

The Latin Patriarchate
SOCIETY OF ST YVES
"I am my brother's keeper"
Catholic Human Rights Legal Center

Narrative Report - 2003

Introduction - The Frozen Stampede.

The Holy Father said recently that what the Holy Land needs are bridges not walls. I recently had a very exasperating experience, one which brought home to me the truth of the Holy Father's words and the absurdly difficult living conditions of ordinary Palestinians.

I was asked to obtain permits for two busses to travel from Jerusalem to Ramallah for the Latin Patriarch's annual Mass for the Sick on Sunday 8th February 2004. I had nearly a month to obtain the permits and began work immediately through the Ministry of Religious Affairs. I thought it would be a mere formality but the affair took the whole month and required dozens of faxes and phone calls. I was required to provide a complete list of those attending the Mass and their I.D. numbers. At least one third were religious; priests and nuns and their full passport and visa details were asked for by the Civil Administration officials at Beit El. Neither the Civil Administration nor the Ministry of Religious Affairs works on Fridays and on the Thursday (5th February) at 2:30 PM just one and a half hours before the Ministry and the Civil Administration close for the Shabbat, we were asked to resubmit the entire list of nearly 70 people in Hebrew. We succeeded and the busses made the journey without incident. Nevertheless, the whole process seemed unnecessarily complicated and bureaucratic to the point where it could only be described as humiliating. Paradoxically all the people I talked to were polite and willing to help, particularly Mr. Caesar Marjeh from the Ministry of Religious Affairs. The difficulties that were put in our way were seemingly built into the system itself and left little or no discretion to any well meaning person. It was like coming up against a wall!

This small incident is a portent of much worse things to come. When the wall, or so called security barrier is completed ordinary travel for Palestinians will become very much more difficult and controlled. It is already a nightmare. The Latin Patriarchate, the Franciscans and the Rosary Sisters all built substantial housing and schooling complexes in Beit Haninah and the course that is planned for the wall will virtually cut off 70% of the local Christian Community from their institutions and from Jerusalem.

Many of these families left Jerusalem rental properties to go to Beit Haninah because the houses were larger, families were growing and Beit Haninah was always regarded as being part of Jerusalem. Most of these people hold Jerusalem I.D.'s and will be recorded continually as they enter and leave Jerusalem. The great fear is that they will have their I.D.'s confiscated and with that they will lose their right to pensions, medical and other benefits for which they have been paying taxes their entire working lives. Many many families have expressed the desire to return to Jerusalem (to the other side of the wall) by any means possible but because the Israeli Government and the Jerusalem Municipality has refused to realistically plan Arab East Jerusalem, there are simply no where to house these families.

Unlike Bethlehem and the villages around Ramallah, land in Jerusalem is not owned by individuals but rather by the churches. The churches are willing to set aside much of this land for

projects to build housing. Unless these projects are given the highest priority in the very near future the stampede of Christians back to Jerusalem will be frozen in its tracks and the Christian Community will be even further fragmented, disillusioned and prone to immigration. The situation is more than serious, it is critical!

The Bethlehem Office. A Change in Location

In the Narrative Report of the end of the year 2002 I observed of the Bethlehem office that "curfews are completely unpredictable and it is often not possible to cancel Jerusalem appointments in order to take advantage of an "open day" in Bethlehem. In short the lawyer days in Bethlehem have become fewer in number although Bethlehem continues to be a vital station for client contact and for the gathering of the documents and evidence to proceed with the prosecution of cases." That situation prevailed for the better part of 2003. Although Bethlehem, and with the city, the Bethlehem office, enjoyed a brief "spring" in the later part of the year leading up to Christmas.

