced intentions of Zionism were introduced. The leaders of the movement did not want a part of Palestine. They wanted all of it. Humane Zionists who respected rights of the Arabs and advocated a binational State were ignored or expelled from the Zionist movement. 12/

It became known that the leaders of the Zionist movement intended from the outset to colonize and take over Palestine and to establish there a Jewish State "as Jewish as England is English". To this end the Zionists propagated the myth that Palestine was an empty land crying out for settlers. The existence of a large population of Arabs was ignored or brushed aside. 13/

The European Jews who carved a country called Israel out of Palestine, created a country with double standards, one for the Israeli Jews and another for the Palestinian Arabs. The conflict between the Arabs and the Jews was built into the fabric of the Government. The main intention of the Zionists was to destroy every element of stable life among the Arabs and control the land.

The conveners of the twenty-third World Zionist Congress, held at Jerusalem in 1951, were very clear about what they expected of Zionism. This was the first such congress after the establishment of the State of Israel. The programme that was adopted began by saying: "The task of Zionism is the consolidation of the State of Israel".

The sponsors of this Congress were boldly talking about a political and not a religious action. While Zionism might mean different things to different people, to the sponsors of this Congress it meant control - control over the lives of the Arab people, especially control over its land. The following information extracted from the pamphlet, "Zionism and racism - a case to answer", explains in some detail what I mean:

"In summary, the nature and extent of racial discrimination which is built into the administrative and social framework of the Zionist State of Israel are these:

"1. An Arab living under Israeli rule in Israel may be arbitrarily excluded from land which he and his forebears have owned for generations. He may have his land confiscated and handed over to Jewish settlers. He may then be prohibited from even working on that land. His whole village may be razed to the ground. (Three hundred eighty-five Arab villagers in Israel have been wiped out in this way.)

He and his whole community may suffer gross discrimination in housing, municipal services, education and social welfare. He may be refused nationality and citizenship even though he was born in the territory of Israel and has lived there all his life and even though any Jewish newcomer from anywhere in the world automatically receives Israeli nationality. (Thousands of Palestinian Arabs are in this stateless condition in Israel.)

"2. An Arab living under Israeli rule in the occupied territories may be arrested arbitrarily and detained without trial. He may be deported from his native land without judicial process or appeal. His home may be blown up or bulldozed on a simple order from the local military commander. His land may be confiscated for ostensibly military purposes, but in fact for the purpose of Israeli Jewish colonization. His freedom of movement may be restricted. He cannot express political opinions or engage in political activities without risk of arrest and detention or deportation.

"3. An Arab refugee living in exile whose home is in Israel or the occupied territories and who was uprooted from it in the wars of 1948 and 1967 is prevented from returning home because he is an Arab and not a Jew - and this in spite of repeated United Nations resolutions calling on Israel to allow him to return. Meanwhile any Jew is free to enter and settle in Israel, even though he has never seen the country before in his life." 14/

The land question was at the base of the Arab-Israeli conflict from the beginning and it still is. The Camp David agreement, which I will come back to later, only accentuated the conflict and further alienated the Arabs.

This conflict has long historical roots and it was fully developed before the representatives of the Zionist movement signed Israel's Declaration of Independence on 14 May 1948. They declared that the new State would be "open to Jewish immigration and the ingathering of Jewish exiles". In the meantime nearly a million Arabs were forced into exile. The leaders of the Zionist movement, now the new rulers of Israel, had stood before the world and promised to "maintain complete equality of social and political rights for all its citizens, without distinction of creed, race or sex". Further, they had called on "the sons of the Arab people dwelling in Israel to keep the peace and play their part in building the State on the basis of full and equal citizenship". This was a hollow promise that was never meant and never kept. In his report of September 1948, United Nations Mediator for Palestine, Count Folke Bernadotte, issued this warning:

"It would be an offence against the principles of elemental justice if these victims of the conflict were denied the right to return to their homes while Jewish immigrants flow into Palestine, and indeed offer at least the threat of permanent replacement of the Arab refugees who have been rooted in the land for centuries." 15/

The report laid bare the crucial essence of the Palestinian conflict. It did not move the Zionists from their position or help the Arabs at all. Israel's new Prime Minister, David Ben-Gurion, said, "We must do everything to ensure that they [the Arabs] never return." No influential Israelis raised their voice in defiance of Count Bernadotte's call for "elemental justice" for the Arabs now being driven from their homes. The day after completing his report, Count Bernadotte was murdered by Jewish terrorists. The Arab refugee problem became an international problem, and as the Jewish-American journalists would later remark, "the moral millstone about the neck of world Jewry".

The Defence Laws that the new State of Israel had inherited from the British Mandatary Government that had ruled Palestine between 1922 and 1948 were rewritten and made more stringent against the Arabs. Now, at last, some influential Israelis found their voices and spoke out against these laws. At a conference of the Jewish Lawyers' Association, held at Tel Aviv in February 1946, a future Justice of the Supreme Court in Israel made the following statement about these laws:

"These laws ... contradict the most fundamental principles of law, justice and jurisprudence. They give the administrative and military authorities the power to impose penalties which, even had they been ratified by a legislative body, could only be regarded as anarchical and irregular. The Defence Laws abolish the rights of the individual and grant unlimited power to the administration." 16/

The representative of the Jewish Agency, Bernard Joseph, who was later to become Israel's Minister of Justice, went even further:

"With regard to the Defence Laws themselves, the question is: Are we all to become the victims of officially licensed terrorism, or will the freedom of the individual prevail? Is the administration to be allowed to interfere in the life of each individual without any safeguards for us? there is nothing to prevent a citizen from being imprisoned all his life without trial. There is no safeguard for the rights of the individual. There is no possibility of appeal against the decision of the Military Commander, no possibility of resort to the Supreme Court and the administration has unrestricted freedom to banish any citizen at any moment." 16/

Even more emphatic was a future Attorney-General of Israel, Ya'acov Shimshon Shapiro, who later succeeded Mr. Joseph as Minister of Justice:

"The system established in Palestine since the issue of the Defence Laws is unparalleled in any civilized country; there were no such laws even in Nazi Germany ... They try to pacify us by saying that these laws are only directed against malefactors, not against honest citizens. But the Nazi Governor of occupied Oslo also announced that no harm would come to citizens who minded their own business. It is our duty

to tell the whole world that the Defence Laws passed by the British Mandatary Government of Palestine destroy the very foundations of justice in this land."

The Israeli legal system is based mainly on the Defence Laws and they have used them more ruthlessly than the British who originally created them. The purpose of these laws is to continue the movements of the Arabs and control the land, by any means necessary. This hunger for the land had manifested itself among European Jewish settlers in Palestine long before the creation of the State of Israel. Unfortunately, the Arabs were not aware of the intentions of the Zionist movement. In his pamphlet, "Twenty Basic Facts about the Palestine Problem", Fayez A. Sayegh raises these questions about the progression of the land problem in Palestine:

"DO YOU KNOW:

"1. THAT, when the Palestinian problem was created by Britain in 1917, more than 90 per cent of the population of Palestine were Arabs? ... And that there were at that time no more than 56,000 Jews in Palestine?

"2. THAT more than half of the Jews living in Palestine at that time were recent immigrants, who had come to Palestine in the preceding decades in order to escape persecution in Europe? ... And that less than 5 per cent of the population were native Palestinians Jews?

"3. THAT the Arabs of Palestine at that time owned 97 1/2 per cent of the land while Jews (native Palestinians and recent immigrants together) owned only 2 1/2 per cent of the land?

"4. THAT, during 30 years of British occupation and rule, the Zionists were able to purchase only 3 1/2 per cent of the land of Palestine, in spite of the encouragement of the British Government? ... And that much of this land was transferred to Zionist bodies by the British Government directly, and was not sold by Arab owners?

"5. THAT, therefore, when Britain passed the Palestine problem to the United Nations in 1947, Zionists owned no more than 6 per cent of the total land area of Palestine?

"6. THAT, notwithstanding these facts, the General Assembly of the United Nations recommended that a 'Jewish State' be established in Palestine? ... And that the Assembly granted that proposed 'State' about 54 per cent of the total area of the country?

"7. THAT Israel immediately occupied (and still occupies) 80.48 per cent of the total land area of Palestine?

"8. THAT this territorial expansion took place, for the most part, before 15 May 1948: i.e., before the formal end of the British Mandate and the withdrawal of British forces from Palestine, before the entry of Arab armies to protect Palestinian Arabs, and before the Arab-Israeli war?

From its inception, the State of Israel and the Ashkenazi Jews, who are its rulers, were an extension of Europe. This is reflected in their temperament, in their intentions and in the arrogant, racist attitude they have towards the Arabs and the oriental Jews. Israel is the most westernized country in the Middle East.

It is only geographically a part of Western Asia. The socio-culture of Israel is completely alien to the Middle East. The oriental Jews are more a part of the history and culture of the Middle East. They are an Arabized people who have lived in peace in North Africa and in Western Asia for more than a thousand years.

If there are any descendants of the Jews of biblical times, the oriental Jews are most likely those descendants. I repeat, the Ashkenazi Jews are European creations. 17/

There is a need now to look at the history of the Arabs and the Jews, at least briefly, in order to see that the conflict over Palestine and who is entitled to it as a homeland, was not completely settled in ancient times and it is not settled now. Palestine is at the crossroads of the world - a meeting place for the people of three continents. Since 3500 B.C. the main population in this part of the world has been a people called Semites. They were then, as they are now, a people of many colours and cultures. In 2500 B.C. a branch of the Semite people settled in what is now Palestine. They were called Canaanites, after the first name of the country, Canaan. About 2000 B.C., the migrants from the Arabian Peninsula stabilized themselves into new State formations.

When we meet the people now called Jews for the first time in history, they are migrants from that crossroads of the world in Western Asia, now called the Middle East. Their leader is Abraham. At the time he led his people into Egypt, the civilization and the monarchy of Egypt was already old. The pyramids had been built hundreds of years before, and the origin of the sphinx was already a mystery. 18/

Egypt was invaded for the first time in 1675 B.C. by a people from Western Asia called the Hyksos, or Shephard Kings. This invasion turned Egypt's first age of greatness into a nightmare. According to tradition, and the Bible, during this time, 70 Jews, grouped in 12 patriarchal families, nomads without industry or culture, entered Egypt. These Jews left Egypt 400 years later, 600,000 strong, after acquiring from African people all of the elements of their future religion, tradition and culture, including monotheism.

Whoever the Jews were when they entered Africa, when they left 400 years later, they were ethnically, culturally and religiously an African people. The people called Jews did not enter Europe in any

appreciable numbers until after 70 A.D.

It is open to question whether the European Jews have any traceable ethnic and cultural ties to the Jews of the ancient world, who were the first Jews to claim Palestine as their homeland. This first claim by the Jews of Western Asia was based on evidence that is shrouded in myth, and a question that still begs for an answer. Who said that Palestine was theirs to be taken without the consent of the people who were living there? For over a thousand years the country that the Jews would later call Palestine was populated by a people called the Canaanites. According to the traditional account of the Jewish flight from Egypt, around the year 1200 B.C., the Hebrews, led by the prophet Moses, fled from Egypt, and crossing the Sinai Peninsula settled in the area east of the Dead Sea. Under the leadership of Joshua, the Hebrews invaded the State of Canaan. Crimes of the most heinous nature were perpetrated against the inhabitants. These crimes are recorded in the Old Testament. This was an imperialist invasion, no different from many others in history. The inhabitants who were not killed were reduced to servitude, and thus the Jews took over Palestine for the first time.

They were only able to occupy parts of Palestine and the area east of the Jordan River. In the year 1020 B.C., King Saul established their first State. He was followed by King David and King Solomon who ruled until 923 B.C. Here the Jews gained their first experience in agriculture, urbanization and statecraft.

In 586 B.C. the Babylonians brought an end to the reign of the Hebrews in Palestine. During the years of their reign, the original inhabitants of Palestine remained in continuous residence. For the next 400 years, one invader after another laid claim to Palestine, the Persians in 538 B.C., the Greeks, under the leadership of Alexander the Great, in 331 B.C., and the Romans, in 64 B.C.

A great wave of Arabs from the Arabian Peninsula settled in Palestine in the year 636 A.D. This massive migration was not the first Arab population in Palestine. The Arab identity with Palestine was reaffirmed and that identity with Palestine has not been broken to this day.

From 1517 to 1917 Palestine was under the rule of the Ottoman Empire. For Arab support of the Allies in the First World War, they were promised independence. This promise was not kept. Colonialism and subsequently Zionism followed. This was part of a broader picture of European expansion that had started in the fifteenth century and would climax in the closing years of the nineteenth century. The Europeans were looking for new land, labour and raw materials. Jews were a part of this search, more as Europeans than as Jews. 19/

When the European age of exploration started in the fifteenth century, the Portuguese were searching for a sea route to India by way of the Cape (now Capetown, South Africa). During one of their early expeditions, they attempted to establish a refueling station along the coast of South Africa. This expedition was undertaken upon the advice of Abraham Ben Samuel Zacuto, a Jew, who was then the Royal Astronomer for the King of Portugal, Manuel II, before the edict of expulsion was issued against Spanish Jews in Spain, then the greatest institution of learning in the world.

One of the first Jews to land in South Africa was a seaman, Ferado Martins or Fernam Martinz. He was a mariner of Vasco da Gama's ship San Gabriel. He was with the Portuguese fleet that landed at St. Helena Bay in November 1497. Between 1492 and the end of the sixteenth century, nearly half a million Jews left Spain and Portugal. The Status of the Jews varied from one European country to another. In Holland, Jews participated in the formation of the Dutch East India Company. When the company's undertaking included the occupation of the Cape of Good Hope, in 1652, the Amsterdam Jewish community was part of this settlement. Holland had absorbed a large number of Jewish refugees who had spread throughout the provinces. When Jan van Riebeeck and his company of servants were preparing to sail for the Cape of Good Hope, the Jews of Holland were petitioning Cromwell for readmission to England. By the end of the seventeenth century, the Jews of Holland were the principal stockholders in the Dutch East India Company.

The Dutch East India Company established the forerunner of the South Africa of today. The Dutch were welcomed to South Africa by the Khoisan whom they later betrayed and enslaved. This small people (small only in stature and in numbers) fought the Dutch in order to hold on to its land and cattle in a series of well planned wars that the Boers or Dutch call Kaffir Wars. Finally they lost both their land and their cattle. After the great Zulu warrior Shaka was killed in 1828, the British began to push the Boers and Boers tried to move inland and establish a new republic away from British influence. This started a land war between the Zulus and the Boers. The British came to the rescue of the Boers when they were about to be defeated by the Zulus. These wars did not end until 1906. By now, because of the superior weapons of the Europeans, most of the land was lost. The continued loss of land and the plans to make Africans strangers in their own land led to the establishment of artificial African communities called bantustans.

In 1970, Dr. P. Koornhof, the Deputy Minister of Bantu Administration and Development, admitted that the bantustans made Africans foreigners in their own land. He said:

"I am afraid to say that the African males from the homelands have no rights whatsoever in South Africa. Their rights are in their own homelands, and they are in South Africa only to sell their labour." 20/

The best known of the Bantustans is Transkei, one of the first to be established. When it was declared "independent" in 1976 by the apartheid regime, three million Africans were stripped of their citizenship and they lost 13 per cent of their land area. The whites own or control 87 per cent of the land although they are only 17 per cent of the population.

Most Africans do not live in bantustans but work in mines, factories and on farms owned by whites. Under the bantustan programme, these Africans will be turned into foreign migrants and be stripped of all rights in the country where they have lived and worked for centuries.

The bantustans are completely dependent economically on the South African Government. The bantustans have been imposed on the African people against its will. They are white-controlled black communities. The ways in which the Africans are treated in these bantustans can be easily compared to the way the Arabs in Israel and on the West Bank are treated in their own land which explains, in part, the unholy alliance between Israel and South Africa.

The most tragic aspect of the alliance between Israel and South Africa is that it is a perfectly logical alliance. By the rationale and intent of Western racism and colonialism, the alliance makes sense.

Both Israel and white South Africa are artificial settler States, created by the political backwash of Europe. They are parts of Europe mentally and culturally while being removed from it geographically. This is the basis of the schizophrenia that prevails in Israel and in South Africa. These European settlers are involved in a perpetual contradiction. They are stubbornly trying to establish a nationality in nations that never belonged to them. They are doing this at the expense of the indigenous population in the countries where they have settled. In making an assessment of the relation of Israel to white South Africa, this dilemma must be taken into consideration.

In order to understand the present dilemma and what it forecasts for the future, there is a need to consider the interplay of forces in South Africa, and in the world at large, that created the State of Israel and the apartheid-dominated State of South Africa.

This dilemma has long historical roots that predate the European settlement of South Africa and parts of Palestine now called Israel. It was in or near Africa that the people now referred to as Jews entered the pages of history for the first time. Like all people who came into Africa from other countries, they took more from Africa than they gave.

Small Jewish settlements at what is now Capetown and other parts of South Africa developed in the seventeenth and eighteenth centuries. On 17 September 1828, the Zulu King Shaka granted Nathaniel Isaacs the use of a large tract of land for himself and the Jewish people. This was a gesture of friendship from the powerful king who was assassinated by two of his half-brothers before the end of the year.

The discovery of diamond and gold in South Africa profoundly affected the economic status of the Jews. They had a tradition of dealing in precious minerals. From the 1800s to the present time the Jews of South Africa have been closely related to the marketing of gold and diamonds.

The politics of zionism in South Africa is mainly a vintage of the twentieth century. This was for many years a quiet relationship with no appreciable international attention. The so-called six-day war in 1967 changed this picture and made a large number of people examine zionism in general, as a world-wide political force.

In the 10 years after the independence explosion starting in 1957 with Ghana, the new State of Israel had more goodwill in Africa than any other white controlled nation. By November 1973, most of this goodwill had been lost and nations of Africa like the Ivory Coast (no Côte d'Ivoire, Ethiopia, Zaire and Liberia, otherwise considered Conservative, had broken off diplomatic relations with the State of Israel. There are many factors involved and the assumption is that Arab influence is the main one. That is not true. The main reason for the break and the change of minds and hearts among African States is Israel's long relationship with the apartheid regime of South Africa. There are, of course, many other factors. The Africans seemed to have been slow to learn the fact that the Israelis in Africa were no different than other whites who wanted to control the resources of this vast continent, by any means necessary.

The land question in Zimbabwe did not disappear with the "peace" accord between the British Government and the Patriotic Front. The roots of the conflict over the land are deep. What is now Zimbabwe was once a well-run independent country. In 1870 when Lobengula became king, the Zulu wars against the British were not over and the British settlers' designs on African land were intensified after the discovery of gold and diamonds in South Africa. The British used a missionary, Rev. Moffatt, to get Lobengula to sign a treaty which the British the right to exploit the land and establish farms and settlements. Lobengula did not know that the treaty went that far. In 1870 parts of Mashonaland, later to be called Rhodesia, was occupied by an expeditionary force of mercenaries funded by the British Africa Company. It did not take long for white settlers to evict the Shona people from their land. In this case they did not buy the land. They took it. The Africans, in large numbers, were forced off the land. Others were brought in to work the land. Many Africans were forced off the land to sea and work to pay the heavy British taxes. White political power was consolidated by the unequal tenure and the allocation of land by white control over the labour power of the blacks. White workers had a monopoly on skilled jobs and the trade unions. In her article, "From Rhodesia to Zimbabwe", Marion O'Callaghan states that:

"Land became more important for the settlers as the hopes entertained by Cecil Rhodes of vast mineral wealth receded. The result was the continuing appropriation of African land from the nineteenth century on. Indeed, between 1936 and 1959, according to a Rhodesian Select Parliamentary Committee on Resettlement (1960), over 113,000 Africans were compulsorily removed from 'white' farming areas.

"By 1969, 250,000 whites had legal rights enshrined in the Constitution to 44.95 million acres, while 5

million Africans had the right to 44.94 million acres." 21/

The areas in Rhodesia where the Africans lived, which the Europeans called reserves, were the same as what the Boers in South Africa called bantustans. Taxes and the need for basic items of food and clothing forced the Africans to leave the reserves and work on European-owned plantations or in the cities.

They pay was poor in both places. The pattern for education followed along the same lines as the division of the land. Two hundred seventy-five whites got the same appropriation as 6 million Africans. These are the conditions that led to the war for independence.

In Kenya, land hunger among the Kikuyu people led to the Mau Mau uprising and stimulated the fight for independence. 22/

My point in digressing from the land question in Palestine is that this question cannot be seen or answered in isolation. What is called Israel and the rest of Palestine is a part of an international problem created by colonialism and its handmaiden - capitalism. This is a European problem imposed on the Arabs in Palestine. The accompanying propaganda and mythology about who has a right to the land in Palestine now and who had that right in ancient times goes on in spite of a large body of scholarly writing that set the record straight years ago. Many people who are sympathetic toward Israel do not agree with the treatment of the Arabs and the settlements on land formerly considered Arab.

Dov Ronen, a research association of the Center for International Affairs at Harvard University, made the following comment on this subject in the 5 April 1980 issue of The New York Times:

"I am an Israeli who does not support Jewish settlements in the West Bank, nor the opening of a yeshiva in Hebron. I personally do not claim sovereignty over Judea and Samaria on the basis of a biblical right, nor do I consider Israel's sovereignty there essential to our national security in all circumstances. Furthermore, although I would oppose any plan to redivide Jerusalem, I can envision a new administrative arrangement in the city that would address and seek to satisfy Muslim and Palestinian aspirations.

"Having studied the issue of self-determination in world politics, I recognize this as a right that the Palestinians must be accorded. The Palestinians should have the right, both in principle and in practice, to control their lives and not be ruled by Israelis or anyone else. If independent statehood rather than 'mere' autonomy is what they want, I for one support their quest for statehood."

In spite of strong Jewish voices such as Moise Menuhin, Ahad Ha'am, Martin Buber, Albert Einstein, Alfred Lilienthal, Israel Shahak and I. F. Stone speaking out against the Zionist treatment of the Arabs and the settlements on Arab land, the expansion of Israel at the expense of the Arabs continued. Also continued is the attempt to justify this expansion on the basis of Bible texts.

On this point the Jewish-American writer, I. F. Stone, has this to say:

"These contradictions now play their part in the efforts at peace in the Middle East. At one end of the spectrum the Bible preaches justice and universal brotherhood. At the other end it contains some of the most primitive and blood-thirsty ethnocentric teachings in human literature. So Menachem Begin, Israel's fundamentalist prime minister and the religious parties on which he depends for a thin and precarious parliamentary majority, claim that they cannot give up the West Bank because God gave it to the Jews.

"This can, of course, be supported from Bible texts. Indeed, if we are to go back to a literal reading of Holy Writ for guidance in the Middle East conflict, the religious ultras of the Israeli community can find much else along the same lines, and in the same direction, though carried to lengths that would make even the most fanatical among them quail. It is, of course, true that in the final chapter of Numbers, God gave the whole of Canaan, west of the Jordan, to Israel. But if the Word of God is to be taken literally, those who now dwell on the West Bank may tremble. For only three short chapters earlier, the Lord says, 'Ye shall drive out all the inhabitants of the land from before you, destroy their Holy Places and 'dispossess' them.

"Nor is that all. Numbers 33 ends with the fiercest warning of all if the children of Israel do not dispossess the inhabitants: 'I shall do unto you, as I thought to do unto them'. If the Jews do not drive out the Canaanites, God will drive out the Jews. This is the harsh theology of depopulating the land to make room for one's own." 23/

Palestinian leaders and organizations in the United States say Israel is trying to remove all vocal opposition to the Camp David "autonomy plan" by expelling Palestinian mayors in the occupied territories or forcing them to resign.

I will conclude this paper with I. F. Stone's warning, relative to this situation:

"Some people have been cooking up a brew that could poison the peace not only of the Middle East but of the world. It is the duty of the American Government and American-Jewish leadership to use their leverage, financial and political, to put a stop to this criminal concoction before it is too late. Begin, characteristically, chose this moment to announce 10 more settlements on the West Bank. As usual, he promises these will be the last, Israel and Palestine, says his opponents on the right would

prefer a military takeover of the Israeli Government. Only recognition of the Palestinian right to self-determination can revitalize the peace talks and avert the slide to catastrophe."

Notes

1/ Fayez A. Sayegh, Palestine, Israel and Peace, Palestine Liberation Organization Research Centre (New York, Friendship Press, Inc., 1970), p. 8. See also Ethel Khopung, Apartheid: The Story of a Dispossessed People (Sharpeville Day Association, Mbizana, Dar Es Salaam, United Republic of Tanzania, 1972), pp. 1-10.

2/ Donna Richards, "The dominant modes of Western thought and behavior: an ethonological critique", (The Graduate Faculty of Political and Social Science, The New School for Social Research, 1975), chap. IV, pp. 301-360.

3/ Donna Richards, "The Ideology of European Dominance", The Western Journal of Black Studies, vol. 3, No. 4 (Winter 1979), pp. 244-249.

4/ Norman F. Dacey, "Democracy in Israel", paper especially prepared for distribution to the members of the United States Senate and House of Representatives, on behalf of the American Palestinian Committee, 1976, p. 1-29.

5/ Alfred Lilienthal, "Israel is an anti-Judaistic State", Palestine Digest, vol. 8, No. 6 (September 1978), pp. 24-25. See also "Israel is about as apartheid as South Africa". Interview with Israel Shahak, Chairman of the Israel League for Human and Civil Rights in Intercontinental Press, vol. 13, No. 12 (31 March 1975), pp. 428-431.

6/ George J. Tomeh, Israel and South Africa: The Unholy Alliance (New York, The New World Press, 1972), pp. 48-50. See also Richard P. Stevens and Abdelwahab M. Elmessiri, Israel and South Africa: The Progression of a Relationship (New Brunswick, NJ, North American Press, 1977), pp. 57-83.

7/ Fayez A. Sayegh, "Twenty Basic Facts about the Palestine Problem", Palestine Liberation Organization Research Centre (Beirut, 1966), pp. 4-5.

8/ Sayegh, Palestine, Israel and Peace, pp. 8-9.

9/ Naseer H. Aruri, "The Oriental Jews of Israel", Zionism and Racism (London, International Organization for the Elimination of All Forms of Racial Discrimination, 1977), pp. 107-121. See also Raphael Patai, The Jewish Publication Society of America (Philadelphia, PA, 1953), pp. 27-55.

10/ Interview with Israel Shahak, 31 March 1975, pp. 428-431.

11/ Alan R. Taylor, "Looking beyond coexistence - prospects of a binational Palestine", British Section of the Parliamentary Association for Euro-Arab Co-operation and the Council for the Advancement of Arab-British Understanding (London, 1977), pp. 1-7. See also The Sunday Times, 15 June 1969 and 28 November 1975.

12/ Isom Sartawi, A Legacy for the Palestinians, Council for the Advancement of Arab-British Understanding (London, 1975), pp. 1-8. See also Moshe Menuhin, "Zionism reassessed", Arab Perspectives, vol. 1, No. 1 (New York, April 1980), pp. 12-19, and Nationalism and the Jewish Ethic: Basic Writing of Ahad Ha'am (New York, Schocken Publishers, 1962), especially the chapter entitled "The Jewish State and the Jewish People", pp. 63-89.

13/ Zionism - the obstacle to peace, Council for the Advancement of Arab-British Understanding (London, 1978), pp. 2-4. See also Abdelwahab M. Elmessiri, The Land of Promise (New Jersey, North American, 1977), pp. 1-18.

14/ "Zionism and racism - a case to answer", European Co-ordinating Committee of Friendship Societies with the Arab World (Paris, 1972), pp. 1-4. See also Abdelwahab M. Elmessiri, op.cit., chap. 8.

15/ Michael Adams, Israel's Treatment of the Arabs in the Occupied Areas, (Paris, International Committee for Palestinian Human Rights, 1976), pp. 1-6. See also Maxine Rodinson, Israel, A Colonial-Settler State, (New York, Pathfinder Press, 1973), pp. 27-33.

16/ Adams, op.cit., pp. 5-11.

17/ Ralph Patai, Israel between East and West, pp. 9-55.

18/ A. H. Sayce, The Egypt of the Hebrews and Herodotos (London, Rivington, Percival Co., 1896), pp. 7-41. See also Ismail Shammant, Palestine: Illustrated Political History, Palestine Liberation Organization (PLO), distributed by the Arab Information Center, New York.

19/ John Henrik Clarke, "Israel and South Africa: The unholy alliance against Africa's people", Black Book Bulletin.

20/ Robert Molteno and Henry Freedman, Pan-Africa Diary 1979 (London, Zed Press, 1979).

21/ Marion O'Callaghan, "From Rhodesia to Zimbabwe", UNESCO Courier, November 1977.

22/ Jomo Kenyatta, Facing Mr. Kenya (New York, Vintage Books, Random House, 1965). See also Josiah Mwangi Karwki, Mau Mau Detainee (New York, Penguin Books, 1965).

23/ I. F. Stone, "Bible diplomacy", The Washington Post, 19 August 1977. Also see I. F. Stone, "An Ulter in the Mideast", The Village Voice, 16 June 1980.

C. HUMAN RIGHTS AND THE INALIENABLE RIGHTS OF THE PALESTINIANS

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The current problems surrounding the conflict over the human rights of the Palestinian people have their origin in the violations of human rights attendant to modern European imperialism. Indeed when one looks about the globe, whether at the hand of a ruthless domestic oppressor or a foreign oppressor, the glaring violations of human rights are largely the product of the upheavals and instabilities left by a dying European imperialism. The recent war in South-east Asia and the continuing violence after the defeat of Euro-American imperialism in that area is one classical example. The international racial wars in southern Africa and the continuing racial struggles in Namibia and South Africa are another. In both instances as well as in others, that imperialism took the form of colonialism - the imposition of an alien order on an indigenous order - creating a dominant/subordinate relationship between alien and indigenous peoples. In addition, the ideological justification for that imperialism rested on the belief in the inherent racial and ethnic superiority of the colonizer.

Change in the dominant/subordinate relationship - the achievement of parity and/or dominance (status quo ante) by the indigenous group - has required violence or the threat of violence. Given the myth of racial and ethnic superiority informing the relationships, the attendant violence has been characterized by the violence of race and ethnic conflict. The Palestinian issue is bound in such a legacy.

The violation of human rights, whether couched in the legalism of domestic and/or international law, begets violations of human rights. It should be axiomatic to this generation of humankind that modern imperialism - the imposition of an alien order on an indigenous order - inevitably leads to disorder. The politics of disorder inevitably leads to violations of human rights.

The Palestine issue of our day and the gross violations of human rights endemic to that issue are rooted in two successive imperialisms: British imperialism and political Zionist imperialism. The former resulted from the dissolution of the Ottoman Empire; the latter from the dissolution of the British Empire. The legacy of imperialism, however, continues and the human rights of the Palestinian people are sacrificed to that legacy.

Human rights: the problem of definition

The primacy given to the place of human rights since the Second World War would lead one to believe that not only is there a clear definition of what human rights are, but that there is also universal acceptance of that definition. Nothing is further from the truth. Assumedly, human rights are rights that derive basically from one's uniqueness as a human being - a uniqueness that distinguishes a human being from all other beings created or man-made. A further assumption is that, regardless of the accident of culture, sex or race, all human beings individually and collectively possess those basic rights inherently solely by virtue of being human.

While there may be little, if any, quarrel with the foregoing assumptions, there is no universal agreement on what those specific basic human rights are. Expectedly, the differences derive from the differences in the cultural and historical context in which basic human rights have been established. An investigation of the differences, however, seems to indicate difference in focus or emphasis and in processes for guaranteeing and preserving human rights than in a rejection of human rights. In what is usually termed the "western" tradition, the emphasis is on the right of the individual. In the "southern" and "eastern" tradition, the emphasis is on the responsibility of the individual. The former isolates the individual and creates a dichotomy between individual and collectivity. The latter incorporates the individual in the collectivity and posits the preservation of rights through mutual responsibility. Thus, in both instances the rights of the individual are acknowledged, one exclusive of the collective, the other inclusive of the collective.

Regardless of the focus and emphasis, if human rights derive from the fact of membership in the human race, however they are specifically defined and codified, they must include the right to spiritual, emotional and material fulfilment. Simple justice requires it. One cannot have been born with innate spiritual, emotional and material needs and the faculties for pursuing and fulfilling those needs only to have them defined into or out of existence. The existence of human rights is not and cannot be dependent on definition. They derive from the essential nature of the human being. As a matter of fact, the catalogue of basic human rights listed in the many domestic constitutions, in the Universal Declaration of Human Rights, in the several covenants that have become a part of the corpus of international law can all be subsumed under the three categories of spiritual, emotional and material rights. The real problem of human rights is one of specific identification not definition and stems from politics and law in regard to enforceability and sanctions.

To put it another way, the real problem in issues of human rights stems from the confusion surrounding law and justice. The former is always a reflection of the will of the strong and is the end product of the political process. The latter derives from the basic human instinct for fair play. In the former, the will of the strong may be represented in the values and interests of a single tyrant, a dominant minority or oligarchy or a majority. And the effectiveness of law resides in the ability of the strong to enforce its law. Justice, however, is dependent on the commitment of and willingness of the strong to enforce fairness. Because law is a function of power, and justice is a function of the will to be just, it is only when the will to be just combines with the will and ability to enforce justice that justice prevails. The emphasis on exclusive individual rights in some human traditions and the emphasis on inclusive collective responsibility in other human traditions have made both the specific identification and the enforceability of human rights by a world organization such as the United Nations essentially a matter of international politics.

The United Nations itself reflects the contrariness of the two traditions. On the one hand the United Nations was founded on the belief in collective responsibility as an instrument for effective peaceful resolution of conflict. On the other hand, its member nations function from the premise of the primacy of the right of the sovereign State. Consequently, the mutuality of responsibility as between the collectivity and each of its constituent parts recedes in favour of the rights of the individual constituent. Accordingly, the resolution of conflict by the United Nations itself becomes a matter for a political solution - a function of power. And the United Nations more often than not has been an arena for the playing out of international politics than an instrument for the carrying out of collective responsibility.

The Palestinian question and human rights

It is in the context of the foregoing that the issues relating to the human rights of the Palestinians have been played out. What those rights are have been clearly identified in the Charter of the United Nations of 1945, the Universal Declaration of Human Rights of 1948 and the Geneva Conventions of 1949. Further cognizance of the rights of the Palestinians has been taken in the many resolutions of the United Nations condemning the violations of Palestinian rights by the State of Israel.

Among the rights applicable to Palestinians, the Universal Declaration of Human Rights lists the rights to life, liberty, security and property. Of the four Geneva Conventions of 1949, the Convention relative to the Protection of Civilian Persons in Time of War is particularly relevant. Article 27 provides that civilians have a right to respect for their persons and honour, the rights of their family, their religious convictions, their culture. Article 32 prohibits murder, torture and corporal punishment. Article 33 forbids collective punishment such as intimidation, pillaging and reprisals. Article 49 protects against individual or collective deportation and forcible transfers of people. And article 53 forbids destruction of personal or real property. Israel and the Arab States among others were signatories to this Convention.

Of all the human rights of the Palestinians which the several declarations, covenants, etc., of international law have purported to protect, none is more fundamental than the right to self-determination.

The right to self-determination as distinct from the principle of self-determination has come to mean the right to full self-government. Article 1, paragraph 2 of the Charter of the United Nations specifically links the right of self-determination to the equality of all peoples. Equality of all peoples admits of nothing less than the right to full self-government. 1/

Although other rights might accrue to the Palestinians by virtue of their being human beings, the United Nations has clearly recognized their inalienable right as a people to "national independence and sovereignty in Palestine" and saw the exercise of that right as essential to any effort to achieve a lasting peace in Western Asia. 2/

Any action, therefore, obstructing the return of the Palestinians to full self-government in Palestine or the free pursuit of the fulfilment of their spiritual, emotional and material needs in Palestine is a violation of the human rights of the Palestinians under the Charter of the United Nations, the Universal Declaration of Human Rights and international law.

The legacy of imperialism and Palestinian human rights

Although much attention has been given to the human rights of the Palestinians since the Jewish State came into existence on 15 May 1948, as pointed out earlier, the issue of Palestine and the violation of Palestinian human rights had their origins in nineteenth century European colonialism. That colonialism was one

through which Europeans arrogated to themselves the right to control the destiny of other peoples and exploit the wealth of the world. It was a colonialism that was informed by the De Gobineauan ideology of whiteness and the assumption of the inherent superiority of European Christian civilization over all others. Armed with the social Darwinistic conviction that it was God's will that white Christian men should rule the world, they set out to impose their own order on the "wards of civilization".

In the broad sweep of the history of mankind, the short-lived domination of the Asian and the African by Western Europeans will be seen as but a passing moment. For the people who lived and died under that domination, however, it was a lifetime.

For the Palestinians, that colonization started with the mandating of Palestine to Great Britain under Article 22 of the Covenant of the League of Nations. The language of the article is instructive as it reflects all of the assumptions and beliefs that justified European colonialism in the first place.

"To those ... territories ... which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization ...

"The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their geographical position can best undertake this responsibility...".

Although the Palestinians were not considered able to stand by themselves and in need of tutelage by a European people, they were considered to be more advanced than Africans and other Asians and were listed as category "A" Mandates. Those considered to be less civilized were categorized as "B" and "C" Mandates.

What was unique about the Palestine Mandate, however, was that it also included the elements of the Balfour Declaration of 2 November 1917 calling for the establishment in Palestine for a "national home" for Jewish people. Articles 2 and 6 of the Mandate provided both for the establishment of a Jewish national home and for facilitating Jewish immigration under suitable conditions. Approved by the League of Nations on 24 July 1922, the terms of the Mandate set the stage for almost a half century of continued conflict between Jews and Arabs in Western Asia and north-east Africa. That conflict has led to several major wars, loss of thousands of lives and has spilled over into countries around the world affecting the free pursuit of human rights of millions of people.

Through the Palestine Mandate, the Supreme Council of the Allied Powers and the League of Nations gave international legitimacy to a dual colonization of an Asian people by Europeans. For the Jews for whom immigration to Palestine was made legal were largely European nationals, citizens of European countries. The founder of political Zionism, Theodor Herzl, was an Austro-Hungarian journalist. Article 4 of the Mandate provided for Herzl's Zionist Organization to be the appropriate Jewish agency "for the purpose of advising and cooperating with the Administration of Palestine ... [and] to assist and take part in the development of the country".

In effect the League of Nations established two Mandatary Powers in Palestine - Great Britain and the Zionist Organization. Thus, a political organization which represented no Government, no single nationality group, was effectively given the authority to function as a co-mandatary Power.

The question about what or whom Herzl's Zionist Organization really represented and the question as to whether persons subscribing to the Jewish religion are a nation, a people or members of a religious faith have been argued extensively. 3/

That Herzl and other leaders of the Zionist movement saw themselves essentially as a colonizing political organization to further their own and the interests of "gentile Zionists" of Europe has been extensively documented by Professor Abdelwahab M. Elmessiri. 4/

Further, the fact is that though not a majority, the Ashkenazi or European Jew from the beginning of Israel as a State have dominated in all political and economic institutions of the country. The attitudes of the founders and leadership of Israel clearly demonstrates their perception of Israel as a European country geographically located in Western Asia. The oriental and Sephardic Jew was viewed as "a race the likes of which we have not yet known in this country. You will find among them dirt, card games for money, drunkenness and fornication. Many of these suffer from serious eye, skin and venereal diseases, not to mention immorality and stealing". 5/

More directly, when Israel applied in 1966 for membership in the European Economic Community (EEC), the justification offered by Pinhas Sapir was: "Israel belongs to Europe - culturally, politically and economically - despite her being situated in the Middle East geographically". 6/

Similar expressions were oft repeated by leaders such as Ben Gurion, Golda Meir, Abba Eban and Moshe Dayan. The leaders of and apologists for political Zionism have left no doubt that the State of Israel was to be a European State. The Mandate of the League of Nations was but the instrument to accomplish the creation of Israel as a European outpost in Asia - in which even the non-European Jew was to have a subordinate status.

The subsequent and continuing colonization of Palestine and the denial or restriction of equal opportunity to all but the Jew of European descent has borne out that intention.

As the instrument for legitimizing the imposition of a colonial order on Palestine, the mandating of Palestine was in se a violation of the human rights of the Palestinian people. Even if one were to accept Article 22 of the Covenant of the League of Nations as a practical exercise of responsibility by the Allied Powers after the Second World War to ensure international peace and security, the mandating of Palestine violated that Article. Article 22 granted that Palestine and "communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized". As a class "A" Mandate, all that the League envisioned was "the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone". The Palestinian Arabs rejected any kind of advice and assistance and demanded immediate and full independence. 7/ They were, however, willing to accept a United States mandate. The provision of Article 22 that "the wishes of these communities must be a principal consideration in the selection of the Mandatory" was ignored. Thus, not only the human right to self-determination and independence was denied the Palestinians, but the legal right to have their wishes considered was denied. They were not even consulted in the matter.

From Mandate to partition

The implementation of the British Mandate over Palestine not only continued the imperial legacy of the denial of the human rights of the subordinate Palestinians, but fixed that subordinate status so that it continues today. British rule of Palestine during the Mandate period is instructive not only in how colonialism erodes the human rights of colonized people, but in the feebleness of British colonialism where the indigenous population could not be co-opted as an administrative and policing buffer - so-called "indirect rule". Thus, from the very beginning of the Mandate, British "order" led to increased disorder and the human rights of the Palestinians were sacrificed in the disorderly process.

The disorder of British colonialism in Palestine derived from the inherent incompatibility between the Mandate's provision to establish a "Jewish national home" and "self-government" for the indigenous population of Palestine. The two were mutually exclusive and could only lead to gross violations of human rights of all parties to the conflict. Unfortunately for the Palestinians, the balance of power weighed in favour of the alien Jewish population who were brought into Palestine as co-colonizers. It was primarily through the British policy of almost uncontrolled immigration of Jews into Palestine that Palestinian human rights were violated. That the leaders of political Zionism intended to drive the Palestinians out of Palestine and made their intent clear to British leaders is well documented. 8/

By the 1940s the goal of transfer of the Palestinian population to other Arab countries was an accepted and known fact. Only after the first open and violent reaction of the Palestinians in 1936-1939 did the British make an effort to control the immigration of Jews and act on the Mandate "to secure the development of self-governing institutions". Palestine was to be granted independence in 10 years and Jewish immigration over the next 5 years was to be limited to 75,000 and thereafter only with the consent of the Palestinian Arabs as the indigenous majority population.

Recognizing the impossibility of reconciling the conflicting interests of Jews and Palestinians, the British abandoned any attempt at reconciliation and proposed first a partition of Palestine between the two groups and limiting British administration to enclaves around Jerusalem and Bethlehem. With the outbreak of hostilities in Europe in 1939 and the need to protect the Suez Canal and the Red Sea, that partition plan was modified to creating a federated State comprising an Arab, a Jewish and a neutral zone. This plan persisted until after the Second World War and tens of thousands of illegal Jewish immigrants entered Palestine, exacerbating tensions between Palestinians and Jews.

The British realized that they were no longer capable of administering Palestine and in February 1947 asked the United Nations to find a solution to the Palestinian problem. Having rejected in its Biltmore Programme of May 1942 the ambiguity of the "national home" concept of the Balfour Declaration, the World Zionist Organization declared it would accept nothing less than an independent Jewish State in Palestine. The Arabs demanded an independent Palestinian State. Any semblance of order broke down and Jewish terrorist tactics increased under groups like the Stern Gang and the Irgun headed by Menachem Begin. The massacre of 300 Palestinian civilians at Deir Yassin in April 1948 epitomized the efforts of the political Zionists to drive out the Palestinians in preparation for an independent Jewish State.

The partition resolution was adopted by the United Nations General Assembly on 29 November 1947. The United Nations Commission on Palestine, established to effect a transition to independence for the two States, was denied entry by the British into Palestine. The Commission sought from the Security Council a United Nations military force. The request was denied and a United States resolution to enforce partition was accepted. Hostilities increased. On 1 April 1948 the Security Council asked the Secretary-General to consider the question of the future Government of Palestine. On 19 April, the General Assembly met to consider establishing a special trusteeship status for Palestine. On 14 May 1948, the General Assembly abolished the Mandate and authorized appointment of a United Nations Mediator. On the same date the British withdrew from Palestine. The Zionist leaders in Palestine unilaterally proclaimed the birth of the State of Israel and, minutes later, the United States recognized Israel as a sovereign and independent State while the United States Representative at the United Nations, Philip C. Jessup, under instructions, was speaking in favour of a temporary trusteeship for Palestine. As should have been expected, all out war broke out between the Jews of Palestine and the Arab States. European colonialism had won the day and the human rights of millions of people in Western Asia and north-eastern Africa were sacrificed for political gain.

What is significant about the degeneration of events leading up to the Jewish unilateral declaration of independence in Palestine in terms of human rights is that the existence of laws purporting to safeguard human rights were disregarded or bent to serve crude political ends. Human rights - the right of all human beings to seek spiritual, emotional and material fulfilment - were denied those not strong enough to ensure the

protection of those rights for themselves. In a world in which rights are defined to exist in a vacuum - in a non-associational context - there is not and cannot be any guarantee except that derived from power. The notion that an individual has certain individual and inviolable rights is a noble but futile one without the power and the will to guarantee those rights.

First of all, the concept of the individual (and the corollary concept of the collectivity) derives from the belief in and abstraction of the indivisibility of human nature as a composite of animality and rationality - body and soul. That it now has the meaning of singularity in some cultures results from those cultures' attempt to give the human being a uniqueness distinct from other beings. The attribution of that same singularity to distinguish one person from another is to say that that which distinguishes man from non-man is the same as that which distinguishes man from man. The conclusion of the obvious illogic is that each man is a universe unto himself. To further base human rights on a concept of each "individual" as a universe unto himself is to isolate human rights and give them an existence that contradicts reality. For no human - individual - exists except in some kind of relationship with other human beings. Therefore, an individual's rights exist only in the context of a relationship to other individuals. Thus, it is meaningless to speak of a recluse in the desert as having rights. He has none.

The import of the foregoing is that the premises that inform discussions on human rights tend to imbue rights with a certain exclusivity that pits the rights of one individual against the rights of another individual and the rights of an individual against the rights of the collectivity. The expression, "Your rights end where my rights begin" is reflective of that conflictual exclusivity - a false dichotomy.

On the contrary, the concept of responsibility inherently implies a responsive relationship between individual and individual, and individual and collectivity. The concept of responsibility tends to focus on reconciliation rather than conflict and emphasizes mutuality of interests rather than adversary relationship. The application of the foregoing to the Arab/Jewish conflict does not mean that there would not have been a conflict of interests between the two groups. The clash of values and/or interests is potentially present in all human relationships. That is the stuff of politics and the impetus for the ordering of individual and group behaviour in any gathering of two or more human beings. It may, however, have given greater force to the action of those who sought a fair and just resolution to the conflict.

As a matter of fact, had European Christians been responsible, there probably would not have been such a burning desire on the part of Jewish citizens of Eastern and Central European States for escape to some "homeland" identified in the Bible as the place where ancient co-religionists ruled for a brief period of time almost 25 centuries before. The human and civil rights of European Jews were violated by their own Governments and fellow citizens, not by the Palestinians. The responsibility for restoring and protecting those rights rested with European Christian dominant Governments. In the rights versus rights context of the European tradition, given the overwhelming power disparity between Christian and Jew in Christian societies, the Jew could not win. Wanting to rid Christian society of Jews, the rights of Jews were pitted against the rights of Muslims in Palestine where the Zionist "homeland" ideology meshed well with the Christians' own sentimental reading of the Bible. Reducing the Jewish and Gentile Zionist versus Palestinian Muslims conflict to a political solution based on rights alone abandoned the latter to the goodwill of the combined power of the former.

The real human rights tragedy of the conflict over Palestine is that neither Jew nor Muslim Arab emerges the victor. The temporary victor has been the original colonizing Powers of Europe. Europe has rid itself of most of its Jews and the assimilated European Jew in Palestine has been the eager instrument of that modern exodus. Both Jew and Palestinians have been the victim of the same discrimination endemic to the European colonial legacy.

In view of the current political realities (the existence of both Jews and Muslim Arabs in Palestine), hope for a final solution to the Palestinian problem may rest only in the principals to the conflict recognizing that they are mutual victims of the same historical phenomena. That will require acceptance of present mutual rights (historically legitimate or not) and mutual responsibilities and starting anew. Palestinian Jews and Muslim Arabs have lived in peace in Palestine before.

That may also mean that the Europeanized Jews will have to make a choice between Europe and Asia. The responsibility of the Euro-American will be to accept a Palestinian solution arrived at by true Palestinians - Muslim Arab and Jew. A continuation of the pursuit of the dream of political zionism - Gentile and Jew - can lead only to continued violation of the human rights of Palestinian Jew and Palestinian Muslim Arab.

Notes

1/ W. Ofuatey-Kodjoe, The Principle of Self-Determination in International Law (New York, Nellen Publishing Company, 1977), p. 161.

2/ General Assembly resolutions 194 (III) of 11 December 1948, 3326 (XXXIX) of 22 November 1974, 3376 (XXX) of 10 November 1975 and 31 (XXXI) of 29 November 1976.

3/ Cf. Nathan Feinberg, "The recognition of the Jewish people in international law", Jewish Yearbook

of International Law, 1948, pp. 1-26; W. T. Mallison, Jr. "The Zionist-Israel juridical claims to constitute 'the Jewish people' nationality entity and to confer membership in it: appraisal in public international law", The George Washington Law Review, vol. 32, 1964, pp. 983-1075.

4/ Abdelwahab M. Elmessiri, The Land of Promise (New Jersey, North American, 1977).

5/ Michael Selzer, The Aryanization of the Jewish State (New York, Black Star, 1968), p. 50.

6/ Ibid., p. 70.

7/ M. Cherif Bassiouni, "The Palestinians' rights of self-determination and national independence", Association of Arab-American University Graduates, Information Paper No. 22 (December 1978), p. 10.

8/ Elmessiri, op.cit., pp. 127-143.

References

Bassiouni, M. Cherif. The Palestinians' Rights of Self-Determination and National Independence. Information Paper No. 22, December 1978. Detroit, Michigan: Association of Arab-American University Graduates, 1978.

Cattan, Henry. Palestine and International Law. Second Edition. New York: Longman, 1976.

Elmessiri, Abdelwahab M. The Land of Promise. New Jersey: North American, Inc., 1977.

Goodrich, L. M., E. Hambro and A. P. Simons. Charter of the United Nations. New York: Columbia University Press, 1969.

LeMelle, Tilden J. "The Individual in the State: An African Concept". Unpublished paper, 1968.

Moore, John N. ed. The Arab-Israeli Conflict, vol. I, Readings. Princeton, New Jersey: American Society of International Law, 1974.

Ofuatey-Kodjoe. The Principle of Self-Determination in International Law. New York: Nellen Publishing Company, 1977.

United Nations, The Right of Return of the Palestinian People. ST/SG/SER.F/2.

The Palestinian Issue in Middle East Efforts. Hearings - Special Subcommittee on Investigations, Committee on International Relations, House of Representatives, 94th Congress, First Session, Washington, D.C.: U.S. Government Printing Office, 1976.

D. HOW THE PALESTINIANS BECAME REFUGEES: DENIAL OF BASIC HUMAN RIGHTS

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Introduction

The scope of this paper is restricted in many ways. It must be short and concise so as to be presented within preferably 30 minutes. At the same time, it must give as much information as possible about the Palestinian problem generally and the sufferings of the Palestinian refugees specifically, within its historical development. It is a paper that has to demonstrate the sufferings of the Palestinian refugees of the past 33 years of exile in a few pages. For these reasons this paper can hardly be comprehensive.

Yet we cannot analyze the Palestinian refugee problem in isolation from the totality of the Palestinian question. Nor can we analyse the problem in ignorance of the salient historical factors that are woven around it. These factors inevitably paved the way for the direction that the Palestinian problem, particularly the refugee aspect of it, has taken.

This paper therefore sets out to analyse two main issues. The first is to give a brief historical development of the Palestinian problem and demonstrate that the migration of the Jews is not different from

the migrations of other peoples in the world. The second is the core of my paper, namely to examine the problem of Palestinian refugees resulting from the establishment of Israel as a Jewish State and the subsequent evacuation, dispossession, confiscation of land and other property and wanton massacres that have led to the flight of thousands of Palestinians from Palestine.

Historical background

Regarding the Palestinian problem, the world community is caught in a whirlpool, mainly of its own making (63 years ago) which has taken it more than three decades to grapple with and might take more. It has taken the Palestinians and lovers of peace and justice all over the world year after year to bring the world's attention the suffering of the Palestinians, of those displaced and homeless, tortured and degraded but struggling for their rights and their basic human right to self-determination. It has taken more than two decades for these people and progressive forces in the world to break the conspiracy of silence, the wall of indifference and the chill of hostility towards the Palestinian problem. Most people in the world are beginning to accept that the Palestinian people are suffering, are displaced and that they have basic human rights which must be realized. Yet the solution so far by the United Nations seems unpracticable and partly unacceptable to the Palestinians, the objective solution becomes repelling as it spells danger to vital economic interests of some countries, but it is becoming impossible to ignore the inalienable rights of the Palestinian people. Hence the whirlpool that has rendered any decisive solution by the United Nations ineffective.

The Jewish State - Israel - was the creation of mainly well-off, educated Jews with the material assistance of almost all the major European countries and the United States. The justification for establishing a "national home" for Jews by getting rid of, deporting and massacring the Palestinians, confiscating Palestinian property including land, initially took a religious stand but as it slowly lost ground, the justification has increasingly become "self-defence", "right to a secure border" and "right of existence". On deeper analysis, we find out that the justification is neither the one nor the other.

Examining the many resolutions of the United Nations, we see a qualitative change in their form. The early 1948-1974 resolutions tended to ignore the Palestinians' right to self-determination and the establishment of their national home in the whole of Palestine. Until 1967, the resolutions mainly referred to refugees and not to the Palestinian people. The United Nations recognized the right of return of the refugees to Palestine to live in peace under Israeli rule. This is reflected in General Assembly resolutions 194 (III) of 11 December 1948 and 273 (III) of 11 May 1949. After the 1967 war, during which Israel expanded her territory, the wording of subsequent resolutions changed. Israel was called upon to withdraw from the territories occupied since that date and there was a tone of warning to the effect that Israel should not be attacked after that. This is reflected in Security Council resolutions 242 (1967) and 338 (1973). After 1974, there was a change in the quality of the resolutions. The Palestinian problem was identified as the core of the Middle East conflict and the inalienable rights of the Palestinian people were specified and recognized. A Committee on the Exercise of the Inalienable Rights of the Palestinian People was established by the General Assembly in 1975 and in resolutions 3236 (XXIX) of 22 November 1974 and 3375 (XXX) of 10 November 1975, the General Assembly called for the invitation of the Palestine Liberation Organization to participate on an equal footing with other parties in all efforts, deliberations and conferences on the Middle East held under the auspices of the United Nations.

In 1977, the General Assembly established the Special Unit on Palestinian Rights within the United Nations Secretariat, which was enjoined to prepare and promote publicity of United Nations resolutions on Palestine and the activities of the Palestinian Rights Committee and other United Nations organs.

Certainly this is a very significant advancement for the Palestinian people. There are obvious factors that have facilitated this change. One is the realization by the Palestinians that the liberation of their country is the obligation of the Palestinians themselves particularly, and that of the Arab countries and other peace-loving countries generally. Secondly, the United Nations of 1977 was quantitatively and qualitatively different from today's. Of the 156 Member States, about 120 comprised the so-called developing countries, who supported the cause of the Palestinians. However, the decisive influence of the Western European countries and the United States in the United Nations resulted in ambiguously worded resolutions like the Security Council resolutions of 1967 and 1973 and General Assembly resolution 32/20 of 25 November 1977 recognizing the inalienable rights of the Palestinian people of self-determination, return and to establish a Palestinian State in Palestine while, in the same resolutions, maintaining Israel's right of existence.

Contradiction

If the creation of Israel meant the massacre of hundreds of unarmed Palestinians and the confiscation of their land and other property, how can the inalienable rights of the Palestinians be realized without affecting Israel as a State and its alleged rights over Palestine? This is a contradiction which struggle and time will solve the way the Vietnamese, Angolan, Mozambican, Zimbabwean and other questions of domination and oppression were solved.

Jewish migrations

The migration of Jews to Europe, Russia, America, France, Austria, Hungary and Britain was not basically different from the migration of other peoples in the Middle East and elsewhere in the world. Their

migration, like that of other people, was motivated by economic rather than religious or racial factors. The economic and social developments of Eastern Europe and the United States from feudalism to capitalism affected the ways in which the Jews were treated and hence their migration from one European country to another. Nor did these developments affect the Jews alone. The well-known religious wars that shook Europe for 30 years led to the prosecution of Catholics in Protestant countries and Protestants in Catholic countries and the migration of peoples all over Europe.

The Jews, however, had one peculiarity. Wherever they went they maintained their identity and tradition, including group life. They were like many other immigrants, known for hard work and skill in finance management. The impoverishing effect of usury both to the serfs in Europe and the landed gentry led to the hatred of usury. It is significant to note that usury dissolved the natural feudal economy by dispossessing the peasants and the serfs and accumulating wealth, thereby laying a foundation on which a later stage of development was built - the capitalist mode of production. Hatred of usury turned into hatred of the Jews.

In Britain for instance, when the Papacy still reigned, it was un-Christian to practice usury. Most Christians could not therefore practise it. The Jews, being non-Christians, were not affected by the Roman laws. They practically were the usurers. They lent money to kings and landlords as well as to the serfs. Consequently, they obtained a royal monopoly of finance and trade. In Britain, the Jews formed the majority of the merchant class before the growth of local merchants. The restrictions on trade that inhibited the growth of local merchants led to struggles against them, which meant a struggle against the Jews. The struggle, however, was between the old feudal restrictions on trade and the development of mercantilism; the struggle against the Jews was only consequential.

The forces of history against feudalism and the privileged money lenders were consequently directed against the Jews. They were subject to persecution, discrimination and maltreatment. In tsarist Russia, the Jews were restricted to ghettos and could not join certain professions. In Britain the hatred of Jews is reflected in the now infamous Shylock in "The Merchant of Venice" by Shakespeare. Thus, thousands of Jews left Europe for the United States around 1881. By 1930, over 3.5 million Jews had migrated, mainly from Russia, Austria, Hungary, Romania and Britain to France and the United States and some 200,000 went to Palestine. It is significant to note that the seventeenth and eighteenth centuries were a period of nationalistic sentiments all over Europe. Movements in different parts of Central Europe struggled for the establishment of nation States. These demands were in keeping with the needs of industrial production and development, which were in their initial stage. The struggle to establish nation States also meant the creation of entities within which trade was unrestrictedly facilitated rather than hampered. Nationalistic sentiments led to hatred of foreigners, including Jews, especially when they migrated by thousands. So great was the hatred of the Jews in Europe that the United States and France, upon attaining independence and establishing a republic, respectively, declared that Jewish citizens held the same rights as other citizens.

During this period, the Jews, mainly because they were maltreated, advocated their own nationalistic sentiments. As they were scattered all over Europe and the United States, they had only rights of citizenship. They could not claim any part of Europe or the United States as their own for the purpose of establishing their own national home. Hence the search for one. In 1903 Britain offered Uganda but it was rejected. Their conviction that they should establish a national home for themselves was increased by the massacre of millions of Jews by Nazi Germany in the early 1940s. By that time, Palestine had been earmarked for the Jews. Yet the Jews who migrated to Palestine were the elite, militarily trained and rich. It had become a home for rich European Jews, not for every Jew.

Preparing Palestine for the European Jews

As far back as 1897, Herzl, who was among the champions of zionism, called for a congress at Bâle. The objective of that congress was to lay a foundation stone for the establishment of a Jewish national home in Palestine. 1/ Many subsequent congresses of the Herzl type were held. Finally, a Zionist agency was formed to collect money and establish a fund for that money. 1/ Contributions and donations by rich European Jews like Rothschild and others were easily granted. The money facilitated the purchase of large tracts of Palestinian land.

Mainly as a result of Jewish pressures in the United States, France, Britain and the European countries, Britain managed to conclude the Balfour Declaration of 1917. It was endorsed immediately by France in June 1917, Italy in 1918, the United States in 1918, and Greece and Japan around that time. The Declaration recognized the right of the Jews to a national home in Palestine. The Palestinians' protest against the Declaration is reflected in the illusory guarantee by the same Declaration that non-Jewish Palestinians should not be prejudiced. Logically and practically, the implementation of the first meant the denial of the latter. In 1922 Britain was appointed by the League of Nations (the Jews had submitted a memorandum in favour of a British Mandate) to be the Mandatary Power over Palestine.

