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Report on the condition of Universities
in the Occupied Territories

(1) Introduction

A group of academic faculty members met on December 7, 1980, to hear a report and discuss the condition of universities in the Occupied Territories. In the course of the meeting the claim was made that the military government published a number of orders regulating the status of academic institutions in the Territories (Order 854), and engaged in actions related to these institutions, in a way which injures academic freedom to a degree far exceeding that dictated by security considerations.

Also under discussion were the negative reactions engendered in academic circles in Europe and the United States by those decrees and actions, and the lack of response to this issue by the Israeli academic community. At the end of the meeting the undersigned took upon themselves to work as a committee that would investigate all aspects of the problem and present their findings and recommendations to the Israeli academic community.

The report is written so that the recommendations (part 4) are self explanatory; however, we recommend that this part be read in light of the detailed findings in the complete report.

(2) Academic freedom and the military government

One of the arguments brought up in the aforementioned meeting was that it is irrelevant to investigate infringements of academic freedom in territories under military government in which extensive security laws apply. There are, of course, restrictions which apply to all residents of the Territories - those this committee is not concerned with nor does it pass judgement upon them.

The committee's point of departure was that the security situation and the existence of a military government do not necessarily imply the abrogation of academic freedom, and that we, as members of the academic community have a particular status and sensitivity as regards this freedom. Therefore, the committee decided to confine its investigation to orders and procedures directed especially at the academic institutions which apply restrictions to them over and above those which apply to the general population. We refer to restrictions in the following spheres: appointment of faculty members; student admission procedures; the organization of curricular and research programs; selection of course material and the possession of suitable library and research material; finally - the ability to determine opening and closing dates of the institution. In addition we regard as an aspect of academic freedom and non-dependence the principle that academic recognition of an institution be made through academic considerations alone, and that an academic institution will not be required to be licensed by the administration.

(3) The committee's mode of operation

The committee held a series of meetings in order to clarify the points which we regarded as pertinent to an investigation. We would like hereby to express our thanks to the many people who gave of their time to meet with us. The committee met with persons who hold senior positions in the military government, or have done so in the past, in order to gather information about the academic institutions in

the Territories, the background of the new legislation, and the integration of this legislation in the general policy of the administration. The committee met with two jurists from the Territories who explained the legal regulation of educational institutions in Jordan before 1967. We also met with members of the administrations, faculty and with student bodies of universities in the Territories, and visited the universities of Birzeit and Bethlehem. The findings of this report are based on all of these.

(4) Academic institutions in the Territories

Not every post-secondary institution is an academic one. For the purpose of the committee's work an "academic institution" was defined as that which fulfills the two following conditions:

- (a) the conclusion of a course of studies in the institution enables the graduate to receive an academic degree;
- (b) the degrees conferred by the institutions are recognized degrees in the sense that they grant generally accepted academic privileges, such as the admission to advanced studies in other foreign universities.

Presently there are five institutions in the Territories which confer recognized academic degrees, or are working towards a stage in which recognized degrees shall be granted. They are: Najah University in Nablus, Birzeit University north of Ramallah, Bethlehem University (administered by the Christian order of Brothers - the Frere), the Islamic College in Hebron, and the Religious College in Gaza. Among those, Najah University has the largest number of students and Birzeit University is the oldest, although it only started conferring its own academic degrees in 1973. Three of these five universities (Najah, Birzeit and Gaza) are members in the Association of Arab Universities, and one other (Bethlehem University) has applied for admission to this organization.

In addition to academic institutions which deal directly with education, there exist in many countries institutions which guide academic education and which also enjoy academic freedom. In Israel the Higher Education Council is such an institution. In the Territories a Higher Education Council was established recently, and all the academic institutions mentioned above voluntarily took upon themselves to accept the authority of this Council, which, *inter alia*, fixes the criteria according to which institutions are granted recognition. The chairman of the Council is Dr. Abed Al-Hak, the President of Najah University. Officials of the military government informed the committee that the Council is directly controlled by the PLO and that the military government does not regard it as a body with which it can have contact. The committee saw no point in dealing with this issue and decided not to address the question of granting official status and academic freedom to the Council, or the suggestion that granting academic recognition to institutions should be in this Council's jurisdiction.

(5) Preliminary investigation

A number of preliminary arguments arose in the course of the committee's work, according to which the issue of academic freedom is irrelevant as regards academic institutions in the Territories. In this part of our report we shall address these arguments.

