

AL-HAQ'S RESPONSE
TO
THE CHAPTER ON ISRAEL AND THE OCCUPIED
TERRITORIES
IN THE STATE DEPARTMENT'S
"COUNTRY REPORTS ON HUMAN RIGHTS
PRACTICES FOR 1984"

by Joost R. Hiltermann

December 1986

The author, a volunteer researcher with al-Haq, is a 1986 Associate / Fellow of the Transnational Institute in Amsterdam and the Institute for Policy Studies in Washington, D.C.

AL-HAQ / LAW IN THE SERVICE OF MAN

WEST BANK AFFILIATE OF THE
INTERNATIONAL COMMISSION OF JURISTS
P.O. Box 1413, Ramallah, West Bank, Via Israel

PREFACE

The U.S. State Department every year releases a report outlining the human rights situation in countries that receive U.S. foreign assistance, country members of the United Nations, and some additional countries. As noted in the report's introduction, the document is submitted to the Congress each year by the Department of State in compliance with Sections 116(D)(1) and 502B(b)* of the Foreign Assistance Act of 1961, as amended by subsequent legislation. In the report, which is entitled "Country Reports on Human Rights Practices", a chapter has routinely been included covering the human rights situation in Israel and the Occupied Territories during the previous year.

Al-Haq has deemed it fruitful in the past to evaluate critically the State Department report - both in terms of its content and in terms of its purpose and methodology - for two main reasons. In the first place, al-Haq feels that because the State Department report is the only comprehensive human rights document coming regularly out of the U.S. that provides coverage of the Occupied West Bank and Gaza, it simply ought not to be ignored, and must indeed be given serious critical concern. Secondly, al-Haq feels that it is necessary to respond to the State Department report because of its reputed importance in the annual decision-making process surrounding U.S. foreign aid allocations. In the introduction to its 1983 report, the State Department affirms in clear terms that "[d]ecisions on foreign assistance provided by the United States take human rights conditions into account." Al-Haq is concerned on this score that although the State Department

* Or Section 503(B)(b). The State Department report has given contradictory numbers consistently during the past few years.

stresses the importance of using a country's human rights record as a criterion in the allocation of its aid - a principle that is supported by al-Haq - a country's negative record may in fact not lead to sanctions against that country in the form of a cut-back in aid. Al-Haq is concerned, in other words, that the criterion has been set, but is not being adhered to by those who stipulated it.

In December 1983, al-Haq addressed the U.S. State Department in a lengthy reply to its 1983 report, which covers the year 1982. In this reply, written by a legal research associate with al-Haq, Timothy Hillier, al-Haq criticized the State Department for numerous errors, omissions and misrepresentations in its reporting on the human rights situation in the West Bank (including East Jerusalem). Al-Haq distributed this document to its associates.

In the Spring of 1985, al-Haq prepared a written response to the State Department's annual report, this time the report of 1985, which covers the year 1984. Al-Haq provided a copy of its reply to the Lawyers Committee for Human Rights (New York) in June 1985. The Lawyers Committee, in turn, sent al-Haq's critique to the State Department accompanied by a cover letter signed by the LCHR endorsing the reply's conclusions, and stating that the concerns addressed in al-Haq's critique pertain to conditions in the West Bank that still prevail. Representatives of the LCHR also met with the U.S. Assistant Secretary of State for Human Rights, and discussed the Committee's concerns about the Occupied Territories. Al-Haq itself also sent a copy of the critique to the U.S. State Department in the hope that the writers of the annual report would take al-Haq's commentary into account in their preparation of the 1986 report. Al-Haq subsequently submitted the reply to the Journal of Palestine Studies for publication in the Journal's document section. It appeared in print in the Journal's Summer 1986 (vol. 50, no. 4) issue.

In this reply, which is reproduced in full below, al-Haq concluded that, although the State Department had somewhat improved the content of its report compared with previous

years by paying more attention to detail and correcting at least some of the errors al-Haq had pointed out in its earlier critique, a number of serious distortions and omissions of vital areas of the human rights situation in the Occupied Territories continued to undermine the report's value. Al-Haq has reprinted the introduction to its 1983 reply in an annex below to demonstrate to what extent such flaws were not addressed by the report's authors in the intervening period.