The Mandate instrument was drafted by both Weizman and one Benjamin Cohen, both known Zionists. Article 1 of the Mandate stipulated a so-called right of Jews to establish their national home. Article 2 recognized Britain as the Mandatary Power. The following clauses were added to article 3 of the Mandate document:

"1. In the administrative, political and economic fields, Palestine must be prepared for the establishment of a Jewish national home."

To achieve this end, the instrument provided that: -

"2. It will be necessary to encourage Jewish migration and secure their settlement in Palestine, provided it is done without prejudice to the existing rights of the non-Jewish inhabitants." 2/

Mandate period

Britain as a Mandatary Power did not hesitate to implement both the Balfour Declaration and the Mandate to achieve the interests of the Jews. Immigration of Jews to Palestine was encouraged as a matter of committee policy.

Before the Declaration and the Mandate, Palestine was a land on which the Palestinian Arabs and Jews lived harmoniously, albeit under the common exploitation first by the Turkish Empire and later on by Britain.

Under the Mandate, Britain facilitated the migration of Jews to Palestine in every possible way. The first step taken was to dispossess Palestinian Arabs by land purchase. Among the first estates to be purchased included Marj Ebn Amer, consisting of 13 villages from which 900 Palestinian Arab families were dispossessed. The Rothschild Organization (named after the Jewish millionaire) was set up and bought land worth £15 million. The Keren Kayemet organization, yet another one representing the organization of the Jewish National Fund, had by 1945 purchased estates worth £20 million. 3/ No doubt the donations and subscriptions were substantial.

In addition, the Mandatary Power, Britain, enacted a law which deprived all landowners non-resident in Palestine of the right of tenure over their estates, with the result that Syrian citizens to which the Ottoman Empire had granted large areas of land in Palestine were compelled to sell them at low prices. 3/ The land was later sold to Jews. State and waste lands were also sold to Jews.

Of more terror to the Palestinian Arabs were the murder gangs organized by Jews, like the Stern and the Irgun, comprising young Jews, who were given military training in the West. These gangs were responsible for the massacre of the Palestinians of Deir Yassin, which spread terror among Palestinian Arabs as a result of which they fled from Palestine. 3/ Their land and other property were immediately confiscated by Jews. In the face of murders, massacres and terror, more than 250,000 Palestinian Arabs fled from Palestine while the influx of Jewish immigrants increased. It has been recorded that as many as 400,000 Jews migrated to Palestine during the Mandate period. 3/ Even before 1947, the Mandate had been breached since the settlement of Jews did prejudice the Palestinian Arabs.

The subsequent Palestinian Arab resistance to the steps adopted to establish a Jewish national home was expressed in 1920 (Jerusalem), 1921 (Jaffa), 1929 (El Berak), and in the 1936 general uprisings. 3/ By then the Palestinian Arabs were convinced that the Jews were bent on establishing a national home in Palestine. The Palestinian Arabs demanded an end to the Mandate and the establishment of a democratic Palestinian State in which both Arabs and Jews would coexist as citizens of one State. They also demanded that the immigration of Jews to Palestine be suspended.

Successful events threw the Palestinian mandate out of control. Jewish gangs attacked British installations demanding a right to establish their own State. Britain was all this time in favour of the Jewish demands. In 1947 Britain referred the problems to the United Nations. 4/ The United Nations appointed a Special Committee on Palestine to study the problem, to prepare a report on it and make recommendations thereon. The Committee recommended the partition of Palestine into two States, one for the Jews and the other for the Arabs. 5/ The Committee even submitted a partition plan in which 56 per cent of the land was to go to the Jews, who comprised 32 per cent of the then existing population, while 44 per cent of the land was to go to the Palestinian Arabs, who constituted 68 per cent of the population. In 1947, Palestine had 2 million people, of which two thirds were Arabs while the rest were Jews. 5/ Naturally, the plan was rejected by the Palestinian Arabs, who rose to resist.

On 14 May 1948, Britain relinquished the Mandate and Palestine was handed over to the United Nations.

On the same day the Jews declared independence and named their State Israel. Immediately, Palestinian Arabs, including their brothers in Syria, Egypt, Lebanon and Jordan, went to war against Israel. This was the beginning of the war between Palestinian Arabs and Arab countries on the one hand and Israel on the other - a war which has now been going on for 33 years (more than three decades) and has made millions of Palestinians refugees.

The United Nations stand on the dispute is not hard to find. On 11 May 1949, the General Assembly admitted Israel to its membership despite the fact that Israel had (still has) no defined boundaries, which is one of the prerequisites of statehood. With the material backing from the Western countries, Israel moved swiftly to capture three quarters of Palestinian land. By 1949, the Jews had captured more than 80 per cent of Palestine, leaving 20 per cent to the Palestinian Arabs, only to be captured in subsequent wars. 6/

From 1948 to 1953, about 740,000 Jews migrated to Palestine and over 370 new settlements were established, 350 of which were on previous Arab estates. Twelve Palestinian towns, including Jaffa, Haifa, Safd, El Lud, Ramallah, Tiberiade, Bissane, Samah, Magdal, Bir Sheba, Chefa Amir, plus 700 Palestinian Arab villages scattered throughout Palestine were confiscated. 7/ Hence, more than 250,000 Palestinian Arabs became refugees.

The United Nations called upon Israel to admit those Palestinian refugees who wished to return to their

homes and pay them compensation for damaged and/or lost property. Israel rejected the resolution and maintained that she could accept only 100,000 Palestinian Arab refugees. The rest could only be paid compensation on condition that they permanently remain outside Palestine.^{8/} By June 1950, about 960,000 Palestinians were refugees living in the desert wilderness and receiving United Nations assistance. 8/

In 1967, Israel attacked Syria and Egypt. Within seven days she had captured the following areas:

- (a) The Old City of Jerusalem
- (b) The western bank of the Jordan River
- (c) The Gaza Strip
- (d) The Sinai desert
- (e) The Syrian Golan Heights

and established permanent Jewish settlements in those areas. Her justification this time was the need for "secure borders". So swift was (still is) the settlement scheme that by October 1973, there were 1,385,000 Palestinian Arabs against 2,365,000 Jews. 9/ Territory-wise, Israel expanded in like manner. Originally, Israel covered an area of 20,250 square kilometres but by 1976 it had expanded to 88,000 square kilometres. 10/

As a result of the 1967 war, the growth of refugees was 45,000 per annum. By the end of June 1967, there were 1,344,576 registered Palestinian Arab refugees. On June 1977, statistics indicated that the number of registered refugees had increased to 1,706,000. 11/ Today, the Palestinian Arabs are placed at 4 million, 1.7 million of which are refugees, half a million live in Palestine and the rest in the occupied territory. 12/

The Palestinian refugees

So serious were the sufferings of the Palestinian refugees that the General Assembly passed resolution 194 (III) of 11 December 1948 (which we have already discussed), calling upon Israel to permit the return of those refugees wishing to do so. In 1949 the United Nations established the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) to help Palestinian Arab refugees who had fled Palestine. The Agency began operating in 1950, assisting refugees in Lebanon, Syria, Jordan and the Gaza Strip. The Palestinian refugee is faced with many problems. First, there is a restriction on the assistance available to him because of the peculiar definition of a refugee adopted by the Agency. The Palestinian refugee is by express declaration not covered by the Convention 13/ and Protocol 14/ relating to the Status of Refugees of 1951 and 1967.

A refugee is defined by the Agency as "a person having lived in Palestine for at least two years at the time of the conflict of 1948 broke out, who has lost his home and means of subsistence as a result of that conflict". The criterion for a refugee was not that contained in article 1 of the Convention on the Status of Refugees mentioned above but whether one had first lived in Palestine for at least two years before the conflict of 1948, then whether as a result of the conflict one had lost his home and his means of subsistence. Besides, the definition does not extend to persons who fled from Palestine or neighbouring Arab countries as a result of subsequent wars.

Of the 1,344,576 registered refugees in 1976, only 860,951 of them qualified for United Nations assistance. However, in 1967 the General Assembly authorized the Agency to extend assistance to other persons who were displaced and needed assistance. It was expressly declared to be an emergent and temporary measure. Today the Agency provides assistance to Palestinian refugees in the occupied West Bank and the Gaza Strip. 15/

The 1967 war rendered more than 500,000 Palestinian Arab refugees from Gaza, the West Bank and the Quneitra district of south-west Syria. Of these only 8,000 could return to their homes. Nor can a Palestinian refugee request assistance from the country of refuge as the provisions of the Convention and Protocol on the Status of Refugees do not apply to him. The country of refuge can only assist him discretionarily. It will breach no provision if it discriminates against him or even deports him. Although deportation to Palestine, where the refugee would likely be persecuted, discriminated against and harassed, could still be carried out even if the provisions of the above Convention and Protocol applied, the lack of the legal protection is by itself regrettable.

The Agency is not without problems. For the past decade, it has faced one financial crisis after another, to the extent of near collapse in 1975 and 1976. In 1971 the General Assembly set up a nine-nation working group on financing the Agency. The group was not successful. By 1977 the financial shortage was so acute that the General Assembly called upon Governments, as a matter of urgency, to donate or grant funds to the Agency. This call has to date received slow response. The Agency is still suffering from inadequate funds.

Attack on refugee camps

The Palestinian Arab refugee's existence is not without disturbance, threat to his property and to his life. His camp is constantly a target of Israeli attacks. The casualties have risen since 1948, to date many of the victims being mostly women and children. For instance, in 1971, Israel destroyed 7,729 rooms in three refugee camps in the Gaza Strip and displaced 15,855 persons, 1,988 of whom could not be sheltered. 16/ In 1972, Israel attacked refugee camps, destroying the Agency installations and refugee shelters in camps set up as a result of Israel's air raid in Lebanon.

Initially Palestinian refugees were not allowed to build permanent homes but tents. Tents are however means for temporary shelter. Since the Palestinian refugees have lived in tents for more than three decades, the Agency has striven to replace them by permanent one-room shelters. 17/ The refugee still falls victim to the extremities of the desert climate because his tent is not adequately protective. He becomes vulnerable to cold, heat and contagious diseases.

Jordan has since 1949 opposed the Palestinian cause. To prevent Palestinians from operating against Israel, Jordan used police vigils and electrified wire fences around the refugee camps. These are but a few of the problems that a Palestinian refugee faces.

Arab countries

The Arab countries, rich from oil sales, could go a long way towards alleviating the financial problems of the Agency. Instead, one Arab country fights another, either actively or passively. The swiftness with which Israel captured and occupied Palestine and later on parts of Syria, Jordan, Egypt and Lebanon reflected (and still reflects) the disunity among and between Arab countries. Evidence points to the fact that capitalist countries, particularly the United States, control most of these countries economically and politically. Iran is quite a clear case. As for Kuwait, it is said that by 1972, American-financed capital interests alone, in oil, amounted to 50 per cent, while in Saudi Arabia they were 100 per cent and in Iraq 25 per cent. 18/ The capitalist countries also determine Arab countries' attitudes towards the Palestinians. Aid, loans or sales of necessary manufactured goods to an Arab country (the same applies to other countries), depends on that country's stand on the Palestinian problem. Besides, the recent attacks by Israel of neighbouring Arab countries in "hot pursuit" of Palestinian guerrillas are intended to terrorize these countries and discourage them from supporting the Palestinian cause.

Perhaps the Camp David accord should serve as the best example of the Arab countries' weakness. The Camp David agreement that was signed between Egypt and Israel under the championship of America had two main pseudo-concessions. The agreement purported to accord self-government to Palestinians in the occupied territory in a five-year transitional period, and withdrawal by Israel from part of the Sinai. 19/ No reparations, no right of return of Palestinians to Palestine and no right to establish a Palestinian State were recognized. The agreement also addressed itself only to the Palestinians living in the West Bank and the Gaza Strip areas. Instead of removing existing settlements in the occupied territory, Israel is setting up new ones. The April Palestinian bulletin had this to comment on Israel's recent moves:

"Israeli authorities confiscated lands belonging to more than one million inhabitants in the West Bank. More than one hundred new settlements have been established in the West Bank, Gaza Strip and the Golan Heights. In these very days new settlements are established under the auspices of the "peace treaty" with Egypt. Elon Moreh and existing ones are considerably enlarged by seizures and confiscation of Arab land. Consistent with this plan, there is a decision to establish new administrative units for all the settlements. Three such units were recently established under pure Israel jurisdiction which means practically to annex to Israel the territories on which the settlements are situated. One third of the land of the West Bank has been confiscated up to this time while there are new orders of confiscation waiting to be executed presently ...". 20/

In view of the foregoing, the autonomy enshrined in the Camp David agreement is illusory. Egypt, in a hurry to find a short-cut solution to the Middle East problem without the PLO, ended up having solved nothing substantial. The attitude of the Egyptian Government towards Palestinian Arabs and their representative, the PLO, can best be depicted in an interview of President Anwar Sadat by Barbara Walters of ABC Television:

"The PLO considers itself the legitimate representatives of the Palestinians. Are you of the same view?" she asked.

"In my proposals I have always mentioned the Palestinian people. This means the entire Palestinian people. All the Palestinians. Under the treaty or document we signed yesterday, we shall again meet together. Egypt, Jordan and Israel." Sadat replied.

"And the PLO?"

"Egypt, Jordan, Israel as well as representatives of the inhabitants of the West Bank of Jordan and Gaza Strip, it is they who will decide."

"And so it is goodbye to PLO?"

"I beg your pardon?"

"All right, I shan't repeat what I have just said."

"I'm hard of hearing sometimes!"

Obviously, Egypt does not recognize the right of the Palestinian people, those in the occupied territory, in exile and in Palestine to self-determination. The agreement was eventually not even decided by the Palestinians in the West Bank and the Gaza Strip but by Israel, with Egyptian support.

Conclusion

What is strikingly particular about the immigrant Jews in Palestine is the fact that they are economically rich, educated and have a strong military training. The national home for the Jews becomes a right of only rich, young educated Jews. Relatively poor Jews still live in Europe. The immigrant Jews treat the local Jews differently since they both live under different standards.

The migration of Jews in Europe and from Palestine is not different from the movement of other peoples the world over. If these people were to be allowed to trace their historical origins and claim rights over these places, the world would be in a fit of chaos. The Ngoni's of Tanzania would demand some parts of Zululand, the American Negroes, parts of the African continent, the Aborigines of Australia, the whole of Australia, the Red Indians of the American continent, a large part of the United States and so forth. There would be no end to legitimate claims to historical original areas. For this purpose, the Jewish claims over Palestine are without acceptable justification.

The Palestinian struggle entered a decisive stage with the formation in 1964, of the PLO, which, through its efforts, has obtained the international community's recognition of the Palestinians' right to self-determination.

It takes very little to be a refugee but it means much what type of a refugee one becomes. The Cuban refugee finds no problem of assistance and settlement although from their pictures he does not represent the peasants, which means therefore that he can easily be employed in his country of refuge. The Haitian refugee settles with much difficulty and legal wrangle continues to determine whether he qualifies to be a refugee or just an illegal immigrant. The Kampuchean refugee and the Vietnamese boat people find refuge after ordeals at sea.

The plight of the boat people is too well known to be repeated here, but they were all resettled in many countries, mostly Western countries.

The Palestinian refugee faces more problem because of the factors that determine whether he is a refugee or not and because of the financial shortage that the Agency responsible is experiencing.

What is significant to note is the differential treatment of refugees depending on the nature of the refugees (professionals easily get employed), the cause of the refugee problem and the receiving country's stand on that problem. The provisions of the Convention and Protocol relating to the Status of Refugees of 1951 and 1967, article 1, which were and are intended to apply generally to all persons are far from being realized. Hence the different national definitions of a refugee.

Notes

1/ Information Department, Cairo, 1962, The Problems of the Palestinian Refugees, p. 12.

2/ Ibid., pp. 13 and 14.

3/ Ibid., p. 27.

4/ Ibid., p. 18.

5/ United Nations, Everyone's United Nations: a Handbook on the United Nations, its Structures and Activities (1979 edition), p. 78.

6/ J. L. Kanywanyi, "The struggle against imperialism" (short weekly talks on Radio Tanzania, External Service), July 1975 to March 1976, p. 236.

7/ Information Department, Cairo, 1962, The Problems of the Palestinian Refugees, p. 22.

8/ J. L. Kanywanyi, op.cit., p. 238.

- 9/ Ibid., p. 239.
- 10/ Ibid., p. 259.
- 11/ Ibid., p. 236.
- 12/ Interview with PLO officials at Dar es Salaam office, June 1980.
- 13/ United Nations, Treaty Series, vol. 189, No. 2545, p. 50.
- 14/ Ibid., vol. 606, No. 8791, p. 267.
- 15/ United Nations, Everyone's United Nations: a Handbook on the United Nations, its Structures and Activities (1979) edition, p. 84.
- 16/ Ibid., p. 85.
- 17/ Ibid., p. 86.
- 18/ Kanywanyi, op.cit., p. 243.
- 19/ New Times, p. 28, (a Soviet weekly of world affairs).
- 20/ Palestine Information Bulletin, vol. 5, No. 7 (16-30 April 1980), pp. 18-19.

E. THE IMPLEMENTATION OF UNITED NATIONS RESOLUTIONS ON PALESTINE

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In any attempt to deal with the Palestine problem, it is essential to bear in mind the political and legal status which the Palestinians enjoyed in the past prior to its rise. This is necessary because those who are concerned in finding a remedy to the situation seem, or pretend, to ignore that the Palestinians are not a people just emerging from barbarism and that, on the contrary, they possessed civil, political and sovereign rights in their country until the creation of the State of Israel which usurped their homeland and uprooted the majority of the population.

At the time that Palestine was part of Turkey, the Palestinians enjoyed as Turkish citizens full civil and political rights. The Turkish Constitution made no distinction between Arab and Turk. They participated in the administration of the country, shared sovereignty with the Turks over all territories of the Ottoman Empire, regardless of whether such territories were Turkish or Arab provinces. Upon the detachment of the Arab provinces from Turkey at the end of the First World War, Palestine became a separate political and international entity and the Palestinians acquired alone sovereignty over its territory. In 1919, like other Arab peoples detached from Turkey, the Palestinians were recognized as an "independent nation" by Article 22 of the Covenant of the League of Nations, subject to rendering them administrative advice and assistance by a Mandatary until they are able to stand alone (see appendix I below). The Mandate which was granted in 1922 by the League of Nations to Great Britain to administer Palestine did not divest the Palestinians of their sovereignty. This is recognized by almost all jurists who emphasize that neither the League of Nations nor Great Britain acquired, or could have acquired, sovereignty over Palestine. Sovereignty remained vested in the inhabitants. Although subject to a mandate, Palestine became an independent State which possessed a separate jurisdictional and international personality quite distinct from the personality of the British Government as Mandatary. It became a party in its own right to treaties and conventions with the British Government and third States. Hence, from the time that Palestine was detached from Turkey in 1917 until the end of the Mandate in 1948, it was under international law, an independent State and its people enjoyed sovereignty over its territory. This is the basic premise to be kept in mind in order to appreciate the validity or otherwise of subsequent acts and developments, and also to judge the validity and wisdom or otherwise of United Nations resolutions which have sought to resolve the Palestine problem.

Thus, the Balfour Declaration by which the British Government, a complete stranger to the country, promised on 2 November 1917 a national home in Palestine for the Jews, possessed no juridical value and could not affect or impair the rights and sovereignty of the people of Palestine.

Likewise, the giving to Great Britain in the League of Nations Mandate of "full powers of legislation and administration" clearly went beyond "the rendering of administrative advice and assistance" envisaged in Article 22 of the Covenant. Moreover, the provisions in the Mandate which authorized Great Britain to give effect to the Balfour Declaration and to facilitate Jewish immigration into Palestine made of the Mandate a vehicle for the establishment of a Jewish State in Palestine in clear violation of the legitimate rights of the inhabitants. Thus the Mandate was an abuse of power and a distortion of the concept of the mandate system which was devised to give effect to the principle laid down in Article 22 of the Covenant of the League that the well-being and development of the peoples detached from Turkey "form a sacred trust of civilization".

Again, General Assembly resolution 181 (II) of 29 November 1947, which sought to resolve the Palestine problem by carving out 57 per cent of the area of Palestine for the creation by the Jewish immigrants of a Jewish State was an excess of jurisdiction which took advantage of a weak people and violated its sovereignty over its country.

So again, Security Council resolution 242 (1967) of 22 November 1967, which was proposed as the formula for achieving a just and lasting peace in the Middle East and has since become the target of diplomatic efforts to settle the Arab-Israeli conflict on its basis, was nothing but an attempt to achieve a Pax Hebraica since its effect was to dismiss the question of Palestine as a mere refugee problem and to sanction Israel's usurpation of 80 per cent of the territory of Palestine (this being the area it seized in 1948 and 1949), leaving to the Palestinians the West Bank and Gaza, i.e., 20 per cent of their country.

It is clear then that the question of Palestine will not be resolved by an indiscriminate implementation of United Nations resolutions without regard to the antecedent and inalienable rights possessed by the people of Palestine. Some of those resolutions have violated, others have overlooked those rights. What is even more disturbing is that United Nations resolutions have followed a process of a gradual whittling down of the fundamental and inalienable rights of the people of Palestine. Thus resolution 181 (II) reduced the rights of the Palestinians to only 43 per cent of the territory of their country. It was followed 20 years later by resolution 242 (1967), which further cut down the area to be left to the Palestinians to 20 per cent, that is a mere morsel of their ancestral homeland. These considerations explain why the Palestinians do not entertain feelings of eternal gratitude to the three framers of the Camp David accords of 1978 whose "peace" formula further whittles down Palestinian rights, if it does not entirely abrogate them, since it involves the continuation of Israeli occupation of this 20 per cent, sweetened by a generous grant to the inhabitants of the blessing of "autonomy" - in municipal affairs - under Israeli overlordship.

Accordingly, it is imperative to extract from United Nations resolutions those principles and provisions as are consistent with Palestinian inalienable rights and are compatible with "the principles of justice and international law" laid down in Article 1 of the Charter of the United Nations. In application of this criterion, one could consider that the implementation of the territorial provisions of General Assembly resolution 181 (II) which earmarked 43 per cent of the area of Palestine for the territory of the Arab State and of General Assembly resolution 194 (III) of 11 December 1948 which called for the repatriation of the Palestine refugees, together with other resolutions which emphasized the inalienable rights of the Palestinians provides, under present circumstances, a general framework for a political solution of the Palestine problem.

In this connection, it may be necessary to remark that the resolutions of the United Nations on Palestine did not lapse by reason of their non-implementation or even their violation. Were it otherwise, it would be easy to defeat any resolution simply by ignoring it. It is clear then that General Assembly resolutions 181 (II), 194 (III), and other relevant resolutions are all valid and enforceable, despite Israel ignoring or violating them.

Foremost to be implemented are the territorial provisions of resolution 181 (II). The effective implementation of its territorial provisions entails as a necessary consequence Israel's obligation to evacuate all territories which it seized in excess of the geographical boundaries laid down for the Jewish State by the resolution regardless of whether such territories were seized in 1948, 1949 or 1967, and regardless of whether they were annexed or not. These territories comprise Jerusalem, old and new, the West Bank and Gaza, the central area of Palestine west of Jerusalem, western Galilee, the towns of Jaffa, Nablus, Gaza, Acre, Bethlehem, Ramallah, Nazareth, Lydda, Ramleh, Beersheba, Tulkarm, Jenin and several hundred villages.

Israel possesses no right to resist the implementation of resolution 181 (II) as it has acquired no right or title to the territories comprised within the borders of the Arab State and the corpus separatum of Jerusalem, as defined by the resolution, which it seized in 1948, 1949 or 1967. This view rests upon three considerations.

First, Israel owes its birth and existence to resolution 181 (II). By resisting the implementation of the resolution, it would, in fact, be denying it origin and tearing up its birth certificate. Furthermore, Israel formally accepted the resolution and its acceptance debarred it from claiming any territory beyond what was fixed as the territory of the Jewish State. In fact, not only was resolution 181 (II) accepted by Israel, it was engineered by the Zionist Jews, the founders of Israel, who in 1947 went all out and resorted to all kinds of pressure to secure its adoption by the General Assembly. The establishment of the State of Israel was proclaimed on its basis and Israel's first act was to address a cable (S/747) on 15 May 1948 to the Secretary-General of the United Nations, declaring its readiness to implement resolution 181 (II). The fact that the Arab States and the Palestinians rejected the partition of Palestine, which was envisaged by the resolution, did not confer on Israel any right to appropriate the territory assigned to the Arab State or to appropriate the corpus separatum of Jerusalem.

Secondly, Israel has acquired no title to the territories which it seized in excess of resolution 181 (II). The fact that wars were fought in 1948 and 1967 between the Arab States and Israel, during which the latter seized a larger area of Palestine than was earmarked for the Jewish State by the resolution, does not give it any right over the territories seized, nor take away the rights of the Palestinians. The principle of the inadmissibility of the acquisition of territory by war is laid down both by international law and United Nations resolutions and applies equally to territories seized in 1948 and 1949 in the same way and to the same extent as it applies to territories seized in 1967. It seems necessary to emphasize this point because United Nations resolutions which were adopted since 1967, starting with resolution 242 (1967), have called for Israel's evacuation of the territories seized during that year and have overlooked the territories

it seized in 1948 and 1949 in excess of the boundaries of the Jewish State, and this despite the fact that the legal position is identical in the two cases. Under international law, Israel has the status of belligerent occupier of all these territories and it has not acquired, nor could it acquire, any title thereto. The fact that in one case the seizure is earlier in date than in the other is immaterial since lapse of time is no defence to a claim to territory seized by force whose owner has not acquiesced to its usurpation.

Hence, to limit Israel's obligation to withdraw from territories that were seized in 1967 (as resolution 242 (1967) purports to do) is clearly wrong since this would mean that aggression is disavowed in one part, and is sanctioned or overlooked in another part.

Thirdly, resolution 181 (II) was not abrogated or annulled by the wars of 1948 and 1967 between Israel and the Arab States. The war of 1948 prevented its implementation, but did not affect or impair its validity. In so far as the corpus separatum of Jerusalem is concerned, the General Assembly has made it clear that its military occupation by Israel and Jordan in 1948 did not affect the operation or binding character of resolution 181 (II). In General Assembly resolutions 194 (III) of 11 December 1948 and 303 (IV) of 9 December 1949, it reaffirmed the provision of resolution 181 (II) which established a permanent international regime for the city of Jerusalem. It is significant that these two resolutions were adopted after Israel's seizure of modern Jerusalem and Jordan's seizure of the Old City. Moreover, several resolutions adopted since 1967 by the General Assembly and the Security Council have declared null and void all measures taken by Israel purporting to change the legal status of Jerusalem. Although the General Assembly has not adopted any resolution similar to resolutions 194 (III) and 303 (IV) with respect to the territory of the Arab State as defined in resolution 181 (II), yet the continued validity of resolution 181 (II) regarding Jerusalem, despite its military occupation, must apply equally to the territory of the Arab State seized by Israel. The title of the Palestinians, therefore, to such territory remains unaffected by the hostilities or by their outcome. The same consideration applies to the territories seized by Israel in 1967. In other words, the implementation of the territorial provisions of resolution 181 (II) is not affected by the fighting in 1948 or 1967.

In addition to the above considerations, Israel is specially obligated, more than any other State, to respect and to implement resolution 181 (II) without question. This special obligation arises from a circumstance that is particular to Israel and rests upon the formal assurances it gave to the United Nations in 1949 as a condition of its admission to membership in the Organization. Before approving Israel's application for admission, the General Assembly wished to ascertain its attitude regarding the implementation of General Assembly resolutions, particularly that the manner of its emergence and its actions relative to territory, to Jerusalem and to the Palestinians were not in line with United Nations resolutions. To this end, the General Assembly closely interrogated Israel's representative during several hearings about the implementation of resolution 181 (II), the repatriation of the Palestine refugees under resolution 194 (III) and the international status of Jerusalem. 1/ Israel then gave all necessary assurances for the implementation of General Assembly resolutions, in general, and of resolutions 181 (II) and 194 (III), in particular. The General Assembly took formal note of the "declarations and explanations" of Israel in its resolution 273 (III) of 11 May 1949, in which it decided to admit it to membership in the United Nations (see appendix II below).

One should observe that resolution 181 (II) is enforceable not only as a recommendation of the General Assembly which ordinarily does not possess per se executive force, but also as a resolution which has been endorsed by the action taken by the Security Council in 1948 with a view to its implementation. In adopting resolution 181 (II), the General Assembly had requested the Security Council to take the necessary measures for its implementation and also to determine as a threat to the peace, in accordance with Article 39 of the Charter, any attempt to alter by force the settlement it envisaged. On 5 March 1948 the Security Council adopted resolution 42 (1948), which called on the permanent Members of the Council to make recommendations regarding the guidance and instructions which the Council might usefully give to the Palestine Commission "with a view to implementing the resolutions of the General Assembly". Then, following the outbreak of hostilities between Israel and the Arab States, the Security Council adopted on 15 July 1948 resolution 54 (1948) which determined that the situation in Palestine constitutes a threat to the peace within the meaning of Article 39 of the Charter.

A query is likely to be made as to whether it would be realistic to expect the United Nations to succeed in implementing resolution 181 (II) in a manner that would secure Israel's withdrawal from territories seized in 1948 and 1949 in excess of the boundaries prescribed for the Jewish State when it has utterly failed, despite the adoption of numerous resolutions, in securing its withdrawal from territories seized in 1967. The answer is that if the matter is to be left to Israel's goodwill and pleasure, its withdrawal would be equally unrealistic in either case. If, on the other hand, withdrawal is to be achieved by coercion, then the extent of the withdrawal is immaterial since the degree of coercion required will be exactly the same whether for the territories seized in 1948 or in 1967 because for anyone who knows Israel, it is quite certain that it will resist with equal force any kind of withdrawal, big or small.

Resolution 181 (II) was rejected in 1947 by the Palestinians and the Arab States. It is necessary, therefore, to discuss possible objections to its implementation on their part. These objections are two: one political, the other legal.

Since its adoption, resolution 181 (II) has been anathema to the Palestinians and the Arabs generally by reason of its recommendation for the partition of Palestine and the creation of a Jewish State on 57 per cent of its territory. The situation has, of course, considerably deteriorated since then as a result of Israel's seizure of more territory and its displacement of two thirds of the population.

In present circumstances, however, the objection to resolution 181 (II) loses some of its heat because the implementation of its territorial provisions would reduce the much greater hardships that have befallen

the Palestinians since its adoption. The implementation of the resolution will achieve three important results.

First, it would enable two thirds of the Palestinian refugees to return to their homes, villages and towns in the evacuated territories and would thus substantially reduce the dimensions of the Palestine refugee problem which has now reached, as a result of natural increase, the staggering figure of 2.5 million refugees.

Such repatriation would pose no serious problems, except rehabilitation, since it would not depend on Israel's will and pleasure. For this reason, it is judicious, if not imperative, that evacuation should precede repatriation. As to the refugees originating from the territory reserved for the Jewish State by resolution 181 (II), their repatriation would be achieved by implementation, under United Nations supervision, of resolution 194 (III).

Secondly, implementation of the resolution would entail the restoration to the Palestinians of a large segment of their country and thus enable them to establish a Palestinian State in the territory destined for the Arab State by the resolution. It goes without saying that the establishment of a Palestinian State does not need Israel's consent, which it arrogantly now claims to withhold in advance, even for a Palestinian State in the West Bank and Gaza. Neither does the establishment of a Palestinian State require any authorization from the Security Council. It is evident that the establishment of a Palestinian State would not amount to the creation of a new State but would be simply the continuation or revival of the existence of the State of Palestine, which came into existence after the detachment of Palestine from Turkey at the end of the First World War.

Thirdly, implementation of the resolution would free one third of the Palestinians from Israeli domination and repression.

In terms of practical policy, therefore, a return to the territorial position envisaged by resolution 181 (II) would definitely be preferable to the present situation, which is of far greater injustice and inequity.

The legal objection to resolution 181 (II) is founded upon the incompetence of the General Assembly to partition Palestine and to earmark part of its territory for the creation of a Jewish State. It is clear that in adopting resolution 181 (II) the General Assembly sought to do two things which it possessed absolutely no power to do. On the one hand, it purported to divest the Palestinians of their sovereignty over part of their homeland, and on the other hand, it purported to grant to the Jews - most of whom were alien immigrants and even foreign nationals - the right to establish a State in the territory of Palestine. Most jurists doubt the competence of the General Assembly to carve out of the territory of Palestine an area for the creation of a Jewish State 2/ or to abolish the existing rights of the Palestinians. 3/ The territory of Palestine was not terra nullius to be given away by the United Nations to anyone. In recommending the creation of a Jewish State in 1947, the action of the United Nations was on the same footing from a juridical standpoint as that of the British Government in promising to the Zionists the establishment in Palestine of a national home for the Jews. Neither possessed any power, dominion or sovereignty in Palestine enabling it to dispose of the territory of Palestine and their actions lacked any legal foundation.

The incompetence of the General Assembly to adopt resolution 181 (II) should not, however, prevent the implementation of its territorial provisions since it would strip Israel of the fruits of its aggressions and restore to the people of Palestine an important part of their country. Moreover, the restoration to the Palestinians of the territory of Palestine which was not designated by the United Nations in 1947 to form part of the Jewish State, but was specifically destined for the establishment of the Arab State, should not be considered in the strict sense an implementation of resolution 181 (II). Such restoration should be viewed rather as a recognition of their antecedent and imprescriptible right of sovereignty over Palestine and also an application of the principle that Israel cannot retain possession of, or acquire title to, any land which it seized in excess of the area designated for the Jewish State by the United Nations. In the light of these considerations, the implementation of the territorial provisions of resolution 181 (II) and the consequent handing over to the Palestinians of the area designated for the Arab State would not be translatative of rights in their favour, but would be declaratory of their existing right of sovereignty.

The criticism may be made that while the implementation of the territorial provisions of the resolution effaces Israel's usurpation of territory seized in excess of the boundaries it fixed for the Jewish State, it would still leave in Israel's hands 57 per cent of the territory of Palestine. Such criticism, however, is attenuated by the fact that Palestinian sovereignty remains over such territory, since neither a United Nations resolution, nor Israeli occupation or annexation, can divest the Palestinians of their sovereignty.

The right of sovereignty is inalienable and imprescriptible and survives aggression, occupation and annexation. The position of Palestine is legally analogous to the situation of Poland, whose sovereignty survived foreign occupation and annexation during the interregnum that lasted from 1795 to 1919, and to the position of Ethiopia, whose sovereignty survived Italy's occupation and annexation in 1936. In any event, the issue of the invalidity of the disposition of 57 per cent of the territory of Palestine which resolution 181 (II) purported to make in favour of a Jewish State can at all times be submitted to the International Court of Justice for its opinion, a course which, under improper pressures, the General Assembly declined to follow in 1947. 4/

The evacuation of territories seized by Israel in excess of resolution 181 (II) requires not only withdrawal of its military forces and civil administration, but also of Israeli settlers. Those Jews who were habitually resident of the evacuated territories on 29 November 1947 should be allowed to remain. Others would not be "thrown to the sea" as hysterical Zionist propaganda would claim, but would be evacuated to Israeli territory, or if they so elect, to their country of origin. The Egyptian-Israeli Peace Treaty of 26 March 1969 (article 1, paragraph 2) has set the precedent of the evacuation of all Israeli settlers who were brought to occupied territory.

In application of accepted principles of international law and of United Nations resolutions, all measures taken by Israel, including confiscation or expropriation of Arab property, in occupied territories would be rescinded and all such property restored to its lawful owners.

The implementation of resolution 181 (II) will necessitate the establishment by the United Nations of an international authority similar to a certain extent to the Palestine Commission which was set up by the resolution in 1947 to implement its terms. Such an international authority would be charged with supervision of the Israeli withdrawal and the temporary administration of evacuated territories. Upon completion of the withdrawal, it would hand over to the Palestine Liberation Organization (PLO), as the representative of the people of Palestine, the territories that were destined by the resolution for the Arab State, and to the Trusteeship Council, the corpus separatum of Jerusalem.

In addition, the United Nations would have to consider Israel's obligation to make reparations to the Palestinians for loss and damage caused during the occupation of Arab territory. Resolution 194 (III) provided for the payment of compensation for the property of refugees choosing not to return and for loss or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible. This provision, however, cannot be considered to be the final word on the subject because at the date of its adoption the tragedy was just beginning to unfold. Since then the damage has reached the proportions of a catastrophe: all the immovable property owned by the million refugees displaced in 1948 was confiscated, all their movables and assets found in their homes, shops or businesses were plundered, 385 Arab villages were destroyed, 5_/ and in many instances the properties of residents were confiscated or destroyed. The reparations payable would need to be determined by a Commission appointed by the United Nations.

Until now the United Nations has made no attempt to implement its resolutions on Palestine. It relied without success on mediation and conciliation. The Palestine Mediator, Count Folke Bernadotte, was assassinated on 17 July 1948 by Jewish terrorists in Jerusalem. The Conciliation Commission, which was appointed to assume his functions, has not made the slightest progress in its mission despite the lapse of 32 years. During all this period, the United Nations has been adopting, affirming and reaffirming resolutions without any result.

In 1975 the General Assembly established the Committee on the Exercise of the Inalienable Rights of the Palestinian People to recommend a programme of implementation of the inalienable rights of the Palestinians which were recognized by General Assembly resolution 3236 (XXIX) of 22 November 1974. The Committee recommended a programme of action 6_/ which can be summarized as follows:

1. The repatriation of the Palestine refugees in two phases, first, the refugees of 1967, and second, the refugees displaced between 1948 and 1967;
2. The withdrawal of Israeli forces from the areas occupied in 1967 and their handing over to the PLO;
3. The establishment of an independent Palestinian entity in the evacuated areas;
4. The making of further arrangements for the full implementation of the inalienable rights of the people of Palestine. The tenor of this particular recommendation (para. 72) is as follows:

"(g) As soon as the independent Palestinian entity has been established, the United Nations, in cooperation with the States directly involved and the Palestinian entity, should, taking into account General Assembly resolution 3375 (XXX), make further arrangements for the full implementation of the inalienable rights of the Palestinian people, the resolution of outstanding problems and the establishment of a just and lasting peace in the region, in accordance with all relevant United Nations resolutions".

Obviously, the suggested programme of action falls short of an implementation of the territorial provisions of resolution 181 (II). If, as is clear, the Palestinians possess indubitably a right supported by international law and United Nations resolutions to recover the territory assigned to them by resolution 181 (II), then the recommendations of the Committee would have gained in being more precise and clear-cut.

The Committee's recommendations were endorsed by the General Assembly and were transmitted to the Security Council to consider them and take a decision thereon. No action, however was taken thereon by the Security Council.

In its resolution 34/65 A of 29 November 1979, the General Assembly expressed regret and concern that the Committee's recommendations, though endorsed by it in several resolutions, have not been implemented and once again urged the Security Council to consider them and take a decision thereon. The General Assembly requested the Committee, in the event of the Security Council failing to consider or to take a decision on those recommendations by 31 March 1980, to consider the situation and to make the suggestions it deemed appropriate.

The Charter of the United Nations contains a wide range of measures of coercion to secure the enforcement of its resolutions, but no recourse has been made until now to such measures. On a few occasions, the Security Council issued warnings that it would take action under the Charter. Thus in its resolution 54 (1948) of 15 July 1948 the Security Council declared that failure of the Governments concerned in the fighting

in Palestine to comply with its order to desist from military action would lead to the taking of such further action under Chapter VII of the Charter as may be decided by the Council. So again, in various resolutions in which it condemned Israel's armed attacks on its neighbours, the Security Council warned that in case of repetition, it would have to consider further and more effective steps as envisaged by the Charter. 7/ Notwithstanding that Israel paid no heed to these warnings, but repeated its attacks and aggressions, the Security Council took no coercive measures against it to force it into the path of legality.

The nearest approach to the exercise of coercion is to be found in the recommendation made by the General Assembly to Member States in some of its resolutions to withhold military or economic aid to Israel so long as it continues to occupy Arab territories and to deny the inalienable rights of the Palestinian people. 8/ And on 1 March 1980, the Security Council for the first time also decided, in resolution 465 (1980) to call on all States "not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories". This kind of economic sanction, however, has not proved to be efficacious because the principal purveyor of arms and finance to Israel, namely the United States Government, is not prepared to discontinue economic and military assistance to its protégé. In a statement made on 23 August 1977, President Jimmy Carter ruled out the withholding of economic or military aid to exert pressure on Israel in order to secure its withdrawal from territories occupied in 1967.

It is obvious that the question of Palestine cannot be resolved by mediation or conciliation or by the mere adoption of resolutions. Israel's attitude towards United Nations resolutions has invariably been to reject and flout them, often in insolent and arrogant terms. On the other hand, appeals, censures, deploations and condemnations are completely ineffective to ensure implementation of United Nations resolutions. Only coercion will succeed. At the time of the Suez aggression, Israel flouted General Assembly resolutions that called for its withdrawal from the territories it had occupied. Thereupon President Dwight D. Eisenhower declared: "The United Nations has no choice but to exert pressure upon Israel to comply with the withdrawal resolutions." In fact, pressure then succeeded. Dr. John H. Davis, for several years Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), also came to the conclusion that "in the end, one must even be prepared to impose corrective measures on Israel against her will". 9/

Resort to coercion is necessary and unavoidable if United Nations resolutions on Palestine are to be implemented. Unlike international law which lacks means for the enforcement of its rules, save war and reprisals, the Charter of the United Nations, following the Covenant of the League of Nations, laid down a system of enforcement measures, some of which involve the use of force, while others do not.

In accordance with Article 24 of the Charter, members of the United Nations have conferred on the Security Council primary responsibility for the maintenance of international peace and security. Before deciding what measures should be taken, whether involving the use of armed force or not, the Security Council must determine the existence of a threat to the peace, breach of the peace, or act of aggression (Article 39). In regard to Palestine, such determination was made by the Security Council in resolution 54 (1948) of 15 July 1948 which, as previously mentioned, was adopted following the first outbreak of hostilities between Israel and the Arab States. The resolution stated that the situation in Palestine constituted a threat to the peace within the meaning of Article 39 of the Charter. This resolution was invoked in several subsequent resolutions. 10/ Paragraph 8 of the resolution provided that the truce therein ordered should remain in force "until a peaceful adjustment of the future situation in Palestine is reached". This desirable state of affairs has not yet been reached because since then, more wars were fought, more territories were seized and more refugees displaced. It follows that resolution 54 (1948) is still operative and no fresh determination of the existence of a threat or breach of the peace is required before the Security Council can take action under Articles 41 and 42 of the Charter to enforce United Nations resolutions on Palestine.

The basic obstacle to the taking of enforcement measures by the Security Council lies in the attitude of the United States Government, which is opposed to the resort by the United Nations to sanctions or to any form of coercion against Israel. This was not always the case, as we have seen, because Israel's withdrawal in 1956 from the territories which it then occupied was secured only through United States coercion and Soviet threats.

Since 1967, however, the United States attitude towards Israeli acts and aggressions has radically changed to an extent that at times it seems to imply acquiescence. Thus in that year the United States Government prevented Israel's condemnation by the General Assembly as an aggressor although the fact of aggression was patent and obvious. Moreover, it prevented the adoption of a resolution calling for Israel's immediate and unconditional withdrawal from the territories it then occupied. One can even say that Israel now enjoys almost unqualified political support from the United States, and can also count on the United States veto in the Security Council to defeat the adoption of resolutions of which it disapproves. Thus on 10 September 1972 and again on 8 December 1975, the United States vetoed Israel's condemnation by the Security Council for murderous raids on Palestinian refugee camps in Lebanon and the Syrian Arab Republic which took a heavy toll of innocent lives. Again, on 25 March 1976, it vetoed a draft resolution of the Security Council which censured Israeli actions in Jerusalem and the occupied territories. On two occasions it vetoed Security Council draft resolutions which attempted to lay down a framework for a settlement which did not have Israeli approval. Thus on 26 January 1976 a Security Council draft resolution which reaffirmed the principle of the inadmissibility of acquisition of territory by force and the inalienable national rights of the Palestinians, including their right to return and establish an independent State, and called upon Israel to withdraw from territories occupied in 1967, was defeated by the veto of the United States notwithstanding that it had received the approval of the required majority of nine members. Again on 30 April 1980, a draft resolution of the Security Council which affirmed the principle that the people of Palestine should be enabled to exercise its inalienable right of self-determination, including the right to establish an independent State, was defeated by the veto of the United States although it had the approval of 10 members.

The explanations given by the United States for its vetoes, including the standard excuse invoked that the

resolution "is not balanced", are not convincing. The real reason is that since 1975 the United States veto in favour of Israel is not exercised as a result of a fair appreciation of the merits of the matter which is before the Council, but is cast in execution of a commitment which the United States Government has assumed to align its attitude at the Security Council upon Israel's position. This amazing subservience of a super-Power to Israeli wishes was achieved by Henry Kissinger in the undertakings contained in a Memorandum of Agreement which he negotiated between the United States Government and Israel in connection with the Egyptian-Israeli Agreement of 1 September 1975. Article 8 of the Memorandum of Agreement stated:

"8. The United States Government will vote against any Security Council resolution which in its judgement affects or alters adversely the agreement."

In a Memorandum of Agreement concluded on the same date between the United States Government and Israel concerning the Geneva Peace Conference, it was also stated:

"4. The United States will oppose and, if necessary, vote against any initiative in the Security Council to alter adversely the terms of reference of the Geneva Conference or to change resolutions 242 and 338 in ways which are incompatible with their original purpose."

The subjection of the United States vote at the United Nations to Israel's pleasure also found expression in the commitment which the United States Government gave to Israel in a Memorandum of Agreement dated 26 March 1979 concluded between the parties in connection with the Egyptian-Israeli Peace Treaty of the same date.

Article 5 of the Memorandum states:

"5. The United States will oppose and, if necessary, vote against any action or resolution in the United Nations which in its judgement adversely affects the Treaty of Peace."

One can, therefore, expect that any decision by the Security Council for the implementation of United Nations resolutions on Palestine, for recourse to coercive measures against Israel, would be defeated by a veto of the United States. Although the United States Government was the chief promoter in 1947 of resolution 181 (II), to the extent that President Truman exerted undue and improper pressures on several States to secure its adoption by the General Assembly, there can be no doubt that an attempt to implement its territorial provisions would meet with a veto of the United States.

Considering that the United States Government has committed itself to Israel to vote against a resolution of the Security Council that seeks to change resolution 242 (1967), it could be argued that in such event the veto would not be, strictly speaking, a veto by the United States but would, in fact, be a veto by Israel exercised through an intermediary.

In these circumstances, one can have doubts about the propriety or even the validity of the United States veto in matters relating to the Arab-Israeli conflict. Article 27, paragraph 3, of the Charter, which deals with the voting procedure in the Security Council, provides that in decisions under Chapter VI (Pacific Settlement of Disputes) a party to a dispute shall abstain from voting. By committing itself in advance to vote in the manner desired by Israel, the United States espouses its cause and makes itself a party to the dispute thereby technically disqualifying itself from casting its vote. Furthermore, Article 24, paragraph 2 of the Charter provides that in discharging its duties, the Security Council shall act in accordance with the Purposes and Principles of the United Nations. This obligation binds every member of the Council. Article 1 of the Charter states that the Purposes and Principles of the United Nations are, inter alia, to bring about by peaceful means and "in conformity with the principles of justice and international law" adjustment or settlement of international disputes or situations which might lead to a breach of the peace. In binding itself to vote and, in fact, voting against and, as a result, defeating Security Council resolutions for the benefit of a State which has displaced 2.5 million refugees, occupied their country, destroyed the historic and universal character of Jerusalem, and violated over 250 United Nations resolutions, can it be said that the United States is acting in conformity with the principles of justice and international law?

This is not the first time that the problem of a paralysing veto at the Security Council has arisen in an international crisis. The General Assembly found a remedy for such a situation at the time of the Korean war. On 3 November 1950 it adopted resolution 377 A (V) which has been called the "Uniting for Peace" resolution" (see appendix III below). This resolution stated in its operative part that the General Assembly:

"1. Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to members for collective measures, including in the case of a breach of the peace or act of aggression, the use of armed force when necessary, to maintain or restore international peace and security".

The adoption of this resolution was justified by the terms of Article 1 of the Charter, which state that the purposes of the United Nations are "to take effective collective measures" for the prevention and removal of threats to the peace, and for the suppression of acts of aggression. The resolution is also justified by the terms of Article 24, which provide that Members of the United Nations confer on the Security Council "primary responsibility" for the maintenance of international peace and security and agree that in carrying out its duties under this responsibility, the Security Council acts under an authority delegated to it by the Members of the United Nations and, in accordance with general principles of law, in the event that the mandatory to whom authority is delegated is prevented from its exercise, the Members of the United Nations, in

their capacity as principals, are entitled "to take collective measures".

Recourse to resolution 377 A (V) was had not only in Korea, but also in the Arab-Israeli war of 1956. As action by the Security Council was blocked by the vetoes of France and the United Kingdom, which had intervened at Suez on the side of Israel, a special emergency session of the General Assembly convened in November 1956 and adopted several resolutions which called for a cease-fire and the withdrawal of the armed forces of France, the United Kingdom and Israel. The General Assembly also established the United Nations Emergency Force (UNEF) to secure and supervise the cessation of hostilities. Recourse to the resolution was also made in 1960 in order to deal with the situation in the Congo. In all those cases, the direct intervention of the General Assembly proved effective.

Thus the Charter and the practice of the United Nations enable the General Assembly to overcome a veto by the United States which would seek to block the implementation of United Nations resolutions on Palestine. No determination of the existence of a situation requiring action is needed under Article 39 of the Charter because, as we have noted, such determination was made by the Security Council in 1948 and is still operative and further because the aggression is still continuing since Israel continues to occupy territories lying outside the boundaries of the Jewish State as delimited by resolution 181 (II). In any event, no such determination is required in the event of action of the General Assembly under the resolution of 3 November 1950. 11/

The way is open, therefore, to the United Nations to take coercive measures to enforce its resolutions on Palestine and to restore its credibility as an effective international organization. Palliatives, patchings and pious hopes will not settle the problem. Even fresh resolutions that do not remedy the problem at its root will not be of great help.

An intention is attributed to the European Community to seek an amendment to resolution 242 (1967) which will recognize the right of the people of Palestine to self-determination and at the same time, "to keep balance", will also provide for Israeli security, seemingly overlooking the fact that Israel's insecurity comes more than anything else from the revolting injustice which lies in its very foundation. In effect, any such amended resolution would mean that, on the one hand, the Palestinians can establish an independent State, and on the other, that it is implied that Israel's annexation of the territories it seized before 1967, is ratified. Hence, such amended resolution would remain subject to the criticism of leaving to the Palestinians only 20 per cent of their country.

Legally, the Security Council has no competence, whether in resolution 242 (1967) or in any amended resolution, to override or abrogate a resolution of the General Assembly, such as resolution 181 (II), since it is a body that possesses only delegated powers from the Members of the United Nations who together constitute the General Assembly. Moreover, it possesses no power to ratify Israel's occupation and usurpation of territory in violation of resolution 181 (II) either expressly or by implication through the giving of guarantees for its security.

Politically, the modest contribution which the amendment proposes to make, by recognizing in favour of the Palestinians what is in reality a God-given right of self-determination, not a right given by the Security Council, is completely wiped out by the express or implied ratification of the Israeli usurpation of the territory assigned by resolution 181 (II) to the Arab State.

Despite the fact that the initiative of the European Community might in the end prove to be of greater benefit to Israel than to the Palestinians, the United States Government and Israel have aligned their guns in order to fight it. Both Begin and Carter have rejected such initiative even before it has been put on paper or submitted in the form of a draft resolution to the Security Council. In a televised interview on 1 June 1980, President Carter threatened in advance to make use of the American veto to defeat any amendment of Security Council resolution 242 (1967). He said:

"We will not permit in the United Nations any action that would destroy the sanctity of and the present form of United Nations [resolution] 242. We have a veto power that we can exercise, if necessary, to prevent the Camp David process from being destroyed or subverted, and I would not hesitate to use it if necessary".

There is no sanctity in resolution 242 (1967) or in the Camp David accords. Neither leads to peace or justice. Each aims at the implementation of a peace formula which Israel seeks to impose. It is a matter for regret that President Carter fails to see that the Camp David formula, which was based on the proposal for "autonomy" advanced by Menachem Begin, the Israeli Prime Minister, in December 1977, cannot lead to peace because it aims at the consummation of the injustice committed in Palestine. The Camp David accords do not represent a great diplomatic achievement, as claimed by President Carter, but constitute an attempt to draw the last curtain on the Palestine tragedy.

These considerations confirm the need for the General Assembly to take firm and decisive action for the establishment of a Palestinian State in the territory reserved by resolution 181 (II) of 29 November 1947 for the Arab State because it is the only way of doing a little bit of justice to the Palestinians and resolving peacefully the conflict. Some may question whether the United Nations can turn back the hands of the clock 30 years to implement its resolutions. But have not the Jews turned back the hands of the clock 3,000 years to exhume a Jewish State from the dust of history?

Notes

- 1/ Official Records of the General Assembly, Ad Hoc Political Committee, Part II, 1949, pp. 179-360.
- 2/ Henry Cattán, Palestine and International Law, 2nd ed. (London, 1976), pp. 75ff.
- 3/ Jorge Castaneda, Legal Effects of United Nations Resolutions (New York, Columbia University Press, 1969), p. 132.
- 4/ Cattán, op.cit., p. 80.
- 5/ Israel Shahak, Le Racisme de l'Etat d'Israël (Paris, Guy Authier, 1975), p. 156.
- 6/ Official Records of the General Assembly, Thirty-first Session, Supplement No. 35 (A/31/35).
- 7/ See, for example, Security Council resolutions 111 (1956) of 19 January 1956, 288 (1966) of 25 November 1966, 248 (1968) of 24 March 1968, 256 (1968) of 16 August 1968 and 265 (1969) of 1 April 1969.
- 8/ General Assembly resolutions 3092 (XXVIII) of 7 December 1973, 3240 (XXIX) of 29 November 1974, 3525 (XXX) of 15 December 1975, 33/113 of 18 December 1978 and 34/90 of 12 December 1979.
- 9/ John H. Davis, The Evasive Peace (London, John Murray, 1968), p. 107.
- 10/ Security Council resolutions 56 (1948) of 19 August 1948, 59 (1948) of 19 October 1948, 61 (1948) of 4 November 1948, 62 (1948) of 16 November 1948, 73 (1949) of 11 August 1949, 92 (1951) of 8 May 1951, 93 (1951) of 18 May 1951, 101 (1953) of 24 November 1953, 106 (1955) of 29 March 1955, 111 (1956) of 19 January 1956, and 171 (1962) of 9 April 1962.
- 11/ Hans Kelsen, The Law of the United Nations (London, Stevens, 1951), p. 979.

Appendix I

Article 22 of the Covenant of the League of Nations, 28 June 1919

Article 22. To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

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.

Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilization, or their geographical contiguity to the territory of the Mandatary, and other circumstances, can be best administered under the laws of the Mandatary as integral portions of its territory, subject to the safeguards above mentioned in the interest of the indigenous population.

In every case of Mandate, the Mandatary shall render to the Council an annual report in reference to the territory committed to its charge.

The degree of authority, control or administration to be exercised by the Mandatary shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.

Appendix II

General Assembly resolution 273 (III) of 11 May 1949 on the admission of Israel to membership in the United Nations

Having received the report of the Security Council on the application of Israel for membership in the United Nations, a/

Noting that, in the judgment of the Security Council, Israel is a peace-loving State and is able and willing to carry out the obligations contained in the Charter,

Noting that the Security Council has recommended to the General Assembly that it admit Israel to membership in the United Nations,

Noting furthermore the declaration by the State of Israel that it "unreservedly accepts the obligations of the United Nations Charter and undertakes to honour them from the day when it becomes a Member of the United Nations", b/

Recalling its resolutions of 29 November 1947 c/ and 11 December 1948 d/ and taking note of the declarations and explanations made by the representative of the Government of Israel e/ before the ad hoc Political Committee in respect of the implementation of the said resolutions,

The General Assembly,

Acting in discharge of its functions under Article 4 of the Charter and rule 125 of its rules of procedure,

1. Decides that Israel is a peace-loving State which accepts the obligations contained in the Charter and is able and willing to carry out those obligations;

2. Decides to admit Israel to membership in the United Nations.

Two hundred and seventh plenary meeting,

11 May 1949.

a/ See document A/818.

b/ See document S/1093.

c/ See General Assembly resolution 181 (II).

d/ See General Assembly resolution 194 (III).

e/ See documents A/AC.24/SR.45-48, 50 and 51.

Appendix III

General Assembly resolution 377 A (V) of 3 November 1950

The General Assembly,

Recognizing that the first two stated Purposes of the United Nations are:

"To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace," and

"To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace,"

Reaffirming that it remains the primary duty of all Members of the United Nations, when involved in an international dispute, to seek settlement of such a dispute by peaceful means through the procedures laid down in Chapter VI of the Charter, and recalling the successful achievements of the United Nations in this regard on a number of previous occasions,

Finding that international tension exists on a dangerous scale,

Recalling its resolution 290 (IV) entitled 'Essentials of peace', which states that disregard of the Principles of the Charter of the United Nations is primarily responsible for the continuance of international tension, and desiring to contribute further to the objectives of that resolution,

Reaffirming the importance of the exercise by the Security Council of its primary responsibility for the maintenance of international peace and security, and the duty of the permanent members to seek unanimity and to exercise restraint in the use of the veto,

Reaffirming that the initiative in negotiating the agreements for armed forces provided for in Article 43 of the Charter belongs to the Security Council, and desiring to ensure that, pending the conclusion of such agreements, the United Nations has at its disposal means for maintaining international peace and security,

Conscious that failure of the Security Council to discharge its responsibilities on behalf of all the Member States, particularly those responsibilities referred to in the two preceding paragraphs, does not relieve Member States of their obligations or the United Nations of its responsibility under the Charter to maintain international peace and security,

Recognizing in particular that such failure does not deprive the General Assembly of its rights or relieve it of its responsibilities under the Charter in regard to the maintenance of international peace and security,

Recognizing that discharge by the General Assembly of its responsibilities in these respects calls for possibilities of observation which would ascertain the facts and expose aggressors; for the existence of armed forces which could be used collectively; and for the possibility of timely recommendation by the General Assembly to Members of the United Nations for collective action which, to be effective, should be prompt,

A

1. Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations;

...

Abdeen Jabara
(Lawyer, United States of America)

The legal issues in the Palestine question can be divided into issues that have dominated the attention of legal scholars, diplomats, Governments and international organizations over four separate periods. Those periods are, respectively, from the beginning of the League of Nations Mandate until Britain announced termination of its presence as the Mandatary in 1947, from 1948 to 1967, from 1968 to 1974 and from 1974 to the present.

The period of the British Palestine Mandate raised numerous legal issues. The jurisdiction of the League of Nations to establish the Mandates System, the status of the World Zionist Organization/Jewish Agency in international law and the denial of self-government to the indigenous Arab Palestinian population are some of the more salient ones, including the legal status of certain recommendations of the successor organization to the League, the United Nations, relative to Palestine as the Palestine Mandate terminated. This period of time from 1920 to 1947, raised certain legal issues that have a solid basis in international law but are, at best, tangential to the central legal issues in the Palestine question that are today recognized by the world community, a community that has seen substantial change since the League of Nations established the mandate system.

In the aftermath of the creation of the State of Israel in 1948 the focus of attention was on the armistice agreements that had been entered into between the Government of Lebanon, Jordan, Syria and Egypt on the one hand and the Government of the newly created State of Israel on the other. No legal termination of the state of war had been effected by the concluding of the armistice agreements, an armistice agreement being merely a bilateral negotiated contract for the suspension of hostilities for a negotiated period of time. The legal debate that emanated from the armistice agreements was what constituted belligerent rights under international law since a de jure state of war continued to exist in the absence of the conclusion of an agreement of peace.

