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REPORT OF THE SPECIAL COMMITTEE TO INVESTIGATE ISRAELI
PRACTICES AFFECTING THE HUMAN RIGHTS OF THE POPULATION
OF THE OCCUPIED TERRITORIES

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the attached report, which was submitted to him by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories in accordance with paragraph 11 of General Assembly resolution 3005 (XXVII) of 15 December 1972.

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/...

LETTER OF TRANSMITTAL

10 October 1973

Sir,

In accordance with General Assembly resolution 3005 (XXVII), the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories has the honour to present the attached report, formulated in accordance with the terms of General Assembly resolutions 2443 (XXIII), 2546 (XXIV), 2727 (XXV), 2851 (XXVI) and 3005 (XXVII).

The Special Committee must again observe, with regret, that the Government of Israel has persisted in its refusal to co-operate with the Special Committee; this refusal continues to be a major obstacle in the discharge of the Special Committee's mandate. Despite this difficulty, the Special Committee has followed closely the policies and practices of the Government of Israel as they affect the human rights of the population of the occupied territories.

The result of this investigation shows once again that the Government of Israel still follows a policy contrary to the provisions of the applicable international law concerning occupation and is thereby violating the human rights of the population of the occupied territories. This policy creates the basis for future conflict in that it denies the population of the occupied territories, whether they be Egyptians, Jordanians, Palestinians or Syrians, the right to live as communities under the protection of a State. The Government of Israel has ignored the repeated requests of the General Assembly and other United Nations organs to regulate its policies and practices in the occupied territories in accordance with the applicable international law. As a result, the Government of Israel has not only increased the number of its settlements in the occupied territories, but has announced definitive plans for future measures in these territories designed to settle and annex new areas. The Government of Israel has initiated the construction of urban settlements with the declared purpose of converting them into towns and cities in the future. To give effect to this policy, the Government of Israel has continued to expropriate land in the occupied territories where necessary, evicting persons whose livelihood depended on such land.

In doing so, the Government of Israel continues to keep the inhabitants of the occupied territories, who had fled during the hostilities or who were expelled thereafter, from returning to their homes. The programme of repatriation on humanitarian grounds has resulted only in a negligible number of persons being allowed to return.

His Excellency
Mr. Kurt Waldheim
Secretary-General of the United Nations
New York

/...

International law considers occupation a temporary, provisional situation; in the territories occupied as a result of the June 1967 hostilities, the Government of Israel is taking measures of a permanent nature, following a policy completely incompatible with its obligations as an occupying Power.

The situation in the occupied territories is largely due to the apathy and indifference of the international community and its lack of genuine concern for the population of the occupied territories. This attitude has served to encourage the Government of Israel to adopt measures without any regard to international law and in defiance of its international obligations. The most serious of all is the Government of Israel's policy of converting to its use and appropriating property and territory to which it has no legitimate claim, thereby depriving the population of the occupied territories of their human rights.

It is the joint responsibility of all members of the United Nations to ensure universal respect for, and adherence to, international law. This responsibility becomes more compelling where the territory of one State is occupied by another as a result of hostilities and where the occupying Power is left free to adopt measures calculated to alter the physical character and demographic composition of the occupied territories. In the occupied territories in the Middle East, the international community has failed to discharge this responsibility; it has paid little or no attention to the repeated appeals by the Special Committee for an arrangement that would ensure at least a modicum of protection for the human rights of the population of the occupied territories. In these circumstances, the Special Committee is constrained to urge that, even at this late stage, after six years of occupation, the United Nations must take prompt and effective measures not merely to prevent a further deterioration of the situation, but to restore to the population of the occupied territories their rights.

The Special Committee wishes once more to place on record its high appreciation of the sense of duty shown by the staff of the secretariat that has been attached to it and for the unfailing co-operation of all sections of the United Nations Secretariat that have been assisting with its work over the last four years.

Accept, Sir, on my behalf and on behalf of my two colleagues on the Special Committee, the assurances of our highest consideration.

(Signed) H. S. AMERASINGHE
Chairman
of the Special Committee
to Investigate Israeli Practices
Affecting the Human Rights of the Population
of the Occupied Territories

/...

INTRODUCTION

1. The Special Committee was established by the General Assembly in resolution 2443 (XXIII), adopted at its 1748th plenary meeting on 19 December 1968. By that resolution, the General Assembly decided to establish a Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, composed of three Member States; requested the President of the General Assembly to appoint the members of the Special Committee; requested the Government of Israel to receive the Special Committee, co-operate with it and facilitate its work; requested the Special Committee to report to the Secretary-General as soon as possible and whenever the need arose thereafter; and requested the Secretary-General to provide the Special Committee with all the necessary facilities for the performance of its task.

2. The following Member States were appointed on 12 September 1969 to serve on the Special Committee: Somalia, Sri Lanka and Yugoslavia. The Government of the Somali Democratic Republic appointed Mr. Abdulrahim Abby Farah, Permanent Representative of Somalia to the United Nations at that time, to represent Somalia on the Special Committee. The Government of Sri Lanka appointed Mr. H. S. Amerasinghe, Permanent Representative of Sri Lanka to the United Nations, to represent Sri Lanka on the Special Committee. The Government of Yugoslavia appointed Dr. Borut Bohte, Associate Professor of the Faculty of Law of Ljubljana University and member of the Federal Assembly of the Socialist Federal Republic of Yugoslavia, as its representative on the Special Committee. On 24 June 1971, the Government of Somalia informed the Secretary-General that Mr. Hussein Nur Elmi, Ambassador Extraordinary and Plenipotentiary, now Permanent Representative of Somalia to the United Nations, had been appointed to act instead of Mr. A. A. Farah on the Special Committee.

3. On 5 October 1970, the Special Committee submitted its first report (A/8089), in accordance with Assembly resolutions 2443 (XXIII) and 2546 (XXIV). The report was discussed in the Special Political Committee at its 744th-751st meetings from 7 to 11 December 1970 (A/SPC/SR.744-751). On 15 December 1970, at its 1931st plenary meeting, the General Assembly examined the report of the Special Political Committee 1/ and adopted resolution 2727 (XXV).

4. On 17 September 1971, the Special Committee presented its second report (A/8389 and Corr. 1 and 2), prepared in accordance with the terms of General Assembly resolutions 2443 (XXIII), 2546 (XXIV) and 2727 (XXV). On 10 December 1971, the Special Committee presented a third report containing information which had become available after the completion of its second report (A/8389/Add.1 and Add.1/Corr. 1 and 2). These reports were discussed in the Special Political Committee at its 798th to 803rd meetings from 13 to 16 December 1971 (A/SPC/SR.798-803). On 20 December 1971, at its 2027th plenary meeting, the

1/ Official Records of the General Assembly, Twenty-fifth Session, Annexes, agenda item 101, document A/8237.

General Assembly considered the report of the Special Political Committee 2/ and adopted resolution 2851 (XXVI).

5. On 25 September 1972, the Special Committee presented its fourth report in accordance with the terms of General Assembly resolutions 2443 (XXIII), 2546 (XXIV), 2727 (XXV) and 2851 (XXVI). The report was discussed in the Special Political Committee at its 849th to 855th meetings from 30 November to 7 December 1972 (A/SPC/SR.849-855). On 15 December 1972, at its 2112th plenary meeting, the General Assembly examined the report of the Special Political Committee (A/8950) and adopted resolution 3005 (XXVII).

6. The present report has been prepared in accordance with the terms of General Assembly resolutions 2443 (XXIII), 2546 (XXIV), 2727 (XXV), 2851 (XXVI) and 3005 (XXVII).

2/ Ibid., Twenty-sixth Session, Annexes, agenda item 40, document A/8630.

I. MANDATE

A. Interpretation given by the Special Committee of its mandate

7. The Special Committee had given its interpretation of its mandate in its first report to the Secretary-General (A/8089, chap. II), in which the Special Committee determined the scope of its investigation in regard to:

- (a) Which are the territories that should be considered as "occupied territories";
- (b) Who is covered by the term "population" of the occupied territories;
- (c) What are the "human rights" of the population of the occupied territories;
- (d) What are the "policies and practices" referred to in resolutions 2443 (XXIII) and 2546 (XXIV).

In its subsequent reports (A/8389 and Corr.1 and 2, chap. II; A/8389/Add.1 and Corr.1 and 2, para 8; and A/8828, chap. II), the Special Committee reiterated this interpretation in the light of the relevant General Assembly resolutions and continued to exercise its functions according to that interpretation. The Special Committee considers that the General Assembly requested it to investigate practices and policies of the Government of Israel affecting the human rights of the population of the territories occupied by Israel as a result of the hostilities of June 1967. In its first report (A/8089, paras. 36-38), the Special Committee defined these rights as, briefly, those which the Security Council referred to as "essential and inalienable" in its resolution 237 (1967). The instruments of international law in which these rights are clearly defined are the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949 3/, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 4/ and the Hague Conventions of 1899 and 1907 respecting the Laws and Customs of War on Land 5/.

8. The Special Committee must emphasize the fact that the population of the occupied territories, by the very fact of its being in a territory occupied as a result of hostilities, is entitled to the special protection afforded by international law. This protection, in so far as the right to return is concerned, equally applies to those persons normally resident in the areas now under occupation, but who have left those areas under the pressure of the hostilities. This was stated by the Special Committee in its first report (A/8089, para. 35).

3/ United Nations, Treaty Series, vol. 75, No. 972, p. 135.

4/ Ibid., No. 973, p. 287.

5/ The Hague Conventions and Declarations, 1899-1907 (New York, Oxford University Press, 1918).

9. The Fourth Geneva Convention of 1949 and the Hague Conventions of 1899 and 1907 are the instruments that give this special protection. As stated in article 154 of the Fourth Geneva Convention, "this ... Convention is supplementary to Sections II and III of the Regulations annexed to the ... Conventions of The Hague".

10. These instruments protect the person and property as well as the identity of the population under occupation. The right of the population of the occupied territories to an identity of their own is further strengthened by the unequivocal pronouncements of the General Assembly, notably its resolution 181 (II), whereby their right to a homeland was acknowledged.

11. The mandate of the Special Committee is therefore to ascertain whether the policy or practices of the occupying Power constitute an infringement of the rights of the population of the occupied territories.

12. The Special Committee's procedure has been to determine whether the human rights which are referred to in paragraph 8 of General Assembly resolution 3005 (XXVII) are rights which are protected under international law in conditions of occupation and whether, in fact, the evidence before the Special Committee proves beyond reasonable doubt that the policies and practices of the Government of Israel in the occupied territories constitute an infringement of those rights, taking into account the reasons adduced by the Government of Israel in justification of such policies and practices.

B. General Assembly resolution 3005 (XXVII) of 15 December 1972

13. In its resolution 3005 (XXVII), the General Assembly mentioned, in particular, the following policies and practices as being among the allegations to be investigated by the Special Committee:

"(a) The measures concerning the establishment of Israeli settlements in the occupied territories and the moving into the occupied territories of an alien population, contrary to the provisions of the Geneva Convention of 12 August 1949;

"(b) The situation concerning the annexation of any part of the territories occupied by Israel since 5 June 1967;

"(c) The exploitation and the looting of the resources of the occupied territories;

"(d) The changes in the physical character or demographic composition or institutional structure of those territories, including the transfer or deportation of population thereof or the demolition of houses and towns therein;

"(e) The pillaging of the archaeological and cultural heritage of the occupied territories;

/...

"(f) The interference in the freedom of worship in the holy places of the occupied territories;"

14. It may be noted that among the policies and practices affecting the human rights of the population of the occupied territories which the General Assembly mentioned in resolution 3005 (XXVII), the following have not been expressly referred to in previous resolutions of the General Assembly on this subject:

"...

"(c) The exploitation and the looting of the resources of the occupied territories;

"...

"(e) The pillaging of the archaeological and cultural heritage of the occupied territories;

"...

"(f) The interference in the freedom of worship in the holy places of the occupied territories."

