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# THE INTIFADAH AND THE ENHANCEMENT OF ISRAELI DEMOCRACY

Nathaniel K. Charny

Rosen: There is the question of the borders [between the soon to be established Jewish state and the Arab state], which we can't ignore.

Ben-Gurion: Everything is possible. If we decide here that the borders are not to be mentioned, that is how it will be. Nothing is *a priori*.

Rosen: It's not a question of *a priori*, but a question of law.

Ben-Gurion: The law is something that men decide.<sup>1</sup>

On December 9, 1987, four Palestinians were killed and seven wounded when an Israeli truck collided with two vans of Palestinians returning to the Gaza Strip from work in Israel.<sup>2</sup> Four-thousand demonstrators attended the funeral in Jabalia Refugee Camp in the Gaza Strip.<sup>3</sup> Two days later, a total strike was declared and observed by Palestinians inside Israel as well as in the West Bank and Gaza Strip.<sup>4</sup> Their demand was for an end to the Israeli occupation of the West Bank and Gaza Strip.<sup>5</sup> The strike was proclaimed by the Palestinians as the beginning of the "intifadah."<sup>6</sup>

1989 marked the two year anniversary of the beginning of the Palestinian intifadah and the one year anniversary of the Declaration of Independence of the State of Palestine. The Palestinian people, in the West Bank and Gaza Strip, as well as the refugees from Palestine, have been able to draw worldwide attention to their struggle for self-determination.

Through the intifadah, the Palestinians have achieved a high level of international awareness of their struggle and, in the process, built the foundations of a viable state. As long as the intifadah continues, regardless of Israeli reaction to it, the Palestinians move closer to their goal of self-determination.<sup>7</sup> In turn, the debate regarding the Middle-East has been broadened to include the acceptance of the Palestinians as a nation.

It is the intent of this essay to show that the enhancement of democracy for the Palestinians would strengthen Israel's democracy and help preserve the legitimacy of Israel as a nation. Israel's own existence as a nation was brought about by other nations adhering to international rules, especially as posited by the United Nations. Israel

cannot continue to turn its back on world opinion, international laws and the United Nations' prescription regarding the Palestinian question. In so doing, it undermines its claim as a democratic state. The special characteristics of the situation mandate that in the process of protecting Israel in its vital function as a Jewish homeland, Israel must respond to the intifadah and recognize the legitimacy of the intifadah's demands.

The situation in Israel and the territories requires more than a legal analysis of civil disobedience and revolution. The Israel/Palestinian issue needs to be looked at contextually, because of its distinctive characteristics. This essay will first survey the judicial context of both Israeli statehood and Israel's rationale for its military occupation of the West Bank and Gaza Strip.

The Israeli Judicial system has placed the protection of Israel as a Jewish state as the highest "constitutional" fact. This is evidenced by its treatment of the most basic element of democracy: who may run for elected office. In addition, the courts and the Knesset have shown an obvious preference for Israeli nationalists.

A dual system of justice is being played out, to the extreme, in the territories. Under military law, the Palestinians are subject to curfews, arbitrary house searches as well as reduced civil rights such as a censored press and travel restrictions.<sup>8</sup> In contrast, Israeli settlers are governed by Israeli law, as if they lived in Israel proper.

This essay will then discuss a Palestinian reaction to this treatment. Being forced to live under such political conditions is ample reason to react. The Palestinian re-action is the intifadah. They are demanding self-determination and their promised Arab state. In the process, they have developed extensive quasi-government structures, self-sufficient communities, and an increased worldwide recognition of "stateness."

Finally, the effects of the Palestinian reaction will be applied to the greater context of both the protection of the State of Israel, and a concern for human rights and civil liberties. The intifadah has strengthened Palestinian stateness. As a result, it has forced Israel to face the inherent contradiction of Israel's stated democratic goals and its undemocratic reaction to the uprising in the territories. In order to protect its own democracy, Israel must recognize the intifadah's goals as legitimate, especially the major goal: Palestinian self-determination. The strength and unanimity of the intifadah movement has demanded such recognition. In the process, Israel's legitimacy as a democracy will be restored.

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## I. History

Political Zionism was first articulated in 1896 by Theodor Herzl. The Zionist goal of gaining recognition of the Jew's right to establish a state was greatly strengthened by the Balfour Declaration in 1917.<sup>9</sup> The Declaration was a letter written by the British Foreign Minister, Arthur James Balfour, to Lord Rothschild. The letter conveyed sympathy for the Jewish Zionist aspirations and stated that "[h]is Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people."<sup>10</sup> The Declaration was conditioned on "it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine . . ."<sup>11</sup>

The Declaration was a strong impetus for the recognition of Palestine as a Jewish national home. The Holocaust added new life to the idea of a Jewish state in Palestine. Because of the Nazi terror in Europe, Jewish populations in Palestine rose from ten percent in 1919 to thirty percent in 1939.<sup>12</sup> In 1947 the United Nations General Assembly approved a plan to partition Palestine;<sup>13</sup> the British Mandate over Palestine was to end and the two new states (one Arab, one Jewish) were to achieve independence on May 15, 1948.

The Partition Resolution provided for safeguards to protect the rights of minorities. For example, the Resolution guaranteed that Jerusalem would be under international regime, thereby providing free access for persons of all faiths to holy places located in Jerusalem.<sup>14</sup> Nonetheless, the United Nations' adoption of the partition resolution brought with it a sudden flight of Palestinians to surrounding countries.<sup>15</sup>

On May 14, 1948, the State of Israel proclaimed its establishment. "As the last British troops ceremonially departed the following day, troops from bordering Arab countries entered the area . . . and the first Israel-Arab war began."<sup>16</sup> Israeli forces secured a decisive victory that included controlling large areas of territory allotted to the Arab State as well as the western half of Jerusalem, originally meant for internationalization.

In June of 1967 Israel was again attacked by a number of its neighbors.<sup>17</sup> Decisive victories for Israel secured Israeli control of all of Mandated Palestine, including Jerusalem. The United Nations' Security Council acted upon its concern over the extensive military occupations of June 1967, and passed Resolution 242. The resolution called for Israeli withdrawal from territories as well as recognition of the Palestinians as people and the reaffirmation of their right to the constitution of an Arab State.<sup>18</sup> This right had been established in the League of Nations Covenant, the Balfour Declaration, the Mandate for Palestine and the Palestine Partition Resolution.<sup>19</sup> After 1967, the relationship between Israel and the community of states began to change. Israel began to minimize its reliance on the Partition Resolution and United Nations' mandates as a basis for its lawful existence.<sup>20</sup>

The ensuing years saw increased violence in the territories and various peace-making attempts. The only truly successful attempt was the Israel-Egypt peace agreement, which turned over the Sinai to Egypt, in exchange for peace. All other attempts at significant peace initiatives have failed.<sup>21</sup>

On December 9, 1987, the residents of the "administered" territories began their uprising—the intifadah—demanding, through various tactics (from rock throwing to tax-strikes), their right to self-determination. Two years later, the intifadah has developed into an organized system of uprising. The intifadah has developed a few universal precepts.