The Arab States continued to assert their claims regarding repatriation and compensation for the Palestinians, the boundary and territorial questions raised by the establishment of Israel and the subsequent war, the status of Jerusalem, etc. The failure of the Palestine Conciliation Commission and the parties concerned to resolve these outstanding claims necessitated the continuance of the armistice regime. Israel contended that the armistice agreements that it had concluded with the several Arab States had brought the war to an end while Egypt, Lebanon, Syria and Jordan all correctly maintained that an armistice agreement was merely a termination of active hostilities but did not constitute resolution of the underlying political, demographic and geographic issues. For instance, article IV of the Egypt-Israel armistice agreement of 1949 establishes the status quo of the military position in terms of areas and numbers of troop deployment at the date of signing and specifically states that "it is not the purpose of this Agreement to establish, to recognize, to strengthen, or to weaken or nullify, in any way, any territorial, custodial, or other rights, claims or interests which may be asserted by either party in the area of Palestine".

It is interesting and important to note here that no party representing the Arab population of Palestine had participated in or was otherwise involved in any dispositions following the 1948 hostilities between armed units of several Arab States and the newly established State of Israel.

Pursuant to the armistice agreements, mixed armistice commissions were established between Israel and the Arab States that had concluded armistice agreements in order to give effect to the provisions of the agreements and to attempt to resolve the differences that arose.

During this 1948-1967 period, Arab legal writers wrote extensively about the legal ramifications of such matters as the Balfour Declaration, the British Mandate over Palestine and the United Nations resolution recommending the partition of Palestine into two separate political entities. United Nations resolutions during this period were generally a reaction to breakdowns in the cessation of hostilities under the armistice agreements and reflected the composition of United Nations membership at the time. For instance, Egypt continued to exercise rights under the Israel-Egypt Armistice Agreement of 1948, as did Syria and Jordan. An exercise of these rights, such as central of territorial waters and waterways, frequently resulted in a renewal of armed hostilities.

In the period following the June 1967 war between several Arab States and Israel, the passage of Security Council resolution 242 (1967) of 22 November 1967, the occupation by Israeli military forces of the remainder of mandated Palestine and portions of other Arab areas and the emerging prominence of the Palestine Liberation Organization (PLO) prosecuting a military and political struggle for the liberation of Palestine very substantially affected the legal considerations in the conflict in term of their impact on the international community.

In the immediate aftermath of the June war, a number of Arab jurists met at Algiers to discuss the still unsettled legal aspects of the Palestine problem. The issues that came up at that meeting were several, some of which were to assume much more importance in the 1970s and will undoubtedly occupy international legal and political attention in the 1980s. The issues most prominently discussed at that conference were:

- (a) The right of peoples to self-determination;
- (b) The legal character of the United Nations;
- (c) State recognition;

- (d) The Jewish people concept in international law;
- (e) The rights, privileges and responsibilities of parties to an armistice agreement;
- (f) The legality of the League of Nations Mandate of Palestine.

It was the legal issue of the right of the Palestinian people to self-determination under international law that was to receive increasing attention among Arab jurists. During the meeting of the International Conference of Parliamentarians on the Middle East Crisis, held at Cairo in February 1970, some of the participants from Arab countries (Egypt, Kuwait and Jordan) presented papers that clearly showed a changed legal emphasis that was to receive increasing international acceptance.

Of course, immediately after the 1967 war, the United Nations began expressing concern for Israel's treatment of Palestinians in the newly occupied territories. On 4 July 1967 the Security Council unanimously adopted a resolution calling upon Israel to facilitate the return of persons who had fled during the hostilities and recommending respect by all concerned parties for the "humanitarian principles governing the treatment of prisoners of war and the protection of civilian persons in the time of war". One month later the General Assembly affirmed the Security Council resolution by a vote of 116 to none with 2 abstentions.

Initially the United Nations was interested in repatriation and compensation for Palestinians, as was the case in the 1948-1967 period during which the repatriation/compensation provision was adopted annually by the General Assembly. But by late 1968, allegations of other Israeli violations of Arab human rights had become so frequent that the General Assembly established a Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories. Likewise the United Nations Commission on Human Rights established a special Working Group of Experts to investigate allegations concerning Israeli violations of the Fourth Geneva Convention of 1949. Since the establishment of these two United Nations bodies to monitor Israeli practices in what the international community considered to be occupied territory, the central legal issue that gained international attention in the Palestine problem was the question of Palestinian human rights. And as the resistance to occupation by the Palestinian people in the West Bank and Gaza Strip quickened, so did the repression of that resistance by the occupying Power. Moreover Israel immediately moved to annex Arab Jerusalem and its environs and began to import a portion of its Jewish civilian population into the territories for settlement purposes. The fact that Israel had physically occupied the remainder of Palestinian land, a demographically homogenous area, made the issue of Israeli State conduct vis-à-vis the Palestinians an internationally considered issue of juridical importance. Following the occupation, numerous other national and international bodies and organizations conducted investigations and issued reports concerning Israeli policies and practices in the occupied territories, all of which condemned the extensive violations of internationally recognized rights by Israel as occupying Power.

Thus, from the period of 1967 to 1974 the issue of Palestinian human rights under various international conventions and agreements became the dominant internationally recognized legal issue in the Palestine problem.

Of course this development occurred against the backdrop of the growing prominence of the PLO as the sole legitimate representative of the Palestinian people. Coupled with this was the legal debate in the international community over the legal ramifications of armed insurrection as an agent of change and a substitute for inter-State war, the status of insurgents under traditional international law, the scope of applicability of the humanitarian laws of warfare to internal armed conflict, the observance of minimum humanitarian laws in non-international armed conflicts, detention and criminal prosecution in internal conflicts, etc. Peoples struggling for liberation from colonial rule throughout the world were demanding that international legal norms protect them in their struggles while the old international order continued to construe the rights of insurgents narrowly. In many instances where insurgency threatened established State interests of third parties, an effort was mounted to secure international and domestic sanction against States that "aided and abetted international terrorism". The most recent examples of third-party intervention in the Palestine conflict are the efforts by the United States Government to extradite a 20-year-old Palestinian in federal custody to stand trial in Israel on criminal charges arising out of the expulsion of a timed explosive device that was detonated in Tiberius, Israel, on 14 May 1979. In the case of the extradition of Ziad Abu Ein, the United States Court of Appeals for 7th Circuit, No. 80-1487, the United States Justice Department and Department of State sought to denominate the alleged offence as a common crime and not a non-extraditable "offence of a political character" under the terms of the United States-Israel Extradition Treaty of 1963. This intervention by the United States Departments of State and Justice occurred despite the express provisions in international law and United States domestic law enjoining the extradition of persons charged with committing political offences.

In connection with the Middle East question, very considerable importance has always been assigned to Security Council resolution 242 (1967) and the acceptance of same by the State parties to that conflict. Of course, just as in the Arab-Israel armistice agreements concluded in 1948-1949, the Palestinians were neither consulted or otherwise participated in or adhered to resolution 242 (1967) although most of the international community, through the struggle of the Palestinians, under the leadership of the PLO, recognized that the Palestinians were an essential party to any just and lasting peace in the Middle East. Of course the subsequent bilateral agreement between the United States, Egypt and Israel at Camp David refers to resolution 242 (1967) in its preamble and, indeed, goes beyond resolution 242 (1967) in referring to "Palestinian people" instead of the "Arab refugees" construction of resolution 242 (1967). Camp David sought, by the restricted nature of its participants, to pre-empt the growing international legal consensus

about the centrality of the Palestinian people in the Palestine problem, the recognition of the PLO as the sole, legitimate representative of the Palestinian people, and that the essence of the Palestine problem was the exercise by that people of rights established in international law - to equal rights and self-determination.

As early as 8 December 1970, the United Nations General Assembly, representing the overwhelming majority of the peoples of the world, recognized in resolution 2672 C (XXV) that "the people of Palestine are entitled to equal rights and self-determination" and that full respect for these rights was essential to Middle East peace. General Assembly resolution 3089 D (XXVIII) of 7 December 1973 asserts that the right of return and self-determination have a concrete legal linkage. General Assembly resolution 3236 (XXIX) of 22 November 1974, in which the PLO was invited to participate on an official observer basis, more clearly sets forth (a) the right to self-determination without external interference and (b) the right to national independence and sovereignty. This resolution goes further in according to the Palestinian people the right to utilize all means to regain its rights.

Thus, from 1974 onward, the question of the violation of Palestinian human rights was clearly seen by the international community as occurring only within the context of the violation.

G. UNITED NATIONS RECOGNITION OF PALESTINIAN RIGHTS DETERMINES THEIR LEGITIMACY

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Introduction

The progressive development of international law is an affirmation of the principles concerning universal respect for human rights and freedom. The need for international law principles to regulate the struggles against colonial domination and other forms of crimes committed by man or men on this Earth is greater now.

The best thing to happen to mankind in the light of contemporary international situation was the establishment of the United Nations.

In the Preamble to the Charter of the United Nations, for instance, world communities are said "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of man and woman and of nations large and small" and "to promote social progress and better standards of life in larger freedom".

From 1945 to this day, various resolutions and treaties have been adopted in the United Nations concerning self-determination and independence of various peoples who have been denied their rights. 1/ The Charter of the United Nations is the first document in the history of international relations to secure the principles of universal respect for fundamental human rights and freedoms for all peoples throughout the world without distinction as principles of international law.

According to the Charter, one of the purposes of the United Nations is to achieve international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion" (Art.1, para.3).

Actually, the United Nations was set up to maintain international peace and security. This means that one of its main purposes is to achieve cooperation in promoting human rights. This is clearly stated in Article 55 of the Charter. The present paper will attempt to discuss United Nations recognition of the inalienable rights of the Palestinian people as a determination of its legitimacy. This legitimacy, therefore, gives it the right of return to Palestine and the right to national independence and sovereignty in accordance with the Charter of the United Nations.

The question of human rights violation in the Middle East obviously constitutes a danger to the Charter in the sense that the fundamental principles of international law are negated. This trend causes grave concern for a just and lasting solution on the basis of the attainment of the inalienable rights of the Palestinian people coupled with its right to return to its homeland, including its right to national independence and sovereignty in Palestine in accordance with the Charter of the United Nations.

It is particularly important to note that the United Nations does not make laws. Laws are made by courts and only courts deal with legal issues. However, two aspects are worth examining as regards the whole question of legality in international organization. The United Nations can be seen as a law-making agency and delegates have legal position and status. But resolutions and declarations are what one may term as "soft" law, while treaties can be viewed as "hard" law. It has often been much debated and a case has been established that resolutions are not legally binding. If conventions are ratified, the particulars can be considered legal obligations. In this sense, international law is made.

The important thing to note in this respect is the fact that these resolutions often reflect the views of the majority. On many occasions in the United Nations, some resolutions (dealing with Palestine and apartheid) constantly condemn and protest against injustice, inequality and human rights violation. In the pursuit of solutions to these problems, the "immunity" of veto always causes a much more serious problem.

So the political implication of the veto has tremendous consequence to the legal issues in the Palestine

question. The main purpose of the Covenants on Human Rights after the proclamation in 1948 of the Universal Declaration of Human Rights was to create legally binding rules ensuring the observance of fundamental human rights and freedom by the parties involved. Unfortunately, the records of Human Rights Commission show that some Powers in the Security Council are persistent in preventing the legal binding rules as regard the observance of human rights. 2/

Historical background

It is very vital to understand the historical background that led to the continuing conflict between the Arabs and the Jews in the Middle East before one understands the legal issues in the Palestine question. We shall not deal with the history of the antiquity of Palestine, rather, we shall only focus our attention on the contemporary history of this area and its relevance to the whole question of Arab legitimacy and their fundamental human rights as regards their homeland - Palestine. The Zionist movement was formed by the Jews with the sole aim of making Palestine an independent Jewish nation in the late 1800s. This development followed the Jewish settlement that began in Jerusalem and other parts of Palestine by the mid-1800s. During the early 1900s, the Arab nationalist groups in Palestine opposed the Jewish settlement. Despite the bitter Arab opposition, the number of Jews in Palestine was increasing rapidly.

Balfour Declaration

Many causes contributed to the development of the crisis situation in the Middle East. The major one was the Balfour Declaration. It was a British Government document that dealt with the establishment of a Jewish homeland in Palestine. It was the British Foreign Secretary, Sir Arthur James Balfour, who issued this Declaration in 1917. This was the fundamental point of departure as regards the crisis between the Jews and the Arabs. Both the Jews and the Arabs have claimed Palestine. So the Arabs saw this declaration from a different dimension, and the Jews likewise saw it from their own perspective. No sooner than this document was declared, bitter controversy that set the stage for continuing conflicts between these two parties (Jews and Arabs) had begun in the Middle East. This declaration stated that "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 this 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". When this Declaration was issued during the First World War, British forces were already fighting to take over the control of Palestine from the Ottoman Empire. The main reason why Britain wanted to do so was its location near the Suez Canal which links the Mediterranean and the Red Seas. Britain was also sure that the Balfour Declaration could earn it the support of Jewish leaders in Britain, the United States and other countries in achieving its goal of winning Palestine. Eventually, the League of Nations endorsed the declaration in 1922 and gave Britain a Mandate (order to rule) over Palestine. Hence the Jews who supported the establishment of a Jewish national homeland in Palestine came to the conclusion beyond any doubt that the Balfour Declaration pledged Britain's support for their goal. On the other hand, the Arabs saw this Declaration as an insult to their nationalism and a threat to their future well-being in their homeland. The British Mandate over Palestine was virtually over in 1947. In 1948, the independent nation of Israel was established despite bitter and strong Arab opposition. Thus the British Government had fulfilled its obligation to the Jews in helping them to transfer the "national home" into a "State" before they left the country.

Provisional Government

The events that took place in Palestine in 1947-1948 gave rise to the Palestinian refugee problem. On 30 September 1948, a Palestinian convention was held in Gaza and a provisional Government for all Palestine was formed. The Arab League (except Jordan) recognized the Government of all Palestine in exile.

Resolution 194 (III) of 11 December 1948

Before the United Nations Mediator in Palestine, Count Folke Bernadotte, was assassinated by Jewish terrorists, he sent a comprehensive report to the General Assembly. It was his recommendation that formed the basis for General Assembly resolution 194 (III) of 11 December 1948. The resolution established a Conciliation Commission for Palestine and an instruction was given to "take steps to assist the Governments and authorities concerned to achieve a final settlement of all questions outstanding between them".

General Assembly resolution 194 (III) has been very controversial in the sense that some see it as a vague document confirming the right of the refugees to return to their homes. The Arab interpretation of paragraph 11 of resolution 194 (III) gave recognition to the repatriation of refugees: 3/

(a) The paragraph affirms a "right" of refugees to return to their homes, if they choose;

(b) The paragraph affirms a "right" to compensation for those refugees choosing not to return;

(c) These "rights", both to return or, in the alternative, to compensation, are to be implemented under principles of international law or in equity.

The major problem that followed repatriation of the Palestinian refugees was the question of resettling these refugees in their homeland.

The question of resettlement brought about a major disagreement between the Jews and the Arabs. Israel was restricting the locations for refugee settlement. This angered the Arabs in the sense that the refugees were being subordinated to socio-economic considerations. Throughout the years between 1952 and 1968, the General Assembly continued to reaffirm resolution 194 (III).

While the questions of repatriation and resettlement of the Palestinian refugee were not adequately answered, at least to the satisfaction of the Arabs and their sympathizers the world over, some major developments were taking place in the Arab League.

In March 1959, the Arab League made the following recommendations:

"To reorganize the Palestinian people and perpetuate their entity as a unified people whose voice would be heard all over the world through representatives selected by the Palestinian people." 4/

In May 1964, the first Palestine National Congress met in Jerusalem and established the Palestine Liberation Organization (PLO) whose purpose was to "provide the institutional and leadership structure of the struggle for the liberation of the Palestinian national homeland".

Six-Day war, 1967

In the development of the Palestinian situation we have discussed earlier, several attempts were made by the world body to reconcile the parties in the Middle East dispute. Several resolutions were passed in an endeavour to promote better cooperation and peace in the area, but to no avail. One development that jeopardized chances for settlement occurred on 5 June 1967 when Israel suddenly attacked Egypt, the Syrian Arab Republic and Jordan. This attack was condemned as an act of aggression. Although Israel kept on saying it acted on the basis of self-defence, the three Arab countries mentioned (Egypt, the Syrian Arab Republic and Jordan) did not prepare for this aggression. Neither were they preparing to attack Israel. Following this attack by Israel, the Security Council adopted resolution 242 (1967) expressing its concern with the grave situation in the Middle East. The Security Council, in this resolution, emphasized the "inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security". In this regard, the Security Council drew the attention of the parties involved and all Member States to remember the fact that when they accepted the Charter of the United Nations, they by implication accepted to act in accordance with Article 2 of the Charter. The Security Council brought out the following principles:

(a) Withdrawal of Israel armed forces from territories occupied in the recent conflict;

(b) Termination of all claims or states of belligerency and respect for and 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.

This attack of six-day war of 1967, which made Israel occupy Arab territory, brought the whole Middle East situation in a very serious dimension. This burning situation has also changed the mood of the Members of the United Nations. The Palestinian members were invited to address the Special Political Committee of the General Assembly of the United Nations in 1967. They presented their case, especially the consistent violations of the Charter, the Universal Declaration of Human Rights and the rights to self-determination by Israel since 1948.

In 1968 when the General Assembly met, representatives from Arab countries reintroduced the previous year's legitimate rights of the Palestinian people and the right to self-determination. They emphasized that the creation of Israel in 1948 was a great injustice to the Palestinian Arabs and suggested that, if the Palestine question was not solved and if the refugees were not given their legitimate rights of returning to their homeland (Palestine), there would be continuous tension and insecurity in the area.

From 1969 onwards, the General Assembly started to change its method of dealing with the Palestine question in the United Nations. It was from that period that the third-world countries in the General Assembly started sponsoring resolutions dealing with the Palestine question. The General Assembly, from then on, started to adopt resolutions dealing with the repatriation of the Palestinian refugees and their self-determination. General Assembly resolution 2535 B (XXIV) of 10 December 1969 was the first to recognize that "the problem of the Palestine Arab refugees has risen from the denial of their inalienable rights under the Charter of the United Nations and the Universal Declaration of Human Rights".

On the basis of the Charter and the Universal Declaration of Human Rights, resolutions that followed dealing with the people of Palestine and its right to self-determination continued to reaffirm the determination of the world body to safeguard the principles of international law for global peace and security. General Assembly resolution 2672 C of 8 December 1970 was very important to the whole question of Palestine. It was the first resolution to use the expression "people of Palestine". In this sense the resolution acknowledged the right to self-determination by the people of Palestine.

In the following years, 1971 and 1972, similar resolutions affirming the rights of the Palestinian people

to self-determination were also adopted by the General Assembly of the United Nations, e.g. resolution 2792 D of 6 December 1971. The Palestine question started to gather the necessary momentum which would eventually help the people in question (Palestinians) to gain more international sympathy.

General Assembly resolution 3089 D of 7 December 1973 reads as follows:

"... that the enjoyment by the Palestine Arab refugees of their right to return to their homes and property, recognized by the General Assembly in resolution 194 (III) of 11 December 1948, which has been repeatedly reaffirmed by the Assembly since that date, is indispensable for the achievement of a just settlement of the refugee problem and for the exercise by the people of Palestine of its right to self-determination."

Another important development as regards the inalienable rights of the Palestinian people occurred on 22 November 1974 when the General Assembly adopted resolution 3236 (XXIX). It stated in part:

" The General Assembly ,

"...

" Recalling its relevant resolutions which affirm the right of the Palestinian people to self-determination:

"1. Reaffirms the inalienable rights of the Palestinian people in Palestine, including:

"(a) The right to self-determination without external interference;

"(b) The right to national independence and sovereignty;

"2. Reaffirms also the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return."

The next important development was a diplomatic victory to the Palestinian Arab.

In 1974, Arab Governments recognized the PLO as the "sole legitimate representative of the Palestinian people". In this regard, Palestine is regarded as the homeland of the Arab Palestinian people, who possess a legal right to it. "The liberation of Palestine will restore to the Palestinian his dignity and liberty - armed struggle is the only means of liberating Palestine - and the Palestinian people have the ultimate right to liberate and retrieve their homeland. 5_/ On 14 October 1974, the PLO received United Nations recognition and a government in exile was recognized by the other Arab nations for a future Palestinian State to be formed from land regained from Israel along the West Bank of the Jordan River.

Legitimacy established

Having achieved such major victory of recognition by the United Nations, the PLO's legitimacy has therefore been established beyond any reasonable doubt. The non-Arab parties directly or indirectly involved in the Middle East crisis, should try to accept the PLO's legitimacy as established by the world body. This recognition will help in paving a healthy path for better understanding and cooperation as regards this crisis. In addition to this, the Arab Governments have endorsed the PLO. This double recognition (external and internal) is a testimony to its legitimacy. Any reasonable person should accept this reality on the basis of its legal validity.

If the PLO's legitimacy is not accepted, the rejection can only promote some doubt in the constitutional and political system of the United Nations. Already, some people's fear is greatly increasing about the future of human rights in the United Nations. Some are even calling for the restructuring of the United Nations system in the sense that the big Powers who dominate the Security Council by virtue of their veto will continue to be the centre of attraction. The third-world Members of the United Nations are the periphery of the United Nations system since they do not have a veto. It is quite threatening to see that legitimacy established is legitimacy denied. If the United Nations system cannot save this situation, if the PLO, with its representative in the United Nations, is still being humiliated by some parties as a "terrorist" body, the question of legitimacy is seriously challenged. Not only this, the dignity of the Palestinian Arabs is unfortunately disregarded. This is a very serious problem that challenges the very foundation of international law and the principles of justice, equality and freedom. The United Nations in this respect has the duty of safeguarding its Charter in an endeavour to protect the Universal Declaration of Human Rights by taking all the necessary steps and actions to see that all its Member nations, without exception, recognize the legitimacy of the PLO. This would lead to increased international understanding of the Palestinian question. It would eventually bring about a meaningful and just solution to this problem - a solution that would establish a just and lasting peace in the Middle East on the basis of the attainment of the inalienable rights of the Palestinian people, including its right of return and the right to national independence and sovereignty in Palestine, in accordance with the Charter of the United Nations. It is necessary to take this fundamental position in recognition of the Universal Declaration of Human Rights, and in defence of global peace and security for the establishment of justice, equality and freedom without restriction.

Conclusions

A case for the fundamental human rights for the Palestinian Arabs has been established by the Charter of the United Nations. Another case of self-determination has also been made in favour of the Palestinians.

Their refugee status has necessitated their legitimate claim for repatriation and settlement in their own homeland of Palestine. The United Nations has adopted a number of resolutions to this effect. The United Nations recognition of the PLO, coupled with its acceptance by the Arab Governments, indicate its legitimacy.

The big problem now is how to go about solving the Palestine question. If international law is carefully codified and extended to regulate the political relations of the United States and Israel on one hand, and the Arab nations (including the PLO) on the other, there can be an answer to this burning question.

The problem we have been encountering with international law is the result of the decentralized structure of international society and also the decentralized nature of international law itself. Because of this reason, the instruments of international law are not fully effective. In most cases they are frequently violated.

This is due to the fact that international law is deficient in the area of judicial decisions. 6/ Articles 39, 41 and 42 of the Charter are considered the heart of the United Nations system of law enforcement. Yet they fail to force Israel out of the occupied territories since 1967.

Condemnations, resolutions upon resolutions and affirmations of previous condemnations and resolutions could not reclaim the homeland for the Palestinians from Israel. One could say that international law, at least under the present United Nations system, is a "toothless dog".

Recent General Assembly resolutions (3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 31/20 of 24 November 1976, 32/40 A and B of 2 December 1977 and 33/28 A to C of 7 December 1978) also expressed the same demand concerning the inalienable rights of the Palestinian people.

After demonstrating this humanity and international morality, no just solution to the problem of Palestine has been achieved and at the same time the situation in the Middle East is still causing a major threat to global peace and security. The final note, therefore, is a call to all concerned, especially those parties who continue to slow down the chances for permanent settlement and the restoration of law and order in the area of the conflict, to reconsider their position for reason to prevail in the Middle East.

The Palestinian people should not be refugees in exile everlastingly. The world community has a collective responsibility to help it get its inalienable rights once and for all. If this principle of international law is negated, the United Nations cannot be our undying hope for universal peace, security, justice, equality and freedom for all.

At this juncture, a call to the major Powers is vital. They should re-evaluate their positions on the Palestine question in the interest of global peace and security. The former United States Secretary of State, Mr. Cyrus R. Vance, put it:

"The 1979 peace treaty between Israel and Egypt is an historic achievement. We have no more urgent diplomatic priority than the effort to complete and broaden that peace so that Israel, the neighbouring Arab States, and the Palestinian people will be able to live securely and with dignity. ... The President has invited President Sadat and Prime Minister Begin to Washington for talks in April. They know that the Camp David process provides the best opportunity in 30 years to bring the security of peace to the Middle East. We cannot let it slip away." 7/

Every attempt has been made to secure the inalienable rights of the Palestinian people on the basis of the Charter and the principles of the Universal Declaration of Human Rights, but to no avail. The Palestine question cannot for any reason be ignored, nor can the world of reason fail to establish the policy of peaceful coexistence in action.

To this end, a memorandum was already submitted to the summit meeting at Camp David, 8/ discussed the United States legal and moral obligations to assist in a just solution of the Palestine problem and the Middle East problem generally.

The United States, as a member of the Conciliation Commission for Palestine, has moral and legal obligations in accordance with the United Nations resolution, to help in bringing about everlasting peace and security in the Middle East including the granting of the inalienable rights of the Palestinian people and its independence.

Perhaps it is true that there is the need for "unfettered investigation of new political techniques" in an endeavour to lay a concrete foundation for the "creative diplomacy" 9/ that can create the conditions for a just solution to the Palestine question.

Notes

1/ See Webster, "The Making of the Charter of the United Nations", offprint from History, vol. 33, No. 115 (March 1947), p. 35. See also Lauterpacht ed., International Law and Human Rights (New York, 1950), p. 146.

2/ The United States refusal to ratify the Human Rights Covenants was sharply criticized and condemned by United Nations Members.

3/ Georg Tomeh, Permanent Representative of Syria to the United Nations, "Legal Status of Arab Refugees".

4/ See Isam Sakhnini, P.L.O., The Representative of the Palestinians, Palestine Research Centre (Beirut, 1974), p. 8.

5/ Articles 1, 3, 4, 17 and 29 of the PLO Charter.

- 6/ Hans J. Morgenthau, Politics among Nations, 5th ed. (New York, Alfred A. Knopf), p. 281.
- 7/ Cyrus R. Vance, statement to the Senate Foreign Relations Committee, United States Congress, on America's posture, purposes in the world, Washington, D.C., 27 March 1980.
- 8/ Issa Nakhleh, Chairman, Palestine Arab Delegation and Permanent Representative of the Arab Higher Committee for Palestine, submitted this memorandum to the summit meeting at Camp David on 5 September 1978.
- 9/ Professor Michael Reisman, The Art of the Possible (New Jersey, Princeton University Press, 1970).

References

- Alker, Chadwick F. and Bruce M. Russett. World Politics in the General Assembly. New Haven, Yale University Press, 1965.
- Bailey, Sidney D. The General Assembly of the UN: A Study of Procedure and Practice. New York, Frederick A. Praeger, 1960.
- Bentwick, Norman and Andres Martin. A Commentary on the Charter of the United Nations. London, 1950.
- Bloomfield, Lincoln P. The UN and US Foreign Policy. Boston, Little, Brown and Company, 1960.
- Brierly, J. L. The Covenant and the Charter. Cambridge, The University Press, 1947.
- Claude, Inis L. Swords Into Plowshares. 3rd ed. New York, Random House, 1964.
- Cohen, Benjamin V. The UN: Constitutional Developments, Growth, and Possibilities. Cambridge, Mass., Harvard University Press, 1961.
- Feller, A. H. United Nations and World Community. Boston, Little, Brown and Company, 1952.
- Goodrich, Leland M. The United Nations. New York, Thomas Y. Crowell, 1959.
- Gross, Ernest A. The UN: Structure for Peace. New York, Harper and Row, 1962.
- Hasluck, Paul. Workshop of Security. Melbourne, F. W. Cheshire, 1948.
- Haviland, H. Field, Jr. The Political Role of the General Assembly. New York, Carnegie Endowment for International Peace, 1951.
- Hovet, Thomas, Jr. Bloc Politics in the United Nations. Cambridge, Mass., Harvard University Press, 1960.
- Jacobson, Harold Karan. "The changing United Nations", in Hilsman, Roger and Good, eds., Foreign Policy in the Sixties: The Issues and Instruments. Baltimore, The Johns Hopkins Press, 1965.
- Kelsen, Hans. The Law of the United Nations. New York, Frederick A. Praeger, Inc., 1950.
- Miller, Linda B. World Order and Local Disorder: The United Nations and International Conflict. New Jersey, Princeton University Press, 1967.
- Morgenthau, Hans J., ed. Peace, Security and the United Nations. Chicago, University of Chicago Press, 1946.
- Nicholas, Herbert. The United Nations as a Political Institution. New York, Oxford University Press, 1959.
- Reisman, Michael. The Art of the Possible, Diplomatic Alternatives in the Middle East.

New Jersey, Princeton University Press, 1970.

Ross, Alf. The United Nations: Peace and Progress. Totowa, N.J., Bedminster Press, 1966.

Stoessinger, John. The United Nations and the Superpowers. New York, Random House, 1965.

Tunkin, Grigori. Contemporary International Law. Moscow, Progress Publishers, 1969.

Waters, Maurice. The United Nations. London, The McMillan Company, 1970.

H. THE ISRAELI SETTLEMENT POLICY IN THE OCCUPIED ARAB TERRITORIES

Arabi Awad (Palestinian expert on the occupied territories)

The dimensions of the existing Zionist project based on colonialist settlement are becoming obvious and easily understood as each day passes since the establishment of the Israeli entity in 1948 and the occupation of Gaza, the West Bank and the Golan Heights in 1967. The fascist nature of this project is made more evident through the uprooting of the Palestinian people from its homeland and the planting of the Zionist settlers instead.

The Zionist oppressive practices and policy of racial discrimination applied against the Palestinian people, including the policy of annexation, deprivation, imprisonment and torture, destruction of houses, abolishment of complete villages, deterioration of education, the policy of collective punishment, of intended murder and of political deportation, all such practices aim at uprooting the Palestinian people from its land, confiscating its national rights and preventing it from its right of self-determination and the establishment of its State on its land.

It is very easy for anyone who was tracing the procedures of land expropriation and the establishment of Zionist settlements during the past era before and after the establishment of the Israeli State until the recent wide wave of settlement during Menachem Begin's Government and with the power of the extremist Zionist organizations, to recognize that when Israel and its imperialist ally talk of peace and the autonomy project to achieve peace, it means in fact a kind of peace that constitutes a cover for the continuity of settlement in all the areas occupied by war and so to the continued dispersion of the Palestinian people and its deprivation from all its national and human rights.

Features of the settlement wave after the establishment of the State of Israel in 1948

The establishment of the Israeli State in 1948 did not constitute the end of the road as far as settlement policies were concerned. These policies, which were started in Palestine by the Zionist movement, were supported by international colonialism towards the end of the last century. On the contrary the establishment of the Jewish State constituted the instrument through which this settlement policy was carried forth and on a larger scale agrees with the aims of the Zionist imperialist ally, to lead this area to complete submission, its people to slavery and goods for expropriation. The practice of expelling Palestinians from their land continued after the Rodos Agreement in April 1948. An example would be the expulsion of the inhabitants of Hasa, Kabthia and Jauuni in the Safad area, whose villages were completely abolished. In August 1950 the rest of the inhabitants of the Majdal Ashkalon, numbering 2,000, were expelled. In January 1951 inhabitants of 13 villages in the Ara Valley in the area of Muthalth were expelled following the annexation of the area to Israel. In September 1953 the inhabitants of the village Umi Alfaraj were expelled and the village was abolished. In the Negeve area where 48,000 Palestinians lived until 1948, the majority of the inhabitants were expelled by Israeli authorities to Jordan and the Sinai, only 13,000 of them remained there following the establishment of the Israeli State. Four hundred seventy-eight out of 585 villages within the Israeli border were demolished. The remaining 107 villages were seized and their land confiscated. The percentage of Palestinians in Israel dropped to 17.98 in 1949 and 12.98 in 1950. Israeli authorities confiscated through arbitrary procedures most of the lands of Palestinian villagers. Until 1952, Palestinians owned and cultivated 1,250,000 dunums. In 1953 and according to a special law, almost a million dunums were confiscated, in addition to 70,000 dunums belonging to Islamic wake. In Galilee, however, which is seriously threatened now with Judaization, 210 villages existed before the establishment of the Israeli State, of which 135 villages were destroyed and the inhabitants were expelled.

The confiscation of lands continued in Galilee and it seems that there is no intention to end it. During the past few years, the Israeli Minister of Agriculture, General Sharon, formed armed groups called the Green Patrol, who would go around the Negev area firing their guns at sheep belonging to Arab bedouins. These patrols would also burn the bedouins' lands, steal their property, destroy their wells and carry them by force to special detention camps.

Such patrols also function in the Galilee since the demographic conditions there are developing towards the interest of the Palestinian Arabs in the area.

Such patrols are led by Ariel Sharon or by other Zionist criminals like the Gush Emunim, Kakh and the gang of Meir Kahane who represent extremist fascists currently in Israel. Barbaric attacks are being launched on West Bank cities, camps and villages in Hebron, Dheshe, Ramallah, Nablus and Jericho in an attempt to terrorize Palestinian citizens and force them to leave their land, which would be used for the establishment of further Zionist settlements.

Stages in the development of the occupation authorities' settlement policy in the West Bank and Gaza Strip

The Israeli authorities started the establishment of colonialist settlements in 1967 in the occupied areas according to an organized systematic plan leading up to the fulfilment of certain views on the future of these areas. Settlement belts were thus constructed during the Labour Party Government's rule on the border area of the Jordan Valley and the area lying between the Gaza Strip and Egypt. Settlements were also widely spread over the Golan Heights. The Labour Government, however, left a door opened for compromise within the framework of the Allon plan, a compromise regarding the possible return of a form of Jordanian administration and regarding the intensive settlement of the West Bank and the Gaza Strip. The settlement belts would thus, and in all conditions, constitute Israel's secure border lines. Therefore the Labour Government established all along the eastern border of the West Bank from north to south two settlement belts, the first included 15 agricultural settlements from the south of the Dead Sea to the northern border with Israel. The other belt included nine agricultural and industrial settlements lying to the north of the Jordan Valley and stretching to the south on the Jerusalem-Jericho road. A long belt was constructed from the north and in the Jordan Valley. The Jewish Agency and other Zionist settlement organizations planned a settlement project within the same political framework, and to be executed in 20 years, between 1975 and 1995.

The aim of this project was to control the Jordan Valley and to exploit the natural resources of the area - land, water and climate, in the interest of Zionist settlers. This project reached a developed stage of progress since 70 per cent of the cultivated land was under the control of Zionists. In the area of the valley, infrastructure of the project was also developed, the digging up of wells, water pipes for irrigation, electric cables, telephone lines, good housing accommodations for settlers, hot houses for plants and a system of irrigation.

In the Gaza Strip, the Labour Party Government established 17 settlements, 15 of which constituted a barrier between the Egyptian border aiming at secluding the strip from Egypt. These settlements were established on an expropriated area of land of 119,242 dunums, which is one third of the land at the shore for the establishment of settlements for the seclusion from the sea westwards, in addition to its seclusion from the Egyptian borders.

The aim of the settlement plan of the Labour Party was based on the following:

(a) Preventing contact and communication between Palestinians and Jordanians from the West and East Banks, respectively, encompassing them as an introductory step leading to their immigration and vagabondage;

(b) The aim behind the construction of intensive huge buildings around the Old City of Jerusalem was to prevent the extension of the Palestinian citizens in the city and to force them to leave by making them feel that they lived in a closed ghetto, which would eventually lead to the Judaization of the city and full control over it.

Settlement plan of the Likud Party

The Labour Party's settlement plan did not satisfy the ambitions of the Herut and Likud parties. Since the very beginning of his rule, Menachem Begin declared that the areas of Judea and Samaria in the West Bank were liberated areas belonging to Israel. In 1979, the Likud Government issued a decision allowing Jews to own land in all parts of the occupied areas, considering them to be Israeli lands. In accordance with this settlement attitude, the Likud Government started to disrupt the populated areas in the West Bank by dividing it into small square areas enclosed by settlements on all sides in order to separate the areas and seclude them in an attempt to connect the areas to Israel after reducing of the population of those areas. This closes the way before any settlement and compromise can be made regarding the West Bank land that may lead to an independent Palestinian State.

The Likud Party started to establish a number of settlements that formed a third belt on the western hills of the north of the West Bank as a plan for the extension of the Israeli borders to approach the condensed populated areas in the north: Nablus, Jinin, Tulkarem and Kalkilia. This settlement project divided the north of the West Bank into two small areas. Three horizontal roads were also established to join Israel with three settlement belts. One road lies south of the West Bank, the other in the Nablus area in the north, and the third in the extreme north. The Likud Government spent \$40,000,000 in 1979 for the construction of the infrastructure of the third settlement belt. The settlement budget was increased for the year 1980 to 200 million I.L. for the expansion of the already transplanted settlements and the execution of the project leading to the seizure of condensed populated areas in the West Bank and tearing them apart.

The President of the Settlement Department in the Herut Party, Metitiaho Gross, submitted a wide settlement plan for the southern borders of the Gaza Strip. The project cost 2,500 million I.L. and involved 141,000 dunums. Gross found it important to start on the construction of a military settlement in the area to bring about quick demographic changes there.

Raanan Vitce, President of the Settlement Department in the Jewish Agency, however, completed a

comprehensive project for the Gaza Strip based on the construction of 100 settlements on both sides of the Green Line within the populated areas in an attempt to encircle these areas, thus forcing their annexation to Zionist settlements. In a report sent by the Security Council in 1979 about settlements in the occupied areas, the following information was given about the form and size of settlements:

(a) There are 133 settlements in the occupied areas, 17 are in Jerusalem, 62 in the West Bank, 29 in the Golan Heights and 25 in the Gaza Strip;

(b) The lands expropriated by Israel constitute 29 per cent of the total area of the West Bank, most of the area of the Golan Heights and 35 per cent of the area of the Gaza Strip;

(c) A great number of settlements were established on individually owned lands and not on public land;

(d) A large number of settlements were of a military nature, controlled either directly by the army or by youth of military age.

The Sharon project for settlement

The Zionist Committee for Settlement Planning, which included Nukhaman, Afrat and Sharej, and representatives of other Zionist departments, prepared a comprehensive settlement plan called the "double chain". The plan was based on decreasing the population of the West Bank and the Gaza Strip from 1,200,000 to 50,000 and enclosing them in three small areas in Nablus, Hebron and the Gaza Strip. The Israeli press stated that the project had been presented to Yitzhak Rabin's Government, which had rejected it because it contradicted the Allon plan. It was revived during the Begin Government and was adopted by the Minister of Agriculture, the President of the Settlement Department in the Herut Party, General Sharon. The importance of this project was that it shed light on the Zionist outlook on the future of the occupied areas, which was expressed by various oppressive and terrorist practices against inhabitants of the occupied areas.

The Israeli authorities were not satisfied with breaking into schools and educational institutions and confiscating tens of thousands of dunums, firing guns at demonstrators, wounding and killing numbers of them, expelling national leaders, threatening members of the National Guidance Committee and the Palestine National Front, and further practices of collective punishment, including seizing tens of Palestinian cities, villages and camps. In addition, they organized bloody massacres against the inhabitants and national figures, as in the city of Hebron. Such practices were aimed at terrorizing Palestinian citizens, which made one recall the massacre of Deir Yassin. These disgraceful practices were intended to force the indigenous people to leave its country to make way for the criminal settlement project.

I. ISRAELI SETTLEMENT POLICIES IN THE OCCUPIED ARAB TERRITORIES

**Kasuka Sinwinji Mutukwa
(Minister Counsellor and Deputy Permanent Representative
of Zambia to the United Nations)**

"Contrary to Israel's allegation that the Jewish settlements [in occupied territories] constituted a private activity on the part of Israeli citizens, it was clear, from the many official statements on the matter, that it was in fact the policy of the Government. Its aim was the Judaization of Palestine through the annexation of [Arab] lands, the expulsion of the Palestinians inhabitants, and the containment and isolation of the remaining Palestinian agglomerations." 1/

This quotation, in summary, forms the underpinnings of Israeli settlement policies in the occupied Arab territories which have the effect of changing the political and legal status, demographic composition and geographical nature of the region. This problem has led to a serious crisis in international relations. The fundamental thrust of that policy, which is government policy, is the colonization of Arab territories that Israel occupied by force. Yet the acquisition of territory by force is inadmissible in international law and the Geneva Conventions on the protection of civilians and property in time of war.

"Settlements" are a euphemism for twentieth century colonies. The "settlers" are colonists. Taken as a whole, the phenomena of Israeli settlements in the occupied Arab territories represent a case of colonialism. This is the premise upon which this brief paper is predicated. In my analysis, I shall refrain from presenting a chronology of how Israel was created and how it came to occupy Arab lands. A historical study of Israeli settlement policy in the stages of occupation is also not attempted here. We would refer those wishing to probe the subject further to the numerous excellent studies under the auspices of the United Nations and/or the Institute for Palestinian Studies. 2/

The main focus of this study is on analysing Israeli settlement policies in the Arab territories occupied since June 1967. To do this, the paper will attempt to shed light on the process of creating settlements as a manifestation of systematic phased dispossession of the indigenous people. Thereafter, the implications of the settlement policy on the Palestinians are assessed. The concluding section appraises the impact of Israeli settlements policy on contemporary international relations and on world peace and security in particular.

The June 1967 Arab-Israeli war was a watershed in Israeli expansionism by force. During that war the

Israeli military forces proceeded to occupy the remaining territory of what was Mandated Palestine (including East Jerusalem) as well as the Sinai region of Egypt and the Golan Heights of the Syrian Arab Republic. After "conquest", military rule was imposed as Israel sought to consolidate its colonization by annexation.

By annexation, we mean an illegal act by which a State asserts its sovereignty over a territory previously outside its jurisdiction.

The war had serious implications for the land and people in Palestine. In this cut-throat zero-sum game, what the Israelis gained, the Arabs lost. Indeed, the masterplan of the Zionist movement for the establishment of a Greater Israel was fulfilled.

Prior to the 1967 war, of the estimated total population of 2.7 million Palestinians, about 300,000 lived in Israeli territory, 1 million in the West Bank and 400,000 in Gaza. About half a million Palestinians left their homes during the war, and 1.2 million remained under Israeli control. The remaining 1.5 million Palestinians were forced to become refugees, many for the second time, having first fled in the war of 1948. 3 /

Having occupied Arab territories, the Israelis embarked on a systematic and relentless process of dispossessing the Palestinians of their land and other properties. The illegality and coercive methods by which the Israeli authorities expropriated Arab lands, both private and public, for locating settlements, is no longer in dispute. Several studies, including in particular, the report of the Security Council Commission established under resolution 446 (1977), have concluded accordingly:

"On the basis of the information received, the Commission is convinced that a number of settlements were established on privately owned land and not only on public land." 4 /

The process of acquiring land for use by Israel in the occupied territories is by and large based on seizure and confiscation. In Israeli thinking, since the occupied territories are its colonies, it is assumed that arbitrary measures to confiscate land are a matter of policy. Spokesmen of the Government including the Prime Minister, have stated publicly that "Israel would never return to the pre-June 1967 frontiers".

Typical in most colonization cases, the process of establishing settlements of colonies with migrants from the metropolitan countries follows occupation. In the case of Israel, however, one should hasten to point out that Jews from all over the world have been lured to settle in occupied Arab territories. This is reminiscent of the massive planting of undesirable migrants in South Africa and elsewhere in the colonial world in the eighteenth century.

The interlocking linkages between Government and non-governmental institutions of the metropolis in formulating and implementing colonist policies have been well known in history. There are of course recognizable variations in intensity that are a reflection of time and space. The Israeli policy is a product of Jewish institutions that were formed at the turn of the century in search of the dream of Eretz Yisrael long before the State of Israel was created in 1948. Chief among these was the transnational World Zionist Organization under Theodor Herzl, which held its first congress in 1897. After the Balfour Declaration in 1917, the establishment of Jewish communities in Mandated Palestine was sponsored, inter alia, by the Palestine Jewish Colonization Association and the Palestine Land Development Company. All these moves have been resisted by the Arab population since.

The settlements policy was given the fullest impetus first with the creation of the State of Israel and second with the occupation of large tracts of Arab territories after the June war. The stage was set for implementation when the two requisites were satisfied.

Since occupation was by military forces, the pre-eminent role of the Israeli military apparatus in the settlements policy must be recognized. It is not surprising, therefore, that it is the Israeli military rulers who pave the way for settlements. It is equally significant that in the present Begin regime, it is Major General Ariel Sharon, the Agriculture Minister, who spearheads the government committee on settlements policy. Sharon recently announced a scheme in which he plans to settle 2 million Jews in the occupied territories in the next two decades. 5 /

For analytical purposes, one can identify the vehicles of the settlements policy as the State and its military apparatus, the colonists and transnational Jewish organizations. Thus, the implementation of the programme is a combined operation of the Government with private and public participation. Financing for settlements comes from the Israeli Government and private institutions, both inside and outside Israel.

It should be stressed that there is a general consensus among political groups in Israel in favour of Jewish civilian occupation of the Arab territories. Successive Israeli Governments have pursued this policy with varying degrees of intensity in implementation. The Likud regime took over from where the Mapai had left off.

Israeli rulers appear to hold the view that theirs is a State with shifting and elastic frontiers. Golda Meir once said that "the boundary of Israel is wherever Jews are living, not a line on the map". This view negates all tenets of international law. A State without fixed boundaries does not fulfil the attributes of statehood in international law.

The need to maintain Israel's security has been cited as the rationale for its settlements policy. An appraisal of the policy and its implementation proves otherwise. First and foremost, it has been

demonstrated that the settlements policy is not a haphazard venture, rather it is an outgrowth of a careful master plan with its origin in the Zionist organizations. What was required in the implementation therefore was the opportunity to do so. It is not the occupation of Arab lands that created conditions for the settlements policy.

The second major line of argument is that, if Israel was able to protect its frontiers during its formation in 1948 and given the balance of forces in the region, there is no justification that occupation of Arab lands improves its security. Moreover, in modern warfare and particularly in aerial warfare, the extension of Israeli boundaries does not enhance its security. There is, therefore, more to this occupation than the security requirements of the State of Israel.

It is equally instructive to note that Israel has had as its priority the establishment of settlements in the most fertile and/or water-endowed zones of the occupied Arab territories. Statistics show that about 30 per cent of Israel's water supplies come from the occupied territories. The Golan Heights of the Syrian Arab Republic and the Jordan River valley are but a few examples of the most fertile regions that are fully exploited by the settlers. Two Jewish settlements had already been established in the Golan Heights within six months of the termination of hostilities. In 1968, eight settlements were erected in the Golan compared to only three in the other remaining occupied territories.

The exploitation of the land, properties and resources, including water, in the occupied Arab territories, is a key motivation for Israeli occupation. The rationalizations so far advanced by the authorities are merely intended to legitimize the illegal annexation of foreign lands.

In 1967, Israel established five settlement in the occupied territories. By 1979, there were 133 settlements, including 17 in and around Jerusalem, 62 in the West Bank, 29 in the Golan Heights and 25 in the Gaza Strip and Sinai. Most of the settlements are small clusters of 10 to 30, often perched on hilltops located in a belt a mile or so from neighbouring Arab villages. Others are actual towns with workshops and factories. All are reported to have modern lines of communication including telephones and electricity. They are all equipped militarily to further the objectives of occupation.

Available evidence shows that, when a particular area has been earmarked for a settlement by the authorities, the usual routine has been for Israeli troops to arrive without warning. They demarcate and restrict the area and warn farmers to stay off the land. Often a formal notice is given after the fact which states that the land is needed for military purposes. A few weeks later, after the area has been bulldozed, the soldiers disappear and the stripped land is taken over.

Sometimes the settlers themselves do the expropriation. The settlers also arrogate to themselves the right to expropriate more land in spite of usual protests by Palestinian owners. In the process, both private and public lands are seized in contravention of local laws of land tenure. In total, 27 per cent of the occupied territories have thus far been taken over by Israel for the establishment of settlements.

Grandiose plans have been intensified in Israel to increase and/or expand Jewish settlements in the occupied Arab territories. A reference has already been made to the 20-year plan of Sharon.

The Israeli settlements policy has unleashed major demographic changes in the occupied Arab territories, including Jerusalem. A correlation has been established between the Arab population in the occupied Arab territories. The Security Council Commission discovered that, since 1967, the Arab population had been reduced by 32 per cent in Jerusalem and the West Bank. As to the Golan Heights, 134,000 inhabitants had been expelled leaving only 8,000, i.e., 6 per cent of the local population in the occupied Golan.

The Arabs who remain in the occupied territories, including Jerusalem, are subjected to continuous pressure to emigrate and thereby create more living room for the Israelis. Several Arab homes have been demolished and properties seized. In the case of Jerusalem, attempts are being made to annex that city and transform it into the capital of Israel. These actions by the Israeli authorities have been condemned by the international community. In resolution 476 (1980), adopted by the Security Council on 30 June 1980, the Council reconfirmed its position that "all legislative and administrative measures and actions taken by Israel ... which purport to alter the character and status of the Holy City of Jerusalem have no legal validity and constitute a violation of the [fourth] Geneva Convention ... and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East". Israel was also called upon "to abide by the present and previous Security Council resolutions and to desist forthwith from persisting in the policy and measures affecting the character and status of the Holy City of Jerusalem". It should be recalled that attempts to consolidate Israeli settlement policy has served to mobilize the 39 States members of the Islamic Conference into a position where they have openly stated their commitment to liberate Jerusalem.

In Jerusalem, Israel established permanent settlements. The occupying authorities have also sought to transform that Holy City into the political capital of Israel with all its attendant consequences. In addition, the religious dimensions of the city are being changed constantly. Several ancient but venerated holy Muslim shrines have been demolished, profaned or mined through excavations, which also contravenes the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, of 14 May 1954. 6/

On 21 August 1969, the Al-Aqsa Mosque in Jerusalem was a target of arson.

The violations of the basic human rights of the occupied Arab territories have been a subject of repeated condemnation by the United Nations and the international community in general. 7/ In pursuit of its colonization policy, coercive methods have been used by Israeli authorities in attempts to impose its rule over the area. The following practices provide an illustrative example of Israeli conduct:

- (a) Expulsion and deportation of Palestinians;
- (b) Denial of their right of return;
- (c) Expropriations of property and destruction of houses;
- (d) Mass arrests and ill treatment of civilians;
- (e) Interference with religious freedoms and practices and family rights and freedoms;
- (f) Ill treatment and torture of persons under detention.

In summary therefore, the Israeli policy of settlements is a denial of the inalienable rights of the Palestinian people. It denies them even protection under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, 8/ which states, inter alia, that, "the occupying Power shall not deport or transfer parts of its own population into the territory it occupies".

Successive reports of the Committee on the Exercise of the Inalienable Rights of the Palestinian People provide vivid accounts of the abuse of the human rights of the people in the occupied Arab territories. Petitioners who appeared before the United Nations Security Council Commission on the Middle East, established under resolution 446 (1979), during its visit to the area in May 1979, received a monument of evidence of how Israel abuses the human rights of the Palestinians.

Repression in the West Bank has been escalated by the occupying authorities. For example, in May 1980, the Arab Mayor of Hebron, Mr. Qawasmeh, the Mayor of Halhoul, Mr. Mohammad Milhan, and the Sharia Judge of Hebron, were expelled from the occupied territories. Shortly thereafter, assassination attempts were made on the lives of the Arab mayors of Nablus, Ramallah and Al Bireh (see Security Council resolutions 468 (1980), 469 (1980) and 471 (1980)). The mayors were seriously wounded in these attacks. Evidence suggests that there is a manifest pattern of resistance evolving on the part of different categories of Palestinians. They reject political arrangements which impose the status of "bantustans" on them as is the case in South Africa. Conformity to permanent occupation and domination which the "bantustans" policy entails is considered unacceptable, hence the confrontation.

The problem has been compounded in that within a few days, it was announced from Tel Aviv that the Prime Minister's Office was to be moved to Jerusalem. Mr. Begin has repeatedly referred to Jerusalem as "the eternal capital of Israel". This position defies the consensus view of the international community which upholds the pre-1967 status of the Holy City of Jerusalem.

As has been stated, Israel maintains its colonization by force. The occupied Arab territories are ruled under the martial law of the military authorities. Palestinians have not reacted passively to this imposition of alien rule. They have sought to correct the situation by reclaiming their inalienable rights, including the right to return to their homes.

The international community has recognized the rights of the Palestinians through several resolutions of the General Assembly such as resolution 2535 B (XXIV) of 10 December 1969. These rights include the right to self-determination, national independence and sovereignty.

In the occupied Arab territories, Israel has deprived the local nationals of any meaningful participation in the political system. The settlement policy is also intended to create a fait accompli. An attempt is being made to divert attention from the crux of the matter, which is the restoration of the inalienable rights of the Palestinian people to independence.

The Israeli policy of seeking to change the status, geography, nature and the demographic composition of the occupied Arab territories has been determined by the international community as constituting a threat to international peace and security. Above all, the settlements policy violates the inalienable rights of the Palestinian people which they themselves are striving to uphold and to restore.

States members of the international community that oppose all forms of colonialism have also intensified their opposition to the settlements policy. Israel has been repeatedly called upon to desist from changing the legal status, geographical nature and the demographic composition of the occupied Arab territories.

Yet Israel continues to defy the international community as the policy of settlements is widened in scope daily. This smacks of confrontation and not conciliation. This is the position which I stated during the Security Council's consideration of the situation in the occupied Arab territories on 23 May 1980:

"It is now a fact that the Israeli regime is by its actions bent on provoking a catastrophe in the Middle East by continuing to pursue its provocative and aggressive policies of conquest, confrontation and defiance. Our simple advice is for them to know that the only way in which Israel can secure a peaceful future is through conciliation and justice."

If we subscribe to the viewpoint that the question of Palestine is at the heart of the Middle East problem and consequently there can be no solution in the Middle East that does not fully take into account the legitimate aspirations of the Palestinian people, then it is evident that the settlements policy is not conducive to the resolution of the Middle East problem. It should be added that since Israel also occupied Syrian territories, the Syrian Arab Republic may not be expected to acquiesce to the status quo.

Inside the occupied Arab territories, there has been an escalation in the confrontation with Israeli occupying authorities. The tide of violence has been on the increase. Here again, there is a probability of escalation in the conflict that could spill over into the broader Middle East crisis.

The author also fully subscribes to the danger signals that were highlighted in one of the conclusions of the Security Council Commission in 1979, which states:

"Unfortunately, the Commission has also perceived a deep sense of despair and helplessness, primarily among Palestinian refugees. This stems from the realization that Israel's policy with regard to the occupied Arab territories and more particularly its policy of continuing to establish more settlements is unabated and undaunted either by United Nations decisions or any other external factor. The Commission would like to state clearly in that regard that in the course of its various meetings it felt that this settlement policy was widely regarded as a most negative factor in the achievement of peace in the area both by the refugees themselves and all those who support their cause, including the neighbouring Governments for which that policy generates at national levels economic and social problems of grave consequences." 10/

The international community has a duty to prevent the serious conflict arising from Israeli settlement policies from escalating and deteriorating any further. It is recognized that breaking the status quo required arduous efforts, but it is nevertheless evident that this can be done because change is inevitable. Who could have imagined a century ago that empires could die?

The international community, and the United Nations in particular, have the responsibility to ensure that the Middle East problem is resolved through the recognition of the inalienable rights of the Palestinian people. To this end, the international community should prevail on Israel to withdraw from all occupied Arab territories.

Notes

1/ See report of the Security Council Commission established under resolution 446 (1979), Official Records of the Security Council, Thirty-fourth Year, Supplement for July, August and September, document S/13450, para. 204.

2/ See, for instance, the 1980 study entitled "Acquisition of Land in Palestine", prepared for, and under the guidance of, the Committee on the Exercise of the Inalienable Rights of the Palestinian People.

3/ "The Question of Palestine", prepared for, and under the guidance of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, 1979, p. 25.

4/ Document S/13450, para. 215.

5/ The Jerusalem Post, September 1977.

6/ United Nations, Treaty Series, vol. 249, No. 3511.

7/ For a concise but helpful view see, The International Status of the Palestinian People, prepared for, and under the guidance of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, United Nations, New York, 1979.

8/ United Nations, Treaty Series, vol. 75, No. 973.

9/ Official Records of the Security Council, Thirty-fourth Year, Supplement for July, August and September 1979, document S/13450/Add.1, annex. II.

10/ Ibid., para. 228.

J. ZIONIST SETTLEMENT IDEOLOGY AND ITS RAMIFICATIONS FOR THE PALESTINIAN PEOPLE

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The settlement policy of Israel is not a concise subject confined to the territories occupied during the war of 1967. Neither is it a process which began only 13 years ago. The issue of settlement has been at the heart of the political Zionist movement since its inception and has been a central subject of debate within Zionism ever since. This fundamental nature of the settlement issue has caused it to be one of the determining factors of the various political streams in the Zionist movement and subsequently the Israeli State. It is intrinsically linked to other key questions such as religion and land. Settlement policy played - and continues to play - a major role in the Zionist confrontation with, and dispossession of, the Palestinian people. 1/

Zionist settlement over the years has taken its toll of Palestinian lives and land. Even a cursory examination reveals that the impact has been staggering. While it is extremely important to record each dunam lost, each well gone dry, these physical indicators do not describe the full dimensions of the question of settlements. Political forces and personalities in Israel have alternately supported, criticized and manipulated the settlements. Political forces and personalities in Israel have alternately supported, criticized and manipulated the settlements. Similarly the settlers have played a major role in shaping the political fabric of Israel. Since the "conquest of the land" has long been intrinsic to political Zionism, the settlers engaged in that process enjoy a particular leverage in relation to their fellow Zionists. The Zionist "minimalists" have historically stressed the consolidation of a Jewish State on the territory under their control while the "maximalists" have called for a Greater Israel based on the maximum extent of the ancient Hebrew kingdoms. The relation between these minimalist and maximalist Zionist camps has not always been amicable. The differences, however, have more often been tactical than strategic. The minimalist emphasis may often be on the need for pragmatism, while the maximalist riposte emphasizes inherent rights (often God-given) while even the minimalist ostensibly "knows to be true". This political dynamic lends a veneer of contention to a process of settlement which has inexorably proceeded.

The extreme maximalist elements, historically, have often not enjoyed the favour of the Government in power, yet they have always possessed a tremendous means to go outside the law to embarrass and confront the ruling Powers. On some occasions they have proven merely to be a stalking horse for the Government itself. On others, the dominant Powers have faced them down, e.g., the sinking of the Irgun munitions ship Altalena on orders of David Ben-Gurion. This action was deemed necessary for the consolidation of power. State control now appears increasingly threatened.

The settlement movement in the territories occupied in 1967 manifests much of the maximalist sentiment. Not only has it displayed enormous influence over mainstream Israeli politics, it has served as a spawning ground for even more extremist elements. The expansionist Gush Emunim movement may today only control a minority of the settlements in the occupied territories, yet it has already been superseded on the right by the Tehiya (Renaissance) Party and the Kach (Thus) of Meir Kahane. The latter has been linked in the press with the two soldiers and the Yeshiva student implicated in the plot to blow up the Al-Aqsa mosque and other Muslim and Christian institutions. Kach is probably not associated with the emergent Zionist paramilitary group calling itself the "Sons of Zion", which claimed credit for the attempted assassinations of three Palestinian mayors. While the identities of these groups remain somewhat vague and their material sources and friends are yet to be established, their ideological roots are evident.

In the wake of the 1967 war, the Israeli Government almost immediately began to settle the occupied territories. At that point the rationale was basically twofold. In the case of Jerusalem and its environs the claim of historic rights was primary and settlement was facilitated by outright annexation of the eastern part of the city. On the outskirts of Jerusalem, in the Jordan Valley, the Golan Heights, Rafiah Salient and Sinai, the justification put forth was that of security.

