Resistance
And Repression

Political Prisoners
in Israeli Occupied Territories

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THE SOCIAL MILIEU: OCCUPATION AND RESISTANCE

The question of Palestinian political prisoners is but one aspect of the broader human rights problem in Israeli-occupied territories. Administrative detention is a single link in a chain of possible actions which includes deportation, house demolition and various other forms of collective punishment. The natural context for a discussion of this subject is the eleven year old Israeli military occupation of Gaza and Eastern Palestine (the West Bank) and its relationship to the Palestinian national problem. Resistance to the occupation has been an ongoing endeavour shared by virtually all strata of Palestinian society. It has taken a non-class character, extending to intellectuals, students, professionals, businessmen, women's groups, and landowners. Faced with a colonial settler regime, asserting "divine" claims and engaged in a feverish attempt to acquire the "land without the people," these sectors of the occupied Palestinian community have subordinated their internal socio-economic conflict to the nationalist struggle. They have viewed the struggle for social betterment as well as for civil rights as part and parcel of the national question. The occupation authorities' perspective on Palestinians under their control makes no distinctions based on social class, sex or creed: their confrontation with their captive community is total and comprehensive. It is an encounter with an entire nation that refuses to accept its own negation. A cycle of violence is, therefore, implicit in this kind of relationship, in which the occupier inevitably defines every single member of the oppressed community as a potential terrorist and a suspect. A reign of terror necessarily

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follows. Israeli physicist Daniel Amit described this relationship thus: "When a certain regime defines any group of people as collectively criminal, when it excludes an entire group from the social dialogue, it is unleashing horror."  

The Palestinian challenge to Israel in the aftermath of the June 1967 conflict is multi-dimensional. Faced with a dispersed, dispossessed and stateless yet cohesive community struggling to regain its rights, Israel could no longer claim that it was in danger of being driven into the sea. The enunciation of a Palestinian vision of a secular and pluralistic society in all of Palestine posed a moral dilemma to Israel and its liberal supporters in the Western world, who normally preach pluralism and oppose illegal classifications in the law. The resistance of that sector of the Palestinian people which fell under direct Israeli occupation, and its struggle for civil rights was only a part of the wider struggle against national oppression, economic exploitation, land alienation and colonial settlement.  

It involved not only a confrontation with an undesirable status under alien occupation, but also manifested an act of self-affirmation and a cogent expression of identity.

The October War of 1973 and its aftermath produced a chain of events resulting in a new and 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 their capacity to assimilate modern technology and to eventually bridge the gap. The crossing of the Suez Canal by the Egyptian army inspired Tawfiq Zayyad, an Arab member of the Israeli Knesset, to write his famous poem, "The Crossing," glorifying that event and precipitating an outcry for his deportation. Zayyad's poem expressed a collective voice of the Arabs in Israel affirming an Arab identity, a voice which was expressed vehemently on the occasion of the Day of the Land (Yawm al-Ard) on March 30, 1976. Similar voices were expressed throughout West Bank cities and Gaza linking the two Palestinian communities in a common struggle. Just as the October War heightened the morale of a people in captivity, the events which followed, primarily the declarations of the Arab Summit Meetings at Algiers and Rabat in 1973 and 1974, reinforced their will to resist. These declarations elevated the role of the Palestine

2 For a discussion of Israel's colonial relationship with the West Bank, see Irene Gendzier, "Israel's Colonies: Settlements Deeply Implanted," The Nation, February 25, 1978, pp. 201-4.
Liberation Organization in the diplomatic configurations of the Middle East by making it "sole legitimate spokesman of the Palestinian people."

Other factors which intensified the uprising of the past five years involved a determined Israeli attempt to tighten the reins and create new "facts" in the occupied territories. Both the Rabin and Begin governments embarked on rapid schemes of colonization in the West Bank. Certain economic measures designed to weaken indigenous institutions and to integrate the occupied areas economically to Israel were undertaken, and attempts were made to undermine the global consensus on Palestinian self-determination and the legitimacy of the Palestine Liberation Organization.

