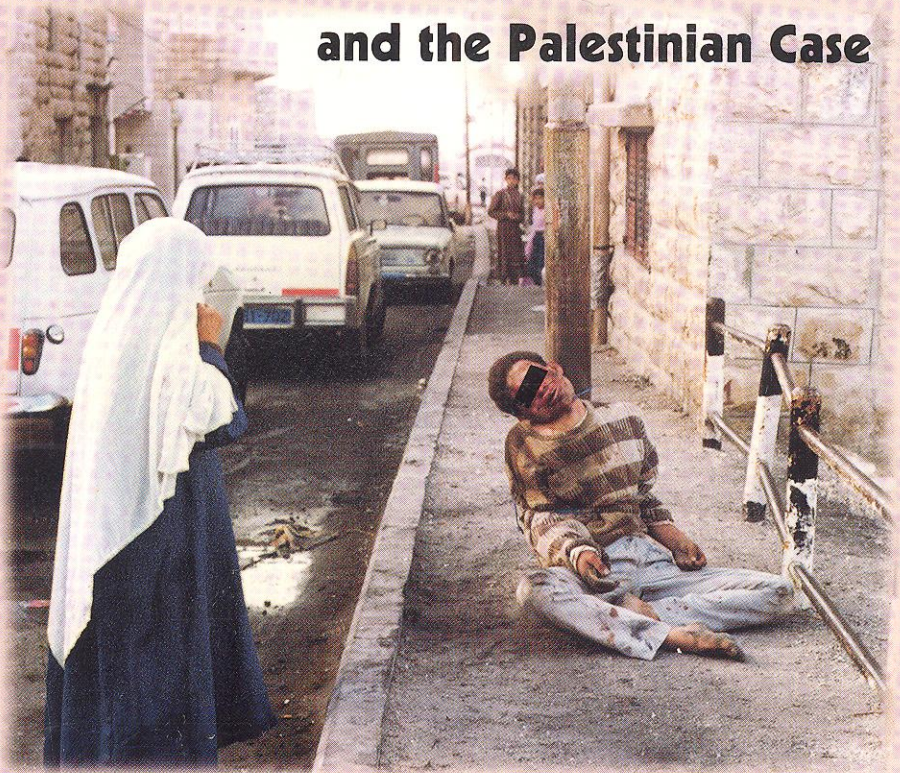


Andrew Rigby

The Legacy of the Past

The Problem of Collaborators

and the Palestinian Case



PASSIA

Palestinian Academic Society for the Study of International Affairs

Andrew Rigby

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and the
Palestinian Case**



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Palestinian Academic Society for the Study of International Affairs

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I ●

Introduction: Palestinian Collaborators - the Parameters of the Problem

On 28 September 1995 Israel and the Palestine Liberation Organisation (PLO) signed an interim agreement on the transfer of control of the main population centres of the occupied West Bank to the Palestinian Authority (PA). This accord came two years after the original agreement or Declaration of Principles (DoP), signed in Washington on 13 September 1993, which set the framework for the establishment of limited Palestinian political authority over much of the Gaza Strip and an enclave around Jericho. Despite the many criticisms of the pace and the substance of the peace process, and the growing debate about whether the 'Oslo process' is alive or dead, one thing does seem clear: barring an Israeli military re-occupation of the territory from which it has withdrawn, eventually a Palestinian state will come into formal existence. It is not certain where its borders will be, it is not clear whether it will be able to exercise the normal state-like sovereignty over its airspace, and it is highly unlikely that it will enjoy complete autonomy over defence-related issues.¹ However, as Mark Heller has observed:

¹ The same conditions apply to many states throughout the world, not least to the members of the European Union.

"A semi-independent state already exists, resembling recognised states in some respects but different from them in others. ...this semi-state will continue to exist even if no permanent-status agreement is reached. And its formalised independence will inevitably be incorporated into any agreement that is reached."²

Whatever the territorial borders of the Palestinian political entity that eventually comes into being, it will face huge problems of social, economic and political reconstruction after decades of Israeli occupation. It will also face the challenge of healing the divisions within the Palestinian community created in and through the long years of occupation. One problem in particular will need addressing at some stage if the Palestinians are to heal the wounds within their own community: what is to become of all those Palestinians who collaborated with the Israelis during the years of occupation?

The concern felt by the Israeli authorities over the fate of their informers and agents was indicated by their insistence, in both the 1995 Taba or Oslo II Agreement and the earlier Cairo Agreement of May 1994, that the safety of Palestinian collaborators be guaranteed until a solution is found to the problem.³ Despite such commitments, the problem will not go away. Palestinians will not readily forgive those who they consider to have betrayed their own people. Therefore it seems important that during the interim period prior to the final peace settlement with Israel, the Palestinians begin to address the question of collaborators and what is to be done with them. If no

² Mark Heller, 'Towards a Palestinian State', *Survival*, vol. 39, no. 2 (Summer 1997), p.9.

³ In the Cairo Agreement the Palestinian side committed itself 'to solving the problem of those Palestinians who were in contact with the Israeli authorities. Until an agreed solution is found, the Palestinian side undertakes not to prosecute these Palestinians or to harm them in any way.' (Cairo Agreement, Article XX, para. 4). Likewise, in the agreement of September 1995 the Palestinians vouchsafed that 'Palestinians who have maintained contact with the Israeli authorities will not be subjected to acts of harassment, violence, retribution or prosecution.' (Article XVI, para. 2)

satisfactory answer to the problem is arrived at, there is every likelihood that individuals and organised groups will take matters into their own hands and embark on a crusade of vengeance to purge those they consider to be traitors. The result could be the worst kind of lynch law, which would seriously threaten the authority of the legitimate Palestinian leadership and cause considerable social unrest and communal conflict.

Furthermore, if Palestinian collaborators feared for their lives as a consequence of such extra-legal vendettas, then they would demand that the Israelis provide them with safe havens within Israel itself. This is an eventuality that Israel is keen to avoid. Therefore it is in the interests of Israel as much as those of the Palestinians that some solution be found to the problem of the collaborators, one that might lay the foundations for reconciliation and social harmony rather than escalating communal conflict and violence.

But whilst all might acknowledge that there is a problem to be tackled, there is no consensus about the parameters of the problem. Before one can think about how collaborators might be dealt with, there is a need to tackle the prior questions of how to define 'collaboration' and hence how to identify the collaborators. These problems are compounded by the acknowledged scale of the phenomenon amongst Palestinians.

Throughout the years of occupation, the provision of various kinds of services, permits and licenses to Palestinians was often made conditional upon the applicant agreeing to 'return the favour' by providing information or other kinds of services to the Israeli authorities. The result is that Palestinians who have collaborated in some way or another with the Israeli security agencies exist in every village and institution in the West Bank and Gaza Strip. Obviously the bulk of these operated undercover,

and so estimates of their number vary considerably. Thus, one Palestinian lawyer interviewed in October 1995 estimated the figure to be in the region of 6,000-8,000, extrapolating on the basis of the 18 or so collaborators he knew existed within his own village of 30,000 inhabitants. By contrast, a well-informed human rights worker put the total figure in excess of 40,000,⁴ whilst a senior political activist familiar with the Gaza Strip estimated that there were at least 30,000 collaborators in the Gaza Strip alone, approximately 4% of the population.⁵ If such was the case, and the pattern was replicated throughout the West Bank in addition to the Gaza Strip, with a combined population in the region of two and a quarter million, we would arrive at a total figure approaching 90,000 collaborators!

The truth is that no one knows how many collaborators there are. One reason for this relates to the clandestine nature of collaboration, but another reason why the estimates of their number vary so greatly is because there is no shared agreement about what constitutes collaboration, and hence no consensus about how to distinguish between who is, and who is not, a collaborator. Thus, if one defines collaboration in a wide manner, so as to include any act of co-operation with the occupiers that helps them fulfil their aims, and hence damages the national interests of one's compatriots, then it is possible to argue that no one who aspires to live a reasonably normal life under occupation, in the sense of trying to survive without courting martyrdom, can live without 'co-operating' in some way or another with the enemy. Such co-operation, forced or otherwise, might entail purchasing their products, working in their factories or on their farms and construction sites, selling them raw materials and other products, and paying them taxes and license

⁴ Interview with author, 14 October 1995, East Jerusalem.

⁵ Interview with author, 15 October 1995, Nablus.

fees. From this perspective, it is highly unlikely that anyone who has lived under occupation for any length of time can claim to be completely free from any taint of collaboration.

A further problem to be borne in mind when estimating the extent of collaboration in the Occupied Territories is the fact that charges of collaboration with the Israelis have been levelled frequently against people from rival political factions or against personal enemies for malicious reasons. In addition, in Palestinian society, as in other societies under occupation, people have been adjudged to be guilty of collaboration not because of their relationship with the enemy, but because of the unintended consequences of their actions. Thus, as will be discussed later in this paper, many Palestinians have been accused of being collaborators not because they have had contact with the Israeli security services, but because their lifestyle and 'anti-social activities' were deemed to have damaged the moral fibre of the Palestinian people and thereby undermined the national struggle. Women suspected of having extra-marital affairs, prostitutes, pimps, and dealers in drugs and pornography have been particularly vulnerable to such charges.

A further complicating factor is that definitions of collaboration are not static; they change over time. For example, in June 1989 Israel began to introduce new plastic identity cards for those adult male Gazans wishing to enter Israel. Some weeks later the Israeli authorities began to refuse entry to those who did not possess one of the magnetised cards. In an effort to defeat the scheme, the leadership of the uprising called for a boycott of work in Israel and activists of the strike forces began to confiscate the cards in order to enforce the ban. Those who ignored the boycott were labelled collaborators. However, given the degree of economic dependence within the Gaza Strip upon employment in Israel at that time, and

the consequent level of hardship caused by the boycott, the leadership was unable to enforce its ban. It was clearly out of tune with popular feeling, and by October 1989 the ban was rescinded and the accusations of collaboration levelled at those who had continued to work in Israel were withdrawn.

Thus, a major problem facing any Palestinian authority seeking to address the issue of collaboration is that the parameters of the phenomenon are unclear. Collaboration lies in the eye of the beholder, and definitions vary from situation to situation. Moreover, even if there was a consensus on the actual boundary line between acceptable behaviour and collaboration, the range of activities and orientations covered by the category is so heterogeneous as to undermine the utility of a generic label. As David Littlejohn observed, in his study of collaboration in Europe during the Second World War, 'collaboration could mean anything from volunteering for the Waffen SS to buying a picture postcard of Marshall Pétain.'⁶

The fact that collaboration is not a unitary phenomenon, and that the label might be applied to moral deviants and political rivals as readily as to those who consciously betrayed their compatriots, presents an awesome problem to those who lay claim to the right to identify those people who should be required to answer for their behaviour during the Israeli occupation. Hence it is essential that before embarking upon the path of retributive justice, the authorities pay due regard to the complexity of the phenomena.