During the earlier years of settlement in the 1967 occupied territories, the security argument was the most prevalent. The validity of this justification was, however, seriously undermined during the 1973 war when Israel had to use valuable time and manpower to evacuate the settlements on the Golan Heights. Hirsh Goodman, the military correspondent of the Jerusalem Post, concedes the inconsistencies of this argument:

"The feasibility of settlements as a function of defence seems doubtful. On analysis, one suspects that they actually hamper the smooth conduct of war, and the country's ability to deal cohesively with a frontal attack ... Moreover, planting civilian populations close to the border counteracts all those arguments we have heard for so long about the danger of having Netanya and Tel Aviv 'just nine miles from the frontier'." 2/

Goodman goes on to point out that the Gush Emunim settlement of Ofra "is not high on the list of defence priorities right now. Nor is the establishment of a new Jewish ghetto in Hebron...". It is almost certain that the security argument for settlement would be heard less often were it not for the credibility it has sustained in the West and in the United States in particular.

The argument that Israel has historical rights in the occupied territories, on the West Bank in particular, proves far more of an impediment to peace in the Middle East than the question of security. It cuts across party lines and across the religious/secular division in Israel. While contemporary analysts are correct in pointing out that the Labour Government concentrated West Bank settlement in the Jordan Valley and the eastern slope of the highlands, it should not be overlooked that they also facilitated the construction of Kiryat Arba near Hebron. As was noted in Ma'ariv over a year ago:

"The leaders of Gush Emunim have not forgotten the material and moral aid they have received from Yigal Allon, then Deputy Prime Minister, when they settled in Hebron, nor the aid given to them by the Chairman of the Labour Party, S. Peres, while he was the Minister of Defence in Rabin's Government; there would have been no Ofra, the first settlement in Samaria, without his help. Gush Emunim now misses

those days. It would like to see the Labour in power again and Herut in opposition. The veterans of Gush Emunim think that this is the best political formula for their success in achieving their settlement aims. 3/

Indeed, in denouncing the United Nations Security Council vote last March condemning Israeli settlement, Shimon Peres said that no responsible body in Israel would agree to the Council's demand for dismantling the settlements in the territories. 4/ Even those whose main motivation for establishing settlements may have been security are reluctant to permit the establishment of a precedent for their withdrawal which would challenge the historical rights argument. This objection was even raised in the context of the dismantling of the Sinai settlement as part of the Israeli-Egyptian peace process.

The historical rights argument is premised upon the right of modern Zionists to establish a presence anywhere in "Eretz Israel". The extent of this claim varies according to the particular political positions of various trends within the Zionist movement. Begin's Herut Party has never explicitly abandoned claim to the East Bank of the Jordan, for instance. Since the Hebrew Kingdoms, on which the claims are based, are historically significant not merely for national reasons but for religious reasons which dwarf their limited geographic and temporal extent, the modern claims intrinsically have had a religious character to them.

As a result of that element of divine ordination inherent in many religions, the admixture of religion and nationalism generally have proven volatile and often oppressive. The perversion of Christianity used to justify apartheid in South Africa is an outstanding example. Similarly, in the United States the doctrine of "Manifest Destiny" was propounded to justify the settlement of western North America at the expense of its native peoples. The world-view of the Gush Emunim is somewhat analogous to both, the undisputed previous existence of the Hebrew Kingdoms notwithstanding.

The Gush Emunim emerged from the National Religious Party's Bnei Akiva youth movement and yeshivot hesder. These "arrangement yeshivas" are religious seminaries the students of which also do army service. 5/ Perhaps the single most influential person inspiring the Gush Emunim world-view is Rabbi Tzvi Yehuda Kook. David Shaham, writing in Yediot Ahronoth, describes him thus:

"The politics of Rabbi Tzvi Yehuda Kook are consistent, extremist, uncompromising and concentrated on a single issue: the right of the Jewish people to sovereignty over every foot of the Land of Israel. Absolute sovereignty, with no imposed limitations. 'From a perspective of national sovereignty,' he says, 'the country belongs to us.' He defines himself as an extreme maximalist. He did not join the 'Movement for the Entire Land of Israel' because in his judgement, Transjordan, the Golan, the Bashan (The Jebel Druze region in Syria), are all part of the Land of Israel. ... In a public statement he defined the right as follows: 'The entire country is ours -- there is no Arab land here, only Jewish lands, the eternal lands of our forefathers -- and that land, in its original Biblical borders, belongs to the sovereignty of the Jewish people'." 6/

The conquests of the 1967 war were to Rabbi Kook a sign that God was fulfilling his ancient promises to the Jewish people.

It is extremely important to note here that such extreme theistic nationalism is not universal to Orthodox Judaism whose breadth of belief also includes the Neturei Karta to whom political Zionism is an anathema. Other Orthodox scholars such as Yeshayahu Leibowitz, a specialist in Jewish law, who holds chairs in biochemistry and philosophy at Hebrew University, explain that:

"Jews of every generation were willing to die for observance of the Torah, but not for settling in the land of Israel ... Gush Emunim is religious like the Israelites who danced around the golden calf were religious: they were idolaters. They worship the state and its borders, the cheapest kind of religion." 7/

Ever since 1967 Israeli politics has been confronted with the question of what to do with the occupied territories and the Palestinians who live in them. Withdrawal from the territories was ruled out on both "security" and "historical rights" grounds. Yet holding onto the territories with their large Palestinian population implied an assimilation of Palestinians which would dilute the Zionist goal of a "Jewish State".

Menachem Begin's autonomy plan is only the latest in a series of holding actions intended to maintain Israeli control until a means can be found to resolve the paradox. The Palestinian people, however, are adamant in their resistance to further dispossession.

This question, though, gives only slight pause to the ideologues of the Gush Emunim. To them the Palestinians are merely modern manifestations of the Canaanites and Amalekites. Against the Amalekites there was a command of revenge to kill every man, woman and child. As for the Canaanites, they were given three options: to stay under Israel's terms, to leave, or to make war. In an article entitled "The real-politik of our sages", published by the Gush Emunim "Department of Information", Dr. Israel Eldad applies these to the Palestinians:

"One way out given to the Canaanites was to accept Israel's terms. No autonomy but then no intolerance either ... The second method was to leave ... This idea in itself is not new to Zionism. Israel Zangwill suggested it in 1920, the British put it forward in the Peel Report of 1937 as did Avraham Sharon and Avraham Stern in the '40s. Official Zionists opposed the plan due to moral hesitations (not a Jewish morality but one influenced by liberal emancipation and in continuation of their naive belief that the Arabs will agree to coexistence if we succeed in convincing them that Zionism is beneficial for them ... If the two foregoing are not acceptable - let it be as it may. There is no fourth solution of 'autonomy' in our sovereign area." 8/

Elsewhere in this article, Dr. Eldad advocates the creation of economic distress in the West Bank and Gaza to bring about large scale immigration, expulsion being permissible only in time of warfare. Almost as disturbing as the position he advocates is Dr. Eldad's peculiar definition of Jewish morality.

Similar thoughts were voiced less pretentiously by the Gush Emunim settlers in Ofra when they were interviewed by The Jerusalem Post's Robert Rosenberg. Aharon Haramish, head of security, has a simple, if cynical, plan: "We simply don't give them jobs. If they didn't have work here, they wouldn't prosper and wouldn't want to stay. We could even pay them to leave". In the words of Rachel Cohen, another settler, "After all there are no Palestinian people. We invented them, but they really don't exist". 9/

What is distinctive about the Gush Emunim ideology is that their intention is not merely to colonize the occupied territories through building in areas where the Palestinian population is thinnest. On the contrary, they wish to confront and eventually supplant the Palestinians. Yosef Goell, summarizing the views of Benny Katzover, a leading Gush Emunim activist, makes this clear:

"It is not the specific site of Jebel Kabir or of Rujeib that is important; the proximity to Nablus-Shechem is the point. It is essential and urgent to establish as widespread a Jewish presence in Judea and Samaria as possible; and the closer this presence is to the large concentrations of Arab population in these territories, the better." 10/

This fanatical expansionism of the Gush Emunim would be of limited concern were it restricted to an isolated splinter group. Unfortunately, the Gush Emunim, despite their small numbers, are not isolated. Their ideas enjoy currency far beyond their membership and they have friends in high places. The politics of General Ariel Sharon, the Minister of Agriculture and Chairman of the Ministerial Committee on Settlement, are well known. His extremism is matched by that of Dr. Aharon Davidi, former commanding officer of the paratroopers and lecturer in geography at Tel Aviv University. The Ashkenazi Chief Rabbi of Israel, Shlomo Goren, in a speech at Kiryat Arba, went so far as to "express his grief that the Arabs of Hebron did not flee towards the Jordan River". He was greeted with applause. 11/

The most tangible evidence of high level political support for the Gush Emunim philosophy is to be found in the pattern of existing settlements. As previously mentioned, the Labor Government concentrated settlements in the Jordan Valley and on the eastern side of the West Bank highlands. The objectives of these belts, as described in United Nations Security Council document S/13132, annex II, are to sever the West Bank Palestinians from East Jordan and to encircle them by creating a cordon on the eastern side. The settlement blocs surrounding Jerusalem are intended and to psychologically ghettoize them. The latter construction was carried out despite aesthetic and environmental objections of some Israeli city planners. So-called security reasons were used to override the opposition. As also noted, the Labor Government condoned settlements such as Kiryat Arba and Ofra, which did not conform to their stated guidelines. This is again indicative of the broad and non-partisan support that exists for Gush Emunim style confrontative settlement.

The Likud Government, with its more explicit intention of colonizing the occupied territories, has since May 1977 proceeded to build settlements along the length of the western highlands of the West Bank. As the aforementioned Security Council document notes, the strategic objective of these colonies is to prevent the physical development of the Palestinian community to the west and to divide the populated northern part of the West Bank into two smaller areas, thus further containing and ghettoizing the Palestinian people.

An additional aspect of the scheme has been the construction of a series of roads on the West Bank which compartmentalize the Palestinian villages and towns. The roads are constructed so as to facilitate Israeli control of the region. They are comparable on a grander scale to the razing and reconstruction in Gaza carried out subsequent to 1967 in order to permit greater Israeli mobility in the effort to combat Palestinian resistance.

The most flagrant statement of support for the plan to penetrate the areas of heavy Palestinian population came in October 1978 when the World Zionist Organization's Department for Rural Settlement published its "Master Plan for the Development of Settlement in Judea and Samaria, 1979-1983". 12/ Often referred to as the "Drobles Plan" after its primary author, it calls for the establishment of 46 new settlements to be inhabited by 16,000 families and the thickening of existing settlements by the addition of 11,000 families - all within five years' time. The projected cost of this comes to a staggering IL54 million. The proposed allocation of such an amount for settlement on the West Bank alone is extremely demonstrative of the priorities of the World Zionist Organization. All this came at a time when inflation in Israel was running over 100 per cent annually and when only a fraction of this money was going toward housing for the numerous Israeli Jews who live in slum conditions. The recent squatter camp protest by Jews of Eastern origin was named Ohel Moreh to contrast with the Gush Emunim settlement of Elon Moreh.

The "Drobles Plan" states clearly that "the disposition of settlements must be carried out not only around the settlements of the minorities, but also in between them, this in accordance with the settlement policy adopted in Galilee and in other parts of the country". This passage is important not only for the distortion of language which takes place. Rather than refer to Palestinians, the plan terms the populace "minorities", despite the fact that Palestinians were the overwhelming majority of the population of the West Bank. Drobles might respond that the plan referred to the population ratios of the whole of "Eretz Israel". This would only further compound the attempt to deny that the territories were occupied. Such linguistic euphemisms and rewriting of history have always been part of colonialism. From the coining of the Zionist slogan "A land without people for a people without land", on through the Balfour Declaration's reference to the Palestinian majority as "existing non-Jewish communities in Palestine", the Palestinian people have had to confront and combat such obfuscation, particularly in the Western media.

The first principle guiding the "Drobes Plan" reads: "Settlement throughout the entire land of Israel is for security and by right. A strip of settlements at strategic sites enhances both internal and external security alike, as well as making concrete and realizing our right to Eretz Israel". Not only does this embody both the security and the historic rights arguments, it acknowledges the need for "internal" security. Thus it betrays the efforts of the Israeli Government to characterize the resistance of the Palestinians as an external phenomenon. It also inherently acknowledges that counter-insurgency and repression are among the objectives of the settlements.

The battleline between the Gush Emunim and the government bureaucracy now is drawn particularly on the question of whether privately-held Arab land may be expropriated for Jewish settlement even if this is not necessary for security reasons. The focus of this debate is the decision last fall of the High Court of Justice of Israel that the settlement of Elon Moreh had to be relocated from Rejeib to Jebel Kabir (though the latter is still proximate to Nablus). The Jerusalem Post describes the Gush Emunim position: "The seizure of small plots of Arab land at that site was justified by the right of Jews to settle throughout Judea and Samaria, they said, and no security mumbo-jumbo legalisms were necessary to sanctify that right". 13/

The Gush Emunim is forthright in its desire to dispossess the Palestinians; the Government's actions belie any pretension to protect Palestinian land rights. To date approximately one third of the land on the West Bank has come under the control of the Israeli Government. 14/ The Israeli State has gained this much land through a variety of means. A portion was confiscated on security grounds, often dubious. Other lands were taken over on the grounds that they were State lands rather than privately-held Palestinian property. This has been effected through a manipulation of the system of land tenure existing prior to 1967. Three broad categories of land holdings were common. Privately-held land for which the owner possessed a clear title is termed "mulk" land. Communally-held land, often cultivated by the same family over generations, is called "miri" land and is registered with the Jordanian Ministry of Finance for tax purposes. Finally, land successively under the title of the Ottoman Sultan, British Mandate and Jordanian Governments (which again has been under cultivation for generations) is "jiflik" land. In the last two cases clear title often may not exist. Israeli demands for legal deeds of ownership and the difficult and costly litigation necessary to prove such holdings have facilitated dispossession of West Bank Palestinian farmers. A final means of confiscation is through the notorious absentee property laws. Persons not residing on their lands at the time of occupation were termed "absentees" and the land reverted to the State as "Custodian for absentee property". Similar procedures have been used extensively to dispossess Palestinians in Israel itself. 15/

Thus the State of Israel itself is carrying out an extensive and multifaceted takeover of West Bank lands which differs from that urged by the Gush Emunim less in its substance than in its pragmatic avoidance - for the time being - of flagrant confrontation. In November 1979 the Ministerial Committee on Settlement passed a settlement budget of IL150 billion, nearly half the entire annual State budget. 16/ Despite the massive investment and settlement campaign, the Government has fallen far short of the projections of the "Drobes Plan". It is finding it increasingly difficult to recruit willing settlers even with the various subsidies and benefits proffered. The fact that this land is not needed in order to accommodate an expanding population but is being conquered for almost "mystical" reasons is especially foreboding and revelatory of the aforementioned ideological nature of the settlement movement. It remains to be seen what contradictions may arise should there be an insufficient number of settlers to realize the political goals of the settlement policy. Since some of the deterrent to volunteers stems from the hostility of the Palestinians to these would-be colonizers, the Government may feel driven, for this reason as well, to step up the repression in the occupied territories, in an attempt to crush the opposition.

The most disturbing recent developments in the occupied territories are of a military nature. One of the key figures involved in this aspect is Chief-of-Staff Rafael Eitan. With the resignation of Defense Minister Ezer Weizman, Eitan - never noted for his political acumen - has been thrust into an ever more important role. When Menachem Begin assumed the defence portfolio (and refused to promote Deputy Defence Minister Mordechai Zipori), he effectively allowed increased policy formulation to pass on to his chief-of-staff. Eitan had already stirred up a great deal of controversy with the leniency he had shown in the reduction of sentences of Lederman, Pinto, and Sadeh, all of whom had been convicted of killing innocent Arabs. His sympathy to the Gush Emunim has been overt as has his desire to retain the West Bank and Gaza. Eitan considers each settlement a "confrontative settlement" and has restructured the reserve duty of settlers in a foreboding fashion. Rather than serving generally in the Israeli Defence Forces, they now are organized in a framework of "area defence". Thus they serve in the occupied territories particularly and often even in their own immediate vicinity of residence. For example, the Ramallah area is policed primarily by settlers from Ofra, Beit Horon and Beit El. Israeli journalist Yehuda Litani reports that:

"A security source dealing with these matters claims that 'they are the best soldiers for this task'. He says that the settlers have strong discipline and most important - motivation. For them 'a roadblock is a roadblock and a search is a search'. ... Security sources think that the Area Defence ... cannot be called 'a private army'. Security sources and the settlers deny the existence of a private army, but the given data shows that the settlers have the infrastructure, prepared by the army. There is no need for underground organization. When the Governor of Ramallah demanded the arms back from the settlers from Ofra following their 'police action' last year, the settlers simply refused. This proved that in critical times the settlers and not the army dictate their will." 17/

Even should the settlers function as a private army, it is unlikely to disturb the Chief-of-Staff who recently made a statement that "there was nothing new or particularly worrisome in having a private army, almost certainly Jewish, operating separately from his own". 18/

His words are echoed by another Rafael Eitan, the advisor to the Prime Minister on the "War against terror", when he urged,

"that every Israeli who enters the territories, and even the Old City of Jerusalem, should carry arms and know how to use them. ... In my judgement more Israeli civilians must be allowed to carry weapons all the time. Some argue that such a state of affairs will be exploited for the worst purposes. My reply: already hundreds of thousands of guns are in the hands of IDF personnel, the police and the Israeli civilian sector. An addition of several thousand weapons more will not change matters good or bad in this respect ..." 19/

In stating that there was nothing new about a private army, Chief-of-Staff Eitan could have been speaking historically of the various Zionist paramilitary troops active during the 1940s. His remark, however, is accurate in a contemporary context as well. In May of this year The Jerusalem Post was told that "West Bank settlers are preparing to fight the Arab terrorists with or without the army's help. ... Settlement leaders have decided to form 'regional security committees' which will obtain arms, train settlers and collect information on Arab riots, stone-throwing and incitement". Despite official statements that settler sources indicated that they would cooperate with the authorities, "well-informed settler sources indicated they would act if the army should be curbed by political factors". 20/ Some of the settlers, in order to counteract what they feel to be hostile media coverage, are even exploring the legalities of creating a private broadcasting station for the West Bank. 21/

The extent to which the West Bank settlers have been taking the law into their own hands has reached such great proportions that even the Western media can no longer ignore it. To merely record the incidents of harassment and violence inflicted upon the citizens of Hebron alone by the settlers of Kiryat Arba would take a far longer paper than this. Some of the Israeli press have quite appropriately termed such attacks pogroms. 22/

The sympathy of the military authorities for such activities has been demonstrably evidenced by the leniency they have shown towards the perpetrators. In the case of months-old incidents, the fact that no suspects have been apprehended is not easily explained. In Ha'aretz, Zeev Shif notes the reluctance of the responsible authorities to assiduously investigate the attempted assassinations of the mayors for fear it would lead to established political quarters. 23/

What is not so readily apparent is the potential which confrontative settlement, area defence forces, regional security committees and pogroms hold for bringing about a disintegration within the Israeli military. The settlers, through their overt vigilante actions, have done much to raise the level of violence in the occupied territories. Through their demagogic rhetoric and their pogroms, the settler movement - and the Gush Emunim in particular - have helped to legitimize and spawn the underground organizations which are escalating the violence in the occupied territories. As Newsweek put it, "Violence on the West Bank usually meets with little retribution from the Israeli establishment. For years, officials have allowed Gush Emunim bullies to attack Arabs, and Kahane and his crew seem to enjoy the same prerogatives". 24/

The most tragic attack by an underground group so far has been the maiming of Mayor Karim Khalaf of Ramallah and Mayor Bassam al-Shakaa of Nablus. These terrorist attacks, which occurred almost simultaneously with others in Hebron and El-Bireh, were not isolated incidents. As Mayor al-Shakaa said from his hospital bed:

"This is another part in the chain of acts of the authorities who want to force upon us the autonomy conspiracy and the Camp David Agreements. It is natural that the authorities won't listen to any call for peace and recognition of the Palestinian people and their national rights. Like any other aggressive state they slip into oppression and terror. Don't forget: the bomb in my car was preceded by the killing of a student in Anabtah on May the first by the military governor of Tulkarm. Later he visited the father of the dead student and told him: 'I'm sorry that it was your son that was killed; the one that should have been killed was the son of Bassam al-Shakaa and the son of Hilmi Hanoun' (the Mayor of Tulkarm)." 25/

The role which Mayor al-Shakaa ascribes to the Israeli authorities in both these attacks should not be overlooked. Given the thorough surveillance of the West Bank mayors, it is hard to imagine how such well-planned attacks could have been carried out without the collusion of the military authorities.

As much an indicator of the rising lawlessness in Israeli society as the attacks themselves are the public responses made to them. Although the Begin Government may have formally denounced the terror, various public figures have been far more ambivalent in their remarks.

Yossi Dayan, Meir Kahane's deputy in the Kach Movement, expressed enthusiasm for the attacks and was sure they were done by "good Jews". He noted that "apparently the underground continues to function without him (Meir Kahane)". 26/ The Gush Emunim Secretary of Kiryat Arba, Yossi Weiner, said, "I can't say I'm sad. Until yesterday, we were the ones who had to guard ourselves, to watch out for stones and Molotov cocktails when we walked along the street. The time has come for the Arabs to be afraid too". 27/ One of the leaders of the Gush Emunim, Rabbi Moshe Levinger, said that he felt "safer" after the attempts to assassinate the mayors and that he felt an "understanding" for the men who did it. 28/ Similar thoughts were echoed at higher levels. Ha'aretz reported that "MK* Rabbi Haim Druckman (National Religious Party) expressed regret concerning the terror, but noted that the victims were enemies of Israel, and quoted the biblical, 'May all your enemies perish thus'. He also said that he would be terribly saddened if they were to die a natural death". 29/ Although some of his colleagues rebuked him for these comments, the National Religious Party affiliated newspaper Hatzofeh was not above putting out the scam that "the attackers should be sought among the PLO ...". 30/

**Member of the Knesset.*

Apparently there are at least two Zionist underground groups operating in the occupied territories: the "Sons of Zion" and another connected to Meir Kahane's Kach party. Newsweek distinguishes between the two: "The membership of the Sons of Zion remains something of a mystery, though it appears to be small, highly professional, well-educated and native. Kahane's Kach, on the other hand, is seen as a dumping ground for young thugs. Some of them never bother to learn Hebrew and they often return home after a few months of hell-raising on the West Bank". 31/

Also claiming responsibility for the attacks on the mayors is a group calling itself "Terror against Terror" (in Hebrew the acronym is TNT). Whether this group is identical to the "Sons of Zion" remains to be seen. However, in a Ha'aretz poll asking whether they approved of the acts of "Terror against Terror", 36.6 per cent of the Israeli polled said yes. 32/ The majority of Israelis may not at this time openly condone such flagrantly illegal actions yet the magnitude of those that do is quite sufficient to sustain a great deal of unlawful activity. The underground will find a great deal of sympathy and support, especially among the settlers in the occupied territories.

Even more incredible than the attacks upon the mayors are the potential consequences of the plot to blow up the Al-Aqsa Mosque. The intention of this scheme is not the mere physical or even symbolic destruction of the Mosque. Such an action would quite probably have precipitated a major conflict in the Middle East. From the point of view of the plotters, just such a war is needed to expedite the expulsion of the bulk of the Palestinian population in the occupied territories. Kahane and the Gush Emunim have been explicit in their advocacy of such an expulsion. In the words of Ashkenazi Chief Rabbi Goren, "Not only Kiryat Arba but Hebron must be a Jewish city". 33/

Most ominous is the recent warning sounded by former military intelligence chief General (Res.) Aharon Yariv in a speech recently at Hebrew University in Jerusalem. He stated that some people already "hope to exploit a situation of war to expel 7,000/8,000 Arabs ... things are being said to this effect, and the means are even being prepared". 34/

The problem goes well beyond that of fringe groups, as Amnon Kepeliuk explains:

"Rabbi Kahane is not the problem. He and his gang can easily be taken care of (why not expel him to the U.S.A. for example?); the problem is Gush Emunim and their supporters in the Government and the army.

As long as they are able to force their wish on everyone the decline will continue. Every new settler in the West Bank is a piece of additional dynamite. Today we already know that the settlers or many of them are driving towards a situation in which the expulsion of the Palestinian inhabitants from the territories will turn from a nightmare into a terrible reality." 35/

These plots and provocations are not taking place in a political vacuum. Over the last several months the Israeli press has begun to carry articles warning of creeping fascism.

One indication is the Tehiya (or Renaissance) Party which many of the leaders of the Gush Emunim had a role in founding. It was created due to dissatisfaction with the Herut and National Religious Party positions on settlement. The ideology of Tehiya is one of mystical nationalism and the rhetoric has led some Israeli journalists to compare it with European fascist movements. 36/

Amnon Kapeliuk, in an insightful article written six months prior to the attack on the Palestinian mayors, notes several worrisome trends: "... the growing activities of the fanatic religious Gush Emunim movement; the positions taken by Minister of Agriculture General Sharon; the foundation of the fascist party Hatehiya, etc. ...". 37/ Sharon recently expressed the opinion that security in his eyes was above constitution 38/ (something Israel does not even have). Begin himself confided to colleagues that he would not appoint Sharon Defence Minister because "He would be liable to put tanks around my office". Whatever the wryness of the Prime Minister's comment, the politics of such highly placed officials as Sharon trouble many Israelis.

Throughout the history of the State of Israel, there have been outbreaks of extralegal and illegal activities. Almost invariably these have been a result of actions of the extreme right wing of the Zionist camp. The policies of Begin's own Herut Party during the formation and early years of the State clearly fit this category. 39/ This is why Ben-Gurion confronted them over the Altalena. Often the right has used such tactics to gain disproportionate leverage over policy formation. They have succeeded in achieving this influence through their abilities to manipulate the political and religious fundamentals of Zionist ideology. Within Zionism the only definitive answers to such key questions as - What are the final borders of Israel? Who has more right to the land? Who is a Jew in the eyes of the State? - have come from those relying upon religious formulae. Those with more universalist religious interpretations or more liberal political analysis have not succeeded in putting forward alternatives capable of neutralizing the maximalist arguments. They respond weakly when faced with the question: If history and the Bible entitled us to Haifa, how much more are we entitled to Hebron? Or also the correlative: If we abandon our rights and withdraw from Hebron, will we not be forced to withdraw from Haifa?

Virtually all factions within the Zionist movement, in their effort to create the State of Israel, accepted and used -at least in a limited fashion - the historical and religious claims to the land. As a

result, the maximalist position has an element of "truth" to it which the moderates are seldom prepared to deny or refute. While in times of relative peace and security, pragmatism may retard the expansionist and exclusivist elements of zionism, in times of stress and disorder the extremists gain in strength.

At present, the contradictions of settler colonialism are catching up with Israel. Occupation and democracy (even for the settler occupation) do not mix. The requirements of defence and settlement are placing an enormous strain on an economy which has never been self-reliant. The inability to resolve the political contradictions latent in zionism and the ensuing economic hardship are already evoking calls for greater authoritarianism. The editor-in-chief of the widely read Yediot Aharonot commented last September:

"If we cannot obtain economic independence under a democratic regime, we will have to opt for a less democratic rule, provided it is strong enough and firm enough to assure our survival, because our existence is more important than the individual freedom of each one of us." 40/

Not only does he call for a more authoritarian regime, he worries lest it not be "strong enough and firm enough". MK Haim Druckman candidly remarked of late that the unity of Eretz Israel is more important than the democracy of do-gooders. 41/ Amnon Kapeliuk describes the danger:

"Democratic principles are the first to suffer from this crisis atmosphere. Certain quarters increasingly flout democratic laws in the name of what they call their 'idealism'. They consider themselves representatives of a 'divine authority'. Their nationalist ideology, coloured by religious fanaticism, consists of an unshakable determination to annex officially and definitively all the Arab territories in the region occupied since 1967 ... The religious authorities almost as a body provide moral support and a 'religious cover' to the ideology and methods of the extreme right-wing nationalist groups. We have not heard of a single rabbi who, in regard to Israeli occupation of the occupied territories, has condemned or even mentioned the immoral aspect of the domination of one people by another." 42/

Dissident Israelis may someday find themselves living under the same political oppression as their Palestinian neighbours. A countervailing force to the maximalists has yet to coalesce in Israel. The "Peace Now" movement is neither ready to respond to the right with the extralegal tactics of the Gush Emunim nor is it capable of manipulating the historical imperatives of zionism for its own ends. Even should the Labor Party defeat Likud in the next election, it is likely to find itself politically hamstrung by the right. In the past Labor has shown itself no more inclined toward resolving the inherent political dilemma of living with the Palestinians than has the Likud. It is unlikely that any new Government will break with the past sufficiently to come to grips with the right of the Palestinian people to self-determination, which is an obvious prerequisite to peace.

The Palestinians in the occupied territories, already the victims of creeping expansionism and expropriation, must prepare themselves for another danger emanating from the settler movement. They must anticipate the possibility that the Gush Emunim and its rightist allies will, through illegal and fascistic methods precipitate a conflict which will be used as a cover for the forcible expulsion of Palestinians from the occupied territories. An expulsion through such a means will likely enjoy the support of elements of Israeli society beyond the right who will welcome the resolution of the last 13 years' paradox. Such events would destroy the possibility of achieving peace through the establishment of a Palestinian State on the West Bank and Gaza. Continued settlement and expropriation already have almost rendered this irrelevant. The Palestinians for their part must secure allies and find means of defence (political means may prove as effective as military means against the powerful Israeli army).

Historical examination reveals that the settlement movement (and the Gush Emunim particularly) has roots deep in the philosophy of zionism. It draws strength from these in the present moment, yet it also bears the seeds of self-destruction. It has the potential for inflicting further hardship and dispossession upon the Palestinians and, ironically, may bring unseen grief to the Jewish people as well. Virtually the entire world has recognized the illegality and injustice of the Israeli settlements in the occupied territories. For the peace of all, settlement must be halted and the right of the Palestinians to self-determination realized through a State of their own.

Notes

1/ Ibrahim Abu-Lughod, ed., The Transformation of Palestine (Evanston, Northwestern University Press, 1971).

2/ The Jerusalem Post, International Edition, 16-22 March 1980.

3/ Yoseph Zuriel, Ma'ariv, 23 March 1979. (This and subsequent translations from the Hebrew by Prof. Israel Hahak unless otherwise specified.)

4/ Aryeh Rubenstein and Asher Wallfish, The Jerusalem Post, International Edition, 9-15 March 1980.

5/ Yosef Goell, The Jerusalem Post, International Edition, 13-19 April 1980.

- 6/ David Shaham, Yediot Aharonot Supplement, 13 April 1979.
- 7/ Arthur Samuelson, "Israeli expansionism", Harper's, February 1980.
- 8/ Dr. Israel Eldad, "The real-politik of our sages", in a pamphlet simply entitled Gush Emunim, Department of Information, Elon Moreh, Kedumim, Sak Naul, Jerusalem.
- 9/ The Jerusalem Post, International Edition, 8-14 June 1980.
- 10/ Goell, op.cit..
- 11/ Yehuda Litani, Ha'aretz, 30 September 1979.
- 12/ United Nations Special Unit on Palestinian Rights. Bulletin 9-10, September-October, 1979, p. 8.
- 13/ Goell, op.cit..
- 14/ John Ruedy, Washington Star, 29 October 1978.
- 15/ Larry Ekin, Testimony submitted to the National Council of Churches of Christ in the U.S.A., on behalf of the Middle East Research and Information Project (MERIP), Washington, D.C., 13 February 1980.
- 16/ The Jerusalem Post, 16 November 1979.
- 17/ Yehuda Litani, Ha'aretz, 16 May 1980.
- 18/ Hirsh Goodman, Jerusalem Post Magazine, 13 June 1980.
- 19/ Baruch Meiri, Ma'ariv, 18 September 1979.
- 20/ Joshua Brilliant, The Jerusalem Post, 11-17 May 1980.
- 21/ Yehuda Litani, Ha'aretz, 16 May 1980.
- 22/ E.g., Nahum Barnea in Davar, 9 May 1980. Among the best compilations of such events are the monthly occupied territories chronicles to be found in the journal Israel & Palestine, published in Paris.
- 23/ Ha'aretz, 6 June 1980.
- 24/ Newsweek, International Edition, 16 June 1980.
- 25/ Amnon Kapeliuk, Al-Hamishmar, 4 June 1980.
- 26/ Ha'aretz, 3 June 1980. From Isrleft, 13 June 1980.
- 27/ Newsweek, International Edition, 16 June 1980. Yossi Dayan also credits Chief Rabbi Goren for his rapid release from prison the one time he was jailed.
- 28/ The Jerusalem Post, 4 June 1980. From Isrleft, 13 June 1980.
- 29/ Ha'aretz, 3 June 1980. From Isrleft, 13 June 1980.
- 30/ Hatzofeh, editorial, 3 June 1980. From Isrleft, 13 June 1980.
- 31/ Newsweek, International Edition, 16 June 1980.
- 32/ The New York Times, 21 June 1980.
- 33/ The Jerusalem Post, International Edition, 30 December 1979-5 January 1980.
- 34/ Ha'aretz, 23 May 1980.
- 35/ Al-Hamishmar, 16 May 1980.

36/ Cf. The Jerusalem Post, International Edition, 13-19 April 1980; Amnon Kapeliuk, Le Monde Diplomatique, No. 309 (December 1979). The latter is translated into English and reprinted in the Journal of Palestine Studies 35, vol. IX, No. 3 (Spring 1980). Also cf. Ha'aretz, 23 October 1979 and Ma'ariv, 24 October 1979.

37/ Kapeliuk, Le Monde Diplomatique.

38/ Ha'aretz, 13 June 1980.

39 Cf. Eliahu Selpter, Ha'aretz, 6 June 1980.

40/ Yediot Aharonot, 14 September 1979. Quoted in Kapeliuk, Le Monde Diplomatique.

41/ Ha'aretz, 13 June 1980.

42/ Kapeliuk, Le Monde Diplomatique.

II. SECOND UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE

**(25-29 August 1980,
Vienna, Austria)**

A. HUMAN RIGHTS AND THE ISRAELI OCCUPATION OF PALESTINE

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Throughout the present century, Palestinians endured four occupations, the Turkish, Jordanian, British and Israeli, all in the span of two generations. The relationship between the occupying Power and the civilian inhabitants of the occupied territory is regulated by international law. Numerous charters, conventions, and declarations define the rights and obligations of both parties. 1/ The rules governing occupation, however, remained virtually absent throughout the interaction between Palestinians and all their occupiers. The Ottoman Turkish occupation predated the promulgation of most of these precepts which were enunciated in the aftermath of the Second World War. During the Ottoman period, the tax collector and the army recruiter served as the dominant symbol of the occupation regime.

The British occupation was rationalized by a League of Nations Mandate as necessary for the "well-being and development of peoples not yet able to stand by themselves under the strenuous conditions of the modern world". Although the League Covenant recognized the independence of the Arab provinces of the defeated Ottoman Empire, it made that independence subject "to the rendering of administrative advice" by the Mandatary, and in the case of Palestine, it added the Balfour Declaration as another condition.

The civilizing mission undertaken by Britain was simply a euphemism for imperial ambitions. Palestine was strategically located at the crossroads and adjoining the Suez Canal. This geo-political reality was well understood by Zionist leaders who dreamt about establishing a Jewish State in Palestine. Theodor Herzl wrote of the Jewish State: "We should there [in Palestine] form a part of a wall of defence for Europe in Asia, an outpost of civilization against barbarism". The relationship, therefore, between those who assumed the "sacred trust of civilization" and the untutored natives was dictated by British imperial interests and commitments to international Zionism. The symbols of the British occupation were their mounted police, tax collector and the district commissioner, who together shared the responsibility for the maintenance of law and order for the duration of the occupation.

The next occupation was motivated and rationalized by different considerations and principles from those which characterize the Ottoman and British rules. Hashemite Transjordan was hardly a State much less even a nation with a well-developed foreign policy or a coherent ideology. Dynastic ambitions constituted perhaps the most crucial factor in the annexation of Eastern Palestine by Trans-Jordan. Arab unity was the principal rationale for the merger of the two "banks" of the Jordan River on 25 April 1950, but the Act of Union made it clear that the merger did not prejudice the "final settlement of the just case of the Palestinian people". The merger was therefore considered, in theory at least, neither immutable nor irrevocable.

Although the Palestinians failed to set up a uniquely Palestinian State, their participation in the Jordanian political system gained them access to political power.

The Israeli occupation of Palestine has the unique distinction of being associated with an ideology which denies the very existence of the Palestinian people. The question of human rights in occupied Palestine is inextricably tied with Zionist ideology. Unlike European colonialism of the nineteenth century which sought to rule over people in Asia and Africa in an attempt to maximize profits or enhance strategic positions, Zionism was patterned on the seventeenth century type of colonialism. The notion of the minority settler supremacy was evident in Zionist thought early in this century. David Ben-Gurion, the first Prime Minister of Israel, voiced his admiration of the adventures of European settlers on the North American continent and their encounters with the native Americans in a speech he gave in New York in 1915:

"The history of American settlement shows how herculean were the tasks of the colonists who came to find the new Homeland in the New World ... how many and how fierce the fights they fought with wild nature and wilder redskins, the sacrifices made before they unlocked the continent for mass influx and colonization."

Zionist leaders were not unaware of the fact that the "outpost of civilization" which they pursued would be inhabited, but they were confident that native resistance would be overcome by an "assured supremacy" guaranteed by the West. Herzl recorded in his diary that after the Jewish State was established it would be necessary to "spirit the penniless population across the frontier by denying it employment". 2/ A basic tenet of Zionism is that the dominant Jewish majority has rights denied to others. Israel is considered legally "the sovereign State of the Jewish people". 3/ Even before the establishment of the State, the Arab majority was rendered by the Balfour Declaration and the Zionist draft which it amended as the "existing non-Jewish communities", and the only safeguard they were given pertained to civil and religious rights while the phrase political rights was deliberately omitted.

Today, over half a century since the Balfour Declaration, the Arabs of Palestine have neither enjoyed the political rights which they are entitled to as a "people", nor even the civil or religious rights promised to them by a former occupier of their land. The Zionist ideology of the new occupiers precludes these rights for the occupied. In fact the Palestinians are viewed by their occupier as temporary residents. According to the "Homeland Doctrine" enunciated by the Labor Government and supported by the Likud, the territories occupied since 1967 form part of the natural boundaries of the State of Israel and are not occupied within the meaning of international law. 4/ The Palestinians in these territories are considered as people living on sufferance. Ezer Weizman insisted in a newspaper article written eight years ago that "there is no Zionism, and there is no settlement, and there is no Jewish State without evacuation of Arabs and without expropriation and fencing of lands". 5/ More recently the daily Al Hamishmar carried an article titled "The Truth About Kiryat Arba Men" which expresses the sentiments of Gush Emunim settlers on this question. Meir Indor, a spokesman for the settlement, is quoted as saying:

"The Arabs must know that there is a master here, the Jewish people. It rules over Eretz Israel ... The Arabs are temporary dwellers who happen to live in this country. There are commandments in the Bible concerning such temporary dwellers and we should act accordingly." 6/

The Gush Emunim derive their inspirations not only from political Zionism but mainly from the Jewish religious law (Halacha). The security argument for retaining the occupied territories, prevalent between 1967 and 1977, is being pre-empted by a historical argument. Menachem Begin's stand with regard to Jewish sovereignty in the West Bank and Gaza was promoted from a rhetorical slogan of the right wing opposition to a negotiable item for Presidents Carter and Sadat. For more than 30 years the Likud expansionist scheme, laden with a parochial and an anachronistic historical perspective, was taken seriously by the very few who were addicted to hallucination. The late Israeli historian, Jacob Talmon, complained that he couldn't really be expected to face sophisticated colleagues abroad and tell them that the Jews have a "divine title deed to the land and that this title deed pre-empts all other legal claims". 7/

Today, however, thanks to Presidents Carter and Sadat, the context of the Camp David proposals render imperative the fact that legal sovereignty is at issue in the West Bank. The three chief executives arrogated to themselves the right to determine that the rights of the Palestinians living under occupation do not extend beyond autonomy. Begin even restricts that autonomy to the people but not to the land.

Faced with a colonial settler regime asserting divine claims and pressing to acquire the "land without the people", Palestinians in the occupied territories were left with but one option - to resist the occupation. Their struggle for social advancement and for civil rights has been part and parcel of the nationalist struggle. The occupation authorities as well as the Jewish settlers make no distinction in their encounter with their captives based on social class, sex or creed. The confrontation is total in which one community is determined to replace the other which, in turn, refuses to accept its negation. A cycle of violence is therefore implicit in this kind of relationship in which the occupier inevitably defines every single member of the occupied community as a potential terrorist and a suspect. A reign of terror is the logical result.

The October War of 1973 produced a chain of events resulting in a new and an unprecedented challenge, on the political level, to the Israeli occupations of 1948 and 1967. The myth of Israeli invincibility was effectively challenged by Arab armies, whose performance revealed a capacity to assimilate modern technology and to eventually bridge the gap. The declarations of the Arab summit conferences at Algiers and Rabat in 1973 and 1974 heightened the morale of the captive Palestinian population in the occupied areas and in Israel proper, and reinforced their will to resist. These declarations elevated the role of the Palestine Liberation Organization (PLO) in the diplomatic configurations of the Middle East and pushed the organization into center stage of Middle East diplomacy. The PLO was declared the sole legitimate representative of the Palestinian people.

Other factors which intensified the resistance to the Israeli occupation was a determined attempt by the regime to tighten the reins and create new fact in the occupied territories. Both the Rabin and Begin Governments embarked on rapid schemes of colonization in the West Bank. The number of settlements has mushroomed to over 80 settlements. Moreover, economic measures were designed to weaken indigenous institutions and to further subordinate and integrate the economy of the occupied areas to that of Israel. The latest such act was the decision to take over the concession of the East (Arab) Jerusalem Electric Company in early July 1980.

Two groups in particular have played the vanguard role in this resistance during the past seven years. The Palestine National Front (PNF) was declared on 15 August 1973 in response to the escalation of Israeli repression and colonization and to the set-backs suffered by the Palestinian nationalist movement in Jordan in 1970-1971. PNF adopted the approach of civil disobedience and non-violent resistance, organizing against land confiscation and sales and publicizing the plight of political prisoners. It campaigned against the Israeli-sponsored municipal elections designed to legitimize the Israeli annexation of Jerusalem.

The insignificant Arab turnout in these elections was largely to the credit of PNF. Furthermore, PNF foiled Israeli efforts to link Arab labour to the Istadrut (Israeli Labour Federation), encouraged businessmen not to pay taxes to the Israeli authorities, and organized massive demonstrations to protest the expulsion of eight Palestinian leaders from the West Bank in December 1973. By April 1974, the occupation authorities launched a repressive campaign against the Front, placing a large number of its leaders under administrative detention without charge or trial.

The crackdown against PNF was followed by new acts of resistance: the Day of the Land, held on 30 March 1976, the municipal elections in the West Bank during the next month, and the 18 April 1976 march by Gush Emunim throughout the occupied areas and the Galilee region.

The municipal elections of 1976 represented a new juncture in the Palestinian struggle. The former leaders left over from the Hashemite regime were replaced by a new generation of progressive mayors who ran on the National Bloc list of the PLO and PNF. They captured 148 seats out of a total of 191 seats contested throughout the occupied territories. The past four years since the municipal elections have witnessed a sustained resistance and an escalation of repression. The emergence of Begin's Government followed by the Camp David affair and the Israeli-Egyptian treaty increased the tensions to unprecedented proportions.

With Begin in power, it became increasingly clear that the occupation was here to stay. In fact the differences between Likud and Labour were peripheral but the former was less discreet about its plans for the occupied territories. Begin's symbolic visit of settlements served notice that the Israeli presence in the West Bank and Gaza is permanent. His plan of self rule which was announced in the Knesset in December 1977 assumed center stage in the Camp David agreements and was indeed the framework for the so-called autonomy talks between Egypt, Israel and the United States. The agreements of Camp David which condemned the West Bank and Gaza to a permanent status of subordination, less than a Bantustan, and which sentenced the Palestinians outside Palestine to a permanent exile were denounced as a plot against the Palestinian people. A declaration affirming the unity of the Palestinian people under the sole leadership of the PLO was signed on 1 October 1978 by the overwhelming majority of mayors and city councils and the various civic, professional and labor organizations in the occupied territories.

The mayors organized themselves under the National Guidance Committee acting as the principal "legal" opposition after PNF was pushed underground. The mayors issued appeals and manifestos, sent protest cables, sponsored rallies and demonstrations as the occupation regime intensified its repression. The Israeli authorities countered with a series of measures designed to inhibit all political activity, consisting of the following:

1. Warnings to mayors that they were to be held responsible for civil disobedience activities emanating from their district;
2. Restrictions on public meetings and freedom of movement including that of the mayors themselves;
3. Curtailment of the mayors' roles as providers of social and economic services through the use of the military governor's power to issue or deny licences for municipal projects. The power to block the transfer of funds earmarked for various municipalities from abroad has proven to be a strong weapon in the hands of the military.

The post-Camp David period witnessed an escalation in repression and violation of human rights including censorship, restrictions on all political activity, interference in municipal affairs, facilitating land transfers, crackdown on universities, collective punishment, expulsion of dissenters, and various forms of terrorism ranging from beatings to murder.

The Begin Government made use of a variety of laws and regulations to acquire land for Jewish settlements in the occupied areas. There are "waste lands" which the Government can "return to its ownership" even if they were cultivated in the past and are a private possession of the cultivators. 8/ Arab landowners customarily receive "orders to sell" by the custodian of absentee property. The Government, moreover, decided on 16 September 1979 to permit Jews to purchase land in the occupied territories. After the High Court of Justice ruled that the Elon Moreh settlement must be dismantled because private land had been confiscated, the settlers moved to a nearby site and the Government began to consider altering the legal status of the occupied territories in order to avoid such rulings in the future.

Settlements in the midst of Arab population centers were also approved by the Begin Government. After

the killing of a Jewish student in Hebron on 31 January 1980, the Government authorized the establishment of two religious schools in the centre of Hebron which today constitute a settlement. As the opposition to settlements and repressive measures increased, the General Assembly voiced on 12 December 1979 and the Security Council on 1 March 1980, strong criticism of Begin's settlement policies. Israel's Knesset expressed its contempt in two resolutions on 6 March 1980 affirming Israel's right to settle anywhere in the occupied territories. Both Likud and Labour were associated with these resolutions, which violate the Geneva and the Hague Conventions prohibiting the transfer of civilian population into or out of territories occupied in war.

Censorship also increased since Camp David and the peace treaty in order to conceal the overwhelming opposition to the autonomy scheme and the unified posture behind the PLO. The Arab News Agency was subjected to censorship and other restrictions when it created the Palestine Press Services Ltd. 9 / The owner of the agency, Raymonda Tawil, was placed under house arrest in 1976 and was again arrested in March 1978. The regime accused her of using the press service as a propaganda arm for the PLO. Other journalists and writers like Adel, Omar and Samia Samara were arrested on 20 December 1979 and denied bail as "security risks" despite the fact that their accusation did not go beyond organizing politically.

The universities have been a constant and easy target of Israeli repression and harassment. In fact the military authorities introduced new regulations which made it nearly impossible for anyone to obtain a licence for a new university. Harassment takes various forms including censorship of every piece produced by universities for publication. A large number of Arabic books and journals are banned by the military regime and many requests to purchase are generally refused. The military governor arrogates to himself the right to declare members of boards of trustees "unacceptable". Harassment in the forms of unwarranted and unprovoked arrests and prolonged detention of both students and faculty is a technique frequently employed by the military regime. Students are generally assumed responsible for strikes and demonstrations. Israeli troops intervened inside the universities and physically attacked dormitories and beat students to extract confessions. 10 / Numerous students from Bir Zeit and Bethlehem Universities have been injured. More recently a Bethlehem University student, Tagrid Butmeh, was shot and killed by an Israeli guard in what was officially described as an accident. 11 /

Indiscriminate mass punishments are frequently used by the military to weaken the resistance and discourage dissent. Curfews, school closures, banishment of an entire faculty, and public humiliations are among the collective punishment techniques employed by the occupation authorities. A 12-day curfew at the Jalazone refugee camp of 4,000 residents was announced at 5.30 a.m. on 6 May 1979 through an army bullhorn following student demonstrations protesting the "autonomy" plan. Everyone was locked inside the camp for 22 hours a day with doors and windows tightly shut. The Jerusalem Post reported on 16 May 1979 that no fresh vegetables, fruits or milk was allowed into the camp. Only flour was delivered by officials of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The Post added:

"Sanitary conditions are deteriorating every day the curfew continues. Garbage collection and disposal is difficult, and none of the residents has a refrigerator, limiting the life of fresh food. There, reportedly, are a large number of small children, pregnant women and nursing mothers in the camp."

The curfew was finally lifted on 17 May when the military governor announced that the camp's "Mukhtar (selectman) and notables promised him that law and order would henceforth prevail there". During the same month an 11-day curfew was imposed on the Ayda refugee camp west of Bethlehem after incidents of rock throwing at military vehicles. Another incident of rock throwing cost Halhul, a town of 12,000, a curfew which lasted for 16 days beginning on 14 March 1979 and a public humiliation of the mayor and the entire city council, evoking demonstrations in the town in which a boy and a young woman were shot and killed by the Israelis. 12 / The newspaper Zu Haderech reported on 25 April 1979 in an article by Yafa Gavish that a third victim fell in Halhul when he went out to buy food for his livestock during the curfew.

The policy of banishment and internal exile was recently reported for the first time as an attempt to discourage dissent. Two families were taken out of their homes and dumped together with their belongings in roofless mud huts in abandoned and scorpion-infested refugee camps in May of this year. The action was a form of collective punishment for rock throwing at military cars by the families' teenage sons.

One of the boys, Tareq Shumali, who is 17-years old, was beaten and required surgery. 13 / When the families were finally returned home the liberal Jerusalem Post boasted:

"Had this taken place in Kabul (Afghanistan) ... the young culprits would have been summarily executed ... and the entire families would have been lucky to be merely exiled ... but Israel is not the Soviet Union and the West Bank is not Afghanistan, despite allegations to the contrary by a number countries." 13 /

The Jerusalem Post forgot to mention that Israel does not see itself as an occupier in the West Bank nor does it contemplate withdrawal from the land which it considers as part of the Biblical frontiers. The Soviet Union makes no such celestial claims on Afghanistan.

When curfews and collective punishments failed to weaken the resistance and stem the dissent in the aftermath of the Camp David affair, the occupation regime began systematic campaigns to get rid of the leadership in the municipalities. Their efforts to create quizzlings in Hebron, Ramallah and elsewhere yielded no results whatsoever. The "Union of the Hebron Area Villages" under the leadership of M. Doudin was exposed as a fruitless attempt to weaken the authority of Mayor Qawasmeh and the Hebron City Council. Abd al-Nur Jenho, a well-known collaborator in Ramallah, was assassinated in February 1978.

The confrontation with the mayors took several forms resulting in the expulsion of four, the maiming of two and the resignation of several. According to The Jerusalem Post of 11 October 1979, the

military authorities considered Mayors Bassam Shaka, M. Milhelm, K. Khalaf and others members of an "illegal" body called the "Preparatory Committee for the Palestine National Front" which operates allegedly under the "National Guidance Committee", and held that committee responsible for the almost complete general strike on 26 March 1979, the day the Egyptian-Israeli peace treaty was signed. In a thinly veiled attempt to force them out of office, Mayors Khalof and Tawil of Ramallah and Bireh were brought to trial in October 1979 on a charge of having scuffled with a policeman a year earlier in Jerusalem. Mayor Bassam Shaka, another member of the Guidance Committee, was arrested on 11 November 1979 and threatened with expulsion simply because he expressed his views on the occupation in a private conversation with a high official of the military regime.

The reaction in the occupied areas was swift and massive. A general strike was followed by a meeting in which 23 mayors submitted resignations en masse. The United Nations called on Israel to respect the Geneva Convention proscribing expulsion from occupied territories. Finally on 23 November, the High Court overruled the Minister of Defence and the cabinet and ordered against carrying out the expulsion orders. Mayor Shaka returned home to a hero's welcome which expressed the consolidation of the national movement in the occupied areas. That victory, however, was set back five months later after a group of Jewish settlers were ambushed in Hebron on 2 May 1980. A few hours later Mayors Fahd Qawasmeh and M. Milhelm of Hebron and Halhul, together with Hebron's chief religious judge were awakened and taken for a one-way helicopter ride with black bags over their heads to south Lebanon. Upon arriving, they were told that they were expelled by order of the Defence Minister. Predictably, the charge was incitement to violence. On 8 May 1980, the Security Council called on Israel to allow the return of the expelled leaders. The United States was the only member to abstain from the otherwise unanimous vote. The Israeli High Court ordered the Government to show cause why it should not allow their return, but the matter is still pending.

As if the expulsion of three leaders was not enough punishment for the ambush of Jewish settlers who were free to roam Arab towns, break into Arab homes, ransack property and beat civilians, the people of Hebron suffered a number of punishments which included curfews and demolitions. A 16-day curfew was imposed on Hebron during which soldiers and settlers from Kiryat Arba smashed doors and windows of more than 150 vehicles. Moreover, 16 shops were demolished with all contents, immediately following the ambush. 13/

Young Israeli soldiers told Knesset member Uri Avneri that they were ordered by a senior military government officer to beat every person they catch outside his home during the curfew: "Beat him on all parts of his body except for the head. Have no pity, break all their bones". 13/ Moreover, they were told to beat the father in front of the family.

Exactly a month after the expulsion of the two mayors and the chief judge, Palestinians in the occupied areas were awakened to the news that Mayors Shaka and Khalaf were maimed in their own cars as they started for work in the morning. Seven other Arabs were injured in Hebron and Mayor Tawil of Bireh was saved when an explosive device attached to his garage door exploded in the face of an Israeli Druze soldier.

The Prime Minister of Israel, who was responsible for much terror in the 1940s as head of the Irgun Zvei Leumi, condemned the assassination attempts on the mayors as "crimes of the worst kind". 14/ His statement, however, hardly conceals the fact that his settlement policy has created an atmosphere for that kind of terrorism. The private armies which are being organized by right-wing Jewish settlers of Gush Emunim and Kach are in fact implementing the goals of the settlement policies of the Begin Government. The Government provides the settlers with economic benefits and protection and equips them with legitimacy while it ensures that their victims remain defenceless and powerless.

The Israeli intention has been to eliminate the leadership of the Palestinians living under occupation. The assumption that this would diminish opposition to the "autonomy" scheme and to the settlement policy is naive, at best. Occupations cannot be maintained without repression. Repression generates resistance and a cycle of violence is implicit in this kind of relationship. What is new about the confrontation between the occupier and the occupied in Palestine is that state terrorism against the civilian inhabitants is being supplemented by vigilante terrorism along the lines of the 1940s. William Broader of The New York Times on 25 June 1980 emphasized though misconstrued this phenomenon: "Although military occupation is not new to them [Palestinians in occupied areas], Israeli terrorism - if that is what it was - is virtually without precedent in the last thirty years". This terrorism by vigilante settlers is reminiscent of the kind practiced by Begin's Irgun and Foreign Minister Shamir's Stern Gang in the late 1940s.

A random questioning of settlers' reactions to the maiming of Mayors Shaka and Khalaf by the press revealed a great degree of satisfaction. The following are samples of these reactions: "I hope that Jews did it"; "Well organized, very good work"; 15/ We must make the Arabs aware that they have to leave ... Anyone who thinks that Jews and Arabs can coexist is kidding himself," said Yosi Dayan, a spokesman of Meir Kahane's Kach. 16/ H. Druckman of the National Religious Party said, "Let all thine enemies perish thus." 17/ The New York Times reported on 21 June 1980 that a 10-year old Israeli girl, Noah, asked her mother, "Are we glad or not glad it happened?" The mother said not glad, but the next day, upon returning from school, Noah said to her mother, "Mommy, you are wrong, we are glad." Amnon Kapeliuk gives a detailed and vivid description of the settlers' feeling in the Hebron area towards Arabs. It ranges from utter contempt to wishing that they vanish. 18/ Upon asking one of the settlers why they covet Hebron after having established Kiryat Arba, Kapeliuk was told, "It is not theirs, it is ours ... it is ours by the power of the Bible. It was ours 2,000 years ago and it will always belong to us. If they [the Arabs] don't like it let them leave, and you can also leave if you don't like it." 18/ The Secretary of Kiryat Arba, Yossi Viner, explained his point of view about the Hebron problem to Dr. Kapeliuk, "They [the Arabs] must be treated with an iron first, like in Gaza ten years ago."

The same feeling is expressed again in an article entitled "Miriam Lapid: The Refusniks" by Haim Shivi, published in Yediot Ahronot on 8 February 1980. Miriam Lapid says:

"I think the most humanitarian solution and mainly because I have a Jewish soul is that two peoples shall not live here together. If Rabbi Kahane has opened an office and wanted to arrange one way flight tickets for Arabs, should he sit in prison for that? ... It hurts me that they [the Arabs] are not regarded as something temporary."

We can only assume that terrorism by Jewish vigilante groups is a product of the ideology which rejects the very existence of Arabs in Palestine as well as the policy which considers that Jews have a divine right to settle in occupied territories. The present Government makes no more pretenses that settlements are needed for security. The view that is heard increasingly in Israel today is that there is no room for two people in Palestine. The Arabs are being "spirited across the frontier" but not even surreptitiously, as Herzl predicted.

In the mean time, the indigenous Palestinians are struggling for their very existence. Their continued resistance has moved Israel increasingly to the right. Some of the laws applied to Israel's Arab citizens smack of the sedition acts in the United States during the First World War. Two weeks ago the Knesset was asked by the Cabinet to issue legislation that would make it a crime to carry Palestinian flags or sing Palestinian songs. The request received overwhelming preliminary support in the Knesset on 29 July 1980. 19/ Arab citizens in Israel are being placed under house arrest under emergency regulations. 20/ More than 3,000 Palestinian prisoners from the occupied territories linger in prison as administrative detainees, many of whom have not been charged or tried. Torture is rampant and has been verified by the International Committee of the Red Cross, Amnesty International, the Israel League for Human Rights, and many other agencies. 21/ During the past week at least two Palestinian prisoners died as a result of forced feeding by prison authorities in Israel. A prison official was quoted by the press as saying forced feeding would continue as long as the hunger strike continued in the Nafha prison. To let prisoners die is rejected, he said, because of "Jewish humanism"! 22/ Yet, prisoners had suffocated after salt water was pumped into their lungs by guards. Beating students and shooting indiscriminately during demonstrations has become a common practice. Israeli politicians, academicians and journalists feared that Israeli society is fast becoming dehumanized. Professor Israel Shahak of Hebrew University wrote:

"The 'education' of young Israeli Jews both in the conquered territories and in such function as 'controlling' the Palestinian workers inside Israel when serving in the 'civil guard' fulfils the same function as the pogroms against the Jews did for the German youth in 1933-1939." 23/

Ada Ushpiz wrote in a revealing article for Ha'aretz on 23 March 1979 entitled "I am a Fascist, I am a Chauvinist, I am a Fanatic", describing a visit to the Gush Emunim settlement, Ofra:

"A few children can still be seen playing with guns and with fire crackers, left from Purim. A husky three year old child pants and exhales, fighting with his toy rifle. 'What are you doing?' I asked. 'Killing,' he said, in a shy voice. 'Whom are you killing?' 'I am killing the Ar... Haman the Wicked (a favorite kindergarten song about the need to kill Arabs)'."

Eyal Kafkafi expressed the same fear about a national psychosis in an article in Davar on 4 September 1979 entitled, "Ghetto mentality in the State of Jews", describing the army's behaviour during conquest:

"Recently I found a letter written on November 8, 1948 with the following story: Today I read the editorial of Hamishmar ... I would like to give you evidence of an eye witness given to me by a soldier who was at the Arab village of Doima the day after it was conquered ... He is one of our own people (meaning either Kibbutz or Moshav man). The conquering army was the Brigade 89 ... They had killed 80-100 Arabs, women and children. They have killed the children by crushing their skulls with sticks. There was not even one house without dead people ... Arab men and women who were left in the village were put in houses without food or water. Then the sappers came to blow up the houses. One commander ordered a sapper to put two old women into a house he was about to blow up ... Another soldier boasted about raping an Arab woman then shooting her. They made another Arab woman, who had a baby, clean the yard ... She worked a day or two and then they shot her and her baby."