The committee heard, especially from senior military government sources, the claim that in the Territories the academic cloak is merely camouflage. The claim is

that the academic activities are at the best a guise for political activity and at the worst a guise for subversive activity. This claim is heard especially with regards to Birzeit University. If this claim is true, then the question of academic freedom simply does not hold. Therefore, the committee started by addressing itself to the following question: Do these academic institutions maintain regular studies and/or research and do they aim to grant their students orderly and up-to-date education? The committee's findings in this area are clear: In the universities which we visited, academic activity is conducted according to accepted norms and their administrations strive for the advancement and regular maintenance of this activity.

Even though there is some support for the view that disruption in the conduct of studies, that stems from friction with the military government, may help a university in its public relations in the Arab States, the committee's impression is that the administrations made great efforts to assure the regular execution of its curriculum, in spite of their awkward position, "between the hammer and the anvil".

The committee rejects the preliminary claim that the true interest of academic institutions in the Territories is not academic at all. The committee does not have the ability or means to determine if, in addition to study and research, part of the university staff or students are connected to illegal activities. In any case, that is the task and function of the security forces who have at their disposal a wide range of security legislation. In the opinion of the committee, it is sufficient for our purposes to determine that in the academic institutions of the West Bank there exists a large population of students who are interested in acquiring a higher education, and a large number of lecturers who are concerned with providing that education. As stated previously, we have no doubt that this is so.

Another argument was put before the committee which also casts doubt on the nature of academic freedom in the universities of the Territories. According to this argument, the teaching in these universities (again, mostly at Birzeit) perverts reality and has little regard for the truth. When members of the committee requested evidence supporting this severe claim, they were told that in teaching geography of the Land of Israel maps are used on which Israeli settlements do not appear. The committee investigated this claim and found at Birzeit University maps published by the Survey Department of the State of Israel are used and that the course in geography of the Land of Israel includes a tour which lasts a number of days and covers many Israeli sites. There is no doubt that during the course in the geography of the Land of Israel there is also discussion of Israeli settlements which were erected in places on which previously Arab settlements stood. Obviously this fact may be presented in various ways. However, the committee found no evidence that the study of geography at Birzeit is based on denying facts. ^{facts.}

With regard to Bethlehem University the charge is also made that the institution itself acts in a way inconsistent with academic freedom. It has been charged that the president of the institution was relieved of his job only because he is not an Arab. (The press even went as far as to say he was removed because of a Jewish background.) The committee investigated the claim in a frank discussion with the outgoing president of Bethlehem University, Brother Joseph Lowenstein. In that discussion (and in others with members of the university), it turned out that Bethlehem University applied to the Jordanian government to grant official recognition to the academic degrees conferred by the university. The Jordan government replied that a condition for such recognition was acceptance of the university by the Association of Arab Universities. The university knew in advance that one condition for acceptance as a member of the Association was that it be headed by an Arab. .../4

The university was thus forced to weigh fulfillment of this condition against non-recognition of the degrees it grants. At the recommendation of the present president and after due consideration, the decision was taken to appoint as president a person who is an Arab with a suitable academic and ecclesiastic background, while the present president be given another high post in the university. After hearing this, the committee concluded that the decision of the university resulted from the academic straits in which the university found itself, and not from indifference towards academic freedom in the institution.

In the committee's deliberations, a further charge was raised concerning the involvement of the West Bank universities in politics rather than academic matters. According to this charge, the true purpose of the West Bank universities is to develop cadres of leaders and to build an intelligentsia that will, when the time comes, serve the needs of a Palestinian state. It is claimed that such an objective exceeds the bounds of academic activity, turning it into political activity. The committee rejects such a charge, and declares that the development of educated leaders who will serve the community to which the university belongs is an academic objective of the first importance; in this matter the political desires in question are neither here nor there.

