

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

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Narrative Report 2005

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Introduction: The Crystallization of a National Identity.

In the past year the Palestinian people have voted in a number of democratic elections. They voted for a president to succeed President Yasser Arafat and they voted in a series of Municipal elections and finally in January 2006 they voted for the Palestinian Legislative Council.

The international observer teams which numbered several hundred accredited individuals from a dozen different countries were virtually unanimous in their praise of the non partisan and highly professional support and performance of a promising Palestinian civil service in the education of the ordinary people on their rights to vote and the procedures to be followed and in the conduct of the elections themselves.

As for the results, Dr. Bernard Sabella, newly elected member of the Council said in an open letter on Tuesday, February 21st 2006, "Everyone knows by now that I ran on the Fatah list in Jerusalem for one of the two Christian seats in the Palestinian Legislative Council. My political sympathies are certainly not with Hamas. This, however, does not prevent me from praising the sense of purpose, organization and commitment that Hamas leadership and followers showed in pursuing the election campaign. Democracy is a hard pill to swallow when one loses but the principle is a challenging one. The loss of an election campaign for individuals and movements often indicates that there is something amiss; most important that the campaign did not touch base with the grassroots and their concerns and preoccupations."

When one looks back on the aftermath of the Bush – Gore elections in the United States, democracy's knight in shining armor, and the months of horse-trading and money-ministry wrangling and coalition-building wheeling and dealing that follows every election in what used to heralded as "the only democracy in the Middle East" - Israel, Dr. Sabella's remarks are elevated from the post election musings of a committed parliamentarian to the level of high statesmanship for they indicate a willingness to accept the responsibility of participation as a robust and committed parliamentary opposition, a willingness to accept his party's past mistakes and inadequacies and most of all a willingness to listen and respond to the voice of the people.

In this last year we have witnessed the most fundamental exercise in the democratic process; the orderly and structured exercise of the popular vote, and that in itself, is an indication of the emerging crystallization, against all odds, of a national Palestinian identity.

Or is it?

Dr. Sabella goes on to describe the concerns and preoccupations of the "grassroots" – the people, as "Employment, decent housing, education, health services, roads, youth clubs, municipal services, access and freedom of movement and the overcoming of Israeli measures, from the separation wall to checkpoints and other punitive measures." This statement is both ordinary and extraordinary. It is ordinary because in the first phrase it describes the hopes, aspirations and desires of most ordinary citizens of ordinary countries to life, liberty and the pursuit of happiness. But the statement is extraordinary because it goes on by necessity to describe the very measures used to destroy those hopes and aspirations; "checkpoints", "punitive measures" and the "separation wall" for these are the procedures and the tools of just short of 40 years of occupation and they are single mindedly directed at the prevention of the emergence of a national Palestinian identity and bent on masking a truly grave and protracted humanitarian disaster.

The then Prime Minister of Israel Mrs. Golda Meir was quoted in The Sunday Times on June 15th 1969 as declaring, "It was not as though there was a Palestinian people and in Palestine considering itself as a Palestinian people and we came and threw them out and took their country away from them. They did not exist." Prior to that in March of the same year she declared, "How can we return the Occupied Territories? There is nobody to return them to."

One is forced to ask the question, "Who are these non existent people?" and if they are not there why are we building a wall to keep them out or to keep them in? The answers to these questions are not pleasant. They are Palestinians and according to the American State Department, which issued population statistics in the third quarter of 2004, between the Jordan River in the East and the Mediterranean Sea in the West, between the Lebanese border in the North and the Egyptian border in the South there are more of them than there are Israelis. Even among the Israelis, the people of the Jewish state, 20% of its citizens, an underclass though they may be, are Arabs many of whom describe themselves as Palestinian Israelis. More than that the Rabbinate, the supreme religious body and the sole arbiter of who is a Jew admits that in the great migrations from Russia and Ethiopia of the last to decades up to a half million non Jews infiltrated the Jewish State.