15. In addition to the international instruments that it has deemed heretofore applicable, the Special Committee therefore considered the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (14 May 1954) ^{6/} to be relevant. On the question of rights concerning property, the Special Committee gave due attention to the relevant sections of the Hague Conventions of 1899 and 1907 respecting the Laws and Customs of War on Land. The Special Committee did so because of the considerable evidence before it on the disposal of property in the occupied territories by the occupying Power or by agencies for which it is responsible.

C. Provisions and interpretation of international law on the disposal of property in occupied territories by the occupying Power

16. The evidence before the Special Committee this year indicates that the Government of Israel appears to draw a distinction between State and private property in the occupied territories, particularly as far as the disposal of such property is concerned. The Special Committee has analysed this evidence in chapter III, sections A and C, of the present report.

17. The Special Committee is of the opinion that this distinction between state-owned and privately-owned property in the occupied territories for the purpose of disposal of such property calls for a precise statement of the rules of international law on the subject.

18. As the Special Committee has had occasion to point out in its earlier reports (A/8389 and Corr. 1 and 2, para. 45), the Fourth Geneva Convention specifically

^{6/} Ibid., vol. 249, No. 3511, p. 215.

prohibits the annexation of occupied territory as well as the transfer of parts of the occupying Power's own civilian population into the occupied territory. The Geneva Convention is based on the premise that the occupation of territory in wartime is essentially a temporary, de facto situation and cannot imply any right whatsoever to dispose of occupied territory. "A decision on that point /the annexation of occupied territory/ can only be reached in the peace treaty. That is a universally recognized rule which is endorsed by jurists and confirmed by numerous rulings of international and national courts." 7/ The Hague Conventions of 1899 and 1907 also endorse this interpretation. Article 46 of the regulations annexed to the Conventions specifically prohibits the confiscation of private property. With regard to public property in occupied territory, article 55 of the regulations lays down that,

"The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests and agricultural estates belonging to the hostile State and situated in the occupied territory. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct."

In the seventh edition of Oppenheim's International Law, Lauterpacht, commenting on the subject of warfare on land, states that,

"Appropriation of public immovables is not lawful so long as the territory on which they are found has not become State property of the occupant through annexation. During mere military occupation of enemy territory, a belligerent may not sell, or otherwise alienate, public enemy land and buildings, but may only appropriate their produce." 8/

As regards immovable private property, Lauterpacht goes on to state,

"Immoveable private enemy property may under no circumstances or conditions be appropriated by an invading belligerent. Should he confiscate and sell private land or buildings, the buyer would acquire no right whatever to the property." 9/

19. The Fourth Geneva Convention and The Hague Conventions make it abundantly clear that, irrespective of whether the land belongs to the State or to private individuals, the occupying Power has no right under international law to acquire ownership of such property. Any such acquisition, therefore, is inso jure invalid.

20. As regards the rights of a usufructuary, the Special Committee would observe that the distinction must be drawn between renewable and non-renewable resources.

7/ Commentary on the Fourth Geneva Convention (Geneva, International Committee of the Red Cross, 1958), p. 275.

8/ International Law: A Treatise by L. Oppenheim, Vol. II, Disputes, War and Neutrality, H. Lauterpacht, ed., Seventh Edition (Longmans, London, 1952), section 134.

9/ Ibid.

For example, the produce of an orchard, which is a renewable resource, would perish or go to waste if the occupying Power were precluded under the law from taking such produce. On the other hand, the right of usufruct on the part of the occupying Power cannot reasonably be held to extend to non-renewable resources, such as hydrocarbons and other deposits. The exercise of usufruct over such non-renewable resources would be totally inadmissible in law as it could, over a period of time, lead to the depletion or even complete exhaustion of a valuable asset. Moreover, any exploitation of non-renewable resources inevitably results in erosion of a capital asset and is inconsistent with the principle prescribed in article 1 of the International Covenant on Economic Social and Cultural Rights and the International Covenant on Civil and Political Rights, that "all peoples may, for their own ends, freely dispose of their natural wealth and resources" and that, "in no case may a people be deprived of its own means of subsistence". As Lauterpacht has further observed, the occupying Power is only "usufructuary, and is therefore prohibited from exercising his right in a wasteful or negligent way so as to decrease the value of the stock and plant. Thus, for instance, he must not cut down a whole forest, unless the necessities of war compel him." 10/ This prohibition would apply with greater force to the exploitation of non-renewable resources.

D. Provisions and interpretation of international law relating to cultural property in occupied territories

21. The relevant provisions of international law on the protection of archaeological and cultural property in occupied territories are embodied in the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, of 14 May 1954.

22. This Convention provides: 11/

Article 1

DEFINITION OF CULTURAL PROPERTY

For the purposes of the present Convention, the term "cultural property" shall cover, irrespective of origin or ownership:

(a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;

(b) buildings whose main and effective purpose is to preserve or exhibit

10/ Ibid., sect. 134.

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

the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in subparagraph (a);

(c) centres containing a large amount of cultural property as defined in subparagraphs (a) and (b), to be known as "centres containing monuments".

Article 2

PROTECTION OF CULTURAL PROPERTY

For the purposes of the present Convention, the protection of cultural property shall comprise the safeguarding of and respect for such property.

Article 4

RESPECT FOR CULTURAL PROPERTY

1. The High Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility directed against such property.

2. The obligations mentioned in paragraph 1 of the present article may be waived only in cases where military necessity imperatively requires such a waiver.

3. The High Contracting Parties further undertake to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property. They shall refrain from requisitioning movable cultural property situated in the territory of another High Contracting Party.

4. They shall refrain from any act directed by way of reprisals against cultural property.

5. No High Contracting Party may evade the obligations incumbent upon it under the present Article, in respect of another High Contracting Party, by reason of the fact that the latter has not applied the measures of safeguard referred to in article 3.

/...

Article 5

OCCUPATION

1. Any High Contracting Party in occupation of the whole or part of the territory of another High Contracting Party shall as far as possible support the competent national authorities of the occupied country in safeguarding and preserving its cultural property.

2. Should it prove necessary to take measures to preserve cultural property situated in occupied territory and damaged by military operations, and should the competent national authorities be unable to take such measures, the Occupying Power shall, as far as possible, and in close co-operation with such authorities, take the most necessary measures of preservation.

3. Any High Contracting Party whose government is considered their legitimate government by members of a resistance movement, shall, if possible, draw their attention to the obligation to comply with those provisions of the Convention dealing with respect for cultural property.

23. According to article 36, this Convention is supplementary to the regulations annexed to the Hague Conventions of 1899 and 1907.

24. The Special Committee, in interpreting this part of its mandate, has taken note of the recommendation on international principles applicable to archaeological excavations adopted by the UNESCO General Conference at its ninth session, held at New Delhi in 1956, paragraph 32 of which states that,

"In the event of armed conflict, any Member State occupying the territory of another State should refrain from carrying out archaeological excavations in the occupied territory. In the event of chance finds being made, particularly during military works, the occupying Power should take all possible measures to protect these finds, which should be handed over, on the termination of hostilities, to the competent authorities of the territory previously occupied, together with all documentation relating thereto." 12/

Although this recommendation does not have the same binding force as the provisions of the Convention itself, the Special Committee would draw attention to the fact that it reflects the opinio juris of an authoritative source and is, moreover, in keeping with the spirit of the Convention.

25. The Special Committee observes that, in the international instruments regulating the conduct of an occupying Power, the basic principle is that occupation is a temporary, de facto situation and that the occupying Power may be considered, for the duration of the occupation, as being the administrator of the occupied territories. The occupying Power has of necessity only a temporary status, which is terminated by an appropriate peace settlement. The basic duty of the occupying

12/ UNESCO document 9C/RESOLUTIONS, chap. I, sect. A, appendix I.

Power is, therefore, to maintain the situation in the occupied territories as it was prior to the occupation, carrying out minimal changes that are essential and unavoidable for the preservation of the cultural property itself. Article 5 of the Hague Convention is clearly based on this principle and, therefore, for the purposes of this article, activities like archaeological excavation in occupied territories by the occupying Power are not, per se, contemplated. It is clear that paragraph 1 of article 5 is based on the premise that the safeguarding and preservation of the cultural property in occupied territories would continue to be undertaken by "the competent national authorities of the occupied country" and the occupying Power "shall as far as possible support" these competent authorities. The role of the occupying Power is therefore a secondary one, which cannot replace the competent national authorities. This is confirmed in paragraph 2 of article 5, where the Convention provides that, in the case of cultural property damaged by military operations in regard to which the competent national authorities are unable to take measures for their preservation, the occupying Power is only allowed to "take the most necessary measures of preservation" and this, "in close co-operation with such authorities".

26. The Special Committee is of opinion that the silence of the Hague Convention on whether an occupying Power does or does not have the right to carry out archaeological excavations in occupied territory should be interpreted as precluding such excavations. This is the only interpretation that is consistent with the basic principle that occupation does not bestow ownership on the occupying Power and, therefore, apart from minimal exceptions justified by considerations of security or military necessity, which are specifically mentioned in the Convention, the occupant acquires no right to dispose of property, including cultural property, in the occupied territories. This interpretation is further strengthened by the recommendation of the UNESCO General Conference held in New Delhi in 1956 (see paragraph 24 above).

II. ORGANIZATION OF WORK

27. The Special Committee continued its work under the rules of procedure which appeared in its first report to the Secretary-General (A/8089, annex III).

28. The Special Committee held a series of meetings at United Nations Headquarters in New York from 26 February to 5 March 1973 to review its mandate consequent to the adoption by the General Assembly of resolution 3005 (XXVII) and to decide on the organization of its work for the year. At these meetings, the Special Committee decided that, during 1973, it should continue its investigative work and simultaneously increase its efforts to secure a more direct arrangement to safeguard the human rights of the population of the occupied territories. The Special Committee decided to follow developments in the occupied territories as it had done in the preceding years and to seek information from other sources. The Special Committee agreed to leave open the possibility of a visit to the Middle East.

29. With regard to its efforts to secure a more direct arrangement to safeguard the human rights of the population of the occupied territories, the Special Committee reviewed the positions taken by certain delegations in the Special Political Committee at the twenty-seventh session of the General Assembly and noted that several speakers had expressed the same desire as the Special Committee for a more direct arrangement to safeguard the human rights of the population of the occupied territories. It noted the suggestions that had been put forward in the Special Political Committee and, through the use of the Secretary-General's good offices, sought to ascertain whether the delegations who had expressed these views would be prepared to co-operate in an effort to find a workable arrangement to safeguard the human rights of the population of the occupied territories.

30. At this series of meetings, the Special Committee decided to address the Governments concerned.

(a) On 1 March 1973, the Special Committee addressed the following letter to the Governments of Egypt, Jordan, the Syrian Arab Republic and Lebanon:

"Sir,

"At its current series of meetings, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories re-examined its mandate in the light of General Assembly resolution 3005 (XXVII), adopted on 15 December 1972, in operative paragraph 8 of which the Assembly indicated the following policies and practices as requiring investigation by the Special Committee:

'(a) The measures concerning the establishment of Israeli settlements in the occupied territories and the moving into the occupied territories of an alien population, contrary to the provisions of the Geneva Convention of 12 August 1949;

'(b) The situation concerning the annexation of any part of the territories occupied by Israel since 5 June 1967;

/...

'(c) The exploitation and the looting of the resources of the occupied territories;

'(d) The changes in the physical character or demographic composition or institutional structure of those territories, including the transfer or deportation of population thereof or demolition of houses and towns therein;

'(e) The pillaging of the archaeological and cultural heritage of the occupied territories;

'(f) The interference in the freedom of worship in the holy places of the occupied territories;'

"The Special Committee would be grateful if Your Excellency's Government would communicate to me, c/o the Secretary of the Special Committee, Room 3194A, United Nations, New York, by 15 April 1973 if possible, any information, documentary or otherwise, relating to the policies and practices referred to in resolution 3005 (XXVII). The Special Committee would wish to draw particular attention to certain policies and practices that have not been examined in detail in the past, such as the exploitation and the looting of the resources of the occupied territories, mentioned in subparagraph (c), the pillaging of the archaeological and cultural heritage of the occupied territories, mentioned in subparagraph (e), and the interference in the freedom of worship in the holy places of the occupied territories, mentioned in subparagraph (f). The Special Committee would appreciate receiving the names and addresses of persons or organizations who would be in a position to supplement any information which Your Excellency's Government might be able to furnish. The names of such persons or organizations would be kept confidential by the Special Committee if so desired."

