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In the Absence of Law: Legal Aspects of the Palestinian-Israeli Conflict

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Though there has been an increase in interest in the legal aspects of the Palestinian-Israeli conflict in recent years, debate is still overwhelmingly limited to a coterie of international lawyers and human rights activists. Rarely have Middle East analysts and pundits engaged in assesing the legal dimension of the conflict. As a result, the implications of the legal and administrative alterations made by the Occupying Power to the governance of the West Bank and the Gaza Strip are too often overlooked, and the legal responsibilities of third states rarely considered. Drawing on the said debate, this overview aims to contribute to the widespread adoption of a more legally informed approach to analyzing the Palestinian-Israeli conflict.[1]

IN THE ABSENCE OF LAW

As the Middle East peace process collapsed amidst the rancor and bloodshed of the second Palestinian intifada, politicians and pundits alike presented a caricatured and misleading view of the causes of the imbroglio. Such explanations ranged from the overly personal, laying the blame for the current impasse on the foibles of aging leaders, principally the late Yasser Arafat, who seemingly "never failed to miss an opportunity to miss an opportunity," to sociological analyses, which stressed the inability or unwillingness of the respective leaderships to effectively confront domestic opponents of the peace process that invariably led them to depart from the "spirit of Oslo."[2] More recently, the victory of Hamas in the Palestinian Legislative Council elections in January 2006 has been held up by many commentators and governments as a further obstacle to any progress towards a Palestinian-Israeli rapprochement.

This paper presents an alternative view and argues that the root of recurring crises in Palestinian-Israeli peacemaking is due largely to the consequences of American and European Union acquiescence to an unregulated occupation. This acquiescence has amounted to turning a blind eye as successive Israeli governments established and then consolidated civilian settlement in occupied territory. While wishing to maximize their control over West Bank land, though loath to absorb the Palestinian population into the Israeli body politic, successive Israeli governments have sought solutions that would relieve them of their responsibility for the Palestinian

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population while not jeopardizing the settlements or their military control over the area. Granting the Palestinian population a form of limited self-government eventually became the preferred option to the predicament of wanting the land but not the people and formed the basis of what became known as the peace process. This paper focuses on Israel's policies in the West Bank excluding occupied East Jerusalem. It does not deal with the Gaza Strip or the right of return.

INTERNATIONAL HUMANITARIAN LAW & OCCUPIED TERRITORY

As an Occupying Power[3] in the West Bank, Israel's conduct is regulated by Articles 42 to 56 of the annex to the Fourth Hague Convention Respecting the Laws and Customs of War on Land, commonly known as the Hague Regulations, and the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, especially Articles 27 to 34 and 47 to 78 (hereinafter the Convention).[4] These articles form a key part of the corpus of law known as the "law of belligerent occupation." This law aims to provide a civilian population under the occupation of a hostile foreign power a degree of human-rights protection. The civilian population regarded as "protected" is entitled to respect for their persons. To this end, an Occupying Power must actively safeguard the welfare of the population.[5]

The Convention also protects the status of the occupied territory by prohibiting the Occupying Power from settling its citizens in the area (Article 49) and from making alterations to the local law — in the case of the West Bank, Jordanian law[6] — that are not necessitated by military requirements (Article 64).[7] The Occupying Power is also prohibited from confiscating private property under Article 46 of the Hague Regulations, though a said Power can make requisitions in kind as stipulated in Article 52 of the Hague Regulations and can make use of public property in accordance with the rules of usufruct,[8] as noted in Article 55 of the said Regulations.