(6) The Relationship between the Military Government and the Universities in the Territories

Since the Six Day War, a complex network of relations, positive and negative, has developed between the military government and academic institutions in the Territories. On the side of positive cooperation, the most important fact is simply that until the Six Day War there were no academic institutions in the administered areas while now there are five. Furthermore, the military government itself approved the establishment of these institutions. In the case of Bir Zeit University, the military government approved its transformation from a junior college (operating as an extension of the American University of Beirut) to an independent institution. The military government issued the institutions with operating permits for specific periods (although it is unclear on what basis it was authorized to do so before Order 854, to be discussed below) and allowed them to plan curricula and instructional materials as they saw fit (within the approved frameworks). It should also be noted that the military government has allowed a number of teachers from Arab countries (chiefly Jordan), whose employment on the West Bank requires special permits, to teach at the universities there. The military government also recognizes the degrees awarded by the universities (for the purpose of salary increments for teachers, for example).

The establishment, continued administration and development of the institutions required a certain amount of necessary contact between the military government and the universities. The committee gained the impression that neither the military government nor the universities were interested in cooperation beyond the minimum called for. When we asked if the military government requested any of the universities to provide academic assistance (such as organizing extension courses for local workers, various laboratory services, etc.) the answer was negative. For their part, the institutions appeal for cooperation from the government only when the need arises. This sometimes does arise when students need practical apprenticeship in government institutions. For instance, the military government was requested to permit nursing students from Bethlehem University to get practical training in government hospitals in the Territories and student teachers to practice-teach in government schools. Both requests were refused. Contact is also necessary when

institutions apply for permission to conduct research requiring entrance and research on government institutions on the West Bank.

Thus, since the establishment of the institutions the reciprocal relations between them and the military government were limited for the most part to events of a negative sort in which the military government was engaged in a struggle with one or another of the universities, or vice versa. In addition, the military government as the sovereign authority in the Territories aimed to achieve legal regulation of academic activity in the Territories. To that end, it set up a committee which considered the problem for a considerable period.

The legal position of the universities was regulated, in the case of the West Bank, by means of Order 854, issued by the Command of Judea and Samaria on July 6, 1980. The committee knows of no analogous order pertaining to the Gaza Strip. Order 854 has wider ranging implications and its issuance was one reason for convening this committee. Therefore we are devoting a separate section to the order and the legal questions connected with it. (see #7 below)

According to the security legislation, the military government has wide powers which are sometimes exercised exclusively over academic institutions. The most notable and harsh example is the closing of a university, by instructing the administrator to order cessation of all teaching activities and research, and to prevent students and faculty members from entering the premises. (There is a difference between closing a university and closing off of the area in which a university is located.) Within the jurisdiction of the Judea and Samaria Command, there have been at least five closures of universities for varying periods, Birzeit University 'leading' with three closures, once (May 1979) for a period of more than two months. Closure of universities is a step taken, in almost every case, after serious disturbances on campus or around the campus in which students studying at that university were involved, and sometimes faculty members as well. There was one exception to this pattern: on November 13, 1980, Birzeit University was closed for a week after the military government blamed the university administration for delaying the cancellation of 'Palestine Week'. The military government's version was that the events were supposed to be called off the afternoon of the day on which the order was issued, while the university administration claimed that immediate cancellation of activities could not be carried out and that the activities in question were to be called off by evening of the same day. In any event, there is no disagreement over the fact that closing the university was intended as a punishment.

In other cases of closing a university, the military government justified its actions, both orally and in writing, in terms of punishing the institution for non-compliance with established norms. As mentioned, the procedure was used in most cases following serious incidents and disturbances, and there is no doubt that in those cases closure was not only in order to 'punish' but also in order to calm tempers and prevent repetition of those disturbances. But in most cases it is difficult to tell where prevention ends and punishment begins. It must be clearly stated that closing a university as punishment is simply an act of collective punishment and as such is unacceptable in principle. As for closing the university as a preventive measure, the committee's opinion is that the military government has more than sufficient means (including such stringent measures as bringing troops to the campus or imposing a curfew on the locale of the university) to prevent disturbances and the committee heard no convincing reason why, if the military government were prevented from closing the university, it would be hampered in any significant way from preventing disturbances of the peace.

Another point of friction between the military government and the universities concerns the government's treatment of requests for entry permits and work permits for teachers whom the universities recruit from outside the Territories.