The Israeli Security Forces declared that they had "cleaned up" the area of "wanted terrorists" and stated that they were ready and willing to withdraw their forces to the city's perimeters on the condition that there was a quantifiable improvement in "security maintenance". A new Governor, Mr. Zuhair al Manasra, a former Commander of the Palestinian Preventative Security Force was appointed and declared that he would assure that Bethlehem would be safe for Christmas. In effect this meant that the city would be free from provocations by Palestinian radical and therefore free from the constant and intrusive Israeli patrols and curfews. Through fruitful dialogue and cooperation security progress was made and the Israeli Army did indeed withdraw. All of this took place against the backdrop of very substantial progress towards completion of the construction of the separation fence – "the barrier" – and Bethlehem and its sister towns Beit Sahour and Beit Jalla enjoyed a kind of freedom for a very short period. Much like the freedom one could expect in a self governing open prison.

The Bethlehem Spring came to an abrupt end with a suicide bombing on a Jerusalem inner city bus that was perpetrated by a citizen of one of Bethlehem's refugee camps. Israeli patrols resumed within hours and the three sister towns of Beit Sahour, Beit Jalla and Bethlehem were again the fully supervised open prison that they had been only a few short months before.

The Board of Directors after careful consideration and long term observation of the functioning of the Bethlehem office by board members resident in Bethlehem came to the decision to relocate the office deeper into the City. The old office is only some 150 meters from Rachel's Tomb and has for many years been inaccessible for long periods due to military action in the area. The area is also prone to frequent Israeli army patrols and it was felt by the large majority of the Directors that these factors combined to keep the clients from attending the office to further their cases. A suitable location is being sought at the moment.

The work of the office will remain much the same, that is, to offer service to the region of the Southern West Bank. Rigorous attention to this facet of the Society's work is vitally important since the Society presently has well over two hundred files protecting homes from destruction or disputing land confiscations. Sixty Petitions remain current before the Israeli High Court of Justice protecting the rights of nearly ninety tribes or families.

In addition the office will take on the added responsibility of assisting in the restoration of Christian owned properties in the three sister towns of Beit Sahour, Beit Jalla and Bethlehem to their rightful owners. Many Christian owned properties were abandoned in the early days of the Intifada because of the constant shelling by tanks and missiles from Apache helicopters. Some of

these properties were taken over by squatters and some have been taken through fraud and the falsification of records. The Board of Directors has decided that the Society could play a useful roll in researching and rectifying the wrongs done in some of these cases, particularly in cases of fraud and theft of Christian owned lands and properties.

Perhaps an even more important contribution that the Society could make in the near future is to fill, or play a significant roll in filling the vacuum left by the collapse of the Land and Water (LAW) organization in the Southern West Bank. The Society has already been approached by dozens of people whose files are in limbo since the collapse of LAW. Under the heading below - **Dialogue and Cooperation** – I describe negotiations and consultations that are taking place now in the recent past. What has emerged from these discussions is that there are some seventy (70) very urgent appeals to the High Court which must be dealt with in the very near future. Organizations like the Rabbis for Human Rights, the Land Defense Committee and the Quakers are ready and willing to contribute to disbursement fees for lodging the Petitions into Court, but the Society would have to re-open its Bethlehem office within the first quarter of the year, i.e. by the 1st April with a lawyer and secretary on site every day. It would mean six months of extremely hard work and I have met with all the staff to gauge whether they would be prepared to take on the burden. The answer was a unanimous YES, provided we have the additional support staff and the Bethlehem office.

The Jerusalem Office. A Very Successful Year

The Jerusalem office is the engine of the Society's work and this year we have had some gratifying successes. On two occasions this year the Society was the toast of the media; the Arab and Hebrew press as well as Arab and Hebrew radio and television.

The first occasion was a precedent setting breakthrough in the area of Home Demolitions in Jerusalem and the second was in the successful Petition to the High Court of Israel sitting as the High Court of Justice in which the Society was successful in forcing the Ministry of the Interior to improve the disgraceful and humiliating conditions of its East Jerusalem facility. The high court in the Ministry of the Interior case for the first time awarded legal costs to be paid by the State to a human rights organization. Following the latter success the Society has lodged a similar Petition against the National Insurance Institute to force that State institution also to improve its services to the people of Arab East Jerusalem.