In sum, the law envisions occupation as a temporary state of affairs with limited legislative and executive powers in the occupied territory vested with the Occupying Power. The Occupying Power may take lawful measures to safeguard its own security but must administer the occupied territory in the broad interests of the local population. Any action taken by the Occupying Power that would deprive the occupied population of their rights under the Convention or lead the said Power to administer the occupied area as part of its own territory would be unlawful. One of the most salient aspects of the Convention is that it places an obligation on the High Contracting Parties (state parties to the Convention) to insure that all sides to a conflict abide by its provisions (Article 1). In the case of the Occupied Palestinian Territory, the High Contracting Parties are charged with the specific responsibility of upholding the integrity of the law and hence guaranteeing the protection of the civilian population.[9]

ANATOMY OF AN OCCUPATION[10]

On June 7, 1967, the Israeli High Command issued three proclamations that established Israeli military rule in the West Bank. Proclamation No. 1 (Assumption of Control) announced the entrance of Israeli forces to the area; Proclamation No. 2

(Regulation of Administration and Law) vested in the military commander of the area all powers of government, legislation, appointment and administration; and Proclamation No. 3 (Concerning Security Regulations) established the military courts and laid out the scope of their jurisdiction. The most significant of these proclamations was No. 2, which granted the military commander responsible for the West Bank the powers of the previous Jordanian administration. Through the promulgation of a series of military orders, successive Israeli military commanders developed a legal framework that extended military jurisdiction over every facet of Palestinian life, including over the use of natural resources such as land.

Apart from East Jerusalem and its immediate environs, which were annexed and in which civilian settlement began in earnest under the then national-unity government headed by Levi Eshkol, the first Israeli settlements in the rest of the West Bank were on the whole established in areas of strategic significance such as the Jordan Valley. With the election victory of the Likud in May 1977, there was, however, a steady increase in the pace and scope of Israel's settlement enterprise. This was due to two key factors: the general ideological proclivity of the Likud to favor wholesale settlement in the West Bank, underpinned by a biblically inspired narrative of return and redemption; and, ironically enough, the Camp David peace process.[11]

Though the Camp David peace process was ostensibly a mechanism to achieve an Israeli-Egyptian peace treaty, the Framework for Peace in the Middle East (1978) contained provisions for an elected autonomous Palestinian administration in the Occupied Palestinian Territory. In 1978, Eliahu Ben Elissar, an adviser to Prime Minister Menachem Begin, outlined a plan that was intended to prevent any exercise of Palestinian autonomy from laying the groundwork for a Palestinian state. According to the plan, Israel was expected to continue its control over "state lands" and all water resources. Settlement would continue, as would the development of separate legal, administrative and judicial institutions for the Jewish settlers, which would be exempt from the autonomy framework. The military government would also remain the source of all authority.[12] In November 1981, the Israeli military government created the Civil Administration, which was to serve as the nucleus for Palestinian self-government as set out in the Camp David agreements. The administration saw to the civil affairs of the Palestinian population in areas such as education and health, but the military commander remained the source of all authority in the area.[13]

In March 1979, shortly before the signing of the peace treaty between Israel and Egypt, the military government issued Military Order 783 (Order Regarding the Administration of Regional Councils), which created regional councils in the West Bank. The regulations governing the powers of the regional councils were identical to Israeli legislation. Two years later, Military Order 892 (Order Regarding the Administration of Local Councils) created local councils for the administration of the urban settlements. The order was based on the Israeli municipal ordinance. The area commander was empowered by the order to establish municipal courts and the councils were granted the right to levy taxes and pass bylaws. The councils were

granted planning and building licensing powers and the settlements were declared planning areas. Additional areas expropriated from the Palestinian population were added to the jurisdiction of the councils.

Prior to 1979, most Palestinian land was expropriated under the rubric "for military purposes." While the land may have been initially used for the billeting of military units, in many cases the area was quickly turned over to civilian settlement. This method of land acquisition fell into abeyance following an Israeli High Court ruling prohibiting the seizure of land for military purposes when it was, in fact, intended for civilian settlement.[14] Following the High Court ruling, the military government relied in part on Military Order 59 (Order Concerning Government Property) to declare unregistered land state property. As the military government had suspended the registration of land in 1968, it was relatively easy for the Israeli authorities to expropriate vast amounts of land under this procedure.