There have been cases in which the military government has refused an entrance permit to someone whom the university wished to employ as a faculty member. Although it was not possible to investigate each of these cases, the committee believes that in these cases the military government has invoked procedures applied to all requests for entry to the Territories (in enforcing its visa policy) and that it has not applied a policy exclusively to the universities. In addition we view granting universities in the Territories permission to employ teachers from Arab countries as a positive step on the part of the military government which supports young universities which lack local teachers. However, there have been a few cases in which someone has been allowed entry to the Territories and has been free to travel without restrictions but has not been allowed to serve as a faculty member. In these cases it is very difficult to argue that the acts of the military government reflect a general policy and not a policy aimed exclusively at the universities. Moreover, if the government allows someone to enter and move about freely, one would infer that the government regards that person as no danger to security. Preventing such a person from joining the university staff can't be based on security considerations and it involves unwarranted interference by the military government in the personnel policies of academic institutions. As mentioned, the number of these cases is small. (The committee learnt of three.)

In contrast, the problem exists of delays by the military government in dealing with requests from the universities concerning employment of faculty from abroad. The administration must submit an application for a work permit for every faculty member who doesn't have a local identity card, whether the person had a work permit in the past and is already serving as an active faculty member, or is someone the university wishes to employ for the first time. In many cases, the military government delays answering these requests for months, and only after repeated written appeals. Thus sometimes when the school year begins many faculty members are still not sure of their legal status. Beyond the question of proper administration, which our committee doesn't consider itself authorized to evaluate, such practices serve to sharpen resentments and bitterness, which could easily be avoided.

Another point of friction, where it is also difficult to know whether the delays constitute interference with academic freedom or a 'normal' result of administrative difficulties, concerns extending the framework of studies. At Bethlehem University, we were informed that the military government refused to allow the creation of additional departments beyond those that were permitted when the university was established. This forces the institution to broaden the scope of studies in a rather constrained way, or alternatively to give up its expansion entirely. In this category of complaints we include the complaint of the Trustees of Najah University in Nablus regarding a series of delays involving building permits for the new campus near Nablus. These delays limit and interfere with expansion of the university's program of studies. We didn't run into similar problems at Bir Zeit University which is now building its new campus at some distance from its old campus, which no longer meets the needs of a growing university.

It is axiomatic that academic activity can't take place without free access to books, journals and documents. Where security censorship exists (as in Israel) the objective is generally to prevent publication of material which can damage state security and not to prevent access to already-published materials. The military government maintains censorship which is aimed at this second objective; an order exists prohibiting distribution and possession of certain books. We were unable to obtain a list of these books from any official source, despite many requests. We were informed, however, by official sources that the list includes some 648 books nearly all printed in Arabic. The censor revises the list from time to time. The censor (or those authorized by him) are empowered to prevent the entry of banned books into the Territories by checking at border posts. On more than one occasion the military government has held up a bundle of books for checking and has then allowed through only approved books. In some cases the books which have not been approved are held at border posts to be returned later to the seller. In other cases attempts have been made to ease the procedure by prior checking of lists, or checking the books at the universities themselves before they are catalogued. There have also been cases where the disapproved books have disappeared and the addressee has been unable to retrieve the purchase price, let alone the VAT tax which has already been paid.

In connection with censorship of books, it appears that the process has been evenly applied to the whole population. The committee's view is, however, that those chiefly affected are the academic institutions. Even if, for the sake of argument, we grant that there is justification in certain cases for a policy of prohibiting the distribution and possession of books, there is still room to demand that the policies not apply to academic institutions.

The only instance known to the committee where the military government carried out a "book search" occurred at Najah University in Nablus on February 11, 1981. (According to an official announcement by the military government, the search uncovered nothing.) Occasionally a search for 'prohibited newspapers' takes place.

The argument in favor of prohibiting possession or distribution of certain books is that these books may be used as a means of incitement. Those who make the claim ignore the fact that incitement is illegal, and the moment a book is used for inciting, the person who so uses the book can be charged with transgressing the law. On the other hand, any book, no matter how poisonous, is a source of legitimate information for academic purposes, and more than once poisonous books have served as documentary material of value in academic research.

It is appropriate here to mention the question of periodicals. There are newspapers, particularly daily papers in Arabic (most of which are published in East Jerusalem), whose distribution is prohibited in the Territories. With regard to other Arabic-language newspapers, the military government has no official policy of prohibiting their entry into the Territories. Nevertheless, there is evidence of the existence of an unofficial policy of repeated delays and red tape wherever one of the universities requests permission to bring books from an Arab country to its library. Even after the military government weeds out the banned journals from a list submitted by the university, acquiring the non-banned items has not been possible, because of this unofficial policy.