The Special Committee, in its letter to the Governments of Egypt and Jordan, referred to earlier requests for information that it had made and inquired whether such information would be forthcoming.

(b) On 2 March 1973, the Special Committee addressed the following letter to the Government of Israel:

"Sir,

"At its current series of meetings, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories re-examined its mandate in the light of General Assembly resolution 3005 (XXVII), adopted on 15 December 1972, in operative paragraph 8 of which the Assembly indicated the following policies and practices as requiring investigation by the Special Committee:

'(a) The measures concerning the establishment of Israeli settlements in the occupied territories and the moving into the occupied territories of an alien population, contrary to the provisions of the Geneva Convention of 12 August 1949;

/...

'(b) The situation concerning the annexation of any part of the territories occupied by Israel since 5 June 1967;

'(c) The exploitation and the looting of the resources of the occupied territories;

'(d) The changes in the physical character or demographic composition or institutional structure of these territories, including the transfer or deportation of population thereof or the demolition of houses and towns therein;

'(e) The pillaging of the archaeological and cultural heritage of the occupied territories;

'(f) The interference in the freedom of worship in the holy places of the occupied territories;'

"In its four reports to the Secretary-General (A/8089, A/8389 and Add.1 and A/8828) the Special Committee had stated its finding on the evidence before it, with reference to the situation in the occupied territories existing at that time. The Special Committee would find it most helpful if your Government would communicate to it any information, documentary or otherwise, concerning the policies and practices referred to in resolution 3005 (XXVII). The Special Committee would appreciate receiving the names and addresses of persons or organizations that might be prepared to furnish such information to the Special Committee. The names of such persons or organizations would be kept confidential by the Special Committee if so desired.

"Furthermore, the Special Committee would draw your attention to an earlier communication addressed to Your Excellency's Government on 15 September 1972. By this communication, the Special Committee sought certain information that has not been forthcoming. The Special Committee would appreciate knowing if Your Excellency's Government has this information and if so, whether it would furnish it to the Special Committee.

"The Special Committee would also request Your Excellency's Government to re-consider its position and to co-operate with the Special Committee by allowing it to enter Israel and Israeli-held territories in order to carry out the appropriate investigation.

"Accept, Sir, the assurances of my highest consideration."

31. The Governments of Egypt, Jordan and the Syrian Arab Republic acknowledged the letter of the Special Committee. The Governments of Egypt and the Syrian Arab Republic transmitted information on the situation of the civilian population of the occupied territories.

32. On 10 April 1973, at United Nations Headquarters, the Special Committee heard the testimony of Dr. Israel Shahak, of the Israeli League for Civil and Human Rights. Dr. Shahak's testimony is reproduced in document A/AC.145/RT.58.

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33. The Special Committee met again from 18 to 29 June 1973 at the United Nations Office at Geneva to review information and to consider the evidence it had before it. At these meetings, the Special Committee conducted consultations with a representative of UNESCO on the question of alleged pillaging of the archaeological and cultural heritage of the occupied territories and considered the replies furnished by Governments to the request of the Special Committee for information.

34. The Special Committee gave further attention to additional information that had been provided on the cases of Mr. Sadaddim Kamal, Mr. Mohammed Sheikh Eid and Mr. Mohammed Derbas. The Special Committee also received allegations of specific cases of violations of human rights which had been made by Governments and considered further information on these allegations.

35. At the series of meetings held in the United Nations Office at Geneva from 25 August to 3 September 1973, the Special Committee examined further evidence and information that had become available since its June meetings. The Special Committee held a further series of meetings at Headquarters from 1 to 12 October 1973 to consider and adopt its report to the Secretary-General.

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III. ANALYSIS OF EVIDENCE

36. Consequent on the adoption of General Assembly resolution 3005 (XXVII), the Special Committee continued its investigation of allegations of violations of human rights of the population of the occupied territories and adopted, as the main framework of its investigation, the allegations referred to by the Assembly in paragraph 8 of the resolution.

37. The Special Committee, though still denied access by the Government of Israel to the occupied territories to conduct its investigation on the spot, continued to follow developments in the occupied territories through the Israeli press and other sections of the foreign press, as well as through press reports of statements by members of the Government of Israel and other Israeli leaders. In addition, the Special Committee took note of information contained in United Nations documents, some of which contained the texts of letters from the Governments of Egypt, Israel, Jordan and the Syrian Arab Republic (see annex I below). The Special Committee also took note of the information communicated to it by the International Committee of the Red Cross and contained in its publications.

38. As in the past, the Special Committee did not allow its investigation to suffer from the Government of Israel's refusal to co-operate with it. However, there are certain allegations, the investigation of which could be more thoroughly conducted in situ. The investigation of such allegations continues to be seriously hampered by the Government of Israel's denial to the Special Committee of access to the occupied territories.

39. In its investigation of the policies and practices followed by Israel in the occupied territories to establish whether or not these policies and practices were in violation of the human rights of the population of those territories, the Special Committee has examined those sources which it deems unimpeachable, namely, the statements made by the members of the Government of Israel and other Israeli leaders, as well as Israeli reports of measures being taken in the occupied territories, where such statements and reports have not been challenged, contradicted or refuted.

A. Allegations of a policy of annexation and settlement^{13/}

40. In resolution 3005 (XXVII), the General Assembly indicated that the investigation by the Special Committee should include:

"(a) The measures concerning the establishment of Israeli settlements in the occupied territories and the moving into the occupied territories of an alien population, contrary to the provisions of the Geneva Convention of 12 August 1949;

^{13/} Evidence of allegations of annexation and settlement has been analysed by the Special Committee in its earlier reports (A/8389 and Corr.1 and 2, para. 47; A/8389/Add.1 and Corr.1 and 2, chap. I; and A/8828, chap. III.A).

"(b) The situation concerning the annexation of any part of the territories occupied by Israel since 5 June 1967; ...

"(d) The changes in the physical character or demographic composition or institutional structure of those territories, including the transfer or deportation of population thereof or the demolition of houses and towns therein; ...".

41. Allegations that such measures were being taken in the Gaza Strip and the Rafah area were made by the Government of Egypt in a letter dated 4 January 1973 from the Permanent Representative of Egypt addressed to the Secretary-General and forwarded to the Special Committee in accordance with the request of the Permanent Representative of Egypt (A/8998-S/10857).

42. On the basis of its investigation, the Special Committee finds that there is conclusive evidence that the Government of Israel is following a policy of establishing settlements in the occupied territories, populating them with Israeli nationals, some of whom are new immigrants and, with regard to certain parts of the occupied territories, such as Hebron (West Bank), Rafah and Sharm el-Sheikh (Sinai) and the Golan Heights, the Government of Israel has adopted long-range plans for settlement.

43. The evidence before the Special Committee clearly establishes the fact that the Government of Israel is continuing with its policy of the unilateral annexation of the occupied part of Jerusalem and the enlargement of the municipal boundaries of the city by the incorporation of considerable areas of land forming part of the occupied West Bank.

44. Furthermore, with regard to certain areas, such as the region around Bethlehem, between Jerusalem and Jericho, and around Nablus and Rafah, the Government of Israel has expropriated several tracts of land, some of considerable extent, for alleged "security" or "military" reasons. The Government of Israel and agencies acting under its authority are acquiring property through expropriation, barter and other measures, in a manner "to create contiguous, viable tracts". This was noted by Mr. Y. Agmoni, Director-General of the World Zionist Organization's Settlement Department, in a report appearing in The Jerusalem Post Magazine on 8 September 1972. In some of these areas, as in Rafah, the Government of Israel has proceeded to establish Israeli settlements after evicting the local population and has moved Israeli nationals into those settlements.

45. In chapter I, section C above, the Special Committee has outlined the provisions of international law on the disposal of property in occupied territory by the occupying Power and its interpretation of these provisions. It stated there that, under these provisions, the occupying Power has no right to acquire ownership of immovable property in occupied territory, irrespective of whether such property belongs to the State or to private individuals, and that such acquisition was ipso jure invalid. The Special Committee has done so because the evidence before it this year indicates that the Government of Israel appears to draw a distinction between State and private property in the occupied territories, particularly in justification of measures designed to acquire property in the occupied territories. Thus, for example, during the month of April 1973, a controversy developed in

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Israel when certain members of the Israeli Government proposed that land in the occupied territories should be purchased by individual Israelis, apparently with the approval of an authorized government body and under its control. Up to that time, the decision of the Government was in favour of maintaining its prohibition against the private purchase of land in the occupied territories by Israelis or foreigners. This, according to Mr. Israel Galili (Minister without Portfolio, Chairman of the Government Committee for the Settlement of the Territories), "did not impose any restrictions on settlement plans" (The Jerusalem Post, 10 April 1973). It is an admitted fact, however, that several of the settlements established in the occupied territories are located on "State or government-owned land", as it was described by Mr. Y. Agmoni, Director-General of the World Zionist Organization's Settlement Department (The Jerusalem Post Magazine, 8 September 1972). Again, in The Jerusalem Post, Arab affairs reporter, Mr. A. Safadi, referring to the southern Sinai in a report which appeared on 25 July 1973, states that the ownership of the Bedouin population of the southern Sinai "has never been backed legally, as the bulk of Sinai is state property". The Special Committee emphasizes that, irrespective of the ownership of the property before the occupation, the Government of Israel acquires no rights of ownership whatsoever by the acquisition, through expropriation, barter or any other measure, over any area in the territories occupied during the June 1967 hostilities. The evidence before the Special Committee shows that the Government of Israel purports to acquire immovable property in the occupied territories through the adoption of a variety of measures, as is illustrated in subsection (v), paragraphs 79 to 87 below.

46. The Special Committee also finds that, since the hostilities of June 1967, Israel has consistently refused to allow the inhabitants of the occupied territories, who fled their homes during the hostilities or who were expelled thereafter, to return to their homes. The Special Committee notes that, according to some reports, some persons are being repatriated to their homes in the occupied territories on humanitarian grounds; the figure of 8,000 persons, repatriated in 1972 under the "family reunification scheme", was reported in The Jerusalem Post on 13 October 1972. However, in the same newspaper, on 15 October 1972, it was reported that 3,000 persons were emigrating from the Gaza Strip every year and that 2,000 persons had left the West Bank over the preceding three years. The vast majority of those who fled, who were forced to leave their homes in June 1967 or who were expelled thereafter, including practically the whole population of the Golan Heights, remain homeless and are denied their right to return.

47. The Special Committee confirms the resumption of measures in the Gaza Strip designed to perpetuate the exile of thousands of civilians by their dispersal. These measures were first undertaken in 1971 with the avowed purpose of constructing "security" roads in the refugee camps in the Gaza Strip to facilitate the maintenance of law and order and to attempt to suppress guerilla activity. They have been resumed this year in other areas in the Gaza Strip for the avowed purpose of improving the living conditions of the refugees. The Special Committee does not object to any measure that would improve the security, safety and welfare of the population of the occupied territories; however, it is convinced that the true interests of security, safety and welfare of the civilian population are best served by measures other than those that would leave thousands homeless, drive them

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into compulsory exile and deny to them and their posterity the lands and homes of their ancestors. The measures being undertaken in the Gaza Strip have this effect: as reported in The Jerusalem Post on 25 December 1972, out of a total of 13,336 families displaced by "security" measures in 1971 in the three refugee camps of Jebeliya, Shati and Rafah, "some 80 per cent of the displaced persons did not avail themselves of the alternative housing offered by the authorities in 1971. Most of them found their own housing in the various camps." As regards the policy behind such measures, the Special Committee cites the statement by the Defence Minister at a press conference in Gaza on 12 June 1973, as reported in The Jerusalem Post on 13 June 1973:

"As long as the refugees remain in their camps, the Defence Minister said, their children will say they come from Jaffa or Haifa. But the refugees want to get out of the camps and build their own homes - and when they do so, they will say they are 'from Khan Yunis or Deir il-Balah'. They have not accepted the Zionist theory that Israel is here by right, he added, but they 'hate us much less now than they used to'."