The settler population in the West Bank was also increasingly subjected to a succession of Israeli laws and regulations. The effect of this was to exempt the settlers from the local law and confer upon them the same rights they would have enjoyed if they were Jewish residents in Israel.[15] The Palestinian population, in contrast, was subject to Jordanian law as amended by military orders. One example was the Jordanian Town, Village and Building Planning Law of 1966, which was stripped of any significance by Military Order 418 of 1971 (Order Concerning Town, Village and Building Planning). The Order reorganized planning in the area and placed Israeli officials on key planning committees while in effect reducing the role of the local population in the planning process. Following the Likud victory in 1977, increasingly severe restrictions were enforced on Palestinian planning. The key objective of the increasing restrictions was to constrain the development of Palestinian localities in order to facilitate Jewish settlement.[16]

Successive Israeli governments, both Likud and Labor, would build on these early efforts to settle the West Bank. Settlements were expanded as were the thicket of Israeli laws and regulations that carved out for the Jewish settlers an extraterritorial enclave in the occupied territory.[17] To give an indication of the sheer scale of the ongoing settlement enterprise, the Foundation for Middle East Peace reported that, from January 1998 to April 2005, 13,622 government tenders were issued for settlement construction,[18] while the settler population in the West Bank, which stood at 111,600 in 1993, the year of the signing of the Declaration of Principles, rose to 234,487 in 2004.[19]

It is evident that such drastic alterations to the law and administration of the West Bank are a systematic violation of international humanitarian law, which, as noted earlier, protects the separate legal existence of the occupied territory, prohibits the expropriation of private land, prohibits the settling of citizens of an Occupying Power in occupied territory and breaches the cardinal principle of the law of occupation: that an Occupying Power administers the occupied area largely in the interests of the local population, taking into account, the security of its forces and administration.

THE OSLO CONSOLIDATION

It was the legal and administrative alterations surveyed above that Israel

sought to safeguard once formal peace negotiations resumed in Madrid in October 1991 and that it achieved through the various agreements in the Oslo process. On account of Oslo, a Palestinian National Authority was established that had circumscribed largely functional responsibilities over the day-to-day affairs of the Palestinian population. The future status of the settlements and their environs was among the issues that were to be subject to hard bargaining in the final-status negotiations. These were to commence no later than the beginning of the third year of the interim period but were instead conducted at the ill-fated Camp David summit in July 2000.

The Declaration of Principles on Interim Self-Government Arrangements of September 13, 1993, provided for a phased, gradualist approach to peacemaking. The declaration outlined a framework for an incremental Israeli redeployment from West Bank and Gaza territory, the establishment of the Palestinian Authority and an interim agreement on the implementation of the Declaration of Principles, and laid down the issues to be resolved at the final status negotiations, including Jerusalem, the settlements and refugees. The Protocol on Economic Relations (the Paris Protocol) of April 29, 1994, sought to delineate the economic relationship between the Palestinian Authority and the State of Israel. The Gaza-Jericho Agreement of May 4, 1994, provided for the withdrawal of Israeli forces from Jericho and certain areas of the Gaza Strip and formally established the Palestinian Authority and its security apparatus.

On August 29, 1994, the Agreement on the Preparatory Transfer of Powers and Responsibilities provided for the transfer of six spheres of civil authority to the Palestinian Authority: education, culture, health, social welfare, tourism and direct taxation. Further civil responsibilities were transferred to the Palestinian Authority under the Protocol on Further Transfer of Powers and Responsibilities signed on August 27, 1995. The Interim Agreement on the West Bank and the Gaza Strip of September 28, 1995, provided for further Israeli military redeployments from other West Bank towns in several stages to "specified military locations" as well as the transfer of further powers and responsibilities to the Palestinian Authority.[20] The agreement also specified extensive security arrangements in the West Bank. Israel remained the ultimate source of authority upon which the Palestinian Authority exercised its powers and responsibilities.

Moreover, Article 17 (Jurisdiction) of the Interim Agreement excluded from the jurisdiction of the Palestinian Authority areas of responsibility that were to be subject to negotiations during the final-status talks, including settlements, specified military locations, Israelis as well as powers and responsibilities not explicitly transferred to the Authority. As a result, whole swaths of West Bank land, including the settlers and the settlements, remained under Israeli control. What is more, the raft of military legislation that had facilitated the settlement of occupied territory remained in effect.[21]

By ensuring that its legal and administrative arrangements were not included in the Interim Agreement, Israel had effectively turned Oslo into a process whereby the limited contours of Palestinian autonomy were the central concerns of the negotiations. As Israel sought to absolve itself of direct responsibility for the Palestinian population, the international donor community, particularly the European Union, assisted in the development of the

Palestinian Authority. Ironically, third-party intervention had been harnessed not to protect the occupied population, but to serve a particular role in the construction of a new strategic reality dictated by the Occupying Power.