The cumulative effect of all these factors was witnessed in the non-violent resistance which has been raging in the West Bank since 1973. As stated previously, the struggle has taken a non-class character, but one group emerged in 1973 as the main catalyst providing a sense of direction and a programme of action for the resistance. The establishment of the Palestine National Front (PNF) was declared on August 15, 1973 with the announcement of a resistance programme, responding to the escalation of Israeli activities aimed at consolidating the occupation in the wake of Palestinian setbacks in Amman and Jerash in 1970 and 1971. The Front was organized as a broad national movement with grass roots support supplanting two separate fronts in the West Bank and Gaza, the Front for Popular Resistance and the United National Front.4 The PNF began at the outset to organize against land alienation in a peaceful, non-violent manner. It assumed the role of advocate on behalf of landowners whose land was subject to expropriation, and it campaigned against the sales of Arab lands. The Front employed a variety of means ranging from facilitating legal defence in cases of land expropriation to organizing public rallies and petitions and publicizing the plight of the victims in the Israeli Parliament via the Communist Party (Rakah) deputies. Moreover, the PNF contributed materially to the successful campaign against the Israeli-sponsored municipal elections designed to legitimate the Israeli annexation of Jerusalem. The Arab turnout in the elections was so insignificant as to render any Israeli claims of an integrated Jerusalem ludicrous. Furthermore, the PNF foiled Israeli efforts to link Arab labour to the Histadrut (Israeli Labour Federation), encouraged businessmen not to pay taxes to the Israeli authorities, and organized massive demonstrations to protest against the expulsion of eight PNF leaders from the West Bank in

4 For information about the Front, see "Interview With the Palestine National Front," Middle East Research and Information Project, No.50, August 1976, pp. 16-21.
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, many of whom linger in prison until today, without charge or trial.

The crackdown against the PNF was followed by new acts of resistance and inevitably new detentions, and deportation orders. The Day of the Land on March 30, 1976, the municipal elections in the West Bank during the next month, and the April 18 march by Gush Emunim witnessed and provoked widespread demonstrations not only in the West Bank but in the Galilee region as well. Commenting on the election results, which signified a decisive victory for the PLO and the PNF, the London Times described them as having confirmed that "the invisible occupation of which Israel boasted between 1967 and 1973 has now completely broken down." And Newsweek indicated that "after the vote Israel had proof positive that Palestinian nationalism was no longer just a fig leaf for political terrorists but a rallying cry for most of the West Bank."

The elections of 1976 gave credibility to the notion that the pre-1973 relative calm on the West Bank was due largely to the quiet cooperation of the former municipal leaders left over from the Hashemite regime with the occupation authorities. Of the 191 seats contested in the municipal elections, 148 were captured by new mayors and councillors, the great majority of whom ran on the National Bloc list of the PLO and PNF.

Israeli moves to counter the rising tide of Palestinian nationalism only served to enhance the Palestinian reawakening in the occupied territories and inside Israel itself. The newly elected municipal leaders were no longer the brokers and facilitators of occupation policies, but the representatives and spokesmen of a nationalist movement, unwilling to settle for anything less than a political sovereignty on its own land.

For Israel, which had been living under the cherished illusion that the PLO was a terrorist organization without credentials in the occupied territories, the election results posed a serious challenge. The existence of a non-violent nationalist movement threatened the foundations of a longstanding Israeli position on the representative character of the PLO and necessitated new explanations. Daniel Amit wrote in this regard: "As it is difficult to deny the fact that the mobilization of the National Front is indeed local, it only remains to try to prove that it is violent, or at least that its aims are violent. But, apparently this necessitates serious torture."

6 Newsweek, April 26, 1976.
7 D. Amit, op.cit.
THE LEGAL CONTEXT

The relationship between an occupying power and the civilian inhabitants of an occupied territory is regulated by international law. Numerous charters, conventions, and declarations define the rights and obligations of both parties, the most important of which are:

1. The Hague Regulations respecting the Laws and Customs of War on Land annexed to the Hague Convention (IV) of 1907.

Palestinian inhabitants of the West Bank and Gaza are considered “protected persons” and the areas 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 case of a conflict or occupation, in the hands of a party to the conflict or an 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. The General Assembly's Special Committee stated in its second report (A/8389) that one of the major premises of Israeli policy in the occupied territories is the so-called "homeland doctrine" enunciated by the Government of Israel and supported by the parliamentary opposition (now in power). According to this doctrine, the territories occupied in June 1967 form part of the natural boundaries of the State of Israel and are not therefore considered as occupied territories within the meaning of international law. The Palestinian people living in these territories are considered as being there only on sufferance.

8 The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories was established by the UN General Assembly in resolution 2443 (XXIII) of December 19, 1968. It has prepared reports annually since 1969.
The Israeli occupation authorities have since 1967 applied the Defence Laws (State of Emergency) of 1945 throughout the occupied territories. These laws were inherited from the British mandatory regime for Palestine. One of the most frequently employed sections of these laws is Article 3, which enables the Military Governor to order the detention of any citizen for an indefinite period of time without placing any specific charges or providing any explanation other than the vague charge of "the endangering of security." The detention period is usually six months and may be renewed indefinitely. A person detained under such an order may apply to an advisory committee headed by a judge of the Supreme Court but the Committee's decisions are not binding on the military government. Nor does the Committee allow the plaintiff to hear the charges of the Military Government.

It should be noted that the Defence Laws of 1945 were denounced vehemently by Jewish jurists living in Palestine during the mandate period. At a conference of the Lawyers Association held in Tel Aviv in February 1946, Dr. Dunkelbaum, who later became a Supreme Court judge in Israel, said:

"The [Defence] 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 anarchic and irregular."