Most of Husan's [a town in the West Bank] 3000 residents stay home from work several days a month, observing the strike days declared in bimonthly leaflets emanating from the uprising's underground leaders. Some boycott Israeli-made products . . . And twice a day the young men stone the bus, the local intifadah target. Those are Husan's village rules.<sup>22</sup>

## II. The Israeli Courts

### A. The Preservation of Democracy vs. the Preservation of Israel

Israel's form of democracy has various descriptions: "democracy under siege,"<sup>23</sup> a "fighting democracy"<sup>24</sup> and a "defensive democracy."<sup>25</sup> In addition to its hostile and persistently threatening neighbors, Israel is plagued by a second problem: it has no written constitution. Therefore, when defending itself from internal and external subversives, the Israelis have no written jurisprudential foundation except the Basic Law<sup>26</sup> and judicial decisions to guide their behavior.

As a result, the Israeli Supreme Court "has become the bastion of liberty and the rule of law in Israel today."<sup>27</sup> The Israeli Supreme Court has clearly stated its constitutional jurisprudence: national security and the survival of Israel as a Jewish state have priority over civil rights. Exemplary is the line of cases that began with *Yerdor v. Chairman, Central Election Committee for the Sixth Knesset*<sup>28</sup> and continues with *Neiman et al. v. Chairman of the Central Committee for the Elections to the 11th Knesset*.<sup>29</sup> Both of these cases involve the Central Election Committee's (CEC's) responsibility to "confirm" any list of candidates for the Knesset.<sup>30</sup>

In *Yerdor*, a list of candidates from the "El Ard" party were determined ineligible based on their status as an outlawed organization, with the destruction of Israel as a Jewish state in their charter. In his judgement, the President of the Supreme Court, Agranat, J., stated that the continuing existence of the State of Israel was the major premise in the light of which all Israeli laws need to be judged. Based on the Declaration of the Establishment of the State of Israel, Judge Agranat determined that preserving the state

was a "fundamental constitutional fact."<sup>31</sup>

In *Neiman*, the court was afforded the opportunity to use the CEC to directly address the tension between the preservation of Israel and the preservation of democracy.<sup>32</sup> In *Neiman*, the Central Election Committee had turned down two lists, both decisions on appeal. One list was comprised of candidates from "Progressive List for Peace" (PLP), an organization of Jews and Arabs whose views were close to those of the Palestine Liberation Organization. The other list was from "Kach," an organization headed by Meir Kahane, a militant Zionist.

Despite Kach's racist and undemocratic platform, the court reversed the Committee's decision on the Kach list and prescribed the certification of the list. The court based their decision on a traditional interpretation of *Yeredor*, "according to which only a list contesting the nature of the State may be excluded by the Central Election Committee. A list, however, which endangers only the democratic nature of the State, or is racist in character, is not liable to be disqualified by the committee."<sup>33</sup> In regards to the PLP list, the court reaffirmed CEC's power to disqualify such a list<sup>34</sup> based on the organization's stated goals that challenged the preservation of Israel as a Jewish state.<sup>35</sup>

Justice Barak, in a concurrence, stated what seems to be the more logical reasoning. "[W]hile the Jewish character of the State is founded in the Declaration of Independence, the latter also refers to the principles of liberty, justice and peace . . . and assures full equality of social and political rights to all citizens, without distinction of religion, race or sex." In conclusion, Barak, J., writes "[d]emocracy must not commit suicide in order to prove its existence."<sup>36</sup>

## B. Israeli Courts and International Law

Israel's official policy toward the occupied territories is that of an "administrator." The Israeli position can be stated in sum: Israel considers itself the present power administering the territories until a settlement is negotiated.

The Israeli courts had an opportunity to address human rights in the territories when they ruled on the application of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War<sup>37</sup> to the territories.<sup>38</sup> As a result of the decision not to apply the Fourth Geneva Convention, Israel has carefully created, judicially and legislatively, a territory that is not occupied, not annexed and not independent.<sup>39</sup>

The conclusion of the courts is that international conventions are "contractual" and therefore not binding on an occupier unless they are incorporated into Israeli "municipal" law through the legislature, the Knesset.<sup>40</sup> Since the Israeli Legislature does not consider itself an occupier, it has chosen not to incorporate the Fourth Geneva Convention for the territories. International customary law, on the other hand, is embodied in all law.<sup>41</sup> Therefore, Israel considers itself obligated to international customary law, but not any formal conventions.

A poignant contention regarding the application of the Fourth Geneva Convention is the Israeli practice of "settling" the West Bank and Gaza Strip by Israeli nationals.<sup>42</sup> In 1979, the Rabbinical Court of Israel concluded:

. . . that we must deal with the claims to the degree that they are based on . . . international customary law, and that there is no basis [for the Israeli Supreme Court] to relate claims based on Article 49 of the Geneva Convention. Thus, the discussion is narrowed down to the question of whether the respondents violated international law . . . .<sup>43</sup>

The Israeli court's attitude toward the territories is best exemplified by a decision of the Arab Appeal Court of 1970. The Court of Appeal sitting in Ramallah stated that "the occupying power is the proper authority to decide whether or not there exists a necessity to make any amendment or addition to the laws in force in the occupied region."<sup>44</sup> The Arab Appeal Court was part of a court system that existed when Israel began the occupation of the West Bank. Under Israeli occupation, at the time of this case, judges were appointed by the Israeli military government.<sup>45</sup>

## III. Israeli Justice in the Territories

Israel-proper has a civil court system. The territories are under a military court system.<sup>46</sup> The military courts on the West Bank operate on the basis of the Order Regarding Security Instructions adopted in 1967, and a new order issued in 1970 which superseded the previous one.<sup>47</sup>

Under military judicial law, the Palestinians are afforded little, if any, due process.

Although the Israeli military court system appears to have many of the features of a fair system of justice, in reality the justice it dispenses is seriously flawed.

Most of the defense lawyers who were interviewed [for the report], attached special significance to two of the system's defects... Firstly, they emphasized the critical importance and injustice of the prolonged period of interrogation to which a detainee may be subjected without access to independent legal or medical assistance; most detainees give a signed confession during interrogation which it is extremely difficult to retract despite evidence that it was extracted under duress. Secondly, the lawyers stressed the apparent sustained partiality of many military court judges.<sup>48</sup>

The orders maintaining the courts<sup>49</sup> allow the courts to deviate from the rules of evidence and leave to the dis-

cretion of the Regional Military Commander whether the defendant will be allowed to appeal outside of the courts.<sup>50</sup> The settlers, in contrast, are governed by Israeli law. They are subject to the Israeli civil court system (and the due process it guarantees) as if they were in Israel-proper.