Successive Israeli governments were to subsequently use the Oslo period to expand and consolidate the settlement enterprise while fragmenting what few obligations they had undertaken towards the Palestine Liberation Organization (PLO) — through a series of minor agreements such as the Wye River Memorandum, Sharm el Sheikh Memorandum and the Road Map — that were never completely implemented but crucially bought Israel time to consolidate and present seemingly irreversible facts to the PLO and the international community alike. The relative success of this policy was clearly evident when President George W. Bush in his letter to Ariel Sharon on April 14, 2004, accepted and endorsed Israel's unwillingness to return to the 1949 Armistice lines and, more significantly, recognized Israel's "population centers" (in other words, major settlements) in the occupied territory.[22]

While the PLO achieved a key strategic goal in the Oslo process, namely to be a direct party to negotiations on the fate of the Palestinian people, there was a great disparity between the Israeli and Palestinian negotiating teams in terms of their respective knowledge of the existing legal framework and their ability to utilize that knowledge to achieve their ends. It is evident that the PLO leadership and its negotiators failed to develop a coherent strategy to undermine what was, in effect, the occupation. Yet the fact that the PLO was a willing accomplice to the Oslo agreements did not absolve third parties of their responsibility to actively promote the observance of international standards of protection enshrined in law.[23]

Like the preceding 26 years of occupation, the Oslo period was marked by the absence of law. Israel was able to pursue its long-term strategic goals, which were facilitated by an agreement signed with the PLO and supported by key western states. The increase in settlement construction and the ongoing land confiscation led to repeated crises during the Oslo period, which culminated in the outbreak of the latest intifada.

ROLE OF THIRD PARTIES

Appeals to the utility of the Convention as an instrument of protection for the Palestinian population under occupation have not been missing over the last 39 years. What has been absent is the requisite political will, by key Western states in particular, to ensure Israel's compliance with the Convention's provisions. A steady stream of both UN Security Council and General Assembly resolutions has called on parties to the Arab-Israeli conflict to respect the Convention.[24] The European Union has also repeatedly called on Israel to adhere to international law. Of particular note was the Dublin Declaration issued in June 1990 by the European Council calling on the High Contracting Parties to the Convention to ensure its respect in the Occupied Palestinian Territory.[25] The Declaration, like numerous UN resolutions, also referred to Israeli settlements as both a growing obstacle to peace and illegal under international law.

Moreover, the Swiss government hosted two meetings of the High Contracting Parties to the Convention in July 1999 and December 2001 to examine ways of

enforcing the Convention's provisions in the Occupied Palestinian Territory. While the meetings fell short of expectations, the High Contracting Parties in attendance reaffirmed the Convention's applicability to the situation prevailing in the Occupied Palestinian Territory and called on all parties to adhere to its provisions.[26] Similarly, the International Court of Justice (ICJ) in its advisory opinion on the legal consequences of Israel's Wall, delivered in July 2004, found that state parties to the Convention "…are under an obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention."[27] The Court also found that all states are obliged not to recognize the illegal situation and to cease any assistance or aid to Israel in maintaining it.

As noted, the obligation of parties to ensure respect for the Convention's provisions rests on its Article 1, in which the High Contracting Parties undertake to "respect and to ensure respect for the present Convention in all circumstances." This, in effect, creates a mandate for the High Contracting Parties to take whatever lawful action is necessary to ensure a state's compliance with the Convention's provisions. Such action could range from démarches to restrictive measures such as the severance of diplomatic ties and/or sanctions. Such action would not be a partisan intervention in the conflict but a legitimate attempt geared towards bringing a recalcitrant violator back into compliance with the Convention's provisions. In the case of the occupied Palestinian territory, the clear pursuit of a set of measures by key Western states aimed at ensuring Israel's compliance with the Convention could have limited the feasibility of Israel pursuing an annexationist agenda and could perhaps have facilitated the pursuit of policy options less injurious to a future settlement. By so doing, the enforcement of the law could have reduced the scope of Palestinian grievances against Israeli society and hence reduced popular support for illegitimate actions such as suicide bombings against Israeli civilians.[28]