So Mrs. Meir was wrong. There is someone to give the Occupied Territories back to and twenty eight years and seven Prime Minister after her, Ariel Sharon, the undisputed father of the settlements and an outspoken preacher, proponent and activist in the chauvinistic Greater Israel ideology, has come to understand the need for a Palestinian state if only in order to relieve Israel of the 4 million Palestinians living in the occupied territories. Mr. Sharon before being incapacitated by a stroke introduced a plan, a most dangerous and widely misunderstood plan which threatens to intensify the conflict even further. The plan of "**unilateral withdrawal**" as it is known in English is known in Hebrew as Hitnatkut or "cutting ourselves off." The meaning of this is that most of the West Bank area will become *de facto* a part of Israel through the building of the Wall and the Security Barrier for the most part on Palestinian land, and the rest will be left to the Palestinians who will be enclosed in isolated enclaves from which settlements will be removed. This unilateralism is a blueprint for continued violence.

I wrote in the Yearly Report of 2004 that, " The Wall or Security Barrier must be seen in the context of demographic fear rather than security as it is presently and has from the outset, been presented to the world." But The Wall is much more than that for this Hitnatkut or "cutting ourselves off" is being seen more and more as an entrenched and much improved form of Apartheid and one of the principle mechanisms in the subversion and prevention of the emergence of Palestinian national identity.

It is against this backdrop that all of the case work of the Society must be viewed for behind all of the different legislative Acts and Regulations that govern the disparate areas of Family Reunification or Land Confiscation or Home Demolitions is a single minded governmental policy of discrimination against and diminishment of the Palestinian population.

Case Area Report and Strategy.

Family Reunification.

In 2003 the Knesset, the Israeli Parliament, passed a law that prohibited an Israeli Arab resident, even an Israeli Arab citizen from applying for a West Bank or any other non-Israeli spouse to cohabitate in Israel after the marriage. In 2004 the Society along with several other organizations and individuals, 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 a necessary "anti-terrorist" measure. In spite of several hearings on various points and submissions the High Court did not give a judgment in the case during 2005 and a decision is not expected before May of 2006. It is difficult to at this early stage in the year to see a sophisticated court like the Israeli Supreme Court ruling in favour of the new legislation however if we look to the less prominent amendments to the Acts and Regulations governing this area of law and at the political trends in Israel in the lead up to the parliamentary elections, it is not impossible that the court may decide in favour of the state.

In fact the area of Family Reunification is becoming more and more difficult as the years progress and lately the trend has accelerated. A further example of this increased difficulty is the treatment of children of couples seeking reunification particularly in annexed East Jerusalem. In the recent past a typical family Reunion file involved the Permanent Resident or Citizen of Israel to apply for Family Reunion of the non resident spouse and at the same time make an application for registration of the children of the marriage in the Population Registry for the purpose of the issue of the issuing of Identity Documents at age sixteen years. Newly introduced laws and regulations now oblige the resident spouse to apply for Family Reunification for each and every child separately so that the whole procedure of conducting a single case becomes doubly cumbersome and complicated and time consuming.

In the course of the year the Society closed some twenty four files with a high rate of success but it must be said that the files which came to completion were for the most part files that had been worked on for years and were begun under very different circumstances that pertain today. They were not easy cases but in comparison to the thirty three new cases that were opened in the course of 2005, they met far fewer deliberately placed obstacles.

Home Demolitions - Jerusalem.

The year was relatively quiet in Jerusalem Home demolitions. That is not to say that there were no demolitions taking place but the Society attracted fewer cases. The policy of the Society from the outset has been to prosecute each and every case to the fullest. Since the very fine victories in precedent setting cases in 2003 and last year the "market" has changed and most defendants in Home Demolition cases have preferred to plea bargain their cases rather than risk the high legal costs of fighting the actions. Generally the hoses are spared for a period of two to five years and a fine is imposed that is often divided into monthly payments spanning years.

In 2005 a department was set up in the Jerusalem Municipality to Planning, Planning Regulations and Planning infringements particularly in Arab East Jerusalem and the Society and

indeed all of the Human Rights Organizations dealing with home demolitions in the Jerusalem area are girding their loins for the demolitions to come in the present and the near future. Many of those threatened demolitions will be in direct relation to the course of the Wall and in particular to the Jerusalem Barrier section which will define the borders of the municipality according to the stated Government policy of reducing the Arab population of the city substantially.

Home Demolitions – West Bank.