Up to this point we have given details concerning areas of conflict and mutual complaints between the universities and the military government. As we mentioned in our opening remarks, it is important to stress that in at least three major areas of academic activity - admission of students, setting curricula and budgeting - the committee's impression was that there has been no real friction between the military government and the universities.

(a) Admission of Students

Although complaints of interference by the authorities are heard, the committee's impression was that in general the universities set the standards for admission and act on them with no outside interference. (One reservation is, of course, that all students from outside the region must get permission to enter the region.) To the best of our knowledge, the only controversy between the military government and the university arose when the authorities expressed disapproval of benign discrimination of candidates who had been imprisoned or in administrative detention. Birzeit University apparently permits those imprisoned for security offenses or who were under administrative detention to be admitted with a lower grade on the admissions examination than other applicants. The reason given the committee in justification of this policy was that those who were imprisoned or detained were adversely affected in their studies and academic attainments. It is no surprise that the authorities disapprove of this policy; nonetheless, it was our impression that they acted with restraint in this matter, and limited themselves to expressions of protest.

(b) Setting the Curriculum

The universities in the Territories enjoy full freedom in setting curricula (within the permitted frameworks) and in selecting the material to be included in courses. There have been no attempts to cancel courses or restrict what is studied, and this includes subjects which the authorities regard as sensitive. The authorities limit access of the universities to radioactive materials. However, the committee does not view this as being motivated by a desire to interfere in the course of studies, but as a precaution resulting from the absence of general procedures regarding use of an access to such materials. While the universities, as mentioned, enjoy full freedom to set courses of study, there is evidence that military government personnel have sometimes threatened to cancel or limit that freedom. Such threats, if made, do damage even if to all concerned there is no intention of acting on them.

(c) Budgetary Policy

Although some of the funding sources for the universities are certainly not to the liking of the military government, it has so far shown no tendency to interfere with the budget policy of these institutions.

(7) The Legal Situation and Order 854

(7.1) The Situation in Jordan before 1967

In Jordanian law there is no general statute governing the establishment and activity of institutions of higher education. The only university in Jordan in 1967 - the University of Amman - was governed by a special statute. On the other hand, Jordanian Law No. 16 of 1964 governs other educational institutions, from kindergartens through post-high school education institutions requiring less than four years. That law states, among other matters that:

1. Private educational institutions require permits from the Jordanian Ministry of Education;
2. no one may be employed as a teacher, whether in public or private institutions, without a teaching permit from the Ministry of Education; that permit is granted on the basis of academic qualification and evaluation of teaching ability. The Minister of Education is empowered, on the basis of a recommendation of the Committee for Educational Licensing to cancel the teaching permit of a teacher if convicted of a "moral crime".

3. teachers are forbidden to be members of a political party or to take part in party activities, whether inside the educational institution or outside.
4. a special committee - the Supreme Committee - supervises curricula and textbooks in educational institutions. That committee includes among its members, representatives of the Ministry of Education, of the University of Amman, of the liberal professions and education experts.

(7.2) Developments after 1967

(a) Background

Shortly after the Israeli forces entered the West Bank, the powers of the Supreme Committee and the Minister of Education were transferred to a military government officer, called the "supervisor", who applied Law No. 16 to pre-university educational institutions. Since then, as described in the general section of this report, several of the post-high school institutions have developed into institutions granting academic degrees that require a four-year study period leading to a bachelor's degree. That law No. 16 was not meant to apply to these institutions is clear: it states specifically that it does not apply to the University of Amman, the only university in Jordan when the law was passed: and it provides that it applies only to educational institutions in which the course of studies is less than four years. Consequently, universities in the Territories were governed by no law at all.