In addition to the problems of identifying collaborators, and taking due account of the many forms that collaboration can take, there is the related problem of distinguishing between the different degrees of culpability as-

⁶ Littlejohn, David, *The Patriotic Traitors: A History of Collaboration in German-Occupied Europe, 1940-45*, London: Heinemann, 1972, p.336.

sociated with different types of collaboration. It is vital that any judicial process and associated programmes established by the Palestinians to deal with collaborators is sensitive to such issues and is seen to be fair and just by both victims and offenders. If it is not considered fair by those who suffered during the occupation, then there is the danger that people will embark on forms of vigilante action to exact retribution from those deemed to be traitors. If justice is not felt to be done by alleged collaborators and their families, then seeds of resentment and grievance will be sown within Palestinian society. These could form the basis for ongoing blood feuds as families, clans and groups pursue revenge against those considered responsible for the wrong inflicted on one of their number. No one should underestimate the potential impact of such conflicts on the stability of a small-scale society such as that of the West Bank and Gaza Strip, where the principle of collective responsibility within the family or *hamula* (clan) remains strong and people still abide by the old adage that 'the blood does not dry for 40 years'.⁷

In attempting to come to some understanding of the nature and extent of Palestinian collaboration with the Israeli authorities throughout the years of occupation, the next section of this paper seeks to locate the Palestinian experience within a comparative context by examining the nature and extent of collaboration in occupied Western Europe during the Second World War. In recent years a growing amount of research has become available on this topic, and it is through an exploration of the many forms that collaboration took during this period that one can begin to grasp the complex and contradictory nature of the phenomenon.

⁷ See *Palestine Report*, 16 June 1994, p.3, 7 August 1994, p.12, and 14 August 1994, p.12, for reports of the concern aroused by revenge attacks by the relatives of alleged collaborators on released prisoners deemed to be responsible for the death of their family member. Such attacks are motivated not just by revenge, but also by a desire to clear the name of the victim and thereby restore the honour of the family.

In the subsequent section attention will be turned to an examination of the main features of the *épuration* or purge instituted by the liberal democratic regimes of Western Europe in the wake of their liberation from German occupation. Attention will then be turned towards the Palestinian experience, and an overview of the phenomenon of Palestinian collaboration with the Israeli occupiers will be presented. The paper will conclude on a more speculative note, suggesting guidelines for the establishment of the infrastructure, programmes and procedures required in order that the Palestinian national home might be cleansed in a manner that might lay the foundations for national reconciliation rather than division.

III ●

Collaboration: The Western European Experience

The occupation of a country by a foreign power, wherever it takes place, confronts the indigenous population and its political leadership with severe dilemmas. Beyond the strategic issues of how to bring about an end to occupation, there are the more immediate questions of how to relate to the occupier. What is the proper relationship between vanquished and victor? For the political leadership there is the immediate choice to be made of whether to go into exile or seek to establish ways of living with the enemy.

It was Marshall Pétain of France who was responsible for the term collaboration entering the political vocabulary. Following the defeat of France in 1940 he declared that the German victory left France with a choice between the 'traditional peace of oppression' and 'an entirely novel peace of collaboration'.⁸ Pétain claimed to speak for France, and many French people considered him to be their legitimate national leader. He believed that the na-

⁸ Rings, W., *Life With the Enemy: Collaboration and Resistance in Hitler's Europe, 1939-1945*, London: Weidenfeld & Nicolson, 1982, p.110.

tional interest would be best served through co-operation with the victors. It was a policy of national collaboration, orchestrated by the administration established at Vichy to govern the part of central and southern France that was not occupied directly by the Germans in 1940.

Denmark followed a similar policy of national collaboration, with the elected government deciding to stay in office after the German invasion, to act as a shield to protect the civilian population from the worst excesses of occupation. In both the French and Danish cases, the decision to collaborate was taken by the national authority within the borders of the conquered territory and justified in terms of the defence of national interests. Such policies of national collaboration involved various forms of institutional collaboration, whereby different administrative apparatuses and organisational networks co-operated, as a matter of policy, with the conqueror.

Unlike France and Denmark, the governments of Belgium, Holland and Norway went into exile. But in each case they instructed civil servants to remain at their posts in order to maintain the services upon which the civilian population continued to rely.

For the civilians of each newly occupied country there were more general dilemmas to be confronted. The routine practices of everyday life appeared through a new prism, the established assumptions could no longer be taken for granted. Old recipes for action and interpretation had to be revised and new strategies for living developed. Under occupation what was once unquestioned becomes problematic. Thus, whereas obedience to the law might once have been a duty, how should one respond to the regulations imposed by the occupier? Is it appropriate to celebrate occasions like weddings and birthdays when the society as a whole is suffering occupation? These are the kinds of questions a newly occu-

pied people must ask. The world of these people must be reinterpreted and reconstructed.

This process of building up a new mode of life based on the novel circumstances of occupation is particularly problematic if there is a lack of unambiguous directives from an authoritative source. Such is the case when there is no clear legitimate authority like a government-in-exile that can lay claim to *de jure* authority to set against the *de facto* power of the occupier, or where there are competing national factions contesting the right to instruct and advise the civilian population, such as when the resistance movement fails to present a common front against the occupier. In such situations, the newly occupied population is unlikely to receive clear guidance on how they are to relate to the foreign power. People face a new and alien world, one in which the old common-sense knowledge will no longer suffice as a guide for action and interpretation. Actions that were 'second nature' in normal times have to be queried and thought through in terms of their potential consequences. And if there are no clear guidelines emanating from a legitimate national authority, then people have to make their own decisions as to where to 'draw the line' in terms of their relationship with the occupying power. The result is that many people can drift inadvertently into relationships with the occupier that are subsequently deemed to constitute collaboration.

In his study of collaboration in Belgium during the Second World War, Martin Conway explored aspects of this phenomenon, emphasising the way in which, under occupation, the private realm is invaded by political concerns and everyday actions take on a new significance:

"The unemployed worker who volunteered for work in Germany, the woman who crossed the street to avoid (or to meet) German soldiers, or the family which offered food to a fugitive who called at their door were all

making choices which - though they rarely lacked a certain human ambivalence - possessed a significance which extended beyond the personal sphere.⁹

If, under occupation, the 'personal is political' in a far more obvious manner than during normal times, it has to be acknowledged that the life strategy of most of those living under occupation during the Second World War in Europe was dominated by the impulse to 'get by' rather than to be heroic martyrs. Although the parameters of 'reality' might have changed, the bulk of people continued to reveal all the normal contradictory human traits of courage and cowardice, defiance and submission, resistance and collaboration.

In other words, in adapting to the new conditions of occupation, the majority of people did not become full-time members of resistance groups, nor did they become abject collaborators. Rather they concentrated on survival. What this meant was that, as people arrived at their own balance between adaptation to and rejection of the constraints imposed by the occupying power, the boundaries between collaboration and resistance became blurred. Thus, according to the historian David Thomson, the majority of people in occupied Europe belonged to neither of the two extremes of active resisters or craven collaborators, 'but included infinite shades of semi-collaboration, acquiescence, surrender to necessity, neutralism and mild piecemeal resistance.'¹⁰

By contrast with the majority of folk who, if they collaborated with the occupier did so unwittingly or unwillingly, there were in each country in occupied Europe, with the exception of Poland, organised groups and movements who collaborated willingly with the Germans because

⁹ Conway, Martin, *Collaboration in Belgium: Léon Degrelle and the Rexist Movement*, New Haven & London: Yale University Press, 1993, p.2.

¹⁰ Thomson, David, *Europe Since Napoleon*, Harmondsworth: Penguin, 1977, p.812.

they shared at least some of the tenets of National Socialism.¹¹ In Norway there was Vidkun Quisling and his National Unity Party. In Holland there was Anton Mussert's National Socialist Party, whilst in Belgium there were a number of sympathetic organisations including Leon Degrelle's Rexist Movement. In France there were a number of fascist groupings, whilst in Denmark there were no less than 22 political organisations sympathetic to Nazism.¹²

Although the membership of such collaborationist organisations never constituted more than a small minority of the population in each country, some idea of the general extent of collaboration with the German occupiers can be gauged from the number of people charged at the end of the war, although one does need to bear in mind that the numbers brought to trial reflected the energy and determination with which the purging process was pursued as much as the actual level of collaboration. In Holland somewhere between 250-450,000, out of a population of 9.2 million, were investigated, and 150,000 were charged with collaboration.¹³ In Belgium, with a population of around eight million, over 300,000 were investigated, and about 100,000 arrested, with 77,000 found guilty and punished.¹⁴ In Denmark, with a population of some four million, approximately 22,000 were arrested within two days of liberation, of which number 15,000 were brought to trial and 14,000 found guilty.¹⁵ In Norway, with a similar size population to Denmark, a total of over 90,000 were investigated, and

¹¹ The main reason there was no collaborationist movement in Poland was because the Germans were not interested in collaborating with any section of the Polish population - it takes two sides to collaborate.

¹² Littlejohn, D., *op.cit.*, p.59.

¹³ Mason, H.L., *The Purge of Dutch Quislings: Emergency Justice in the Netherlands*, The Hague: Martinus Nijhoff, 1952, p.138.

¹⁴ Littlejohn, D., *op.cit.*, p.182.

¹⁵ Givskov, C.C., 'The Danish Purge Laws', *Journal of Criminal Law*, vol. 39, 1948, p.458.

approximately 63,000 found guilty.¹⁶ By contrast, in France, with a population more than twice the size of Holland and Belgium combined, only 125,000 were brought to trial - a figure that reflects the relative lack of vigour with which the purge was pursued in that country.

The significance of these figures lies in the evidence they provide to show that collaboration in occupied Western Europe during the Second World War was not a rare or unusual occurrence. It was commonplace. But to understand why this was so, we need to understand something of the fluidity of the phenomenon and explore the different forms it took.

The Second World War was unlike any previous war insofar as it touched each and every aspect of life, it was total war. The division between military and civilian, combatant and non-combatant broke down. Especially in the countries of Axis-occupied Europe, everyone was a participant in the war in some form or another. It was virtually impossible to be a neutral bystander. Hence, one approach to distinguishing between different manifestations of collaboration is according to the area of life within which the collaboration took place. Thus, one might refer to the *political* collaboration of people like Quisling and Mussert and their followers, or the *military* collaboration of the 50,000 Dutch who fought alongside the Germans. There were also the *horizontal* collaborators, those women who had affairs with Germans during the war - a particular form of *social* collaboration. The most common form of collaboration, however, was *economic*.