Another jurist, Yaacov Shimshon Shapiro, who later became Attorney General and Justice Minister in Israel said: "The system established in Palestine since the issue of the Defence Laws is unparallelled in any civilized country; there were no such laws even in Nazi Germany."

The present Minister of Justice, Shmuel Tamir, was himself an administrative prisoner under the British mandate rule, and expressed his opposition to both the "Defence Regulations" of 1945 and the practice of "administrative detention" on several occasions prior to his joining the Begin cabinet in 1977. But when Hilmi al-Salaima, an administrative prisoner from East Jerusalem since May 7, 1976 asked him through his lawyer on November 11, 1977 whether he intended to terminate the practice of administrative detention, Tamir did not reply. The General Assembly's Special Committee noted in its first report (A/8089, paras. 57 to 60) that the Defence Laws of 1945 could not be construed as enacted

10 Ibid.
in the occupied territories nor could they be deemed in conformity with the provisions of the Geneva Convention. The official Israeli position on this matter is that punishments such as detention are carried out under Jordanian law which is allegedly in force in the occupied territories. Jordan, however, had contested this assertion on the grounds that the Defence Laws had been abrogated by subsequent legislation promulgated before 1967. The Special Committee stated in its 1976 report that regardless of whether the Defence Laws are part of Jordanian law or not, they contain provisions which are at variance with several principles of humanitarian law; and that inasmuch as these laws “allow arbitrary and prolonged detention of individuals without charge or trial” and “do not allow for proper and adequate legal aid of persons under detention,” among other violations, they must, to this extent, be pronounced invalid.

With respect to the legality of detention the Israeli position, as construed from several replies by the office of the Attorney General and the Embassy in Washington to queries and protests regarding administrative detainees, is that “the aim of detention is to avoid the posing of grave security dangers by the detainee,” and that in such circumstances normal judicial procedure cannot be followed because of the danger to the lives of witnesses or because the secret sources of information received cannot be revealed in open court.” This is viewed by Israel as being in accord with Article 78 of the Fourth Geneva Convention. This article allegedly “provides that persons may be kept in administrative detention if this is essential for imperative reasons of security.” The Special Committee argues, however, that the “exceptions made by the Fourth Geneva Convention for reasons of security are limited strictly by that convention.”

THE ADMINISTRATION OF MILITARY JUSTICE

1. The “Criminal” Procedure. Evidence extracted from most of the reports consulted for this study indicates that suspects are held incommunicado for as long as necessary after arrest and cannot be seen or

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12 Letter issued by the Israeli Embassy in Washington, D.C., dated December 5, 1977 and signed by Yossi Gal, Personal Aide to the Ambassador. The form letter was used by the Embassy to reply to the many queries concerning the 45 month detention of Professor Tayyir Aruri. Paragraph 3 reads: “Administrative detention is carried out under Jordanian law, which is in force in the administered territories, according to the terms of the Geneva Convention (par. 78).”

13 Letter to Professor Jack Stauder of Southeastern Massachusetts University dated December 22, 1977 from Tamar Gaulan, Principal Assistant to the Attorney General of Israel.

14 Same source as in footnote 12.

15 Annual reports of the UN General Assembly’s Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories. This
contacted by any person during the interrogation period, including the International Committee of the Red Cross (ICRC). This procedure leaves the detainee at the utter mercy of his interrogators. The London Sunday Times Insight Report of June 19, 1977 contends that most convictions are based on confessions by the accused, obtained during these long periods of interrogation when suspects are held incommunicado and often tortured. This conclusion was corroborated by six lawyers — two Israelis and four Palestinians—who regularly defend those accused of security offences; the Israeli authorities denied the charge, but still adhere to their position of not permitting an independent inquiry. The present writer, having had many occasions to interview former detainees and prisoners including close relatives, has detected a pattern which has also been noted in the reports of the Swiss League and the Sunday Times as well as in statements by the Israel League for Human and Civil Rights: Defendants are almost always apprehended by surprise. The inquiry is conducted entirely by the police without any legal aid. The attorney does not see his/her client until a confession has been obtained, usually several weeks after the arrest. Confession statements are prepared in Hebrew and are not likely to be fully understood by many of the signatories. The trial proceedings are held in Hebrew. A military interpreter sporadically translates for the benefit of the defendants. The only witnesses tend to be the security agents who had taken down the confession. No appeals are possible against judgments of the military courts in the occupied territories, except for civilians from occupied East Jerusalem or for acts taking place there. Almost all the reports consulted for this study claim to have gathered concurrent testimony from former prisoners, attorneys, prisoners’ families and municipal officials certifying that the use of torture in the West Bank is a systematic practice.