Al-Haq's purpose in making public a written reply to the State Department's human rights report on this occasion was not so much to point out all individual errors committed by the report's authors, as it had done in the 1983 reply, but to place the errors in their conceptual context: Why were such errors permitted to recur over and over again? And why did al-Haq's previous critique, and critiques provided by other parties, have so little impact on the accuracy of subsequent State Department reports, or - in light of Israel's record in the area of human rights, described in these reports - on the continued high level of U.S. economic and military aid to Israel in general?

In 1986, the flow of U.S. aid to Israel has remained constant, in spite of continued severe violations of human rights by Israel in the territories it has occupied since 1967 - violations acknowledged, if seriously understated, by the State Department in its report - and therefore contrary to the provisions of the Foreign Assistance Act, 1961, linking decisions regarding the level and quality of U.S. aid to the recipient country's human rights record. The authors of the most recent State Department report, published in February 1986 and covering the human rights situation in 1985, did not succeed in overcoming the problem of multiple errors, omissions and misrepresentations which marred previous reports. The recurrence of such serious flaws in the State Department's reporting, coupled with Israel's continued favored-nation status with the U.S., have led al-Haq to conclude that the U.S. State Department's conceptual approach to the report itself is gravely flawed.

Having pointed out both empirical and conceptual errors respectively in its two critiques (issued in 1983 and 1985), and in light of the absence of a substantive change in the State Department's reporting, al-Haq has now decided that it would not be productive to compose a critical reply to the annual human rights report on a yearly basis. It is al-Haq's sincere hope, however, that the authors of the State Department's "Country Reports" will pay due attention to the arguments presented by al-Haq and other organizations concerned with and knowledgeable about the human rights situation in the Occupied Territories, thus to enhance their understanding of this situation, and to improve their reporting on this important region of the world.

Ramallah, December 1986

AL-HAQ'S RESPONSE

TO

**THE CHAPTER ON ISRAEL AND THE OCCUPIED
TERRITORIES**

IN THE U.S. STATE DEPARTMENT'S

**"COUNTRY REPORTS ON HUMAN RIGHTS
PRACTICES FOR 1984"**

Al-Haq, the Ramallah-based West Bank affiliate of the International Commission of Jurists, is glad to provide a response to the U.S. State Department's 1985 "Country Reports". Al-Haq believes that the case of Israel deserves special scrutiny, in particular with regard to the human rights situation in the Occupied West Bank and Gaza.* This is so because of the State Department's explicit assertion (1983 "Country Reports", p. 9) that "decisions on foreign assistance provided by the United States take human rights conditions into account" (as stipulated in the U.S. Foreign Assistance Act of 1961), coupled with the fact that Israel is the largest single recipient of U.S. aid in the world, while a new and drastic increase is currently being considered for FY1986.

Al-Haq has come to the conclusion that the U.S. State Department has failed to provide a balanced and accurate overview of the human rights situation in the Occupied Territories. The choice of context in which human rights conditions are discussed, as well as the mode of reporting itself, have produced a number of distortions and omissions which make the human rights situation in 1984 appear much better than it actually was.

The West Bank and Gaza in 1984 entered their eighteenth year of military occupation. Although the final status of the Territories remains negotiable in theory, no serious negotiations have taken place, rendering the likelihood of a speedy resolution of the conflict small indeed. Israel, in fact, has given its occupation the appearance of quasi-permanence, (1) by creating a form of military government which is based on a combination of pre-existing Jordanian (West Bank) and British Mandatory and Palestinian (Gaza) law

* Al-Haq feels qualified to evaluate the human rights situation in the Occupied West Bank and Gaza (including Occupied Jerusalem) only. Obviously there are other areas of concern such as the conditions of Israeli Arabs which we unfortunately have to omit from the discussion.

and an ever-growing number of military orders (over 1170 in the West Bank), and (2) by putting in place a physical infrastructure of roads and civilian settlements that will make a return to the pre-1967 situation difficult to accomplish. As for Israel's position vis-a-vis the Palestinian population, the Israeli government has declared that it is not bound by the Fourth Geneva Convention, but that it is disposed to comply only with what it considers to be its humanitarian provisions. The United Nations on the other hand has asserted that the Fourth Geneva Convention does indeed apply to the Israeli occupation of the West Bank and Gaza, a position subscribed to by the U.S. government as well.