Throughout occupied Europe thousands of ordinary workers volunteered to work in German industry prior to the introduction of forced labour. Indeed, according to Rings, 'By the end of August 1941, a grand total of over

¹⁶ Andenoes, Johs, 'La Répression de la Collaboration avec l'Ennemi en Norvège', *Revue de Droit Penal et de Criminologie*, vol. 27, Part 7, April 1947, p.606.

two million European workers, male and female, had voluntarily gone to the Third Reich to work for Hitler's war machine.¹⁷ Furthermore, insofar as the economy of each of the occupied countries was geared to assisting the German war aims, the only kind of employment or economic activity available to most people involved some form of service to the enemy. As Werner Rings has provocatively expressed it, during the early years of the Second World War, 'the whole of occupied Europe worked primarily for Hitler's war machine.'¹⁸ This is a view supported by John Sweets' study of the French city of Clermont-Ferrand under occupation. By 1943 France had become the most important supplier of raw materials, foodstuffs and manufactured goods to the German economy and, according to Sweets, 'most employed persons were working, directly or indirectly, for German ends.'¹⁹

The problem with categorising collaboration according to the area of life within which it took place is that it tells us nothing about the orientation of the collaborators. There are a number of criteria that seem to be more pertinent to any efforts to calculate the degree of blame to be attached to different types of collaboration than the area of life within which it has occurred. One obvious factor is the degree of damage, harm or violence inflicted upon compatriots or the national interest by the actions of the collaborator. However, this factor relates to the consequences of collaboration rather than the predisposition of the collaborator, and as such can only be taken account of on a case-by-case basis. But there are two other factors that relate to the type of motivation behind the collaboration that can be used for purposes of categorisation.

¹⁷ Rings, W., op.cit., p.80.

¹⁸ Rings, W., op.cit., p.82.

¹⁹ Sweets, John F, *Choices in Vichy France: The French under Nazi Occupation*. New York: Oxford University Press, 1986, p.198.

One concerns the spirit with which the collaborator provides services to the occupier. Did people collaborate willingly or reluctantly, with enthusiasm or as a 'necessary evil'? The other factor concerns the extent to which services were offered by the collaborator out of some sense of communal loyalty, however misguided, or out of unbridled self-interest. On the basis of these two criteria, a four-fold typology can be used to present an overview of the range of collaborative activity prevalent in occupied Europe during the Second World War.²⁰ It is presented in diagrammatic form below:

Collaboration for benefit of:	Co-operation offered	
	Willingly	Reluctantly
<i>Individual/self-interest</i>	i) <i>The traitor.</i> Unconditional collaboration for private gain.	iii) <i>Accommodationist.</i> collaboration in order to survive.
<i>Community interest</i>	ii) <i>The patriotic traitor.</i> Collaborationism in service of the occupier's cause.	iv) <i>Conditional collaborator.</i> to serve the wider community.

²⁰ The following typology is based on that presented by Werner Warmbrunn, see Werner Warmbrunn, *The Dutch Under German Occupation, 1940-1945*, London: Oxford University Press, 1963, pp.272-5. See also the typology presented in W. Rings, op.cit.

III ●

Towards a Typology of Collaboration

1.& 2. The Treason of the Unconditional Collaborator and the Collaborationist

From the perspective of a particular community or society under occupation, there is little to choose in moral turpitude between those who offer their services to the enemy for reasons of self-interest, and those who do so on behalf of what they consider to be the best interests of their society. Both types have generally been stigmatised as traitors. Moreover, in practice those who serve the cause of the occupier enthusiastically are likely to be motivated by a mixture of both self-interest and idealism, making it difficult to distinguish between the two.

However, from the point of view of trying to evaluate the degree of moral wrong entailed in different forms of collaboration, it would seem worthwhile to try and distinguish between those opportunists who offer their services for private gain, and have no justification for their action other than personal greed, vanity or desire; and those who co-operate with the occupier because they identify with the enemy's cause, principled collaborators who believe that through their actions they can help bring

about positive changes in their own society. The term 'collaborationist' has been applied by some writers to such people.²¹ Unlike the unscrupulous collaborators that betray their neighbours and fellow community members for the sake of silver, at least the collaborationist can claim a devotion to a cause beyond his or her individual self-interest.

As was remarked above, every country in occupied Europe during the Second World War, with the exception of Poland, produced its indigenous collaborationist movement. Despite their differences, their leadership identified with the German cause and, through collaboration, hoped to acquire the political power necessary to transform their own societies so that they might take their rightful place in the German-dominated New Europe. Although the collaborationist movements that they led undoubtedly attracted corrupt and brutal individuals, unconditional collaborators who sought to enrich themselves through co-operation with the enemy and the exploitation of their compatriots, it is equally clear that a considerable proportion of the membership of such movements were 'patriotic traitors, to use Littlejohn's apt description, who did what they did because they saw the need for a radical transformation of their own society. People like Vidkun Quisling believed that the fate of their country was linked to that of Germany, and that through serving the German cause they were serving the interests of their own nation. Quisling went to his death convinced that history would judge him a martyr.

²¹ See, for instance, Jacques Semelin, *Unarmed Against Hitler: Civilian Resistance in Europe, 1939-1943*, London: Praeger, 1993.

3. Accommodationism

The archetypal accommodationist was the impoverished worker who needed a job, even if that involved taking one that ultimately benefited the enemy. In this category one should also include those industrialists who produced and sold goods to the enemy, in order to keep their factory running, and the farmers who sold their produce to feed the Germans. They all co-operated with the occupier, and as such can be deemed to have been collaborators. However, their collaboration frequently stemmed from the belief that they had no alternative but to deal with the enemy, that they had no other realistic option if they were to avoid destitution. Just because they worked for and with the enemy, it did not imply that they had any sympathy with him. They did not collaborate for a 'cause' but in order that they and their family might live.

Such accommodationism would seem to have been the most common form of collaboration: people co-operating in some way or another with the enemy reluctantly, because they felt they had no other choice if they and their dependants were to survive. To accommodate oneself to the enemy did not imply active support for their cause. It did, however, bring about some seemingly contradictory situations. The typical accommodationist might well be a collaborator during working hours and a resister in their 'free time'. By day they helped the occupier, at night they assisted the partisans. One example concerns the head of the Michelin company in France, who was acknowledged to have been one of the leading figures in the French resistance. Despite this, by the time the company's main plant in Clermont-Ferrand was destroyed in a bombing raid in March 1944, 80% of the production was exported to Germany.²² John Sweets has

²² Sweets, *op.cit.*, p.12.

expressed the dilemma of people like Monsieur Michelin very clearly:

"In reality, what practical alternative did a French factory owner have to keeping his business going by taking up German contracts? Refusal to co-operate might mean confiscation of the factory's material stocks and equipment for shipment to Germany; by 1943 it definitely would have threatened the workers with transfer to Germany under the forced labour draft. ... choices were not simple and without consequence in occupied France."²³

It is impossible to judge the culpability of the accommodationist. As in normal everyday life, a common excuse made by the cowardly and the weak was that they had no option, to seek to do otherwise would have been impossible and unrealistic. In such a manner they tried to evade responsibility for their actions. But who can say how they themselves would react when faced with difficult moral choices under the anomic conditions of occupation? As Werner Warmbrunn has remarked with regard to the Dutch experience in the Second World War:

"No nation is composed predominantly of heroes, and for many citizens the necessity of making this choice never presented itself. It is sufficient to say, therefore, that individual Dutchmen who had to face such often heart-breaking alternatives, whether to work in Germany or to go into hiding, whether to offer shelter to Jews, or whether to join a resistance group, arrived at their decisions probably with the same mixture of heroism, cowardice, and common sense that other persons would display under similar circumstances. ...Because each instance of 'accommodation' has to be judged on its own merits, it is impossible to make a generalised judgement with respect to this category of collaboration."²⁴

²³ Sweets, *op.cit.*, p.14.

²⁴ Warmbrunn, *W.*, *op.cit.*, p.273.

For many businessmen, who argued that they had no alternative but to trade with the Germans, the temptation to boost profit margins proved irresistible. They ended up as 'profiteers', making money out of other people's hardship through activities such as taking over the businesses of dispossessed Jews. Down such a slippery slope the respectable accommodationist would join company alongside the black marketeers and those workers who voluntarily gave up their pre-war jobs in order to earn more money making munitions for the Germans - the collaboration of such people went beyond accommodation.

4. Conditional Collaboration

The conditional collaborators consented to co-operate with the enemy in some way or another, albeit reluctantly, because they believed that by their actions they could serve the interests of the wider public or of special groups within the general population. This is the type of orientation labelled 'reasonable collaboration' by Warmbrunn.²⁵ The ideal-type conditional collaborator operated in the belief that the benefits derived by the enemy from his or her services were outweighed by the advantages that accrued to their compatriots. Another way of putting it would be that they collaborated in order to assist their fellow nationals, and in some cases collaborated so that they might be more effective resisters.

As such this category embraces those that Rings depicted as tactical collaborators, who worked for the enemy during the day, in order to obtain the documents or whatever necessary to carry out their activities as a partisan in the evening. It covers also the civil servants who stayed

²⁵ In his typology, Rings attempted to distinguish between neutral, conditional and tactical collaborators. Despite the value of Rings' work, there are a number of inconsistencies in his typology and so for the sake of clarity I have grouped them all together, following the example of Warmbrunn.

at their posts under occupation, albeit reluctantly, not in order to serve the new regime, but to continue to provide needed services to the public at large. In pursuing a strategy of conditional collaboration, such people might also have been trying to fulfil a shielding function, seeking to protect their compatriots from the worst aspects of foreign domination.

Whatever the specific motivation, in each case the collaboration was entered into reluctantly and for the sake of the wider community rather than for personal gain. But all too frequently the conditional collaborator could find themselves on a slippery slope as the moral ambiguities of their position came into ever-sharper focus. Should law officers have stayed at their posts to prevent the complete subordination of legal process to the will of the occupier and to maintain the 'rule of law', if they ended up in a situation where they provided a spurious legitimacy to the rules and regulations imposed by the occupiers? Should the Dutch judiciary have stayed at their posts, as they did, after their Jewish colleagues were stripped of office? Should university administrators and faculty have struggled to keep their universities open and functioning in occupied Europe after the Jews and other 'undesirables' had been excluded? Was the Danish government protecting its citizens from the worst excesses of German rule when it handed over the Danish communists and veterans from the Republican side of the Spanish Civil War for deportation to concentration camps, from which the majority never returned?²⁶ Could the Danish government claim any moral superiority over that of the Vichy regime which, in the interests of good relations with the Germans, rounded up for deportation all non-French Jews in August 1943?

²⁶ See Leo Kari, *De Danske spaniensfrivillige*, Rosenkilde og Bagger, 1952, pp.187-194.

There is a terrible poignancy to some of the examples of conditional collaboration during the Second World War - none more so than the case of the Jewish Councils that acted as liaison committees through which dealings between the Nazis and the Jews were carried out. It is clear that people participated in the Councils reluctantly. But a key rationale was the belief that they had a duty to protect their fellow Jews from as much persecution as possible, however minuscule. Thus, a German rabbi who survived the Holocaust expressed the view:

"When the question arose whether Jewish orderlies should select Jews for deportation, I took the view that it would be better for them to do it because they would at least treat them more gently and be more likely to assist them and make their lot easier than the Gestapo. Effective resistance to the task was beyond our power."²⁷

In the process, of course, they helped the Nazis implement their genocidal project.

On the basis of the Second World War experience, it would seem that any sustained co-operation with an evil so obscene as National Socialism, however necessary such co-operation might have seemed, ultimately corroded and contaminated the noble intentions of the conditional collaborators.