The story of Jerusalem is played out in a slightly different way in the West Bank and in this area the Society has also seen a downturn in the number of new cases. The old cases are still demanding work in the Civil Administration Tribunals and in the High Court but the Arab population of the Southern West Bank is now looking to the course of the Wall to determine the extent and seriousness of the threats posed to their domestic and agricultural buildings. I am not sure that the people of the Southern West Bank perceive the threat against them in the correct way and I must admit that I also was rather sanguineous in past years about our case strategies in this area. In 2003 and 2004 I reported, *"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 favorable 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." The situation has not changed much in that time and we have continued in the methodology and strategy that has proven effective. The strategy is doubly effective in the sense that the Civil Administration Appeals Committee has become accustomed to the Society's vigorous pursuit of resolution in these cases and its willingness and alacrity in petitioning the High Court for a just resolution. Consequently the Civil Administration Appeals Committee has tended over the last years to give the Society a "more serious" hearing in the first instance lest they find themselves facing the Supreme Court Justices."* That reasoning may well have been a best strategy given the policies of the occupation before Ariel Sharon's "Unilateral Disengagement" plan was put into effect but the situation has dramatically change in the last year. It may well be advantageous to include in this narrative the case area **Land Confiscations** because that area was and is being affected by the new policy of unilateralism. No new cases were added during the year and although the Society attended numerous Civil Administration Tribunal hearings little progress was recorded and the cases before the High Court remained moribund with no attempt by the court to deal with substantive issues. As the year progressed the Society brought a half dozen cases to completion with good success but an analysis of the cases showed that the land and properties in question were isolated from the course of the Security Barrier and posed no threat to the overall picture of the containment strategy that was emerging from the course of the Wall. The lawyers at the one time were faced with the task of preparing and presenting submissions at the Civil Administration Tribunals and deeply frustrated by the lack of significant progress on the cases.

The case strategy in both the areas of **Miscellaneous Cases** and **Miscellaneous Office Actions** has always been to right injustices where we ourselves see them or which come to the Society's attention through client complaints or through seeing patterns of discrimination as they emerge in basic similarities between many cases in particular areas. Thus it was in 2003 that the Society Petitioned the High Court on the poverty and inhuman conditions in the Ministry of Interior facility in East Jerusalem and received a precedent setting result and reported inter alia, by Haaretz newspaper in December of 2003 in these words, *"The High Court of Justice ordered the Interior Ministry to move the East Jerusalem offices of the Population Registrar to a larger building, to employ more people at the facility and to extend its opening hours. Supreme Court President Justice Aharon Barak and Justices Ayala Procaccia and Miriam Naor unanimously found in favor of a petition*

filed by Dr. Rafoul Jabra Rofa, a resident of East Jerusalem and a lawyer with the Society of St. Yves, and gave the state 19 months to move the Interior Ministry offices to a new and larger building. The justices also ordered the state to immediately employ a total of 42 workers at the office and extend its opening hours." Building on that precedent the Society lodged similar Petitions against the National Insurance Institute and later in early 2005 against the Labor Ministry. The decision of the court in the National Insurance case was given in the first half of 2005 and was identical to the decision in the Ministry of the Interior cases in all respects ***except that the court declined to put a time limit on the National Insurance Institute to effect the changes.*** This was a great disappointment for it made the victory a virtual one instead of one which provoked change for the benefit of the East Jerusalem Arab community.

A major mistake that we at the Society made was that at the opening of the new Ministry of the Interior facility the Society was not present as a voice in the proceedings. Rather the Interior Minister had the podium to himself to declare the generosity and democratic standards of his government in providing such a beautiful facility to ease the daily burdens of life for the East Jerusalem community. No illusion was made to the High Court judgment which lay the responsibility for many of those burdens squarely at the Interior Ministry's doorstep.

Permits.

The Society continues to see an increased demand in the area of permits to travel into Israel and at the same time is experiencing increased difficulties in obtaining the sought after permissions. Only cases where there is some proven hope of obtaining the permit are taken on but the demand in client interviews is great and more and more the lawyers are forced to advise would be clients that they have virtually no chance of obtaining a permit. More and more the Society focuses its efforts on medical emergencies, permits to enter Arab East Jerusalem for tertiary study, permits to travel through Israel to attend important family events such as weddings or funerals. The sad truth is that the area of obtaining permits is becoming an area based on the strictest principles of bureaucratic discretion in granting humanitarian assistance.

National Insurance Cases.

Since the Society began opening cases in this area the file have grown to a point where we must look carefully at the human resources and time available to do justice to these clients and clients in other areas in which the Society works. While it is true that this case area has brought enormous benefits to the East Jerusalem Palestinian community over the past four years the sheer weight of the case load demands that a strategic review is necessary. Essentially this is a Civil Rights issue and involves obtaining financial (welfare) benefits for our clients including 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 cases and the payments received by our clients are received on a monthly recurring basis.