Two laws, passed by the Israeli Knesset, widen this justice gap even further. The Extension of Validity Law gives the Minister of Justice the power to introduce the entire body of Israeli statutes to the territories and apply them only to the Israeli nationals residing there.<sup>51</sup> The Development Towns and Regions Law ensures this preferential treatment.<sup>52</sup>

This dual system of justice is best illustrated by the sentencing practices of the two courts. In a recent case, an Israeli motorist, who was being attacked by stone-throwers in Gaza, shot to death a Palestinian schoolgirl. The Israeli court convicted him of causing death by negligence; he received a seven-month suspended sentence. The stone-thrower, if caught and prosecuted under the military judicial system, could receive up to two years in jail even without causing any injury.<sup>53</sup>

The system of military justice has not coped well with the challenges posed by the intifadah. . . . The judicial system is supposed to be the authority's principal tool for enforcing military law in the territories. It is apparent that this system is not functioning in a manner which inspires confidence. . . .<sup>54</sup>

#### **IV. The Right to Act**

[T]he existence of a right of resistance of the victims of governmental oppression . . . has be[come] recognized with regard to . . . denial of self-determination.<sup>55</sup>

The Right to Act is a concept based on being put in the situation of choosing between submission to unjust laws, or violent resistance to the unjust laws.<sup>56</sup> "If oppressive political violence is used in a setting that precludes reasonable recourse to nonviolent methods of resistance and struggle, the reactive violence of proportionate and discriminatory character is a legitimate exercise of popular rights (inherent in popular sovereignty) of self-defense."<sup>57</sup>

Martin Luther King, Jr., a leading proponent of civil disobedience as an effective tool for change, stated that "one has a moral responsibility to disobey unjust laws."<sup>58</sup> Malcolm X, assassinated leader of the Nation of Islam, brought this one step further. "Revolutions are never based upon that which is begging a corrupt society or a corrupt system to accept us into it."<sup>59</sup> Civil disobedience, then, becomes a method of revolution. Indeed, "it is far more difficult than it used to be to draw a hard and fast line of distinction between revolutionary action and civil disobedient action."<sup>60</sup>

In December of 1987, the Palestinians acted upon their Right to Act, and began the intifadah, a revolutionary move-

ment based on civil disobedient action, devoted to the shaking-off of Israeli occupation.

Israel's reaction to the violent components of the intifadah is a form of reactive terrorism. Terrorism has been defined as "any political violence that lacks an adequate moral and legal justification, regardless of whether the actor is a revolutionary group or a government."<sup>61</sup> Under this definition, governmental functionaries following state policy are terrorists.<sup>62</sup>

Israel's use of terrorist tactics can be demonstrated by the Israeli army's use of industrial stone throwers, "ugly half-track vehicle[s] that grind stones into pebbles then spray [them] at demonstrators."<sup>63</sup> So, in fact, to fight the "terrorists," Israel has incorporated the terrorist tactics. With Israel, though, the stone throwers are "industrial" machines, not teenagers.<sup>64</sup>

The Right to Act also involves an element of limiting responses to responsible levels. The intifadah's conscious decision to embrace this element of proportional response is based primarily on survival. Most village intifadah activists have a "no guns" rule. "We threw one Molotov cocktail and they threatened to destroy our houses. It was decided, no guerilla warfare."<sup>65</sup> As long as the intifadah participants contain their actions and reactions to rock-throwing, the Israeli terrorist response will stay at that level. The proponents of the intifadah understand this. If the intifadah increases the violence to use of "guns," the Israeli reaction will definitely involve destructive activity, specifically, the demolition of Palestinian homes.<sup>66</sup>

The intifadah's "no guns" rule can be attributed to two things, a Palestinian attachment to their ancestral home and the tremendous suffering that an escalation would entail. By the current rules, neither of these are at risk when throwing stones.

[T]he core meaning of civil disobedience in the intifadah is not as a tactic to do anything. Rather, as a mass action, civil disobedience is the withdrawal of the generalized obedience constitutive of Israeli rule.<sup>67</sup>

#### **V. The Intifadah and De Facto Statehood**

The intifadah represents the general understanding of the Palestinian people that their allegiance and obedience is to their own people, their own law, not to the Israeli government.<sup>68</sup> The intifadah is the struggle for the transfer of authority. Once that authority is successfully transferred, regardless of anything Israel says or does, Palestine has become a state. The intifadah facilitates that transfer of power.

Since its beginning on December 9, 1987, the Palestinian intifadah has witnessed a dramatic shift from spontaneous protests to organized uprising. A definite structure for intifadah resistance has developed.

The youngest category of children involved in demonstrations is the seven-to-ten age group.

Most of the time these children may be seen rolling tires to the middle of the road, pouring gasoline on them, and then setting them afire. . . . The eleven-to-fourteen age group is assigned the task of placing large stones in the road to slow down or stop traffic. . . . The fifteen-to-nineteen group comprises the veteran stone throwers. . . . Palestinians over age nineteen take key positions in order to lead the entire team. . . .<sup>69</sup>

The young [people] of the village do say they feel a need to consult the leadership—each faction in every village has a contact person in the nearest large town. . . .<sup>70</sup>

One of the official structures that manages the intifadah is the Unified National Command of the Uprising.<sup>71</sup> This underground political structure is responsible for distributing dated and serially numbered leaflets that announce strike days, economic boycotts, and stone-throwing targets.<sup>72</sup>

On January 28, 1988, the Unified National Command regularized the scattered commercial work stoppages.<sup>73</sup> Since that time, on announced strike days, “[s]hopkeepers [open] only three hours per day, at a time designated by the Command, so that residents could obtain necessities. The [Israeli military try] to force shops to open by smashing locks and rolling up shutters, but shopkeepers typically refuse to come to the shops and residents refrain from looting open but untended shops.”<sup>74</sup> Besides partial strikes, the Command calls for complete strikes on significant occasions, such as the second month anniversary of the uprising or the assassination or arrest of uprising leaders.<sup>75</sup>

March 1988 was the month that the command called for the resignation of Palestinians from all Israeli administrative and governance bodies in the West Bank and Gaza Strip. “This call resulted in the virtual emptying of the Arab police forces and tax collection officers in the West Bank and Gaza Strip and the dismantling of the Israeli-appointed municipal administrations.”<sup>76</sup>

Dr. Hana Mikhail Ashrawi, Dean of the Faculty of Arts at Bir Zeit University on the West Bank describes the intifadah as a “genuine grassroots movement” that “cuts across all lines of distinction such as region, sex, religion, and political/factional affiliation.”<sup>77</sup> Dr. Ashrawi goes on to explain that the intifadah has created a “two-way system of communication whereby the Unified National Leadership’s role is not solely to lead but to articulate the demands and different modes of struggle which are sought and are capable of being sustained by the masses.”<sup>78</sup>

The grassroots efforts of the intifadah are accomplishing two concrete goals: an intelligent “shaking off” of Israeli occupation,<sup>79</sup> and, the structure and facilitation of a self-sufficient nation, a de facto nation and people.