(b) Order 854

1. Order # 854 issued by the Commander of the region of Judea and Samaria, on July 6, 1980 is composed of several parts:
 - a. The Order extends the definition of institutions regulated by Law # 16, so that the law would apply to institutions of higher education in which the period of study is four years or more. This way the Order subordinates the academic institutions to the control and the regulations which apply to the other educational institutions. The important implications of this subordination are: (1) The need for a permit for the operation of a private academic institution; (2) The need for a permit to serve as academic staff; (3) Supervision of curriculae and text-books in the academic institutions.
 - b. concurrently with the extension of the application of Law # 16, some essential amendments were introduced to the Law and to the regulations issued according to it. (1) The full authority of the Jordanian Education Ministry, concerning licensing of private educational institutions has been transferred to the supervising officer; (2) The supervising officer was granted the authority to annul, or refuse to grant, a permit to teach a person convicted of a violation of the security legislation, or who was under administrative detention; (3) Among the considerations entering the deliberation over the granting of a permit to a private educational institution, the supervising officer can include "considerations of public order".
 - c. The orders place restrictions on the competence for the roles of director, teacher or student in the educational institutions on the West Bank: (1) An Israeli resident (including East Jerusalem) or foreign resident, may not serve as director, teacher or student in an educational institution, except by individual permit certificate granted by a military commander; (2) The resident of another administered territory (Gaza, for example) entering the West Bank may not serve as director, teacher or be a student, except by special individual permit certificate granted by a military commander.

2. Analysis

It should be re-emphasized that part of these orders change the legal situation of all educational institutions and not just of academic institutions; such as the restrictions on Israeli citizens, foreigners and residents of other administered territories; the ability to withdraw a teaching permit or to deny it based on a conviction for a security offence or an administrative detention; and the possibility of using considerations of public order in licensing private educational institutions. To these must be added those innovations regarding academic institutions which result from applying Law No. 16 to them: the requirement for the licensing of teachers by the supervising officer, the supervision of curriculae and textbooks by the said officer; prohibition of party membership and of political activity by teachers. The restriction on foreign residents and on residents of other administered territories, though general, especially hurts academic institutions. In the West Bank there is insufficient man-power to shoulder the teaching load in the universities, which are developing and expanding rapidly, and the institutions attempt to reinforce their academic staffs by outside visiting lecturers. This is also true for students; It is difficult to believe that the problem of students from other administered territories will arise with regard to pre-academic education.

It is important to emphasize one aspect of Order 854: all changes introduced by it are part of educational legislation and not security legislation. It is generally agreed that amendments to educational legislation should not give the military government additional powers needed for the preservation of security, but should provide appropriate arrangements for the problem of the educational institutions. Problems of security and public order should be regulated by laws designed for these purposes.

(7.3) Infringements on Academic Freedom due to Order 854

1. Infringements resulting from the application of arrangements, appropriate to pre-academic education, to universities.

One of the basic characteristics of academic freedom of universities is autonomy, protected by law, in appointments and promotions of academic staff, design of curriculae and choice of educational material. Clearly this autonomy does not imply a right to violate the general law. But beyond the enforcement of the general law the military government should not interfere with the running of the institution (just as the institution should not interfere with the academic activity of its researchers). Such autonomy does not exist with regards to non-academic educational institutions; in their case it is accepted that it is necessary to license teachers and maintain centralized supervision of curriculae and teaching material. This distinction between academic and non-academic institutions is recognized both in the Israeli and in the Jordanian law. Licensing academic staff, licensing institutions of academic education, and supervision of curriculae and teaching material are alien to the idea of academic freedom. Restrictions on party activity, beyond those existing in the population at large (the situation in Jordan is unclear), may be acceptable with regards to teachers in the government school system, who may be regarded as public servants or state employees, but it is clearly out of place with regards to academic staff of private universities, which are supposed to preserve their independence. We must stress once again that the distinction between academic and pre-academic institutions, and the insistence on the independence of the former are recognized both in the Jordanian Amman University law and in the Israeli law on higher education. The "recognition" of academic institutions is granted by a special body, according to criteria different from those pertaining to the recognition

of lower educational institutions. In the West Bank there is no such body which has been granted recognition by the military government. But, it is our view that the supervising officer is not an adequate substitute.

2. Infringements resulting from the grafting of security aspects to general education legislation

According to the Jordanian Law #16 considerations deemed pertinent for granting or annulment of a teaching permit, or the granting of a permit to a private educational institution, are related to professional competence and to the suitability of the person or the institution for educational tasks. Granting the power to annul a teaching permit because of a conviction for a security offence, or because of an administrative detention, introduces alien elements into the system of educational considerations. The annulment of a teaching permit under such circumstances is an additional punishment of the teacher, over and above the punishment or detention which were already meted to him, and without demonstrating any connection between the person's activity as a teacher and the conduct for which he is being punished. It may be assumed that said power shall not be exercised arbitrarily, and that its exercise is subject to judicial review. Nevertheless the committee is of the opinion that if a teacher repeatedly violates the law, he should be punished under the law, while his competence as a teacher should not necessarily be affected. Annulment of the permit of an educational institution (or its shut-down because of disturbances) while the institution is fulfilling its educational function is a collective punishment for the teachers as well as for the students, who are unable to study. The lack of distinction between considerations of professional-educational nature and those of public order must not be part of the legal regulation of the educational system.