The future of the Occupied Territories and their population does not look auspicious. The 1985 "Country Reports" appears at a time when:

(-) the US administration is proposing a dramatic increase in economic and military aid to Israel. Military aid will grow from U.S.\$1.4 billion in FY1985 to U.S.\$1.8 billion in FY1986, and economic aid, which stood at U.S.\$1.7 billion in FY1985, is also expected to rise pending further discussions between the two governments concerning the state of the Israeli economy. In addition, Israel is slated to receive at least U.S.\$1.5 billion in supplemental "emergency" economic aid over the coming two-year period. On top of that, serious consideration is being given to forgiving U.S.\$1 billion worth of interest and payments due on past debts during the coming fiscal year.

(-) the creation of new settlements and "thickening" of existing ones continues unabated. Meron Benvenisti, an independent Israeli researcher, reports that the number of Israeli settlers residing in the Occupied Territories amounted to circa 137,000 at the end of 1984: over 42,000 in the West Bank, 2,000 in Gaza, about 85,000 in Jerusalem, and 7,500 in the Golan Heights. At that time, Israel also had seized 41 percent of the land area of the West Bank, and had restricted use of an additional 11 percent; controlled one-third of all Gaza lands; and had expropriated about 30 percent of the

Jerusalem land area. Six new settlements were approved by the Israeli government in January 1985 as part of a plan to restructure current demographic realities in the Occupied Territories in Israel's favor. In addition, a new road plan was announced in February 1984 which, if implemented, would result in a considerable loss of land for Palestinian land owners and further spatial separation between the Palestinian population and the Israeli settlers.

(-) continuing violations of human rights undercut U.S. Secretary of State George C. Schultz's recent call for an improvement in the quality of life in the Occupied Territories. Prison conditions have deteriorated (especially in Jnaid and Tulkarem prisons and in the al-Fara'a detention center); settlers have become more aggressive, in particular in their attitude toward the refugee camp populations; and the dual system of law in force since 1967 has become more firmly ensconced, as exemplified by a military directive issued in 1984 which made it impossible for Palestinians to register complaints against Israeli citizens in the West Bank without a permit from the military authorities.

(-) economic retrenchment in Israel and the (partial) withdrawal from Lebanon have created a political climate in Israel that is profoundly unfavorable to discussing Israeli practices in the West Bank and Gaza, let alone the Occupied Territories' final status. As a result, the status quo is allowed to further evolve, bringing ever closer the day that the annexation of the West Bank and Gaza will be accomplished all but in name.

The portrayal of the human rights situation in the Occupied Territories by the U.S. State Department suffers from serious distortions because of the mode in which the State Department has reported human rights abuses - or not reported them, as the case may be. It is highly misleading, for example, to place Palestinians and Israelis on an equal level in terms of their conduct and/or the violence to which they are exposed. This occurs on at least four occasions in the report. On page 1271 it is stated: "Arab and Jewish residents

[sic] continued to suffer from terrorist acts in 1984." On the same page it says: "There were numerous acts of arson, vandalism and bombings against both Israelis and Arabs during the year." And on page 1276: "Both Arabs and settlers have complained of intimidation through vandalism of cars and other property." Finally, on page 1270, the report refers to Israel's "continuing difficulties [sic] in providing equal treatment and police protection to all inhabitants of the occupied territories." By equating Palestinians with Israeli settlers, whose presence in the West Bank and Gaza is illegal by international standards, the report obscures the severe imbalance that exists between the two groups under conditions of occupation, where one group dominates the other by force, and has created an atmosphere in which vigilante violence against the indigenous Palestinian population is permitted to occur over and above the official exercise of state power. It is especially ironic for the U.S. State Department to place the two groups on an equal footing considering the U.S.'s adherence to the Fourth Geneva Convention which explicitly prohibits the introduction of foreign settlers into occupied territory.