The most common charges which the reports and interviewees cite as violations of the Defence Regulations of 1945 include:

1. Military training: punishable by seven-year prison sentence.
2. Preparation of explosive devices: punishable by life sentence.
3. Transporting explosive devices: punishable by life sentence.
5. Membership of an illegal organization: punishment ranges between eighteen months and ten years.
6. Distributing leaflets or daubing slogans.

The courts usually consist of three judges, two military officers and a third with legal education. Although local justice is administered by Palestinian Arab officials, who apply Jordanian law, all “security offences” are handled by military courts and interrogation is conducted by the border police and members of the intelligence services.

Of ten reports consulted on the administration of military justice in the West Bank and Gaza, only the US State Department’s reports of 1977 and 1978 portray torture as “extreme pressure.” Section III (A), Article 5 of the 1977 report states: “The use of extreme pressures during interrogations of security suspects has been described in certain reports and may have taken place, although reports of the use of actual torture during interrogations have not been substantiated.”

The 1978 report, however, is less assertive in the denial of actual torture, although it rules it out as a “consistent practice or policy... during interrogation.” We read on page 366: “There are documented reports of the use of extreme physical and psychological pressures during interrogation, and instances of brutality by individual interrogators cannot be ruled out.”

This conclusion was echoed by Israel’s State Attorney, Gabriel Bach when he told Newsweek: “I certainly am not telling you that force has never been used during interrogations.... All I am saying is that the beating is not systematic and there is no scientific torture.”

The report on the Middle East Activities of the International Red Cross which appeared in the International Review of the Red Cross published in 1970, states: “During the visits [of detainees and internees by Red Cross officials] delegates have sometimes met detainees whose bodies showed traces of, according to the prisoners, ill-treatment during interrogations.”

In the ICRC Report on the Tulkarm Prison (February 26, 1968), quoted in the First Report of the UN Special Committee, we read on page 50:

A number of detainees have undergone torture during interrogation by the military police. According to the evidence the torture took the following forms:

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1. Suspension of the detainee by the hand and the simultaneous traction of his other members for hours at a time until he loses consciousness
2. Burns with cigarette stubs
3. Blows by rods on the genitals
4. Tying up and blindfolding for days
5. Bites by dogs
6. Electric shocks at the temples, the mouth, the chest and testicles.

The Swiss League report of 1977, however, adds a few other "more refined" techniques of torture including:
1. Using irritants which cause itching and pain
2. Forcing bottles or other objects up the rectum or the vagina
3. Pulling finger nails
4. Exposing an individual, in the nude, to full sunlight for hours on end.
5. Locking an individual in a cage too small for standing up, so that he is forced to crouch. The floor of the cage may be encrusted with sharp spikes.
6. Plunging an individual in icy bath, then plunging him in a boiling one, and repeating the process; and other such methods.

The Sunday Times report stated that the apparatus of ill-treatment and the "degree of organization evident in its application, removes Israel's practices from the lesser realms of brutality and places it firmly in the category of torture." It further described it as "organized so methodically that it cannot be dismissed as a handful of 'rogue cops' exceeding orders," and that it is "systematic" and "appears to be sanctioned at some level as deliberate policy."

Amnesty International dispatched representatives to Lebanon and Jordan in December 1968 to interview former prisoners and in April 1969 it published a report including detailed cases of alleged torture and ill-treatment of Arab prisoners. The report was sent to the Israeli government, with a strong recommendation for a formal inquiry into the allegations. The recommendation was rejected in a letter dated August 10, 1969 saying that "the meticulous examination" carried out by the Israeli authorities has led to the conclusion that there was no substance to the allegations. Having failed in several other attempts to persuade the Israelis to permit an independent inquiry, Amnesty published its Report on The Treatment of Certain Prisoners Under Interrogation In Israel on April 2, 1970. Appendix 1 of the report describes four case histories selected from "the larger number of similar cases compiled by Amnesty investigators as a result of their inquiries in both Israel and the Arab countries." The cases describe beating on all parts of the body, cigarette burns, tying the arms to two doors opposite to each other, following which soldiers would rapidly shut and open the doors many times in succession, forcing prisoners to drink urine, inserting a biro-type refill into the penis until it bled, handcuffing and suspension by the wrists on a bar, having a water hose inserted into the mouth and the tap turned on.
Amnesty renewed its requests for investigation several times after the release of its 1970 report, and according to the US State Department report of 1978 (p. 370) a request was made in October 1976 which was followed by several expressions of concern "about the imprisonment or treatment of a number of individual prisoners, Israeli Jews as well as Arabs." According to an Amnesty press release in the summer of 1977, none of these letters sent to Israel's Attorney General received a reply. Israel's response to the mounting accusations of human rights violations was expressed at the United Nations by its Ambassador there in November 1977: "My country can proudly stand by its record of scrupulously observing the rule of law in the administered areas."17 The fact remains, however, that no public investigation has ever been carried out or permitted by the Israeli authorities into any torture complaint by Palestinians. What redress, one might ask, is available to victims of torture? Israel asserts that it is not bound by the Fourth Geneva Convention in the occupied territories even though it is a signatory of that convention. Article 31 specifically prohibits torture: No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties. Furthermore, Israel claims that it has no political prisoners, only a few administrative detainees. Most Arab prisoners in Israeli jails are considered "convicted terrorists."18 It also claims that these prisoners were charged, tried and convicted after due process of law. Hundreds of prisoners, on the other hand, testified that their convictions were based on flimsy charges and forced confessions obtained through torture. In the meantime, it is almost impossible for defendants to bring their interrogators to court, because they use Arab names like Abu Daoud or nicknames like Danny or Jacky. The Israel League for Human and Civil Rights issued a statement on November 27, 1977 describing four cases typical of "many" to explain the futility of attempts to bring about a legal confrontation between defendants and interrogators: Four prisoners who participated in the hunger strike at Ashkelon prison in March 1977 expressed their desire to formally complain about torture on March 10 by border guards who administered beatings and broke the nose-bone of one of the striking prisoners. Their meeting with their attorney was delayed until June 15, and on that date Attorney Felicia Langer wrote to the Attorney General, Aharon Barak,