3. Individual permits to persons who are not West Bank residents

Since permission is generally required, in order to enter Judea and Samaria and to stay there, such as for foreign residents, those restrictions could have been used to restrict the movement of teachers and potential students, without necessarily infringing on academic freedom. But where the permit requirement is imposed explicitly and specifically only on teaching and study, (as it is on Israeli residents and on residents of other administered territories) it implies, with regard to academic institutions, an infringement on their academic freedom.

8. Recommendations

The committee views the strengthening of the tradition of academic freedom in the universities of the Territories as an important step towards peace in the region. The committee considers that infringements on this freedom, due to security considerations, should be reduced as much as possible, and that such considerations should not enter into legislation regulating academic institutions. Hence we recommend that:

1. Order 854 and all its appendices be rescinded.
2. The military government and the universities should maintain contact so as to create a condition that will ensure regular and peaceful studies in the universities.
3. The issue of the legal regulation of the universities in the West Bank be re-examined, in consultation with educational personalities in the West Bank and in Israel.

4. The military government should refrain from closing universities.
5. The military government should reconsider the abolition (or re-examination) of the list of "forbidden books", and make it possible - in practice - for universities to acquire books and professional journals for their libraries.

1. Rescindment of Order 854 and its appendices

We have listed above the special restrictions incurred by academic education due to the application of regulations, appropriate to elementary and secondary education, to universities. It is important to note that so far the wide powers of the military government under Order 854 have not been exercised. The Order provided that existing operating licenses would remain valid for a year and at the end of the year, these licenses were automatically extended for a further year. Although letters were sent to the universities demanding information on staff, students and curriculae, the Order has not yet been invoked to interfere in these spheres. The fact that the Order has not been exercised since its promulgation strengthens our conclusion that it was unneeded. We have stressed that Order 854 allows for infringement of academic freedom and we heard no convincing argument that this Order is a successful solution to legal regulation of the universities. We therefore recommend revokation of the Order.

Concerning the restrictions on the movements of teachers and students, and the requirement for licensing "outside" teachers, we recommend that restrictions imposed on higher education should not go beyond those existing for the population at large. Hence there is no need for special orders for those who participate in higher education, and these also should be rescinded.

2. Contact to ensure conditions for regular studies

We were informed both by representatives of the military government and of the university administration of Bir Zeit University that a "gentleman's agreement" was reached according to which the university authorities undertook to maintain order and prevent purely political activities on the campus, while the military government promised that if this undertaking was kept there would be no interference with the regular studies and the university would be allowed to operate without hindrance. Both sides expressed satisfaction with this arrangement, and were willing to base their future relationship on similar arrangements. The committee was particularly impressed by the fact that senior officials of the military government were willing to make such arrangements with the universities.

We feel that the goodwill of both sides should be exploited and arrangements clarifying the bounds of the educational institutions' undertakings and their responsibility for behaviour of students and teachers in the bounds of the institution, in order to provide an incentive for the university administration to supervise maintenance of order, on the one hand, and of the military government to respect the autonomy of the institutions, on the other.

In addition to agreement as regards operating the universities, such arrangements may improve relationships between the military government and the universities. This would also probably facilitate dealing with other problems such as providing visas for visiting staff without undue delay, and ordering books and equipment for university libraries and laboratories. Such arrangements would also facilitate enforcement of those censorship rules which shall remain in force, and the issuance of permits to extend programs of study, approve departments and building on university campuses.

3. Legal Regulation of the Universities

We have stated above that Order 854 is not a suitable legal framework for regulating the universities as it applies rules which were not meant for universities and are not suitable for them. We also reject the argument that there is no need to revoke Order 854 as it is not fully enforced.

We do not accept the argument (made both by officials of the military government as well as by members of the West Bank community) that the universities must be regulated by law. Since 1973 the universities have existed and operated without a legal framework, and it is difficult to see why the necessity exists to regulate them. The supervision required on security grounds can be exercised (as it has been in the past) without resort to Order 854.