Knesset member, Uri Avneri, entered the Sadeh affair into the records of the Knesset on 15 October 1979. It is an account of the regimental commander in the Engineering Corps of the Israeli army during the 1978 invasion of Lebanon who ordered the killing of a prisoner of war "who appeared to him to be a terrorist". 24/

Even Moshe Sharett, Israel's first Foreign Minister and one-time Prime Minister, expressed a similar fear about moral deterioration in Israel. He wrote in his Diary after becoming aware of the murder of two Bedouins the following:

"I meditated on the substance and destiny of this people [Israeli] who is capable of subtle delicacy, of such deep love for people and of such honest aspirations for beauty and mobility, and at the same time cultivates among its best youth youngsters capable of calculated, cold-blooded murder, by knifing the bodies of young defenseless Bedouins. Which of these two biblical souls will win over the other in this people?" 25/

The revival of this terrorism mainly by Jewish settlers will remain as the principal threat to any future coexistence in Palestine and will prove, in the end, morally and institutionally corrosive. Indeed, the greatest threat to the Jewish people in Palestine is one that may arise from within.

- 1_/ The Hague Regulations respecting the Laws and Customs of War on Land annexed to the Hague Convention (IV) of 1907; the London Charter of 1945, article 6; the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, articles 27-78; the Convention on the Prevention and Punishment of the Crime of Genocide, of 9 December 1948.
- 2_/ R. Patai, ed. The Complete Diaries of Theodor Herzl (New York, 1960), vol. I, p. 88, entry for 6/12/1895.
- 3_/ See Noam Chomsky, "Against apologetics for Israeli expansionism", New Politics, vol. XII, No. 1 (Winter, 1978), pp. 15-47.
- 4_/ Palestinian inhabitants of the West Bank and Gaza are considered "protected persons" and the area in which they live are "occupied" territories according to the provisions of article 42 of the Hague Convention and article 4 of the Fourth Geneva Convention. Article 42 of the Hague Convention states:
- "A territory is considered as occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised".
- Article 4 of the Fourth Geneva Convention stipulates:
- "... persons protected by the Convention are those who, at a given moment, and in any manner whatsoever, find themselves, in a case of a conflict or any occupying power of which they are not nationals."
- Since 1967, Israel has refused to acknowledge the applicability of the 1949 Geneva Convention to the occupied territories. It further announced its refusal to receive any international commission to investigate the conditions of the inhabitants of the occupied territories or allow an Israeli investigation with an international observer.
- 5_/ Quoted in Jay Conen, A Psychohistory of Zionism (New York, Mason/Charter, 1975), p. 196.
- 6_/ "The truth about Kiryat Arba men", Al Hamishmar, 8 February 1980.
- 7_/ Gonen, op.cit., p. 198.
- 8_/ Danny Rubenstein, "The gloves were taken off", Davar, 5 February 1979.
- 9_/ See The Washington Post, 6 March 1980.
- 10_/ See "Violent demonstrations in Ramallah--The Army broke into a school to make arrests", Davar, 12 March 1979. See also articles by Yehuda Litani in Ha'aretz, 12-13 March 1979; see article by Y. Zuriel in Ma'ariv, 13 March 1979 and Ha'olam Haze, 14 and 21 March 1979.
- 11_/ See article in Christian Science Monitor, 23 June 1980.
- 12_/ See interview with Halhul mayor, M. Milhelm in Palestine Human Rights Bulletin, No. 19-20, pp. 3-5.
- 13_/ Christian Science Monitor, 30 May 1980.
- 14_/ Christian Science Monitor, 3 June 1980.
- 15_/ The New York Times, 4 June 1980.
- 16_/ Christian Science Monitor, 5 June 1980.
- 17_/ Newsweek, 16 June 1980.
- 18_/ "Hebron under collective punishment", Al-Hamishmar, 8 February 1980.
- 19_/ The New York Times, 30 July 1980.
- 20_/ The New York Times, 7 July 1980.
- 21_/ See Naseer Aruri, "Resistance and repression: political prisoners in Israeli occupied

territories", Journal of Palestine Studies, vol. VII, No. 4 (Summer 1978), pp. 48-66.

22/ Boston Globe, 25 July 1980.

23/ Shahak Papers, Jerusalem No. 20, p. 18.

24/ Shahak Papers, Jerusalem No. 26, p. 12.

25/ Entry from p. 823, 8 March 1955. Quoted in Livia Rokach, Israel's Sacred Terrorism (Massachusetts, Association of Arab-American University Graduates, 1980), p. 35.

B. THE UNITED NATIONS AND THE NATIONAL RIGHTS OF THE PEOPLE OF PALESTINE

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Introduction to the recognition of national rights

A juridical consideration of national rights should start with two basic premises. The first is that national rights do not arise until there is first a community of people with a national identity. The second is that the right of self-determination is the preeminent national right. Without self-determination, free from external coercion or interference, the people have no meaningful political choices. Any other national rights such as independence and sovereignty follow from the successful exercise of the right of self-determination.

It is important that a people seeking self-determination have a strong sense of national identity. In addition, the world community of States must manifest acceptance and accord recognition to the claimed national identity. Before the establishment of the United Nations as the preeminent international organization, States could only express such acceptance and recognition on an individual basis.

While this is still important, the existence of the United Nations General Assembly as the committee of the whole of the world community allows States to act collectively with an efficiency that was not previously possible. 1/ It is a universally accepted legal principle that the individual acts of States create or make customary international law and general principles of law. When States act through the General Assembly it is clear that they do not lose their authority to make a law. The extent to which a General Assembly resolution is based on the historic competency of States to make law as opposed to powers granted under the Charter of the Charter is an interesting question of legal theory. The crucial point is that combining both sources of authority, States may now make law in a relatively rapid and efficient manner. Resolutions of the General Assembly adopted by overwhelming majorities have particularly persuasive law-making authority. Whether such resolutions are deemed to be law themselves, or merely evidence of law, it is clear that, either way, they provide an authoritative legal basis for subsequent actions.

The Charter pertains to peoples as well as to States. Among the purposes of the Organization specified in the first article of the Charter is: "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples ...". 2/ This marks a significant departure from the old legal theory that international law accords rights only to States and Governments and not to groups or individuals. 3/

Recognition of the Palestinians as a people with a national identity

The Palestinians, without distinction as to religion, were a people de facto as the inhabitants of the country named Palestine long before the twentieth century, and they had close connections with their fellow Arabs in adjoining Syria and Lebanon. The Palestinians, Syrians and Lebanese, along with other Arab peoples, were under the rule of the Ottoman Empire until the First World War. Following that conflict, the United Kingdom was designated as the mandatory Power under the League of Nations Mandate for Palestine. 4/

The Covenant of the League of Nations itself recognized "provisionally" the "existence as independent nations" of the communities that were formerly parts of the Turkish Empire and this included provisional recognition of the Palestinians. 5/ Because the Mandate, consistent with the requirements of Article 22 of the Covenant, was designed to lead the people of the country to independence, it contained an implicit recognition of Palestinian national identity. 6/ The United Nations accorded the Palestinians de jure recognition of their status as a people with national rights in the provisions of the Palestine partition resolution, authorizing them to establish "the Arab State". 7/ From the time of adoption of that resolution in 1947 until 1969, however, the United Nations emphasized the Palestinians' de facto role as individuals who were refugees and war victim. The United Nations actions of that period were designed to implement their individual right of return 8/ and achieve their elementary human rights.

In 1969, the General Assembly shifted its perspective to acknowledge the Palestinians as a people having rights under the Charter. In the first preambular paragraph of resolution 2535 B (XXIV) of 10 December 1969, the Assembly recognizes "that the problem of the Palestine Arab refugees has arisen from the denial of their inalienable rights under the Charter of the United Nations and the Universal Declaration of Human Rights". In paragraph 1, the Assembly provides recognition by the United Nations of the Palestinians as a people with a national identity by reaffirming "the inalienable rights of the people of Palestine". This recognition of juridical status has been reaffirmed by the General Assembly in all subsequent resolutions

dealing with the subject.

General Assembly resolution 2672 C (XXV) of 8 December 1970 follows the pattern of the resolution just considered. In the second preambular paragraph, the Assembly reaffirms the inalienable right of "the people of Palestine" and in paragraph 1 uses the same words in referring to the people's national rights. In paragraph 2, the Assembly repeats the identical words in declaring that full respect for the people's inalienable rights is an indispensable element in the establishment of a just and lasting peace. Assembly resolution 3210 (XXIX) of 14 October 1974 concerns the status of the people by providing that "the Palestinian people is a principal party to the question of Palestine". It also concerns the status of the representative of the Palestinian people by inviting the Palestine Liberation Organization (PLO) as the "representative of the Palestinian people" to participate in the deliberations of the General Assembly on the question of Palestine in plenary meetings. This status is further augmented in paragraph 7 of resolution 3236 (XXIX) of 22 November 1974 in which the Assembly "requests the Secretary-General to establish contacts with the Palestine Liberation Organization on all matters concerning the question of Palestine". In resolution 3237 (XXIX), also of 22 November 1974 9/ the Assembly invites the PLO to participate in the sessions and work of the Assembly and of all international conferences convened under the auspices of the Assembly in the capacity of observer. The people of Palestine have a relationship to the PLO similar to the French people's relationship to the Free French organization (later known as the Fighting French), when France was under military occupation.

It provides useful clarification to contrast the Palestinian people with "the Jewish people" entity claimed by the State of Israel. 10/ The Zionist "Jewish people" concept was developed by the Zionist Organization/Jewish Agency prior to the establishment of the State of Israel. Before the rise of Zionist nationalism, "the Jewish people" referred simply to voluntary adherents of the religion of Judaism, the oldest of the monotheistic religions of universal moral values. The Zionists have impressed their own secular meaning upon the term and have given it a more precise juridical definition through various Israeli statutes.

"The Jewish people" concept within the State of Israel accords its members certain privileges and rights on a discriminatory basis which are denied to other Israelis. The same concept applied to persons outside the State of Israel imposes upon them a juridical link with the State of Israel whether they desire it or not.

For example, in the Eichmann case the Israeli District Court stated that "the connection between the Jewish people and the State of Israel constitutes an integral part of the law of nations". 11/ Because of the discriminatory characteristics of "the Jewish people" concept, it would constitute a violation of articles 55 and 56 of the Charter of the United Nations if the General Assembly recognized it. The United States Government has explicitly rejected "the Jewish people" concept as a valid concept of international law in a letter from Assistant Secretary of State Phillips Talbot addressed to Rabbi Elmer Berger. 12/

The Charter of the United Nations provides that "the United Nations shall promote, inter alia, "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion". 13/

Consistent with this requirement, "the Palestinian people" must comprise all Palestinians on a discriminatory basis. If it did not do so, it could not be recognized by the General Assembly without violation of the Charter provisions concerning human rights. In summary, "the Palestinian people" includes individuals of as diverse religious identification today as it did before the rise of Zionist nationalism. It will be essential to maintain this characteristic in the establishment of the Palestinian State in order to comply with the human rights requirements for each of the two States authorized by the Palestine partition resolution 7/ as well as with the human rights provision of the Charter.

The right of self-determination in international law

The practice of self-determination preceded the development of the principle or the right of self-determination in international law. The American Revolution and the subsequent Latin American revolutions against European colonialism provide preeminent historic examples. The idea of self-determination was present in President Woodrow Wilson's fourteen points. 14/ Henry Kissinger has accurately described the situation as it existed at the post First World War peace settlement:

"In 1919, the Austro-Hungarian Empire disintegrated not so much from the impact of the war as from the nature of the peace, because its continued existence was incompatible with national self-determination, the legitimizing principle of the new international order." 15/

It is important to note that the principle of self-determination was reflected in the provisions of the League of Nations Covenant through the mandates system with the mandatory Powers assuming "a sacred trust" to promote "the well being and development of such peoples". 16/ At the present time the only examples of peoples who were placed under the mandates system who have not achieved self-determination are the people of Palestine and the people of Namibia (South-West Africa). The widespread implementation of self-determination since the end of the Second World War is reflected directly in the membership of the United Nations.

One of the major purposes of the United Nations, as set out in the Charter, is the development of friendly relations based upon respect for "the principle of equal rights and self-determination of peoples". 17/ It is sometimes contended by those who oppose self-determination for others that the Charter only states that self-determination is a principle and not a right. This view lacks merit since the carefully drafted and equally authentic French text states, "du principe de l'égalité de droits des peuples et de leur droit à disposer d'eux-mêmes". By using the word "droit" in connection with self-determination, the French text removes any possible ambiguity. Article 55 of the Charter emphasizes the importance of self-determination by stating that peaceful and friendly relations are based on respect for it.

Article 73, concerning Non-Self-Governing Territories, provides that members assuming responsibility for

such territories are required to "develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions". 18/

The General Assembly has performed the task of interpreting and developing these principles from the early history of the Organization to the present time. It should be recalled that the Palestine partition resolution 181 (II) of 29 November 1947 provides authority for two distinct national self-determination in Palestine. General Assembly resolution 1514 (XV) of 14 December 1960 entitled "Declaration on the Granting of Independence to Colonial Countries and Territories", is an important statement of basic principles and rights. The first two paragraphs of this Declaration provide:

"1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.

"2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

The vote on this resolution was 90 votes in favour to none opposed, with 9 abstentions. Since there were no opposing votes, this resolution must be interpreted as reflecting the stated legal views of the then full membership of the United Nations. In view of the increasing implementation of self-determination since 1960, the present membership of the General Assembly provides strong support for the views expressed in the 1960 resolution. Subsequent applications of the self-determination principle of resolution 1514 (XV) to Algeria, Angola and Southern Rhodesia (Zimbabwe) indicate the view of the General Assembly resolution that a right of self-determination is established in it. 19/ The entire course of action taken by the United Nations and the overwhelming majority of its members since 1960 is consistent with this basic self-determination resolution.

In resolution 2625 (XXV) of 24 October 1970, containing the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the General Assembly provides further development of the right of self-determination.

It considers a number of principles and under the heading of the "principle of equal rights and self-determination of peoples", the first paragraph states:

"By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter."

This statement of law has a highly authoritative character since the General Assembly adopted it by consensus, that is, with not a single State in opposition.

Application of the right of self-determination to the people of Palestine

The provisions of the Palestine partition resolution, 7/ which provide authority for the establishment of "the Arab State" constitute the first direct recognition of the Palestinian national right of self-determination by the General Assembly. The second such recognition is provided by General Assembly resolution 2649 (XXV) of 30 November 1970. In this resolution, the Assembly expresses concern that, because of alien domination, many peoples were being denied the right to self-determination. It then condemns those Governments that deny that right to peoples "recognized as being entitled to it, especially the peoples of southern Africa and Palestine". The legal effect of this significant resolution is that the prior resolutions setting forth the basic right of self-determination, resolutions 1514 (XV) and 2625 (XXV) considered above, are now specifically applicable to the Palestinian people.

With the adoption of resolution 2672 C (XXV) on 8 December 1970, the General Assembly moved towards acknowledging the correlation between the right of self-determination and other inalienable rights.

In the second preambular paragraph, the Assembly recalls resolution 2535 B (XXIV) of 10 December 1969 and in the first preambular paragraph reiterates the language contained in that resolution providing that the Palestine Arab refugee problem had arisen from the denial of their inalienable rights. In the operative part of resolution 2672 C (XXV), the Assembly:

"1. Recognizes that the people of Palestine are entitled to equal rights and self-determination, in accordance with the Charter of the United Nations;

"2. Declares 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."

In addition to reiterating the specific Palestinian national right of self-determination, in this resolution the Assembly links the achievement of Palestinian inalienable rights to the achievement of peace in the Middle East. It should be recalled that in Article 1 of the Charter it is required that the United Nations bring about peace "in conformity with the principles of justice and international law". It should be clear that neither of these principles is honoured unless Palestinian rights are implemented.

In resolution 3089 D (XXVIII) of 7 December 1973, the General Assembly enunciates the relationship between the rights of self-determination and return by providing in its paragraph 3 that it:

" Declares that full respect for and realization of the inalienable rights of the people of Palestine, particularly its right to self-determination, are indispensable for the establishment of a just and lasting peace in the Middle East, and that the enjoyment by the Palestine Arab refugees of their right to return to their homes and property ... is indispensable ... for the exercise by the people of Palestine of its right to self-determination."

The necessary legal linkage of return and self-determination is designed to assure Palestinians the exercise of national self-determination as a "people". It is based on the common-sense conception that there can be no self-determination without return to the areas where self-determination may be exercised.

An analysis of paragraph 3 reveals that while the General Assembly understandably views the achievement of return as a necessary prerequisite to the effective exercise of self-determination, the right of self-determination of Palestinians as a national group was apparently not intended to follow invariably from the return of individual Palestinians. The pertinent wording provides that the "Palestine Arab refugees" are entitled to enjoy "their right to return to their homes and property", while the "people of Palestine" is entitled to exercise "its right to self-determination". The use of "Palestine Arab refugees" when referring to return is apparently meant to stand in contradistinction to the use of "people of Palestine" when reference is made to self-determination.

General Assembly resolution 3236 (XXIX) of 22 November 1974 concerns the right of return and it also has preeminent importance concerning the right of self-determination. In the fifth preambular paragraph, the Assembly recognizes that "the Palestinian people is entitled to self-determination in accordance with the Charter of the United Nations". In paragraph 1, the General Assembly:

" Reaffirms the inalienable rights of the Palestinian people in Palestine, including:

"(a) The right to self-determination without external interference;

"(b) The right to national independence and sovereignty."

The exact boundaries of the area in Palestine in which these inalienable rights apply must be settled de jure. 20/ The language of the resolution quoted above includes the "right to national independence and sovereignty" as a particularization of the self-determination right.

In paragraph 5 of the same resolution, the General Assembly refers to methods by which rights may be regained. In paragraph 3 of resolution 3246 (XXIX) of 29 November 1974, the Assembly "reaffirms the legitimacy of the peoples' struggle for liberation from ... alien subjugation by all available means, including armed struggle".

Since the American Revolution relied upon armed struggle to achieve self-determination about a century and a third before the principle of self-determination was used in the post-First World War peace settlement, 21/ it is not surprising that the General Assembly specifies it as a permissible method today.

Its permissibility is legally significant as an authoritative Assembly assertion that armed struggle for self-determination is consistent with the purposes and principles of the Charter. In a situation such as Palestine where the people has been denied its right of self-determination by armed force, the right to regain it by armed struggle is considered permissible under Article 51 of the Charter concerning self-defence.

Geographical area in which Palestinian self-determination applies

Where "in Palestine", to use the wording of resolution 3236 (XXIX), may Palestinian national self-determination, including independence and sovereignty be exercised? General Assembly resolution 2625 (XXV), containing the Declaration on Principles of International Law concerning Friendly Relations among States in accordance with the Charter of the United Nations, which has been considered concerning the right of self-determination, also provides basic legal interpretation concerning areas where self-determination may be exercised. Under the heading of the "principle of equal rights and self-determination of peoples", the penultimate paragraph provides:

"Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour."

The quoted wording is of particular importance since it is designed to preserve the territorial integrity or political unity of non-discriminatory States that have a Government "representing the whole people belonging to the territory". The State of Israel cannot qualify as such a State as long as its discriminatory Zionist features, including the denial of the right of return of Palestinians to their homes and property, are maintained in municipal law and practice. Pursuant to this provision of resolution 2625 (XXV), the General Assembly may provide for the lawful de jure boundaries for the State of Israel which do not preserve its "territorial integrity or political unity" as they may exist de facto at a particular time as a result of military conquest and of illegal annexation. 22/ The prohibition on the acquisition of territory by military conquest is regarded as fundamental in the Charter of the United Nations 23/ and in resolutions of both the General Assembly and the

Security Council.

The only de jure boundaries that the State of Israel has ever had are those that were specified for "the Jewish State" in the Palestine partition resolution. Following the Armistice Agreements of 1949, which did not fix de jure boundaries, the State of Israel existed within de facto boundaries until June 1967. It is possible that those pre-1967 boundaries may have received some international assent. In resolution 242 (1967) of 22 November 1967, the Security Council, after emphasizing "the inadmissibility of the acquisition of territory by war", 24/ refers in paragraph 1 to the principle of "withdrawal of Israel armed forces from territories occupied in the recent conflict". Since there is no statement of withdrawal from territories occupied before 1967, this may amount to an indirect recognition of the pre-June 1967 boundaries. In the same paragraph, the Council also refers to the principle of the "territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries".

It is clear that two different national exercises of the right of self-determination cannot take place simultaneously upon precisely the same territory, and the careful working of resolution 3236 (XXIX) is consistent with this reality. Consequently, those Palestinians who choose to exercise their individual right of return within the State of Israel cannot exercise Palestinian national self-determination within that State. Since resolution 181 (II) established the principle of two States in the area and subsequent resolutions have not departed from that concept, it is clear that it is not the intent of the General Assembly to authorize Palestinian self-determination within the State of Israel. The Palestinian national right of self-determination as recognized in General Assembly resolutions may be exercised "in Palestine" within the de jure boundaries of the Palestinian State which are yet to be determined, and outside the de jure boundaries of the State of Israel as ultimately determined.

Conclusion: two national States in Palestine with rights and obligations for each

In the Palestine partition resolution (181 (II)), the General Assembly acted to resolve a situation of conflict and crisis by authorizing the establishment of two democratic States in the territory of the Palestine Mandate. The rights to establish the States were balanced by concomitant obligations to do so in accordance with the Charter of the United Nations and the terms of the partition resolution including its crucial human rights provisions. The ensuing resolutions of the General Assembly adhere to the basic elements of the partition resolution.

On 22 July 1980, the General Assembly met in its seventh emergency special session, following the negative vote of the United States at the 2220th meeting of the Security Council on 30 April 1980, which prevented that body from acting on Palestinian national rights. The Assembly adopted resolution ES-7/2 of 29 July 1980 on this subject, in which it specifically recalled and reaffirmed its resolutions 3236 (XXIX) and 3237 (XXIX) "and all other relevant United Nations resolutions pertinent to the question of Palestine". It:

"4. Reaffirms also the inalienable rights in Palestine of the Palestinian people, including:

"(a) The right to self-determination without external interference, and to national independence and sovereignty;

"(b) The right to establish its own independent sovereign State;

"...

"7. Calls upon Israel to withdraw completely and unconditionally from all the Palestinian and other Arab territories occupied since June 1967, including Jerusalem, with all property and services intact, and urges that such withdrawal from all the occupied territories should start before 15 November 1980."

The roll-call vote on this resolution was 112 in favour, 7 against and 24 abstentions. The five States that joined the United States and Israel in negative voting were Australia, Canada, the Dominican Republic, Guatemala and Norway. Although the vote was considerably short of unanimity, it demonstrated substantial world-wide support, which went far beyond the requirement of the Charter of the United Nations for a two-thirds vote on important matters, 25/ for the national rights of the Palestinian people. This was the first time that the majority of Western European States abstained rather than voting negatively on such a resolution.

This resolution, like other General Assembly resolutions on the same subject, does nothing to infringe upon legitimate Israeli national interests. Paragraph 7, quoted above, appears to accord at least de facto recognition to the boundaries of Israel as they existed prior to the massive Israeli attack on 5 June 1967.

Security Council resolution 242 (1967) of 22 November 1967 concerning "a just and lasting peace in the Middle East", is widely regarded as having been accepted by each of the States directly affected by it.

The State of Israel, nevertheless, has been engaged in a systematic policy of "creating facts" through the imposition of civilian settlements in the territories occupied since June 1967, 26/ which is entirely inconsistent with the territorial provisions of resolution 242 (1967). This resolution has been supplemented by the resolutions of the General Assembly, which have been considered above. In particular, the undefined "just settlement of the refugee problem" referred to in resolution

242 (1967) is made specific by the Assembly's recognition of the right of return for individual Palestinians. 8/ In addition, the Assembly has recognized the national rights of the Palestinian people in carefully formulated terms, which do not infringe upon the legitimate rights of the State of Israel. These Israeli national rights, which remain inviolate, include, among others, the rights to self-determination and to national independence and sovereign equality with other States consistent with international law, including the pertinent United Nations resolutions. The Israeli rights do not include, among others, supposed rights to deny self-determination and independence to the Palestinian people and a supposed right to establish Israeli borders on the basis of military conquest and illegal annexations.

The outcome of the United Nations resolutions is that there is continuing authority for the establishment of two States in Palestine. The authority to provide for a State carries with it the authority to impose limitations including those based upon the human rights provisions in Articles 55 and 56 of the Charter. A limitation that is inherent in the authorization of the two States is that each may exercise its national rights conditioned on, at the last, the requirement of non-obstruction of the national rights of the other. 27/

The Palestinian right to self-determination, including national independence and sovereignty, has been established unequivocally as a matter of law. It is too well known to require elaboration that it has not yet been achieved as a matter of fact. The most urgent contemporary need is for a comprehensive sanctioning process to enforce the existing law. This process should start with the economic sanctions provided for in the Charter and, if they are unsuccessful, military sanctions should be invoked. 28/

Notes

1/ The paragraph is based upon widely accepted concepts which are enunciated in more detail in, inter alia, R. Higgins, The Development of International Law Through the Political Organs of the United Nations (Oxford, 1963) and W. T. Mallison and S. V. Mallison, An International Law Analysis of the Major United Nations Resolutions Concerning the Palestine Question (United Nations publication, Sales No. E.79.I.19), particularly chap. I.

2/ Art. 1, para. 2. The Preamble to the Charter states that "We, the peoples of the United Nations", acting through Governments, agree to the Charter and establish the United Nations. The human rights provisions of the Charter, Arts. 55 and 56, encompass the rights of peoples and individuals. Art. 80, para. 1, refers to the rights of "any peoples". See Goodrich, Hambro and Simons, Charter of the United Nations: Commentary and Documents (Columbia University, New York, 3rd revised edition, 1969), pp. 494-500.

3/ The contrast between the contemporary and older theories of international law is pointed out in McDougal, "Perspectives for an International Law of Human Dignity", 53 Proceedings of the American Society of International Law 107 (1959).

4/ The text of the Mandate of 24 July 1922 is contained in the Report of the Special Committee on Palestine, (Official Records of the General Assembly, Second Session, Supplement No. 11, document A/364), vol. II, p. 5.

5/ League of Nations Covenant, Art. 22, para. 4.

6/ Art. 2 of the Mandate obligated the mandatory Power to secure, inter alia, "the development of self-governing institutions.

7/ General Assembly resolution 181 (II) of 29 November 1947 concerning the future Government of Palestine.

8/ Mallison and Mallison, op.cit., chap. III, p. 28.

9/ See Kassim, "The Palestine Liberation Organization's Claim to Status: A Juridical Analysis Under International Law", 9 Denver J. International Law and Policy, p. 1 (1980).

10/ The "Jewish people" nationality claims are analyzed in W. T. Mallison, "The Zionist-Israel Juridical Claims to Constitute 'The Jewish People' Nationality Entity and to Confer Membership in It: Appraisal in Public International Law", 32 George Washington Law Review 983 (1964) and reprinted as a monograph in 1964. The contrasting view that the claims are lawful is by the authoritative Zionist lawyer, Professor N. Feinberg, "The Recognition of the Jewish People in International Law", in The Jewish Yearbook of International Law, 1948 (Mass, Jerusalem), p. 1.

11/ Attorney General of the Government of Israel v. Adolf Eichmann, 36 International Law Reports, p. 5 at 53 (1961) (Opinion of the Israeli trial court, 12 December 1961), affirmed in 36 International Law Reports, p. 277 at 304 (Opinion of the Supreme Court of Israel, 29 May 1962).

12/ After referring to United States non-discrimination among its citizens based upon

religious identification, it stated: "Accordingly, it should be clear that the Department of State does not regard the 'Jewish people' concept as a concept of international law", 8 M. Whiteman, Digest of International Law (United States Government Printing Office, 1967), pp. 34-35 at 36.

13/ Article 55 c.

14/ Point V concerning "colonial claims" provided that "the interests of the populations concerned must have equal weight with the equitable claims of the Government whose title is to be determined".

Point XII provided that "the other [non-Turkish] nationalities which are now under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development ..." [1918], Foreign Relations of the United States, Supp. No. 1, vol. 1, pp. 55-15 (1933).

15/ H. A. Kissinger, A World Restored: Metternich, Castlereagh and the Problems of Peace 1812-1822 (Houghton Mifflin, Boston, Sentry ed., undated), p. 145.

16/ Art. 22, para. 1.

17/ Art. 1, para. 1.

18/ Art. 73 b.

19/ General Assembly resolutions 1573 (XV) on Algeria; 1603 (XV) on Angola; and 1747 (XVI) on Southern Rhodesia (Zimbabwe).

20/ Mallison and Mallison, op.cit., chap. IV D, p. 46ff.

21/ See the text accompanying note 15.

22/ Article 47 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (United Nations, Treaty Series, vol. 75, No. 135) provides that protected persons in occupied territory shall not be deprived of the benefits of the Convention if the occupying Power annexes "the whole or part of the occupied territory". This provision was written to avoid a repetition of the Nazi practice of using the annexation device to attempt to avoid the application of the law concerning occupation.

23/ It is based, in part, on Art. 2, paras. 3 and 4.

24/ Preambular para. 2.

25/ Art. 18, para. 2.

26/ S. V. Mallison and W. T. Mallison, "Israeli settlements in occupied territory versus international humanitarian law", Arab Perspectives, No. 2 (May 1980), p. 15.

27/ Mallison and Mallison, An International Law Analysis of the Major United Nations Resolutions Concerning the Palestine Question, chap. VI, pp. 55 and 56.

28/ In para. 13 of resolution ES-7/2, the General Assembly requests the Security Council, in the event of non-compliance by the Government of Israel, to consider sanctions under Chapter VII of the Charter.

C. LEGAL AND PSYCHOLOGICAL VALUE OF THE NATIONAL ARGUMENTS OF THE PALESTINIANS AND INTERNATIONAL OPINION

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The law sanctions the principle of historical evolution; it derives from history. But what history? Who has the right to define the law and on the basis of what historical process?

The Palestinian problem stems from the inequality of relations between countries, as determined by the industrial and scientific expansion of Europe from the nineteenth century onwards. From the installation of Zionist colonies in Palestine, politically consolidated by the Balfour Declaration in 1917, to the creation of the State of Israel in 1948, it stems from international circumstances. However, the Palestinian claim has also drawn its vitality and its credo from a dual internal evolution; on the one hand, it has gained strength from the resistance of Islamic civilization and Arab culture and subsequently by their affirmation and vindication in the construction of new independent States while, at the same time, it has itself become an integral and motivating factor in Arab nationalism; on the other hand, the Palestinian people, like the other Arab peoples, has progressively defined the contours of its own entity. It has done

so, in particular, within the framework of territorial claims covering roughly the map of Palestine under the British Mandate and, subsequently, of the State of Israel; it has thus done so in a political struggle against foreign implantation or against foreign support for those implantation. A social claim has naturally become grafted onto it, as a result of which the Palestinians have acquired solidarity with the liberation movements of other Arab countries and the third world in general. Through the revolt of 1936 and the war of 1947-1948, and on a broader basis after 1955-1956 (Bandung and Suez) and the war of 1967, the will to create a Palestinian homeland took form amid this duality wherein the Palestinian people had gained awareness of its personality and characterized its entity, taking as its basis the Arab, often Islamic, unitary ideal. It is this duality - this representation of a concrete local situation through a global and transcendental concept of the past and the future - which is difficult to understand for Western opinion, which often draws no distinction between State and nation or even federal (or imperial) grouping and power.

The ambiguities are in no way dispelled by the use of an international language, whether diplomatic or ideological, because behind it each people still retains its own perceptual tools, i.e. its own culture and its own concepts. It is thus not possible to regard the law on the basis of a single model, because its content rests on communal or ideological historical justifications, which constitute the inspiration, on each side, both the Palestinian and the Israeli, for a claim for which legal arguments have been sought later. In practice, it is obviously essential to keep to established rules or to the rules that are to be established in order to arrive at a just regional settlement of a problem arising in an international context; care should however be taken to distinguish between texts anterior to the Second World War and the decisions taken by the United Nations over the last 35 years, because the latter reflect not only a new international order but also a new awakening of peoples. This must be borne in mind in the endeavour to reach agreement on an equitable solution which is in accordance with the right of peoples to self-determination; for experience has shown that legal arguments and measures which are based on historical circumstance are always disputed if they are imposed by an action that is regarded as contravening that principle.

The situation thus created calls forth some observations. The Palestinians have acquired, through their claim, an international dimension while relying on their own cultural values, but by that very fact they are also, at the same time, asserting their role in a process of modernization organized on the basis of frequently defined models at the world level. Here, therefore, a new duality emerges, which in no way excludes the first and which, consequently, calls for particularly subtle analyses. It is a practical as well as moral necessity particularly if the purpose of the decisions of the United Nations is to bring about recognition of the rights of the Palestinians and their economic needs in international law.

On the other hand, the influence of the United Nations does not derive solely from the judgements of its majority; it depends on the attitude of the States which compose it and, hence, on the opinions of their peoples. These States act and their opinions evolve; each of the partners is aware of that fact and takes it into account in determining its own initiatives. All are aware of the role assumed by the United States and by the USSR in Middle East affairs since the 1950s, whether these Powers are directly pursuing their own interests or whether the parties to the conflict are soliciting their aid or their action as intermediaries or seeking the support of their public opinion. Emphasis should, however, be placed on the original position occupied since the mid-1960s by the Arab policy of France, and later that of Western Europe, in conjunction with the efforts of a number of Arab countries to assure their national independence from the two super-Powers. The search for a settlement of the Palestinian question has since then also been one of the bases for any negotiation in the Middle East with the hope, in particular, that a solution would guarantee a certain degree of regional stability - in an axial position essential for economic and political balance in the world - and a certain degree of regularity in development exchanges. Between the vote on Security Council resolution 242 (1967) of 22 November 1967 and the Amman and Venice Declarations, the French Government has, roughly speaking, successively supported the recognition of the legitimate rights of the Palestinian people, the evacuation of the territories occupied in 1967, the legitimacy of a Palestinian homeland and the right of Palestinians to self-determination. French public opinion, which showed itself largely favourable to Israel in June 1967, was already much more moderate in October 1973. A recent opinion poll in April 1980 showed that the majority of the French favour, in varying degrees, the participation of the Palestinians in negotiations on the Middle East. It may be noted that at the same time Palestinian majority organizations have been tending, for their part, to replace clandestine action by the obligations deriving from the establishment of quasi-diplomatic representation.

From the development of de facto situations, which has been accompanied by the adoption of positions at the international level, we may note the following. The experience of the last 30 years has shown that the Palestinians, far from merging with the population of other Arab countries, have on the contrary asserted their personality and even laid claim to a homeland, within the framework of the Arab nation (this emergence is, moreover, an anti-colonial phenomenon).

The Palestinian claim, in so far as it is one of the motive forces of Arab nationalism, has perhaps more than any other raised once again, in modern political terms, the problem of relations between civilizations.

The search for a political solution to the Palestinian problem should not make us overlook the seriousness of the social and cultural imbalances which have been caused over some 15 years in the Middle East by accelerated urbanization and the mass import of technology in order to consolidate certain growth points.

**D. THE RIGHT TO SELF-DETERMINATION AND
THE ESTABLISHMENT OF A PALESTINIAN NATION-STATE**

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With regard to the question of Palestine, recent United Nations usage has preferably been the formula "inalienable rights of the Palestinian people". General Assembly resolution 34/65 of 1979, on the basis of which this seminar is being held, uses this term as well. The term no doubt covers quite a number of rights. Proceeding from earlier resolutions, the above-mentioned resolution explicitly mentions the right of return, the right to national independence and sovereignty in Palestine as well as the right of self-determination. Although it may not embrace all the rights the Arab people of Palestine are entitled to, those mentioned are at present more essential to the Palestinians in the face of Israel's continued occupation of Palestine territory since 1967.

In the following, allow me a few remarks on the right to self-determination which I believe occupies a central place not only in the catalogue of the inalienable rights of the Palestinian people but also in discussions of the international community about a just and lasting solution to the Middle East conflict.

The principle of national self-determination has a history that began at least two centuries ago. But well into the twentieth century - even as a bourgeois nationality principle - it remained merely a political leitmotif. Even where the principle of national self-determination was declared a foreign policy maxim, as, e.g., in the American independence movement or in the French Revolution, it excluded the colonially oppressed peoples from its purview. Even in 1917, when the young Soviet State in Russia for the first time proclaimed the right to self-determination for all peoples without exception a basic principle of socialist State practice, it still remained a norm of international law that was locally applied. It was only by Articles 1 and 55 of the Charter of the United Nations that the right to self-determination was recognized as a generally binding principle of international law. Since then it has developed into a "jus cogens" norm, as is confirmed by the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, contained in resolution 2625 (XXV) of 24 October 1970. In its light I am going to single out the following aspects with regard to the problem of Palestine.

1. The people of Palestine - a subject of the right to self-determination

The Charter of the United Nations and other international instruments provide as a matter of principle that all peoples and nations are subjects of the right of self-determination. This principle, while it did not remain unchallenged, has nevertheless prevailed in the process of decolonization against the imperialist colonial Powers. Seen from this general aspect, the people of Palestine is of course no exception. In addition, the United Nations has applied this yardstick ever since it has dealt with the problem of Palestine. As early as 1947, when the General Assembly for the first time found itself compelled to discuss variants of a solution to the question of Palestine, it adopted resolution 181 (II) of 29 November 1947, which granted the Arab people of Palestine the right to independent statehood, which no doubt meant recognition of its legal personality. By the way, that formula was approved at that time not only by the majority of United Nations members, but also by prominent Zionist bodies.

The aforesaid resolution in the same breath also granted the Jewish people of Palestine the right to statehood, thus declaring its right to self-determination. Although resolution 181 (II) of 29 November 1947 is not legally binding, this recommendation seems to include an eligible interpretation of the right to self-determination with regard to the subjects that was commensurate with the situation in Palestine at that time, which constituted a threat to peace.

In this connection it has to be borne in mind though that the so-called resolution on partition chose as its starting point not the revision of the political, economic, social and religious facts newly established by the British mandatory Power and its Zionist junior partner in Palestine, but recognition of these facts as an objective reality. A point of view which legally flows from the fact that the Charter of 1945 has no retroactive effect and that therefore the application of United Nations principles to events that took place before its adoption is inadmissible, as regrettable as this may be in the individual case.

With the admission of the State of Israel to the world organization at the latest, it became clear that the right to self-determination which resolution 181 (II) awarded to the Jewish part of the population of Palestine was now to be realized exclusively via the exercise, development and substantive change of Israeli State power. The Arab people of Palestine in 1947-1948 temporarily waived the exercise of its United Nations-granted right to self-determination in the form of an independent State beside Israel.

This was of course legitimate. The mere logic of self-determination requires that a decision on national and social status can be taken only by the respective people itself. Resolution 181 (II), with its character of a recommendation, was in line with this requirement. It has to be pointed out in this context that the refusal to establish a State at that time neither meant a loss of the right to self-determination for the Arab people of Palestine nor the waiver of its legal personality. A fact that has been confirmed by several resolutions of the General Assembly (2535 (XXIV), 2649 (XXV), 3236 (XXIX), ES-7/2) following the Israeli occupation of Palestine territory in 1967.

2. The Palestine Liberation Organization - the political subject of the right to self-determination of the people of Palestine

Concerning the exercise of the right to self-determination, the essential point is not just an academic choice of the subject, but rather the question about the specific historical subject of such right through whom a people practically exercises international personality in world affairs. Apart from Fascists and racists, who cannot be recognized as legitimate representatives of a people, contemporary international law takes no position on the question as to which political forces are to exercise the right to self-determination of a people in international relations. As a matter of principle, it leaves this decision to the process of formation of political will, i.e. to the internal political forces of a given people.

As far as the people of Palestine is concerned, this process has a number of peculiarities which are bound to bear on the nature and forms of its political representatives. They include, in particular, the non-existence of a State of its own and military occupation of its rightful national territory by Israel since 1967. A consequence of this is that the views and opinions of the Palestinians on the exercise of the right to self-determination have been shaped in the course of an anti-imperialist national liberation struggle, and that they express their will not in political parties of a traditional nature as they are typical of established States, but primarily through resistance organizations committed to armed struggle.

Owing to the integration of the major resistance organizations into the Palestine Liberation Organization (PLO), which, moreover, also incorporates Palestinian mass and vocational organizations as well as individuals, the Palestinian people now has a political umbrella organization representing all important sections of the national movement. This is the direct source of the right of the PLO to claim exclusive political representation of the will and the overall interests of the Palestinians in terms of self-determination.

By recognizing the PLO, over 100 States subscribe to this view. By awarding the PLO an observer status the United Nations, too, has defined its position on the right of the people of Palestine to self-determination. Obviously, the observer status for the PLO (under General Assembly resolution 3237 (XXIX) of 22 November 1974) and other representatives of liberation movements recognized by the Organization of African Unity was granted because the people in those movements, for colonial or other reasons contradictory to the Charter, are prevented from a free choice of their own social system, including their political status. The status of peoples as subjects of the right to self-determination allows the logical conclusion to be drawn that their representative bodies can maintain international relations as long as inasmuch as the process of establishing their own States or their free association with an existing State is not yet accomplished.

By granting the observer status and requesting the Secretary-General "to establish contacts with the PLO on all matters concerning the question of Palestine, the General Assembly has legitimized the PLO to represent the Arab people of Palestine and, in its capacity of the specific historical subject of the latter's right to self-determination, to perform also international rights and duties.

3. Right to self-determination and establishment of a Palestinian State

Following the sixth session of the Palestine National Council in September 1969, the PLO has come out in favour of a "Palestine democratic State". With this decision in favour of an independent nation-State, the PLO has not only opted for a form of human society which the decay of the colonial system over the last few decades has proved to be typical of our times, but can also invoke the criterion of rightfulness for its demands.

The exercise of the national right to self-determination under valid international law is not tied to special forms. Any anticipatory decision on a people's national or social status would always mean denying its freedom of decision and practically depriving it of the right to self-determination. Therefore, peoples are basically free to establish an independent State or to unite with other nations, e.g., through confederate, federative or autonomous forms of organization. The Declaration on Principles of International Law summarizes this aspect in the following phrase:

"The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people." (Resolution 2625 (XXV), annex)

With this passage, the process character of the right to self-determination in the life of a given people is explicitly recognized. The stance of the Arab people of Palestine represented by the PLO for an independent nation-State at present precludes other possible ways of implementing the right to self-determination. However, as this option is based on expression of the free will of the internal forces of the people of Palestine, it is legitimate under international law.

The possibility of invoking the right to self-determination for the purpose of an independent nation-State inevitably includes a claim to a national territory. How else could peoples and nations develop politically, economically and culturally without infringing upon the interests and rights of other peoples? The refugee situation of most Palestinians is particularly convincing evidence of this interconnection.

So, if the right to self-determination is not to remain an empty declaration, it is urgently necessary to allow a people that exercises its right to self-determination to decide also on the frontiers of the State it seeks to establish, on condition, of course, that such a decision will be based on respect for

the integrity of the territory of other peoples and States. Yet this imperative condition does not alter in any way the fact that the generally recognized interconnection between political independence and the territorial integrity of States already in existence is generally applicable also to the State-building process of a people struggling for self-determination.

Seen from this territorial aspect, the inherent link between the Palestine question and the Middle East conflict is particularly obvious. Because of the military occupation and partial annexation (Jerusalem) of all Palestinian territories by Israel since 1967, the Palestinian people has been illegally deprived of its national territory which the General Assembly awarded back in 1947.

Events in the occupied territories, in Jordan and Lebanon prove that without the termination of Israel's occupation regime, as prescribed in legally binding terms by Security Council resolution 242 (1967), no peace will be possible in the Middle East. Only under this condition will it objectively be possible to establish a State as demanded by the people of Palestine and advocated by the United Nations at its seventh emergency special session. Therefore, separate agreements disregarding the Palestinians' right to self-determination are not the right way. Only complex peace treaty arrangements between Israel and her Arab neighbours would be international guarantees for the national sovereignty and territorial integrity of a Palestinian State. Seen from this angle, assurance of the right to self-determination of the people of Palestine, including its right to establish an independent nation-State, is at the same time the key element of a just and enduring peace settlement in the Middle East.

**E. THE UNIVERSAL DECLARATION OF HUMAN RIGHTS
AND ISRAEL'S OCCUPATION OF THE WEST BANK AND GAZA**

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The search for peace in Palestine has been complicated and frustrated over the past half century by all kinds of factors which are irrelevant to Palestine itself. Among them have been the interventions of the great Powers in pursuit of their own strategic interests; the rival ambitions of the surrounding Arab Governments; the competition for vital oil supplies; the sympathy aroused by the persecution of the Jews in Europe; and the need felt by American presidential candidates to win the support of the influential Jewish community in the United States.

All of these factors have been important in shaping the course of events in Palestine - and yet none of them has any bearing on the question of what is right and what is wrong as far as the people of Palestine are concerned. And what is more remarkable - and discreditable - is the fact that, until very recently, those who took it upon themselves to try to decide the future of Palestine did so without paying any attention to the rights of the Palestinians themselves.

That situation is changing and during recent years the phrase "the legitimate right of the Palestinian people" has gained acceptance as expressing one of the fundamental requirements for a peaceful settlement in the Middle East. It found a place in the joint statement on the Middle East published by the United States and Soviet Governments in October 1977. It has been emphasized in the various statements published by the nine West European Governments which cooperate within the European Economic Community (EEC).

The latest of these statements, published after the heads of Government of EEC had met in Venice in June 1980, spoke of the need to recognize and to implement two principles which were universally accepted by the international community. The first of these was the right to existence and security of all States in the region, including Israel; and the second was justice for all the peoples, which implied, in the words of the Venice statement, "recognition of the legitimate rights of Palestinians". Even the agreement signed at Camp David by President Sadat and Mr. Begin in September 1978, which aroused such violent hostility throughout the Arab world, even that agreement stated that any solution resulting from the proposed Arab-Israeli negotiations must "recognize the legitimate rights of the Palestinian people and their just requirements".

So the principle has been accepted, even by those most widely accused of neglecting the Palestinian element of the Arab-Israeli conflict. But no one has yet answered the question that must immediately follow: what are these "legitimate rights" and these "just requirements" to which the Palestinians are entitled?

The answer to that question must closely affect the nature of the political settlement which eventually emerges in the Middle East. But while the debate goes endlessly on about the political rights which the Palestinians should enjoy, the world loses sight of the other rights, the ordinary, everyday human rights to which in theory the Palestinians are entitled like any other people in the world - and of which they have been unjustly deprived for so long. That this should be so, that while the politicians argue about concepts like autonomy and self-determination the Palestinians should be living in a kind of limbo in which they are denied not only the right to political self-expression, but even the most elementary protection against oppression and discrimination - that is a scandal for which there can be no possible justification.

Consider the situation of the Palestinians living in the West Bank and the Gaza Strip. For more than 13 years now they have been subjected to an alien domination against which they have no protection.

In every detail, the pattern of their daily lives is dictated by the occupation regime. Waking and sleeping they are at the mercy of a military authority which has the power - and uses it freely - to invade their homes, to arrest them, to detain them without trial, to deport them, to demolish their homes and to impose collective punishments on whole communities which impose severe physical and psychological hardships.

Their publications are censored, they may not engage in political activities, their right to assembly together for any purpose is rigorously controlled. Their schools and universities are subjected to arbitrary interference that takes no account of the principle of academic freedom. Their lands are confiscated without warning and under the spacious pretext of military "security", only to be handed over to Israeli settlers as part of a barefaced programme of colonization which has been repeatedly condemned as illegal by the highest international authority. Even the water supplies on which the Palestinian farmers depend are being diverted by the Israeli authorities to serve the interests of the Israeli settlers at the expense of the indigenous owners of the land.

These are evil practices that illustrate in detail the wider evil of a military occupation. Like the occupation itself, they constitute a kind of moral pollution whose effect, as the more far-sighted Israelis are coming to realize, is to corrupt the occupiers at the same time that it injures the occupied. A regime which depends upon this kind of injustice and discrimination requires from those who administer it a disregard for moral and humanitarian principles that is deeply degrading. The fact that the occupation regime has been in existence for 13 years does much to explain the internal crisis and the decline in moral standards that are so evident in Israel today. As only one out of many similar warnings which prominent Israelis have given of the dangers involved, I should like to quote to you a passage from an article by Meron Benvenisti, who served for a time after the June war of 1967 as deputy mayor of Jerusalem. In the Israeli newspaper Ha'aretz of 27 June 1979, Mr. Benvenisti wrote:

"Occupation by its very nature corrupts the occupier. The harm that twelve years of occupation has caused to Israel's moral fabric is nothing to the damage it will cause in the coming period when protest and its suppression, violence and counter-violence, are intensified in the (occupied) territories and the situation deteriorates to the point of civil rebellion which will be answered by severe repression. The Military Government and the Defense Establishment will have to pay the price of the annexationist policy, with thousands of Israeli soldiers becoming embroiled in brutal confrontations."

There were those who thought that Mr. Benvenisti was exaggerating; but events on the West Bank in the summer of 1980 suggested that his forecast is likely to prove an accurate one if action is not taken soon to remedy the shocking state of affairs in the occupied territories. And it illustrates the fact that the evil results of the occupation are twofold. They bring suffering and misery on the victims of the occupation; but they are also profoundly harmful to the real interests of the occupiers. Nor is that all, for the very fact that a situation like this continues unchecked, and that the world knows about it but lacks the will or the power to put a stop to it, undermines the attempt to bring justice and order into international affairs. It encourages cynicism about the value of the United Nations or of such bodies as Amnesty International. It makes it harder than ever to win support for the unending fight against tyranny and injustice and discrimination.

It was in a concerted attempt to combat these evils that the General Assembly of the United Nations adopted, in December 1948, the Universal Declaration of Human Rights. 1/ The preamble to the Declaration spoke of "the equal and inalienable rights of all members of the human family" and declared it to be "essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law". That idea, which found an echo in the article I quoted above from the Israeli press, has the closest possible relevance to the situation in the Arab territories whose people are members, like all of you here, of that human family for whose benefit the Declaration of Human Rights was framed. Yet when I went through the 30 articles of the Declaration, I found that no less than 15 of them referred to rights which at present are denied to the Palestinians living in the West Bank and Gaza Strip. In other words, exactly one half of the Universal Declaration of Human Rights, which was designed to give equal protection to all members of the human family, does not apply and gives no protection to the inhabitants of the territories occupied by Israel. With your permission, I should like to enumerate these rights which are denied to the Palestinians living under Israeli occupation.

Article 3 states that "Everyone has right to life, liberty and the security of person". But in the occupied territories, where thousands of Palestinians are in prison or under administrative detention for supposed offences against the occupation regime, no one enjoys "security of person" against the Military Government, which is able at will to invade his house, to arrest or detain or deport him by simple administrative order. There was a horribly vivid demonstration in June 1980 of the state of insecurity in which the Palestinians live under Israeli occupation when the Arab mayors of the West Bank towns of Nablus and Ramallah were the victims of bomb attacks that left them both maimed, while a third mayor was only saved from a similar fate by a timely warning. Whether or not the Israeli authorities were themselves implicated, as many Israelis suggested, in these attacks, they certainly afforded the Palestinian leaders no protection against them; nor have the authors of the outrage, members of the Jewish terrorist organization which styles itself "Terror against terror" been brought to justice.

Article 5 states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". The subject of torture in the occupied territories has been exhaustively treated by various bodies, including the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, established by the General Assembly. In its report to the General Assembly in November 1978, the Special Committee referred to evidence which "confirms the allegations that persons under interrogation are ill-treated and that no adequate remedies exist to safeguard such persons from abuse".

It is proper to observe here that the most abundant evidence of torture and other violations of the human rights of the Palestinians in the occupied territories has been regularly put forward by the Israeli League for Human and Civil Rights over a period of more than 10 years. It is also the fact that in recent years the Israeli press has drawn attention to numerous examples, not only of torture, but also of various forms of "inhuman or degrading treatment" exercised by the Israeli occupation authorities against the

inhabitants of the West Bank and the Gaza Strip.

For a long time the press in the Western world was much more cautious in the coverage it gave to human rights violations in the occupied territories. It is difficult to find an adequate explanation for this reticence on the part of the press - and indeed, of Western Governments as well - when the evidence of such violations was so comprehensive and had for the most part been supplied by Israeli witnesses. In recent years, however, the international press has begun to overcome its reluctance to criticize the Government of Israel over so important an issue and has shown a growing concern over the evidence of widespread ill-treatment, including torture, of Arabs in the occupied territories. The most exhaustive coverage of the subject was provided, after an inquiry extending over six months, by The Sunday Times of London in June 1977. On the basis of its findings, this leading British newspaper voiced the conclusion that the torture of Arab prisoners was "widespread and systematic" and that "it appears to be sanctioned as deliberate policy".

The report in The Sunday Times did much to open to public debate on this important issue of human rights. The Israeli Government took issue with the newspaper and in Israel itself there was concern as well as indignation over accusations so far-reaching and so carefully documented. The National Lawyers Guild in the United States instituted its own inquiry into the subject and in November 1978 published a 121-page report that again concluded that torture was one of a number of oppressive measures adopted by the Israeli authorities as part of a programme whose objective was to encourage the emigration of the Palestinian inhabitants of the occupied territories.

Three months after the publication of the report by the National Lawyers Guild, the American State Department, in its annual review of human rights practices in countries receiving American aid, also took up the question of torture in Israel. Referring to the persistent allegations of the systematic ill-treatment of Arab prisoners, the State Department expressed the view - a very guarded view, but one which received widespread attention because of the American Government's generally protective attitude towards the Government of Israel, that "The accumulation of reports, some from credible sources, makes it appear that instances of mistreatment have occurred".

The Sunday Times and the National Lawyers Guild had called for an impartial investigation to examine the question of the ill-treatment of Arab prisoners in the occupied territories. The call had been taken up by other bodies and had been echoed inside Israel, where a writer in The Jerusalem Post said that "A well-investigated report by a high-level commission, headed if possible by a judge of the Supreme Court, would be welcome, whatever its verdict". That was in February 1979, but no such public investigation has yet been conducted.

Article 7 of the Universal Declaration of Human Rights states that "All are equal before the law and are entitled without any discrimination to equal protection of the law". It is not, I believe, necessary to spend much time in demonstrating that this article does not apply to the inhabitants of the occupied territories. The only law to which they are subject is the arbitrary "law" of the military Government, reinforced by the 1945 Emergency Regulations inherited from the British Mandatary Government, which is applied through military courts or by simple administrative orders from the military governor. These laws are enforced only against them; they are not enforced against the Israeli settlers who have been imposed upon the occupied territories. Indeed, it is a complaint frequently voiced by responsible Israelis that the Israeli settlers act in defiance of the law and that often they even enjoy the protection of the military Government for their illegal actions against the Arab population.

After the concerted series of car-bomb attacks on the Palestinian mayors of the three towns in the occupied West Bank on 2 June 1980, the French newspaper Le Monde carried an interview, on 19 June, with the Israeli General of the Reserve, Mattityahu Peled, a leading figure in the Sheli Party. The following is an extract from that interview:

"Speaking of the future of democracy in Israel, Mr. Peled showed himself very pessimistic 'not simply because of the emergence of the phenomenon of Jewish terrorism, but because this terrorism has the official support of the government. The members of Gush Emunim [an extremist group of Jewish settlers in Israel] are organized on a military basis and the army supplies them with arms, ammunition and explosives. Their acts remain unpunished and I will go so far as to say that no one dreams of seeking out the guilty parties, who seem to act with the blessing of the authorities ... This state of affairs represents, without any doubt, the beginning of the collapse of the whole democratic system in Israel, for it is a matter of public knowledge that the extremists are supported by the army's Chief of Staff and by the Prime Minister personally'."

So the Israeli authorities, which react very violently against even the most minor infringements of the law by the Arabs in the occupied territories, react in a completely different way to far more serious infringements of the law when these are committed by Jews. Indeed, on the evidence of Reserve General Peled, the authorities actually support and encourage and arm these Jewish law-breakers in their assaults on the unarmed Arab population.

In other words, the law in the occupied territories has one meaning for Jews and a quite different meaning for Arabs - and this is a conclusion from which no Israeli that I know would dissent (and of which many Israelis would approve). Discrimination in legal matters, as in every other aspect of life, is indeed a natural and logical consequence of military occupation, where the law becomes an instrument to enforce the will of the occupier against the interests of the occupied.

International law, which in theory should protect the inhabitants of the occupied territories against victimization and discrimination by the military Government, is in this instance helpless, since the Government of Israel has refused to recognize that the provisions of the Fourth Geneva Convention for the Protection of Civilians Persons in Time of War 2/ are applicable to the occupied territories. In this, as in many other respects, the Government of Israel is at odds with the rest of the international community and is defying the will of the United Nations. That such a situation should be allowed to persist and that the Palestinians in the occupied territories should remain, after more than 13 years, the victims of sustained and legalized discrimination, is a grave reproach to all the Governments that have signed the Geneva Conventions and voted for the resolutions of the United Nations calling on Israel to respect the Conventions in its treatment of the population of the West Bank and the Gaza Strip.

Article 9 of the Universal Declaration states that "No one shall be subjected to arbitrary arrest, detention or exile". There is no argument about this article. No one disputes the fact that any inhabitant of the occupied territories (except, of course, the Jewish settlers) is liable at any time to arbitrary arrest without any charge being proffered against him, or to administrative detention (which may last for several years) even if he has not been convicted, or even accused, of any crime. I myself know a number of Palestinians from the West Bank who have been arrested without any accusation being aimed against them, held in prison without trial for as long as three years, and eventually released without explanation or apology. The State Department report that I have referred to stated that, at the time of its publication, there were 2,149 Arabs in prison for security offences, of whom 30 were under administrative detention (meaning that they had not been charged with any offence) and that a further 360 Arab suspects were awaiting trial. So much for freedom from arbitrary arrest or detention.

Article 9 also states that no one should be subjected to "exile" and the word has of course a particularly tragic significance for the Palestinians. More than 2 million Palestinians living outside Palestine regard themselves as exiles from their homeland; their bitterest grievance is the refusal of the Israeli authorities to allow them to return and live in the land where they or their parents were born and brought up. That is another whole dimension of the Palestinian problem, which is outside the scope of this paper. What does concern us here is that since 1967 the Israeli military Government has deported well over 1,000 Palestinians from the occupied territories, against whom they had no legal complaint (if they had any evidence of any criminal offence, they would presumably have put them on trial) but whom they did not wish to remain in the territory under their control. In many instances, the Israelis clearly selected these people for deportation because they were the leaders of the Palestinian community in the West Bank and Gaza Strip and for this reason the Israeli authorities thought them likely to encourage a spirit of resistance to the occupation regime. In other words, they sent them into exile because they were patriots, whose example and leadership might prove infectious and whose removal would render the remaining population more tractable and submissive.

The most recent and conspicuous example of this practice on the part of the Israeli authorities of exiling leaders of the Palestinian community concerns the mayors of the West Bank towns of Hebron and Halhoul. It was on 2 May 1980 that these two men, Mr. Fahad Qawasmeh and Mr. Mohammed Milhem, were seized together with the gadi (Islamic Judge) of Hebron, Sheikh Rajab Tamimi, put into a helicopter with black bags over their heads, and dumped across the border in south Lebanon. There was no pretence of any legal process against them and their deportation was condemned by the Security Council of the United Nations, but this did not save them from the fate which has overtaken hundreds of others whose qualities of leadership and courage in resisting oppression have made them undesirable in the eyes of the Israeli authorities. Among those personally known to me who have suffered this particularly cruel fate at the hands of the Israelis are Mr. Rouhi al-Khatib, the Mayor of Arab Jerusalem; Dr. Walid Kamhawi of Nablus; Mr. Abdel-Jawad Saleh, who at the time of his deportation was Mayor of El-Bireh; and Dr. Hanna Nasir, President of Bir Zeit University and perhaps the most distinguished educator of his generation in Palestine. No offence was alleged, let alone proved, against any of these, but all were leading figures in their local communities. The fact that their deportation was expressly forbidden under article 49 of the Fourth Geneva Convention made no difference to the Israelis when they decided arbitrarily to send them into exile.

Article 10 of the Universal Declaration states that "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him". Those I have just mentioned were of course given no "fair and public hearing"; on the contrary, they and many others were bundled across the de facto border into Jordan, surreptitiously, in the small hours of the morning, in conditions often of considerable physical hardship, without the opportunity to communicate with their families or to settle their domestic affairs and without any legal process at all. Thousands of others have testified in the Israeli military courts that the confessions on the basis of which they were sentenced to long prison terms had been extorted from them by torture. The Israeli lawyer, Mrs. Felicia Langer, who has defended countless Palestinian political prisoners in the Israeli courts (and made herself very unpopular in Israel as a result) has published, in a book entitled With My Own Eyes, details of many such cases in which no humanitarian considerations were allowed to influence the decisions of the military courts. No one could testify with more authority than this brave and experienced lawyer to the fact that these courts can in no sense be considered the "independent and impartial tribunal" specified in article 10 of the Declaration.