Another stylistic device employed throughout this chapter is the constant reference to information provided by Palestinians as "claims", "allegations" or "complaints", whereas the Israeli authorities "state". At least 26 clear instances of this phenomenon can be found in the report. On page 1275, for example, Palestinians are said to "frequently complain" about not receiving written notification from Israeli authorities about impending land expropriations. The report then notes that Israeli authorities "respond" to this charge, thereby apparently "settling the matter once and for all." The State Department also lends greater credence to the Israeli version of events when it resorts to a gratuitous quoting of the pertinent Israeli law (Al-Baq has counted at least 11 clear occasions) without ever asking whether Israel has abided by its own rules or not. On pages 1262-3, for instance, we find the terms "guaranteed by law", "the law provides", and "there are effective legal safeguards", which are taken for granted without any mention even of anyone's

"claim" to the contrary. Thus, by using official sources as authoritative while subtly discrediting others, the cards are stacked heavily in favor of the government which is accused of perpetrating the violations, while the onus of proof falls entirely and unfairly on the victims of these violations. Al-Haq previously pointed this out in a report issued in 1983 ("The Reply of Law in the Service of Man to the U.S. Report on Human Rights Practices in the Territories Occupied by Israel", prepared by Timothy Hillier).

A very clear case of misrepresentation is provided in the report's section on political killing. First the report states on page 1271 that "political killing is not condoned by the Israeli government." It proceeds to list Israelis injured as a result of "terrorist acts", then glibly observes that "several Palestinians were killed in clashes with security forces." In fact, Al-Haq has documented that in 1984 eleven West Bank and Gaza Palestinians died at the hands of Israelis, only two of them in what can be called a "clash". Most of the others, all unarmed, were killed while being pursued by soldiers after a demonstration (four), or while in detention (three). One other Palestinian was shot to death by soldiers at a checkpoint, while no provocation was reported to have occurred. Finally, a Palestinian died in an attack carried out by an Israeli terrorist on a Jerusalem bus in October 1984. In contrast, three Israelis were killed by Palestinians in 1984, only one of whom was a victim of express political motives. The other two were shot to death near the Cremisan monastery by a Palestinian with a known history of mental disturbance.

But this is not a simple numbers game. The point is that the State Department's text is strongly misleading in its statement that political killing is not officially condoned by Israel, while clearly a considerable number of Palestinians were killed by Israeli soldiers acting in official capacity. In April 1984, two Palestinian commandos were clubbed to death while in detention following a bus hijacking in Gaza. Moshe Arens, who was Israeli Minister of Defence at the time and who had been present in the general area of the event, declared on

national television the next day: "Our response on Thursday night is Israel's response to terrorism ... every terrorist who undertakes an operation inside Israel should know that he is not going to come out of it alive." (Jerusalem Post, 15 April 1984). During a demonstration at Bir Zeit University in November, referred to in the report, a soldier using a telescopic sight was seen taking careful aim at fleeing students. A car transporting a critically wounded student from the scene was held up for almost half an hour at a military checkpoint; the student died before he could reach a hospital. (Al-Haq sent a letter to the Israeli Ministry of Defence concerning the incident, inquiring about the nature of the instructions given to the soldiers, but so far no reply has been received). If the Israeli government does not condone political killings, it should give clear orders to its security forces not to shoot at unarmed civilians who in no instance pose a threat to them, and it should punish offenders.

Next to political killing, a second area of major concern to Palestinians, downplayed in the 1985 "Country Reports", is the general economic, social and cultural situation in the Occupied Territories. The report does enumerate several of the existing restrictions on Palestinian economic development, but fails to evaluate them or their impact, thus effectively minimizing the ramifications of blocked economic opportunities on the human rights situation. The report asserts that per capita gross income in the West Bank in 1983 was "three times its 1967 level." This may be true. But as has been pointed out by a number of researchers, high individual incomes have contributed to conspicuous consumption and are not matched by a commensurate degree of communal wealth. Of course, this is true in most surrounding Arab countries as well, but by focusing exclusively on per capita income as an indicator of economic development, the State Department creates the impression that the economic situation in the Occupied Territories is not as bad as it actually is.