In the same speech, the Defence Minister also said:

"They /the civilian population in the Gaza Strip/ want to be neither Jordanians, nor Egyptians, nor Israelis, but would like some sort of a Palestinian state - and I can understand them."

48. These measures are all elements of the same policy, which the Government of Israel is following, contrary to its obligations under international law, of annexing and settling the occupied territories.

49. In the following paragraphs, the Special Committee cites, by way of illustration, some examples of the evidence in proof of the existence of these policies and practices.

1. Evidence of the existence of a policy of the Government of Israel to establish settlements in the occupied territories

50. A statement was delivered in the Knesset by the Prime Minister of Israel, Mrs. Golda Meir, reported in The Jerusalem Post on 26 July 1973, to the effect that "plans had been drawn up, for administered areas ... urban as well as rural settlement. The vast majority of the settlements set up so far had been established on uncultivated land." Elsewhere in the same issue, referring to the same speech on the settlement of the occupied territories, another report states that the Prime Minister "spelled out the Government's achievements in settlement, specifically mentioning the settlement of the Golan Heights, the Jordan Rift, the Etzion Bloc /West Bank/, the Gaza region, the Rafah approaches, Ophira /Sharm el-Sheikh/ and Kiryat Arba". The Prime Minister is quoted as saying:

"These outposts and settlements are seeds which will develop in the future, growing in population and becoming more firmly rooted. This settlement activity has deepened our roots in the land and strengthened the foundations

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of the State and preparations and plans are under way for the continuation of this important activity, whether rural or urban settlement ...".

51. A statement was made by Defence Minister Moshe Dayan in the course of a speech to the Lawyers' Guild in Tel Aviv, reported on 18 February 1973 in Ha'aretz and The Jerusalem Post, according to which Mr. Dayan urged the Government "to implement its declared policy of large-scale urban and rural settlement" in the occupied territories. According to the Ha'aretz report, Mr. Dayan emphasized the need to accelerate the rate of establishment of settlements in the occupied territories by State and private funds, pointing out that "we have many young men and women who are willing to settle in the territories. The immigration from the Soviet Union is going at a satisfactory speed, the financial aid from Jewish people has reached unprecedented records and our military strength is covering our plans giving them security not known to us before."

52. A statement was made by Defence Minister Moshe Dayan, reported in The Jerusalem Post on 30 March 1973, "urging acceleration of settlement of the occupied territories". The report adds that Mr. Dayan expressed his indignation over the failure by the Government to implement its decision to establish an urban settlement at Nebi Samwil, near Jerusalem.

53. A statement was made by Israeli Minister Moshe Kol, reported in Ha'aretz on 22 April 1973, calling for the "speeding up in the designation of settlement areas in the Jordan Valley and other locations for the youth of Hapoel Hatzioni Moshav organization".

54. A statement was made by Defence Minister Moshe Dayan in the course of an interview by the British Broadcasting Corporation, reported in The Jerusalem Post on 15 May 1973, to the effect that Israel should stay forever in the West Bank "because this is Judea and Samaria, this is our homeland. We could have as well stayed in America and Russia had we not wanted to come here."

55. A statement was made by Deputy Minister of Transportation, Mr. G. Yaakovi, in the course of a speech to the Haifa Lawyers' Guild, reported in Ha'aretz on 2 May 1973, to the effect that Israeli settlement in Eretz Israel "including the West Bank, is based on the power of our right and the right of our power". The report adds that, according to the Deputy Minister, the right of Israel to exist as a State was not limited to the 1949 armistice line and that, without the recognition of the historical right, there would be no justification for the return to Zion and for the existence of the State of Israel.

56. A statement was made by Minister-without-Portfolio Israel Galili, reported in The Jerusalem Post Magazine on 23 February 1973, that,

"The Knesset is well aware that the Government rejects the 'maximalist' position which would yield not one inch and that, within the frame-work of a peace treaty, it would be ready to order the pull-back of Israel's armed forces on certain fronts to agreed and defensible borders. The Knesset also endorsed lines of Government policy regarding urban and rural settlements on the territory of the homeland ... The Knesset is kept informed about the

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establishment and existence of each of the outposts that have been set up since the Six-day War in accordance with the authorized decision of the Government."

2. Evidence of the fact that the policy of the Government of Israel to establish settlements in the occupied territories continues to be implemented

57. Reports appeared in Ha'aretz on 5 November 1972, in The Jerusalem Post on 6 and 7 November 1972 and in Ma'ariv on 7 November 1972, of the inauguration of two settlements in the Gaza Strip; one settlement, called Netzaren, located 5 kilometres south of Gaza and the other, Morg, located south of Khan Yunis.

58. A report appeared in The Jerusalem Post, on 11 October 1972, of a decision by the Ministerial Committee on Settlement to change the status of the settlement of Dai Zahav (Dahab), on the East coast of the Sinai peninsula on the Gulf of Tiran, to that of a permanent civilian settlement.

59. A report appeared in Ha'aretz, on 26 September 1972, of the approval of a plan to build 8,000 apartments in Nebi Samwil, north of Jerusalem.

60. A report appeared in The Jerusalem Post, on 28 November 1972, quoting Housing Minister Sharef as stating that, since 1967, the construction of 24,000 apartments had been started in Jerusalem. The bulk of these apartments were being built in the occupied part of Jerusalem or on the 1949 Armistice Line; these housing developments will total 32,000 units when completed in five years' time.

61. A report appeared in Ha'aretz and The Jerusalem Post, on 12 October 1972, of an announcement of six new settlements to be established during 1973, three of which were planned for the Golan Heights, two in northern Sinai and one in the Jordan Valley.

62. A report appeared in Ha'aretz, on 9 November 1972, of the inauguration of the first industrial project in the southern Golan Heights. According to this report, the settlement, which will have 100 housing units by 1973, involved an investment of £ 3.5 million for factory equipment and £ 4 million for construction.

63. A report appeared in The Jerusalem Post, on 4 February 1973, of a statement by Mr. Avni, Deputy Director-General of the Housing Ministry, to the effect that seven rural settlements were planned in the occupied territories for 1973 and that in all, since 1967, 40 such settlements had been established in the occupied territories.

64. A report appeared in Ma'ariv, on 29 January 1973, of 10 settlements having been established in the West Bank between the Beit Shean Valley and Jericho. According to the same report, the possibility of establishing one or two regional centres was being discussed "in view of the increasing number of settlements" in the Jordan Valley.

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65. A report appeared in Ha'aretz, in January, of the establishment of a Nahal settlement, called Kur, on 1,000 dunams of land belonging to "absentees of a neighbouring village", while the village itself was given 4,000 dunams belonging to absentees from another village. According to the same report, no more Israeli settlements were to be built in the Jordan Valley "because almost no land fit for agriculture is left in the area".

3. Evidence of the existence of detailed plans that indicate the continued implementation of a policy to annex certain areas of the occupied territories, such as the area in the southern part of the Gaza Strip, near Rafah, another area in the southern part of Sinai, particularly at Sharm el-Sheikh and the city of Hebron in the West Bank

(a) Southern Gaza Strip and Rafah

66. Following the eviction of the inhabitants of an area of about 20,000 dunams near Rafah early in 1972 and the fencing off of this land "for security reasons" referred to in paragraph 47 above and in the last report of the Special Committee (A/8828, paras. 42 to 45), it was announced by the Director-General of the World Zionist Organization's Settlement Department, Mr. Y. Agmoni, as reported in The Jerusalem Post on 8 September 1972, that three new settlements were to be located on the land formerly used by Arabs near Rafah, on part of the same area that was closed off for security reasons.

67. A report appeared in The Jerusalem Post, on 24 May 1973, of a judgement by the Israeli High Court of Justice dismissing an appeal by the nine Bedouin tribes evicted from the Rafah area on the grounds that the eviction was justified for security reasons.

68. A disclosure was made in Ha'aretz, on 24 October 1972, of details of a plan drawn up by the Defence Ministry to construct a city in the southern part of the Gaza Strip, followed by reports of the debate that took place within the Government as to whether this city should be constructed or not, ending in a decision to construct a "regional centre" of urban character with 300 housing units, which coincided with the official proposal by Defence Minister Moshe Dayan to build a coastal city. On 26 December, Ha'aretz reported that this regional centre was to be constructed in the same area as that designated by the Defence Ministry in its plan for the coastal city.

69. Relocation continued for alleged security and welfare reasons of the refugee population in the Gaza Strip, as reported in The Jerusalem Post on 5 September 1972 and in Ma'ariv on 19 October 1972.

(b) Sharm el-Sheikh and southern Sinai

70. An announcement was made by the Deputy Director-General of the Housing Ministry, Mr. S. Avni, as reported in The Jerusalem Post on 4 February 1973, of a four-stage plan for the construction of residences for Israelis in Sharm el-Sheikh. According to this plan, 90 families were to be housed in two apartment blocks in 1973, 225 housing units were to be added in 1974, 370 apartments in four buildings

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of eight floors each were to be added during the third phase and 320 apartments in six blocks were to be constructed during the fourth phase. In all, housing for 1,000 families is planned in addition to 100 privately-built units, which are reported to be at an advanced stage of construction.

71. A report appeared in The Jerusalem Post, on 25 July 1973, of the existence of "a consensus in the Government" that the district of South Sinai cannot be separated from Israel. According to the report, the Government was currently "intensively" developing the regions east of the coastal area, including Sharm el-Sheikh, while promoting the Israeli presence in other areas, including the western coast. The report describes the area as stretching south from the southern outskirts of Eilat to a point north of Santa Caterina, west to near Abu Rodeis on the western peninsula coast and having an area of approximately 23 million dunams (larger than Israel by over 2 million dunams). The report adds that, in addition to the settlement plans for Sharm el-Sheikh, where, according to the Director of the Government Committee administering Sharm el-Sheikh, Mr. R. Aloni, 4,000 families - about 17,000 persons - would be settled by 1985, more families would be settled simultaneously at the new settlement of Di-Zahav (Dahab), Neviot (Nuweibeh) and Taba along the eastern coast of the Sinai peninsula on the Gulf of Tiran. On the western coast, A-Tor is being developed into an agricultural observation centre, while further north, about 550 persons already live in a new settlement, Shalhevet, near the Abu Rodeis oil centre. The population of the southern Sinai, according to the report, consists of about 11,000 Bedouin, who were paid I£ 100,000 in compensation for plantation land on the site of the new settlement. The report states that the ownership by the Bedouin of the land they cultivated has never been backed legally as the bulk of Sinai is State property. The Bedouin are being resettled at three major centres, which were being provided with various government services, and many of them have moved south near the new settlements, where they are employed in construction.

(c) Hebron (West Bank)

72. With regard to Hebron, the Special Committee has received further evidence to indicate that the policy pursued by the Government of Israel of establishing settlements has continued (A/8828, paras. 32 and 33). The following are quoted by way of illustration.

73. A report appeared in The Jerusalem Post, on 25 October 1972, of a letter addressed to Agriculture Minister H. Givati by Rabbi M. Levinger, under the title "Chairman of the local council in Kiryat Arba /the Israeli settlement in Hebron/" in which he complained about the lack of Jewish industry in Hebron and accused the Government of prolonged delay in granting permits to establish industries in the settlements. The report added that, despite these delays, the settlers had established a carpentry shop, a metal works and had opened shops near the Ibrahimi Mosque. On 4 May 1973, The Jerusalem Post reported the official opening of a floor tile plant in Hebron, one of 17 industrial plants which the Government would help establish in that town.

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74. A statement was made in the Knesset by Housing Minister Z. Sharef, as reported in Ma'ariv and The Jerusalem Post on 28 February 1973, to the effect that, by 1974, 600 housing units would be constructed in Hebron. According to the report in The Jerusalem Post, 634 apartments would be constructed under phase one of the plan and 1,000 under phase two. Housing Minister Sharef made another statement in the Knesset, reported in The Jerusalem Post on 12 April 1973, that a commercial centre was to be constructed in the Jewish settlement in Hebron.