18 Amnesty International's 1977 report cites Haim Levi, Israeli Commissioner of Prisons, as giving the figure of 3227 prisoners "convicted" of "crimes against the security of the State."
requesting permission to bring a criminal action against a sergeant “Jaber” and others.

The Report states that:

...apart from a formal acknowledgment of the letter, no answer was received from the Attorney General for three months. Then at the end of September the Governor of Yagur prison appeared in the cells of the [four] prisoners, and interrogated them about their complaint. On hearing that [one of them] Mr. Jadalla still keeps in his possession a towel full of clotted blood as evidence, he ordered an immediate search and confiscated the towel. When subsequently Mrs. Langer wrote to him and asked him to return that towel, as an important piece of evidence, she was answered that no such towel existed....

As of the date of the League’s report, no reply had been received from the Attorney General regarding the complaint. The Israel League concluded its report by reiterating its appeal for an impartial investigation of torture claims. The use of torture to extort confessions has also been documented in cases involving Jewish prisoners. The following is an account by Israeli journalist Marcel Zohar:

“The more electric shocks — the less toil”.... is apparently the slogan of Natanya police, who extort confessions from detainees by means of electric shocks, tear gas and other barbaric methods.... This scene was not taken from a movie on torture inflicted by French paratroopers in Algeria, nor from descriptions of investigation methods in Chile, Brazil or any of the totalitarian states. It was taken from the description of the detainee Israel Cohen who told District Judge David Wallah about the investigation and the reasons for his signing a guilt confession in Israel in 1976.

Other similar stories of torture appeared in Haaretz (September 18, 1977), Yediot Abaronot (June 26, 1977 and May 22, 1977), and Maariv (June 9, 1977, July 15, 1977 and July 26, 1977). Following an article by the Sunday Times (September 18, 1977) containing information on torture from “leaked” Red Cross internal reports, the well-known Israeli journalist Dan Margalit wrote a lengthy article criticizing the activities of Red Cross officials as overzealous. The following extracts are relevant:

The Red Cross has some demands from Israel. Some of them are about principles, some are practical. They claim that the Fourth Geneva Convention, signed after World War II and which deals with a conquering army’s behaviour in the territory, includes the West Bank and Gaza Strip. Israel does not agree. The Geneva Convention was very much designed to prevent recurrence of deeds done by the Nazis in occupied territories, where the Jews were those hardest hit. But when the Red Cross opened a permanent office in Israel after the Six Day War, it was agreed with the Israeli Government that they would cooperate on a


practical basis and leave aside the principles and the complex theories.21

Among the principal "unreasonable" demands Margalit lists in the article is the request to see prisoners during the stage of interrogation, which is allegedly permissible in Iran as of the spring of 1977. Margalit dismisses the Iranian agreement as a fiction and proceeds to say: "Israel does not give similar permission. It agreed to let the Red Cross know about an arrest within eighteen days. True they don't always count the days, but on the whole an investigation usually does not take longer than a month."22

Most reports of ill-treatment reveal that torture takes place within the first weeks of the arrest, during which time the authorities generally succeed in obtaining a confession.