### A. The Shaking-Off

It is no longer economically, socially or politically intelligent for Israel to “administer” the territories.

In financial terms the costliest price is the loss of exports to the West Bank. Before the intifadah, Palestinians bought over one billion dollars in Israeli goods; that figure is down thirty-percent.<sup>80</sup> As one Palestinian says, “the only Israeli product we buy now is spray paint.”<sup>81</sup> In addition, Israel has forfeited \$800 million in lost production, lost tourism and military costs.<sup>82</sup>

Socially, Israel is plagued by divisions within its own political structure. The use of a heavy-hand in the territories has had an effect on morale in the Israeli Army. Internationally, Israel’s image is suffering.<sup>83</sup> And, Israel is finding that many American Jews are not so easily persuaded that Israeli policy in the territories is appropriate.

Finally, and most on-point, is the cost to democracy. Israel’s democracy is already on fragile footing, characterized by the *Neiman* case.<sup>84</sup> The Israeli reaction to the intifadah is eroding the democratic principles it does have. It is one thing to put down short-term rioting, it is another to continue to suppress a sustained effort for self-determination. “The longer Palestinians remain subject to ‘administrative detention’ and are deprived of self-government, the more Israeli’s corrode their own devotion to democracy.”<sup>85</sup>

### B. Palestinian Self-Sufficiency

The intifadah has brought a great many hardships to the Palestinians. These hardships are both self-imposed — in the form of strike-days and boycotts— and also a result of Israeli reactions to intifadah acts. These hardships have been incorporated into the intifadah and considered a cost worth paying for self-determination.<sup>86</sup> In the process, they have helped create a de facto state.<sup>87</sup>

Focusing on community survival on the land, new means of self-reliance have begun to emerge: popular committees, “victory gardens,” and social and economic mediating structures. Locally run schools, health clinics and local police forces have also appeared. This drive for self sufficiency is the beginning of organized efforts to provide local answers to shortages created by . . . the intifadah . . .<sup>88</sup>

To be sure, this entails a drastic reduction in the standard of living, but local self-sufficiency has proved to be viable even under extreme assaults by the occupation forces, including 40-day curfews and the cutting off of food, water and other services.<sup>89</sup>

The Palestinians have shown an ability to be self-sufficient. In their effort to withdraw allegiance and obedience from the Israeli administrative apparatus, the

Palestinians have developed their own system to align with. "As the Palestinian population withdrew from the apparatus of occupation, it attempted to strengthen institutions of self-governance and to establish new ones. Local committees, called popular committees, organized daily life and built a measure of self-sufficiency."<sup>90</sup>

There are many communities in the territories that are rarely visited by Israeli troops and are, in effect, independent Palestinian towns.<sup>91</sup> Kafr Malik, a town southeast of Ramallah, is such a community. To the outside observer it looks like the capital of the Palestinian state, complete with a center square and flagpole that flies the outlawed Palestinian flag. Kafr Malik's "independence" can be attributed to its own stone quarry, which employs seventy-percent of the residents. In addition, because of the structure of the buildings within Kafr Malik, settlers and soldiers rarely use it as a shortcut. The buildings provide ideal protection for stone throwers. "After repeated stonings, Israelis started taking the long way around."<sup>92</sup> This is an example of successful shaking off.

In addition, there are other factors that contribute to Palestine's statehood. The territories have not been annexed by any other state. The population in the territories (beside Israeli nationalist settlers) is almost entirely Palestinian. Israel no longer has broad, generalized obedience within the territories.<sup>93</sup> The Palestinian's have developed a "quasi-government" that rules and makes decisions.<sup>94</sup> And, finally, the State of Palestine has declared its independence.

Because of the intifadah and its revolutionary irreversible impulse, the history of Palestine has therefore arrived at a decisive juncture . . . The Palestine National Council . . . hereby proclaims the establishment of the State of Palestine on our Palestinian territory. . . .<sup>95</sup>

## VI. Conclusion

Discussion of human rights in Palestine differs markedly from discussion of human rights in most other locations. With respect to Palestine, and its people, human rights deprivations are part of a broader deprivation of existence as a nation. Individual deprivation cannot be viewed accurately, therefore, unless it is considered in the context of the larger deprivation of national existence.<sup>96</sup>

A determining factor in this discussion is the inherent contradiction of Zionist democracy. For Israel to maintain itself as a Jewish state it must limit democratic representation in some ways. In so doing, it undermines its democratic credentials.

One way for Israel to shed this contradiction, and thereby enhance its democracy, is to stop being what makes it Israel. It would have to become a secular state with full and

equal representation for all people who care to consider themselves "Israeli." Regardless of the Jewish majority that would remain, a guarantee of a Jewish homeland, as there is now, would not remain.

This is not a true alternative. It is recognized by the international community that there should be a Jewish state. And, indeed, there should be such a state.<sup>97</sup>

The other option is for Israel to directly address the demands of the intifadah. The success of the intifadah mandates this.

The intifadah has successfully publicized the Palestinian demand for democracy. Palestinians are demanding full citizenship. This fundamental precept of democracy (full citizenship) cannot be ignored.

In the process of the intifadah, Palestine has solidified as a people. Yet, the Palestinian people's demands for full citizenship have been met with Israel's democratic contradiction. In order to choose the course that will enhance Israel's democracy, Israel must concede<sup>98</sup> to the Palestinian people a place where they can be full citizens.<sup>99</sup>

Meanwhile, the Palestinian people continue to remain an "occupied" people. New generations of Palestinians are being born and raised knowing nothing but barbed wired, military restrictions and Israeli military occupation. The Palestinian children of the West Bank and Gaza Strip play children's games that evidence their highly politicized and threatened lives. The game of "soldier and martyr" involves one child pretending to be an Israeli soldier beating on the other children, who are playing the "martyrs."<sup>100</sup> Especially for these children and their generation, a Palestinian state must be created. Life under military occupation must be ended.