75. A statement was made by Housing Minister Z. Sharef, reported in The Jerusalem Post on 30 August 1973, to the effect that private building by Israeli settlers was to be allowed at the Hebron settlement. According to the report, settlers already living in the settlement would be allowed to purchase their "publicly-owned" apartments. Mr. Sharef was reported as having stated that his Ministry would make building land available, without restrictions, to public housing companies and private contractors willing to build at the settlement under a Government-assisted housing programme; a permanent building-loan fund for settlers wishing to build their own houses was to be set up by the Housing Ministry. The report added that new building was to include commercial premises for a private market and that the settlement's business centre was to be replanned to serve 1,000 families.

4. Evidence of the policy of the Government of Israel to place new immigrants in these settlements

76. A report appeared in Ma'ariv, on 9 November 1972, to the effect that two of the three settlements planned for the Golan Heights for 1973 were to be populated by newly arrived Soviet immigrants.

77. A report appeared in The Jerusalem Post, on 26 December 1972, to the effect that the regional centre planned for Rafah is to include 350 families of new immigrants to be settled there.

78. A statement was made in the Knesset by Absorption Minister N. Peled, as reported in The Jerusalem Post on 12 April 1973, inviting Jewish settlers in Hebron "to try and persuade immigrants in absorption centres to make their homes in Kiryat Arba [the Israeli settlement in Hebron]". According to the report, the Absorption Ministry would give every help to immigrants wishing to settle in Hebron, but it could not force them to go there by administrative order.

5. Evidence of the policy of the Government of Israel of expropriating land in the occupied territories

79. A statement was made by Mr. Y. Tsur, Directorate Chairman of the Jewish National Fund, as reported in The Jerusalem Post on 6 October 1972, that the Fund had improved 180,000 dunams of land since the June 1967 hostilities, "most of it for new settlements". Mr. Tsur is reported as having stated that the Jewish National Fund had spent I£ 26 million in the Golan Heights and, during the next three years, it will spend another I£ 40 million to prepare 1,500 farming units "for the sixteen settlements already established in the Heights and for the new ones to be set up at the rate of one a year".

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80. A report appeared in The Jerusalem Post, on 12 October 1972, concerning the taking over of 70 square kilometres of land south-east of Jerusalem by the army for military manoeuvres. The report also stated that thousands of dunams of agricultural land on the western end of the West Bank had been released in September 1972, probably as compensation.

81. A report appeared in The Jerusalem Post, on 22 December 1972, concerning a protest by the mayor of Bethlehem to the Defence Minister about the closing off of 70 square kilometres near the city.

82. A report appeared in Ma'ariv, on 27 December 1972, concerning the closing off of 70,000 dunams of land between East Jerusalem and Jericho by military order. According to the report, Defence Minister Moshe Dayan disclosed this fact in the Knesset and stated that he was not prepared to give reasons for the closing off of the area.

83. A report appeared in Ma'ariv, on 2 January 1973, concerning a protest by farmers against the closing off by the army in the Nablus area, since 1967, of 40,000 dunams of land used for pasture and agriculture by the villagers of Tubas. According to the report, military government sources gave security as the reason for the closing off.

84. A report appeared in The Jerusalem Post, on 10 January 1973, that a statement was made by Defence Minister Moshe Dayan to the effect that 70 square kilometres of land north-east of Bethlehem had been closed off by military authorities, but were not confiscated. According to the report, the land was mostly rocky and uninhabitable and landlords were to be permitted free access to their property. The report stated that owners claimed that the land was going to be used for eventual settlement. However, the Defence Minister assured owners that no settlements would be established unless the land was (a) State or absentee property, (b) purchased against full payment, or (c) traded for other real estate with the owner's consent. The provisions of international law on the disposal of immovable property in occupied territory are discussed in chapter I, section C, paragraphs 16 to 20 above.

85. A report appeared in The Jerusalem Post, on 16 August 1973, of the closing off of 350 dunams of vineyards near Bethlehem for military purposes. The report stated that this was the third take-over of land in the Bethlehem area and that "landlords were being told that they could apply for compensation once they proved legal ownership".

86. A report appeared in The Jerusalem Post Magazine, on 8 September 1972, in which Mr. Y. Agmoni, Director-General of the World Zionist Organization's Settlement Department, was quoted as having said that, of the 49 settlements established in the occupied territories:

(a) Three of the settlements established in the Gaza Strip were established on land formerly used by Arabs "on part of a 20,000 dunam tract closed off for security reasons in 1969";

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(b) Of 11 settlements in the lower Jordan Valley, seven are on Government-owned land and the remainder on abandoned Arab property, "the owners having fled across the Jordan during the war";

(c) "Many of the other settlements, especially those in the Golan Heights, have been established on land from which Arabs fled during the June 1967 hostilities".

87. The Special Committee took note of a complaint of the Arab Students' Committee of the Hebrew University of Jerusalem, dated 10 December 1972, against the expropriation of property belonging to 63 persons living on the hill known as French Hill in Jerusalem, near Mt. Scopus, by the Israeli Lands Authority. This complaint was submitted by Dr. Israel Shahak in the course of his testimony before the Special Committee (A/AC.145/RT.58, p. 32).

B. Allegations of ill-treatment of detainees ^{14/}

88. In its previous reports, the Special Committee analysed certain cases in which the evidence was compelling. It recorded its conviction that general prison conditions, despite reported efforts at improvement, were bad, mainly owing to overcrowding. The Special Committee had stated its position that, in the absence of sufficient corroborative evidence, it was unable to reach a conclusive finding in regard to the numerous allegations of ill-treatment while under detention that had been made before it. Although it was not able to reach a conclusive finding with regard to these cases, in the opinion of the Special Committee, they provided strong evidence to justify continued investigation. The Special Committee is continuing its investigation of such cases, including that of Mr. Mohammed Derbas and of Mr. Moayyad Othman el-Bahsh, on which it had received further evidence (A/8828, paras. 62-73). In addition, the Special Committee would reiterate its judgement, expressed in its previous reports (A/8089, para. 108, A/8389 and Corr.1 and 2, para. 66 and A/8828, para. 90) that a number of cases did provide strong evidence of a regular practice of ill-treating detainees, mainly during interrogations. These are the cases of:

Mr. Sadaddin Kamal (A/AC.145/RT.11; A/8089, paras. 78 and 79);
Mr. Youssef Salahat (A/AC.145/RT.21; A/8089, paras. 78, 96 and 100);
Mr. Abu Ras (A/AC.145/RT.20; A/8089, paras. 93-95);
Mr. Majeb Mohammed Issa El-Khattab (A/AC.145/RT.23; A/8089, paras. 96 and 100);
Mr. Suleiman M. Sheikh-Eid (A/AC.145/RT.24; A/8089, paras. 98 and 99);
Mr. Munir Abdullah Ghannam (A/AC.145/RT.23; A/8089, para. 102);
Mr. Abu Rumeile (A/8089 paras. 80 and 86); Mr. Ismael Abu Mayaleh and his wife, Mrs. Abla Tahha (A/AC.145/RT.22; A/8089, paras. 78, 85 and 101).

^{14/} Evidence of ill-treatment while under detention was analysed by the Special Committee in its previous reports (see A/8089, paras. 78-111; A/8389 and Corr.1 and 2, paras. 59-67; A/8389/Add.1 and Corr.1 and 2, paras. 23-30; A/8828, paras. 62-73).

1. Evidence of ill-treatment while under detention

89. Since the adoption of its last report, the Special Committee has received a number of allegations of ill-treatment of detainees, particularly during interrogation.

90. The Special Committee reiterates its conviction that allegations of this nature are best investigated on the spot, particularly because it has no access to corroborative evidence owing to the refusal of the Government of Israel to co-operate with it. The Special Committee notes, however, that, judging by information contained in reports appearing in the Israeli press, interrogation procedures are often very long. In his testimony before the Special Committee, Dr. Israel Shahak, the Chairman of the Israeli League for Human and Civil Rights, stated that it was his experience that in Gaza, for example, ill-treatment of persons under interrogation was commonplace (A/AC.145/RT.58, pp. 16-18). He referred to a number of cases where, he said, the accused have filed complaints against such treatment, though the majority do not complain officially, out of fear of reprisal. Dr. Shahak mentioned the cases of Hadija Mohammed Abd El-Hadi, 25 years old (A/AC.145/RT.58, pp. 10-12), whom he met personally shortly after she was released after interrogation, during which she complained of ill-treatment. Mrs. Abd El-Hadi was pregnant at the time of her arrest. He mentioned that case of Ata Khalil Kimri, 17 years old (A/AC.145/RT.58, pp. 23-25), who also complained of ill-treatment, and of Muhammed Musa Ibrahim Zaharan from Bidu, near Ramallah, West Bank (A/AC.145/RT.58, p. 13), who has been imprisoned since July 1967 and whose very existence is denied by the Israeli authorities, although it is repeatedly alleged that he has been seen in prison several times, most recently in Nablus prison. Dr. Shahak also alleged that the following persons from the Golan Heights were ill-treated during interrogation earlier this year, after having been arrested on suspicion of spying for the Syrian Arab Republic (A/AC.145/RT.58, pp. 26-29): Fuad Qassam Sh'ar, Mohammed Salah N'rai, Abdallah Hussein El Kish, Yusuf Shakib Abu-Jabel, Faiz Naaman Abu-Jabel, Es'ad Muhammed Safadi and Hail Hussein Abu-Jabel.

91. The Special Committee is continuing its investigation of these cases.

2. Evidence of prolonged detention prior to trial

92. The evidence that has come before the Special Committee since the adoption of its last report shows that prolonged periods of detention between the arrest and the conviction of civilian persons are common. Persons who are being interrogated are not, as far as the Special Committee can establish, allowed visits by the International Committee of the Red Cross. It cites, by way of example, the following cases, all of which have been reported in The Jerusalem Post:

(a) Yousef Mahmoud Elbaz, 23 years old, and Fawzi Aboul Hadi Liman, 24 years old, both from El-Burej Camp in Gaza, who were arrested on 31 August 1971 and sentenced to life imprisonment on 12 September 1972;

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(b) Zakariya Abdullah Halaby, 20 years old, and Ahmed Abu Hatzeria, 20 years old, both from Gaza, arrested shortly after 3 November 1971 and sentenced on 4 October 1972;

(c) Jafer Mohammed Hussni Awadi, 20 years old, arrested in November 1971 and sentenced to 15 years' imprisonment on 25 January 1973;

(d) Youssef Atalla Mohammed Al-Ajraami, arrested in February 1972 and sentenced to life imprisonment on 10 April 1973;

(e) Mas'ad Salem Aboud Ghanid, 19 years old, from a village near El-Arish, Sinai, arrested in December 1971 and sentenced to 15 years' imprisonment on 9 May 1973;

(f) Mohammed Youssuf Abdul Hadi Al-Zizi, 20 years old, from Gaza, arrested in July 1972 and sentenced to 15 years' imprisonment on 9 May 1973;

(g) Ahmed Abu Suleiman Sanjar, 36 years old, arrested December 1971 and acquitted on 9 May 1973.

3. Evidence on prison conditions

93. The Special Committee took note of reports furnished in publications of the International Committee of the Red Cross, according to which the number of civilian detainees in 12 places of detention visited by its delegates was nearly 2,100 Arab civilians as of the twenty-fifth series of visits by their delegates, which took place between 6 March and 27 April 1973. ^{15/} The Special Committee took note of the statement by Defence Minister Moshe Dayan in the Knesset, as reported in The Jerusalem Post on 14 December 1972, to the effect that 2,200 persons from the occupied territories were still in prison and 140 were in administrative detention as of mid-December 1972.