Clearly Media coverage is an indicator of "a job well done" but it is not the measure by which we ourselves gauge the contribution of the Society to the poor and the needy of the Holy Land. Our own measure is far more demanding and is firmly rooted in the Social Doctrine of the Catholic Church. The degree to which we can say we have quantifiably contributed to the alleviation of suffering and humiliation, to injustice and unfairness, to poverty and hopelessness; this is the measure by which we judge our contribution. To put it in another way and to use the measure of the Holy Father, the measure within the Society is, "How well have we devoted ourselves to the task of the building of the bridges to a Peace founded on Justice?"

Dialogue and Cooperation.

The Society continues to cooperate and combine forces with other like organizations, both Israeli and Palestinian, in the Holy Land. Presently we are working in conjunction with the Land Defense Committee, the Quaker International Affairs Service and others to try to fill the vacuum left by the collapse of LAW – Land and Water organization. This involves some 220 files of

West Bank land confiscations and home demolitions and the Society was initially asked to take the entire case load because of our well known and respected expertise and success in the fields. Such an undertaking however is well beyond the present manpower and budgetary limitations of the Society. We will take some of the most pressing and urgent cases and we will most certainly contribute within a community of organizations to aiding and assisting in solutions to this most critical problem. Clearly we could do more but this would be contingent on the re-opening of the Bethlehem office with a full time lawyer and secretary and the full co-operation, participation and proven expertise of the Jerusalem office. It can be done if we have the will to do it!

Case area report and strategy.

These individual area reports appear in the File Report for the year 2003 under the heading "*Assessment of Case Strategies and Results.*" The section was added under the file descriptions and case numbers at the wise suggestion of His Beatitude + Michel Sabbah, the Chairman of the Board of Directors, who observed that numbers don't tell us "how successfully we are fulfilling our mission."

Family Reunification.

In the last End of Year Report, that is, for the year 2002, I stated that the area of Family Reunification had been one of the most difficult areas in which to make progress. That was because at the beginning of the year the Minister for the Interior "directed" his ministry to freeze all family reunification applications irrespective of the stage of progress of any and all files. The Society lodged 3 Petitions before the High Court of Justice on behalf of families on the brink of approval. We had some limited success as a result with six families being issued with residence permits to remain and reside in Jerusalem. These are the 6 Successful Pending files that were closed this year. We continue to watch the situation carefully and are by no means certain beyond doubt that we can call this a firm and lasting "victory."

Still, the battle is not over in the field of family reunification. The stakes were raised even higher when the Knesset, the Israeli Parliament, passed a law that prohibited an Israeli resident, even an Israeli citizen from applying for a West Bank spouse to cohabit in Israel after the marriage. The Society petitioned the High Court of Justice arguing that the law was discriminatory, and violated fundamental principles not only of human rights but also of equality and the right to family. The State argued that the law was in essence an "anti-terrorist" measure. The Society was joined in this action not only by the Adalah – the Legal Center for Arab Minority Rights in Israel, but also by the Council for Civil Rights as well as by several other Petitioners including 5 private petitions representing over a dozen affected spouses and also by Member of Knesset Zehava Gal On and Member of Knesset Roman Bronfman, both members of the Meretz Parliamentary Party in two separate Petitions. The Petitions were heard before a full bench of thirteen Judges of the Supreme Court of Israel sitting as the High Court of Justice and presided over by the Chief Justice, Ahron Barak. The case ran for the better part of a day on Sunday, January 18, 2004 and we will have the Courts answer within the coming months.

Home Demolitions - Jerusalem.

The Society has been fighting the Municipal and Governmental policy of Home demolition in Occupied East Jerusalem for a decade and has had considerable success and some failures in that period. During 1998 the homes of three of the Society's clients were destroyed. Fines levied

against those who build without a permit are exorbitantly high and compared to other mixed Arab and Jewish towns and cities are clearly discriminatory. The policy is deliberate and has been enforced to encourage Jerusalem residents to move to a less problematic area and less cramped accommodation in places like Ramallah and Jerusalem neighbourhoods like Beit Haninah. This policy and process has been called by many, "The Quiet Deportation."