²⁷ Quoted in Rings, W., *op.cit.*, pp.140-1.

IV. The Purging of Collaborators: The European Experience

1. 'Self-Help' Justice

The typology presented in the previous section was constructed to highlight the different degrees of culpability associated with the various forms of collaboration. The unconditional collaborator who was prepared to betray, torture and murder his or her compatriots for personal reward and gratification clearly occupied a different moral world from the conditional collaborator who, rightly or wrongly, co-operated with the enemy in the sincere belief that by so doing they were performing a service for their fellow citizens, assisting in some way or another the struggle against complete subjugation to the occupying power.

Certainly, it would appear that resistance groups during the Second World War operated with such distinctions in mind. Thus, it has been estimated that in France over 5,000 collaborators were assassinated or summarily executed during the war, the bulk of them in the last few

weeks prior to liberation.²⁸ Most of these executions were directed against members of the *milice*, a collaborationist para-military force that concentrated on anti-resistance activity. So hated were the *miliciens* that members of their families were deemed legitimate assassination targets by certain resistance groups. Often such executions were preceded by secret 'trials', with the accused being informed of the judgement of the 'court' by means of public warnings daubed on walls or printed in underground leaflets. Indeed, so quickly did the number of executions accelerate during the last months of the war in France that the leaders of the resistance tried to control it, fearful that it was opening the door to personal vendettas and simple banditry. As it was, the pattern of 'cross-roads justice' continued in France for a number of months after liberation, with at least 4,500 summary executions taking place.²⁹ According to official government estimates, a quarter of these summary executions were preceded by some form of *de facto* trial convened by local liberation committees. As for the remainder, although some of the killing was politically motivated or carried out for private gain, the majority of executions were the result of spontaneous and uncontrollable rage fuelled by frustration at the slow pace of official justice.³⁰

The level of 'self-help' justice (or 'lynch law') was unusually high in France. But throughout the rest of occupied Europe unconditional collaborators and collaborationists were deemed to be legitimate targets for the resistance. There were at least 170 summary executions in Denmark, with four collaborators shot dead in a single day in Copenhagen in May 1943. In Holland there were 300

²⁸ Littlejohn, D., op.cit., p.289.

²⁹ Novick, Peter, *The Resistance Versus Vichy: The Purge of Collaborators in Liberated France*, London: Chatto and Windus, 1968, p.71.

³⁰ *Ibid.*, p.72.

executions in 1944 alone - a particularly large figure for a country that had not had a political murder since 1672.³¹

Interestingly, an attack on three Dutch collaborationists in April 1943 provoked considerable discussion in the underground press. The victims were Dutch fascists, but they were not directly responsible for the deaths of any of their compatriots. Therefore, it was argued by a significant section of opinion, these attacks were nothing more than irresponsible political murders, because the circumstances were not held to be so extreme or extenuating as to justify their assassination.³²

The level of antipathy towards the unconditional collaborators, traitors and 'patriotic traitors' alike, was revealed in the aftermath to liberation. Denmark, Holland, and Norway passed retroactive legislation introducing the death penalty to deal with extreme cases of collaboration and such crimes against humanity as the torture of prisoners. In Norway 30 death sentences were passed, of which 25 were carried out.³³ In Denmark there were 112 death sentences, and 46 people were executed.³⁴ In Holland 138 death sentences were imposed, but only 36 of them were carried out.³⁵ Belgium had the highest proportion of death sentences, with 4,170 people condemned, of which number 230 were eventually executed.³⁶ There were more official executions in France than anywhere else, with 6,763 death sentences

³¹ Warmbrunn, W., op.cit., pp.206-8.

³² Zondergeld, G., 'Non-violent resistance in the Netherlands during World War II', in Grünewald, G., and van den Dungen, P., eds, *Twentieth Century Peace Movements: Successes and Failures*: Lampeter: Edwin Mellen, 1995, p.175.

³³ Littlejohn, D., op.cit., p.48.

³⁴ Littlejohn, D., op.cit., p.82.

³⁵ Mason, H.L., op.cit., p.64.

³⁶ Littlejohn, D., p.182.

delivered by the courts (3,910 were handed out in absentia), of which 767 were carried out.³⁷

In each country there was concern that the process of purging the collaborators should be carried out by the legitimate state authorities, in order to avoid the worst excesses of lynch law and political murder, and to facilitate the re-establishment of legitimate state authority. How thorough and how severe the purging should be became a focal point of political discussion. One noteworthy debate took place between Albert Camus and Francois Mauriac in France. In the interests of national reconciliation Mauriac urged forgiveness. For his part, Camus, whilst rejecting hatred as repugnant, felt that forgiveness was an insult to his dead comrades, and the failure to 'clean the house' would sabotage the chance of building a new social order in post-war France.³⁸

Special courts and tribunals were established to deal with collaborators. Amongst the problems faced were the floods of denunciations that occurred in each country, with quite a number coming from criminal elements masquerading as resisters to cover their tracks. The processing of accusations was handicapped by the felt need to purge the police of collaborators before it could act as an investigatory and law-enforcement agency. For example, 13.7% of the Dutch police force was dismissed in the aftermath to liberation.³⁹ Alongside the dilemma of determining sentences that were proportional to the type of collaboration, there were also problems of inconsistency in sentencing between different courts and regions.

³⁷ Novick, P., *op.cit.*, p.186

³⁸ See *ibid.*, pp.166-67.

³⁹ Mason, H.L., *op.cit.*, p.92.

2. France

The *épuration* or purging process was most demanding and difficult in France, where the level and extent of collaboration presented particular problems. A 'purge commission' was established for each government department to consider any charges made against civil servants. Most of those accused claimed that they were conditional collaborators: either they stayed in post in order to meet the needs of the wider community or else they claimed they were playing the 'double game', 'collaborating' with the enemy so that they might help the resistance more effectively. To cope with this defence it was agreed that any civil servant who confined their collaboration to the normal performance of their duty was not culpable, unless they showed excessive zeal for activities that were 'anti-national' in their consequences, or failed to evade their official obligations when such avoidance would have served the nation.

The general aim was to exclude from public office all those who had worked directly or indirectly for the establishment in France of a political order modelled on that of Germany. However, there would not have been enough room in the prisons for all the people guilty of such a crime, in addition to those who had collaborated with the Germans in other ways. Therefore the French introduced an ordinance dealing with the 'national indignity' incurred by anyone who had voluntarily aided Germany and her allies and thereby harmed the French nation. Over 100,000 French citizens were charged with bringing dishonour on the nation. They were unworthy citizens, *inciviques*. As a consequence, they were deprived of their rights of citizenship for periods of five years or more. During this period they were excluded from voting or holding any elected office, or occupying any position in the civil service or in any of the public utilities in which the state played a significant role. Other discretionary

penalties included the confiscation of property and the loss of state pension rights.

In relative terms France had the lowest rate of arrests and imprisonment in Western Europe, with a total of 38,000 imprisoned, a ratio of around 94 out of every 100,000 in the population. The figure for Denmark was 374 out of every 100,000 (a total of 14,000 prison sentences), whilst the 40,000 sentenced in Holland was of the ratio of 419 for every 100,000 citizens. An approximate total of 50,000 Belgians were imprisoned, 596 out of every 100,000. Top of the league came Norway with a total of around 21,000 imprisoned, equivalent to 633 for every 100,000 Norwegians.⁴⁰

Whilst other countries were more vigorous than France in their pursuance of collaborators, in each country this initial approach gave way over time to a more lenient stance vis-à-vis the convicted collaborators as the rage for vengeance of the immediate post-occupation period gave way to more considered concerns about reconciliation and rehabilitation. Thus, in the case of France, of the 38,000 imprisoned for collaboration, more than two-thirds had been released by the end of 1948. Also during that year over one third of the sentences of national degradation were suspended by presidential decree. By the time of the first important Amnesty Law of 1951 only about 4,000 remained in prison.⁴¹

3. Norway

The most far-reaching prosecution of suspected collaborators was adopted by Norway. During its exile in London the government had passed a number of ordinances dealing with collaboration. Whilst they re-introduced the

⁴⁰ Novick, P., *op.cit.*, p.187.

⁴¹ *Ibid.*, pp.187-8.

death penalty, which had been abolished in 1876, they acted on the recommendations of a special committee established at the instigation of the resistance movement to lay down a series of lesser penalties for those forms of treachery that did not merit the ultimate sanction. Collaborators were also charged under those sections of the penal code dealing with illegal attempts to overthrow the government and providing illicit help to the enemy. Others were prosecuted under those articles of the military penal code that related to the behaviour of civilians in time of war and in the theatre of war. For this purpose Norway was considered to be a theatre of war from the invasion of 1940 to liberation in 1945.

Over 90,000 were investigated. 25 unconditional collaborators and collaborationists were executed, the majority of them responsible for inflicting gross suffering on their fellow Norwegians. A system of local tribunals was established to deal with the less serious charges, and by April 1947 6-8,000 had been sentenced to terms of imprisonment of three years or more; 15,000 had been sentenced to shorter terms; and some 33-34,000 had been fined and/or deprived of their civil rights. In addition a number of collaborators had restrictions placed on their movements and were excluded from certain areas in order to avoid social disturbance and situations where their lives might be endangered. A total of 6,000 Norwegians were exempted from punishment because their offence was deemed to be minimal.⁴² In subsequent years a series of amnesties were granted, culminating in July 1948 when all those collaborators who had served more than half their sentence were released.

The Norwegians found it particularly problematic dealing with economic collaborators: where was the dividing line between reasonable accommodationism and outright

⁴² These figures are taken from Johs Andenoes, *op.cit.*, pp.589-606.

profiteering? Was the man who gave up his job on the farm for a better paid one in a German-run factory guilty of collaboration, or was he merely acting as a normal *homo economicus*, seeking the best return for his labour? In the end the distinction was deemed to revolve around the issue of whether or not a person had provided direct assistance to the German war effort, like involvement in munitions manufacture or the construction of defences. People who had derived material benefit from collaboration during the occupation had their property confiscated. In addition the charge of national indignity allowed for various economic sanctions, including prohibitions on the ownership of certain kinds of property and the pursuance of certain professions. These were designed to ensure that collaborators could not exercise any significant economic role in society. However, the full sanctions were rarely applied once it was realised that if they were, then people would be prevented from earning any kind of livelihood.

4. Denmark

A similar pattern of vigorous prosecution of collaborators, followed by relative leniency, was followed in Denmark. Within two days of the capitulation of Germany special 'arrest committees', which had been prepared in advance and were equipped with file cards and transport, emerged to take into custody some 22,000 alleged collaborators. By April 1948 approximately 15,000 had been charged, with 23 executed and the remainder of those found guilty sentenced to various combinations of terms of imprisonment, fines, confiscation of property, and deprivation of civil rights for those deemed to be 'unworthy of common confidence'.⁴³

⁴³ See Givskov, C.C., *op.cit.*, pp.447-60.