94. The Special Committee has received further evidence to indicate that prison conditions continue to be bad, mainly due to overcrowding. The Israeli press reported the two strikes of 200 detainees of the prison at Kfar Yona, in January and in February 1973, and the hunger strike of the detainees at Beit Lid security prison in February 1973. According to reports appearing in Ha'aretz and The Jerusalem Post on 4 May 1973, two detainees were murdered in Ashkelon prison by their fellow inmates. A report appearing in The Jerusalem Post, on 6 May 1973, cited prison officials as claiming that Ashkelon prison was still overcrowded, "making it impossible to ensure the safety of each individual prisoner".

^{15/} The ICRC in Action - Information Notes, No. 199 b, 29 June 1973.

C. Allegations of exploitation of the resources of the occupied territories 16/

95. In resolution 3005 (XXVII), the General Assembly indicated, in paragraph 8, that the investigation by the Special Committee should include "(c) The exploitation and the looting of the resources of the occupied territories".

96. In its last report, the Special Committee analysed examples of economic measures, which, in the view of the Special Committee, contributed to the policy of annexation. 16/ The Special Committee questioned the Israeli claim that the economic situation in the occupied territories has materially improved during the occupation. The Special Committee expressed the opinion that this alleged improvement was merely the natural consequence of an under-developed economy being brought into a close relationship with, and placed unavoidably in a position of dependence on, a more developed economy.

97. The Special Committee stated that, even though the standard of living in the occupied territories may have risen, the question of the dependence of the occupied territories on the economy of the occupying Power caused the Special Committee serious misgivings as to whether the policy adopted by the occupying Power, which has brought such an economic situation into being, is in consonance with the fundamental rights of the population of the occupied territories. The Special Committee referred to the principle of a people's sovereignty over their natural wealth and resources, which derives from their right of self-determination as expressly prescribed by article 1 of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

98. The Special Committee cited evidence in justification of its opinion. It stated that this evidence created the impression of a policy and a situation which conformed to the classic pattern of colonial economic dominance and exploitation. The Special Committee expressed the view that such a policy, if given free reign, would reduce the economy of the occupied territories to a position of almost entire dependence on the economy of the occupying Power for a long time after the end of the occupation. In this sense, the Special Committee came to the conclusion that the occupation was causing undue interference in the economic life of the occupied territories and even if, for the sake of argument, it were conceded that certain short-term benefits were accruing to the population of the occupied territories, the situation could in the long-run prove irreversible and, therefore, prove detrimental to the economic future of these territories.

99. The evidence that has come before the Special Committee since the adoption of its last report confirms this conclusion. This evidence shows that the occupying Power is exploiting the labour resources, as well as the natural resources in the territories, such as the agricultural and mining potential.

16/ The Special Committee analysed the economic effects of the measures taken by the occupying Power in pursuance of its policy in its last report (A/8828, chap. III, paras. 75-77).

1. Evidence of over-all economic exploitation of the occupied territories

100. The economy of the occupied territories is subservient to that of the occupying Power. Defence Minister Moshe Dayan, in a statement reported in The Jerusalem Post on 14 December 1972, said that the standard of living in the West Bank had risen by 45 per cent between 1968 and 1971 and that, during the same period in the Gaza Strip, it had risen by 58 per cent. In the opinion of the Defence Minister, as quoted in that report, "economics was the fly-wheel that kept Israel and the areas connected". According to a report appearing in The Jerusalem Post by the economic editor on 15 October 1972, Israel was selling £ 200 million per year more than it was buying from the occupied territories. The same report states that the price level in the occupied territories had increased by one third since 1968.

101. The interdependence of the two economies was the subject of another report by the economic editor, which appeared on 26 March 1973 in The Jerusalem Post, according to which the economies of Israel and the occupied territories had become so dependent on each other that "restoration of the former borders would harm the economies of both Israel and the occupied territories". The report stated that statistics show that Israel's economic growth "is now vitally dependent on the productive resources of the territories and they are no longer viable without the connexion with Israel". The report added that Israeli economic activities in the occupied territories are treated as extensions of the Israeli economy, "irrespective of their actual location". Referring to the influx of labourers from the occupied territories, the report stated that:

"This involves social and national strains and problems, but should this process be reversed - or even stopped - the Israeli economy would be severely handicapped. It is no less evident that the restoration of the Green Line /1949 Armistice line/ as a frontier obstructing the free movement of goods and people would cause an economic collapse in the territories which have by now become an adjunct to the Israeli economy, even though their inhabitants may resent it ... altogether one may estimate that close to one half of the territories' income now depends on ties with Israel."

2. Evidence of exploitation of the resources of the occupied territories

(a) Labour

102. Evidence of exploitation of labour lies in the admitted fact that over 50,000 workers from the occupied territories are now employed in Israel, mostly in the construction industry. The Jerusalem Post reported, on 27 March 1973, that workers from the occupied territories constituted 21 per cent of Israel's building workers and, on 18 May 1973, the same newspaper reported a statement by Labour Minister Y. Almogi to the effect that the number of these workers had reached a peak of 57,000 early in 1973, the equivalent of 5 per cent of the whole labour force of Israel. The Special Committee notes that the employment of these persons is of a precarious nature, for, where necessary, they are dismissed and replaced by Israeli

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workers. For example, as reported in Ha'aretz on 18 October 1972, 100 Arab women from the occupied territories lost their jobs (classifying peanuts in Beersheba) when they were replaced by 70 women who were new immigrants from the Soviet Union.

103. The evidence before the Special Committee shows that the occupying Power is engaging in widespread exploitation of the resources of the occupied territories, to the detriment of the civilian population of these territories.

(b) Agriculture

104. With regard to exploitation of the agricultural resources of the occupied territories, the Special Committee would refer to the report appearing in The Jerusalem Post Magazine on 8 September 1972, according to which the 49 settlements that have been established in the occupied territories during the five years of occupation had "already begun making a significant contribution to the country's /Israel's/ food production ... during the preceding year, these settlements had an agricultural production valued at I\$ 46 million ... the seemingly arid land on which many of the settlements were founded has proved to be an agricultural gold mine". This report quotes the Director-General of the World Zionist Organization's Settlement Department, Mr. Y. Agmoní, as stating that, of the new settlements, three in the southern part of the Gaza Strip are located on land formerly used by the local population, many of the settlements in the Golan Heights have been established on land belonging to the civilian population who fled during the June 1967 hostilities, and of the 11 settlements established in the lower Jordan Valley, seven are on Government-owned land and the remainder on property belonging to the civilian population who fled during the June 1967 hostilities. According to Mr. Agmoní: "The exchanges were purely voluntary. The farmers got at least a dunam of equally good land for every dunam they gave and in most cases more." The decision on which territories to settle is made by the Government for political and security reasons and no settlement is established unless it can be made economically viable. In the view of the Special Committee, this evidence shows that the civilian population of the occupied territories is being deprived of the actual and potential agricultural resources of these lands.

(c) Hydrocarbon and other deposits

105. Another example of the exploitation of natural resources by the occupying Power is illustrated by the evidence received by the Special Committee concerning the exploitation of the oil resources in the Sinai. According to a report appearing in The Jerusalem Post on 26 March 1973, the oil presently being extracted from the Sinai by the occupying Power was "currently enough to cover four fifths of Israel's requirements". This was confirmed by Deputy Finance Minister Zvi Dinstein in a statement reported in The Jerusalem Post, on 8 June 1973, to the effect that "petroleum from Sinai is meeting about two thirds of the country's needs today".

106. The Special Committee would refer to the provisions of international law on the subject referred to in chapter I, section C, above (paragraphs 16 to 20), according to which it is clear that, irrespective of whether the property belongs to the State or to private individuals, the occupying Power has no right under

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international law to acquire ownership of such property and any such acquisition is invalid. The rights of the occupying Power, under these international instruments, are those of a usufructuary and, in the view of the Special Committee, these rights would only extend to those resources that may be characterized as being renewable. Since mineral and hydrocarbon deposits cannot be considered as being renewable, the Special Committee is of the view that the Government of Israel has no right under international law to draw on such resources.

D. Allegations of interference in the freedom of worship in the holy places and of interference with the family rights, manners and customs of the civilian population of the occupied territories

1. Interference in the freedom of worship

107. In paragraph 8 of resolution 3005 (XXVII), the General Assembly indicated that the investigation by the Special Committee should include "(f) The interference in the freedom of worship in the holy places of the occupied territories".

108. The Special Committee has received several allegations of interference by the occupying Power in the freedom of worship in the Ibrahimi Mosque in Hebron.

109. On 14 December 1972, the Permanent Representative of Jordan, in a letter addressed to the Secretary-General (A/8975-S/10848), brought to the attention of the Special Committee at the request of the Permanent Representative, alleged that the occupying Power had taken certain measures with regard to the Ibrahimi Mosque in Hebron "designed to turn this prominent Islamic shrine ... into a synagogue by gradually obliterating its Islamic character and excluding Muslims from worshipping in it".

110. The Special Committee took note of the letter dated 20 December 1972 from the Permanent Representative of Israel addressed to the Secretary-General (A/8995-S/10851) referring to the letter of the Permanent Representative of Jordan and rejecting the allegations made in that letter.

111. On 21 May 1973, the Permanent Representative of the Syrian Arab Republic, in a letter addressed to the Special Committee, drew its attention to reports of measures that the military occupation authorities in Hebron were putting into effect in the Ibrahimi Mosque, which were interfering with the religious practice by the local population.

112. On 18 July 1973, the Permanent Representative of Egypt, in a letter addressed to the Special Committee, drew its attention to the above measures being taken in the Ibrahimi Mosque. The Permanent Representative of Egypt alleged that these measures were in violation of article 27 of the Fourth Geneva Convention of 12 August 1949 ^{17/} which laid down, inter alia, that the inhabitants of the occupied territories "are entitled, in all circumstances, to respect for ... their religious convictions and

^{17/} United Nations, Treaty Series, vol. 75, No. 973.

practices," and that such measures negated the Charter, resolutions and decisions of the United Nations and its competent organs with regard to the occupied territories.

113. The measures referred to in the letter of the Permanent Representative of Egypt were the following:

"(a) The occupation of the hall of the Ibrahimi Mosque and its transformation in order to convert it to a Jewish synagogue called Abraham Synagogue;

"(b) Taking over the part of the Ibrahimi Mosque known as El-Yaakoubiya, placing the Old Testament books in it and preventing Moslems from entering it;

"(c) Restricting and limiting, by force, the Moslem praying hours to two and one half hours only;

"(d) Permitting the exercise of Jewish praying inside the Ibrahimi Mosque even during the Moslem praying;

"(e) Transgressing and ridiculing Moslems while praying inside the Mosque;

"(f) Preventing the guardians of the Mosque to prepare it for prayers."

114. The relevant provisions of international law safeguarding the rights of the population of the occupied territories to freedom of worship are the following:

(a) Article 27 of the Fourth Geneva Convention: "Protected persons are entitled, in all circumstances, to respect for ... their religious convictions and practices ...".

(b) Article 46 of the regulations annexed to the Hague Conventions of 1899 and 1907: "... religious convictions and practice, must be respected ...". 18/

115. In the commentary to the Fourth Geneva Convention on the respect for religious convictions and practices, the following is stated: 19/

"Religious freedom is closely connected with the idea of freedom to practise religion through religious observances, services and rites. Protected persons in the territory of a Party to the conflict or in occupied territory must be able to practise their religion freely, without any restrictions other than those necessary for the maintenance of public law and morals."

18/ The Hague Conventions and Declarations, 1899-1907 (New York, Oxford University Press, 1918).

19/ Jean S. Pictet, ed., The Geneva Conventions of 12 August 1949, Commentary on the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Geneva, International Committee of the Red Cross, 1958), p. 203.

116. The Special Committee has examined the allegations made before it and the evidence available to it on these allegations, consisting of the aforementioned letters of the Governments of Egypt, Israel, Jordan and the Syrian Arab Republic and the information appearing in Israeli press reports.