Article 12 states that "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence" but that on the contrary, "everyone has the right to the protection of the law against such interference or attacks". Even those who have never visited the occupied territories, and who are too young to remember for themselves the German occupation of most of Europe, should have no difficulty in understanding how absurd such a right becomes in the context of a military occupation. The occupier, with the army behind him as the only effective authority, arrogates to himself the absolute right to interfere, at any moment and on any pretext, with the privacy of the citizens under occupation. He may do so in the pursuit of "security", a concept which can be stretched to justify every form of oppression. He may do so with the simple purpose of intimidation and it is my own conviction, based on a great deal of personal experience in the occupied territories, that this is often the purpose of the Israelis when they invade the

homes or the refugee camps where the Palestinians live. But whatever the pretext, there can be no doubt about the fact: that the Palestinians in the West Bank and Gaza enjoy no freedom, by day or by night, from the threat that their privacy may at the moment be interfered with by the occupation forces. As for the law - which means simply the authority of the military Government itself - if it is used, it is not to protect them against such interference, but to enforce it.

Article 13 of the Universal Declaration states that "Everyone has the right to freedom of movement ... (including) the right to leave any country, including his own, and to return to his country". What a bitter irony this article must have in the eyes of any Palestinian! The right to leave his own country: there is no difficulty for him in that - indeed the Israelis afford him every opportunity, to put it no more strongly. But to return to his country, that is another matter. If that right could be enforced, how many thousands of Palestinians would flock back to the homes and even the refugee camps which they were "encouraged" to leave in 1967 or from which they have been deported since then?

Even the right to freedom of movement within the occupied territories is again subject to the arbitrary will of the occupation authorities. Any Palestinian's movements may be restricted by administrative order confining him to his house or his village - or, of course, deporting him altogether. The lives of whole communities may be affected by the curfews that have been such a feature of the Israeli occupation of the West Bank, sometimes to prevent and at other times to punish any signs of a spirit of resistance. I have myself witnessed several of these punitive curfews, sometimes enforced for one or even two weeks and imposing grievous hardship especially on the most vulnerable members of the community - the aged, the infirm, the mothers with small children. Even without such overtones of physical intimidation, it is evident that the concept of freedom of movement is irreconcilable with that of a military occupation.

Article 15 states that "Everyone has the right to a nationality", and that "No one shall be arbitrarily deprived of his nationality". It is perhaps difficult for us whose national identity is not in dispute, who need not fear that anyone will attempt to question our right to call ourselves Englishmen or Italians or Frenchmen, to appreciate just how poignant is the longing, or how strong the will, of Palestinians to achieve the same unquestioned acceptance. And this is the moment for me to say something which is painful but necessary for me to say.

It was my Government, it was the British, who did most to deny the Palestinians for so long the right which one day they will achieve: the right to their proper Palestinian nationality. When we are critical, as we must be, of the injustice and the brutality which characterize the Israeli occupation today, we should not forget that the struggle for Palestinian independence began more than half a century ago, when Britain was the occupying Power. Palestinian nationalism is not something new or artificial, although paradoxically, it has become much stronger and more clearly articulated with the dismemberment of the old Palestine.

This is not the time for us to discuss British policy in the days when Britain held a mandate from the League of Nations to rule Palestine. But let me just say, especially to any Israelis who may be listening, that if I am critical, as I am, of their Government's refusal to come to terms with the reality of Palestinian nationalism, I am no less critical of Britain's share in the injustice perpetrated against the Palestinians. I believe that both Governments, the British in the 1930s and the Israeli today, have behaved and are behaving in a way that is not merely brutal and unjust, but that is self-defeating. For they have stimulated the desire of the Palestinians to exercise the right which the Universal Declaration holds out as a promise to all peoples: the right to a nationality. I look forward to the day when they will enjoy it in full freedom.

Article 17 deals with the right to own property and states that "No one shall be arbitrarily deprived of his property". That sounds straightforward enough and so self-evident as to be hardly worth including in an international character of human rights. But for the Palestinians, whose situation in this as in so many other respects is exceptional, there is nothing straightforward about it and no guarantee for any inhabitants of the occupied territories that his property - especially the property that is most valuable of all to him, his land - will not be taken from him without warning and without redress.

Israel's relentless colonization of the occupied territories by the establishment of Jewish settlements on Arab land has often been described as a policy of "creeping annexation". Its political implications are clear - and they have become steadily clearer since the signing of the Camp David agreement two years ago. Hardly a week now passes without the announcement by the Israeli Government of fresh plans to establish Jewish settlements, especially on the West Bank - and this despite the repeated rulings of the United Nations and even of the Government of the United States that such settlements are illegal. Besides their damaging effect on the search for peace, these Israeli settlements clearly contravene article 17 of the Universal Declaration in that they arbitrarily deprive the Palestinian landowners of the West Bank of their property.

Here it is proper to mention that part of the United States is facilitating and encouraging the Israeli Government's programme of colonization throughout the occupied territories. The President of the United States himself has repeatedly said that his Government regards the Israeli settlements in the occupied territories as illegal and that they represent a set of obstacles in the way of the search for peace. Yet it is the enormous financial assistance which the United States provides which enables the Israeli Government to go ahead, at a time of great economic stringency, with this very costly programme of colonization. The absurdity of the American position in the matter is self-evident. It is with justification that the Palestinians hold the American Government ultimately responsible for this violation of one of their most fundamental rights: the right to retain possession of the land which has been theirs since time immemorial.

Article 19 states that "Everyone has the right to freedom of opinion and expression; this right

includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers". Here again it is not necessary to waste many words in explaining that the Palestinians in the occupied territories cannot enjoy this freedom. Freedom of opinion and expression is quite simply incompatible with a situation where one people is under military occupation by another. The opinions held by the Palestinians in the occupied territories, whose overriding ambition is to regain their freedom, are inevitably distasteful to the Israelis, who use every means to prevent their free expression.

The occupation authorities seek to achieve this by imposing a strict censorship on all publications circulating in the occupied territories and by preventing the circulation of other publications freely available to Israeli citizens, including the Israeli settlers on the West Bank. The censorship also applies to books and no concession is made to the principle of academic freedom. The Arab universities on the West Bank are particularly affected and are strictly controlled in the matter of the textbooks available to their students. In particular, of course, any publication which gives expression to the political and national aspirations of the Palestinians is subjected to close scrutiny and frequent censorship by the occupation authorities.

Article 20 of the Universal Declaration states that "Everyone has the right to freedom of peaceful assembly and association". The occupation authorities would be illogical if they neglected, in their control of ideas and their expression, to restrict also the right of the Palestinians under occupation to meet for the free exchange of ideas and to form political associations. The free exchange of ideas is anathema to any regime of military occupation, and the Israeli regime is no different from other occupation regimes. Its regulations strictly forbid the formation of any political association in the occupied territories and any assembly of three or more persons for the purpose of political discussion. The military governor has on many occasions enforced this regulation, even on the elected mayors of the West Bank towns who, by the positions they hold, are the natural leaders of the Palestinian community living under occupation, and so the objects of particular suspicion on the part of the occupation regime.

Article 21 states that "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives". Here we come to the heart of the matter. This is the fundamental issue where the rights of the Palestinians are concerned. If the Palestinians enjoyed the right to take part, through freely chosen representatives, in the Government of their country, they would not be subject to all the other disabilities in this sad catalogue. They would then have no need to resort to violence in pursuit of rights which all the rest of us take for granted.

But there is, of course, no question of the Palestinians under occupation enjoying this right.

It is indeed their chief grievance and for 13 years they have been under the arbitrary rule of an alien regime whose authority they totally reject. If they are to regain a right to take a proper share in choosing a Government acceptable to themselves, the first and inevitable step must be the ending of the regime of military occupation. From that everything else could follow. But so long as the occupation is maintained, the right enshrined in article 21 will always be denied to the Palestinians.

Article 22 of the Universal Declaration states that "Everyone, as a member of society ... is entitled to the realization ... of the economic, social and cultural rights indispensable for his dignity and the free development of his personality". To secure this right, in all its aspects, is not easy for anyone, even in a free society. It is patently impossible for a people living under an occupation regime whose central objective, whether in economic, social or cultural affairs, is to restrict the free development of the Palestinian identity. So long as it remains the purpose of the Government of Israel to impose its rule on the occupied territories, the inhabitants of those territories will be denied the dignity and the freedom which are their birthright.

Finally, article 28 of the Universal Declaration of Human Rights proclaims that "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized". Here it is not only the Palestinians who have a legitimate complaint. As we have seen in the context of the other articles I have enumerated, the Palestinians are deprived of many of the rights and freedoms proclaimed in the historic Declaration adopted by the General Assembly of the United Nations more than 30 years ago. But everyone of us who believes that these rights ought to be enjoyed by the Palestinians just as we ourselves enjoy them must feel that, so long as we are unable to implement this article of the Declaration, we too are deprived of the right to "a social and international order" in which these rights and freedoms can be fully realized by all. We have the right as well as the duty to urge our own Governments to adopt policies which will enable us, not merely to pursue our own national objectives, but to see that this same freedom is extended to others and in particular to the Palestinians, who for so long have suffered the indignity of living under Israeli occupation.

In his inaugural address when he assumed office as President of the United States of America, President Carter declared: "Our commitment to human rights must be absolute ... Because we are free, we can never be indifferent to the fate of freedom elsewhere". This should be the basis of our approach to the present situation in Palestine. It is because we are free ourselves that we cannot be indifferent to the fact that the Palestinians in the occupied territories are denied the same freedom. That is why we must do all we can to ensure that the disgraceful state of affairs in the territories now occupied by Israel is brought to an end.

Notes

1/ Resolution 217 A (III).

2/ United Nations, Treaty Series, vol. 75, No. 973.

F. A JURIDICAL ANALYSIS OF THE ISRAELI SETTLEMENTS IN THE OCCUPIED TERRITORIES

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International law applicable in occupied territories

Customary international humanitarian law concerning the protection of civilians in territories under belligerent occupation was developed largely in the nineteenth century. Following the war of 1812 when parts of the United States came under British occupation, United States courts defined the applicable humanitarian law, including the limitations that it placed upon the military occupant. 1/ One of the clearest features of the customary law as developed in the nineteenth century was that the occupant had no authority to disturb private property rights as opposed to property belonging to the State. As early as 1833, Chief Justice Marshall stated that, even in the case of conquest (which was then a lawful method of acquiring territory), the "modern usage of nations, which has become law, would be violated" if private property were confiscated and private rights annulled. 2/ The outcome of the law-making process was that the belligerent occupant had considerably less than the sovereign powers which a State may exercise over its own territory and was regarded as having only a de facto authority which was subject to various substantive limitations. 3/

The Hague Conferences of 1899 4/ and 1907 5/ codified the existing customary law in some respects and added new provisions that were designed to provide more protection for both the lives and the property of the indigenous civilian population of the occupied territory. Some of these provisions were law-making ones when written but today they are regarded as having become so widely accepted by the community of States that they also now reflect existing customary law.

When the Nazis in Europe and the Japanese militarists in Asia flagrantly violated the elementary human and property rights of the civilian populations under their control during the Second World War, the inadequacy of the then-existing customary and treaty law was revealed. 6/ In particular, these regimes attempted to evade the application of the law by annexing territory or bringing it under the role of puppet regimes. A notorious practice particularly associated with the Nazis was the establishment of "Aryan" or "racial German" civilian settlements in the occupied territories. Sometimes the indigenous civilian populations were allowed to remain, while in other situations they were displaced by the German civilian settlers.

The Geneva Diplomatic Conference of 1949 met in the shadow of these grim events with the determination to prevent their repetition. In addition to three Conventions dealing with the subjects of protection of war victims in land warfare, 7/ naval warfare, 8/ and in prisoner-of-war status, 9/ it produced a Convention that for the first time was devoted exclusively to the protection of civilian populations. 10/ Since the main abuses of elementary civilian human rights had taken place in the occupied territories, the Fourth Geneva Convention is primarily concerned with civilians in occupied territories. This Convention has been ratified or acceded to by almost as many State parties as does the Charter of the United Nations. Its article 47 provides that the inhabitants of occupied territories are not to be deprived of the benefits of the Convention during a belligerent occupation by any changes made in the institutions or Government of the territory, or by agreements between the local authorities and the occupying Power, or by any annexation of the whole or part of the occupied territory. Article 49(6) prohibits civilian settlements in broad and unequivocal terms, without regard to the purported purpose of the settlements.

The law of the Charter of the United Nations is also relevant to a legal analysis of the Israeli settlements. There is a basic Charter prohibition upon the use or threat of force otherwise than in self-defence or with the lawful authority of the United Nations (Arts. 51 and 2(4)). This Charter principle is specified in Security Council resolution 242 (1967) of 22 November 1967 as "the inadmissibility of the acquisition of territory by war". In addition, the principle of self-determination is a basic right of peoples under the United Nations Charter (Art. 1(2)). It includes, at the least, the right of the indigenous population of a territory to determine its own political future in its own way.

The United States position

As there has been considerable interest in the position of the United States Government concerning the settlements, a brief examination of it may be useful. It is particularly significant that this Government, which has been a consistent supporter of the State of Israel, has continuously maintained the illegality of the Israeli settlements, wherever located, since the intensive hostilities of June 1967. By its resolution 465 (1980) of 1 March 1980, adopted unanimously after many weeks of negotiation, the Council:

"Determines 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 and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East."

This key provision, and each of the other provisions of resolution 465 (1980), are entirely consistent with prior positions of the United States Government manifested both inside and outside the United Nations. Subsequent to President Carter's statement, made more than 48 hours later, that the United States' affirmative vote was a mistake resulting from a "failure to communicate" and should have been an abstention, the Department of State submitted 40 official documents to the House of Representatives Foreign Affairs Committee that demonstrate the consistency of resolution 465 (1980) with prior positions of the Government. 11/ Even if the United States had abstained on resolution 465 (1980), the legal result in the Security Council would not be changed. The United States could have cast a negative vote and blocked the resolution, but this course of action was not even contemplated.

It is more interesting to note that, although a recent move by a number of United States senators, both Democrats and Republicans, to cut aid to Israel by \$150 million, a conservative estimate of what Israel is spending annually on its West Bank settlements programme, was tabled by a substantial majority, it is the first time such a move has ever been made in the Senate, which has been particularly susceptible to Zionist pressure. An editorial in an Israeli newspaper on 20 June 1980 stated:

"What counts is not the Senate rejection of that motion but the very fact that it was introduced by a Senator who has a largely Jewish constituency whose record is not anti-Israel, and that the motion was backed by the Senate Majority Leader. All this only goes to show the extent to which the Government of Israel's settlements policy turns U.S. statesmen and public against it." 12/

Appraisal of the claims of the Government of Israel under the criteria of international law

A. Introduction to the claims

There is no question but that the overwhelming population of the West Bank is comprised of Palestinian Arabs in spite of the increasing numbers of Israeli civilian settlements that are being implanted there. This means that the Government of Israel, while exercising its own right of self-determination as claimed under the General Assembly partition resolution of 22 November 1967 (resolution 181 (II)) is violating the same right of self-determination of the Palestinian Arabs 13/ who had their right specified in the same partition resolution. In addition, the Israeli-claimed permanent character of the civilian settlements also brings into application the law of the Charter of the United Nations. There have been consistent pronouncements of authorized Israeli leaders that the settlements are permanent, and there is the overwhelming primary evidence contained in the World Zionist Organization's master plan for the development and settlement of Judea and Samaria, 1979-1983. 14/ The permanent character of the settlements emphasizes their basic function of acquiring territory by "the creation of facts" through military force and coercion.

All of the States involved in the recurring hostilities in the Middle East are parties to the Fourth Geneva Convention 10/ which is a multilateral treaty with almost as broad a membership as that of the United Nations. In addition, the Palestine Liberation Organization (PLO) has deposited an instrument of accession to the Convention with the Swiss Government. Article 158(3) of the Convention provides that during a conflict, including an occupation, a denunciation of the Convention:

"... shall not take effect until peace has been concluded, and until after operations connected with the release, repatriation and re-establishment of the persons protected by the present Convention have been terminated."

Since denunciation is thereby prohibited, the State of Israel has had to attempt other methods to avoid the application of the Convention. Dr. Yehuda Z. Blum, then a lecturer in international law at the Hebrew University of Jerusalem and now the Permanent Representative of Israel at the United Nations, made such an attempt in an article entitled, "The Missing Reversioner: Reflections on the Status of Judea and Samaria" in 1968. 15/ The significance of this article is that the Government of Israel has adopted and acted upon each of the arguments advanced by Dr. Blum. The balance of the present inquiry will examine the Israeli claims and appraise them under the criteria of international law.

B. Ideological claims based upon politico-religious grounds

These claims are frequently formulated in terms of an alleged "divine" or "eternal" right. They apparently seek uncritical acceptance or belief and are not intended to be subject to the criteria of international law. An official version of the claims appeared in the "Guidelines" of the Likud Party as it was approved by majority vote of the Israeli legislature in the process of installing the Government of Prime Minister Menachem Begin in June 1977. Paragraph 2 of these Government of Israel "Guidelines" state: "The Jewish people have an eternal, historic right to the land of Israel, the inalienable inheritance of its forefathers." 16/ To the extent that this claim has a supposed "divine" basis, it assumes the existence of a deity with a racist outlook who promotes the expulsion of the remaining Palestinians from their homes in the West Bank and the Gaza Strip because this is part of the historic "land of Israel". "The Jewish people", a term which does not appear in biblical text, refers to the Zionist-Israel world-wide claimed

constituency of Jews. 17/

For present purposes it is sufficient to point out that these politico-religious claims are not made by Jews who regard their religious identity as primary, but by Zionist Jews for political purposes. Many religious Jews regard the claims as invalid and the Zionist ideological arguments as opposed to the moral precepts of universal Judaism. 18/

C. Claims that the Fourth Geneva Convention is not applicable in the territories occupied since June 1967

1. Claim postulating the necessity that the "legitimate sovereign" be displaced by the occupant

A major Israeli claim originated by Dr. Blum uses the thesis that the application of the law of belligerent occupation in general, and the Fourth Geneva Convention in particular, is based upon the presupposition that the "legitimate sovereign" of the occupied territory must have been displaced by the occupant. 19/ This argument maintains that Jordan and Egypt were not "legitimate sovereigns" in the West Bank of the River Jordan and in the Gaza Strip, respectively, because they were there as a result of their alleged acts of aggression. Therefore, the Government of Israel is not required to apply the humanitarian law of the Fourth Geneva Convention for the benefit of the inhabitants of the occupied territory. The Israeli argument recognizes that article 2 of the Convention provides that: "The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party ..." but assumes, without an identified basis in law, that the word "territory" in article 2 must be narrowly construed as only including the territory over which the displaced Government has de jure title or complete formal sovereignty. 20/ There are several compelling legal reasons which require that this claim be rejected.

First, Dr. Blum and the Government of Israel use an obscure method of treaty interpretation which is not known in international law, or indeed in any civilized legal system. It places no reliance upon either the text of the Convention or its negotiating history, which are the accepted primary sources for ascertaining meaning, 21/ because there is nothing in either to support the claim.

Second, the claim assumes without supporting evidence that the word "territory" in article 2 of the Convention must be interpreted as being restricted to territory where the displaced Government had the complete formal title as the "legitimate sovereign". Even if the claim that Jordan annexed the West Bank unlawfully should be accepted for purposes of legal argument, this does not mean that this territory is not "the territory of a High Contracting Party" within the meaning of article 2. It has never been previously doubted that the word "territory" as used here includes, in addition to de jure title, a mere de facto title to the territory. The words "legitimate sovereign" upon which so much emphasis is placed do not appear in the Convention or its negotiating history. 22/

An interesting aspect of this claim is that much emphasis is placed upon the allegation that only two States, the United Kingdom and Pakistan, recognized the Jordanian action and this is deemed to demonstrate its invalidity. Dr. Nathan Feinberg, who is professor emeritus of international law at the Hebrew University of Jerusalem, has pointed out that this is a vulnerable argument since no States have recognized the Israeli annexation of Jerusalem - and he refers specifically to West Jerusalem. 23/

Third, the idea that, in order to apply the law of belligerent occupation, it is necessary for the belligerent occupant to recognize the displaced Government's title to the territory finds no support in either the text of the Convention or its negotiating history. In addition, it is contrary to the well-established customary law based upon State practice. For example, during the American Civil War, the United States treated territory which it claimed as the "legitimate sovereign" but which the Confederate States had held as the de facto possessor as being subject to the law concerning belligerent occupation up until the end of the war. 24/ The customary international law was widely observed up until the Nazi and the Japanese militarist practices of the Second World War, and there is nothing in the Fourth Geneva Convention that changes it.

Fourth, the legal obstacle of the discredited "just war" concept which is relied upon must be raised. Dr. Blum and the Government of Israel claim the right unilaterally to categorize the opponent's title to land as being the result of aggression with the effect that civilians do not receive the protection of the international humanitarian law. 25/ If the humanitarian law were to be changed so that its application was made contingent upon recognition by the belligerent occupant of the justness and the non-aggressive character of the war aims of its opponent, it is perfectly clear that the humanitarian law would never be applied. If accepted, this argument would have astonishing consequences. The argument contends that the inhabitants of the West Bank were the victims of Jordanian aggression in 1948. It is then concluded that because of this, these civilians must be victimized further by being denied the humanitarian protection of the Fourth Geneva Convention under Israeli occupation.

The fifth legal block to the acceptance of the Israeli thesis is that it frustrates the entire humanitarian purpose of the Fourth Geneva Convention. The Convention is interpreted in the claim as a treaty which is designed to protect governmental rights and particularly the right to claim disputed territory. In contrast, the Governments represented at the Geneva Diplomatic Conference of 1949 stated in the preamble to the Fourth Geneva Convention that they met "for the purpose of establishing a Convention for the Protection of Civilian Persons in Time of War". To attempt to avoid humanitarian protection for civilians by alleging the existence of non-specified governmental rights is to turn the entire Convention upside down. 26/ Since the Convention was written by Governments, it is clear that the governmental

rights which the Israeli claim alleges to exist would have been specified in the Convention if the Governments at Geneva had accepted their legal validity. An aspect of this claim emphasized by Dr. Blum is his insistence that the purpose of the Convention is to protect the "reversionary rights" of the "legitimate sovereign". Once again, this governmental rights claim using the term "reversionary rights" employs words that do not appear in either the text of the negotiating history. In contrast, the official International Committee of the Red Cross (ICRC) commentary on the Convention characterizes it this way: "[I]t is the first time that a set of international regulations has been devoted not to State interests, but solely to the protection of the individual." 27/

2. Claim to title to territory based on "defensive conquest"

After contending that the titles of the Arab sovereigns are deficient in one way or another, the Government of Israel then claims to have "the better title" as it is in the occupied territories as a result of what it terms "defensive conquest". 28/ The concept of "defensive conquest" is unknown in international law. Even if the premise of an Israeli defensive role in the intense hostilities of June 1967 should be accepted, it is clear that under the Charter of the United Nations the rights of the defending State extend only to conserving existing interests or values and do not provide any basis for an extension of values by the acquisition of title to enemy territory. 29/ Article 2 (4) of the Charter specifically prohibits "the threat or use of force against the territorial integrity of any State ...". If international law provided for an exception to this basic rule under the heading of "defensive conquest", it would prove to be an irresistible attraction for a militaristic and expansionist State.

3. Claim of unusual circumstances: sui generis

An auxiliary claim made by Israel is that the Fourth Geneva Convention is intended only for short-term belligerent occupations and is not relevant to the unusual circumstances, termed the sui generis situation, in the Israeli-occupied territories. 20/ This argument amounts to a plea for an exception from the generally recognized criteria of the Convention on the ground of claimed special circumstances which, if accepted, would leave the belligerent occupant in effective control of the territories but without the applicable legal limitations. On the contrary, the provisions of the Convention were adopted in advance by all the parties, including the State of Israel, in order to be applied to all later situations of occupation.

The comprehensive wording of the Convention concerning applicability specifies "all cases of partial or total occupation ..." and eliminates the possibility of exceptions.

4. Claim that the Fourth Geneva Convention has not been previously applied

This claim assumes as a fact that the Convention has never been applied anywhere else and appears to conclude that, therefore, it should not be applied by the State of Israel. 26/ The short answer is that as a matter of logic, there is no reason to assume that the first time is necessarily an improper time to apply a Convention. There is, of course, no suggestion in the text or the negotiating history of the Convention that it is not applicable for the first time.

D. Claim that assumes the applicability of the Four Geneva Convention but contends that its specific provision concerning the settlements has not been violated

The sixth paragraph of article 49 of the Fourth Geneva Convention is directly in point and it provides that: "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies". This broad wording, which provides for no exceptions, appeared in the draft Convention prepared by ICRC which was used as a working paper in the Geneva Diplomatic Conference of 1949. 30/ The only change from the ICRC draft to the final text is that the word "civilian" in the final text appeared as "civil" in the draft. The Final Record of the Diplomatic Conference of Geneva of 1949 reveals that there were many substantive changes made in the draft Convention, including in article 49, but none were made in article 49 (6). 31/ In addition, the negotiating history at Geneva provides no indication of any concern about the comprehensive wording of article 49 (6). It is significant that no suggestions were made, much less action taken, either to narrow the wording or to read exceptions into the broad wording.

Dr. Blum, nevertheless, has contended that article 49 (6) applies to only one situation, that is, the particular situation where the civilian settlements displace the population of the occupied territory. 20/ He argues that this was the only Nazi practice that the article is aimed at. His contention raises a factual question since there is persuasive evidence that substantial numbers of Palestinians have been displaced from their property by the Israeli settlements. 32/ Assuming for purposes of argument, however, that the Israeli settlements do not displace the indigenous population, it is appropriate to appraise the claim. At the outset there is no possibility of arguing an exception from the text, since it provides for none, and no suggestion of support for exceptions exists in the negotiating history. Professor Blum has therefore cited the most recent edition of Professor Oppenheim's text edited by Professor Lauterpacht. This text, after summarizing the terms of article 49 (6) states that it is: "... a prohibition intended to cover cases of the occupant bringing in its nationals for the purpose of displacing the population of the occupied territory". 33/ There can be no doubt that this is one of the several situations covered by article 49 (6). The Nazi practices, however, were not limited to the displacement of the civilian population since it was often retained to provide cheap labour or slave labour. 6/ Professor Blum interprets the quoted text as if it read that the prohibition was intended only to cover cases of the occupant displacing the indigenous population, but that of course is quite different from the text itself.

Dr. Blum does not mention article 49 (1) which, as a general rule, prohibits forcible transfers or deportations from the occupied territory whether on an individual or mass basis. The fact that this provision stands apart from article 49 (6) is a clear indication that the two are not connected or contingent upon each other. The ICRC commentary on the Fourth Geneva Convention confirms this interpretation by treating each paragraph as separate and comprehensive. 27/ Therefore, it is not possible to read article 49 (1) as stating the only situation in which article 49 (6) can be applied.

It may be added that the text of article 49 (6), because of its broad meaning, contains no limitation in terms of one or more particular purposes of such prohibited settlements. If the purpose of the settlements is to be regarded as relevant, however, the basic aim of the Israeli settlements, like that of the Nazi ones, is to "create facts" that facilitate the acquisition of territory.

IV. Conclusions

There are three basic conclusions that necessarily follow from the legal analysis that has been made. The first is that the Fourth Geneva Convention is applicable in all of the territories that have been occupied by Israel since the intense hostilities of June 1967. The second is that the Israeli civilian settlements in the occupied territories are in violation of the Convention. The third is that the Government of Israel has even violated the customary law of belligerent occupation as it was developed in the nineteenth century by its actions in the occupied territories. 34/ Consequently, even if the attempts to evade the application of the Convention are successful, there is no way that the customary law could be avoided.

Because the Convention concerns people and not territory and is a humanitarian convention, it should be interpreted liberally to effectuate its protective purposes. 35/ In view of the universal humanitarian interests that are protected, destroying its effectiveness could be disastrous for all peoples.

Those Israelis who are concerned with legitimate national interests rather than with Zionist policy of territorial expansion are well aware of this protective function of international humanitarian law. Among them, Professor Emeritus Nathan Feinberg, writing in Ha'aretz, has decisively rejected the legal arguments of the present Government of Israel as fundamentally inconsistent with Israeli national interests as well as with international law. 23/ Professor Feinberg concludes that the Convention is applicable and that article 49 (6) does prohibit the Israeli settlements in occupied territories.

Article I of the Convention provides in full that: "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances." The obligation to respect a convention is, of course, commonplace. The obligation "to ensure respect", which was added at Geneva in 1949, was a significant new provision designed to enhance enforcement of the Convention. It means that if any one of the parties to the Convention violates it, the other State parties are also in violation until they take necessary measures to ensure that the violating party respects it. This is an obligation of all of the parties to the Convention, but as a practical matter, it is a particular obligation of the great Powers, including the United States and the Soviet Union. The consistent resolutions of the General Assembly calling upon the State of Israel to apply the Convention and to carry out its terms in the occupied territories 36/ are a reflection of the Member States' obligation as parties to the Fourth Geneva Convention of 1949 and a start toward enforcement. Much more needs to be done to develop a fully effective sanctioning process. 37/

Notes

1/ U.S. v. Hayward, 26 Fed. Cas. 240 (No. 15,336) (C.C.), Mass. 1815; U.S. v. Rice, 17 U.S. (4 Wheat) 254 (1819); Shanks v. DuPont, 28 U.S. (3 Pet.) 246 (1930).

2/ U.S. v. Percheman, 32 U.S. (7 Pet.) 51 (1833).

3/ See Conner, "The Development of Belligerent Occupation", 4 Bull. State Univ. Iowa 3 (1912).

4/ Second Hague Convention respecting the Laws and Customs of War on Land (and Annexed Regulations) of 29 July 1864. Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1864 and 1907 (New York, Oxford University Press, 1915).

5/ Fourth Hague Convention respecting the Laws and Customs of War on Land (and Annexed Regulations) of 18 October 1907, 36 U.S. Stat. 2227, Gt. Brit. Tr. Ser. 1910, No. 9, Cmd. 5030.

6/ The paragraph is based upon Trial of the Major War Criminals Before the International Military Tribunal at Nuremberg (42 vols., 1947-1949) passim, and Law Reports of Trials of War Criminals (United Nations War Crimes Comm., 15 vols., 1947-1949).

7/ United Nations, Treaty Series, vol. 75, No. 970

8/ Ibid., No. 971.

9/ Ibid., No. 972.

10/ Ibid., No. 973.

11/ The full text of Security Council resolution 465 of 1 March 1980, President Carter's statement, and the State Department legal opinion of 21 April 1978 concluding that the settlements are illegal, are set forth in Mideast Observer No. 6 of 15 March 1980. The 40 documents were enclosures to the letter from Assistant Secretary of State Atwood to Chairman Zablocki of the House Committee, received on 12 March 1980.

12/ Ha'aretz, 20 June 1980.

13/ See W. T. Mallison and S. V. Mallison, An International Law Analysis of the Major United Nations Resolutions Concerning the Palestine Question, (United Nations publication, Sales No. E.79.I.19), chap. IV.

14/ Official Records of the Security Council, Thirty-fourth Year, Supplement for October, November and December, document S/13582, annex. See also note 32.

15/ 3 Israel L. Rev. 1968, p. 279.

16/ The Jerusalem Post, international ed., 21 June 1977.

17/ The Zionist "Jewish people" concept has been rejected by the United States Government as a concept of international law in the letter of 20 April 1964 from Assistant Secretary of State Talbot to Elmer Berger, Executive Vice-President of the American Council for Judaism, printed in 8 Whiteman, Digest of International Law, 35 (United States Department of State, 1967). This Zionist juridical concept is appraised in W. T. Mallison, "The Zionist-Israeli juridical claims to constitute 'the Jewish people' nationality entity and to confer membership in it", 32 George Washington Law Review 983 (1964).

18/ See E. Berger, "An examination of the claim of zionism to divine authorization for establishing settlements", Arab Perspectives, No. 2, (May 1980), p. 24. See also E. Marmorstein, Heaven at Bay: The Jewish Kulturkampf in the Holy Land, passim (Oxford, 1969) which states the thesis that zionism and traditional Judaism are incompatible.

19/ 3 Israel Law Review, 1968.

20/ Dr. Blum repeated the same arguments in "The colonization of the West Bank territories by Israel", hearings before the Sub-Committee on Immigration and Naturalization of the United States Senate Committee on the Judiciary, 95th Congress, 1st session, p. 24 (17 October 1977). Dr. Blum also stated: "Coming now to the question of sovereignty, I would have to say this. Yes, indeed, I consider Israel as the potential sovereign over Judea and Samaria" (ibid., p. 36). W. T. Mallison presented a different legal analysis in the same hearings (ibid., p. 46).

21/ It appears unnecessary to cite legal authority to demonstrate the relevance of the text of an international agreement to the interpretation of that agreement. The negotiating history is useful as a means of providing context and background for the text. The importance of context is emphasized in M. S. McDougal, H. D. Lasswell, and J. C. Miller, The Interpretation of Agreements and World Public Order, 119ff and passim (Yale, 1967).

22/ The negotiating history of the Fourth Geneva Convention is in four volumes (numbered I, IIA, IIB and III) of the Final Record of the Diplomatic Conference of Geneva of 1949 (Swiss Federal Political Department, undated).

23/ N. Feinberg, "The legal status of the West Bank", Ha'aretz, 9 October 1977, translated in 4 SWASIA No. 27, pp. 6-7 (11 November 1977) published by National Council of Churches in the USA).

24/ United States Army General Order No. 100, "Instructions for the government of armies of the United States in the field" of 24 April 1863 contained articles 1-10 concerning belligerent occupation. These instructions are also known as "Lieber's Code" because their principal author was Prof. Francis Lieber of Columbia College, New York.

25/ In the Trial of Wilhelm List and Others, 8 Law Reports of Trials of War Criminals, 34 at 59 (United Nations War Crimes Comm., 1948), the U.S. Military Tribunal at Nuremberg held that the law of belligerent occupation was applicable in Yugoslavia and Greece without regard to the question of German aggression.

26/ The basic humanitarian purpose of the Civilians Convention is also pointed out in "Israeli Settlements in the Occupied Territories", Int'l Comm. Jurists Rev. No. 19, p. 27 passim (December 1977).

27/ 4 ICRC Commentary 77 (Pictet, ed. 1958).

28/ In the Senate Hearing, Dr. Blum cited only one authority for this argument: S. M. Schwebel, "What weight to conquest?", 64 Am. J. Int'l L. 344 (1970), who attempts to develop a concept of "defensive conquest".

29/ The customary international law of self-defence also provides no authority to acquire enemy territory.

30/ Article 49 (6) was numbered 45 (5) in the draft. I Final Record, vol. 1, p. 113 at 121.

31/ Ibid., vol. II A, pp. 759 and 760.

32/ See the testimony of Mrs. Ann M. Lesch in "Israeli settlements in the occupied territories", Hearings Before the Sub-committees on International Organizations and Europe and the Middle East of the United States House of Representatives Committee on International Relations, 95th Congress, 1st session, pp. 7-42 (including appendices) (12 September 1977). Mrs. Lesch's testimony also indicates the permanence of the settlements.

33/ 2 L.F.L. Oppenheim, International Law: Disputes, War and Neutrality, 7th ed., H. Lauterpacht, ed. (1952), 452.

34/ The Israeli violations of private property rights as detailed by Mrs. Lesch, (see note 32), constitute violations of the customary law of belligerent occupation as it was developed in the nineteenth century.

35/ Probably the most fundamental rule of interpretation is that a treaty must be interpreted so as to effectuate its basic purpose. See, for example, Harvard Research, Draft Convention on Treaties, 29 Am. J. Int'l L. Supp., pp. 937ff and especially article 19.

36/ See, for example, General Assembly resolution 34/90 B of 12 December 1979 which calls upon Israel to apply the Geneva Convention in the "Palestinian and other Arab territories" under occupation (para. 1). Only Israel voted against this resolution.

37/ The sanctioning authority is laid down in Chapter VII of the Charter of the United Nations.

**G. PALESTINIANS AND HUMAN RIGHTS. A STUDY OF
AFRICAN OPINIONS AND ATTITUDES TO THE PALESTINIAN QUESTION**

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The continent of Africa is the home of Arabs and black people of various hues and colours. Since the end of the Second World War this continent has witnessed the rapid demise of colonialism and the emergence of independent sovereign States. As a result of the collapse of European imperial rule, Africa now has the largest number of independent States in the world. This large number of political units has given Africa a major place in international diplomacy and politics. One manifestation of Africa's growing role in international politics is its involvement in Middle Eastern affairs, and most particularly in the debate of the Palestinian question.

In the present I intend to examine the historical development of African attitudes towards and opinions on the Middle Eastern problem in general and the Palestinian question in particular. For the purpose of this study, African attitudes and opinions would be based on resolutions, declarations and communiqués of members of the Organization of African Unity (OAU) in their various meetings in Africa and at the United Nations in New York.

The paper is divided into four sections. The first part addresses itself to the first phase of African involvement in the Arab-Israeli conflict; the second deals with the shift in African opinions and attitudes against the State of Israel and with the emergence of a near unanimity of view of African States on the rights of the Palestinian people; the third section examines the role of Islamic solidarity among the African Muslim States and its impact on the perceptions of some African States of the Palestinian question; the last section offers my conclusions on the subject.

A. Africa and the Arab-Israeli problem: phase I

Any discussion of African attitudes and opinions on the Middle East problem in general and the Palestinian question in particular, must go back to July 1952 when Colonel Gamal Nasser and a group of young

army officers (generally known as the Free Officers) seized power from King Farouk of Egypt. Up to that time, Egyptian leaders and Arab-Africans north of the Sahara Desert paid little attention to political matters affecting the Africans living south of the Sahara. With the rise of Nasser, however, we witnessed a significant shift in Egyptian policy. Whereas the Farouk regime had observed the invisible keep-off warning signs of colonial Powers in Africa, Nasser felt himself obligated to lend moral, material and psychological support to Africans fighting against colonial rule. He also believed that he had a responsibility to carry out the historically and geopolitically significant role of gatekeeper of Africa's northern borders. This conception of Egypt's role in African affairs was well articulated in his book, The Philosophy of the Revolution. 1/ In that book, Nasser argued that Egypt lived within three concentric circles and each circle had a significant role for it to play. To Nasser the Arab, Islamic and African circles constitute what I would call a psychological trinity, which defines and determines the Egyptian identity in world affairs.

Because of this self-image, Nasser and his supporters in Egypt embarked on a campaign against the enemies of Africa and the Arab world. In his definition of the enemies of the peoples of the three concentric circles, Nasser lumped together the citizens of the newly created State of Israel and the Western imperialist Powers in the African continent. Because of this Egyptian view of Africa's enemies, Israel soon became the target of Egyptian propaganda in Africa and Israeli activities in the continent came to be seen as detrimental to both African and Arab interests. Convinced that the State of Israel was a Western creature dumped in the heart of the Arab world, and determined to nip it in the bud, Nasser braced himself for a confrontation with Israel and its Western supporters.

The first encounter took place in 1956 when France, the United Kingdom and Israel made a joint attack on Egypt. On this occasion, Africa could give no support to Nasser and Egypt because most of its territories were then colonized by Europe and only Ethiopia and Liberia were independent States. In fact, both of these African countries were members of the United Nations, and through that Organization, they gave some support to Egypt during the Suez Crisis. However, their close ties with the Western Powers inhibited them from giving full and total support to Nasser.

The Suez crisis, in my view, was a significant event in raising the anti-colonial feelings of Arab-African peoples. First of all, it should be noted that although the United Kingdom and France ruled much of the continent at the time, many an African nationalist secretly or openly sympathized with Nasser's attempt to liquidate the remnants of colonialism in Egypt. This incident must have convinced many young African nationalists that Nasser was serious about ending colonial rule and that he deserved the benefit of the doubt.

This view can be supported by the number of nationalists based in Cairo in the 1950s and 1960s. 2/ Secondly, one can also argue that the Suez crisis granted Nasser and his propagandists the opportunity to drum up support from fellow Muslims in sub-Saharan Africa. Indeed, Nasser did strike a responsive chord and many Muslims from areas south of the Sahara declared their willingness to volunteer for what was then perceived as a jihad (holy war) against European unbelievers. Thirdly, one can maintain that the Suez crisis catapulted Nasser into international prominence and allowed him some psychological leeway in both Africa and the Arab world. 3/

Taking the Suez crisis as a point of departure, one can proceed to argue that the African peoples became more conscious of the Arab-Israeli conflict in 1956 when their colonial masters were directly involved in the Arab-Israeli conflict than in 1948 when the newly created State of Israel fought against the Arab armies. There are many reasons why 1956 could serve as a major psycho-political landmark in African awareness of the Middle Eastern problem. As already stated above, the African nationalist groups were by then already agitating for independence. Kwame Nkrumah and his followers in the Convention Peoples Party (CPP) of Ghana were about to take over the reins of government; Sekou Toure of Guinea was a year away from his of "No" to General de Gaulle's offer of closer ties with France as opposed to genuine African independence; the Mau Mau uprising was already a fact in Kenya and its violent sounds were already reverberating in the African political firmaments. All these developments were part of the mighty stream of African independence, and Nasser and his followers certainly knew the direction the wind of change was blowing in Africa.

Another reason why 1956 could be taken as a major historical landmark in the development of Arab-African relations is that the Suez crisis served as a rallying point for all the Afro-Asian States. As one observer pointed out, "The Suez Crisis demonstrated how the use of force for settling disputes, particularly when applied by Britain and France, tended to unite the Afro-Asian States". 4/ To many Africans and Asians the Suez crisis was a struggle between western imperialist Powers and the principles of the sovereignty equality of nations.

Nasser's defiance of colonial Powers over the use and operation of the Suez Canal was a significant milestone in the evolution of the concept Ali A. Mazrui called "The Principle of Continental Jurisdiction". 5/ Despite the fact that Nasser was born Arab and destined to live in Africa where the greater majority of the people are black, he could still commit himself to Africa's territorial sovereignty.

The Suez crisis provided a test case for Nasser's commitment to his self-defined role of gatekeeper of Africa's north-eastern frontier. This point is very important because, as can be seen in the sections below, Africa later rallied to Nasser and to his successor, Anwar Sadat, when Israel occupied the Sinai, a piece of real estate African leaders felt Israel should and must surrender to Egypt, if peace was to be maintained in the area.

But even though the Suez crisis could serve as a major historical landmark in the African struggle against foreign violations of its territorial sovereignty, the fact remains that without being fully liberated the peoples of the continent could not play any meaningful role in the resolution of the Middle Eastern problem and the Palestinian question. Africa's presence began to be felt in international diplomacy only with the decolonization of the colonial Territories. The year 1960 has been widely hailed as Africa's year, largely because a great number of African countries wiggled out of the Western colonial web

and started a new life in international politics.

The United Nations has been the forum for the newly independent States since its inception; and each and every African and Asian State that obtained independence sought the legitimacy conferred by this international body. 6/ Yet, while new nations obtained badges of sovereignty from such an august body, they also received additional political and diplomatic responsibilities. One of the problems that Africans found at the United Nations was the Middle Eastern problem. Although their countries were not independent when the problem arose, many of the new leaders had read about it and had developed some opinions or attitudes toward it.

One of the most interesting aspects of African views of the Middle Eastern problem is their initial ambivalence towards the two combatants in the area. As one commentator has argued, the Jewish people were not well-known to black Africans. The only Africans who had some understanding of the situation were those who had gone to Western schools and universities and had read about the Jews. But, adds our commentator, even this educated class of Africans learned about Jews through biblical accounts and the writings of such celebrated literary figures as Shakespeare and Voltaire. 7/ Because of this understanding, African leaders of the independence movement initially took a somewhat neutral position towards the Arab-Israeli conflict. Many reasons have been given for such a political stance. Some have suggested that Africans did not want to fan the flames of the bipolar cold war politics of the early 1960s; others have stressed that Africans wanted to be left alone so that they could address themselves to the challenges of political engineering and economic development. Regardless of what motivated the African leaders, the fact remains that they refused to give full and total support to the Arab cause in the Middle East.

Because of this initial African reluctance to show total and enthusiastic support for the Arab dream of recapturing Palestine from the newly installed Israelis, the Israeli policy-makers found it impolitic and foolish not to capitalize on African ambivalence. Fearing growing isolation by the increasing number of Afro-Asian States, the Israelis soon sent their emissaries out to the African continent. Writing 21 years after his assignment as Israel's first Ambassador to black Africa, Ehud Avriel, a former Ambassador to Nkrumah's Ghana, puts it this way:

"The Prime Minister explained the underlying idea: we must break out of the encirclement by a hostile Arab world and build bridges to the emerging nations on the black continent. We could not allow a situation similar to that of our relations with most Asian nations to develop. There we had been excluded from the Bandung Afro-Asian Conference in 1955. Burma at the pinnacle of her prestige was our friend. But almost every other nation on the continent we shared was not. We had more to offer to Africans than just diplomatic niceties - we were prepared to aid in their social and material development." 8/

According to Avriel, the wooing of Nkrumah and his fellow countrymen was pursued very seriously by the Israelis. Ghanaian ministers and top politicians, such as Kojo Botsio (Israel's advocate in Nkrumah's cabinet), Nathaniel Welbeck and Ras Makonen (a Diasporic black from the Americas working in Ghana), were invited to Israel. Apparently they were schooled indirectly on things and experiences that make blacks and Jews members of the world community of suffering as well as fellow believers in the Abrahamic message. 9/

This bid for African support proved successful and by 1969, 32 African States had diplomatic ties with Israel and about 20 had cooperative treaties with it. 10/ Israel's success was a result of many factors and we can list a few for the purpose of the present study. First of all, Israel was seen as a small country and so could not be imagined as a threat to African security. 11/ Secondly, Israel had benefitted from the successful campaign of the Zionists in the world media that they had regained and revived old Zion through the transformation of the Palestinian desert into an oasis of peace and prosperity. 12/ There were, thirdly, those who believed that many African leaders were suspicious of Arab motives and intentions and, for this and other related reasons, encouraged the Israeli courtship of Africa south of the Sahara. Evidence for this view is almost always based on the widely quoted remarks of Chief Obafemi Awolowo of Nigeria. This leader of the opposition in Nigeria has written that black Africans should not extend the circle of brotherhood to include the Arabs in North Africa simply because their loyalties to Africa are suspect. According to him, Arabs have double loyalties and when the chips are down they are most likely to identify with their brethren to the east. 13/ Last but not least, there were those observers and commentators who attributed what was widely described in Western newspapers as the "Israeli miracle in Africa" to sheer industry and competence. Those who espoused such views found evidence for their argument in the popularity of Israeli technical assistance experts in most of Africa south of the Sahara. 14/ Between 1957, when Nkrumah's Ghana became independent, and 1973, when Israel began to suffer diplomatic and political setbacks in Africa, many African ministers attended conferences and symposia in Israel. Israelis went into business partnership with African Governments and the most significant project in this category was Nkrumah's decision to establish the first African shipping company ever. 14/ The Black Star Lines cooperated with the Israeli Zimm Company.

Other Israeli projects included water works in Nigeria, youth training in the Ivory Coast (now Côte d'Ivoire), the introduction of the lottery system in Sierra Leone and the training of military and security forces in Zaire, Uganda and Ethiopia. Israeli technical assistance was also evident in the work of Soleh Boneh, the Histadrut Construction Firm. She was also very actively involved in the establishment of Nachal-type settlements to stem the tide of rural exodus in many African countries. The training of paramedical personnel who could offer first aid to injured persons was another venture of Israel in Africa.

The Israelis also provided expertise to African countries like Ghana, whose leaders had decided to encourage poultry farming. They also provided technical assistance to Senegal in beekeeping and in many other areas. 15/

The Israelis were able to woo and win African support largely because of their determination to prove themselves better than any of their western rivals, be they Peace Corps from America or Voluntary

Service Overseas (VSO) from the United Kingdom. Indeed, one could say that, if their Masada complex was the motivating force behind the Israeli people during the last 30 years, then their Messianic complex played an important role in their work in Africa. 16/

B. The shift in African opinions and attitudes towards Israel

As noted above, the first decade of African independence revealed close ties between Israel and many African States. This state of affairs was changed by a train of events that can be traced back to the June 1967 war. Prior to that time, Israel successfully outmanoeuvred its Arab rivals in Africa. The Arab States like Egypt tried their very best to convince the African States that Arab interests were in many respects Africa's interests. To prove that politically sensitive point, they argued that Israel was a European problem planted in Arab soil, that the liquidation of Jewish people in Germany and beyond was the work of a European called Hitler and they (the Arabs) must not be called upon to pay for Germany's sins, and finally, that Israel was a Western Trojan horse sent into the Arab world to stifle Arab attempts at self-definition and self-development. These arguments were effectively and eloquently put forth by Egyptian delegates to African and United Nations conferences. At the first conference of independent African States, held in 1958 at Accra, the Egyptians tried to rally African support for the Arab cause in the Middle East. This drive was partially stymied because of the cautious policies of African radicals like Nkrumah and the moderate if not very conservative policies of the Haile Selassies and the William Tubmans. In retrospect, one could argue that the Egyptian attempt to lead Africa against Israel was unsuccessful in the 1960s because of a number of factors. First of all, the contradiction in the Pan-Africanist message exposed both the black Africans and the African Arabs to Israeli manipulation. Sensing that some interpretations of the Pan-Africanist message implied a correlation between blackness and Africa - a view generally held by almost all conscious readers of the world press, the Israelis and some Africans contended that Arabs were not Africans and hence should be treated as long-established invaders. This view of the Arabs was based on a distortion of African history and an exaggeration of Arab atrocities during the slave trade. Another reason for the failure of Arab diplomacy in Africa in the early 1960s was caused by the polarization within the African political community itself. 17/ The arrival of a large number of independent French-speaking African States complicated the problems associated with the embryonic African diplomacy of unity. These former French colonies were closely tied to their metropolitan ex-master and for this and other related reasons they shied away from Nkrumah's and Nasser's rhetoric of aggressive anti-colonialism. To lend institutional support to their views of the world, they eagerly organized themselves into what was called in 1960 the Brazzaville Group (officially named the Union of African States and Malagasy (UAM)). This organization became a moderating factor in African international politics. Almost all of its members resisted the radicalism of the Nkrumahs, the Toures and the Nassers, who grouped themselves under what was called in 1961 the Casablanca Group. Named after the Moroccan city of Casablanca, this informal organization symbolized the radical African opinion during the Congo crisis. What distinguished this group from its rival, UAM, was its strong and consistent support for Patrice Lumumba during the imbroglio in the Congo.

The formation of the Casablanca Group was significant in many respects but for the purpose of the present study, I will mention only two points. Foremost in our consideration should be the fact that it was at the formation of this group that the Egyptians and Arabs scored their first psychological victory against Israel. The African radical States of Ghana, Guinea and Mali, along with the Arab-African States in the Casablanca Group, endorsed a resolution denouncing Israel "as an instrument ... of imperialism and neocolonialism, not only in the Middle East but also in Africa and Asia". 18/ Although the Israeli policy-makers pressed for and obtained an explanation from Nkrumah on the Ghanaian vote, the fact remains that this resolution made it abundantly clear that Islamic solidarity and radical Pan-Africanism together constituted the greatest threats to Israeli diplomacy in Africa. This view of the Casablanca resolution at the time was not evident to most observers; it became clear only in later years. 19/ Another significant fact about the Casablanca Group was that the Arab-African States of the Libyan Arab Jamahiriya, Tunisia and the Sudan did not give full and total cooperation. One would have expected their support for the Arab cause through some form of participation in the Casablanca Group. Yet, in making such an assumption, one must recognize the limits set by realities to political cooperation even among Arab-African States. A classic example of Arab disunity was the war of words and nerves between Morocco and Mauritania in the 1960s. The former's claim over the latter's territory made it difficult for their common membership in the Casablanca Group. Such a state of affairs led Mauritania to seek friends and allies south of the Sahara. Indeed, the feud between the two Arab-African States dramatized both the low degree of solidarity among Maghrebi States and the failure of Arab diplomacy to coordinate their foreign policies in Africa and the world. 20/ This fratricidal tendency among the Arab States in North Africa also manifested itself in the Arab east, weakened Arab diplomatic unity and hence gave Israel the opportunity to consolidate her gains in Africa and to muffle Arab protests about the Palestinian question.

It is of course against this background that one could understand Nasser's decision not to press for African support on the Middle Eastern question at the founding of the Organization of African Unity (OAU) in 1963 at Addis Ababa. At that conference, Nasser shied away from introducing the matter because he had been bitten many times by his African colleagues who wished not to be dragged into the Arab-Israeli conflict.

In assessing the reasons for the shift in African opinions and attitudes towards the Arab-Israeli conflict in general and the Palestinian question in particular, one must see the Israeli victory of June 1967 as a major historical landmark. Contrary to Professor Adeoye Akinsanya's view that "the isolation of the Casablanca Bloc at the Monrovia Summit forced President Nasser to reconsider his African policies and bring them into line with those of the majority of African States, namely, the Monrovia Bloc", 21/ the historical record seems to show that Nasser did not deradicalize his politics. Rather, he desisted from appealing directly to African leaders for support. Indeed, he refused to table for discussion the Arab interests in the Middle Eastern question and left his colleagues at the May 1963 OAU summit meeting at Addis Ababa with the following words of political prophesy:

"... We shall not submit this problem for discussion at the meeting, in the conviction that progress of free African endeavour will, through trial, reveal the truth day by day and lay it unmasked before the African conscience." 22/

Following the 1963 summit meeting, the Arabs continued to build up their structures of cooperation with the Africans. Nasser's Egypt, for example, unilaterally undertook an Arab response to Israeli activity in Africa. In the 1950s and 1960s Egyptian export/import companies established branches in many African countries. The Egyptian authorities undertook many projects in Africa and signed many economic agreements. To counteract what Egyptian diplomats perceived as Israel's evil designs in Africa, i.e., Israel's sponsorship of conferences and other development and nation-building programmes, they too organized numerous conferences in various fields. The most significant ones were the Afro-Asian Economic Conference (1958), the Conference on Economic Development Problems (1962) and the First Industrial Conference for African States (1966).

Egyptian efforts to contain Israel were not very successful because of the absence of effective coordination of Arab diplomacy. While the Maghrebi States were divided over one issue or another, the relations of States within the Arab east were not very good either. The wave of Nasserism in the Middle East was fiercely resisted by the conservative Arab monarchies of Jordan, Saudi Arabia, the Libyan Arab Jamahiriya and the small sheikhdoms still under British protection. 23/ These countries were targets of radical Arabs who wished to see more agreeable fellows representing their countries in the caravan of pan-Arabism. Owing to this fear of political annihilation, they paid lip service to the Palestinian cause while taking all measures to contain unruly and politically dangerous forces in their countries.

These developments in both North Africa and the Arab Middle East combined to put an effective brake on Nasser's drive to make the Arab cause part and parcel of the African interest. Egypt's quarrel with Saudi Arabia certainly helped divide the Islamic forces in Muslim Africa. As a result of their war of words, which later heated up into a full-scale war in Yemen, African Muslims began to take sides. The Saudi response to Egyptian propaganda against the House of Saud resulted in the establishment of bodies and instruments of propaganda comparable to what Nasser had in Egypt. For example, in response to Nasser's Voice of the Arabs, the Saudis put up their own Voice of Islam. Again, to counteract Nasser, they also set up their own body (Rabetah Al-Alam Al-Islami) to match Egypt's Supreme Council on Islamic Affairs.

These fratricidal feuds prevented the Arabs from coordinating their policies and projecting a more positive image of themselves in the world. Indeed this, together with the pre-1967 global perception of Israel as underdog, is largely responsible for Arab lack of success in Africa in the early 1960s. The changing of such conditions soon gave the Arabs a new image and a good sense of solidarity in Africa in particular and in the third world in general. Israel's victory in 1967 and its gradual entanglements with racist South Africa combined to change its image in Africa and the third world.

Looking at the Afro-Asian attitudes towards the Middle Eastern conflict, an Arab writer has identified seven factors which he believes are contributory to Israel's loss of African support: (a) Africans began to see Israel not as an underdog but as a formidable foe for the Arabs; (b) Israel's refusal to accept United Nations and OAU resolutions calling for its withdrawal from Arab lands; (c) The rise of feelings of Islamic solidarity among peoples in Muslim countries of the world; (d) France's decision to take a more neutral stance in the Arab-Israeli conflict affected some of Africa's French-speaking States; (e) greater Arab use of OAU as a platform for the Arab cause; (f) the increasing Arab emphasis on the right of return of the Palestinian people and on its right to self-determination, independence and national sovereignty; and (g) Arab economic aid to Africa. 24/

With the benefit of hindsight, the above-mentioned author could give us all seven factors as explanations for the changes in African perceptions of the Arab-Israeli conflict. However, one can argue that the gradual drift towards greater African identification with the Arab cause began with Sekou Toure's decision to send a message of solidarity to the Egyptian people in their struggle against Israel. In that radio message, broadcast in May 1967 over Radio Conakry, the Guinean President told his Egyptian fellow nationalist that he was quite ready to put the Guinean Popular Army at the disposal of Egypt and the Arab cause. Toure's message of solidarity, which reached Nasser some days before the eruption of the June 1967 war, was most certainly distasteful to Israel. Since President Toure has been a very active and decisive third world leader, it would be unfair to dismiss his radio broadcast as a propaganda ploy. The Israelis, it should be noted, certainly took notice, and it is not surprising that Israeli-Guinean relations reached the lowest point soon after the June war.

This Guinean example was not followed immediately by other African States; but the radical elements in Africa and in the world began to attack Israel more severely and frequently. This denunciation of Israel by world radicals was more pronounced in Afro-Asian and third world forums than in all-African gatherings. At the 1966 Tricontinental Solidarity Conference held at Havana, with a heavy Afro-Asian attendance, the delegates passed one of the most sweeping anti-Israel resolutions ever presented at a non-Arab forum. The resolution called for the severance of political ties with Israel; the imposition of an economic and cultural blockade; the expulsion of Israel from international organizations; the combating of Zionist infiltration and penetration; the cancellation of agreements with Israel; and the granting of material and financial aid to Palestinians. The resolution also warned against Israeli technical assistance "as a new disguised method of imperialism and neocolonialism of the United States". Such a resolution certainly influenced Sekou Toure's Guinea, for, as is well known now, Guinea participated effectively at that conference. The conference itself took place at a time when Guinea's prestige as a revolutionary State in Africa and the third world was very high. It should also be pointed out that in 1966, Guinea's Sekou Toure offered asylum to his friend and comrade, Kwame Nkrumah, after he was overthrown by the Ghanaian armed forces. This coup d'état was viewed in radical circles as an event masterminded by Western and Israeli intelligence services. Also, it should be noted that Guinea was the host of the Partido Africano da Independência da Guiné e Cabo Verde (PAIGC) of Amilcar Cabral, one of the most effective speakers at the

Tricontinental Conference.

Against this background one could argue that President Toure's message of solidarity with Egypt was an attempt to reconcile his Government's policy on the Middle East and the resolutions adopted by the Guinean delegation to the Tricontinental Conference. Furthermore, one could also maintain that the Tricontinental Conference was, in retrospect, a harbinger of what we now see in international politics, for it granted the Palestinians a forum to put across to the world their view of the situation in the region. This conference was also significant in another respect. That is to say, it committed the liberation groups in Africa to support the Palestine Liberation Organization (PLO) and hence increased the number of State supporters of the Palestinian cause when those groups seized power in the 1970s from Portugal, Spain and France.

Writing on the impact of third world radicalism on African-Israeli relations, the prominent African political scientist, Ali A. Mazrui, states that African radicals have been more pro-Arab than any other African political group. Mazrui identifies a number of factors that he believes could explain the cooling off of relations between radical African States and Israel. First in his list is the fact that Israel "was too much a part of the Western world;" 25/ secondly, that Israel fits the general pattern generally associated with settler colonialism, and that the significant fact that "made Israel look suspect to black radicals was the link which the Israelis had with regimes in southern Africa; and the diplomatic record of Israel on issues connected with southern Africa". 25/ Mazrui further argues that the "old commitments to create a Jewish State had produced unintended similarities with certain aspects of the official ideology of white-dominated South Africa". 26/ In developing his arguments on why radical Africans had severed their ties with Israel, Mazrui continues on to say that by the early 1970s the Israelis were terrified at the prospect of living in a binational State, a fact largely resulting from the growing Arab population through natural birth and, ironically enough, through Israel's own annexation policies in the West Bank.