5. Holland

In Holland somewhere in the region of 120,000-150,000 were investigated, and by October 1945 there were 96,044 in custody. Like Norway and Denmark, Holland had introduced retroactive legislation so that the death penalty might be passed on those guilty of the worst crimes of treason. Amongst those sentenced to death were Dutch military officers who served in the German armed forces. According to Dutch law, a person forfeited their citizenship on entering foreign military service without permission of the crown. It has been estimated that at least 25,000 Dutch men fought alongside the Germans during the war. The survivors were amongst the 60,000 who were stripped of their Dutch nationality and had their property confiscated after the war.⁴⁴

As in the other countries, those guilty of less serious forms of collaboration faced a range of lesser penalties, including the deprivation of civil rights - even having a 'Nazi state of mind' or a 'disloyal attitude', displayed by being sympathetic to Nazism or being friendly with Germans, was deemed to be an offence entailing 'national indignity'. Special courts had to be established to deal with the numbers accused of collaboration. In the general process of *zuivering* or purification of Dutch society, a particularly significant role was played by occupational purge boards. By January 1947 there were over 50 of them in existence, each with its own standards of 'patriotic conduct' by which to judge the behaviour of those who appeared before them. They covered all the branches of industry and commerce, the different public services and government employees, university students, the press and artists. Most boards consisted of a judge, assisted by two or more lay jurors from the appropriate occupational group who possessed exemplary resistance records.

⁴⁴ This figure included 20,000 wives who lost their citizenship automatically along with their husbands. See Mason, H.L., *op.cit.*, p.66.

Many of the men and women who were released from internment or escaped imprisonment altogether had some kind of supervision order placed on them by the Dutch authorities.⁴⁵ However, although free to try to pick up the threads of normal life, many were forced to live as social outcasts. They were ostracised, their children were discriminated against in local schools, they were treated as pariahs. Most ex-collaborators dealt with this problem by moving to new locales where they were not known. To assist collaborators in the difficult process of rehabilitation and re-entry into society a voluntary association was established - the 'Foundation for the Supervision and Care of Collaborators'. Its activities were primarily three-fold: supervising conditionally released internees and preparing character reports for the courts, providing material relief and welfare for collaborators and their families, and acting as a general pressure group on their behalf. Although it received funding from the Dutch government, the Foundation was staffed by more than 17,000 volunteers. Its founder explained the thinking behind the venture:

"Our aim is always to prevent the creation of a pariah class in our nation. 'Resocialisation' does not only consist of overcoming material difficulties or finding a suitable job [for the pupil]. Resocialisation must be in the first place a mental reorientation along the lines of the ideals and life of our society. The religious, moral, cultural and political traditions of our nation must gradually penetrate the minds of Quislings. Without such a voluntary submission to the values of our society they will remain strangers and even enemies in our midst... This mental purge must come... through ordinary, day-to-day life, work, and social intercourse."⁴⁶

⁴⁵ The male-female ration of collaborators was 3:1. *Ibid.*, p.40.

⁴⁶ *Ibid.*, p.156.

6. Belgium

Amongst the occupied countries of Western Europe during the Second World War, only Belgium had experienced occupation during the First World War. As a consequence legislation was passed during the inter-war years specifying the punishment for various forms of collaboration. The sanctions for economic collaboration were particularly severe, laying down the death sentence for all those who aided the enemy by providing soldiers, labourers, money, food, arms or ammunition. Given the virtual impossibility of avoiding such involvement with the enemy during the occupation, this was far too draconian to be implemented.

Therefore, in May 1945 retroactive legislation was introduced that attempted to distinguish between different degrees of economic collaboration and culpability. Those responsible for the provision of manpower or items for exclusive military use, or supplying the enemy with raw materials and goods which the accused knew, or should have known, were destined for the manufacture of military items, and those who acted as agents on behalf of the enemy in the procurement and transport of such goods, were to be punished unless the accused could show that they had used all the means available to avoid executing the orders. Those who supplied the enemy with goods that were not of a distinctly military character would not be prosecuted, unless they had used the enemy to solve labour disputes or otherwise stepped beyond what remained an ill-defined line between what was recognised as necessary and unavoidable compliance with the exigencies imposed by occupation and the active pursuance of profit through fulfilling the requirements of the enemy.

In the event, the Belgians had no more success than any other country in dealing with the tricky question of distin-

guishing between profiteering and accommodationism. As one Belgian legal expert observed at the time,

"... it is easy to punish the guilty one when the offence is to have worn a certain uniform, to have denounced to the enemy one's fellow countryman, or to have written in a newspaper in support of the occupation; but it is infinitely more difficult to decide in what measure an industrialist who worked under the control of the occupant provided him with 'guilty goods'.⁴⁷

Under the Belgian penal law, offenses relating to the external safety of the state in war-time were the concern of the military courts. The Belgian government-in-exile decided to stay with this procedure, but in cases of collaboration the three military officers who sat in judgement were joined by two civil magistrates. As in other countries, the heaviest penalties were imposed on those responsible for denouncing and betraying their fellow citizens to the enemy, those who had fought alongside the German forces, and the representatives of the media who had produced propaganda for the enemy. Similarly, the *inciviques*, those who could not be judged guilty but who certainly could not be considered innocent, insofar as their conduct during the occupation had fallen short of what it should have been, suffered the suspension of their civil and political rights.

7. Common Features

Despite the differences in the treatment of collaborators between each country, some common features are discernible.

⁴⁷ Vermeylen, P, 'The Punishment of Collaborators', *Annals of the American Academy of Political and Social Science*, CCXLVII, September 1946, p.75.

a. Restoring the power of the state

In each country the government sought to control the actions of vigilantes in pursuit of self-help justice and impose the power of the state over the purification process. This was most difficult in the immediate aftermath to liberation, when the anger and fury against collaborators was at its greatest. Therefore, those collaborators who came before the courts in the early days after liberation tended to receive the most severe sentences. In general, the severity of the sentencing eased with the passage of time. This led to many inconsistencies in the levels of sentencing, but reflected the cooling of popular anger.

b. Retroactive Legislation

Norway, Denmark and Holland each passed retroactive legislation in order to introduce the death penalty for the worst cases of treason, despite the concern of jurists and others that this involved a drastic departure from the principle of *nulla poena sine lege* ('no punishment without law or due legal process'). In Belgium and France the death penalty had not been abolished, but like the other countries, they found it necessary to modify their legal code to deal with the phenomenon of mass collaboration. Basically, the pre-war legislation that dealt with matters of treason was too rigid and severe for the punishment of people who were not so much treacherous as weak, greedy and opportunistic. Therefore, in each country a new set of offences was introduced, relating to the bringing of dishonour upon the nation, and punishable by a sliding scale of sentences involving imprisonment, fines, confiscation of property, and the deprivation of civil rights.

c. Short-cutting the Judicial Process

Because of the absolute numbers of collaborators that confronted the judiciary in the newly-liberated countries, and because of the nature of the offence, it was felt necessary to modify the existing judicial machinery. There

were three noteworthy dimensions to these changes. First of all there was the introduction of local courts and tribunals to deal with the less serious cases. A second feature was the introduction of lay jurors into the judicial system in countries that did not normally employ them. This reflected the general feeling that there should be some popular participation in the administration of justice to collaborators, particularly in deliberations about the sentence to be imposed.⁴⁸ The third modification that was adopted in Belgium, Holland and Norway, was the widespread use of negotiated settlements, which took place either in or out of court. In such cases the accused would be offered a fairly standardised penalty for the kind of offence with which they were charged. If this was accepted, the matter was dealt with administratively and the need for a trial was obviated. By 'short-cutting' the normal procedures in this manner, the judicial systems were able to deal with the huge backlog of cases that faced them, although it could also lead to popular indignation if it was suspected that collaborators were getting off too lightly.⁴⁹

d. The problem of the lampistes

One of the criticisms made of the purge process as it was carried out in each country was that too often the 'big fish' escaped serious punishment, whilst their subordinates suffered the full force of public anger and state justice. Of course, it must have been all but impossible to feel any sympathy for collaborators who had blood on their hands, such as the police who had arrested resistance activists and those who participated in their interrogation and torture. They were obvious targets for vigilantes in search of vengeance, hence the term *lampistes* -

⁴⁸ In support of such an innovation, the Dutch Minister of Justice observed that whilst 'the administration of penal justice... presupposes a very carefully defined punishable deed... there are 10,000 and more forms of unpatriotic behaviour' that ordinary laypeople could judge as well as jurists. Quoted in Novick, P., *op.cit.*, p213.

⁴⁹ For a discussion of these matters, see Novick, P., *op.cit.*, pp209-214.

such people were the most likely to be strung up from the nearest lamppost.

But what of the bureaucrats and the decision-makers camouflaged behind their desks upon whose instructions such people acted? Too often, by the time the trail of collaboration had been traced back to such people, public anger had subsided. Invariably there were influential figures to speak on their behalf, and the courts had grown more tolerant of the defence ploy of those who claimed to be conditional collaborators playing the 'double game', working for the enemy in order to help the resistance. The result was that they tended to escape with relatively light sentences.

e. Rehabilitation and Amnesties

As popular resentment against collaborators waned with the passage of time, so concern grew about the need for reconciliation and the eventual rehabilitation of collaborators. This was reflected in the series of amnesties that were decreed during the late 1940s. The result was that by 1950 there were few collaborators still serving prison sentences in the states of formerly occupied Western Europe.

f. Laying the Foundations for a New Democratic Order

One final point needs to be made before concluding this section. Norway, Denmark, Holland, Belgium and France were countries that prided themselves on their democratic state system. As such, the new post-liberation political authorities felt they stood in sharp contrast to the totalitarian system imposed on their countries by the Germans during the war. Consequently, in their active pursuance of collaborators they were not just responding to public anger and the desire to punish those who, to some degree or other, had betrayed their fellow citizens. They also felt they were laying the foundations for a new democratic post-war order. The purging of collaborators

was a purification process. Part of it was about revenge and retribution, but primarily it was about cleansing the society. The whole process was seen as integral to the construction of a new order that was the complete antithesis of the fascist totalitarianism of National Socialism.

To adopt a medical analogy, it was as if the immediate post-war regimes saw themselves as doctors, charged with healing a body that had been wracked by a debilitating disease. The treatment required a certain amount of surgery, and a degree of attention to the distressing symptoms of the disease, but this was seen as preparatory to the establishment of a new therapeutic regime, which would build up the body's defences against any recurrence of the malady, thereby ensuring the growth of a regenerated and healthy social organism.

This is the kind of challenge that many people hope the Palestinian political authorities will be prepared to take up in the context of a final settlement. In order to understand the seriousness of that challenge, however, we must first of all map out the extent of the 'disease' within Palestinian society as manifested by collaboration with the Israeli occupiers.



Collaboration: The Palestinian Experience

Whilst there can be no firm estimate of the number of Palestinians who have collaborated with the Israelis, there is general agreement that they can be numbered in their tens of thousands. To understand why so many Palestinians have 'served the enemy' in some way or another, we need to look briefly at their experience of Israeli occupation. Insofar as it relates to the phenomenon of collaboration, this experience can be divided into three periods: before the Intifada, during the Intifada, and since the establishment of the PA.