As all of the parties involved work toward developing a mutual trust, so must Israel work toward the creation, facilitation and especially the recognition of sovereignty and self-determination for the Palestinian people. In so doing, Israel will safeguard its precarious democracy by removing the undemocratic blemish of its occupation of the West Bank and Gaza Strip. In addition, Israel will also secure and reaffirm its mission to the international Jewish community.

It is in Israel's best interest to begin this process. The intifadah's "no guns" attitude cannot continue indefinitely. Eventually, frustration with the status-quo will lead to more violent resistance. This may lead to stronger Israeli reaction. To that end, we will find all-out war. This solution to the problem must be proscribed.

## ENDNOTES

1. This quote is from a 1947 dialogue between Pinhas Rosen (named Israeli Minister of Justice days later) and David Ben-Gurion (eventually elected the first Prime Minister of Israel). Rosen was voicing his objection to Ben-Gurion's refusal to draw the boundaries of the future state. **T. Segev, *The First Israelis*** xvii (1949). Quoted in Kapeliouk, *New Light on the Israel-Arab Conflict and the Refugee Problem and Its Origins*, 63 **J. of Palestine Studies** 16, 18 (Spring 1987) (Kapeliouk asserts that Ben-Gurion's decision was motivated by his "eye toward eventual expansion beyond the November 1947 partition plan").

2. **National Lawyers Guild, International Human Rights Law and Israel's Efforts to Suppress the Palestinian Uprising** 5 (1988).

3. See generally **Jerusalem Media and Communication Centre, *The Intifadah: An Overview*** 4-5 (December 1989).

4. **The National Lawyers Guild**, *supra* note 2, at 5.

5. *Id.* Eight days later the Israeli military arrested eight Palestinians surmised to be the "leaders" of the uprising. By the end of that week over twelve-hundred Palestinians had been arrested.

6. "Intifadah" is the Arab word literally meaning "rising up and shaking-off." It is the name given by the Palestinians to their struggle for self-determination. The shaking off image is well described in *The New York Times*, Dec. 3, 1989, at 24, col. 1 (*The Week in Review*, editorial). See also **Jerusalem Media and Communication Centre**, *supra* note 3, at 2.

Palestinian/Arab reaction to developments in the Middle East did not begin in 1987. In fact, "[t]he first disturbances were in 1920 . . . ascribe[d] to 'the Arabs' disappointment at the non-fulfillment of the promises of independence which they believed to have been given them. . . . Having no formal political organization . . . they expressed their resentment in a series of violent protests, and violence became virtually endemic in Palestine." **United Nations, *The Question of Palestine*** 21 (1979). See also **United Nations, *The International Status of the Palestinian People*** 9-11 (1979) ("These protests culminated in the Palestinian rebellion lasting from 1936 to 1939, when British Government succeeded in suppressing it").

7. For a discussion of nationalist self-determination, see Collins, *Self-Determination in International Law: The Palestinians*, 12 **Case W. Res. J. Int'l L.** 137, 137-155 (1980).

8. A full discussion of the various human rights violations in the West Bank and Gaza Strip is beyond the scope of this paper. Israeli human rights violations against the Palestinians in the West Bank and Gaza Strip are well documented. See, for example, **United Nations, *Report Submitted to the Security Council by the Secretary-General in Accordance with Resolution 605*** (1987), document #S/19443 (January 21, 1988); **The National Lawyers Guild**, *supra* note 2; Amnesty International, *Human Rights Violations in Israel and the Occupied Territories*, report of March, 1988 (Washington, DC.); American Bar Association, Section of International Law and Practice, *Report to the House of Delegates* (January 27, 1988).

9. **D. Ingrams, *Palestine Papers*** 7-18 (1973); **N. Bentwich & H. Bentwich, *Mandate Memories: 1918-1948*** 9-12 (1965).

10. The Balfour Declaration quoted in Collins, *supra* note 7, at 153 n. 103. (Collins notes that the Balfour Declaration was written when the Turkish Ottoman Empire, not Great Britain, ruled Palestine.)

11. *Id.*

12. **Arab Information Center**, 6 **The Palestine Question** 8-11 (1983).

13. See **W. Mallison & S. Mallison, *The Palestinian Problem in International Law and World Order*** 407-412 (1986) ("When the inevitable conflict occurred between the Zionist immigrants with their political objectives and the native inhabitants who saw their rights under the League of Nations Mandate being frustrated, the British Government was no longer able to cope with the situation. It asked the

General Assembly of the United Nations . . . to assume the responsibility for Palestine. . . .").

14. *Id.*, at 408. Collins, *supra* note 7, at 159, analogizes the Partition Plan to "Wise King Solomon" halving a child to test for maternal instincts. "Unfortunately, Solomon's wisdom was lost upon Great Britain, the League of Nations and the U.N. when they proposed the partitioning of Palestine. A dispute would be temporarily solved but the death of a child — of a people — would be the price."

15. There are two basic historical perspectives to the exodus of Palestinians. See **D. Hirst, *The Gun and the Olive Branch: The Roots of Violence in the Middle East*** 123-29 (1983) (Hirst highlights Zionist terrorist attacks on the Palestinian villages of Deir Yassin and Duwayma ("indiscriminate mass killings") as examples of Zionist efforts to drive the Palestinians out.); Cf. **A. Weingrod, *Israel: Group Relations in a New Society*** 15 (1965) ("[T]he Arab leadership advised their followers to leave, however temporarily, while the invading armies of Egypt, Jordan, Iraq, Syria and Lebanon moved to crush the Israelis. . . .").

16. **The Palestinian Question**, *supra* note 12, at 14.

17. Commonly referred to as the Arab-Israeli War of 1967, the confrontation "brought [with it] the second great Palestinian Arab exodus as Israel expanded its occupation to the remaining territory of mandated Palestine, (including East Jerusalem) until then occupied by Egypt and Jordan." **United Nations, *The Question of Palestine*** 25 (1979).

18. It is worth noting that the Palestinians, as represented by the Palestine Liberation Organization, rejected U.N. Resolution 242. This is based on the Palestine Liberation Organization's 1968 covenant which termed Israel an illegal state, and rejected "all solutions which are substitutes for the total liberation of Palestine." *Palestine Liberation Organization Covenant of 1968*, quoted in *id.* at 26.

19. **W. Mallison & S. Mallison**, *supra* note 13, at 409. Mallison and Mallison point out that "Resolution 242 . . . appeared to give juridical recognition to the pre-June 1967 *de facto* boundaries of the State of Israel which were considerably in excess of those set forth in the Partition Resolution." *Id.*

20. *Id.* at 409.

21. "Why should the Arabs make peace? If I was an Arab leader I would never make terms with Israel. That is natural: we have taken their country. . . . They only see one thing: we have stolen their country. Why should they accept that?" Statement by Prime Minister Ben-Gurion, quoted in **N. Goldmann, *The Jewish Paradox*** 99 (1978); **W. Mallison and S. Mallison**, *supra* note 13, at 411.