This increase in the Arab Palestinian population, Mazrui contends, puts Israel in a morally difficult position, for how can the Israeli authorities deny the Palestinian Arab the right to return except on the basis of "a racial or ethno-cultural exclusivity ... [which has] resulted in forms of repression against Palestinians living outside Israel which sometimes bear comparison in their immorality with what has happened in South Africa". 26/ To the fact that the "logic of apartheid" is similar to "the logic of zionism", Mazrui adds two other factors which he also believes led to the severing of African ties with Israel: (a) that African radicals are trans-Saharan in their pan-Africanism, and their identification with the African continent leads them logically to identify with the Arab cause; and (b) that the Arabs were in the vanguard of anti-imperialism in the third world, and that countries such as Egypt, the Syrian Arab Republic and Algeria have been major participants in movements for third world liberation.

The factors identified by Mazrui may partially help us to understand the radical African decision to break ties with Israel. But since we wish to understand the forces and factors that led to the general African drift towards the Arab cause, let us follow the train of major historical developments in African-Israeli relations. First of all, we know that by 1968, Africans had begun to sympathize with Egypt over its loss of the Sinai. Evidence for this view can be gleaned from the 1967 and 1968 OAU resolutions, which in many respects were similar to those taken by the United Nations General Assembly.

In addition to the general support for Egypt, there was beginning to emerge a new sense of understanding of the Palestinian question. Whereas up to the early 1960s the Arab-Israeli conflict was confined to the struggle between Israel and the independent Arab States, by 1968 even the moderate Arabs were showing some appreciation of the Palestinian problem. 27/ This is certainly true of the Maghrebi States, which had paid no serious attention to the Palestinian question for a national identity. With regard to the African States, the year 1968 served as another milestone in their long journey to understand the Arab cause in Palestine.

President Habib Bourghiba, himself a Maghrebi Arab and the leader of the Tunisian people, set the new pace of political thought in Africa about the Palestinian question. 28/ At a news conference on 28 April 1968, the Tunisian President made a point which was soon to reverberate again and again in the firmaments of African political debates. He told a reporter interviewing him that:

"Up to last summer [1967], it [the Arab-Israeli conflict] was purely a question of relations between Arab countries and Israel. Since last June, however, the situation has changed one of the factors - the most important one, in fact, has been the emergence of Palestinian resistance. The Palestinian people, who used always to depend on the Arab countries, has started to rely on itself, in other words, has started to exercise control over its own destiny ... The problem today, more than at any time in the past, is how to get rid of a classic form of colonialism such as Tunisia, Algeria, Morocco, Kenya and other countries have experienced." 28/

President Bourghiba's statement made it clear that zionism in Palestine was one form of settler colonialism, and the list of countries cited at his news conference punctuated his point. This new theme on the Palestinian question, it should be noted, was quickly picked up by the Arab media and soon became a part of the political vocabulary of the Arab States. Although the idea expressed by President Bourghiba was in circulation, it took a few more years to gain acceptance in sub-Saharan African political circles. Only Mauritania, a country very much a bridge between black Africa and Arab Africa, seized upon the idea and, during a 1968 visit to the Syrian Arab Republic, former President Moktar Ould-Dadah signed a joint communiqué which echoed President Bourghiba's words and continued on to "express support for the Palestinian brothers in their struggle against" what they believed to be "Zionist-imperialist aggression". 29/ They also agreed that "Israel is a racist-colonialist base established by imperialism in the heart of the Arab homeland to ensure military, political and economic domination and to control the resources of the area". They further expressed the conviction that "armed popular struggle is the most effective way of confronting the challenges

of colonialism and imperialism and the ambitions of zionism ...".

The time lag in the African acceptance of the Tunisian statement on the Palestinian question became evident in the statements of the African delegates to the United Nations General Assembly. In spite of the growing disillusionment with Israel's diplomatic posture, African States, and most particularly the moderate majority, were still willing to serve as go-between for the Israelis and the Arabs. President Senghor provided the philosophical justification for the African role as mediator in the conflict when he stated that blacks, Jews and Arabs were all members of a community of suffering. In his own words, Jews, Arabs and blacks constituted "the trilogy of suffering".

This African understanding of the Middle East question persisted from 1967 to 1973. During this period the African leaders at OAU and the General Assembly passed resolution after resolution condemning Israeli intransigence and calling upon it to withdraw to pre-1967 boundaries and accept the mediation efforts of Gunnar Jarring, the United Nations special representative charged with the arduous task of bringing both the Arabs and the Jews to the negotiating table. 30/

In examining the evolution and development of African attitudes and opinions on the Middle East question, we must bear in mind that the shift towards the Arab side was gradual and cautious. A study of the voting behaviour of 33 sub-Saharan African States on issues relating to the Middle East conflict, shows that African countries, in so far as voting patterns on draft resolutions in the General Assembly are concerned, could be divided into five clusters. The first group, consisting of Burundi, the Congo, Guinea, Mali, Nigeria, Senegal, Uganda, the United Republic of Tanzania and Zambia, gave overwhelming support to Arab countries and hence could be labelled the backbone of the pro-Arab lobby within the African group of States at the United Nations.

The second cluster was made up of Botswana, Dahomey (now Benin), Ivory Coast (now Côte d'Ivoire), Lesotho, Liberia, Malawi, Rwanda and Madagascar. This second cluster gave their votes to pro-Israeli matters discussed and voted upon at the United Nations. The third cluster of Cameroon, Chad, Ethiopia, Kenya, Mauritius and Niger only rarely voted in a manner directly favourable to Israel. In the majority of cases, according to Ran Kochan, Susan Aurelia Gitelson and Ephraim Dubek, the overall tendency of this cluster was toward abstention; but when it voted directly, it did so in favour of the Arabs.

The fourth cluster, consisting of Swaziland, Gabon, Gambia and Ghana often refrained from voting in a pro-Arab manner. This cluster preferred abstention or absence while such matters were voted upon at the United Nations. The fifth cluster, which included Sierra Leone, Togo, Upper Volta (now Burkina Faso), Central African Republic and Zaire, voted for pro-Arab resolutions calling for Israeli withdrawal to pre-1967 boundaries in exchange for a political settlement of all the issues relating to the Middle East problem. The members of this cluster also voted in favour of Israel on resolutions that were a one-sided condemnation of Israel. Based on their study, the three researchers concluded that the votes of this last cluster showed that the members voted almost equally for either Israel or Egypt. 31/

A re-examination of the above-mentioned clusters show that the Arab cause and the issue of Palestinian identity were stifled if not voted against by the second and fourth clusters. The first cluster gave Israeli diplomacy an important moral and psychological boost at the United Nations where Communist States were beginning to join the Afro-Asian countries in denouncing Israeli intransigence over its withdrawal from occupied Arab lands.

The countries listed in the second and fourth clusters were at this period in African political history headed by very conservative leaders who were either victims of geography and history or political circumstances and history. Three countries, Botswana, Lesotho and Swaziland, were and still are geopolitical hostages of South Africa, and for this and related reasons, the links between Israel and South Africa would steer them towards a cautious, if not strong, pro-Israel voting record at the United Nations. The voting record of Ivory Coast and Liberia could be explained in terms of their conservative leadership, which deplored some of the violent tactics used by the Arab Palestinians to give global exposure to their plight. It should be noted also that it was the Governments of Ivory Coast, Ghana (under Busia), and Liberia that tried to encourage some form of dialogue with Africa's political leper, South Africa. Given the diplomatic posture of these three Governments during the period studied by the three researchers mentioned above, one could expect such Governments to push some form of Arab-Israeli dialogue. The voting behaviour of countries like the Gambia, Dahomey, Gabon, Malawi, Madagascar and Rwanda could also be explained. The Gambian leadership was very much preoccupied with the viability and survival of this tiny African country and at the time saw the Israelis as a good example of a people determined to safeguard their small territory against many odds. 32/ Being a conservative moderate and not subjected to any Pan-Islamic pressures at home, President Jawara could afford a pro-Israeli policy. This changed, however, when Arab and Muslim pressures mounted. Between 1968 and 1973, he changed his religion and began to build bridges into the Arab world. A similar phenomenon is found in Gabon. During the 1968-1973 period, President Omar Bongo of Gabon embraced Islam and began to open himself to Arab influences. This became more evident in the post 1973 period when Gabon became a full member of the Organization of the Islamic Conference, although the Muslim population in Gabon is not significant enough to justify such membership.

In case of Dahomey, Malawi and Madagascar, we can say that domestic political considerations together with certain external factors motivated the leaders of these countries to vote along pro-Israel lines or abstain from voting altogether. For example, President Hastings Kamuzu Banda of Malawi, who by this time was considered an outcast in African political circles, found his country in an isolated position very much similar to that of Israel in the Middle East. In another sense, one could say that Banda's flirtations with both Israel and South Africa made him, in Arab and African eyes, the best man at the wedding of apartheid and zionism.

The Rabat summit of 1972 was a major landmark in the gradual shift of African opinion in the Middle East conflict. At this conference, the Assembly of Heads of State and Government of OAU recalled its 1971 resolution (AHG/Res.666 (VII)) on "Continued aggression against the United Arab Republic", and expressed dissatisfaction with Israeli attitude towards the peace process under Gunnar Jarring's initiative.

They also called upon the Hebrew State to withdraw to pre-1967 boundaries. Last but not least, the African Heads of States and Governments called upon 11 States Members of the United Nations to intensify their actions, in both international forums and the Security Council and General Assembly, to take all initiatives for the immediate and unconditional withdrawal of Israel from the Arab territories and the condemnation of Israel". This resolution was not altogether new, since OAU resolutions adopted since 1967 had called for Israeli withdrawal. What is significant about the Rabat summit was its decision, apparently supported by those African States listed in clusters 2 and 4 of the study cited above, to push for the condemnation of Israel in international forums.

This African change of heart could be traced back to the abortive peace efforts of the Committee of Ten selected by the OAU summit held at Addis Ababa in 1971. 33/ The Committee was charged with the task of working out a framework for peace between the Arabs and the Israelis. As a result of its deliberations, a four-man sub-committee headed by President Senghor was empowered to visit Cairo and Tel Aviv. 33/ Reporting on the progress of this African peace initiative headed by his President, the Senegalese Foreign Minister, Mr. Amadou Karim Gaye, told the United Nations General Assembly in 1971 that the purpose of the OAU mission had been to establish contacts with the parties in order to help towards the resumption of Ambassador Jarring's mission under Security Council resolution 242 (1967). He added that the main concern of OAU was the implementation of that resolution and he listed the areas of concern the two sides were willing to discuss. This optimism of the African peacemakers was not borne out by the train of developments and, as noted above, the African States voted solidly to condemn Israel. It has been pointed out that the Rabat summit was significant in the sense that the resolution of condemnation "was moved by Ivory Coast, perhaps the most pro-Israel State in the continent", and at a time when "two thirds of the OAU member States then maintained diplomatic and economic relations". 34/

The Rabat summit was the beginning of a new relationship between Africa and the Middle Eastern countries. The death of Nasser in 1970 left a big political void in the region and his newly installed successor, President Sadat, was either underrated or thought to be less of a threat to conservative forces in both Africa and the Arab world. This perception of President Sadat in the third world countries gave rise to two things. In conservative Arab and African circles, a groping for understanding with Egypt started and President Sadat soon began to hobnob freely with conservative Arab leaders. This rapprochement aided in the Arab search for self-pacification and self-understanding. Old wounds were allowed to heal and new strategies worked out on the Arab front. Similarly, on the African side, the death of Nasser and the emergence of Sadat provided an opportunity for the conservatives and moderates to push for peace. Indeed, it is against this background that one could understand, first, the emergence of greater Muslim solidarity and, second, the growing African feeling of disillusionment with Israel. As shown in the next section, the departure of Nasser from the scene enabled the Saudi leadership to make peace with the new Egyptian leadership under Sadat. This arrangement facilitated the propagation and development of the Saudi brainchild, the Organization of the Islamic Conference. It also brought together the Muslim groups and personalities in Africa whose loyalties were previously divided between Egypt's Nasser and Saudi Arabia's King Faisal. This new sense of Egyptian-Saudi unity and of greater Islamic solidarity was best symbolized by the appointment of Egypt's Hassan Touhami as Secretary-General of the Organization of the Islamic Conference. 35/

The success of President Sadat in the Arab east was not replicated in the Maghrebi. There the brief honeymoon with Colonel Qaddafi of the Libyan Arab Jamahiriya was to end in bitterness. The political squabbles between the two Arab-African rulers, triggered partly by the Libyan's assertions of his claims as Nasser's true successor, began to take effect in African-Arab relations. A few weeks before the 1973 OAU summit, the Libyan leader made serious accusations against the Ethiopian leaders and called for the boycotting of the summit. These acts of the Libyan leader ruffled some African feathers but did not prevent any African country from attending. In spite of the political uproar created by Colonel Qaddafi's remarks, the 1973 OAU summit proved to be the most important expression of African support for the Arab cause. The African heads of State reaffirmed their previous position on the Middle East and stated that "respect for inalienable rights of the Palestinian people is an essential element of any just and equitable solution of the Middle East problem", but watered down the guarantee of the sovereignty, territorial integrity and independence of every State in the region embodied in Security Council resolution 242 (1967). 36/

The 1973 resolution was taken partly because another Maghrebi Arab leader, the late President Houari Boumediene, appealed to the African conscience to see that the Palestinian people were in the same boat as those Africans living under settler rule in southern Africa. What Boumediene did was to kill two birds with one stone. Not only did he call upon African leaders to fulfil Nasser's political prophecy, a fact he himself might not have been aware of at the time, but he also took President Bourghiba's words at the celebrated press conference of 1968 to its logical conclusion. That is, according to the Algerian leader, "Africa cannot adopt one attitude towards colonialism in southern Africa and a completely different one towards Zionist colonization in northern Africa". 37/

The final acceptance by the African States of this Arab argument for Palestinian rights and the Arab cause in general became most evident in the statements and deeds of African leaders just before the October 1973 war. Early in 1973, President Mobutu Sese Seko of Zaire stated in a press interview to Israel's continued occupation of African territories in the light of African policy and from loyalty to African origins. 38/ This statement of President Mobutu was significant at the time because he was generally regarded as one of the closest friends of Israel in Africa. This change of heart therefore could be explained in terms of his vigorously promoted philosophy of authenticite, a public policy that placed greater emphasis on the African origins of Zaireans. Indeed, one could argue that Mobutu's decision to give greater and more outspoken support to Egypt and the Arab cause was probably an extension of his domestic policy of authenticite. This African feeling of solidarity with Egypt and the Arabs reached its highest point soon after the eruption of the October war of 1973. In retrospect, we can see that except for

Guinea, none of the independent African States severed ties with Israel between 1967 and 1971. It was only in 1972 that Uganda, Chad and Congo (Brazzaville) broke relations with the Jewish State; and these countries had domestic and international reasons for doing so. In the case of Uganda, President Amin's brief marriage with Israel turned sour and he quickly sent its diplomats packing to minimize the dangers he feared Israeli presence constituted to his regime. A similar fear of Israeli subversion motivated their sudden departure from Burundi, where an abortive coup was somehow linked to Israeli diplomats. The case of Chad has been attributed to the successful diplomacy of King Faisal, whose aggressive policy of moderation and of Islamic solidarity lured President Tombalbaye into the Arab camp. Some commentators have suggested also that Colonel Qaddafi's generous offer of aid to the impoverished Republic of Chad tilted the balance in favour of the Arabs. 39/

Regardless of the factors that motivated the particular African leaders, the fact still remains that between 4 January 1973 and New Year's eve of 1974, 25 African States had broken diplomatic relations with Israel. By 1974, only four African States had not done so. These were Lesotho, Malawi, Swaziland and Mauritius. As pointed out earlier, in our discussion of black African States' voting patterns at the United Nations on issues relating to the Middle East, the small countries of Lesotho and Swaziland were among the geopolitical hostages of South Africa whose decisions could not but reflect South Africa's interest in maintaining an Israeli-Afrikaner axis. Mauritius' case is also based on domestic considerations. At the time of the severing of ties with Israel, the Mauritius Government faced economic and political problems that delayed its action on the matter. It was also believed that the Government was very much inhibited by its close economic ties with both Israel and South Africa.

Since the breaking of diplomatic relations by the African States, the Arabs have continued to score more and more psychological and moral victories in the United Nations and OAU conferences. African and Arab States have developed greater solidarity and new avenues of cooperation have begun to emerge. One such avenue was the Afro-Arab summit, held at Cairo in March 1977. At that meeting, the Arab States offered to provide about \$2 billion to facilitate African development. Prior to this first meeting of Arab and African leaders, the African States, working within the framework of their own OAU, had called upon the Arab States to use their oil weapon against Africa's enemy in the white redoubt in southern Africa. This African request was accepted by the Arab leaders at their Algiers summit of Arab heads of State in November 1973. Another area of Arab success in pushing the Arab cause and the Palestinian question is at the United Nations. According to a recent study on the United Nations and the rights of the Palestinians, "1974 marked the beginning of a new phase of the United Nations' approach to the Palestine problem, since the Organization reassumed responsibility for the present realities prevailing in the Middle East by virtue of its own 1947 decision to partition Palestine and to create a Jewish State therein". 40/ This new phase was a result of two major developments in international affairs: (a) the growing power and wealth of Arab oil-producing countries enabled the Arabs to impose an oil embargo in 1973/74 under King Faisal's leadership; and (b) the changing fortunes of Israel in Africa raised the Arab diplomatic stocks in international conferences.

A clear indication of third world and African support for the Arab and Palestinian cause was the adoption of United Nations General Assembly resolution 3236 (XXIX) of 22 November 1974. In this resolution, the Assembly once again put the Palestinian question in the mainstream of global diplomatic thought, granted observer status to the PLO and invited it, as the legitimate representative of the Palestinian people, to participate in the sessions, conferences and work of all organs of the United Nations. 41/ As a result of the above-mentioned resolution, the Palestine issue has now come to permeate all major committees of the United Nations General Assembly (with the exception of the legal committee), subsidiary committees and commissions, as well as agencies. 42/

Another landmark in the history of African attitudes and opinions on the Middle East question was United Nations General Assembly resolution 3379 (XXX) of 10 November 1975, in which the Assembly equated Zionism with racism. 43/ This was a major breakthrough for Arab diplomacy. It was indeed the culmination of a series of victories that dated back to the 1966 tricontinental conference at Havana, where the most sweeping resolution against Israel ever was adopted by a non-Arab body. The resolution on Zionism could also be traced back to a United Nations debate on anti-Semitism. What led to such a debate was United Nations General Assembly resolution 1906 (XVIII) of 20 November 1963 requesting that priority be given to the preparation of a convention on the elimination of all forms of racial discrimination. 44/ Responding to this General Assembly request, the United Nations Commission on Human Rights, at its 1964 session, adopted a preamble and seven operative articles on the basis of a preliminary draft prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. During that session, the debate over anti-Semitism erupted. It started immediately after the United States delegation, responding to a statement by a representative of a Jewish organization, proposed to include in the Convention a new article condemning anti-Semitism. This proposal was followed by a Soviet amendment to the effect that Nazism, neo-Nazism and all other forms of discrimination be similarly condemned. When the proceedings of the Commission were passed on to the General Assembly via the Economic and Social Council, the matter came to the attention of the Third Committee of the General Assembly. During this session of the Third Committee, the Soviet Union included Zionism in its list of forms of racial discrimination. This was seriously contested by the Israeli delegate; but when the matter was finally resolved, a compromise resolution submitted by Greece and Hungary, and deleted of any specific references, carried the day with a roll-call vote of 80 in favour to 7 against. 45/ In retrospect, one can argue that the Soviet amendment at the Third Committee's session was a prologue to the drama that was played out seven years later at the United Nations. It was a significant amendment because it undermined the Israeli attempt at convincing the United Nations membership of the validity of their claims that anti-Semitism was indeed a form of discrimination. 46/

Since 1967, one can argue, the African countries have gradually drifted towards a pro-Arab policy at OAU and the United Nations. Although these African States seem to have been more cautious in their own councils than at other international forums, there is evidence to show that African States contributed in the post 1973 period, to the passage of many United Nations resolutions favourable to the Arab cause. Two classic examples would suffice here. The first was the passage of General Assembly resolution 2443 (XXIII) of 19 December 1968, by which the Assembly established the Special Committee to

Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories. This Committee, consisting of three member States, was told, among other things, to conduct a research and fact-finding on the issues involved. 47/ The Secretary-General of the United Nations was asked to provide the Special Committee with all necessary facilities and the State of Israel was called upon to cooperate. The first two countries to represent Africa in this Committee were Somalia and Senegal. The former later opted out because of an apparent conflict of interests when it was admitted to the League of Arab States. Since its inception, this Committee has had an African member, and one can only expect its Afro-Asian members to use as another third world instrument of policy in the Middle East.

The second Special Committee, which resulted from the greater expression of solidarity between the Arab and African States, is the Committee on the Exercise of the Inalienable Rights of the Palestinian People. Founded some five years ago, this Committee has played an important role in the promotion of wider understanding of the Palestinian cause. Its first Chairman, a Senegalese, not only pursued his task with great seriousness, he also made sure that the decisions taken by his Committee were understood and supported by the United Nations General Assembly and all other organs that were responsive to the interest of the Afro-Asian States. For example, at the Committee's 23rd meeting, on 9 August 1977, the members decided that the United Nations should issue a series of commemorative stamps relating to the question of Palestinian rights. Not only did the Committee Chairman push for the adoption of the idea of commemorative stamps, he also sought the cooperation of other third world organizations to help get the idea across to the Governments of the world.

In concluding this section of the paper, I would argue that Arab diplomatic successes at the United Nations were not only a result of changing times at the United Nations, they were also attributable to a community of interests between Arabs and Africans that was beginning to develop. Africans have a settler problem in southern African and Arabs feel that Israel is a latter-day South Africa that deserves condemnation and containment. 48/ Arab success could also be attributed to their new affluence, especially in the oil-producing countries, and their greater coordination of foreign policy. The best indication of this new sense of Arab power and unity was the 1973-1984 oil embargo against the Western friends of Israel. Viewed in this light, one can therefore argue that the United Nations victories of the Arabs were reflections of the changing self-image of the Arab on the mirror of the international community. It was also due to this development that United Nations Ambassador Patrick Moynihan, a pro-Israeli United States diplomat, felt uncomfortable in the midst of his third world colleagues; 49/ it was also in response to these changing times at the United Nations that Israel's United Nations Ambassador Haim Herzog dismissed the world body as a "world centre of anti-semitic prejudice". 50/

C. Development of Islamic solidarity and African attitudes and opinions on Palestine

Although the starting point of the present Muslim Risorgimento and the creation of an intra-Islamic organization goes back to 1926, when for the first time an Islamic congress was held at Cairo, and to 1931, when Muslims meeting at Jerusalem committed themselves to the defence of Arab Palestine and to the Holy City of Jerusalem, the fact remains that the institutionalization of the concept of global Islamic solidarity became a reality only in the late 1960s and the early 1970s. 51/ As pointed out earlier, the idea was attractive to the Saudi leadership of King Faisal. He not only lent it full support but also used it to bolster his family's prestige and power in the Islamic world. In the present case, we can argue that King Faisal's single-handed promotion of the idea not only gave concrete form to an idea long weakened by fratricidal bickerings, it also rekindled the fire of Islamic solidarity among many African Muslim leaders whose secularist path to power had taught them to play down religion in both domestic and international affairs.

Indeed, one could take the 1972 African tour of King Faisal of Saudi Arabia as the beginning of the re-Islamization of those African countries whose voting record at the United Nations did not show any strong feeling for the Arab cause. As we have seen above, the States of Gambia, Chad, Niger, Cameroon, Gabon and Upper Volta were not consistently pro-Arab in the period studied by the researchers mentioned in the previous section of this paper. Following King Faisal's visit to Uganda, Chad, Niger and Senegal, a gradual shift became evident. Although President Milton Obote's Uganda had voted in the late 1960s with the first cluster of pro-Arab African groups at the United Nations, by 1972 it had become much closer to the Arabs, following President Amin's brief honeymoon with the Israelis. President Idi Amin indeed made history when he obtained membership for his predominantly Christian country in the Organization of the Islamic Conference. Soon after Faisal's visit to their region, Niger, Cameroon and Upper Volta, with large Muslim populations, began to take active part in Islamic conferences. Senegal, whose political leadership is quite aware of the long-standing power and influence of the Islamic brotherhoods in their country, 52/ had started to participate in Islamic conferences much earlier, and its active and effective role in Islamic politics was until recently best symbolized by the presence of its former Foreign Minister, Mr. Amadou Karim Gaye, in the Islamic Secretariat, where he was Secretary-General for many years.

The small republic of the Gambia was one of the latecomers in this rank of African Muslim States seeking membership in the Organization of the Islamic Conference. It all started in the early 1970s when President Jawara decided to attend the Lahore Conference of Muslim Heads of State and Government. This conference was well attended by representatives from both radical and moderate Muslim African States. Although one could say that the radical African States of Mali and Guinea were already supporting the Arab cause and that Islam was not a factor in their voting at the United Nations, the fact remains that the 1970s witnessed not only the emergence of a greater sense of Islamic solidarity among African and Arab Muslim States, but also an unusual but cautious alignment between global radicalism and Islamic militancy. The numerous resolutions adopted at the annual Islamic Foreign Ministers conferences clearly demonstrated the Muslim concern for Palestine. 53/ The establishment of a fund for Jerusalem by the Organization of the Islamic Conference testified to its commitment.

It is indeed against such background that one can understand the sweeping changes in African voting patterns at OAU, the United Nations, the Organization of the Islamic Conference and other international forums. Viewed in this context, one could say that the Palestinian issue is now receiving greater world attention because the issue is now identified with the interests of diverse political groups in the world. The Muslim groups are willing to give support to the Palestinian cause largely because Jerusalem is considered top priority in their scheme of things. Unwilling to accept the total annexation and Judaization of the Holy City and committed to transferring the headquarters of their organization from Jeddah in Saudi Arabia to Jerusalem in present day Israel, the members of the Organization of the Islamic Conference, be they Arab or non-Arab, have now developed emotional and political interests in a matter previously relegated to the province of secular politics. 54/

Another point to be noted is that the Palestinian cause has consistently been supported by third world radicals and also recently by Communist States. This expression of support is in some cases linked to expression of Islamic solidarity. A classic example in recent African history is the case of the former Portuguese colony, Guinea-Bissau. 55/ Although Guinea-Bissau does not have a Muslim majority in its population, and in spite of its previous commitment to third world radical support of the Palestinian cause, its leaders have found it politically useful to marry Islamic solidarity with African radicalism in their Middle Eastern policy. At the risk of being rash, I would say that Guinea-Bissau's success in wringing out financial aid and concessions from its Arab friends in the Organization of the Islamic Conference is a testimony to the fact that third world radicalism has now developed in the Middle East, a common cause even with the conservative Muslim States. This in a significant way is the partial fulfilment of Nasser's old dream of welding together the variegated psychological and material elements contained in his celebrated three concentric circles. 56/

Conclusion

The present study has traced the history of the evolution and development of African opinions and attitudes towards the Middle Eastern problem in general and the Palestinian problem in particular. What emerges out of this study is that African opinions and attitudes changed gradually through time. The first decade of African independence revealed African ambivalence towards the crisis, and for this and other related reasons Israel was able to capitalize on it and successfully outmanoeuvred its Arab rivals. Related to the above point is the fact that until 1967, African leaders accepted Israel as an underdog. But the lightning speed at which Israel defeated the Arab armies and the fact that it refused to withdraw from occupied Arab lands combined to change Africa's perceptions of Israel. Again, Israel lost out to the Arabs in the diplomatic ballgame because of its growing ties with South Africa and the series of indiscretions committed by Israel in its relations with various African leaders and States.

In concluding this paper, one must state that the 1969 burning of the Al-Aqsa Mosque in Jerusalem exposed one of the political Achilles' heels of Israel to the sharp lances of Islamic solidarity.

This incident not only provoked Muslim militants abroad, it also provided the anti-Israel Arab propagandists the opportunity to rally around their banner those Muslim States whose leaders had for long taken it for granted that religious should be on the back-burner of international politics.

Israel, I would conclude, was inevitably bound to suffer the blows of third world radicalism and of Islamic solidarity, largely because its 1967 victory over the Arabs made it very difficult for Africans to continue their flirtations with it. In the fact of Israeli occupation of Egyptian land in the Sinai, Africa could not but sever its ties with Israel. Africa's commitment to the principles of territorial integrity and of fraternal solidarity with Egypt made it virtually impossible for Israel to continue its diplomatic venture in the continent. Last but not least, one could also conclude that Israel's diplomatic setback in Africa was a result of the growing belief in African circles that the Zionist is no different from the Boer custodian of apartheid.

Notes

1/ Gamal Abdul Nasser, The Philosophy of the Revolution (Buffalo, New York, Economic Books, 1959).

2/ For some discussion on Egypt's African circle, see Peter Mansfield, Nasser's Egypt (Middlesex, England, Penguin Books Ltd., 1965), chap. 6.

3/ John Hatch, A History of Post-War Africa (London, Andre Dentsch, 1965), p. 363.

4/ Faouk A. Sankari, "Afro-Asian policies and the Middle East", Journal of the Middle East (The Middle East Research Centre, Ain Shams University, Egypt), vol. 4, 1977, p. 81.

5/ Ali A. Mazrui, Pax Africana (Chicago, Illinois, University of Chicago Press, 1967); and Colin Legum, "The growth of Africa's foreign policy: From illusion to reality", in Robert K. A. Gardiner, M. J. Anstee and C. L. Patterson, Africa and the World (Addis Ababa, Oxford University Press, 1970), pp. 48-65.

6/ Thomas Hovett, Jr., Africa in the United Nations (London, Faber and Faber, 1963); and Vernon McKary, Africa in World Politics (New York, Harper and Row Publishers, 1963), especially chap. 2.

7/ Elliott Skinner, "Diplomatic relations between the African States and Israel", in Sulayman S. Nyang, ed., Seminar Papers on African Studies (Washington, D.C., African Studies and Research Program, Howard University, 1974), pp. 141 and 142.

8/ See Ehud Avriel's memoirs, entitled "Some minute circumstances", The Jerusalem Quarterly, No. 14 (Winter, 1980), p. 28.

9/ Israeli propagandists in Africa used to remind the Africans that Theodor Herzl, the Zionist founding father, saw the solution of the black man's problem as the next challenge to Jews immediately after the resolution of the Jewish question.

10/ Sankari, op.cit., p. 82.

11/ Arnold Rivkin, Africa and the West (London, Thomas and Hudson, 1962), chap. 5.

12/ For an examination of this view and its implications for the Palestinian question, see Johan Galtung, "Conflict theory and the Palestinian problem", Journal of Palestine Studies, vol. 2, No. 2, p. 36 ff.

13/ See Adeoye Akinsanya, "The Afro-Arab alliance: A dream or reality", Lagos Notes and Record, vol. VI, 1977, pp. 29 and 30.

14/ See Mordecai E. Kreinin, Israel and Africa: A Study in Technical Cooperation (New York, Frederick Praeger, 1965), especially chap. 1 where political and economic reasons for Africa's decisions to have ties with Israel are given. See also S. S. Nyang, "Israel and the African States", a paper presented to the African Heritage Studies Association, New York (April 1974).

15/ Nyang, op.cit.; Mohamed A. El-Khawwas, "Africa and the Middle Eastern crisis", a paper presented to the African Heritage Studies Association, New York (April 1974).

16/ Masada was a small fortress in Palestine where the Jewish nationalists put up a fierce struggle against Roman imperialism. It became a symbol of resistance to the leaders of the Zionist movement in recent times. For some discussion on the Messianic idea in Judaism, see Gershon Scholem, The Messianic idea in Judaism (New York, Schocken Books, 1978).

17/ For some discussion on the various political groupings in Africa, see A. Ajala, Pan-Africanism (London, Andre Deutsch, 1974); and McKay, op.cit., chaps. 6 and 7.

18/ For the resolution taken by the Casablanca Group, see Ajala, op.cit., pp. 354 and 355.

19/ Ali A. Mazrui has been one of the few commentators on African affairs who see Islam as a radicalizing factor in African politics and economic policies. See the chapter entitled "Islam and radicalism in African politics" in his Political Values and the Educated Class in Africa (Berkeley and Los Angeles, University of California Press, 1978), pp. 134-152.

20/ For discussion on Arab diplomacy, see Boutros Ghali-Boutros, "Arab diplomacy: Failures and successes", in George N. Atiyeh, ed., Arab and American Cultures (Washington, D.C., American Enterprise Institute, 1977), pp. 221-236. See also his comments on Khalid Monsour's paper in the same volume.

21/ Akinsanya, op.cit., p. 39.

22/ Quoted by Tareq Ismael, The UAR Policy in Africa; Egypt's Policy under Nasser (Evanston, Illinois, Northwestern University Press, 1971), p. 69.

23/ For a discussion on Saudi/Egyptian rivalry, see A. I. Dawisha, Egypt in the Arab World; Elements of Foreign Policy (New York, John Wiley and Sons, 1976), chap. 4.

24/ Sankari, op.cit., pp. 84 and 85.

25/ Ali A. Mazrui, Africa's International Relations: The Diplomacy of Dependency and Change (Boulder, Colorado, Westview Press; and London, Heinemann, 1977), p. 139.

26/ Ibid., p. 140.

27/ For a discussion of the efforts of President Habib Bourghiba to settle the Middle East question, see Samuel Merlin, The Search for Peace in the Middle East; The Story of President Habib

Bourghiba's Campaign for a Negotiated Peace Between Israel and the Arab States (New York, Thomas Yoseloff, 1968).

28/ Following his abortive efforts at resolving the Middle East problem, President Bourghiba made a shift in favour of the Palestinians. For this new position, see his news conference remarks at Carthage, 26 April 1968.

29/ See the joint communiqué issued on President Ould-Daddah's visit to the Syrian Arab Republic, Al-Thaura (Damascus), 13 November 1968.

30/ For African attitudes and opinions, see OAU resolutions for 1967-1973.

31/ See Ran Kochan, Susan Aurelia Gitelson and Ephraim Dubek, "Black African United Nations voting behaviour on the Middle East conflict", The Jerusalem Journal of International Relations (The Hebrew University of Jerusalem), vol. 1, No. 2 (Winter, 1975), pp. 21-52.

32/ For some of the factors motivating Gambian leaders, see my "Gambia: A State in search of viability", Africana Marburgensia, vol. VIII, 1975.

33/ For some discussion of OAU mediation effort, see Yassin El-Ayouti, The Organization of African Unity After Ten Years; Comparative Perspectives (New York, Praeger Publishers, 1975), chap. 10.

34/ Akinsanya, op.cit., p. 39.

35/ This information on the Islamic solidarity drive in Africa is based to some extent on my experience and observations as a senior African diplomat in the Middle East.

36/ Akinsanya, op.cit., p. 40.

37/ See Ajala, op.cit., p. 312.

38/ Press interview statements by President Mobutu of Zaire outlining his attitude concerning relations with Israel. Originally published in Al-Ahram (Cairo), 9 March 1973, p. 4.

39/ See Victor T. Levine and Timothy W. Luke, The Arab-African Connections: Political and Economic Realities (Boulder, Colorado, Westview Press, 1979), pp. 12-13.

40/ Regina Sharif, "The United Nations and Palestinian rights, 1974-1979", Journal of Palestine Studies, vol. IX, No. 1 (Autumn, 1979).

41/ PLO participation in the United Nations Economic and Social Commission for Western Asia (ESCWA) has provoked many international legal thinkers to write critically about it. See, for example, Theodor Meron's "The composition of the United Nations regional economic commission and PLO", The International and Comparative Law Quarterly, vol. 28, part 1 (January 1979), 4th series, pp. 52-64.

42/ For a Palestinian perspective, see Sharif, op.cit.; for an Israeli perspective, see Valentine J. Belfiglio, "The United Nations and the question of Palestine", International Problems (Israel), vol. XIV, Nos. 3 and 4 (Fall, 1975).

43/ For an Israeli perspective on the vote on the resolution, see Abba Eban, "Israel, anti-Semitism and the United Nations", The Jerusalem Quarterly, Fall, 1976, pp. 110-120.

44/ See N. Lerner, "Debate on anti-Semitism and zionism in the Third Committee of the United Nations General Assembly", International Problems, vol. IV, Nos. 1 and 2 (January-June 1966), pp. 56-64; and Roberta Cohen, "The discussion on anti-Semitism in the United Nations Human Rights Commission", International Problems, vol. V, Nos. 1 and 2 (April 1967).

45/ It should be noted that Ivory Coast abstained meeting on the grounds that nazism, the major cause of the Second World War, was not singled out for special condemnation.

46/ Arab delegates have consistently opposed Israel's efforts to get anti-Semitism condemned as one major form of discrimination. One of the Arab points is that they too are semites and must not be called anti-semitic by Israel.

47/ For a critical analysis of such fact-finding bodies of the United Nations system, see Thomas M. Franck and H. Scott Fairley, "Procedural Due Process in Human Rights Fact-Finding by International Agencies", American Journal of International Law, vol. 74, No. 2 (April 1980), pp. 308-345.

48/ For a polemical and scholarly treatment of zionism as colonialism and racism, see Fayez A. Sayegh, Zionist Colonialism in Palestine (Beirut, Palestine Liberation Organization, September

1965); Maxine Rodinson, "Israel and the Arabs", in Alan R. Taylor and Richard N. Tettle (eds.), Palestine: A Search for Truth (Washington, D.C., Public Affairs Press, 1970), pp. 130-153; see also Zionism and Racism (proceedings of an international symposium held at Tripoli) (New Jersey, North American, 1979).

49/ See Daniel Patrick Moynihan, "The United States in opposition", Commentary, vol. 59, No. 3 (March 1975), pp. 31-44. For a rebuttal from a third world diplomat, see "Moynihan at the United Nations", Third World Quarterly, vol. 2, No. 3 (July 1980), pp. 520 and 521.

50/ A/PV.2423, p. 46-47, quoted in Sharif, op.cit..

51/ For a discussion of Arab-Islamic influence in Africa, see L. Kropacek, "The Influence of Islam and Arab thought on Africa south of the Sahara today", a paper presented at a 1969 conference on inter-relations in Asia and Africa held by the Czechoslovakian Society for Eastern Studies. The proceedings were published by the Czechoslovakian Academy of Science, 1970. See also Tareq Ismael, "Religion and UAR African Policy", Journal of Modern African Studies, vol. 6, No. 1 (1968), pp. 49-57.

52/ See Lucy Behrman, Muslim Brotherhoods and Politics in Senegal (Cambridge, Massachusetts, Harvard University Press, 1970).

53/ For samples of these resolutions, see The Resolutions of the Islamic Foreign Ministers Conferences, Islamic Secretariat, Jeddah, Saudi Arabia.

54/ For the Muslim view of Jerusalem, see A. L. Tibawi, "Jerusalem: its place in Islam and Arab history", in Ibrahim Abu-Lughod (ed.), The Arab-Israeli Conflict of June 1967: An Arab Perspective (Evanston, Illinois, Northwestern University Press, 1970), pp. 10-38.

55/ For Guinea-Bissau's Middle East policy, see Africa Contemporary Record, Annual Surveys and Documents, 1978-1979 (New York, Africana Publishing Company, 1979).

56/ I do not intend to state here that Nasser's foreign policy for Egypt, especially with regard to Israel, has worked out. In fact, ironically, the present alliance between third world radicalism and Islamic militancy has resulted in the isolation of Egypt from what Nasser called the Arab and Islamic circles.

H. PALESTINIAN HUMAN RIGHTS IN THE CONTEXT OF THE HISTORICAL DEVELOPMENT OF THE ZIONIST MOVEMENT

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1. The Zionist movement and the origin of the State of Israel

Introduction

Violations of human rights of a people cannot adequately be understood unless viewed in the political and historical context in which they occur. Such violations do not occur in the abstract but are a function of the political and social objectives of the agents that commit them.

Therefore, in assessing the cumulative effect (or the potential cumulative effect) of a particular regime's violation of rights, attention should be directed not only to the intensity of those violations as they occur in a particular period, or to the frequency with which specific violations occur. Special attention must also be given to the ultimate objective being pursued through the violation of rights.

Thus, as a study of Palestinian human rights is approached, it should be made clear from the outset that the question of Palestinian human rights cannot adequately be discussed simply in terms of numbers of political prisoners or as lists of acts of torture or as numbers of acres of land confiscated. This paper will therefore not merely catalogue the repression against the Palestinians living in the occupied lands. Rather, it will seek to understand them by attempting to place these acts in the political and historical context in which they occur.

This leads, at the outset, to an examination of the nature and intent of the agent responsible for the violation of Palestinian human rights: the Zionist movement and its political embodiment, the State of Israel.

While some Israeli apologists today hesitate to use the term "settler colonialism" to describe their State, the founders and historical pillars of the Zionist movement were not so timid.

Political zionism (as distinguished from "cultural" and "religious" zionism) was a nineteenth century colonial movement of some European Jews whose dream was simply to found an exclusive Jewish colony in Palestine.

Early Zionist thinkers waxed poetic as they described their historic mission to transform the "empty and desolate" Holy Land into a thriving refuge, which would make possible the ingathering of the world's Jewry. Zionism was their dream - the national liberation movement of the Jews.

In the words of Israel Zangwill, and of the founders of this movement, it was a movement begun by "a people without a land" in search of "a land without a people".

Their "vision", however, was only partially accurate, for while it was true that their colonial movement had no land, the land they "found" did in fact have a people. In the early period (at the end of the nineteenth century), when the Zionist movement set its sights on Palestine, it was populated by approximately 550,000 Arabs.

The existence of the Arab in Palestine once recognized presented no small problem to the hopeful colonizers. The Zionist solution to this "problem", as we shall see below, was to plan for the evacuation of the Arabs from Palestine. But the presence of the Arab--this "spoiler" of their dreams of conquering and colonizing Palestine was to haunt both the Zionist founders and their descendants. In a very revealing study, A Psychohistory of Zionism, Jay Gonen summarizes the views of a number of major Zionist thinkers as they address the "Arab problem" and he concludes that in the main their attitude toward the Arab was to fantasize:

"Would it not be wonderful if Palestine, the game reserve for the Jews, were free of an Arab problem the way the game reserve for animals in South Africa is? The underlying feeling tone seems to be for the Arabs to go away, for the Arab question to disappear. One must build a protective shelter around one's ardent beliefs, for if one were to listen to the Arab problem and all the other problems, one might give up the whole project. Thus it is better to ignore certain unpleasant facts. Maybe they will go away, as one continues to realize one's dreams." 1/

To be sure, there were early Zionists like Ahad Ha'am who spoke of the "great mistake" of ignoring or attempting to displace or encroach on the Arab "natives".

But visionaries like Ha'am lost out to the more powerful leaders of political Zionism like Chaim Weizmann and Ze'ev Jabotinsky who, though they were in disagreement in some areas, were in agreement that the troublesome Arab should not be allowed to be an obstacle to the Zionist colonial venture. For them, the solution to the "Arab problem" was merely a question of establishing sufficient force to still the Arab and secure their goal. Jabotinsky, for example, wrote of this in an essay entitled The Iron Law in 1925:

"If you wish to colonize a land in which people are already living, you must provide a garrison for the land, or find a benefactor who will maintain the garrison on your behalf ... Zionism is a colonizing adventure and, therefore, it stands or falls on the question of armed force." 2/

It was this troublesome fact - that Palestine already had a people - that turned the "dream" of this so-called "Jewish national liberation movement" of Zionism into a nightmare of colonial repression for the native Arabs of Palestine. For given this contradiction, fulfilment of the Zionist "dream" in Palestine could only be realized by the displacement and/or expulsion of the native Arab population. And this was, as we shall see, the task the Zionist organization set out to accomplish.

Thus while the language of political Zionism spoke of "the dream of an independent Jewish nation" and "the vision of a redeemed Jewish people", this "dream" and "vision" were not intended for the native Arabs. For them, the reality of Zionism, as they experienced it, was quite another matter.

(b) The colonial designs of Zionism

Political Zionism, as a movement, developed in Europe in the midst of the epoch of the imperialist conquest of Africa and Asia, and its ideology clearly reflects this period. 3/ It sought to convert and recruit the Jewish people of Europe to support a movement that would colonize and settle Palestine.

From the outset, its plan was to establish an European Jewish colony--that would bring civilization to the "savage" world. The European Jewry who were to be the "bearers of this civilization" were, in the words of Max Nordau (one of Zionism's founders), "a people more industrious and more able even than the average European, not to speak at all of the inert Africans". 4/

While the founders of this movement shared with their European contemporaries a racist contempt for the rights of the peoples of Asia and Africa, and while they had the will to establish a colony in either of these two continents, they lacked the means to accomplish this end. Thus, after having agreed in 1898 that they would seek to gain hold of Palestine, in order to gain possession of this land, Zionism had to seek out each of the European imperialist Powers of the day, in search of patronage that would support its plan.

Toward this end, Theodor Herzl, the founder of the Zionist Organization, courted in turn the Ottoman Sultan, Bismarck and the German Kaiser, and even the Russian Czar. 5/

When it became clear, however, that Great Britain would have the dominant hand in international affairs, the Zionist concentrated their efforts on winning British support for their colonial scheme. Herzl wrote to the British colonialist Cecil Rhodes, whom he termed the "colonial expert" (because of his

efforts in colonizing south and east Africa), seeking both his advice and his seal of approval. 6/ He felt that with Rhodes' approval he would be better able to convince Great Britain to support his movement.

The British, however, needed very little convincing. They had designs of their own on Palestine and had as early as the middle of the nineteenth century recognized the potential role that Jewish colonization could play in the fulfilment of their Middle East ambitions. They therefore became willing patrons of the Zionist movement. Speaking on this subject in 1876, Lord Shaftesbury addressed his colleagues in Parliament:

"Syria and Palestine will before long become very important ... The country wants capital and population. The Jews can give it both. And has not England a special interest in promoting such restoration? It would be a blow to England if either of her two rivals should get hold of Syria ... Does not policy there ... exhort England to foster the nationality of the Jews and aid them to return ... to England then naturally, belongs the role of favoring the settlement of Jews in Palestine." 7/

A more straightforward summary of the British imperial design for the Arab East was given in 1914 by the prominent and influential military-political editor of the Manchester Guardian. In an essay on the Palestine question, he concluded:

"That on general strategic grounds it is exceedingly desirable that the present too contracted frontiers of Egypt should be extended ... that a buffer-state in Southern Syria might be expected to work with equal effectiveness as in India, and with greater smoothness ... and that if this buffer-state became a dominion or genuine colony it would be a source of great strength to us in the Eastern Mediterranean, both political and ultimately military; and finally, that the only possible colonizers on a great and worthy scale in Palestine are the Jews." 8/

Thus the fit between the British and Zionist designs was so perfect that Max Nordau commented that if political Zionism hadn't existed, "Britain would've invented it". 9/

The term "colonialism" is used to describe the policy of several of the European imperial powers of this period to conquer, and then administer and exploit foreign lands and people. In a few instances large colonial settlements (of Europeans) were established by these Powers and then utilized as the instruments of conquest and administration. This was the case, for example, in the French colony in Algeria, and Cecil Rhodes' African colonies. This form of "colonialism" is termed "settler colonialism" in order to distinguish it from the more typical form of "colonialism" found for example in the late nineteenth and early twentieth century British rule of Egypt and India, areas where large settlements of civilians were not used to maintain control.

The Zionist colonial scheme in Palestine is a unique form of "settler colonialism". This is so for one significant reason. While the British wanted control of Palestine and the Zionist movement was to be their agent, the Zionists did not wish to merely administer the colony and exploit the native people of Palestine. They sought to replace them.

Thus, given this intention, from the very outset of this movement the question was asked: What to do with the Arabs of Palestine?

The British idea, in keeping with their three-century-old imperial tradition, was to simply move in ignoring the wishes of the native people, and, if necessary, to repress them. Lord Balfour, the author of the infamous declaration that formally pledged British support for the Zionist colonies, wrote that:

"In Palestine we do not propose even to go through the form of consulting its inhabitants as to their wishes--Zionism ... is of far greater importance ... than the desire and prejudices of the 700,000 Arabs who now inhabit that ancient land." 10/

Herbert Sidebotham, waxing more philosophical, expressed the same thought this way:

"It is a false view of democratic principles which holds that because a race or nation happens to occupy a certain territory, that territory is its own for all time. Nor has any race the absolute right to determine its own future at the expense of some other race which may have more to give to the world." 11/

All of this suited the Zionist founders well. When they finally acknowledged the presence of a large Arab community in Palestine, Herzl and Nordau never envisioned their "pure race" coexisting with what they identified as those "near savages". They might be used for a short time as beasts of burden. Herzl writes in his Diary that: "... If we move into a region where there are wild animals to which the Jews are not accustomed, for example, big snakes, I shall use the natives to exterminate them". 12/ Then he adds that with that job done, the natives would be evacuated to nearby countries. 13/

That their colony be exclusively Jewish - in the words of Israel Zangwill, one of Herzl's colleagues, "as Jewish as England is English" - was important to the Zionists not only for their own designs. It also described the role they envisioned that their colony would play in the world order. One of Herzl's pledges to the imperialist Powers in his manifesto The Jewish State was that he would ensure that his colony would be "a rampart of Europe against Asia ... an outpost of civilization against barbarism". 14/

This theme occurs with great frequency in the writings of early Zionist thinkers. For Moses

Hess, a "socialist" and "Zionist idealist", zionism was to be the "civilizing agent" that would extend European commerce and know-how to the East. 15/ For Max Nordau, zionism would extend the "moral borders of Europe to the Euphrates". 16/

Jabotinsky saw it natural that the Jew perform this function since he viewed the Jew as a "European race" and zionism as an expression of "the cultural might of Europe".

"In every East-West conflict, we will always be on the side of the West, for the West has represented a more superior culture than the East over the last 1,000 years ... and today we are the most prominent and loyal bearers of the culture ... our interest lies in expanding the British Empire even further than intended by the British themselves." 17/

For the leaders of the Zionist movement, it was important that this role for their "colony" be projected, so that it would remain defended by the West. Thus, in the midst of the 1936 Arab national strike in Palestine, when the Palestinian resistance against the Zionist-British efforts to displace them was at its peak, Weizmann issued an appeal to the West. In his appeal he portrayed the conflict in Palestine in this way.

"On the one side (the Arabs) the forces of destruction, the forces of the desert ... and on the other side (the Zionist) standing firm are the forces of civilization and building. It is the old war of the desert against civilization ..." 18/

Thus, from its beginnings (and up to its present), the political Zionist movement had within it clear racist and colonialist currents that are central to its goal to establish an exclusively Jewish State in Palestine.

It should be noted that this racism was not just an abstract slogan of the Zionist founders. Rather, it was the very guiding principle that gave character and form to the Zionist Organization and policy in Palestine. This is clearly demonstrated by the major institutional forms assumed by the Zionist colonizers during the early part of this century. The Zionist policies toward land and labour in Palestine was established by the Jewish Agency's Jewish National Fund (JNF). These policies were blatantly exclusivist. For example, the constitution of JNF declares that:

"Land (in Palestine) is to be acquired as Jewish property ... and title taken to the lands is to be taken in the name of the Jewish National Fund, to the end that the same shall be held as the inalienable property of the Jewish people ...

"The Agency shall promote agricultural colonization based on Jewish labor, and in all works or undertakings carried out or furthered by the agency, it shall be deemed a matter of principle that Jewish labor shall be employed." 19/

In the leases given to Jews who sought to establish themselves on this JNF-acquired land, the lessee is asked to assure JNF that only Jewish labor will be employed on this land. Article 23 of the lease reads:

"The lessee undertakes to execute all works connected with the cultivation of the holding only with Jewish labor. Failure to comply with this duty by the employment of non-Jewish labor shall render the lessee liable to the payment of a compensation of ten Palestinian pounds for each defaults." 20/

The lease further stipulates that if the lessee continues to violate the agreement and hires Arab labour after having been warned, the land may be taken back by JNF "without any compensation whatsoever".

This Zionist policy toward Arab labour was further developed along exclusivist lines by the so-called "socialist" Palestine Worker's Party (MAPAI) and the labour union it controlled, "The Hebrew Workers' Union" (the Histadrut). Both of these organizations were exclusively Jewish and both fought bitterly during the British Mandate to displace Arab workers in Palestine. David Hacoben, a leader of MAPAI, in a speech before his party in November of 1969, discussed the role played by these Zionist "socialists" during the British Mandate and noted the lengths to which he and his comrades went in their fight against the Arabs. During the course of his speech, he acknowledged that they:

"refused Arab membership in the Histadrut; stood guard at orchards to prevent Arab workers from getting jobs there; poured kerosene on Arab produce; and even attacked Jewish women who bought goods in the Arab market."* 21/

The purpose of these efforts as well as those of JNF (noted above) was simply to break the back of the native Arab economy and to foster the development of an independent Jewish economy at the expense of that of the Palestinian Arabs.** And, of course, the ultimate goal of these efforts was nothing more than to facilitate the fulfilment of the Zionist "dream" of an exclusive Jewish State.***

* Other Zionist institutions during this period also functioned in this same way. A. S. Hoffman, a chairman of the Israel Bank Leumi referred to these Mandate period tactics in his annual report message for 1953. In it, he said,

"In order that the Jewish farmers might be able to sell their products it was necessary to initiate a campaign of persuasion -and sometimes even use force - to make the urban population buy the dearer Jewish agricultural products. (Quoted in The Economy of Israel, Alexander Rubin, London, 1960, p. 99.)

** An example of the impact that these anti-Arab policies had can be seen in the evidence given by George Mansour, a Palestinian labour leader, to the convened Peel Commission in 1937. Describing the labour situation of the Arabs, Mansour stated that,

"In 1935 1,000 workers in Jaffa were unemployed ... at the end of 1935 the number of unemployed in Jaffa reached 4,000, in Haifa 4,500 in Qalqilia and six neighboring villages 1,300, and in Bethlehem and Nazareth areas about 7,470 of the labor force was unemployed."

The two Zionist institutions noted above that were responsible for this work, the Histadrut and the Jewish Agency, are still today part of the backbone of the State of Israel.

*** It should be emphasized here that there were some organizations of religious Zionist and anti-Zionist Jews in Palestine which repeatedly opposed the racism and exclusivist designs of their fellow colonists. One of these was IHUD (the Movement for Rapprochement between Arabs and Jews), founded by Professor Judah Magnus. IHUD counted amongst its important members Martin Buber. Though it was small in number it fought vigorously to defend Arab rights and to oppose the establishment of an exclusivist Jewish State. The Palestine Communist Party, which like IHUD had both Arab and Jewish members, was the most significant anti-Zionist organization to which Jews in Palestine belonged.

The "vision of zionism" was to establish an exclusive Jewish State in Palestine. In this "vision" the Arab people native to Palestine were at best a nuisance. They were called "Red Indians" and were, like their namesakes, to be removed from the country of their birth and it was through the two Zionist institutional forms discussed above that this Zionist dream was to be realized.

(c) The destruction of the Palestinian revolt

The Palestinians, however, did not accept the fate of losing their homeland. Like the native American Indians they rose up, time and again, in rebellion against this Zionist scheme. During the period of the British Mandate (1919-1948) these Palestinian efforts both to terminate the Mandate and frustrate the Zionist plans for their country culminated in their tremendous revolt of 1936-1939. This revolt saw them liberate and administer almost 80 per cent of their Palestine. It was only ended in 1939 by the massive injection into the country of one-third of the British standing army, combined with the indiscriminate use of the Royal Air Force. In their effort to subdue the Arab revolt the British also organized and armed the Zionist settlers into what were called "night squads".* Over 50,000 Zionists were given military training during this period, and in the face of this overwhelming force the Palestinian revolt was before long crushed. 22/ The Arab casualty toll was devastating - 19,000 dead or wounded. 23/ The British used other weapons against the Palestinians during this period. They placed the entire population under a brutal Emergency Military Administration. Under this Administration the Palestinians were deprived of all of their civil rights. As a result of these measures they lost their national leadership. In 1938 alone over 5,600 Arabs were imprisoned and detained without trial, while another 200 were sent into exile (also in this year, 54 Arabs were hung). In addition, these Emergency Laws provided for collective punishment of civilians (illegal according to the Geneva Conventions on the conduct of war) and property confiscation. As a result of these provisions hundreds of Arab homes, orchards and vineyards were destroyed and the livestock of whole villages were confiscated and slaughtered.

Describing the tragedy of these events for the Palestinian people, Abu Salma, one of the most famous of the nationalist poets of this period, wrote,

"Behold the Fatherland lies slaughtered.
The people scattered
The land laid waste
Its graveyards filled with bloody memories." 24/

(d) Plan "D" and the expulsion of the Palestinians from their homeland

At the end of their great national revolt, the Palestinian people were disarmed and their ability to further resist the Zionist and British schemes checked (at least for the time being). The Zionists were, on the other hand, now a strong armed force, protected by the British and with a firm resolve to move toward a realization of their "dream". As expressed by Joseph Weitz, head of the Colonization Department of the Jewish Agency,

* It should be pointed out that it was not only this "force" that finally brought an end to the Palestinian

revolt. Two other factors were of great importance to the British in their efforts to end this revolt. To put them quite bluntly, they were: British duplicity and the stupidity of the pro-British Arab Kings of Jordan, Iraq and Saudi Arabia.

In an effort to diffuse the Arab revolt, in 1939 the British issued a "pledge" to the Palestinians (it was called the MacDonald White Paper). In this "pledge" the British promised to support a number of the Arabs' demands, in particular, to limit Zionist immigration into Palestine, and to guarantee that it was not their intention that Palestine would ever become a Jewish State. These pledges confused and divided the Palestinian national movement. In particular, some elements of the bourgeois and traditional leadership of the Palestine population wanted to believe the British assurances and hence worked and to help end the revolt. The British client kings (who depended on British support) worked to gain support for an end to the revolt and a disarming of the fighters.

These two factors combined to help break the unified Palestinian national will to fight for their cause until victory. With the will of a section of the movement thus weakened, the ability of the superior British force was greatly enhanced. And, in the end, it was decisive.

"It must be clear that there is no room for both peoples together in this country ... We shall not achieve our goal of being an independent people with the Arabs in this small country. The only solution is a Palestine ... without Arabs ... And there is no other way than to transfer the Arabs from here to the neighboring countries, to transfer all of them: Not one village, not one tribe should be left ... Only after this transfer will the country be able to absorb millions of our brethren. There is no other way out." 25/

This was, as we know, nothing more than a restatement of the Zionist "dream" to establish a pure Jewish State. It expresses perfectly the logic of the vision of Zionism. It was the land of Palestine they wanted--not the people. Thus, as they envisioned it, for the land to become theirs, the people had to be removed. This has been seen by many leading Zionists to be a cold and simple equation.

A prominent Israeli journalist, Yeshayahu Ben-Porath, summarized this "central truth" of the history of the Zionist movement:

"There is no Zionism, and there is no settlement, and there is no Jewish State without the evacuation of Arabs and without the expropriation and fencing of lands." 26/

The 1948 war almost brought this Zionist "dream" into reality, producing, at the same time, a nightmare for the Palestinian people. The vehicle which the Zionist forces used for the realization of their goal was called "Plan Dalet" (or "Plan D").

As the military and political situation in Palestine changed during the post Second World War years, from 1945 to 1947, the Zionist leadership changed their tactical military plans for the conquest of the land and the establishment of their Jewish State. During these three years their plans went through three phases, Plans "A" through "C".