117. A report appearing in The Jerusalem Post, on 7 November 1972, stated that arrangements were first made after the June 1967 hostilities under which Jewish persons would be allowed to worship at the Tomb of the Patriarchs, claimed to be located in the Ibrahimi Mosque, at specified times and in a specified area. According to the report, this arrangement was drawn up in early 1968 and extended in November 1972 after approval by the Government of Israel earlier that month. Under the new arrangements, the times that Jews were allowed access, namely, between 7 a.m. and 11.30 a.m., were extended by an extra hour in the afternoon and the location where Jews were allowed to worship, which, according to a report in The Jerusalem Post Magazine on 17 November 1972, was restricted under the previous arrangement to the Hall of Abraham and Sarah, "was extended to the Hall of Jacob and Leah and they have been authorized to erect a roof over a neighbouring courtyard" in order to house the growing number of Jewish worshippers. "Furthermore, they can bring in an Ark containing a Tora and benches into the praying area."

118. The Special Committee notes that, apart from the question of the legitimacy or otherwise of Jewish worship in the Ibrahimi Mosque, the measures forming the subject of the complaints are the direct result of the increasing number of Israeli settlers in Hebron. The Special Committee refers to its findings concerning the establishment of Israeli settlements in Hebron in its previous reports (A/8389 and Corr.1 and 2, paras. 48 (d), (iv) and (viii) and A/8389/Add.1, and Corr.1 and 2, paras. 12 (e) to 15) and its analysis of evidence on Hebron in this report. The Special Committee has referred to the origins of the present problem when, in a letter dated 3 June 1968 (A/7103, S/8609) the representative of Jordan complained to the Secretary-General that, "In April 1968, about eighty Orthodox Jews moved into the Park Hotel on the northern outskirts of the city Hebron, ostensibly to celebrate the Passover holiday, but then announced that they had come to stay". At that time, the Government of Israel had dismissed the Jordan complaint as magnifying and distorting the matter in question (A/7105, S/8626).

119. In its reports, the Special Committee continued to examine and comment on subsequent measures taken by the Israeli Government as part of its policy to establish and enlarge the settlements in Hebron. One result of this policy has been to bring about a situation, as a result of which the civilian population of the occupied territories, in this case the inhabitants of the city of Hebron, are not allowed the freedom to worship in the same manner as they had before the occupation.

120. The Special Committee finds that, irrespective of the legitimacy of the claims that the Hebron Mosque is a Moslem as well as a Jewish holy place, the freedom of Moslems to worship in the Mosque has indeed been interfered with and this in a manner contrary to article 27 of the Fourth Geneva Convention and article 46 of the regulations annexed to the Hague Conventions.

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2. Allegations of interference with the family rights, manners and customs of the population of the occupied territories

121. The relevant provisions of international law safeguarding the right to respect for the family rights, manners and customs of the population of the occupied territories are the following:

(a) Article 27 of the Fourth Geneva Convention: "Protected persons are entitled, in all circumstances, to respect for their ... family rights ... their manners and customs."

(b) Article 46 of the Regulations annexed to the Hague Conventions of 1899 and 1907: "Family honour and rights ... must be respected."

122. In his testimony before the Special Committee, on 10 April 1973, Dr. Israel Shahak, Chairman of the Israeli League for Human and Civil Rights, alleged that the Israeli Superior Rabbinate had officially employed a certain Rabbi Hanannia Deri, whose job was to look for persons among the civilian population of the occupied territories who have "Jewish blood" and to force them to return to their ancestral religion. It was explained to the Special Committee that, since the term "Jewish blood" is really "Jewish descent in female line only", the result of such activity is to tear families apart by force. Dr. Shahak alleged that this activity was a regular practice that took place only in the occupied territories and not in Israel, "where this would not be tolerated"; he cited one case and spoke of the existence of approximately 80 others, stating that the existence of this practice was publicly known because Rabbi Deri himself had admitted this in the press. Dr. Shahak alleged that Rabbi Deri carried on his activities with the connivance or unofficial approval of the Military Government of the occupied territories (A/AC.145/RT.58, pp. 32-38).

123. At the time of the adoption of its report, the Special Committee was continuing its investigation of these allegations.

E. Allegations of measures in contravention of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954 20/

124. In paragraph 8 of resolution 3005 (XXVII), the General Assembly indicated that the investigation by the Special Committee should include "(e) The pillaging of the archaeological and cultural heritage of the occupied territories".

125. On 14 February 1973, the Permanent Representative of Jordan, in a letter addressed to the Secretary-General (A/9045-S/10882), and brought to the attention of the Special Committee at the request of the Permanent Representative, alleged that the wall in the Al-Aqsa Mosque had collapsed and that this was caused by the following:

20/ United Nations, Treaty Series, vol. 249, No. 3511, p. 215.

"(a) The cracks in the wall that resulted from the fire set to the Al-Aqsa Mosque under Israeli occupation in 1969;

"(b) Drilling and demolition activities that the occupying Israeli authorities have been undertaking underneath the Mosque under the pretext of 'archaeological excavations'. These 'excavations' have undermined the foundation of the wall which ultimately caused the collapse of the latter."

126. The Special Committee took note of the letter dated 16 February 1973 from the Permanent Representative of Israel addressed to the Secretary-General (A/9046-S/10883) referring to the letter of the Permanent Representative of Jordan and rejecting the allegations made in that letter, stating the following:

"The Jordanian letter refers to the collapse of a wall in the Al-Aqsa Mosque on 11 February 1973. It fails to mention that it was a partial collapse of an interior wall two metres long which occurred, in the course of work carried out by Arab labourers digging foundations for new marble pillars and that the work is being executed on the initiative and under the direction of the Moslem Council in charge of the Mosque. In fact a statement issued immediately by that Council explained that the collapse of the wall had been anticipated and precautionary measures taken. The statement added that the continuation of the Moslem authorities' construction work in the Mosque will not be affected by the collapse of the wall. Indeed it is proceeding normally in accordance with plan. It is in no way connected with, or affected by, any archaeological activities, all of which are being conducted outside the area of the Mosque."

127. The Special Committee took note of the resolutions of the General Conference of UNESCO and the decisions of its Executive Board on the implementation of the Hague Convention in the occupied territories. The Special Committee considered the information contained in the reports of the Director-General of UNESCO on the implementation of these decisions. These reports reproduce, inter alia, allegations of violations of the Hague Convention by the Government of Israel in the occupied territories, replies by the Government of Israel to these allegations and information furnished by the Commissioners-General for Cultural Property appointed under the Regulations for the Execution of the Hague Convention and the special consultants appointed by the Director-General of UNESCO, carrying out the relevant resolutions of the UNESCO General Conference and the decisions of the UNESCO Executive Board.

128. At the request of the Special Committee, UNESCO furnished it with all information on UNESCO's activities in the occupied territories by way of implementation of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. The Commissioners-General for Cultural Property, who were appointed in accordance with the Regulations for the Execution of the Hague Convention were: Mr. K. Brunner (Switzerland), accredited to Egypt, Jordan, Lebanon and the Syrian Arab Republic, and Mr. H. J. Reinink (the Netherlands), accredited to Israel. Mr. Brunner was appointed on 1 December 1967 and Mr. Reinink was appointed on 3 December 1967. Mr. Brunner remained Commissioner-General until his death in February 1972 and was replaced by

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Mr. G. De Angelis D'Ossat in September 1972. Mr. Reinink continues with his duties as Commissioner-General for Cultural Property accredited to Israel. In addition to the implementation of the Hague Convention by the appointment of Commissioners-General, two special consultants were appointed by the Director-General of UNESCO to carry out specific assignments. Thus, Mr. De Angelis D'Ossat was appointed special consultant by the Director-General under resolution 3.3⁴³, adopted by the fifteenth General Conference, in which it addressed "an urgent international appeal in accordance with /United Nations General Assembly resolution 2253 (ES-V) of 4 July 1967/, calling upon Israel:

"(a) to preserve scrupulously all the sites, buildings, and other cultural properties, especially in the Old City of Jerusalem;

"(b) to desist from any archaeological excavations, transfer of such properties and changing of their features or their cultural and historical character.

"/and invited/ the Director-General to use all the influence and means at his disposal, in co-operation with all parties concerned, to ensure the best possible implementation of this resolution."

129. Mr. G. De Angelis D'Ossat visited the occupied territories from 4 to 18 June 1969. His report is referred to in the Director-General's report to the Executive Board of 19 September 1969. 21/

130. The Director-General sent another special consultant to Jerusalem, Mr. Raymond Lemaire, who submitted his report to the Director-General on 7 October 1971. 22/ Mr. Lemaire's task was to prepare a report for the Director-General dealing with "the factual situation in the City of Jerusalem, and with the plans and intentions of the Israeli authorities in so far as they had already been made public by these authorities or might be made public during his visit". 23/ The Special Committee was seized of an information note, presented by the Director-General of UNESCO to the Executive Board, containing "extracts broadly representative of the report rendered to him by the special consultant". 24/

131. The Executive Board of UNESCO, at its eighty-eighth session, adopted decision 4.3.1, in which it invited:

"the Director-General to ensure the presence of UNESCO in the city of Jerusalem with a view to securing an efficient implementation of the resolutions of the General Conference and the Executive Board in this respect".

21/ UNESCO document 83 EX/12.

22/ UNESCO document 88 EX/47, para. 2.

23/ Ibid., para. 1.

24/ Ibid., para. 4.

132. On 19 July 1972, the Director-General of UNESCO proposed that he implement this decision by engaging the services of an expert. On 6 October 1972, the Government of Israel accepted the Director-General's proposal. At the time of the adoption of the present report, the Director-General of UNESCO was in the process of engaging the services of this expert. The UNESCO Executive Board, by decision 4.5.1, taken at its ninety-second session, specified the mandate of the representative of the Director-General and included the examination of the measures undertaken by the occupation authorities in Jerusalem to determine whether these were resulting in modifications in the character of the Old City.

133. The Special Committee examined the reports of the Director-General on the activities of the Commissioners-General and the special consultants. In addition, it consulted with a representative of UNESCO at its meetings held in June 1973.

134. The Special Committee notes that the implementation of the Hague Convention in the occupied territories is being seriously hampered by the lack of agreement on its interpretation. The Government of Israel has interpreted the Hague Convention as not prohibiting excavation by the occupying Power in the occupied territories. The Government of Jordan maintains that, under the Convention, archaeological excavations in the occupied territories are prohibited.

135. The Special Committee is aware of the difficulties encountered by UNESCO owing to this lack of agreement on the interpretation of the Hague Convention. In chapter I, section D, above, the Special Committee has given what it considers to be the proper and reasonable interpretation of international law on the subject.

136. The Special Committee is of the opinion that the evidence available to it establishes the fact that the occupying Power has taken, and is taking, measures contrary to the Hague Convention inasmuch as these measures amount to acts of disposal of property over which the occupying Power has acquired no right. In so doing, the occupying Power is threatening the cultural heritage of the population of the occupied territories. The gravest instance of the violation of the Hague Convention is that of Jerusalem, where extensive archaeological excavations and other measures are being carried out. These measures, together with other practices and policies reported by the Special Committee in this and earlier reports, would seem to the Special Committee to fit in with a deliberate design and policy on the part of the occupying Power to effect radical change in the character of the city.

IV. CONCLUSIONS

137. In the present report, the Special Committee has analysed evidence that came before it since the adoption of its last report on 25 September 1972. The report is the result of a continuing investigation reflected in the preceding reports of the Special Committee, which were considered by the General Assembly at its twenty-fifth, twenty-sixth and twenty-seventh sessions.