22. J. Brinkley, *Inside the Intifadah*, *N.Y. Times*, Oct. 29, 1989, Section 6 (Magazine), at 38.

23. Bracha, *The Protection of Human Rights in Israel*, 12 **Israeli Yearbook of Human Rights** 110 (1982). See also Maoz, *Defending Civil Liberties Without a Constitution: The Israeli Experience*, 16 **Melbourne University Law Review** 815 (1988).

24. Guberman, *Israel's Supra-Constitution*, 2 **Israel Law Review** 455, 458 (1967). A fighting democracy has to "prevent any abuse of legitimate parliamentary functions by a subversive group." *Id.*

25. *Id.* at 459.

26. Without a constitution, the Israeli Knesset has unlimited legislative powers. The Basic Law is a series of "chapters" to an eventual constitution, intended to form some basis for Knesset and Israeli operations. The Basic Law is based on a June 13th, 1950, resolution of the Knesset that prescribed the preparation of a draft of a constitution. "The constitution will be built up chapter by chapter in such a way that each chapter will constitute by itself a fundamental law." See **H. Baker, *The Legal System of Israel*** 14 (1961); see also Elman, *Basic Law: The Army*, 12 **Isr. L. Rev.** 232 (1977) (Elman discusses the legislature's motivations behind selecting certain areas as "subject [to] constitutional treatment."). See generally Livneh, *Basic Laws and Ordinary Legislation*, 13 **Isr. L. Rev.** 251 (1978).

27. Interview with Moshe Negbi, lawyer and legal commentator for Israel Radio. Quoted in Jost & Ostroff, *Liberty by a Thread*, 99 **The Los Angeles Daily Journal** 1 (July 18, 1986). Negbi goes on to say "[t]here is no democracy in the occupied territories . . . but, I think the sta-



tus of the civil liberties there is much better than in other military occupied territories because there is the right to appeal to the Supreme Court of Israel against any infringement of their rights." *Id.* Compare Negbi's comments with D. Zucker's (Israeli Parliament member), "compared to other wars of liberation, it's paradise here. Proudly, I'd be ready to compare it with Algeria, China, South Africa — there is nothing to compare. But, it depends on what your standards are. If your standards are undemocratic, then even China is legitimate. But I have no intention of throwing my standards out the window." *Quoted in Goller, Activists Criticize Army Justice in West Bank and Gaza, Reuters* (November 6, 1989).

28. 19 P.D. 365 (1965).

29. 39 (ii) P.D. 225 (1985).

30. "A candidates' list, duly submitted, or corrected in accordance with the previous section, shall be confirmed by the Central Committee." Knesset Election Law, Section 23 (1959). *Reprinted in Guberman, supra* note 24, at 456.

31. *Yeredor, supra* note 28, at 386. The Court's use of the Declaration is selective. In *El-Karabuto v. Defence Minister*, 2 P.D. 5 (1949), the Supreme Court would not apply the mandates on human rights and individual liberties written in the Declaration of the Establishment of the State of Israel to certain Mandatory Emergency Regulations empowering the authorities to imprison, without legal process, a person suspected of acts prejudicial to public safety. *See Guberman, supra* note 24, at 457.

32. For a discussion of the *Neiman* case, see Klein, *The Defence of the State and the Democratic Regime in the Supreme Court*, 20 *Israel Law Review* 397 (1985).

33. *Summarized by id.* at 404-05.

34. The court did allow the PLP list based on a technical evidence matter. None-the-less, the court reaffirmed the CEC's power to disqualify such a list and proscribed disqualification for the Kach-style candidates.

35. For the majority opinion of the court, Shamgar, P., includes references to American legislation aimed at subversive activity, specifically the Communist Party. Shamgar references, for example, the Smith Act of 1940 and the Subversive Activities Control Act of 1954. *See Klein, supra* note 32, at 406-07.

36. *Neiman*, 39(ii) P.D. 225, 315.

37. The Fourth Convention ensures that "even in the midst of hostilities, the dignity of the human person, universally acknowledged in principle, shall be respected." *International Committee of the Red Cross, The Geneva Conventions of August 12, 1949* 16 (Preliminary Remarks).

38. The cases are cited in Rubinstein, *infra* note 42, at n. 23.

39. *See, e.g.*, Rubinstein, *infra* note 42, at 8.

40. *See Gavison, Book Review*, 17 *Israel Law Review* 234, 236 (1982) (reviewing M. Negbi, *Justice Under Occupation: The Israeli Supreme Court Versus the Military Administration in the Occupied Territories* (1981)).

41. In *Jamayat Iscaan, Cooperative Society v. Commander of the Israel Defence Forces in the Judea and Samaria Region*, 37(4) P.D. 785 (1976), Judge Barak, who wrote the majority opinion, leaves open "the nice question whether the humanitarian portions of the Fourth Geneva Convention, in accordance with which the Israel Government has decided to conduct itself . . . do not constitute binding norms, if only partly, by virtue of their incorporation in the Israel Government's internal directives to the military Commander and by virtue of internal directives issued by the Military Commander himself."

42. One of the articles of the Fourth Convention prohibits settlement of occupied territories. Israel has been promoting settlement in the territories by Israeli nationals since the war of 1967. *See Rubinstein, The Changing Status of the "Territories" (West Bank and Gaza): From Escrow to Legal Mongrel*, 8 *Tel Aviv Univ. Studies in Law* 67 (1988) ("Because of the vagueness and confusion as to the binding effect of the Geneva Convention, it has gradually disappeared from the legal and public discussion of the status of Jewish settlements in the occupied territories").

It is interesting to note that United States Secretary of State James Baker announced, in February 1990, that American loan guarantees for Soviet immigrant housing would be tied to the demand for a halt in new

Israeli settlements in the West Bank and Gaza Strip. *See The New York Times, Comment by Baker Angers Shamir*, March 3, 1990, at A5, col. 1. On the same day that Prime Minister Shamir responded to Baker's comment, the Israeli military authorities issued an order requiring all news organizations to submit all reports on Soviet Jewish immigration to military censors. *The New York Times, Israel to Censor News on Emigres*, March 3, 1990, at A1, col. 5. *See also N. Kawash, Inter Press Service, West Asia: Concern Mounts Over Palestinian Uprising*, Feb. 5, 1990 ("Palestinians are . . . particularly worried about a massive influx of Soviet Jews that Israel says it will settle in the occupied areas where the Palestinians want their homeland set up").