If the desire nevertheless exists to ensure a proper legal framework for the universities, that would allow for central academic control of the opening and running of academic institutions, it seems to us that the suitable framework should be worked out in conjunction with the academic community on the West Bank. The committee totally rejects the argument that extension of Law No. 16 to cover the universities is the simplest method of regulation, that ensures maximum continuity with the Jordanian legislation which was in force on the West Bank in 1967. This argument ignores the basic differences between education at universities and schools, which are our central concern, as members of the academic community, as regards academic freedom on the West Bank.

It should be noted that amongst the academic community the definite preference was expressed for maintenance of the position of non-regulation. University people on the West Bank do not favour the Jordanian model (which maintains royal licensing and control of the universities) as a model worth imitating. Some people even suggested that the best arrangement would be one based on the Israeli model. We were told that this suggestion was considered by a special committee which advised the military government, but that it was rejected in favour of Order 854 and application of Law No. 16.

4. Closure of Universities

Closing a university by the military government is an extreme and harsh measure which prevents all members of faculty and students from studying, teaching and doing research. This is also a measure which receives the utmost attention and severe criticism amongst the international academic community.

One can distinguish between closing a university as a punishment for an act by it or by some of its students or teachers, and closing a university as a preventive measure, the object of which is to maintain law and order. Closure as a punitive measure is totally unacceptable as it is a form of collective punishment which is imposed on all students and teachers, with no connection to their personal responsibility for the events which resulted in punishment. According to the facts brought to our attention this was at least the case regarding the closing of Birzeit following the events of "Palestine Week". The punitive nature of the closure is obvious as the closure was only for one week, with no indication that the situation would change thereafter. In principle punishment should only be imposed on offenders.

Even when closure is a preventive measure it is not an acceptable procedure. We stated above that in our mind the relations between the military government and the universities should be based on the understanding that the universities will be responsible for order on campus. If the university administrations will succeed in this, there will be no need for further steps to ensure order on campus. If

they do not fully succeed in this, there is no doubt that the military government has the authority to enter the campus (like any other place) in order to investigate and to deal with criminal activities or breaches of the peace. There are enough alternatives and less drastic ways of dealing with the wide range of problems so that closure of universities cannot be justified.

5. Books and Periodicals

There is no doubt that universities cannot exist and run academic education without libraries which will allow for access to books and periodicals. One of the facets of academic freedom is that the choice of materials and books is in the hands of the academic staff of the institution. Members of the academic staff, on their part, have a duty to pursue the truth and to preserve a balanced view of the materials taught. It follows that there should be no restrictions whatsoever on the materials in university libraries, for purposes of study, research and analysis (though it is permissible, of course, to limit the use which may be made of materials - for example, incitement, for example).

We have seen that there are three ways in which this central freedom is affected:

- i. According to the security legislation a list of banned books has been published. The ban applies to West Bank residents, and not only to institutions of higher education.
- ii. All books ordered by the universities are subject to examination by the censor who decides whether to allow the institutions to keep them (we were told, for example, that the censor tends to disallow all books containing the name "Palestine", and other books which are accessible to all - including West Bank residents - in the National Library of the Hebrew University).
- iii. As regards professional periodicals the barrier is administrative rather than legal: the Birzeit librarian informed us that they have time and again submitted a list of required Arabic periodicals to the military government, but that they never receive approval. We were given a copy of this list and discovered that the vast majority of the periodicals on the list are available in the Hebrew University libraries.

As academics we object to all restrictions on books, but in the framework of our present inquiry we express no opinion about the general policy on this matter. We merely ask that the military government reconsider the ban, or at least try to limit it as far as possible. Even if the general ban is maintained we recommend allowing universities to order a reasonable number of copies for an academic library of any book. As far as periodicals are concerned we recommend maintaining the existing rule that no legal restriction be imposed on the right to hold them in libraries. In order to overcome administrative delays we recommend allowing universities to order books and periodicals directly, without prior approval of the military government.

Ruth Gavison (Law)
Yehoshua Kolodny (Geology)
David Kretchmer (Law)
Eliezar Rabinovitch (Physics)
Menahem Yaari (Economics)

This report was prepared by the above committee of Hebrew University Professors, for an ad hoc faculty meeting, called to discuss the issue. The committee has prepared its report in Hebrew only.