Attempting to conduct his own "independent" investigation, Margalit went to the Ramallah prison, which he describes as "very crowded." He refers to the prisoners as "terrorists" even though many of them have never been charged or tried. His account follows:

I asked who claimed to have been tortured during his investigation. The translator — who keeps regular contacts with the Red Cross — pointed out a young slim boy. I asked him if he would agree to talk outside the cell. A moment of silence, consultation. It was clear they were considering whether he would be able to represent the claims strongly, as is expected from him. A few minutes later I got a positive reply. This approval proved that the young man had climbed in the "hierarchy" of the terrorist leadership in the prison. We had an open discussion. Strong allegations were heard, concerning the methods of investigation. Not so strong concerning the conditions inside the prison.23

The "translator" to whom Margalit refers is Professor Taysir Aruri of Bir Zeit University's Physics Department, detained since April 23, 1974 without charge or trial. Upon hearing about the article, Professor Aruri issued a statement via the Israel League for Human and Civil Rights stating that a man who represented himself as Editor of Haaretz visited him in the presence of the prison governor, but when the editor saw that he was asserting that he himself and fellow prisoners were tortured, he terminated the interview abruptly and left.24

2. Prison Conditions

The Israeli military authorities use a widespread network of prisons in Israel itself and in the occupied territories to incarcerate Arabs. Almost all

21 Dan Margalit, "The Open Eye of the Red Cross," Haaretz (supplement), November 18, 1977.
22 Ibid.
23 Ibid.
reports consulted for this study indicate that the general conditions in these prisons are poor, particularly because of overcrowding. This complaint has been made repeatedly by the UN Special Committee, the ICRC, the Swiss League, the Israel League for Human and Civil Rights and many attorneys involved in the defence of Arab prisoners. As an example, the Swiss League Report cites the Ramallah prison which houses 200 inmates, although its capacity does not exceed 40 inmates. And a press release issued in January 1977 by the International Committee of the Red Cross states:

ICRC delegates have observed some improvements, but a number of problems which have been raised regularly by ICRC have not been solved. One such problem is overcrowding. In addition some improvements relating to medical services, cultural facilities and family contacts... have not been implemented.

No distinction is made between common criminals and civilians detained for political or “security” offences. Cases of serious discrimination between Arab and Jewish prisoners abound. According to the Swiss League, for example, in Beersheba prison Jews have beds while Arabs must sleep on the bare floor; Jews receive four visitors a month while Arabs receive only one. Israeli attorney Leah Tsemel who represents many prisoners and detainees in Israel and the occupied territories issued a report on the conditions of Beersheba prison dated July 6, 1977.

In light of the deposition gathered from her clients and other inmates, she affirms the following:\(^\text{25}\)

1. Medical care is practically non-existent. Several prisoners contracted serious illnesses. Hemorrhoids, ulcers, skin diseases, and rheumatic ailments are widespread. “The standard and most common ‘cure’ to just about any illness consists of aspirins and various skin creams.”
2. Overcrowdedness is the principal contributory factor to the poor medical conditions. Between 80 and 95 inmates are crowded into cells which are no larger than 120 square metres.
3. Several detainees have been driven to insanity under the effect of torture practised on them before or after their trial. (This is corroborated by the Swiss League Report).
4. Prison authorities attempt to institute a policy of “educational directives,” that is forcing unwanted literature on the prisoners.

Attorney Tsemel issued another report on the hunger strike which was staged by 386 Arab prisoners at Ashkelon jail on December 11, 1976 to protest against the poor conditions of prison life. The basic demand was for equal treatment with the 80 Jewish prisoners serving criminal sentences in the same prison. The report says:

For the past ten years the Arab prisoners in Ashkelon jail have been sleeping with neither beds nor mattresses, in dark and damp cells. The prisoners do not receive clothes apart from the outfits they receive on admission to jail. They have no other articles. The food is poor and monotonous and does not contain sufficient nutrients. It consists of mostly fats, potatoes and overboiled beans...the families used to be able to bring up to IL 30 per month, but this has been reduced to IL 20. The Jewish prisoners are allowed to receive IL 70 per month....They are not allowed to receive any political, economic or sociological literature....They state that a physician sees about 50 prisoners in 15 minutes.26

On the eighth day of the strike 59 prisoners were transferred to Kfar Yona prison where they continued their hunger strike for forty days. Other prisoners were dispersed but as of the date of Tsemel’s report (January 20, 1977) more than 150 prisoners were still refusing food. The prison governor told them: “End the strike and then we will talk.” The President of the Supreme Court commented that the whole affair was a “scandal.”