The National Insurance cases are the quintessential example of the strength and weakness of the Society. The ambition has always been to be available and accessible to ordinary people seeking legal help and assistance. The aim was to be "community lawyers" operating in the community, for the community and responding to the needs of the community. The Society has been extremely successful in achieving this goal and that very success has highlighted the limitations of the work. In the last five years the Society's work load has more than doubled while the staff force has remained steady. This places an increasing burden on all staff members and there is the danger that the quality of the work will be sacrificed on the alter of quantity.

Organizational Development, Capacity Building and Consolidation.

Towards the end of the year many of the problems of overwork and under capacity in terms of manpower were beginning to manifest themselves because of the sheer pressure of the work and the swiftness of political changes on the ground that severely impacted on the West Bank and East Jerusalem populations.

More than that, it became clear that the measurability of results, which had always been taken for granted as the ratio of cases won and cases lost, was not at all the best indicator of quality results. Nothing made this clearer than the seeming victory in the National Insurance discrimination case in the High Court of Justice. That case was the second leg of a three phase strategic plan which began with the Ministry of the Interior case and was to (and will) come to a conclusion with the case against the Labor Ministry which is at the very heart of the destabilization of the East Jerusalem and Palestinian Authority economy. The victory in the National Insurance case was a victory in the same mould as the West Bank Home Demolition cases for without setting a time for correction of the wrong the High Court merely acknowledged the injustice but declined to order reasonable, time bound and measurable steps for its rectification as it had done in the seminal case of the Ministry of the Interior.

In partnership consultation with Cordaid these concerns were raised and some assistance sought to ameliorate the weaknesses. In June of 2005 in a full donor consultation with all the core donors (Misereor/KZE, Missio and Cordaid together with Dr. Rudolf Salzbacher of the Archdiocese of Köln) in attendance, Misereor/KZE took the lead in setting a financial base for the Society in which the Society would have a breathing space to become more stable, effective and forward looking in both its financial and its strategic planning. The forte of Cordaid is capacity building and organizational strengthening and to that end Cordaid commissioned its former Director, Mr. Hans Kruijssen on an ["Advisory Mission to review the roles and responsibilities within St Yves for future sustainability. Based upon the recommendations of the mission St Yves shall present a work plan to Cordaid in order to strengthen the **Being** of the organization."](#)

Mr. Kruijssen has know the Society of Saint Yves for many years and together with Cordaid officers consulted with I/C Consult which is the joint advisory unit of Cordaid and ICCO in Holland before embarking on the mission. I/C Consult' is also familiar with the work of the Society and its mission is strengthening the capacity of ICCO and Cordaid partner organizations.

Mr. Kruijssen held interviews in Jerusalem from November 25 to December 2, 2005 during which time he spoke to all of the members of the Board of Directors and staff of the Society and several NGOs who have worked with the Society and who are familiar with its mission. His research was in fact a comprehensive and in depth Organizational Scan and included:

- Legal Status.
- Governance.
- Management and Leadership.
- Staff.
- Culture/Structure.
- Systems and Procedures.

Mr. Kruijssen presented the research and recommendations resulting from his observations and framed to capitalize on the Society's strengths and suggest workable and proven methods to overcome and eliminate its weaknesses to the Chairman of the Board of Directors, His Beatitude + Michel Sabbah on 15th January 2006.

His Beatitude with the unanimous approval of the Board of Directors accepted the report and authorized a facilitated Board and Staff Retreat to be held at Pilgerhaus on the Sea of Galilee on 10th and 11th March.

Conclusions.

There is little doubt that the situation in the Holy Land is changing dramatically and the ramifications on all of the peoples in the land will be effected for many tears to come. The Society of Saint Yves has undergone a profound transformation in the last five years and under the watchful eyes of the core funding organizations, Cordaid, Misereor and Missio is continuing that transformative process in order to be more effective in the future.

The Board and Staff retreat was very successful and has give rise to an ongoing series of facilitated workshops which in time will allow the Society to know and understand its own **Being** and its mission and future strategy in this ever changing and troubled land. Reports on the progress of this process will be detailed in the Half-Year Report 2006.

William (Bill) Docherty.
Director
The Society of Saint Yves.