Since the 1970s, the United States has consistently pursued a policy intended to ensure its centrality in Middle East peace making, a policy that has been successful due to its sheer weight in global affairs and the effective acquiescence of other key players such as the European Union. As well as posing as an "honest broker," the United States, with Israeli support, has also sought to establish itself as the only power that can press Israel into "painful concessions." From this central position, the United States has promoted a framework for peace that seemingly views international law, and the Convention in particular, as an impediment. This resulted in a peace process that effectively marginalized third parties and facilitated a series of bilateral agreements, the outcome of which was determined by raw power. A law-based process, in contrast, would have guaranteed the integrity of the occupied territory during the interim period and limited Israel's negotiating options to withdrawal, with perhaps agreed border adjustments.

With President Bush's recognition of Israel's "population centers" and the reluctance of the major powers to take their legal obligations towards the Palestinian population seriously, it is likely that Israel's legal and administrative alterations to the governance of the occupied territory will determine the parameters of any future

peace process. As Meron Benvenisti, a former deputy mayor of Jerusalem once remarked, “Misunderstanding the true significance of the situation could allow the development of a regime ominously similar to that of (Apartheid) South Africa.”[29] It is to this “…true significance of the situation…,” occasioned by the absence of law, that pundits and analysts alike should look for the causes of the missing peace.

[1] In short, the debate has been about the role of international law in the Palestinian-Israeli conflict and in particular, what role international law can play in the peace process. During the 1980s, Al-Haq, a West Bank-based affiliate of the International Commission of Jurists, entered into a dialogue with prominent international lawyers about the role of international law in belligerent occupations. Al-Haq also established an enforcement project the aim of which was to explore ways of enforcing the Fourth Geneva Convention in the Occupied Palestinian Territory. In recent years there has been a growth of university programs looking at the development and role of international humanitarian law in contemporary conflicts. Such programs include the Sir Joseph Hotung Programme on Law, Human Rights and Peace Building in the Middle East, hosted by the School of Oriental & African Studies, University of London, www.soas.ac.uk/lawpeacemideast; The International Humanitarian Law Project at the London School of Economics and Political Science, http://www.lse.ac.uk/collections/IHLProject/; and the International Humanitarian Law Research Initiative at Harvard University, http://www.ihlresearch.org/ihl/. The Harvard program has a web portal on International Humanitarian Law in Israel and the Occupied Palestinian Territory, http://www.ihlresearch.org/opt/. The Hotung Programme recently hosted a seminar series exploring the role of international law in the Palestinian-Israeli peace process. For a classic Israeli view of the applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory, see Yehuda Zvi Blum, “The Missing Reversioner: Reflections on the Status of Judea and Samaria,” in *Israeli Law Review* (1968), pp. 279-301.

[2] This perspective has become the standard paradigm repeated by many commentators. See, for example, Dennis Ross, *The Missing Peace: The Inside Story of the Fight for Middle East Peace* (Farrar, Straus, Giroux, 2004).

[3] Article 42 of the Hague Regulations can be said to give the authoritative definition of occupation in international law: *Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to territory where such authority has been established and can be exercised.*

[4] Please note that other articles of the Convention except for Articles 35-46 also apply to occupied territories. Note also that there are four Geneva Conventions: Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, of August 12 1949; Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, of August 12 1949; Geneva Convention Relative to the Treatment of Prisoners of War, of August 12, 1949; and Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of August 12, 1949. There are 194 High Contracting Parties to the Geneva Conventions. The Fourth Hague Convention Respecting the Laws and Customs of War on Land of 1907 is regarded as customary law, meaning all states are under a legal obligation to abide by its strictures. Israel has been a party to the Four Geneva Conventions since 1951.