1. Palestinian Collaboration Prior to the Intifada

To understand why the phenomenon of Palestinian collaboration with the Israeli occupiers has been so widespread it is important to take account of a number of contributing factors that were present during the first 20 years of occupation, from 1967 to the outbreak of the uprising in 1987.

One crucial factor relates to the lack of any clear and unambiguous directives provided to the inhabitants of the Occupied Territories concerning the appropriate relationships to be adopted in relation to the Israeli occupiers. Unlike the liberal democracies of Western Europe occupied by the Germans in the Second World War, when the West Bank and Gaza Strip was occupied by the Israel in 1967 there was no legitimate Palestinian government in existence. The West Bank had been annexed by Jordan after the 1948 war and the Gaza Strip was under Egyptian control. The PLO had been established in 1964, but its autonomy was severely circumscribed by the Arab states. As a consequence there were competing authorities laying claim to the loyalty and obedience of the Palestinian people. This meant that, in the aftermath of the War of 1967, the Palestinian population of the territories had to cope with the anomic conditions of the Israeli occupation unaided by any clear guidelines from any authoritative source as to where the borderline lay between acceptable behaviour and collaboration.

After 1974 the PLO could claim with some legitimacy to be the sole representative of the Palestinian people. It was therefore in a position to lay down clear directives to the inhabitants of the West Bank and Gaza Strip as to how they should relate to the occupiers. It failed to do this. In part this reflected the factionalised composition of the PLO, composed as it was of different political groupings whose relationship has more often been one of rivalry than co-operation in the common struggle. This meant that Palestinians in the territories might receive conflicting guidance as to how they should fulfil their nationalist duties, according to the political faction with which they were affiliated. The lack of clear guidelines also reflected the general perception within the mainstream of the PLO that the liberation of Palestine would come from outside. The active role was to be played by the professional liberation fighters, the *fedayeen*, whilst

the role of the civilians in the Occupied Territories was the essentially passive one of remaining 'steadfast'.

Given such circumstances, it is not surprising that the majority of the Palestinian inhabitants of the Occupied Territories prior to the outbreak of the Intifada in 1987 experienced considerable confusion as to how they should behave towards their occupiers, and were unclear about the borderline between steadfastness and treachery. This dilemma was compounded by the dependency of the Palestinians upon the Israeli occupiers. As a consequence of the relatively undeveloped state of the Palestinian economy and infrastructure at the time of the Israeli occupation in 1967, and the subsequent Israeli policy of undermining any autonomous Palestinian development in the fields of health care, education, welfare provision and, most crucially, the economy, Palestinians became increasingly dependent upon Israel for their livelihood as the years of occupation passed. In the light of this relative powerlessness and the lack of unequivocal guidelines from any authoritative source concerning the proper relationship with the occupier, it is easy to understand how many Palestinians found themselves in a position where they felt obliged to co-operate with the Israelis in ways that, in other circumstances and with the benefit of hindsight, might be classed as collaboration.

Thus, in the years prior to the Intifada up to 150,000 Palestinians worked in Israel each day, particularly in agriculture and the construction industry. Others worked for Israeli contractors in building the settlements that grew to house over 140,000 Israelis upon land expropriated from the Palestinians. Drawing on the classification of different types of collaboration presented above, we could categorise such people as accommodationists, people who saw no alternative means of livelihood other than working for the enemy.

This dependency upon the Israelis also helps to explain the vast number of Palestinians who, from time to time, passed on information to the security services. Whoever needed a permit, a license or any other documentation or service that lay within the domain of the Israeli administration was put under considerable pressure to inform on their neighbours and workmates. This practice of reciprocating 'favours' becomes more readily understandable when one places it in the context of certain aspects of the Palestinian social structure that the Israelis were able to exploit in their efforts to control the inhabitants of the West Bank and Gaza Strip.

Traditional Palestinian society was riven by horizontal and vertical fissures. People were divided not just along economic or class lines, but by communal loyalties to their religion, their village and, most importantly, their family and *hamula*. These divisions were reflected in the political domain. As Moshe Ma'oz has observed of the period when the West Bank was under Jordanian rule,

"...local politics within the West Bank were based largely on inherited group characteristics such as family, religious, and village ties ... The *hamula*, the extended family, or clan, constituted the major political unit and force in West Bank politics."⁵⁰

The whole system was permeated by a network of patron-client relationships that stretched from the level of the village to the 'notable families' of the Palestinian economic, social and political elite via a series of 'brokers' or 'go-betweens'. In pursuit of their interests, Palestinians, whether they were peasants or professionals, were accustomed to approaching a go-between to petition on their behalf or else addressing their request directly to someone with influence in the appropriate

⁵⁰ Ma'oz, Moshe, *Palestinian Leadership in the West Bank*, London: Frank Cass, 1984, p.49.

circles, whether it be related to obtaining permits to dig a well, to travel, to secure a place in an educational institute or whatever.

The key characteristic of all such relationships is that it is a form of exchange. But the service obtained is not a *right* that the client can demand, it is a favour that must be requested. And if it is granted, or if the go-between is successful in the brokerage, then the expectation is that the service or favour will be reciprocated in some way or another. Into such a system the Israeli occupiers were able to insert themselves, as a new and extremely influential layer of patrons, people who were in a position to grant favours and provide services for those who chose to petition them. And in return, as would be expected under such a system, they required certain forms of reciprocity. Herein lay the roots of the thousands of Palestinians who informed on their fellow citizens, the ordinary villagers and urban dwellers who acted as small-scale informers (*mukhber*) monitoring the activities of neighbours and colleagues. The bulk of their number might be classified as accommodationists, insofar as they provided such services to the enemy because they felt that the welfare of themselves and their family required it; they had no realistic alternative.

However, the constituency of clients catered for by the Israeli authorities was not confined to the relatively powerless of Palestinian society. They also targeted the erstwhile patrons of such people. Ian Lustick has explored the manner in which the Israeli state authorities co-opted certain leading figures and elders within the Arab community in Israel after 1948, as part of their overall policy to control the security threat that the Arabs of Israel were seen to pose.⁵¹ The strategies pursued inside Israel after 1948 were adopted in the territories occupied in 1967,

⁵¹ See Lustick, Ian, *Arabs in the Jewish State: Israel's Control of a National Minority*, Austin: University of Texas Press, 1980.

and central to the overall approach was the co-optation of established patrons of Palestinian society, such as village *mukhtars* and clan elders. Traditionally the prestige enjoyed by such people depended to a considerable degree on their ability to provide essential services for their clients. Once the Israeli administration was installed, their ability to meet the expectations of those who petitioned them depended crucially upon the goodwill of the officers in the civil administration. The Israelis thus became the patrons of the patrons, and the degree to which a local *mukhtar* could successfully perform his role as a go-between, obtaining permits and licenses for his constituents, depended ultimately on the quality of his relationships with the occupation authorities. Thus one can identify another layer of Palestinian collaboration, the conditional collaborators who co-operated with the occupiers in the belief that by so doing they were serving the wider interests of their own community. Invariably it was common knowledge that such people acted as informers, but it was accepted that generally the information they passed on was never of a 'life-or-death' significance. In the main their collaboration was viewed as a necessary evil. Without their services life would have been a lot more difficult for many Palestinian families trying to survive under occupation.

Amongst the ranks of the conditional collaborators one should include also the Palestinian civil servants and public officials who continued in office under the Israeli administration, on the grounds that this was their professional duty and that the community needed their services.

Whilst such conditional collaborators might have approached their dealings with the Israeli security services with distaste, others sought to derive personal benefit from their relatively privileged access to the occupation authorities. This was encouraged by the Israelis, and

eventually it culminated in an effort to sponsor a collaborationist organisation that was intended to undermine the influence of the PLO within the territories. This project involved the establishment of the Village Leagues in the early 1980s, a period when the prestige of the PLO was particularly low in the aftermath of its expulsion from Beirut following the 1982 Israeli invasion of Lebanon. The Israelis sought to invest certain conservative rural figures with considerable local powers, building upon the traditional tension between urban and rural dwellers in Palestine, and so weaning significant sections of the population away from its identification with the PLO.⁵² In this they were only marginally successful, but there is no doubt that in a few localities such as the Hebron area the local leaders of the Village Leagues enjoyed considerable influence.⁵³

Amongst the leading figures within the Village Leagues, there might well have been a few who believed that the long-term interests of the Palestinian people would be best served by bodies other than the PLO, and who saw their involvement with the Village Leagues in such a light. Such people could be classed as collaborationists, patriotic traitors motivated by a deviant commitment to the welfare of their community. However, it would appear that such an altruistic stance was relatively rare. The majority were motivated by pure self-interest, and were referred to as profiteers (*'amil*) by their fellow Palestinians. Amongst their number there were many who had acted as informers for the Jordanians prior to 1967, and who had subsequently come under Israeli control. Under the patronage and protection of the Israeli security services, such people were able to exploit their compatriots, lining their own pockets and enjoying their

⁵² See Tamari, Salim, 'In League with Zion: Israel's Search for a Native Pillar', *Journal of Palestine Studies*, vol. 12, no. 4 (Summer 1983), pp.41-56.

⁵³ See Hiltermann, J.R., *Behind the Intifada: Labor and Women's Movements in the Occupied Territories*, Princeton, NJ: Princeton University Press, 1991, p.97.

status. One of the most odious forms of treachery with which some of them were associated was the sale of Palestinian land for Jewish settlements. Using their position within the community they would trick or intimidate residents into signing away their property, which was then sold to Jewish dealers and developers.

By contrast with the quality of information passed on to the Israeli authorities by accommodationists and conditional collaborators, much of which was of the order of background knowledge, the unconditional collaborators approached their task in a far more active manner, seeking out information directly related to the immediate security concerns of the Israelis, infiltrating resistance groups and identifying key activists. On the shoulders of such spies (*jasus*) lay the responsibility for the imprisonment and death of many who were active in the resistance.

Indeed, some became collaborators whilst imprisoned for resistance or criminal activities. There they joined the ranks of what Palestinians called 'birds' (*'asafeer*), their role being to obtain the confidence of new detainees and, in the atmosphere of trust established, obtain details about the prisoner's resistance activities, information which would then be passed on to the Israeli security services.⁵⁴

As in occupied Europe during the Second World War, the unconditional collaborators were hated and despised by the bulk of the Palestinian population, but also they were feared. They acted as if they were above the law. Indeed many of them were involved in criminal or anti-

⁵⁴ See B'Tselem (Israeli Information Center for Human Rights in the Occupied Territories), *Collaborators in the Occupied Territories: Human Rights Abuses and Violations*, B'Tselem: Jerusalem, 1994, pp.63-70. See also *Palestine Report*, 15 September 1995, p.16.

social activities ranging from theft and extortion through to drug-dealing and prostitution.