43. *The Beit-El Case*, Rabbinical Court of Israel, HC 606/78 at 102, *Pskei Din*, Vol. 33 (Jerusalem 1979). *But see The Elon Moreh Case*, Rabbinical Court of Israel, HCJ 390/79 separate judgement of Justice Vitkon, *Pskei Din*, Vol. 34 (1980) ("It is a mistake to think that . . . the Geneva Convention does not apply to Judea and Samaria [the West Bank and Gaza Strip]. It applies, even though, as stated above, it is not justiciable in this court."). *See generally United Nations, The Question of the Observance of the Fourth Geneva Convention of 1949 in Gaza and the West Bank including Jerusalem Occupied by Israel in June 1967* 9-11 (1979) ("Taken together, the international legal considerations . . . and the positions of the UN and other authoritative bodies cited, leave no doubt that the Fourth Geneva Convention is applicable to the Israel-occupied territories of the West Bank and Gaza").

44. Civil Appeal case no. 34/68 reported on page 186 of the *First Collection of Appeal Decisions (1967-70)*. *Quoted in R. Shehadeh, The West Bank and the Rule of Law* 27 (1980).

45. The court is now defunct, due primarily to the mass resignation of judges at the beginning of the intifadah.

46. *See generally P. Hunt, Justice? The Military Court System in the Israeli-Occupied Territories* (1987). *See also B'Tselem - The Israeli Information Center for Human Rights in the Occupied Territories, The Military Judicial System in the West Bank* (1989) (B'Tselem was established in 1989 by a large group of lawyers, doctors, journalists, public figures and Knesset members. This particular publication is an excellent discussion of the military judicial system in the West Bank.); *R. Shehadeh, Occupier's Law: Israel and the West Bank* 76-102 (1985).

47. Order Concerning Security Regulations (Judea and Samaria Regions) (No. 378), 1970. *See also B'Tselem, supra* note 46, at 8.

48. *P. Hunt, supra* note 46, at 38-39.

49. The military judicial courts' procedural and substantive rules are actually directives of the Israeli police, called "orders." These orders are issued on the advice of the Attorney General and the Military Advocate General. *See State Comptroller Report* 35 (1984), as *quoted in id.* at 8. For example, the Order Concerning Security Regulations, *supra* note 47, in Articles 11, 12, 15 and 8 mandate that "[h]earings are conducted with open doors. It is the duty of the court to appoint an interpreter for anyone who does not understand Hebrew, and the judge must keep a record of the hearing. The prosecution is conducted by someone appointed by the local commander as the military prosecutor, and the defendant can be represented by a defense lawyer. . . ." *Id.*

50. Rishmawi, *The Lawyers' Strike in Gaza*, 21 *C.J.L. Bulletin* 23, 24 (1988).

51. *See generally* Rubinstein, *supra* note 42, at 71-72.

52. *Id.*

53. Goller, *supra* note 27.

54. *B'Tselem, supra* note 46, at 40-41. The B'Tselem report cites two "failings;" the first is the "the significant injustice that is caused on a routine basis by inexplicable inefficiency, unjustifiable indifference, and a lack of initiative. . . The second failing is the existence of . . . procedures which violate the law (as prescribed by the orders of the military commanders)." *Id.*

55. *Unesco, Violations of Human Rights: Possible Rights of Recourse and Forms of Resistance* (Collected Essays) 9, 43 (1984).

56. *R. Falk, Revolutionaries and Functionaries* 38 (1988).

For a discussion of The Right to Act, see V. Pechota, **The Right to Know One's Human Rights** 8-9 (1983); see also *Unesco*, *id.*, at 33-36.

57. R. Falk, *id.* at 38.

58. M. King, *Letter From the Birmingham Jail*, in **On Civil Disobedience: American Essays, Old and New** 61, 66 (1979).

59. **Malcom X Speaks** (G. Brietman, ed.) 9-10 (1966).

60. H. Jones, **The Efficacy of Law** 93 (1969).

61. R. Falk, *supra* note 56, at xiv (1988). The American Heritage Dictionary defines terrorism as "[t]he systematic use of terror, violence, and intimidation to achieve an end."

62. R. Falk, *supra* note 56, at 32. "Th[e] counterterrorist outlook admires Israel's image of consistency and toughness in meeting terrorist challenges . . . Whether this admiration is justified by a record of effectiveness is difficult to assess, but it certainly has not discouraged Palestinian extremist forces from terrorist activity against Israeli targets." *Id.* at 90.

63. See J. Brinkley, *supra* note 22, at 92, col. 4.

64. Scott Camil, reporting on his trip to the Middle East in 1990, under the auspices of Veterans for Peace, insightfully explains that, "[b]eing a military veteran, I am well aware that the soldier is unfairly blamed for the policies and the results of policies that he has no control over. . . .

"In my personal experiences, I participated in things that are much worse, in terms of death and destruction, than anything I saw in the occupied territories. I know that it is possible, with maturity and honesty, to be able to admit when you've participated in something wrong, to regret it, to be remorseful for it, to no longer participate in it, and to try to make up for it, especially by helping to educate those who are being used in the same way by a narrow-minded, dishonest government. I know that the Israeli soldiers are just like I was in Vietnam, and they are not necessarily malicious, bad people, just misguided. In time they will find out, as I did, that the oppressor pays a psychological price that in most cases is higher than the physical price." S. Camil, *Report on Recent Trip to Middle East* (Published by Veterans for Peace, Gainesville, Florida) at 8-9 (February 14, 1990).

65. Interview with N. Hafies, a resident of Husan (West Bank). Quoted in J. Brinkley, *supra* note 22, at 92, col. 2.

66. *Id.* The Israeli military authorities carry out the demolition and sealing of houses relying on Regulation 119(1) of the Defense (Emergency) Regulations 1945, which permits a military commander to order:

" . . . the forfeiture of any house, structure or land from which he has reason to suspect that any firearm has been illegally discharged. . . ; and when any house, structure or land is forfeited as aforesaid, the Military Commander may destroy the house or structure or anything growing on the land." Quoted in E. Playfair, *Law in the Service of Man*, **Demolition and Sealing of Houses** (Occasional Paper No. 5) 8-9 (1987).

Since the beginning of the intifadah (1987), the Israeli army's house-destruction policy has resulted in the leveling or sealing of 363 Arab houses.

67. Segal, *Does the State of Palestine Exist?*, 73 **Journal of Palestinian Studies** 13, 26 (1989). Segal also discusses Palestinian "de facto" statehood.

68. Kuttab, *A Profile of the Stonethrowers*, 67 **Journal of Palestine Studies** 14, 16 (1988).

69. *Id.* at 18-19.