[5] This includes ensuring public order and facilitating the provision of medical supplies and food stuffs as well as the workings of educational establishments. In short, facilitating the continuation of civilian life as much as the circumstances will allow.

[6] Strictly speaking, the law in the West Bank is a complex but coherent mélange of Ottoman, British Mandate, and Jordanian law. Much of this law has been altered by Israeli military legislation. See, for example, Anis F. Kassim, “Legal Systems and Developments in Palestine,” *Palestine Year Book of International Law* (1984), pp. 19-33.

[7] Note that under Article 64 “…The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention…”

[8] Usufruct is a civil law doctrine derived from Roman law. As defined in Justinian’s *Institutes* II.2.4. “Usufruct is the right to the use and fruits of another person’s property, with the duty to preserve its substance.” Translation is by Birks and McLeod, *Justinian’s Institute* (London: Duckworth, 1987).

[9] See, for example, Laurence Boisson de Chazournes and Luigi Condorelli, “Common Article 1 of the Geneva

Conventions Revisited: Protecting Collective Interests," *International Review of the Red Cross* 837, March 31, 2000, pp. 67-87; and the International Committee of the Red Cross, *Improving Compliance with International Humanitarian Law*, background paper prepared for an informal high-level meeting on current challenges to international humanitarian law, Cambridge, Massachusetts, June 25-27, 2004, Program on Humanitarian Policy and Conflict Research at Harvard University. See also the Report of the Meeting of Experts, *General Problems in Implementing the Fourth Geneva Convention*, Geneva, October 27-29, 1998, prepared by the International Committee of the Red Cross.
[10] For an excellent examination of Israel's legal and administrative alterations to the governance of the West Bank, see Raja Shehadeh, *The Law of the Land: Settlements and Land Issues under Israeli Military Occupation* (Palestinian Academic Society for the Study of International Affairs, 1993) and Emma Playfair, ed., *International Law and the Administration of Occupied Territories* (Oxford: Clarendon Press, 1992).
[11] Optimists at the time of the agreement hoped that eventually other states in the region including the Palestinians would become party to the peace process. In the event, the PLO and the majority of the Arab states ostracized Egypt, and in effect, the Camp David process came to an end with the final Israeli withdrawal from the Sinai Peninsula in 1982.
[12] For an outline of the plan, see Geoffrey Aronson, *Israel, Palestinians and the Intifada: Creating Facts on the West Bank* (Kegan Paul International, 1987 and 1990), pp. 184-185, and Harvey Sicherman, *Palestinian Autonomy, Self-Government, and Peace* (Washington Institute for Near East Policy, 1993), p. 37.
[13] See Jonathan Kuttab and Raja Shehadeh, *Civilian Administration in the Occupied West Bank: Analysis of Israeli Military Government Order No. 947* (Ramallah, Al-Haq, 1981). For a very good survey of Israel's position on Palestinian autonomy, see ibid; Sicherman, *Palestinian Autonomy, Self-Government, and Peace*; and Yoram Dinstein, ed., *Models of Autonomy*: Edited papers of a conference convened in January 1980 under the auspices of the Faculty of Law, Tel-Aviv University (Transaction Books, 1981).
[14] In the so-called Elon Moreh Case of 1979, the Israeli Supreme Court sitting as the High Court of Justice ruled that the establishment of a civilian settlement for ideological purposes intended to remain in perpetuity was illegal and thus ruled against the establishment of the Elon Moreh settlement. What may have swayed the court's opinion in this case was the open espousal of the settlers that the settlement was not for security purposes but linked to a divine right to settle the "Land of Israel." See HC 390/79 Mustafa Dweikat et al. v. The State of Israel et al.
[15] From early on in the occupation, Israelis who resided in both the West Bank and Israel could be tried in Israeli courts due to the introduction of the Emergency Regulations (Areas held by the Defence Army of Israel-Criminal Jurisdiction and Legal Assistance) 1967. An amendment to the law in 1975 brought Israelis who resided only in the West Bank within the jurisdiction of the Israeli courts. In 1980, the Knesset (Israeli Parliament) passed an amendment (No.8) to the Israeli Income Tax Ordinance, which deemed that income earned in the West Bank could be filed as if earned in Israel. Moreover, under Emergency Regulation 6b of 1984, nine laws were extended extra-territorially to include the settlers within their jurisdiction. The nine laws were the Entry into Israel Law (1952), the Defence Services Law (1959), the Chamber of Advocates Law (1961), the Income Tax Ordinance, the Population Registry Law (1965), the Emergency Labour Services Law (1967), the National Insurance Law (1968), the Psychologists Law (1968) and the Emergency Regulations Extension (Registration of Equipment) Law (1981). A succession of laws and regulations has in effect granted the Jewish settlers in the Occupied Palestinian Territory an identical legal status to Jewish citizens resident in Israel.
[16] See Raja Shehadeh, *Occupier's Law* (Institute for Palestine Studies, 2nd ed., Washington DC, 1988) Meron Benvenisti, *The West Bank Data Project: A Survey of Israel's Policies* (Washington, The American Enterprise Institute, 1984), pp. 37-47; and Anthony Coon, *Town Planning Under Military Occupation* (London, Dartmouth Publishing Company, 1992).
[17] For an excellent survey of Israel's settlement enterprise, see B'tselem, *Land Grab: Israel's Settlement Policy in the West Bank* (May 2002).
[18] See Foundation for Middle East Peace, *Government Tenders for Settlement Construction, January 1998-April 2005*, www.fmep.org.
[19] Ibid. *Israeli Settler Population in the West Bank, 1972-2004*.
[20] For a chronology of the Oslo agreements, see for example Geoffrey R. Watson, Chapter 2, "An Overview of the Oslo Accords," in *The Oslo Accords: International Law and the Israeli-Palestinian Peace Agreements*,