When in October of 1947 the United Nations voted to partition Palestine into two States, one Arab and one Jewish, and when in December of 1947 Great Britain announced its intention to evacuate its forces from Palestine by 15 May 1948, the Zionists then developed their final military plan for the conquest of Palestine, Plan "D" (Dalet). 27/

The Zionists objected to the United Nations partition plan since, even though it included the absolute bulk of the Jewish inhabitants (80 per cent of them) and of Jewish-owned land in Palestine, the Jewish inhabitants were still only 45 per cent of the total population and only 9.4 per cent of the land was Jewish-owned. Arabs then were 55 per cent of the population of this proposed Jewish State and they owned 34.24 per cent of this land. This, according to the Zionists, was unsatisfactory. And, as David Ben-Gurion says in Rebirth and Destiny of Israel, they were determined to make their region "more Jewish and larger". 28/

Plan "D" was put into operation from 1 April to 15 May 1948 before the British departure from Palestine (and, it should be noted, before the entrance of any Arab army into Palestine). Specifically, it sought, by a combination of military and psychological means:

(i) To evacuate the major Arab cities and towns: Haifa, Akka, Jaffa, Lydda, thereby destroying the cultural and political centers of the Arab population;

(ii) To establish a "safe corridor" from Tel Aviv to Jerusalem;

(iii) To capture and "purify Arabs" in the Eastern and Western Galilee. 29/

The overall goal of Plan "D", as noted by Walid Khalidi in his important research study on "Plan Dalet", was "the destruction of the Palestinian Arab community and the expulsion and pauperization of the bulk of the Palestinian Arabs ... calculated to achieve a military fait accompli upon which the State of Israel was to be based", 30/ or, in the words of Yigal Allon, leader of the Palmach, to "clean the area" of Arabs. 31/

"Plan Dalet" then was specifically designed to increase the size of the Jewish State while at the same time removing its Arab population. It sought to accomplish this mainly by means of terror campaigns against the Arab civilian population. One such campaign was the massacre at Deir Yassin. The horrible events that took place in this Arab town were recorded by the Red Cross Chief Delegate to Palestine, Jacques de Reynier, who reported finding 254 old men, women and children murdered, with bodies stuffed into a well in the center of town. 32/ Menachem Begin, leader of the Irgun, the Zionist terrorist squad responsible for this massacre (and today leader of the "Likud", the second largest political grouping in the Israeli Knesset), described the purpose of this barbaric act. After Deir Yassin, he wrote that,

"Arabs throughout the country, induced to believe wild tales of Irgun butchery, were seized with limitless panic and started to flee for their lives. This mass flight soon developed into a maddened uncontrolled stampede. Of the almost 800,000 who lived in the present territory of the State of Israel, only 165,000 are still there. The political and economic significance of this development can hardly be overestimated." 33/

Yigal Allon (who is today Israel's Foreign Minister), then leader of the Zionist shock troop force, the Palmach, has similarly described the use he made of this terror tactic to evacuate the Arabs from parts of Palestine. "There were left before us," he stated, "only 5 days before the threatening date May 15." 34/ That was the date of the British departure from Palestine, and therefore, the date by which the Zionists hoped to complete their Plan "D". "We saw," he continued, "a need to clean the upper Galilee and to create a territorial continuity in the entire area of the upper Galilee ... We, therefore, tried a tactic ... which worked out miraculously well. I gathered all the Jewish mukhtars, who have contact with the Arabs in different villages, and asked them to whisper in the ears of the Arabs that a great Jewish reinforcement has arrived in Galilee and that it is going to burn all the villages of the Huleh. They should suggest to these Arabs, as their friends, to escape while there is still time. And the rumor spread in all the areas of the Huleh that it is time to flee. The flight numbered myriads. The tactic reached its goal completely."

The regular Jewish army, the Haganah, also used this tactic. Bertha Vester, a Christian missionary stationed in Palestine at that time, reported hearing Haganah sound trucks driving through Arab villages warning: "Unless you leave your homes, the fate of Deir Yassin will be your fate". 35/ And as they approached Jerusalem, the Haganah trucks announced in Arabic: "The road to Jericho is open! Fly from Jerusalem before you are all killed". 36/

In the Galilee, the Haganah used aircraft to drop leaflets with messages designed to frighten the Arab villagers into fleeing. Some warned of smallpox infection, others warned of massacres. An example of one of these warning leaflets read: "All people who do not want this war must leave together with their women and children in order to be safe. This is going to be a cruel war with no mercy or compassion". 37/ These and other atrocities and threats of atrocities by the Zionist forces combined to produce hundreds of thousands of Arab refugees. And in the end, by means such as these, "Plan Dalet" accomplished its goal, or better, almost accomplished its goal, through what Weizman termed the "miraculous clearing of the land; the miraculous simplification of Israel's task". 38/ While it was true that the hoped for "two-fold miracle" of Ben-Gurion--a State larger and more Jewish--had become a reality, it had not become a pure Jewish State. As Menachem Begin noted, 165,000 Arabs still remained. It is to their story that we shall now turn, for while these Arabs were not expelled from their homeland, they have experienced the logic of the Zionist "dream" as it has been extended to yet another ugly conclusion: systematic repression of those Arabs who remained with the land.

2. The problem of human rights under Zionist rule

(a) The Arabs in Israel: 1948-1967

Those Palestinian Arabs who remained in their homeland after 1948 were given what can, at best, be described as "third-class citizenship" in the Israeli State.* What made their lives most difficult was the harsh and arbitrary military rule to which they were subjected. This military rule was but one aspect of the repressive "Emergency Defence Laws" that were put into effect in 1949 by the new Jewish State.

* The term "third-class citizenship is used to describe the situation of the Arabs in Israel so as to distinguish their plight from that of Israel's "second-class" citizens, the Oriental Jews (who are the majority Jewish group in the State). After two decades of discrimination, the Oriental Jews of Israel have developed their own powerful independent civil rights organization, the Black Panthers. The Arabs, however, are prohibited by law from forming any independent organizations to work for their rights. In the late 1950s they attempted to form such a group: al Ard ("the Land"). It, however, was soon abolished by the Israeli military administration and the courts. Activities on behalf of Arab rights are carried on today mainly by RAKAH (the "new" Communist party) and the Israeli League for Human and Civil Rights (ILHCR).

These "laws", as was noted in section I above, were originally introduced into Palestine by the British in the late 1930s. When they were later used against the Zionists after the Second World War, Jewish lawyers and humanitarians in Palestine spoke out in a unified voice against them. For example, the noted lawyer, Ya'acov Shimson Shapiro, who became Attorney General, and then Minister of Justice of Israel

after 1949, criticized these laws of the Mandatory Government in 1946, calling them "unparalleled in any civilized country". "There were," he said, "no such laws in Nazi Germany ... There is only one form of government which resembles the system in force here now - the case of an occupied country ... It is our duty to tell the whole world that the Defence Laws passed by the British Mandatory Government of Palestine destroy the very foundation of justice in this land ...". 39/ He concluded his remarks with the judgement that "no government has the right to pass such laws".

Others were equally vociferous in their condemnations of these "laws". It seems ironic, then, that immediately upon assuming State power in 1948, the Zionists would adopt these very same "laws", with little protest from these same Jewish jurists and intellectuals. This change in attitude can be explained by the fact that these "laws" were now to be applied to the Arab population of the new State.

Collectively the "Emergency Defence Laws" functioned to establish a military administration over the Arab sectors of the State, giving it the power to impose collective punishment (articles 119 and 121); institute internment without recourse to judicial process (articles 110 and 111); use forced exile without judicial recourse (articles 109 and 112); confiscate Arab lands for "security reasons" (article 125); and impose prolonged total or partial curfew over entire regions (articles 124, 126 and 132). 40/

As a result, the Arab people who remained in Israel have, since 1948, been denied most of their civil rights, including freedom of the press and the right to form any independent political party or organization; had over 6,500,000 dunams of their land (approx. 4 dunams = 1 acre), together with all of the stores, homes, orchards,* and other properties of their refugee kinfolk, confiscated by the State; and, having lost their lands and any control of their own lives, they have been reduced to a cheap pool of labour exploited by Jewish-owned industry. 41/

* These orchards, once confiscated, yielded the Jewish State tremendous revenues. Don Peretz writes in Israel and the Palestinian Arabs (Washington, Middle East Institute, 1958) that:

"In 1951-1952 Arab (citrus) groves produced one and a quarter boxes of fruit, of which 400,000 were exported. Arab fruit sent abroad provided nearly 10 percent of the country's foreign currency earnings from exports in 1951. In 1949, the olive produce from abandoned Arab groves was Israel's third largest export, ranking after citrus and diamonds."

Since the formulation of the Jewish State, 478 Palestinian villages within its borders have been totally demolished. This was coldly acknowledged in 1969 by Moshe Dayan:

"We came to this country which was already populated by Arabs ... Jewish villages were built in the place of Arab villages. You do not even know the names of these Arab villages, and I do not blame you, because these geography books no longer exist; not only do the books not exist, the Arab villages are not there either ... There is not one place in this country that did not have a former Arab population." 42/

In addition to the destruction of their property and loss of their lands, the Arab Palestinians who remained in Israel have, themselves, been subjected to a severe, politically repressive military occupation that has involved forced exile or the arrest and detaining of thousands of them (without being tried for or charged with any crime) and the regular use of prolonged 24-hour curfews over the entire Arab regions.* The curfew, for example, in the "Little Triangle" region (which has the second largest concentration of Arabs living in Israel) was in effect for over 14 years.

* One horrifying example of the effects of this policy was the (by no means isolated) "incident" at the Arab village of Kafr Qasim. In 1956 the military authorities placed the village under curfew. The curfew was imposed at midday (on the day of the Israeli invasion into the Sinai) without warning. The majority of the villagers were out of the village at work. When they returned to their homes in the afternoon, they were without warning fired upon ("like target practice") by the Israeli soldiers. In the end, 47 unarmed and unsuspecting men, women and children were massacred that day Kafr Qasim. After attempting to avoid taking action on the "incident", Israeli officials finally brought charges against all who were involved in this act of cold-blooded murder. All who were directly involved were convicted, but after appeals and pleas for leniency were heard, the longest sentence served for this crime was less than one year.

This military rule continued to be imposed over all of the Arab regions of the State for over 17 years. In 1965 politicians were able to have the Knesset (Israeli Parliament) pass a bill which formally rescinded the "Emergency Defence Laws". Most of the provisions in these laws, however, were retained in other forms. In any case, while the "laws" were formally rescinded, the military occupation and the denial of civil rights continued unabated.

While the measures of these Emergency Defence Laws have produced extraordinary hardships for the Palestinian Arabs living under Israeli occupation, the details of the oppression suffered by them goes well beyond that caused by these or any other formal acts of the Jewish State. These Palestinians have, after all, been reduced to aliens in their own homeland. They have lost hundreds of their kin and their identity as a people, and they have seen the conditions of their existence forcibly altered against their will.

Most importantly, they are victims of discrimination in almost every area of human activity.

In the field of education, for example, the Palestinian Arabs in Israel have had a state-controlled system imposed upon them. Not only are the goals of this system hostile to their interests as a people, but the education that it provides is woefully insufficient. Since the creation of a Jewish State, in this area of public education as well as in the other areas of State involvement, the attention and aid given to meeting Arab needs has left much to be desired. There has been a chronic shortage of schools, books, materials (especially in the sciences) and an inadequately-trained faculty. 43/

The content of this State-controlled educational system is designed to meet Jewish and not Arab needs. A number of Israeli researchers who have studied this question concluded that the materials prepared for Arab students could only serve the purpose of diminishing their pride and sense of being Arab since they presented a distorted view of Arab history and culture and presented the students with an insufficient background in Arabic language and literature.*

* These researchers, for example, noted that while Arab students spend 256 hours a year studying the Hebrew Bible (Jewish students spend 640 hours), they are only given 30 hours of study with the Qur'an (Jewish students do not study this at all). The New Testament receives no attention in this educational system.

As Jirjis notes, "The history of the Arab people is represented as a series of revolutions, killings, feuds, plunderings and robberies ... Jewish history is, on the contrary, glorified and enriched" (The Arabs in Israel, p. 153).

An excellent study of this aspect of discrimination against Arabs in Israel can be found in "Palestine into Israel", Uri Davis (an Israeli) in Journal of Palestine Studies, vol. II, No. 1 (1973).

While the percentage of Arab students who graduate from this system is well below the percentage of Jewish graduates (the ratio is 10 to 1), even those who do finish fare poorly in this State which considers them aliens. 44/ A survey done by a Zionist magazine in the mid-1960s found that of the 465 Arab secondary school graduates who had remained in the country, over 20 per cent were unemployed, while another 7 per cent were only able to find employment as labourers. 45/

As was noted above, the Arabs in Israel have for the most part lost their independent economic base (which was their ownership of the land) and have instead been largely transformed into a cheap pool of labourers for Jewish-owned industries. 46/

What agriculture remains in Arab hands is poor and is unable to compete with Jewish agriculture since it is denied the large amounts of State aid given to these Jewish enterprises. 47/ The rest of the Arabs in the State have been forced (in order to economically survive) to leave their homes and villages and find work in Jewish towns. Since the provisions of the military administration do not permit the Arabs to leave their towns and live in the Jewish quarters, they must travel daily to and from work, at great hardship and personal expense.

There are other indices that can be pointed that make clear the details of discrimination against Arabs in employment. They are, for example, recipients of the lowest paid jobs in the State and are the first to be fired in times of economic decline (the Arab unemployment rate is double the Jewish rate*). 48/ Finally, it should be noted that while the only trade union in the State - the Histadrut - reluctantly opened its doors to Arab workers in 1960, they still remain underorganized and underprotected. By 1976, for example, less than 60 per cent of the Arab workers of the State had been unionized.

** An excellent example of this form of economic discrimination against Arabs occurred recently at the Dimona Fibers plant in Israel.

Due to a suspension of production of some of Dimona's lines of fabrics, the management announced that it was being forced to dismiss some 345 employees (many of whom were Jewish). The Jewish employees protested and demanded that management instead fire all its Arab employees. In the end, management yielded and all 145 Arab employees were ordered removed from the premises. This story was reported in both Ha'aretz (20 August 1974), p. 4, and The Jerusalem Post (20 August 1974, p. 10).

While these forms of institutional discrimination have created severe difficulties for the Arabs living under Israeli rule, the most disturbing area is the field of social relations. Six decades of intense Zionist ideology and practice, - which is at its core anti-Arab and racist, - have left their mark on the psyche of the Jewish people of the State. A clear example of this can be found in a study of the attitudes of Israeli children done by an American psychologist, Dr. George Tamarin. 49/ His study sought to investigate what the effect might be on the minds of young Jewish children who were being educated in Israeli schools where the Bible is used as a history text. His sample included 1,066 schoolchildren and

solicited information from them with regard to the Book of Joshua (which is used in Israeli schools from grades 4 to 8). The children were questioned on chapter V, verses 20-21, which describes the massacre of the people of Jericho by Joshua's army. It reads: "And they utterly destroyed all that was in the city, both man and woman, young and old, and ox and sheep, and ass with the edge of the sword". The children were asked two questions: "Had Joshua acted rightly?" and "Suppose that the Israeli army conquers an Arab village ... should they do the same to the village as Joshua did to Jericho?" Differing slightly from school to school, between 66 and 95 per cent of the children interviewed agreed that Joshua had acted correctly. What was most disturbing, however, was that at least 30 per cent were in favour of the Israeli army using this as a model for dealing with the Arab villages. Clearly such an attitude in children does not come merely from their schooling but also as a reflection of attitudes derived from their entire adult world and the ideology of the State itself, the vision of zionism. That the Jews should live alone in Israel, that the Arab is "alien" and "less than human", are ideas that are transmitted in various forms on a daily basis to the Israeli public.

In an article "The Adventures of Oz Yaus, Tzuptzik and Danidin", appearing in Ha'aretz, author Tamar Meroz examines the serious problem of anti-Arab stereotypes in Israeli children's literature. 50/ The single most common theme running through the books she examined is that "Arabs slaughter Jews for pleasure and the pure Jewish child then defeats the cowardly pig".

But this should not be surprising since it represents a simple reflection of the world-view of mainstream ideologists of political zionism.

The stereotypical view of Jews and Arabs presented above is not all that different from the view of, for example, Chaim Weizman, as he wrote of the "Arab problem" to Lord Balfour describing the Arab as "superficially clever and quick-witted", but at the same time "treacherous". 51/

Readers of Israel's daily press are regularly treated to such fairy tale "wicked-Arab", "heroic Jew" utterances from their leadership. For example, in a Ma'ariv interview, Aharon Davidi (retired Commanding Officer of Israel's paratroopers) expressed the following point of view about Arabs: "They have contributed nothing to the world. They have created nothing. The Arabs, as a body, are the least creative people in the world. They just sell oil ... they are strangling the world ... they are the world's biggest saboteurs ... In a war against the Arabs Israel must act as the vanguard of the enlightened world." 52/

That this "Arab" should be resident within the Jewish State is, for many, intolerable. In an article "Return to the ideology", appearing in the quarterly of the World Zionist Organization, Department of Organization and Propaganda, a famous Hebrew novelist and former Dean of Students at Hebrew University, wrote:

"There is nothing more terrible to a Jew than to tell him that he is an integral part of the world ... the Jew demands for himself a status of more essential difference. Our being chosen and separated from the nations is a matter fixed in our proteins and our most primary genes ...

"There cannot be a worse thing than the return of the Gentile into us and he is among us very deeply, woven completely in our economical infrastructure ...

"There is no chance, ever for a binational state ... for the sake of the Jewish State and even more so for the sake of a Zionist Jewish State, we must return to the original Zionist concept of a state for Jews only and to free ourselves from the almost pathological need to have any mixing with the Gentiles." 53/

And in 1974, the Minister of Agriculture, A. Uzan, warned of the "Arab presence", noting that "The domination of Jewish agriculture by Arab workers is a cancer in our body". 54/

These views are frequently given added legitimacy by reference to Scripture. 55/ Regular articles and commentaries appear making reference, for example, to Numbers 33:51-56:

"When you pass over the Jordan into the land of Canaan, then you shall drive out all the inhabitants of the land from before you ... and you shall take possession of the land and settle in it ... But if you do not drive out the inhabitants of the land from before you, then those of them whom you let remain shall be as pricks in your eyes and thorns in your sides and they shall trouble you in the land where you dwell. And I will do to you as I thought to do to them."

The danger of the Arab presence is often referred to as "the demographic time bomb". 56/ While this "problem" has taken on a new dimension with the occupation of the West Bank, Gaza and East Jerusalem (and will be discussed below), the fear of an increase in the Arab population in the Galilee in Israel is also frequently discussed.

Ariel Sharon, Minister of Agriculture in 1977, referred to the Arab threat of increase in the Galilee region, noting that,

"I'm dealing with strangers, Arabs, taking over state lands ... while talking of the Judaization of the Galilee, the area has returned to be a Gentile area ... I have (therefore) begun to take drastic measures to prevent strangers from taking over national lands." 57/

And in 1979, when asked about the Arabs in the Galilee, Chief of Staff General Rafael Eytan

accused them of foiling Israeli plans for Judaization. "According to my opinion," the General began, "the Arabs (in the Galilee) are today engaged in a process of conquest of the land, conquest of the work, illegal immigration and terror." 58/

The effort to "Judaize the Galilee", to which the General was referring, was the policy suggested three years earlier by the Commission for the Northern Galilee, Israel Koenig.

In 1976, Israelis were informed by the editors of al Hamishmar (a moderate Zionist daily newspaper of the MAPAM Party, a member of the Coalition Labor Government of Yitzak Rabin) of the existence of a "secret memorandum" on the "Arab problem", written by Israel Koenig. The "report" was Koenig's effort to deal with the Arab "threat" in the Galilee. 59/

After giving a racist description of the "Arab mind" and the danger to Israel of the growing numbers of Arabs in the Galilee, Koenig offers suggestions as to how to limit this "Arab demographic bomb".

Included in his recommendations were several suggestions which have, in recent years, been implemented as government policy, including (a) increased confiscation of Arab lands in order to facilitate Judaization of the Galilee; (b) greater control over Arab education and institutions; (c) cutting links between the Galilee and the West Bank; and (d) discriminatory taxes to encourage large Jewish families, while discouraging large Arab families.

A Louis Harris poll of 1 April 1972 showed that between 60 to 85 per cent of those adult Israelis interviewed felt Arabs to be "intellectually inferior", "more inclined to irrationality", "lazier", etc. than Jews. 60/ And a study done by an Israeli researcher, Yochanan Peres, found similar evidence of ingrained anti-Arab racism. 61/ In response to that statement, "Arabs will not reach the level of progress of Jews", Peres found that an average of 84 per cent of those interviewed agree. A higher percentage, 87 per cent, agreed that "Arabs understand only force". Similar anti-Arab bias was noted in response to questions about "intermarriage with Arabs" (82 per cent opposed); "living next door to an Arab" (66 per cent opposed); and "there should be fewer Arabs in Israel" (92 per cent agreed).

This racism (both institutional and subjective) noted above is the logical outcome of the ideology of Zionism as it has become manifest in the daily activity the State founded upon its principles.

From the very appearance of this movement in Palestine it has worked to build an exclusive Jewish State. Toward that end it has harassed and excluded, then expelled and repressed the native Arabs of that land. That the State built on this "vision" and this history would come to embody this racism was inevitable. That the people of this State would become victimized by this exclusivist ideology and would themselves become racist was, unfortunately and even tragically, also inevitable.

Such is the story of the Palestinian Arabs who have, since 1948, lived under Israeli occupation.

(b) The Israeli occupation of the West Bank and Gaza: 1967-1980

By early 1967 the number of Arabs under Zionist rule had doubled to almost 320,000. Then came the June war of that year and the Israeli occupations of the rest of historical Palestine--the West Bank of the Jordan River and the Gaza Strip. While these occupations caused over 425,000 Palestinians to flee, once again, for their lives, they also brought another 750,000 Palestinians under Zionist military rule. In this regard the 1967 occupations were significantly different and far more problematical to the Zionist movement than those of 1948: they had produced no double miracle. Tremendous amounts of new land were seized but far too many Arabs remained in these lands for them to be easily annexed to the Jewish State. Compounding this problem and further frustrating the Zionist desires for immediate annexation was the fact that in November of 1967, the United Nations Security Council unanimously passed resolution 242 (1967) of 22 November 1967, calling upon Israel to return all of the occupied land. In 1948 only the General Assembly had acted in an effort to put a brake on Zionist ambitions. With continued western backing, however, the Zionists were able to successfully flaunt the General Assembly resolutions on the rights of the Palestinian refugees. A unanimous Security Council resolution, however, could not be so easily ignored.

Thus, while the Zionist strategy for the West Bank and Gaza displayed the same contempt for the human rights of the Arab people, because of the large numbers of Arab people involved in this occupation and the limited amount of international pressure against it, this occupation was forced to take a slightly different form.

The key elements of the occupation once again included the use of a severe, repressive military occupation; extensive land seizures by the State for the establishment of Jewish colonies; and the economic integration and exploitation of Arab land and labour for and by the Jewish State. This occupation, however, did not offer the Arabs the veneer of "citizenship rights" as did the occupation of 1949, since the State could not conceive of adding over one million Arab citizens to its numbers.

This problem has created a serious internal Israeli debate. The two major positions taken in this debate are referred to as the "territorialist" position which calls on the State to keep as much territory as possible regardless of the number of additional Arabs this would add to the State, and the "populationalist" position, which gives absolute priority to the need to maintain an overwhelming Jewish majority. This latter tendency would, therefore, be willing to give up some of the occupied lands in order to protect Israel from the danger of absorbing too many Arabs. They are ironically called "doves".

The fear of the "populationalists" was expressed by Golda Meir who was quoted in Newsweek Magazine (special issue on the twenty-fifth anniversary of Israel) saying how tired she was waking up each

morning and worrying how many new Arab babies were born on the West Bank during the night (also Ha'aretz), 25 October 1972.

A similar "populationalist" concern with the high Arab birth rate was expressed by the editorialist (S. Schnitzer) in Ma'ariv on 29 October 1967. He wrote that:

"A high birth rate is not a question of destiny, but a danger against which society must defend itself by all means ... Viewing the matter in long-range terms we must act, and appeal to the loyalty and economic interests of the Jews of Israel, and convince them that large families are essential to their survival. We must at the same time tell the Arabs that they cannot allow themselves to maintain the highest birth rate in the world in our small and poor country."

Some Israelis, however, are not at all troubled by such problems of demography (or even morality). They opt for traditional Zionist solutions. In an interview in Ma'ariv on 6 December 1974, Aharon Davidi stated a similar opinion on how to deal with the large numbers of Arabs in the occupied lands. He stated that the "problem" should be solved "in the most simple and humane fashion: by transferring all of the Palestinians from their present location to the Arab lands".

This position is not the rabbi's or Lt. Col. Davidi's alone. It is the perspective of the growing extreme right (and "religious") wing of Israeli politics, for example, it is the position of the Jewish Defense League and the terrorist Gush Emunim settlers who have, in recent months, provoked widespread violence in the occupied territories.

One last example of this position can be found in an article in Mahanaim (April 1969), the official publication of the Israeli Defence Forces (IDF). After quoting from Exodus 23 (30-31), in an effort to prove that the biblical injunction demands that "aliens" be expelled from the "Promised Land" but not exterminated, the article continues:

"(Thus) we must carry out an orderly and humane transfer over a relatively extended period of time, rather than abruptly. It must relate to the fertility of the Israeli population and its ability to replace the evacuees, lest the land become desolate ... The Arabs who inhabit this land are an essential alien element to it and to its fate and should be dealt with according to the rules which applied to the aliens of antiquity, our wars with them were inevitable ... Only those facing Jerusalem represent the true sons of the land ... the situation is clear and its outcome is clear."

Thus, those Palestinians of the areas occupied by Israel in the 1967 war were like their compatriots in the Galilee and the Triangle, viewed as "aliens" intruding on the Eretz Israel. Because of their large numbers, however, they presented a more serious problem to the Jewish State. As a result their presence had to be dealt with in a different way. The territories were not immediately annexed and the Palestinians of the occupied territories were not given the empty formal rights given to their brethren of pre-1967 occupied Palestine. Thus, when the "Emergency Defence Laws" were resurrected and rehabilitated in order to apply to the new territories, their application was, this time, to be even more harsh. The Palestinians of Gaza and the West Bank living under this military occupation have no political parties or organizations to which they can belong or in which they can participate. In fact, it is even a crime for them to have in their possession the newspaper of a Palestinian, Communist, or Arab nationalist party. They have no freedom of press, speech or assembly. In all, a broad range of human rights have been violated by the Israeli military Government. Each year since its formation, the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories has issued a report which has pointed out the severity of this repression and condemned it. In its reports the Special Committee has cited, in particular, violations involving:

"The use of torture; collective punishment; deportation and expulsion of citizens of the occupied land, the policy of arbitrary mass arrest and detention; the destruction and demolition of villages, and the expropriation of lands by force."

The findings of the Special Committee have been corroborated by independent reports which have been issued during the past 10 years by Amnesty International, the International Committee of the Red Cross, the "Insight Team" of the Sunday Times and, in recent years, by the Annual Human Rights Report issued by the United States Department of State.

The United States Department of State report, for example, has cited such Israeli violations of Palestinian rights as:

"Confiscation of lands for settlement building; illegal transfer of civilian populations to settle in occupied territories utilizing scarce water and land resources of the inhabitants; expulsion of civil leaders; denial of free movement; mistreatment of prisoners; collective punishment; and administrative detention."

In the past two years there has been heightened international attention focusing on those Israeli practices which violate the collective rights of the Palestinians as a people, specifically the confiscation and annexation of Palestinian lands and the establishment of large-scale Jewish settlement in the occupied territories.

A closer examination of this area of Israel's violation of Palestinian rights will shed greater light on Israeli intentions in the occupied territories.

The impact of the settlement building and land confiscations has been devastating for the Arab population in the occupied territories.

Reports by two American authorities in the occupied territories, Paul Quiring of the Mennonite Central Committee and Dr. Ann Lesch of the American Friends Service Committee, discuss in detail the impact of Israel's settlement policy on Arab agriculture and water supplies.

After presenting case studies from a number of West Bank towns affected by Israel's land confiscation and settlement building policies, Quiring concludes:

"For farmers like these, the impact of settlement construction is very real and can easily be measured in terms of money and lost assets. Apart from the political implications of Israel's settlement policy, the settlements produced a readily visible impact on the West Bank's indigenous economy. Although the losses vary, with some perhaps even prospering in their new employment, the economic base on which the village was built has been taken out from under them. When the political or economic climate changes and it is no longer possible for the labor force to find work as laborers, they will have nothing to return to in their villages. Like thousands of others from the West Bank, they will be forced to leave their country in search of employment outside. The villagers recognize and resent this process, feeling that those who remain are becoming like museum pieces - quaint and intact, but supported by those outside and with little control over their future. 62/

And in discussing further the effects of these Israeli policies on the Arab national mood, Ann Lesch concludes,

"The overall impact of such confiscation must not only be measured in terms of acres of land lost. For the individual and the village, the primary consequence of land seizure is despair. The West Banker, reflecting on the fate of Palestinian land inside Israel and aware that he himself has no legal right to due process, feels that he must make an impossible choice: to stay and acquiesce to increasing Israeli control or to leave the land which gives him his identity ... each new settlement represents a tangible loss for the Palestinians, encroaching on their basic human rights and denying their aspirations for the future." 63/

In a special report submitted to the Palestine Human Rights Campaign (USA), a Christian churchman working on the West Bank prepared maps in an attempt to depict the design of the Begin Government's settlement plan. 64/ The churchman attempted to outline the differences between the settlement policies of the Labor Government and those of Begin's Likud. Stated simply, the Begin design, as he depicts it, is an effort to carve the West Bank into governable "bantustan"-like regions surrounded by Israeli settlements and installations to facilitate their eventual annexation. According to this analyst, the strategic objective of the Begin Government's settlement programme is to "cut the West Bank into bits and pieces so that there can be no possibility of any territorial compromise over the West Bank".

Such a design for the West Bank was detailed in 1978 by the Gush Emunim, a fanatic Jewish nationalist group. In September of that year, while the Israeli Government was participating in the Camp David talks, the Gush plan was published in Yediot Aharonot. 65/ In an article entitled "The Gush Emunim peace plan", the Gush called for a system of settlements and highways to cut the West Bank into manageable sections so that they could be easily controlled and annexed fully into Israel. Their plan called for adding 1 million Jews to the West Bank by the year 2000.

While the plan seemed outrageous to many in 1978, it is clear today that this is the programme envisioned by the framers of the World Zionist Organization's Master Plan (referred to often as the "Drobles Plan") and the Begin Government. 66/ According to the World Zionist Organization plan (adopted October 1978 in Jerusalem) in the next five years 46 new settlements are to be built in the West Bank. They will house 27,000 families (over 130,000 people) at a cost of 54 billion Israeli pounds.

In developing the notion that the settlements should serve the purpose of controlling the Arab population and creating conditions for annexation, the World Zionist Organization plan states that,

"The disposition of the settlements must be carried out not only around the settlements of the minorities, but also in between them, this is in accordance with the settlement policy adopted in Galilee and in other parts of the country. Therefore the proposed settlement blocs are situated as a strip surrounding the (Judea and Samaria) ridge--starting from its western slope from north to south, and along its eastern slopes from south to north; both between the minorities population and around it."

On 16 November 1979, The Jerusalem Post reported in a front page lead story that the Begin Government's Ministerial Committee on Settlements had approved a long-term settlements programme based on the World Zionist Organization plan that would build between 10,000 and 15,000 housing units per year at a total programme cost of 150 billion Israeli pounds.

Like the Gush plan described above, this Israeli Government plan includes not only an intensified building programme, but the construction of a highway system and new land acquisition extending the municipal borders of Jerusalem deep into the West Bank, thus leading Meir Merhav, economics editor of The Jerusalem Post, to say recently (31 March 1980) to Time Magazine that under the Begin Government's settlement policy, the West Bank

"Is to be carved up by a grid of roads, settlements and strong-holds into a score of little Bantustans so that (the Palestinians) shall never coalesce into a contiguous area that can support autonomous, let alone independent, existence."

It is not only the settlement policies of the Israeli Government that are a cause of violation of Palestinian rights, the fault often lies with the settlers themselves. They are not the homeless or refugees. They are, in increasing numbers, members of groups like the Gush Emunim, a band of middle-class Israelis, for whom it has become a sacred duty to seize Arab land and rid the "Land of Israel" of its Arab inhabitants.

These settlers often behave like vigilantes. There are weekly reports of Gush-inspired violence. In Israel one frequently reads press reports of Rabbi Levinger's group in Kiryat Arba (outside of Hebron) and how, armed with clubs and guns, they walk with German shepherd patrol dogs through the streets of Hebron in a show of force. A recent example was communicated to the Palestine Human Rights Campaign (USA) on 14 March 1980 by the Mayor of Halhoul Muhammad Milham. He told the Campaign that after a similar display through Halhoul one week before, the Gush left town having smashed the windshields of 42 automobiles.

A casual reading of the Israeli press is enough to give one ample evidence of this problem (for example, The Jerusalem Post of 29 November 1979 reports "Three Shilo settlers suspected of damaging West Bank school" and The Jerusalem Post of 20 December 1979 reports "Residents of Kiryat Arba are thought to have assaulted two Arabs in a grocery store in Halhoul on Tuesday night and smashed equipment").

And, in a summary of Gush-inspired violence, Time Magazine (31 March 1980) reports,

"In fact, settlers from Qiryat Arba regularly intimidate Arab residents of Hebron, secure in the knowledge that the Government will not crack down on them. Scarcely a week passes without some incident of vandalism or vigilantism. Grapevines of Arab villages are cut. The tires of Arab-owned vehicles are slashed and windows smashed. Gun-wielding Israelis invade the houses of Hebron residents, threatening and terrorizing them. At the Haram al-Khalil Mosque, built on the site where Abraham, Isaac and Jacob are believed to have been buried, Jews disrupt the prayers of devout Muslims.

"Early this year, a Jewish seminary student was murdered in Hebron's casbah, presumably by Arab assailants. Following the murder, the Israeli army clamped a ten-day curfew on the center of Hebron. But it was a discriminatory curfew. While Arab residents were confined to their homes, Jewish settlers, armed with rifles and pistols, strolled through the streets.

"In one particular ugly incident, some 20 armed men stormed the house of two stonecutters, Abdel Aziz Idris and his brother Hussein. Every window in their house, which they had built themselves, was broken. The Idris children and Abdel's pregnant wife were beaten before an Israeli army patrol arrived to rescue them. The Idrises do not know why they were targeted. "We enjoyed good neighborly relations," says Abdel Idris, "but after the murder of the Israeli youth, we were told again and again, 'If you won't leave your home, we shall beat you up.'"

As the above article notes, West Bank Arabs often complained that while the settlers are rarely punished, Arabs who respond or are a part of a conflict with settlers are often punished, even collectively.

A most disturbing example of this took place on 3 May 1979 when a Gush Emunim doctor, in a provoked attack, shot and wounded a Bir Zeit University student. As the campus protested the shooting, the Israeli military entered and occupied the university, beating a number of students and faculty (including an American citizen, Dr. Wasif ABBoushi, currently at the University of Cincinnati), and then ordering the university to be closed for two months.

On 14 March 1979, two unarmed demonstrating students were shot and killed by settlers in Halhoul. The response of the Military Governor was to place the entire town of 13,000 under a 23-hour-a-day curfew for 16 days.

On 8 June 1979, Gush Emunim settlers illegally established the settlement Elon Moreh on Arab-owned land outside of Nablus. The settlers have not been punished by the Mayor of Nablus and 50 municipal leaders were charged with "incitement" for conducting an "illegal" demonstration against the settlement. Although the settlement has been ruled illegal by the Israeli Supreme Court, the settlers remain in Elon Moreh to this day.

These provocative actions by a well-organized and armed fanatic settler movement (which is itself protected by the official military) when placed alongside of the policies pursued by the Government, show a complex of policies that bear a frightening resemblance to the pre-1948 situation in Palestine.

The "establishment of settlement fact", the defiance of world public opinion, the use of organized terror campaigns - all were part of the Zionist modus operandi in the post-Second-World War - pre-State of Israel period.

And in recent months there is yet new evidence which adds yet deeper detail to this frightening picture. The recent developments include:

(i) The expulsion of two leading West Bank mayors and a religious leader from Hebron, and the defiant refusal of the Israeli authorities to readmit them in the face of unanimous world-wide

condemnation;

(ii) The attempted murder of three West Bank mayors and growing suspicion of official connections between the terrorist Kach and Gush Emunim vigilantes and the official Israeli army. The recent conviction of two army officers (for stealing army explosives and weapons) and the administrative internment of Meir Kahane (of Kach), on what is widely believed to be a similar charge, highlight this charge;

(iii) The plans of the Israeli Government to take over the Jerusalem Electric Co. (making nearly complete Israeli control over West Bank utilities) and the 8 July 1990 announcement by the Military Government of a takeover of higher education in the occupied territories (including the hiring and firing of faculty, admission of students and establishment of curriculum;

(iv) Increased use of long-term widespread collective punishment. During the month of May 1980, over 100,000 Palestinians from Hebron, Anabta, Daheisha, and Ayn Yafrud were placed under a near total (23 hours a day) curfew for almost two weeks. The curfews were described by Gen. Matti Peled as "systematic starvation of an entire population";

(v) The defiant new Begin policy on Jerusalem coupled with announcements of new settlements (a total of 11 in recent months) and land confiscations in the occupied territories;

(vi) The construction of a new prison center for Palestinian militants in the midst of the Negev Desert. Nafha Prison was described by one officer from the Israeli League for Human and Civil Rights (ILHCR) as "satanic and sadistic". From descriptions of inmates and their families, Nafha appears to be more of an "elimination center" than a prison; 67/

(vii) The organized practice of terror by members of IDF during the campaigns of May 1980. This came to light as a result of the testimonies given by a number of IDF officers to MK Uri Avneri and Dr. Israel Shahak of ILHCR. The soldiers testified that they were instructed by their commanding officers and by IDF rabbis, who were brought to lecture to them, to beat and humiliate Arab residents of the territories.* 68/

** Excerpts from testimonies received by Uri Avneri and presented to the Knesset on 19 May 1980.*

"Before leaving on the mission we received our instructions from a high-ranking officer in the Military Government, who told us:

'If you catch a small child, order his whole family out, make them stand in a row, and beat the father in front of his children. Don't treat this beating as a privilege, it's a duty! They understand no other way. There is no point in arresting those who just wander around outside. Beat them and send them home. But if someone causes trouble, throws stones or something, first break his bones and then put him on the vehicle that will take him to the military headquarters. Remember: from the minute he is on the vehicle, he is an arrested man and must not be beaten any more. To the mission!'

The point that was emphasized was not to take people aside and beat them, but to beat them in front of the others, so everyone would see and fear.

"There were special instructions concerning roadblocks and burning tyres. We were told not to remove them ourselves, but to point our finger at the men standing most close to the roadblock and 'not to care, they are already domesticated. He will know what to do'. We were told that all we have to do is see that the inhabitants clear the road ... While fulfilling these missions we noticed an atmosphere of terror and fear among the inhabitants. We were shocked to see people who treated us as if we were masters, they humiliated themselves, begged for mercy before they were even touched."

And to Dr. Shahak, a 40-year-old reservist reported that a military rabbi addressed his group,

"Saying that today's Arabs are the Canaanites and Amaleki'tes from the Bible and that they should be made to go away voluntarily from this country, because this country was given to us by God, under the condition that we shall live in it alone, only Jews, without 'Gentiles', whose mere existence corrupts the land and the Jews and delays salvation. Those who will refuse to leave will suffer what the 'seven peoples' suffered."

(viii) The suggestion by Gen. Aharon Yariv (MK) that plans exist to use the pretext of the next Middle East War (!) to expel the Arab inhabitants of the occupied territories. Speaking in a symposium at Hebrew University and quoted in Ha'aretz (23 May 1980), Gen. Yariv said,

"There are opinions to exploit a situation of war in order to expel 700,000 or 800,000 Arabs. Such opinions are common. Persons are speaking about this and means for this have been prepared."

The Begin Government points to its offer of "autonomy" to the Palestinians as proof of its good will and respect for their rights. But the "autonomy plan" has been understood by Palestinians to mean continued occupation and eventual annexation under the fiction of "a vague 'self-rule'".

According to the plan offered by Begin, the Palestinian rights that would be secured under autonomy are primarily domestic and social. Powers and responsibilities reserved for the Israeli

Government, on the other hand, include,

"Foreign affairs and defence; internal security; Israeli inhabitants and settlements; state lands; natural resources; energy; printing of stamps and currency; radio, television and information; aerospace supervision; supervision of territorial sea; main international communication exchanges; internal telex, international mail; supervision of Israeli banking and insurance institutions in the territories, and representation of the local banking system abroad." 69/

According to Knesset member and Begin critic Uri Avneri, the "autonomy plan" offered by Begin bears a striking resemblance to the autonomy offered to the pre-State Arabs by Begin's mentor, the extremist Jabotinsky. 70/ Avneri's helpful analysis of the autonomy plan is that,

"The Arabs of Eretz-Israel will form a minority within Greater Palestine, which will be ruled by the Jews. According to the plan, the land of Israel is one inseparable unit. There is a majority and a minority. In other words: A Jewish state covering every inch of the land of Israel. The Arab population, as a minority nation, will enjoy the autonomy of a 'national minority'.

"This Arab autonomy is not a Bantustan or a protectorate. It is a great deal less. Autonomy is not exercised over a terrain but over a population which is a minority in the given terrain.

"The power over the terrain will be vested in a government of the majority-nation. Not only the police and the military will be in the hands of the Jewish state, but all practical administration--and in particular, the right to settle lands and to expropriate them.

"The rights are given to the 'Arabs of Eretz Israel' - the Arabs who are inhabiting Israel today, i.e., the 1.1 million Arabs in the West Bank and in the Gaza Strip. The principle of autonomy grants nothing whatsoever to the 1.8 Palestinians who are outside western Palestine.

"In other words: this isn't even autonomy for all the Palestinian people, but only for a section of it. The meaning of the principle of autonomy is clear - an annihilation of the Palestinian people and an eternal diaspora for half of them."

Understanding that the ultimate impact of autonomy would be to dispossess them and deny their rights, rather than to empower their nation and fulfil their rights the Palestinians have rejected the "autonomy plan". It is their rejection and active opposition to this plan that has brought about the recent intensification in the violation of their rights (especially the expulsions, control of universities, collective punishment, etc.).

Thus, after more than 80 years the vision and practice of Zionism remains unchanged. The genocidal implications of Zionism, as expressed so succinctly in the formula of Yeshayahu Ben-Porath, "that there is no Zionism, and there is no settlement, and there is no Jewish state without evacuation of Arabs and without expropriation and fencing of lands", are disturbingly clear to the Palestinians. The violations of their basic human rights are, quite simply, a function of the political ambitions of the Zionist movement and the State it created. Palestinian resistance to Zionism, and its dream of an exclusive Jewish State, therefore, continues.

Conclusion

As has been demonstrated time and again, Israeli policy is not responsive to the demands for justice for the Palestinian people that have been issued repeatedly by the great majority of the nations and peoples of the world. For as long as the Israeli Government is able to receive blank-cheque military and political support from the West, it sees no reason to alter its position. Thus, only when the international movement for the defence of Palestinian rights is joined by these powerful nations of the West will the Zionists feel pressured to end their inhumane occupation of Palestinian lands.

In addition to the aid they receive from the West, there is another reason that accounts for the Israeli sensitivity to the attitudes of the western States and their disdain for those of the rest of the world. And this is racism that lies at the heart of the Zionist ideology. This has been clearly demonstrated on a number of occasions by Zionist leaders. For example, Abba Eban, whom many feel to be one of the most eloquent spokesmen for the Israeli viewpoint, has demonstrated his attitude in his numerous attempts to slander positions taken by the United Nations on the Palestine question. After the United Nations decisions both to allow the PLO to present its case in 1974 and to characterize Zionism as a form of racism in 1975, Abba Eban in The New York Times "Op. Ed." articles termed the United Nations "morally mad" and "inhuman". Their decisions, he stated, were to be ignored since they were the product of the "Afro-Asian-Arab-socialist bloc", and what, he implied, would they know of morality? Morality, respect for human decency and freedom, these virtues, according to Mr. Eban, are only to be found in the West and are therefore only appreciated by the West.

Other Zionist representatives have uttered similar condemnations of the United Nations decisions to recognize Palestinian human rights. While ignoring their own repeated use of terrorism in the history of their Zionist movement, including the recent indiscriminate bombing raids against Palestinian refugee camps as well as the fact that for more than 33 years they have denied the Palestinian people its simple right to self-determination, Zionist apologists have insisted on insulting and degrading the leader of the PLO as he appeared before the United Nations to plead (for the first time in their history) the case of his disinherited

people. The Israeli United Nations Ambassador, Yoseph Tekoah, characterized the appearance of the Palestinians before the General Assembly by saying that, "Today bloodshed and bestiality have come here to collect the spoils of the United Nations surrender". What, one might ask, would be the Zionist response to a Palestinian leader characterizing an Israeli official in such language?

To the Zionist, the Arab is not a human being, has no rights, and is, therefore, due no respect.

In the Zionist image of reality, the Phantom jet with its napalm and anti-personnel bombs that maim and kill from the air is clean and innocent, while the lone commando whose people are dispossessed or living under occupation, is a beast.

After the United Nations General Assembly actions of November 1975 equating zionism with racism and calling once again for an end to the occupation of Palestinian land, the Israeli Government chose to combine its verbal reply with a more traditionalist Zionist response. On 1 December, the Israeli Cabinet declared its intent to proceed with the establishment of new Zionist colonial settlements in the occupied lands. To make the point of their contempt both for Palestinian rights and life and the United Nations even more clear, on the following day, 2 December, 30 Israeli Phantom jets repeatedly bombed and rocketed not "terrorist" bases but Palestinian refugee camps. At the conclusion of this massacre, 107, mainly women and children, lay brutally murdered while another 175 were wounded (many with severe burns and lost limbs). While the United States media at first attempted to portray the massacre as a "retaliating raid" (although no one was quite sure what it was in retaliation of), the Israeli leadership in brutal honesty declared that the raids were their response to the PLO victories in the United Nations. The military spokesman for the raids stated that these attacks underlined his Government's policy that the Palestinians will be recognized and dealt with "only on the battlefield" and at the United Nations.

Thus these two actions - the terror raids and the establishment of new colonies - were the Israeli reply to the world's demand that they respect the human rights of the Palestinian people. And in this we see once again a clear example of logic of zionism: they are a civilized nation of the West. By definition, then, their actions are moral and humane. Their enemies, on the other hand, are barbarians who have no rights and understand only force.

The desire of the Zionist movement to establish an exclusive Jewish State and to keep that State open at all times to waves of Jewish immigration from abroad, has created both the problems of anti-Arab racism (institutional and subjective) and also the need for the State to continue to expand into Arab lands in order to be able to absorb more immigrants.

During the Second World War, in the midst of the horrifying massacre of 6 million Jews by the Nazi movement, the pretext under which the Zionist experiment operated changed from its original colonialist intent to a scheme to provide security for the world's Jewish people. Thus during this period, instead of combating anti-Semitism where it occurred, the Zionist leadership put forward their colonial plan in Palestine as the solution to the problem of finding security for world Jewry. And thus instead of the nations of the West, it was the Palestinian people who were made to pay the price for the horrible crimes committed against Jewish people.

In a real sense, the schemes of zionism are not only anti-Arab, they are also anti-Jewish. It is not the Palestinian who has corraled millions of Jews into a ghetto-like arsenal State where their security and well-being are constantly threatened, it is the Zionist movement which has done this. And it is not the Palestinian who has denied Jewish people the opportunity to live at peace in the Middle East.

The Palestinian desire for a truly democratic State, where all can live in peace, is the fulfilment of the universal prophetic tradition of Isaiah. In the face of this vision, zionism joins hands with European anti-Semitism and declares "that Jews and non-Jews can never live together assimilated into one human society"; "that Jews and Gentiles are essentially different"; and "that Jews are a separate race and nation, regardless of the country of their birth".

The Zionist Leo Pinsker wrote in this famous Auto-Emancipation (New York, 1944, p. 9) that the non-Jewish peoples of the world are suffering from a "psychic aberration" called "Judeophobia" which is "incurable". He states in full that,

"Judeophobia is a variety of demonopathy with the distinction that it is not peculiar to particular races but it is common to the whole of mankind ... as a psychic aberration it is hereditary and as a disease transmitted for 2,000 years it is incurable".

Herzl himself agreed with this assessment. He thus admitted in his Diaries "the emptiness and futility of efforts to combat anti-semitism". Rather, he continues, "I (now have) a freer attitude toward anti-Semitism ... it will do the Jews no harm. I hold it to be a movement useful for the development of the Jewish character." (All quotes from the Diaries of T. Herzl (New York, 1962), pp. 6-10)

A similar antipathy towards improved Jewish-Gentile relations and support for Herzl's "utilitarian" view of anti-Semitism is found in Israel today. For example, in article No. 59 of the Basic Principles of Government approved by the Israeli Knesset in 1959, it states that it is the goal of zionism and the State of Israel, "to fight against all signs of assimilation of Jews into the countries of their origins". And from the editorial pages of the Israeli newspaper, Davar, the official organ of the ruling MAPAI, comes this plan devised by its editor:

"I shall not be ashamed to confess that if I had the power as I have the will, I could select a score of efficient young men - intelligent, decent, devoted to our ideal and burning with desire to help redeem the Jews - and I could send them to countries where Jews are living in sinful self-satisfaction, to plague these Jews with anti-semitic slogans, such as 'bloody Jews' or 'Jews go to Palestine'.

"I can vouch that the results, in terms of considerable immigration to Israel from the countries would be 10,000 times larger than the results brought by thousands of our emissaries who have been preaching for decades to deaf ears."

Thus zionism, instead of liberating Jewish people, seeks to ensnare them out of the homes of their birth and cause them to move to Israel to support its colonial ambitions in Palestine.

After 33 years, we must ask the question, "Has history shown that the establishment of the exclusivist and expansionist State of Israel has made possible real security for the Jewish people; or has it demonstrated the opposite?"

Since the Palestinian people have refused to act as pawns in this experiment and be dispossessed by this alien movement that came to take their lands and homes, it can only be concluded that the experiment of zionism has failed. It has not provided security for Jewish people; rather it has locked them into an unending cycle of violence. And its cost, in life, liberty and property, to the Palestinian people, is so great as to defy calculation. Efforts, not only to defeat the Palestinians, but to devastate them and destroy their will to resist, have all failed. They have refused to acquiesce and they continue to demand that the Israeli occupation of Palestinian lands be ended and that their rights to return to their homes and to live in peace in their homeland be recognized and implemented. Peace and security for all the peoples of the area cannot come about until these basic Palestinian human rights are recognized.

But this will not come about until those nations in the West who have for decades provided Israel with economic and diplomatic support assume what is their moral responsibility: to recognize the violations of Palestinian rights and to act decisively to end these abuses.

One year ago the Palestine Human Rights Campaign (USA) received an appeal from a woman whose 14-year-old son had been imprisoned together with over 20 of his schoolmates. They were held for a prolonged period without charges. And during that time they were treated brutally and frequently humiliated by their captors. Finally they were released. But they live in fear that they may once again be arrested. She urged us to speak out, to "break down the walls of silence" that Israel has constructed around the occupied territories. In alerting the West to what had happened to her son, she said we would help to set limits on future Israeli abuses. In doing so, she concluded, we would help to create the conditions for a just peace.

There is a special challenge here to all in the West who champion civil liberties and who are molders of public opinion, a challenge to recognize the humanity of the Palestinians and to act according to the simple maxim that is the slogan of our campaign "Palestinians have human rights, too".

It is precisely the failure of the West and champions of human rights in the West to unequivocally condemn and decisively act to end Israeli abuses of Palestinian rights that has provided the Israeli regime with the breathing space (not to speak of the financial resources) to actively pursue their policies.

Today, in the face of escalating abuses of basic rights, the West deliberates. At this time, the Palestinians, especially those in the occupied territories living in the shadow of the Gush Emunim and IDF, face immediate threats to life and liberty: the prisoners in Nafha, in Ramleh, or those in the torture rooms in Moscobiyah; the mothers of the prisoners, especially those beaten and arrested last month protesting the inhuman treatment of their sons; and the residents of Hebron and the Jalazone refugee camp living in fear of another curfew or of another night raid by the Gush Emunim. They do not need vague formulas hinting at recognition. They need to be protected and defended.

Continued silence, in the face of these crimes and overwhelming evidence as to the intensity of Israel's violations and the ultimate intent of the occupation authorities, amounts to more than acquiescence. It means complicity.

Notes

1/ Jay Gonen, A Psychohistory of Zionism (New York, Mason/Charter, 1975), p. 183.

2/ "Collection of Jabotinsky: his life and excerpts from his writings", The Shahak Papers, No. 31, p. 16.

3/ This point is well developed in "The non-colonial zionism of Mr. Abba Eban", Fayez Sayiegh, Middle East Forum, vol. 42, No. 4 (1966).

4/ Max Nordau to His People (New York, 1941), p. 73.

5/ Herzl's negotiations with the Sultan: "Turks, Arabs, and Jewish immigration into Palestine, 1882-1914", Middle East Affairs, No. 4, ed. Albert Hourani, St. Anthony's Papers (London, 1965).

6/ A copy of the letter sent by Herzl to Rhodes can be found in The Complete Diaries of Theodore Herzl, ed. Raphael Patai (New York, 1960), vol. III, pp. 1193-1194.

7/ Nahum Sokolov, History of Zionism 1600-1918 (New York, 1969), vol. 1, pp. 206-207.

8/ Herbert Sidebotham, "British interests in Palestine 1917", Haven to Conquest, Walid Khalidi, ed. (Beirut, 1971), p. 133.

9/ Nordau, op.cit., p. 57.

10/ "Memorandum by Mr. Balfour regarding Syria, Palestine, and Mesopotamia", Khalidi, op.cit., pp. 201-202.

11/ Herbert Sidebotham, British Imperial Interests in Palestine (London, 1934).

12/ Patai, op.cit., vol. I, p. 88.

13/ Ibid.

14/ Theodor Herzl, The Jewish State (New York, 1943), p. 30.

15/ Discussed in The Question of Palestine, Edward Said (New York, 1978), pp. 67-68.

16/ Shlomo Avineri, "A new look at Jabotinsky", Ha'aretz, 1 November 1980.

17/ Shahak Papers No. 31, p. 16.

18/ A section of Weizmann's speech and the Arab reaction to it are found in The Arab Woman and the Palestine Problem, M. E. Mogannam (London, 1937), p. 295.

19/ While various Zionist organizations and individuals expressed different sentiments about their attitudes toward Arab labour, this Constitution and the following agreements created the real structure of Arab-Zionist relations in Palestine. See Palestine Diary, ed. John and Hadawi (Beirut, 1970), vol. I, pp. 225-226.

20/ Ibid., pp. 224-225.

21/ See Ha'aretz, 15 November 1969.

22/ Moshe Pearlman, The Army of Israel (New York, 1950), p. 30; J. C. Hurewitz, The Struggle for Palestine (New York, 1968), p. 42.

23/ These and other statistics relating to the impact of the British-Zionist offensive that crushed the 1939 revolt can be found in Khalidi, op.cit., pp. 846ff.

24/ Translation by Dr. Emile Nakhleh.

25/ "A solution to the refugee problem: an Israeli State with a small Arab minority", Davar, 26 September 1967).

26/ Gonen, op.cit., p. 196.

27/ Plans "A" through "C" can be described as follows:

Plan "A" was operative from February 1945 until May 1947. During that time, the Zionists hoped to win the "unconditional support" of the British Government, enabling them to take control of the entire country. They, therefore, devised a plan to control the Arab population under their "minority rule".

When the British turned the Palestine question over to the United Nations, and an announcement for "partition" was imminent, the Zionists, realizing that all the Arabs were opposed to any division of Palestine, organized Plan "B", i.e. the neutralization of any Arab interference with "partition".

Plan "C", from November 1947 to April 1948, was a "holding action", designed to maintain the Zionist military initiative, until the exact United Nations and British intentions were made clear.

Plan "D", as we shall see in the text, was unique. Edward Luttwak and Dan Horowitz in The Israeli Army (New York, 1975), describe it as follows: "Plan D called for the permanent seizure of Arab villages and the expulsion of their inhabitants".

Other sources on Plan "D" include Lt. Col. Netanel Lorch, The Edge of the Sword (New York, 1961), pp. 87-89; W. Khalidi, "The Plan Dalet", Middle East Forum, November 1961, reprinted in Why Did the Palestinians Leave? (London), pp. 32-46.

28/ David Ben-Gurion, Rebirth and Destiny of Israel (New York, 1954), p. 292.

29/ Khalidi, op.cit., p. 32.

30/ Ibid., p. 32.

31/ Ibid., p. 42, see also The Decadence of Judaism in our Times, Moshe Menuhin (Beirut, 1967), p. 118.

32/ Translated from French and reprinted in Khalidi's Haven to Conquest, pp. 761-766.

33/ Menachem Begin, The Revolt (New York, 1951), p. 163.

34/ From Ha Sepher Ha Palmach (Tel Aviv, 1953), vol. II, p. 286, translated by Khalidi in "Plan Dalet".

35/ See "The Other Exodus", Erskine Childers, The Spectator, 12 May 1961.

36/ Ibid. For another example of this tactic, see Arthur Koestler, Promise and Fulfillment (New York, 1949), p. 207.

37/ Khalidi, op.cit., p. 41.

38/ James McDonald, My Mission to Israel (New York, 1951), p. 176.

39/ Sabri Jiriyis, The Arabs in Israel (Beirut, 1968), pp. 3-6.

40/ An outline of these laws is given in The Arabs in Israel, pp. 20-26.

41/ Henry Rosenfeld, "From peasantry to wage labor and residual peasantry: the transformation of an Arab village", Henry Rosenfeld, Peoples and Cultures of the Middle East, ed. Louise Sweet (Garden City, 1970), vol. II, p. 155 and 166-167; Layla Qadi, The Histadrut (Beirut, 1967), p. 27.

42/ Ha'aretz, 4 April 1969.

43/ For examples of such criticism, see: Les Arabes en Israël (al-Ard, Co., Beirut; Uri Davis, "Palestine into Israel", Journal of Palestine Studies, vol. II, No. 1 (1973); Ze'en Schiff, "Arab Secondary Education in Israel", New Outlook, May, 1960; Ghassan Kanafani, The Literature of the Palestinian Resistance, 1948-1968, (Beirut, 1968).

44/ A. B. Zahlan, "Palestine's Arab population", Journal of Palestine Studies, vol. III, (1974), p. 63.

45/ Atallah Mansour, "Arab intellectuals are not integrated", New Outlook, June 1964, pp. 26-31.

46/ Rosenfeld, op.cit.; Yosef Waschitz, "Commuters and Entrepreneurs", New Outlook, October-November 1975, pp. 46-51.

47/ Essays on the Israeli Economy, ed. Yusuf Shibli (Beirut, 1969), p. 87; Waschitz, op.cit., p. 48.

48/ For example, see Edriss Khalidi, "Palestinian Arab Villages in Israel", The Arab World, May-June 1972), p. 26; M. Watad, "Combating Unemployment in an Arab Village", New Outlook, May 1967, p. 52.

49/ New Outlook, January 1966, pp. 49-58.

50/ Ha'aretz, 20 September 1974, Weekly Supplement.

51/ Said, op.cit., pp. 26-28.

52/ Dov Goldstein, "This week's interview", Ma'ariv, 12 June 1974.

53/ Betfutzot Hagola, No. 75/76 (Winter 1975).

54/ Ha'aretz, 13 December 1974.

55/ See, for example, "The Palestinians: A plague already described in the Bible", Yediot Aharonot, 20 December 1974.

56/ See, for example the exchange of articles by Amos Berr-Vered and Dov Friedlander, Ha'aretz, 1, 2 and 19 December 1977; "Sharon: can't stop expansion by Arabs", The Jerusalem Post, 8 August 1978; "Double natural growth rate for the Israeli Arab", Ha'aretz, 10 May 1978; "A sociologist from Tel Aviv", Ha'aretz, 24 May 1978.

57/ Ma'ariv, 9 September 1977.

58/ "A special interview with the Chief of Staff Gen. Rafael Eytan", Yediot Aharonot, 9 January 1979.

59/ Al Hamishmar, 7 September 1976.

60/ Time, 1 April 1972.

61/ Michael Curtis, ed., "Ethnic relations in Israel", People and Politics in the Middle East, (New Brunswick, 1971), pp. 45 ff.

62/ Palestine Human Rights Bulletin, No. 10.

63/ Ibid., No. 22.

64/ Ibid., No. 15.

65/ "The Gush Emunim peace plan", Yediot Aharonot, 8 September 1978.

66/ Palestine Human Rights Bulletin, No. 15.

67/ Palestine Human Rights Campaign, No. 28.

68/ Dr. Israel Shahak, "Report to the Israeli League for Human and Civil Rights", 20 May 1980 and "Memorandum to all members of the Knesset", MK (Member of the Knesset) Uri Avneri, 19 May 1980, Shahak Papers, No. 32.

69/ The Jerusalem Post, 20 January 1980, p. 5.

70/ "Such an autonomy", Ha-olam ha-zeh, 18 January 1978.

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Note: See "Question of Palestine: Legal Aspects" (doc. 2) for continuation.