70. J. Brinkley, *supra* note 22, at 92.

71. Kuttab, *supra* note 68. See also J. Brinkley, *supra* note 22, at 92, col. 1 (Brinkley explains that these "underground leaders" are essentially on their own, despite their contact with the P.L.O. in Tunis.). The National Command also operate a clandestine radio station, the Voice of Jerusalem. Although frequently jammed by the Israeli government, the station announces the content of Command leaflets and reports on demonstrations, strikes, arrests, and casualties. "In one program a youth explained how to aim a slingshot accurately." **The National Lawyers Guild**, *supra* note 2, at 11-12.

72. The leadership organization of the Intifadah is far from perfect. "To most people it appears organized, but basically that's not so . . . It gives the appearance of organization only because everyone is doing the

same thing." Kuttab, *supra* note 68, at 19. J. Brinkley, *supra* note 22, gives specific examples of local Intifadah groups ignoring leadership decisions.

73. See **Jerusalem Media and Communication Centre**, *supra* note 3, at 13 ("At first such closures were carried out as on-the-spot protest at Israeli army actions, in particular the killing of Palestinian protestors. Soon, complete commercial shut-downs began throughout the occupied territories.")

74. **National Lawyers Guild**, *supra* note 2, at 11. See also **Jerusalem Media and Communication Centre**, *supra* note 3, at 13 ("After some weeks of army lock breaking, shop-shutters were simply left unrepaired after the Israeli Defense Forces had finished its business. Other merchants stopped locking up their property altogether, relying on community trust and solidarity to prevent any pilfering. No cases of looting were reported.")

75. **National Lawyers Guild**, *supra* note 2, at 32. The report goes on to explain that "[d]uring a complete strike, Palestinians boycotted Israeli goods, closed shops, and did not report to jobs in Israel."

76. *Id.* See also the discussion of the Arab Appeal Court, *supra* note 45 and accompanying text.

77. Testimony before the United Nations annual North American Regional NGO Symposium on the Question of Palestine (1988), quoted in **National Lawyers Guild**, *supra* note 2, at 12.

78. *Id.*

79. See generally Sharp, *The Intifadah and Nonviolent Struggle*, 73 **Journal of Palestine Studies** 3 (1989).

80. J. Rosenthal, *Costs of the Intifadah*, *The New York Times*, Nov. 5, 1989, at 22, col. 1 (Editorial Desk).

81. J. Rosenthal, *id.* at 21, col. 1. *But see* J. Brinkley, *supra* note 2, at 38, col. 3 ("[Palestinians] boycott Israeli-made products — when it's convenient. (The boycott didn't stop [Palestinian] young men from carrying Israeli-made Time cigarettes in their pockets.)")

82. N. Tatro, *Mired Palestinian Uprising May Get Uglier*, *The Buffalo News*, Dec. 7, 1989, at 3, col. 4 (Section A).

83. See W. Mallison and S. Mallison, *supra* note 13, at 407. See also *True Neutrality for Israel*, 37 **Foreign Policy** 133 (1979-80) ("Israel is increasingly isolated politically and faces a growing danger of losing the support of world public opinion. The greatest threat to Israel today is not Arab arms and the lack of financial means but the slow erosion of world sympathy, particularly among the progressive nations that have always supported Israel.")

84. See *supra* notes 28-36 and accompanying text.

85. J. Rosenthal, *supra* note 80.

86. "When the government closed all schools in the West Bank and Gaza Strip, popular committees organized classes in homes and churches, mosques and community centers. Popular committees promoted 'victory gardens' to achieve self-sufficiency in fresh produce, in order to facilitate the boycott of Israeli-grown produce. In response to attacks by armed settlers, and following the resignation of local Arab police, communities organized neighborhood defense committees to protect people and property." **National Lawyers Guild**, *supra* note 2, at 11.

87. See, e.g., Segal, *supra* note 67, at 29-31.

88. Nakhleh, *The Palestinians and the Future: Peace through Realism*, 70 **Journal of Palestine Studies** 3, 9 (Winter 1989) ("As providers of health, education, and welfare services, these indigenous organizations could form a credible infrastructure of a future independent political community.")

89. F. Collins, *The Palestine Declaration of Independence and Faisal Husseini*, 7 **The Washington Report on Middle Eastern Affairs** 3, 4 (Oct. 1986).

90. **National Lawyers Guild**, *supra* note 2, at 11.

91. See J. Brinkley, *supra* note 22, at 93-94.

92. J. Brinkley, *id.* at 93, col. 2-3.

93. See, for example, S. Camil, *supra* note 64, at 5 ("The intifadah also addresses the refusal to recognize the authority of the Israeli government and the legality of their occupation. This meant there would be increased tax resistance. . . This resistance is accomplished in some cases by total refusal to pay taxes, as in the town of Bet Sahara. . . The

resistance to the authority of the Israeli government is also accomplished by refusing to acknowledge the authority of the Israeli occupying forces. This is easily accomplished by not obeying orders given by the soldiers, such as 'stop,' and 'show me your identification.' It is also accomplished by symbolically resisting the power of the Israeli military and the vast superiority of its weapons: children throw stones at armed soldiers knowing that they will be shot and cannot possibly win. They make the sacrifice of their bodies to change world opinion, to show that they are humans, and because they have nothing to lose").

For a description of tax revolt element of the intifadah, see **Jerusalem Media and Communication Centre**, *supra* note 3, at 17-18.

94. See, e.g., Segal, *supra* note 67, at 26-31.

95. The Declaration of Independence of The State of Palestine para. 10-13 (November 16, 1988).

96. **J. Quigley, Palestinian Rights: Denial and Affirmation** 98, 104 (I. Lughod ed.) (1982).

97. "All too often, when something negative is said about Israel, the automatic response is that what is being said is based on anti-Jewish sentiments. This response is commonly used to change the subject and to put the speaker in a defensive position. I'm often told that a 'real jew would never say anything against Israel.' Opposing Israeli government's policies in the occupied territories is not anti-Israeli or anti-Jewish. It is pro-human rights, and it is supported by many Israelis and Jews worldwide." S. Camil. *supra* note 64, at 11.

98. "To acknowledge as true just or proper." **The Random House Dictionary** (1980).

99. Ariel Sharon, recently resigned Minister of Industry and trade, believes that pressuring Israel to immediately withdraw from the West Bank and Gaza Strip and find an immediate solution to its differences with its neighbors is not the solution. "A more fruitful approach would lie in working out interim procedures so that Israel and the Arabs [sic] states can test each other and gradually build mutual trust." A. Sharon, *I Quit to Sound an Early Alarm*, *The New York Times*, March 5, 1990, at A15, col. 2 (Op. Ed.).

100. M. Igram, Remarks at Presentation of Eyewitness Account of Trip to the West Bank, University at Buffalo School of Law (Feb. 28, 1990) (available from the author).