The strategy of the Society in 2003 was to argue against "Criminal Intent" since almost all of the cases brought against clients were framed as "building without a license" which is a criminal offence and demands a criminal hearing. It is worth noting again that it is almost impossible for an East Jerusalem Palestinian to obtain a license to build or extend or even in many cases to renovate a home.

Secondly the Society constantly argued against the discriminatory and disproportionate fines levied against clients.

These strategies came to a head in the hearing of a number of cases over a two day period and the results were more than gratifying. Al Quds, the Arabic Daily Newspaper described it in these words:

"The Society of Saint Yves The Catholic Human Rights Organization has been defending the owners of these homes since the year 1995 when the Municipality of Jerusalem started issuing demolition orders against these homes, until finally the Society succeeded in capturing this important legal precedent through proving to the court that the defendants did not have the necessary criminal intention to build without a permit."

The headline article in Al Quds read: "After the submissions made by the Society of Saint Yves, the Municipal Court of Jerusalem cancels the demolition orders and drops the charge of illegal building against the owners of (40) homes in Wallajeh." This however did not reflect the actual situation since only 11 homes were involved in the cases.

A vital and parallel argument in all of the cases focused on the draconian nature of the fines levied against East Jerusalem "offenders" and the court noted this and took heed and addressed that issue as well. The Al Quds report went on to make this further and significant observation of both the Judge and the Prosecuting Attorney:

"After the hearings, Judge Moshe Sobol commented that this decision is a historic one since it constitutes an important legal precedent of the Municipal Court.

The prosecution lawyer commented by saying that, "The State of Israel lost more than 700,000 NIS in fine revenues due to this decision."

In spite of the mistake made by Al Quds in the number of homes involved, the decision has had a powerful and positive effect on all of the Society's cases in the second half of 2003 and this can be seen in the number of cases closed with greatly improved results.

Home Demolitions - West Bank.

The case strategy in the area of West Bank Home Demolition is to first Appeal to the Civil Administration against the home demolition. Very often this is rejected and the Society goes immediately to the High Court of Justice asking the court to grant Interlocutory Injunctions to prevent the demolition until vital matters of ownership, re-parcelization or accurate survey mapping can take place.

Till now the High Court has been disposed to granting the requested Interlocutory Injunctions and then shelving the cases till a later date. This is a favourable outcome as it achieves the principle purpose of preventing the demolition of a family's home.

The Society has never lost a home to demolition in the Occupied West Bank.

Land Confiscations.

The Society was able to make some substantive progress in many of the land cases this year as is indicated by the number of Petitions (7) that were closed during the year. The results were not perfect with a return to the status of the land before the confiscation but in almost all of the cases stated above there was a significant withdrawal from much of the disputed land and the owners / farmers were able to use their lands once more for the production of wheat and fruits to sustain the economic life of the families. The High Court was helpful on a case to case basis in sending the cases back for re-negotiation and in all cases the owners were pleased to settle for the use of large tracts of their lands until there is a political solution to the problem of the Occupation. Settler bands have continued to harass and prevent Palestinian landowners from harvesting the olive crop and have fired upon those who have braved the harvest. The Israeli Defense Forces, charged with keeping peace and order, have continued to turn a blind eye to this and have gone as far as arresting Jewish Israeli activists who have assisted the Palestinians in the harvest and acted as human shields in cases where physical violence was threatened. Rabbi Aric Asherman from the Rabbis for Human Rights was arrested and is currently facing trial arising from one such activity. The Society has provided documentary evidence to assist in his defense.

Miscellaneous Cases.