Economic stagnation in the Occupied Territories is in part due to a chronic Israeli refusal to issue permits for

certain economic activities that could be labeled as "productive", so that the majority of in-coming funds are funneled into infrastructural activities (which also aid Israeli settlers), education, health, and social services. The current Minister of Defence, Yitzhak Rabin, has openly stated: "There will be no development [in the Territories] initiated by the Israeli government, and no permits will be given for expanding agriculture or industry [there], which may compete with the State of Israel." (Jerusalem Post, 15 February 1985). Israel has thwarted numerous attempts by both American and international organizations, such as ANERA, the UNDP and the ILO, to fund projects in the Occupied Territories, especially productive ones. The plans of a group of U.S. Arab and Jewish entrepreneurs to invest in the Territories led to heated debates in the Israeli Knesset and media in 1984. One of the group's projects is a cement factory in Hebron. To this date, the group has not received permission to carry out its plans.

In addition, Israel's increasing control over land and water resources and restrictions on agricultural production and marketing are driving growing numbers of Palestinians off their land, inducing them either to find work in the Israeli economy - where they constitute a pool of disfranchised and cheap labor - or to leave the West Bank and Gaza altogether. Those who remain have little reason to be well-disposed to the occupying power. The consequent resistance to Israeli rule sets the stage for a gamut of human rights violations by Israel, which - together with the lack of economic development - leave the notion "improving the quality of life", so popular since the U.S. Secretary of State first voiced it, devoid of any content.

One of the report's most glaring omissions concerns the introduction of Jewish settlers into the West Bank and Gaza, and Israel's meting out of collective punishment to the local population in retaliation for individual acts of resistance by Palestinians. These are especially sensitive issues to the Israeli government because they are related to the applicability of the Fourth Geneva Convention, which has been

a constant source of conflict between Israel and the international community. The State Department report acknowledges these issues on page 1270, but fails to elaborate. Al-Haq has extensive documentation on both.

Settlement activity and settler violence against the Palestinian population figured high on the list of human rights violations in the Occupied Territories in 1984. At least 15 new settlements were officially inaugurated in that year, and six new ones were approved by the Peres government at the beginning of 1985. Meanwhile, settlers moved illegally ("illegal" here to mean by Israeli standards, since obviously all settlements are illegal by international standards) onto at least two new sites, one (Tel Rumeida) in the center of Hebron and one (Betar) near Bethlehem, and have been expanding their presence since then. Settlers in general have scarcely been opposed by the Israeli authorities, unless the latter were pressured to react due to publicity, and even then there was a clear limit to what they would do. This underscores once again the relative autonomy that settlers enjoy from the central government. They made extensive use of this freedom in 1984. The beginning of the year was marked by a spate of attacks by the Jewish terror underground, TNT, most of whose members were eventually arrested, and some of whom have now been convicted, albeit in courts in Israel itself and not in the West Bank where the majority of criminal offences took place. Their targets included the al-Aqsa mosque in Jerusalem, a major Moslem holy shrine; the Russian Orthodox church in Ein Karem; and several Palestinian buses. Other settler groups continued their "regular" activities of smashing cars or car windows (Ramallah, January 1984; Dheisheh, February; Nablus, March), destroying peasants' crops (Hebron, January; Tulkarem, February; al-Jib, August), placing bombs (Hebron, January), and intimidating refugee camp residents. Most notable perhaps was Rabbi Moshe Levinger's provocative three-and-a-half month sit-in in front of Dheisheh camp, which began in October 1984.