These then were the main manifestations of collaboration by Palestinians during the period of occupation prior to the Intifada. The vast majority of collaborators could be classed as accommodationists, people who saw little or no alternative to co-operation with the Israelis. In fact, the vast majority of Palestinians did not consider those of their number who were engaged in forms of economic collaboration prior to the Intifada as involved in any kind of disloyal activity. In the category of conditional collaboration were to be found the go-betweens and fixers, the civil servants and the police, people who felt they could justify their co-operation with the authorities on the grounds that it was in the overall interests of their own people. Such a claim could not be made by the unconditional collaborators, the 'professional' informers and fraudulent land dealers, the people who could be identified by the fact that they carried Israeli-issued weapons for their own protection and to intimidate others. Amongst the members of the Village Leagues there might have been a few who were driven by their contempt for the PLO, and who saw themselves acting for the benefit of their compatriots, but the vast majority of the unconditional collaborators were motivated by nothing more noble than the desire for personal gain.

During the years of the uprising the basic structure and pattern of Palestinian collaboration was to remain the same, but the relationship between the collaborators and the wider Palestinian community within the Occupied Territories was to change dramatically.

2. Collaboration during the Intifada

The Intifada has been depicted as a mass movement of civilian-based unarmed resistance against the Israeli occupation.⁵⁵ At the heart of the uprising was an effort to undermine and transcend the structures of dependency that had tied Palestinians to Israeli rule. As such, it impacted upon every aspect of life under occupation, not least the situation of collaborators.

The uprising was directed and co-ordinated through a network of neighbourhood committees, and at their head was the Unified National Command (UNC). With the exception of the Islamic Resistance Movement (Hamas), all the significant political factions were represented in this body, and during the first two years of the Intifada it exercised a state-like control over the Palestinian inhabitants of the West Bank and Gaza Strip. As part of its attempt to establish itself as the legitimate political authority and undermine the ability of the occupation regime to rule, the UNC called for the resignation of all those Palestinians working as civil servants within the occupation administration, policemen, and members of village and municipal councils appointed by the Israelis. They were urged to 'stop betraying their people before it is too late.'⁵⁶ Here was a clear directive to the conditional collaborators that the time had come to withdraw their co-operation, and it was made clear in subsequent communications that any who failed to resign would be considered traitors. Thus, communiqué no. 11, distributed on 21 March 1988, warned that 'the people of the uprising will be harsh with anyone who remains outside the national consensus and refuses to resign immediately.' The bulk of the police and civil servants heeded this warning. Those who did not risked assault and in-

⁵⁵ Rigby, Andrew, *Living The Intifada*, London: Zed Books, 1993, pp.1-2.

⁵⁶ UNC communiqué no. 9.

timidation from the young strike forces of the neighbourhoods.⁵⁷

During the first couple of years of the uprising there was a remarkable feeling of national solidarity that permeated throughout all strands and strata of the Palestinian community. As part of this sense of unity, the hand of forgiveness was extended even as far as the unconditional collaborators in their midst. Thus, 29 March 1988 was set aside as a 'day of repentance' when collaborators were invited to 'return to the national consensus on pain of the punishment due to them'.⁵⁸ Special gatherings were held in mosques for those who sought forgiveness for past sins and were prepared to vow to forsake collaboration. They had before them the fate of an unconditional collaborator from Qabatiya, who was killed by his fellow villagers a month earlier. It is not clear how many of the unconditional collaborators took advantage of this opportunity for rehabilitation, but according to one well-informed observer the number was low - to be counted in tens rather than hundreds.⁵⁹

For those who spurned the possibility of reconciliation and rehabilitation, life became increasingly difficult. The surge in collective self-confidence that accompanied the uprising meant that people were no longer afraid of the traitors in their midst, especially since so many neighbourhoods and villages were virtual 'no-go' areas for the Israeli soldiers, which rendered the collaborators much more vulnerable to attack. In the most highly organised communities they faced a graduated scale of sanctions, starting with a social boycott, followed by assaults on

⁵⁷ For example, the mayor of Al-Bireh was assaulted with a knife, and the Israeli-appointed council head of Bureij refugee camp in the Gaza Strip had his car and home fire-bombed. Seven policemen were killed during the Intifada as collaborators who ignored the UNC instructions to resign. B'Tselem, 1994, *op.cit.*, p.87.

⁵⁸ UNC communiqué no. 11.

⁵⁹ Interview with Atieyeh Jwabrah, 12 October 1995, Nablus.

their property and person by the local strike forces. If this proved insufficient pressure to persuade them to repent or leave the neighbourhood, then their homes and property would be fire-bombed. The ultimate sanction of assassination was resorted to only after consultation with the Palestinian leadership outside the territories, and would be carried out by special hit squads.

The reluctance to resort to killing the unconditional collaborators was due to a number of factors. Certainly during 1988 and the first half of 1989 there was a real desire to provide them with every opportunity to return to the national fold. The UNC also wanted to avoid providing the Israelis with any opportunity to make propaganda about alleged 'PLO intimidation' and so-called 'terror campaigns'. There was also the desire to avoid the tragic deterioration of the Palestinian revolt of the late 1930s, which was torn apart by internecine conflicts between feuding clans and political groupings, with false charges of collaboration being levelled in order to discredit rivals and legitimise their elimination.

By the summer of 1989 this nightmare had become real. Prior to April 1989 the number of Palestinians killed for alleged collaboration, according to Israeli figures, was around 60. Most Palestinians felt comfortable with this, in the belief that the collaborators had received the appropriate punishment, arrived at through a just process in which they had been given every reasonable opportunity to repent. However, as spring turned to summer the number of slayings increased dramatically. It was obvious that the fate of alleged collaborators was no longer being determined through any kind of 'due process' involving graduated sanctions and referral to the outside leadership. Rather, local strike forces were kidnapping suspects, interrogating them, and killing them. They were acting as prosecutors, judges and executioners. By the spring of

1990 more Palestinians were being slain by their fellow citizens than by the occupying forces.

For the Palestinians of the Occupied Territories it was a disturbing time. Having conquered their fear of the collaborators, they now began to feel intimidated by the youths in their midst, young men who claimed to be acting on their behalf. The killings were part of a general decline in law and order within the Palestinian community that became apparent from mid-1989 onwards. In part this was due to the unprecedented levels of economic hardship suffered by the Palestinians during this period, but it also reflected an erosion of the capacity of the UNC to control and direct the young activists, who had been growing increasingly frustrated at the lack of tangible achievement in the struggle to throw off the Israeli yoke. A crucial factor in the creation of this political vacuum had been the mass arrests carried out by the Israelis, which had resulted in the imprisonment of most of the middle level cadres of experienced activists who had been in a position to control the young hotheads of the streets. The resultant situation was described by one Palestinian in an interview with an Israeli journalist:⁶⁰

"Today there is no obedience any more. Every young thug organises a group of six or seven youths in his neighbourhood and gets them to throw stones or petrol bombs at Israeli cars. They are not connected with any central organisation; they do whatever they want ... The real problem is that as new activists join the struggle, and as more activists are jailed, the level of street leadership deteriorates rapidly. Add this to the economic and other pressures applied by the Israelis, and you'll find there is a feeling of despair among many of us, who ask ourselves: where is all this leading to?"

⁶⁰ Quoted by Litani, Y., *Jerusalem Post International Edition*, 16 September 1989, p.8.

The situation continued to deteriorate from the latter half of 1989 onwards. What had started as a selective cleansing process directed by recognised political authorities, deteriorated into a murderous purge, out of control and in which the fundamental human rights of suspects were abused in the most blatant and brutal manner. The increase in the killings is revealed by the following figures. During the first year of the uprising 20 suspected collaborators were killed. During the second year, 1989, 150 were killed.⁶¹ During subsequent years, up to 30 November 1993, the average number of Palestinians killed on suspicion of collaboration remained between 150 and 200 a year.⁶² These relatively high numbers were the result of a two-fold process: the intensification of the struggle against collaborators on the part of the strike forces and a broadening of the category of people deemed to be collaborators deserving execution.

As the Intifada progressed, the Israeli security services began to focus on key activists, and employed under-cover squads in a number of cases to eliminate them. Invariably the targets of such units were identified on the basis of information provided by collaborators. A consequence of this was an intensification of the efforts of the activists to apprehend and deal with the traitors who were betraying them. It was as if all the accumulated frustration and bitterness felt by the young activists of the strike forces at the relative failure of the uprising to dislodge the Israelis became focused on the collaborators. As the murders of suspected collaborators increased, so the Israelis intensified their pursuit of those responsible - and so the cycle of killing escalated.

⁶¹ B'Tselem, 1994, *op.cit.*, p.163.

⁶² According to Israeli Defence Force figures, 942 Palestinians were killed by other Palestinians on suspicion of collaboration between 9 December 1987 and 30 November 1993. Over the same period the Associated Press put the number at 771. See B'Tselem, 1994, *op.cit.*, p.9. Much of the material presented in the following pages is based on this excellent report from the Israeli Centre for Human Rights in the Occupied Territories and upon information provided by Bassem 'Eid.

Whilst this deadly struggle was taking place, another process was underway which helps to explain the rise in the number of murders of suspected collaborators: the definition of what constituted treasonable behaviour punishable by death broadened. As was remarked above, the Intifada started out as a mass civilian uprising against the occupation. As part of this struggle, the leadership of the uprising sought to establish itself as the sovereign legitimate political authority within the Occupied Territories, denying the Israelis the ability to impose their will on the population. One aspect of this sustained effort to countermand the Israeli administration was that those who failed to follow the instructions issued by the UNC, or who threatened the national unity that fed the struggle and who thereby weakened the resistance, were labelled as collaborators. Reference has been made already to the charges of collaboration laid against civil servants and other public officials associated with the Israeli administration who failed to resign after they had been directed to do so. In similar vein, merchants who ignored the strike calls issued by the UNC were warned that they would be punished as traitors, as were those individuals who paid taxes in violation of the UNC directives.⁶³

Thus, in addition to the informers and the land dealers who were generally acknowledged to be traitors, the label of collaborator began to be applied to anyone who was suspected of undermining the national struggle. Included within this category were all kinds of deviants who contravened not just the criminal law but the established moral code of Palestinian society. Thus, the targets included not only pimps and pornographers, prostitutes and drug-dealers, but also those suspected of such 'immoral behaviour' as adultery and homosexuality. The professed justification for such moral totalitarianism was the fear of *isqat*, the extortion and blackmailing of the

⁶³ UNC communiqués 2 and 4, January 1988.

moral deviants for the purpose of recruiting collaborators. A member of the Fatah Hawks in Gaza explained the situation:

Generally, the Israeli authorities recruit weak people ... One of the most common ways to recruit people is through drug use and moral offenses. This makes it very easy for the authorities to blackmail and threaten them. ...We must cleanse society of people of this kind, because they are dangerous to society. Open collaborators, even if armed, do not represent such a danger to society as these people. The open collaborators are known to everyone, but these people are a real danger to society, so we must act against them rapidly and correct them - make them repent, if that is possible, or to eliminate them and thus rid ourselves of them.⁶⁴

One outcome of this morality policing was that any woman who appeared to step beyond the narrow bounds of appropriate conduct within Palestinian society risked being denounced as a security risk or collaborator. It was as if the strike forces took over the role of family patriarch or clan leader responsible for safeguarding the honour of the daughters and women of the family or *hamula*. They began laying down rules regarding behaviour and dress. Fear of attracting the attention of the self-appointed moral guardians of the community must have been a factor in the decision of so many women to start using the traditional head covering during the Intifada period. According to the B'Tselem report, 'Women who did not behave as expected became vulnerable to attacks by Palestinian activists. These attacks included pouring acid on their bodies, throwing stones at them, threats, and even rape.'⁶⁵

⁶⁴ B'Tselem, 1994, op.cit., p.89.