The case strategy in this area and in the area of Office Actions is to right injustices where we ourselves see them or which come to the Society's attention through client complaints. For instance two years ago we were asked by the Latin Patriarchate to assist a Frenchman from Paris to recover lost luggage after he had crossed into Jordan via the Allenby Bridge. The gentleman claimed he was carrying a large amount of cash, American Dollars and French Franks, in the suitcase. All the Society's best efforts were to no avail in recovering the lost luggage and the gentleman was reimbursed "according to the schedule of damages set out under Insurance Law for lost luggage." The Society proceeded with the case for a further year arguing constantly that the systems in place at the Allenby bridge crossing and other boarder crossings were antiquated and humiliating and would inevitably lead to a reoccurrences of the case described above. The Border Authorities responded to the constant pressure and have instituted baggage controls similar to those in place in the airports, with bar-coded baggage identification tags. So out of failure in one man's case many are today enjoying more safety and much less humiliation and off handed harassment and ill treatment. By far the major achievement in this case area was the High Court Petition in the name of two of the Society's lawyers, Raffoul Rofa and Khalil Doughbaje, that resulted in the Ministry of the Interior being ordered by the High Court to drastically improve its services to the Arab population of East Jerusalem.

Miscellaneous Office Actions.

The case strategy in this area and in the area of Miscellaneous Actions is to right injustices where we ourselves see them or which come to the Society's attention through client complaints. These cases do not always involve court actions but rather the pointing out to various Authorities the deficiencies and injustices built into their various systems. Often these matters are rectified over time and through negotiation as was the case with the Allenby Bridge Border crossing where the Society never had to resort to more than the threat of court action.

Following the success in the Ministry of the Interior Petition, the Society has also lodged a similar Petition, this time in the name of Nisreen Mansour the Society's secretary, against the National Insurance Institute describing and detailing the humiliating conditions at the offices and asking the High Court to similarly order the National Insurance Institute also to drastically improve its services to the Arab population of East Jerusalem.

National Insurance.

This case area has brought enormous benefits to the East Jerusalem Palestinian community over the past two years. The success rate on these cases is 100% although the time taken to prosecute cases varies greatly. In many of the cases we must go to the Labour Court to resolve the matters under dispute and we have never had a failed case. The areas in which we obtain financial (welfare) benefits for our clients include invalid, old age and widow's pensions, child and unemployment benefits, burial grants income insurance and the rights to medical benefits. Since the Society has been taking these types of cases it has brought millions of shekels into the East Jerusalem community in almost every case to the poor and the destitute. The Society has succeeded in obtaining back payments in many many cases and thereafter payments are received by our clients on a monthly recurring basis.

Conclusions and Summary

The year has been a difficult one for all of the peoples of the Holy Land. Israelis and Palestinians alike are suffering from the ongoing violence and almost complete absence of meaningful dialogue. Stalin said that one man's death is a tragedy but one million men's death is a statistic. He was wrong! Hardly a person in the Holy Land is not carrying a wound or a scar, physical, psychological or spiritual, from the terrible carnage, vengefulness, anger and hatred that has grown steadily over the past three and many more years. Somewhere in the order of 3000 Palestinians and some 950 Israelis have died in the 40 months of this current vicious round of hostilities. Over 25,000 Palestinians and over 6,000 Israelis have been injured by the ongoing violence. The suffering is palpable and the feelings of depression are quickly turning to despair and hopelessness. The Palestinian economy has collapsed and the Israeli economy is feeling the hard and long bite of recession. Poverty is growing steadily and more deeply by the day in the Palestinian Territories but it is also growing steadily in Israel proper too.

We in the Latin Patriarchate Society of Saint Yves are deeply grateful for the partnership and continued support and confidence of Cordaide, Missio, Misereor and the Knights of the Holy Sepulcher and other Catholic organizations around the world. Through that partnership and under the umbrella the Latin Patriarchate of Jerusalem and the Holy Land we are given the opportunity to serve the poor and the needy. We are given the opportunity to Christian Mission.

Bill Docherty.

Executive Legal Director.

For the Latin Patriarchate, the Society of Saint Yves.