As for collective punishment, outstanding examples in 1984 were the numerous curfews imposed on towns and refugee

camps, the closing of camp entrances, the demolition of houses, travel restrictions imposed on entire communities, and the closing of West Bank universities. Dheisheh camp was made to suffer in particular. Eight of its ten entrances were sealed off on October 4, and the camp has also regularly been subjected to 23-hour-per-day curfews, some of them lasting for many days, usually following a stone-throwing incident. Such curfews constitute collective punishment if and when they are extended, as they often are, beyond the period that can reasonably be expected to be required by legitimate security considerations. The same holds true for university closures. Bir Zeit University was shut down for a month in April 1984, and its old campus for the preceding two months as well, following student demonstrations. Al-Najah University in Nablus was closed for four months in the autumn after the Israeli military raided the campus on the occasion of a student exhibit. The State Department report mentions in this respect that weapons were found on the university campus, an accusation that the Israelis themselves never even made. Finally, military authorities shut down Bethlehem University for four days in November after students protested an Israeli terror attack on a Palestinian bus in which one Palestinian was killed.

Another major omission from the report which attracted al-Haq's particular concern was the continuing deterioration of the military administration and the rule of law in the Occupied Territories as regards the Palestinian population. As an occupying power Israel has the duty to administer the population under its control according to fixed international regulations. Instead, Israel has been concerned primarily with laying the groundwork for settlement and providing security for the settler population while ignoring the needs and security of the indigenous Palestinian population. This has been most obvious with respect to the court system, the police, and the military government's departments. In the first place, Israel after 1967 assumed jurisdiction over the civilian system of courts through a series of military orders, creating a situation in which the courts today deal exclusively with cases related to the Palestinians, like land

and taxation. The 1984 military directive making it impossible for Palestinians to register complaints against Israeli citizens without an official permit is one example of the extent to which this new dual structure of law has developed in the Occupied Territories. On top of that, the courts have become increasingly corrupt, a point underlined by the recent arrest of five judges on charges of bribery, and the subsequent conviction of four of them to lengthy terms in prison. Although these arrests occurred in 1985, corruption was rampant throughout the preceding few years, including 1984, a fact which the U.S. State Department must have been unaware of or chose to omit from its report.

In the second place, there has been a clear bias in the function of the police when the Palestinian population is concerned. There have been considerable delays in bringing accused persons to court, in summoning witnesses, and investigating criminal offences (as at the time when bombs were found at Ramallah schools in March 1984). Finally, it has been difficult to obtain operating permits for a number of social, cultural and educational activities from the pertinent departments of the military government, which are staffed predominantly by Israeli personnel. Bir Zeit University, for example, presented a scheme to construct a building for its Faculty of Fine Arts to the Higher Town Planning Commission. The Commission neither accepted nor rejected the proposal; it simply ignored it. The university then had to appeal to the Israeli High Court to force the Commission to answer.

Finally, one last item of significance that has been left out of the report is the consistent Israeli refusal to allow a U.N. mission, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, to enter the country to do its work. The Committee has had to collect data for its annual reports to the U.N. General Assembly by employing a variety of sources based outside of the Occupied Territories.

* * *

The omissions enumerated above were unjustified since the data concerning them constituted public information which was freely available to all and which was frequently discussed in local papers, and to which the U.S. State Department hence had regular access.

One of the main difficulties with the 1985 "Country Reports" is the U.S. State Department's choice of standards by which it has measured human rights conditions in the Occupied Territories. In setting up its survey, the State Department constructed a single system which it applied to all countries regardless of differences among them. On page 4 the report states:

A nation's stage of development or its geographic situation ... should never be regarded as an excuse for violations of human rights but must be taken into account in describing the human rights environment ... Rather than viewing a country in isolation, then, these reports take as their point of departure the world as it is and apply a consistent approach in assessing each country's human rights situation.

It must be recognized, however, that Israel provides a case that deviates widely from other countries where human rights abuses usually result from attempts by incumbent rulers to stifle political dissent. In the case of Israel and the Occupied Territories the violations stem directly from a military occupation which combines repression with economic exploitation to derive the indigenous Palestinian population of its most fundamental, inalienable rights. The report's orientation is in keeping with the traditional western definition of human rights as individual political rights, at the risk of ignoring such collective rights as the right to social and economic development, which the U.S. government is "not prepared to recognize as a basic human right" (page 7). This makes it possible for the report's authors to gloss over the impact of Israel's growing control over land and water resources, the building of new settlements, the denial of

trade permits and licenses to set up industrial enterprises, and collective punishment - which are indeed key features of the violations of human rights suffered by the Palestinian population.