Similar complaints were voiced in a memorandum by three lawyers from Nazareth addressed to the Commissioner of the Prison Service dated October 21, 1977, discussing the labour strike staged by prisoners at the Shatta jail in protest against harsh treatment by the prison authorities including beating, isolation, abolition of family visits, and lack of medical care.27

The strike at Ramla prison of March 1976, which involved seventy political prisoners, lasted for more than two months. Prisoners who were protesting against orders which forced them to work for low wages told attorney Walid al-Fahoum that some of them were punished by being locked up in a hole for over a week, the maximum period permitted by law.28

Conditions in the Gaza prison for women were described by one of the prisoners from the West Bank city of Ramallah to her attorneys Saleh Badina and Felicia Langer, and the testimony was published in Zu Haderech under the title, “A Hell Called Gaza Jail”:

The solitary confinement cells in this jail are one metre by one metre, eighty without windows. In one corner, there is an uncovered toilet. Harsh electric lights burn day and night....The women prisoners are kept for two months,

26 For a description of an earlier strike at Ashkelon Prison, see Felicia Langer, With My Own Eyes (London: Ithaca Press, 1975), pp.73-79; and ibid. Other strikes throughout Israeli prisons were reported in al-Ittibā’ (September 30, 1969); The Times (London), May 5, 1970. Haolam Hazeh (November 1, 1970), The Guardian (January 15, 1973), and F. Langer, With My Own Eyes, pp.49–50.


28 Zu Haderech, May 12, 1976.
sometimes three during the interrogation period, in an attempt to "break" them...one must eat and fulfil her needs in this place. 29

3. Extra-territorial Jurisdiction

The Defence Regulations of 1945 concerning "illegal organizations," "unlawful possession of arms and training in the use thereof" have been applied throughout the past ten years to non-Israeli citizens and non-residents of areas under Israeli occupation. In March 1972, however, Israel adopted a law which makes it a crime for anyone living outside Israel to engage in any hostile activities against the state. Article 2 (a) of that law, amending the Penal Code (Offences Abroad), states:

Israeli courts have the authority to try according to Israeli law anyone who has committed outside Israel an act that would have been considered an offence within Israel, and that damaged or was intended to damage the State of Israel, its security, its property, its economy, or its communication or traffic links with other countries. 30

Undoubtedly, this amendment was intended to enable Israel to intimidate Palestinians and their supporters abroad and to discourage normal dissent with regard to occupation policies among the Palestinian "diaspora." Undergoing military training and belonging to an illegal organization are the two most favoured charges used by Israel to attain this goal. Literally, hundreds of cases involving one or other of these charges have gone through Israeli courts since the beginning of the occupation, affecting residents. The 1972 amendment grants Israel extra-territorial jurisdiction. It was first applied against ten persons from six Arab countries, who were kidnapped by Israeli forces during a raid on southern Lebanon on September 16, 1973. 31 At their trial, which was held on July 10, 1974, Attorney A. Barkay, an Israeli, argued that the court had no jurisdiction to try the defendants, who committed no crime in their country of residence, and were brought to Israel against their will, contrary to international law and in breach of another country's sovereignty. Several other lawyers spoke on behalf of the defendants, including Ali Rafi and Felicia Langer. The latter warned that a "dangerous precedent" was being set when "people can be hijacked illegally and be put on trial. This is a double-edged knife, and we are inviting the other side to do exactly the same." 32 She referred to the plane which had been hijacked to Algeria with reservists in the Israeli army abroad, that was later returned to Israel.

The army prosecutor based his rebuttal on the Eichmann case and the

29 Zu Haderech, September 24, 1975.
30 F. Langer, With My Own Eyes, p.144.
31 Details in ibid. pp.144-153.
32 Ibid.
principle of self-defence, although the defence attorneys had pointed out that the Eichmann case involved genocide which, unlike the Defence Regulations of 1945, is recognized by international law, and that Argentina, unlike Lebanon, had waived the breach of sovereignty. In the end all the accused were convicted and sentenced to a six-year term of imprisonment.

The most recent cases involving this extra-territorial jurisdiction are those of United States citizens Terry Fleener and Sami Ismael, who were arrested upon arrival on October 25 and December 21, 1977 respectively. Fleener, a young Texan, was convicted in a closed trial on January 9, 1978 of "conveying information to the enemy," and "rendering services to illegal organizations." 33 Sami Ismael, a graduate student of engineering at Michigan State University, was arrested at Ben-Gurion Airport on December 21, 1977, when he arrived to visit his dying father, a naturalized US citizen living in the West Bank. He was held for 48 hours before he was able to contact relatives or a lawyer. Both he and Terry Fleener signed confessions written in Hebrew, despite the fact that neither one of them reads or writes that language. It took six days for the confession to be obtained from Ismael and then he was held for a month before he was formally charged with membership in the Popular Front for the Liberation of Palestine and with having undergone training in the use of explosives in Libya in August 1976. 34 What is significant about these two cases, which relate to alleged acts committed outside Israeli areas of jurisdiction, is that they involve citizens of the United States, a country known for its sensitivity to the safety and rights of its citizens. Ismael’s Congressman M. Robert Carr, a Democrat from Michigan, and a civil rights lawyer, summed up his case this way:

The perplexing thing from the comparative law system part is that he is not charged with committing any crime in Israel or with intent to commit a terrorist act or to conspire with others. It is this extra-territorial definition of crime in Israel that is perplexing to us. In this country he would only have been exercising his constitutional rights. 35

Representative Carr revealed that the FBI had been surveilling Ismael, and that the American and Israeli intelligence agencies cooperate and exchange information. 36 He found it strange that instead of interrogating Ismael at the border and sending him away, Israel decided to hold him for a month before charging him, and added:

36 Ibid.
With so many alternative avenues available to meeting Israeli security aspects and respecting American citizens, it does seem somewhat of an affront to the support the United States has given Israel. You would think they would want to be sensitive to the discrepancies between... the stranger parts of their jurisprudence and respect for American citizens.\textsuperscript{37}

The State Department, which initially asserted that it had no indication of any mistreatment in the Ismael case, declared on January 26, 1978 that it was asking Israel to investigate torture charges by Ismael.\textsuperscript{38} The statement was issued four weeks after Ismael’s attorney filed a letter with the US Embassy in Tel Aviv concerning Ismael’s charges.\textsuperscript{39} What was clearly absent was the usual official expression of concern whenever allegations of ill-treatment are made by any US citizen travelling abroad. At issue here is not the credibility of President Carter’s “undeviating commitment”\textsuperscript{40} to human rights everywhere; the present Administration in Washington makes no secret of its unwillingness or inability to apply a single standard to the principal violators.\textsuperscript{41} Rather, the question is whether the Carter Administration will defend the rights of certain American citizens as vigorously as it espoused the cause of Soviet citizens accused of links with the CIA like Alexander Ginsburg and Anatoly Sharkansky as well as other so-called dissidents.

At the time of this writing, with Ismael’s case still pending in Israel, an organized campaign on behalf of Ismael in the United States seems to have evoked a response by the Israeli Embassy in Washington. An “Information Background” statement released by the Embassy on March 27, 1978 asserts that the arrest and the trial of Ismael by Israel is consistent with international law, and “that a country has criminal jurisdiction over all persons, of whatever nationality, within its borders.” The decision of the

\textsuperscript{37} Ibid.


\textsuperscript{40} New York Times, May 18, 1977.

\textsuperscript{41} See, for example, Deputy Secretary of State Christopher Warren’s address to the American Bar Association on August 9, 1977: “As for military assistance, our military assistance programmes are reviewed in light of the human rights practices of the recipient governments. In some cases we may decide to limit or withdraw security assistance. In other cases where the human rights performance of the recipient is unsatisfactory, we may decide to continue to provide aid because of overriding US national security interests – but not without expressing concern.” Department of State, “Speech: Human Rights, Principles and Realism,” Bureau of Public Affairs, August 9, 1977. Secretary of State Vance reiterated the same theme when he cautioned in his speech on April 30, 1977 before the University of Georgia’s Law School: “In pursuing a human rights policy, we must always keep in mind the limits of our power and our wisdom. A sure formula for defeat of our goals would be a rigid, hubristic attempt to impose our values on others.” The Secretary of State, “Speech: Human Rights Policy,” Bureau of Public Affairs, April 30, 1977.
International Court of Justice in the Lotus case (1927) as well as that of
the US Supreme Court in US vs. Aluminum Company of America (1945)
are cited by the Embassy’s statement to bolster the Israeli position. On
the other hand, Palestinians and their supporters have, likewise, argued
that the Israeli logic would permit the Palestine Liberation Organization,
as the internationally recognized spokesman of the Palestinian people, to
arrest Menahem Begin and other Israeli officials during their travels
abroad, and try them for terrorist acts committed against the Palestinian
people during the past three decades. The Deir Yassin massacre of April 9,
1948 by Begin’s Irgun Zvai Leumi, and the recent invasion of Lebanon,
are but a few examples of such acts.

In conclusion, this study reveals that the violation of human rights of
prisoners in the Israeli-occupied territories must be seen in the context of
the occupation itself and its relationship to the Palestinian national
problem. The denial of Palestinian national rights generates resistance and,
in turn, invites repression. Until the abnormality of Palestinian existence
with all the privations and the sense of injustice that it breeds is remedied,
there can be no end to the cycle of violence. For Israel, the regular resort
to military measures across the frontiers and to repressive practices in the
areas under its jurisdiction will, in the end, prove morally and institution-
ally corrosive. Not only does Israel hold the world record for the share of
military expenditures in the GNP (35.2 percent) but it is probably the
only state whose foreign debt (9 billion dollars in 1976) exceeds the state
budget. Militarization, which penetrates the economic, political and social
sectors of Israeli society has become the focus of national life. The
remedy of this aspect of insecurity will be found neither in the indefinite
subjugation of another people who remain cohesive despite their legal and
physical fragmentation, nor in the pursuit of biblical frontiers in an era of
decolonization.