138. In summary, the Special Committee has established that Israel is still following a policy which is contrary to the provisions of the applicable international law concerning occupation and is thereby violating the human rights of the population of the occupied territories. As illustrated in chapter III above, this policy has in particular the effect of denying the population of the occupied territories their right to self-determination. The population of the occupied territories cannot be regarded merely as an aggregate of individuals, but rather as a community entitled to live under the protection of a State or of an administration established through a recognized legal process. The Special Committee has in mind the areas of the Golan Heights, the West Bank, southern Gaza Strip and Sinai. The Special Committee would draw attention to the fact that, as of 19 August 1973, 44 settlements have been established in the occupied territories, with approximately 5,000 inhabitants. An additional 35 are planned for the next five years and regional centres are to be built in the Golan Heights, the Jordan Valley, the southern Gaza Strip (Rafah) area and at Sharm el-Sheikh. These regional centres are described as civic centres providing economic and social co-ordination for settlements that have already been established, usually in concentrations that necessitate the creation of these regional centres in order to function as a cohesive force. This is the case in the Golan Heights, where 16 settlements have been established - five in the North-East Golan, six on the east shore of the Sea of Galilee and five in the south and south-eastern parts of the Heights. In the West Bank, a concentration of 11 settlements has been established in the Jordan Valley, stretching northward from the north shore of the Dead Sea to a point over half way up the Jordan Valley. Other settlements in the West Bank include Hebron, one on the western shore of the Dead Sea, one north-west of Jerusalem and another one in the Qalqilya-Tulkarm area. In the Gaza Strip, a concentration of three settlements has been established in the southern-most region, where the Strip borders Egypt. Three other settlements have been established in other areas of the Gaza Strip, stretching northward. In the Sinai, two settlements have been established on the north shore and three on the eastern coast of the Sinai peninsula, including a town that is planned for Sharm el-Sheikh, the construction of which is already under way.

139. The Special Committee is of the opinion that any transactions for the acquisition of land between the State of Israel and Israeli nationals on the one hand, and the inhabitants of the occupied territories on the other, have no validity in law and cannot be recognized as legal changes in ownership. Even the payment of compensation does not render such transactions valid or confer legal title. The Special Committee's reason for expressing this opinion is that the inhabitants of the occupied territories, in the absence of the protection and guidance of the

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régime under which they lived before the occupation, are not acting as free agents. The disposal of the property of individuals in any State is liable to control and regulation by the State in accordance with State policy. This indispensable factor for the conferment of legality on private land transactions does not exist in the occupied territories. It is incumbent on the United Nations to state unequivocally that these transactions are not recognizable. They would create a formidable obstacle to the restoration of the status quo ante the hostilities of June 1967. If it is the intention and desire of the United Nations that the territories under occupation by the State of Israel as a result of the hostilities of June 1967 should be vacated and should not be subject to acquisition by Israel, the United Nations cannot permit conditions to be created which would leave in the heart of these territories, after the cessation of the military occupation, large areas and settlements which are claimed to have been acquired by the State of Israel or its nationals.

140. In Jerusalem the policy declared by the Government of Israel in 1967 of annexation of the occupied part of the city and areas bordering on it continues. Thus, large-scale projects have been undertaken and others are projected to remove the local civilian population and substitute Israeli nationals for them. Plans have been announced for the creation of new suburbs north and east of the city to be populated by Israeli nationals. The General Assembly and the Security Council have repeatedly declared invalid all measures by which the occupying Power has purported to annex the occupied part of Jerusalem.

141. In addition to the establishment of these settlements that have been completed and are functioning, roads and other communications have been laid down and plans are being made to expand and consolidate these settlements. For instance, a consensus in the Government of Israel, reported in 1973, was that the South Sinai region "could not be separated from Israel" and that plans were in train to settle areas on the western coast of the Sinai peninsula, at Abu Rodeis and El-Tur. In addition to these plans, considerable areas have been expropriated or "closed off", usually for "security reasons"; areas around Bethlehem and southern Gaza Strip are an example. In some of these areas, settlements have already been established. Reasons of "security" are invoked by the occupying Power in justification of measures that, in fact, deprive the civilian population of the occupied territories of the protection which international humanitarian law seeks to ensure for them. In its last report, the Special Committee stated that the provisions of international law concerning measures taken for security reasons were designed to be used in exceptional circumstances and under pressure of urgent necessity. The occupying Power has continued to use security grounds indiscriminately and has arbitrarily converted an exception into a rule of conduct or definite policy. This is a negation of the very letter and spirit of the Hague Convention and the Geneva Conventions. Indeed, the measures taken by the occupying Power do not appear any longer to be even remotely relevant to security considerations. The official pronouncements of members of the Government of Israel and the measures that have been taken in the occupied territories are primarily inspired by the basic Zionist ideology that the whole area rightfully belongs to Jews in the biblical meaning of the Land of Israel. It is clear to the Special Committee that the Government of Israel regards its presence in the occupied territories as a "return" to the

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"Land of Israel" rather than as territory occupied as a result of hostilities. Pronouncements to that effect have been made repeatedly by the responsible Ministers in justification of measures taken in the occupied territories. This doctrine, which is the basis of the policy of the Government of Israel in the occupied territories, cannot for a moment be entertained, much less accepted by the organization to which the State of Israel owes its very creation.

142. Apart from these settlements and plans for the future, the occupied territories are being exploited economically. The oil reserves of the Sinai are being exploited by Israel and meet two thirds of her needs.

143. The agricultural potential of the occupied territories is being developed for the exclusive use of the Israeli settlements in those territories. The Director of the World Zionist Organization, in an interview appearing in The Jerusalem Post Magazine on 8 September 1972, has described this development in the following terms: "the seemingly arid land on which many of the settlements were founded turned out to be an agricultural gold-mine". Labour too is being exploited. Workers from the occupied territories (57,000 of them) are employed in Israel, mostly in construction, as and when required; they are only employed as long as no Israeli workers are available. On 7 August 1973, Prime Minister Golda Meir and Defence Minister Moshe Dayan told Israeli settlers in Rafah that they should not employ local labour so that many more Jewish families could be settled in Rafah. They are treated as an exploitable and dispensable human commodity on sufferance.

144. In addition to the above, the Government of Israel has continued to refuse to repatriate those who fled or who were expelled during and after the June 1967 hostilities. It has been clearly stated, on the other hand, that several of the Israeli settlements have been established on land belonging to those persons and, in some cases, as in that of Fik in the Golan Heights, in the village itself.

145. While refusing to allow the persons who were driven out by the hostilities or expelled thereafter to return to their homeland, the occupying Power is utilizing new Jewish immigrants to populate the new settlements. This is a serious misuse of the fulfilment of one right (the right to leave one's own country) to the detriment and prejudice of other rights (the right to return to one's own country and the right of self-determination).

146. As the only United Nations organ entrusted with the human rights aspect of the Middle East question, the Special Committee's major cause for concern is that the provisions of international law are being contravened by the occupying Power without check and with impunity. The international community has not attempted to take the proper initiatives to see that United Nations resolutions are respected and implemented. Neither has it sought ways to contain the complete disregard for international law which the occupying Power has shown and continues to show through its unrelenting pursuit of a policy premised on the denial of the basic rights of the population of the occupied territories.

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147. In its last report, the Special Committee regretted that, despite the specific recommendation that it had made repeatedly in its earlier reports, its mandate was renewed with no attempt or any action to provide a machinery for the supervision of the implementation of the international law protecting the human rights of the population of the occupied territories.

148. The arrangement proposed by the Special Committee (A/8389 and Corr.1 and 2, para. 91), 21/ inspired by the Protecting Power formula envisaged under the Geneva Conventions, is intended to ensure adherence to the Hague and Geneva Conventions, which protect civilian persons living in occupied territory. This machinery, or one similar to it, should be established to provide future protection for the population of the occupied territories.

149. The occupation, however, has lasted more than six years; during this time the population of the occupied territories, because of the absence of machinery to implement the applicable conventions, has not been able to benefit in any manner from the protection afforded by international law. On the other hand, measures have been taken during these six years that are in violation of the applicable international law. These measures, such as the establishment of settlements, the

21/ The Special Committee had recommended:

"(a) That the States whose territory is occupied by Israel appoint immediately either a neutral State or States, or an international organization which offers all guarantees of impartiality and effectiveness, to safeguard the human rights of the population of the occupied territories;

"(b) That suitable arrangements be made for the proper representation of the interests of the large population in the occupied territories which has not yet been given the opportunity of exercising the right of self-determination; and

"(c) That a neutral State or international organization, as described in (a) above, be nominated by Israel and be associated in this arrangement."

Under this arrangement, the State or States or international organization so nominated might be authorized to undertake the following activities:

- (i) "To secure the scrupulous implementation of the provisions relating to human rights contained in the Third and Fourth Geneva Conventions and in particular to investigate and determine the facts in the case of allegations of the violation of the human rights provisions of these Conventions or of other applicable international instruments;
- (ii) "To ensure that the population of the occupied territories is treated in accordance with the applicable law;
- (iii) "To report to the States concerned and to the General Assembly of the United Nations on its work."

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transfer of population, and those referred to by the Special Committee in chapter III above, are openly admitted by the Government of Israel and are a matter of government policy. The arrangement proposed by the Special Committee can only apply to the future. The United Nations is guilty of a grave dereliction of its responsibility. What it has failed to prevent it must even at this late stage attempt to cure. The violations of the human rights of the population of the occupied territories that have been committed since June 1967 must receive the special attention of the General Assembly if a further deterioration of this situation is to be averted. It is incumbent on the Assembly to take effective action to deter Israel from adopting any further measures that must, despite any disclaimers, have the effect of consolidating the occupation and annexing the occupied territories to Israel.

150. The measures taken by Israel so far are not only a grave infringement of the rights of the civilian population of the occupied territories, but present the most formidable obstacle to peaceful negotiation and to a just settlement of the Middle East problem.

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V. ADOPTION OF THE REPORT

151. The present report was approved and signed by the Special Committee on 15 October 1973 in accordance with rule 20 of its rules of procedure as follows:

H. S. AMERASINGHE (Sri Lanka)
Chairman

H. NUR ELMI (Somalia)

B. BOHTE (Yugoslavia)

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ANNEX

LIST OF SECURITY COUNCIL AND GENERAL ASSEMBLY DOCUMENTS CIRCULATING
LETTERS FROM THE GOVERNMENTS OF EGYPT, ISRAEL, JORDAN AND THE SYRIAN
ARAB REPUBLIC CONCERNING THE SITUATION IN THE OCCUPIED TERRITORIES,
CONSIDERED BY THE SPECIAL COMMITTEE

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|-----|----------------|-------------------------------|--|
| 1. | A/7103-S/8600 | Letter dated 3 June 1968 | from the Permanent Representative of Jordan addressed to the Secretary-General |
| 2. | A/7105-S/8626 | Letter dated 7 June 1968 | from the Permanent Representative of Israel addressed to the Secretary-General |
| 3. | A/8858-S/10814 | Letter dated 23 October 1972 | from the Permanent Representative of Jordan addressed to the Secretary-General |
| 4. | A/8932-S/10845 | Letter dated 25 November 1972 | from the Permanent Representative of Egypt addressed to the Secretary-General |
| 5. | A/8975-S/10848 | Letter dated 14 December 1972 | from the Permanent Representative of Jordan addressed to the Secretary-General |
| 6. | A/8995-S/10851 | Letter dated 20 December 1972 | from the Permanent Representative of Israel addressed to the Secretary-General |
| 7. | A/8998-S/10857 | Letter dated 4 January 1973 | from the Permanent Representative of Egypt addressed to the Secretary-General |
| 8. | A/9035-S/10862 | Letter dated 17 January 1973 | from the Permanent Representative of Israel addressed to the Secretary-General |
| 9. | A/9045-S/10882 | Letter dated 14 February 1973 | from the Permanent Representative of Jordan addressed to the Secretary-General |
| 10. | A/9046-S/10883 | Letter dated 16 February 1973 | from the Permanent Representative of Israel addressed to the Secretary-General |

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11. A/9054-S/10908 Letter dated 3 April 1973 from the Permanent Representative of Egypt addressed to the Secretary-General
12. A/9055-S/10909 Letter dated 7 April 1973 from the Permanent Representatives of Egypt, Jordan and the Syrian Arab Republic addressed to the Secretary-General
13. A/9056-S/10910 Letter dated 9 April 1973 from the Permanent Representative of Israel addressed to the Secretary-General
14. A/9058-S/10914 Letter dated 12 April 1973 from the Permanent Representative of Israel addressed to the Secretary-General
15. A/9059-S/10919 Letter dated 23 April 1973 from the Permanent Representative of Jordan addressed to the Secretary-General