The second structural weakness in the State Department's report is the context in which the reporting occurred. There is a clear discrepancy between the State Department's explicit aim to highlight human rights violations in Israel and the Occupied Territories, and the simultaneous continuation of an exorbitantly high level of U.S. economic and military aid to Israel - quite unprecedented in today's world - which makes human rights abuses unavoidable. Foreign aid enables Israel to divert its own funds from development projects inside the 1948 borders, thus to bolster its settlement effort in the West Bank and Gaza. Part of U.S. aid even finances Israel's settlement program directly, as in the case of the Ethiopian Jews who were recently airlifted to Israel and some of whom - with the help of U.S. funding - were placed in Kiryat Arba, the controversial settlement near Hebron. More settlements and more settlers mean a perpetuation of the current dual structure of administration and development which discriminates against the Palestinian population, thus systematically denying them their most basic rights, including the right to self-determination which is protected by the United Nations. The report obscures this link between U.S. policy and human rights abuses by pinpointing merely some of the indirect consequences of U.S. policy - all of which are individual or incidental cases of human rights violations.

As a consequence, there is an obvious contradiction observable between the State Department's avowed aim to apply the human rights situation as a prime criterion in determining the level of aid for a particular country, and its present increase of aid to Israel in spite of this country's record in the field of human rights, which is nothing indeed for Israel to be proud of, as convincingly demonstrated - if severely understated - by the 1985 "Country Reports". It should here be added that another of the State Department's goals, namely to "work to establish democratic systems in which human rights

violations are less likely to occur" (page 6), is also clearly undermined by the level of aid to Israel which allows the Israeli government to weather the storm of economic recession, thus enabling it to postpone addressing fundamental questions of social and political reform.

Perhaps these problems reflect the limitations of any report issued by a national government. A government can never be a disinterested party, a point that is particularly salient in the case of the U.S. which has vital stakes in the Middle East and maintains close military and economic ties with Israel. This may also explain the minimal effect previous critiques have had on each new State Department report, or the negligible impact the successive reports themselves have had on U.S. foreign policy in general.

* * *

It appears, in conclusion, that the U.S. State Department's narrow focus on political rights abuses, coupled with its express effort to supply Israel with additional military and economic aid in 1986, continue to provide the infrastructure in Israel and the Occupied Territories for further violations of the Palestinians' inalienable human rights. As for the report itself, al-Haq has found that although the State Department has somewhat improved the report's content compared with previous years by paying more attention to detail and correcting at least some of the errors pointed out in earlier critiques, a number of serious distortions and omissions of vital areas of the human rights situation continue to mar the value of the chapter on Israel and the Occupied Territories. The State Department report should, therefore, be handled with a good deal of skepticism.

For concerned parties with a sincere interest in a more veracious picture of the human rights situation in the Israeli-occupied West Bank and Gaza, a number of alternative, non-governmental sources remain available. They are, among others: Amnesty International, the International Commission of Jurists, the National Lawyers Guild, the International Association of Democratic Lawyers (Brussels), and al-Haq itself. All are able to provide specific, well-documented information on the human rights violations that take place.

Ramallah, May 1985

ANNEX

INTRODUCTION to LSM's REPLY

to the STATE DEPARTMENT'S

**"COUNTRY REPORTS ON HUMAN RIGHTS
PRACTICES FOR 1982"**

(Published by Al-Haq / LSM in December 1983)

The territories occupied by Israel following the 1967 war consisted of the West Bank, East Jerusalem, the Gaza Strip, the Golan Heights, and the Sinai Peninsula. In line with the provisions of the Egypt-Israeli Peace Treaty, the Sinai Peninsula was handed back to Egypt on April 25, 1982. Throughout 1982 the West Bank and Gaza remained under Israeli military government, while the Israeli government regarded an enlarged East Jerusalem and the Golan Heights as subject to Israeli law, jurisdiction and administration. Israeli law was extended to East Jerusalem, previously part of the West Bank, in 1967; the Golan Heights were annexed at the end of 1981.