(Oxford University Press, 2000), pp. 41-53.
[21] For a very cogent critique of the Oslo agreements, see Raja Shehadeh, *From Occupation to Interim Accords: Israel and the Palestinian Territories* (London, Kluwer Law International, 1987).
[22] The letter from President Bush to Ariel Sharon can be found on the White House website at http://www.whitehouse.gov/news/releases/2004/04/20040414-3.html.
[23] See Omar Dajani, "Surviving Opportunities: Palestinian Negotiating Patterns in Peace Talks with Israel," in Tamara Cofman Wittes, ed., *How Israelis and Palestinians Negotiate: A Cross-Cultural Analysis of the Oslo Peace Process* (Washington D.C. United States Institute of Peace, 2005), pp. 39-80. See also Raja Shehadeh, "Negotiating Self-Government Arrangements," *Journal of Palestine Studies,* no. 4, Summer 1992, pp. 22-31.
[24] There have been numerous United Nations resolutions on the Palestine question emanating from both the General Assembly and the Security Council. Of particular note was Security Council Resolution 681 in 1990, which called upon the High Contracting Parties to the Convention to ensure respect by Israel, the Occupying Power, for its obligations under the Convention. Security Council Resolution 681 as well as the other United Nations resolutions on Palestine can be found at the United Nations Information System on the Question of Palestine website at http://domino.un.org/UNISPAL.NSF?OpenDatabase.
[25] See the *Declaration of the European Council on the Middle East, Dublin 25-26 June 1990*. The Declaration can be found at http://www.europarl.europa.eu/summits/dublin/default_en.htm.
[26] Israel and the United States did not attend either meeting on the grounds that the colloquia were "politicizing the Convention".
[27] See the ruling of the International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (The Hague, Netherlands, 9 July 2004, General List No. 131).
[28] Dr. Lynn Welchman of the School of Oriental & African Studies, University of London, has repeatedly emphasized the positive role that international law, and the Fourth Geneva Convention in particular, can play in the peace process. See for example, "International Protection and International Diplomacy: Policy Choices for Third-Party States in the Occupied Palestinian Territories," in *International Human Rights Enforcement: The Case of the Occupied Palestinian Territories in the Transitional Period, The Proceedings of a Conference organized by the Centre for International Human Rights Enforcement,* convened by Pax Christi International in Jerusalem, September 17- 18, 1994, pp. 225-271.
[29] Benvenisti, *A Survey of Israel's Policies*, op.cit., p.69.