The military governments of the West Bank and the Gaza Strip govern with a combination of pre-existing law and an ever increasing number of military orders. In 1982, the number of these orders reached the 1000 mark and by December 1982 there were 1015 such orders in force in the West Bank. The United Nations holds, and the United States agrees, that the Fourth Geneva Convention concerning the protection of civilians under military occupation applies to Israel's rule of the occupied territories. Israel itself denies that it is bound by the Convention, but declares that it nevertheless applies many of the provisions. The State Department Report, having made reference to the U.S. position on the question, makes no attempt to assess the extent to which Israel abides by the Geneva Convention. It is hoped that this reply will remedy that situation and discuss the extent to which Israel applies the provisions of the Convention, particularly with regard to Israeli settlement and the prohibition of certain types of collective punishment.

The Report on the situation of human rights in the occupied territories covers twelve pages. The tone of the report implies that the situation concerning human rights does not give grave cause for concern. Individual incidents are mentioned, but the impression given is that these are isolated occurrences and are not part of an overall Israeli policy. The concluding paragraph of the introduction states:

No major changes in the overall human rights situation are foreseen for the coming year. Absent dramatic progress in the peace process, confrontation between inhabitants of the territories and the occupation authorities is likely to remain at the same level as in recent years. Israel is likely to continue its efforts to contain and reshape the politics of the West Bank and Gaza through the Civil Administrations, the acquisition of land for settlements, official subsidization of population growth in existing settlements, and the financial and political support for the Village Leagues.

This seems to be complacent in the extreme. 1982 saw more deaths and serious injuries caused by members of the Israeli Defence Forces than any other year since the occupation began. Shootings and beatings carried out by settlers have become common and are on the increase. At the end of 1982, no body had been charged with the killings of two Palestinians which occurred in the spring. At the time the killings were attributed to settlers. It appears that even where settlers are not actively encouraged in their acts of vigilantism, they are certainly not discouraged. The same could be said of members of the village leagues. Armed and financed by the military government and only responsible to the civilian administration, they have come to be seen as little more than quislings and an armed militia. In July members of the village leagues were responsible for the killing of one Palestinian and the wounding of another. No one has ever been charged in relation to the event.

The speed at which new settlements are planned and built has been increasing since the election of Begin's government, and it looks like it will continue to increase. On November 6, 1982 the Ministerial Committee on settlements announced plans to add 57 more settlements in the West Bank, increasing the total settler population there to about 100,000 by 1987. This stress on settlement has given settlers confidence to take the law into their own hands on numerous occasions.

Although such acts and events have usually been recorded in the U.S. Report, the impression given is that these events are in response to supposed acts of Palestinian terrorism and as such are understandable. The word terrorism is mentioned seven times in the Report, although a thorough review of the Israeli press during 1982 fails to find these acts of terrorism, unless the definition is to be greatly expanded to include groups of stone-throwing students, commercial strikes and peaceful demonstrations. Such demonstrations are used as justification for denials of human rights, but they often occur as a protest against an earlier denial of rights. The whole situation develops into a vicious circle.

Another aspect of the Report which can easily result in readers obtaining a false impression is the practice of recording Israeli opinions and government statements as facts, while referring to any information provided by Palestinians as "allegations" and "complaints". In many cases these "allegations" and "complaints" have been substantiated in the Israeli press. It should be the aim of the Report to be objective and investigate the veracity of the allegations and complaints made by both sides, rather than relying on the information provided by the Military Government press office.

In preparing this reply, LSM has confined itself to information available during 1982. The sources used have been LSM's own research material and the Israeli press. LSM's records and documentation are open to the public, and their existence was made known to the U.S. Consulate in East Jerusalem at the time they were preparing the 1982 Report. The Reply follows the same format as the U.S. Report, but it should be mentioned that LSM is primarily concerned with the human rights situation in the West Bank (including East Jerusalem), and therefore the Reply cannot speak conclusively about the situation in the Gaza Strip and the Golan.

December 1983