⁶⁵ Ibid., p.90.

In addition to the hundreds of women who were physically intimidated and attacked as punishment for their alleged behaviour, allegations that were invariably based primarily on rumour and unverified information, it has been claimed that over one hundred Palestinian women were killed on suspicion of collaboration during the six years of the Intifada up to December 1993.⁶⁶ Of the 107 recorded deaths, 81 took place in the Gaza Strip, a fact which undoubtedly reflects the relative strength of the Islamic factions. Two members of Islamic Jihad described their scale of sanctions to a B'Tselem fieldworker:

"Feminine morality, holiness and preservation of chastity are the most important things. Married women who transgress against prohibitions relating to marriage are not necessarily collaborators, but the fact that they are involved in prostitution means that they are diverting the men they sleep with from the national struggle and injuring their husband's pride.

A married woman who sleeps with a man who is not her husband is killed immediately. If an unmarried woman sleeps with a man, as long as she is not a collaborator, her bones are broken. ... The GSS incites these women to sleep with men and get information from them. Sometimes, married women who are not collaborators are given a punishment of house arrest. We do not take pity on young women who are forced into prostitution - we kill them, too."⁶⁷

As part of their efforts to justify the killing of collaborators, and to convince the public of the guilt of particular suspects, groups would make audio and video recordings of confessions, which were then distributed throughout the underground communication networks that permeated Palestinian society during the Intifada. But, as the previous quote shows, death sentences were not the only

⁶⁶ Ibid., p.90.

⁶⁷ Ibid., p.91.

punishments inflicted upon those considered guilty of transgression. For people suspected of minor acts of collaboration, various forms of social boycott would be employed, to isolate and stigmatise the suspect, with a view to pressuring them into changing their ways. Other forms of exclusion applied to people who were considered capable of redeeming themselves included house arrest, ordering a suspect to stay within their home for a certain period so that they had to halt their activities and the strike forces could keep them under surveillance. Others might be punished by being excluded from their family home, being separated from their family for a set period. The breaking of such exclusion orders would expose the suspect to more severe sanctions.

The strike forces also engaged in various forms of physical assault on suspected collaborators. This could range from inflicting a beating, wounding with knives, shooting in the legs and, in the case of some men considered guilty of the moral corruption of young women, castration.

In an effort to restrain the activities of the masked youths, the Palestinian leadership in the Occupied Territories arranged for the 'safe passage' of known collaborators from their village or neighbourhood and their relocation to an area close to Qalqilya, adjacent to the border with Israel. Other collaborators in fear of their lives sought safety by resettling within one of the two protected villages established by the Israelis for collaborators, Fahmah in the West Bank and Dahaniyeh in the Gaza Strip.⁶⁸

Those collaborators who had put themselves beyond the pale, but sought redemption, would be asked to atone for their sins. They might be instructed to kill their Israeli

⁶⁸ For a profile of life in Fahmah, see Batrawi, Walid, 'Collaboration: Was It Worth It?', *Palestine Report*, 23 April 1995, pp.10-11. See also Helm, Sarah, 'Peace Terrifies Arabs Who Sided With Israelis', *San Francisco Examiner*, 21 September 1993.

'handler', or kill other collaborators as evidence of their sincerity in seeking re-admission to the 'national house'. For others, the alternatives were starker: the choice between being remembered as a traitor or as a martyr. A number of suicide-bombers killed in raids against Israeli targets were collaborators, seeking to wipe the slate clean and atone for their treachery with their lives.

The other option available to collaborators was resettlement within Israel. During the Intifada a few hundred collaborators and their families pursued this path. However, as the date for establishment of a Palestinian self-governing authority loomed, and the withdrawal and redeployment of Israeli forces from the Gaza Strip and Jericho area approached, the numbers seeking asylum increased.⁶⁹ The establishment of the PA marked the start of a new episode in the history of Palestinian people, and in the circumstances of Palestinian collaborators.

3. The Circumstances of Collaborators under the Palestinian Authority

Unlike the experience in newly liberated Europe after the Second World War, the establishment of the PA has not been accompanied by a mass purge of collaborators. This is due to a number of factors, not least the very real limitations on the powers of the PA with regard to the exercise of functional authority and territorial control. Thus, as was observed in the introduction, during the negotiations around the various agreements that have marked the different phases of the putative peace process between Israel and the Palestinians, the Israelis have insisted that the Palestinian authorities refrain from

⁶⁹ In December 1993 all 'open collaborators' who wanted to relocate to Israel were moved out of the occupied territories. This included most of the collaborators in Dahaniyeh. B'Tselem, 1994, *op.cit.*, pp.194-9.

prosecuting or persecuting those 'Palestinians who were in contact with the Israeli authorities'. Moreover, even though the Justice Minister Freih Abu Meddein claimed in 1995 that 'collaborators must be arrested and put before the Palestinian court',⁷⁰ the remit of the Palestinian judicial system with regard to security matters does not run beyond the population centres designated as Zone A under the Taba Agreement of September 1995, an area constituting approximately 3% of the territory of the West Bank and Gaza Strip. These constraints also help to explain why there has been no large scale incidence of 'self-help justice' and revenge attacks against those who collaborated with the Israeli military since the establishment of the PA. During the interim phase of the peace process, people are not free of the occupation.

People in general have been prepared to leave matters to the burgeoning Palestinian Preventive Security Services (PSS), a considerable proportion of whose officers have been drawn from the ranks of the erstwhile 'strike forces', especially the Fatah Hawks - the very people who took it upon themselves to mete out street justice to suspected collaborators prior to the establishment of the PA. The general pattern seems to have been that as the Israelis have withdrawn from the main Palestinian population centres within Zone A, in each case a small token number of suspected collaborators have been arrested, in order to encourage others to surrender themselves and pledge allegiance to the PA.⁷¹

A number of outright unconditional collaborators who could expect little mercy at the hands of either the Palestinian authorities or the Palestinian people have relocated to Israel where, according to reports, they are made to feel

⁷⁰ Batrawi, W., op.cit., p.11.

⁷¹ See reports in *Palestine Report*, 24 November 1995, p.3, and 5 January 1996, p.1.

unwelcome within their new neighbourhoods, despised and discriminated against by both Arabs and Jews.⁷²

Of those who have remained within the territories, a number - no one knows how many - have been recruited by one or other wing of the PSS. In the harsh world of state security there is an obvious logic in the Palestinian agencies concerned with internal security drawing on the expertise of experienced informers, rather than relying on untrained novices for information-gathering and surveillance purposes. This is all the more understandable when one considers the pressure on the PA from Israel and other powers to monitor and control the activities of those Palestinians opposed to the peace process, in order to minimise the risk of violent assaults and bomb attacks against Israeli targets.⁷³

Clearly there is a risk that if this practice grows too widespread, then popular resentment against former collaborators with the Israelis who continue to enjoy a favoured position under the PA might grow to such an extent that individuals or organised groups will take matters into their own hands in pursuit of justice. But perhaps a greater danger lies in the way in which community resentment against the privileges enjoyed by former collaborators has fed into the general seepage of legitimacy from the PA. Back in 1995 a former Intifada activist expressed to me his disgust at the manner in which one Gazan resident, a well-known collaborator who had grown rich on the basis of the services he had performed for the Israelis, had ingratiated himself with the new

⁷² There have been numerous reports in the Israeli and Palestinian press concerning the problems faced by Palestinian collaborators in trying to adjust to life in exile in Israel. See, for example, accounts in *Al Quds* (Arabic) 25 September 1995 and the Israeli newspaper *Haa'er*, 13 October 1995.

⁷³ An obvious question concerns the relationship that these former agents of the Israeli security services have with their former masters, now that they are members of the the Palestinian security agencies. This in turn raises the sensitive question of the relationship between the Palestinian and Israeli security services.

Palestinian regime by making large donations of money and land to 'worthy causes'. As a result he had been 'rehabilitated' and enjoyed a position of considerable influence under the PA. I was told that evidence of his new status was provided when Arafat had his photograph taken alongside the hospital bed where the ex-collaborator was recuperating after a failed attempt to assassinate him.⁷⁴ Since then the standing of the PA has been further diminished by revelations of wholesale corruption, financial malpractice, and the widespread abuse of basic human rights.⁷⁵ From this perspective, the need for a cleansing and healing operation within Palestinian society aimed at dealing with those who collaborated with the Israeli occupiers can be seen as an intrinsic and necessary component of a wider process of reconstruction required to heal the growing rift between the Palestinian 'semi-state' and its citizens.

Whilst some collaborators have made their services available to the Palestinian security forces, others have remained in the service of the Israelis. Thus, it has been reported that the assassination of the Palestinian bomb-maker, Yahiya Ayyash, on 4 January 1996 by means of a booby-trapped telephone, was only possible due to the treachery of a relative of one of his colleagues.⁷⁶ In May 1997 there were reports that a Gazan Shin Bet collaborator had penetrated the ranks of Islamic Jihad and was responsible for the deaths of two would-be suicide bombers.⁷⁷ The following month there were reports in the Israeli press that approximately 70 Palestinian collaborators working for Israel had been formed into an 'Israeli Preventive Security Service'. Their primary task

⁷⁴ Interview with author, Gaza City, 17 October 1995.

⁷⁵ See, in particular, Hirst, David, 'Shameless in Gaza', *The Guardian Weekly*, 27 April 1997, p.8. See also Robinson, G.E., 'The Growing Authoritarianism of the Arafat Regime', *Survival*, vol. 39, no.2 (Summer 1997), pp.42-56.

⁷⁶ *Palestine Report*, 12 January 1996, p.1.

⁷⁷ *Middle East International*, 16 May 1997, p.8.

was to be to report on and undermine the work of the PSS outside of Zone A. The occasion for the formation of this force was the extra-judicial killing of three Palestinians alleged to have sold land to Israelis. They had been kidnapped, shot or bludgeoned to death, and their corpses left on public highways in the West Bank. It was presumed that the executions had been carried out by people associated with the PSS.⁷⁸

The killings took place at a time when negotiations between the PA and the Israeli government of Netanyahu were deadlocked, as Palestinian frustration and anger at the continued Israeli expropriation of Palestinian land climaxed with the commencement of construction work for the new Israeli housing project of Har Homa on the outskirts of Bethlehem. In this atmosphere, and responding to the public mood, it was as if the personnel of the PSS reverted to the role they had played as strike forces during the later years of the Intifada - meting out summary justice to those deemed guilty of collaboration and treachery.

This recourse to the old ways of intimidatory street justice highlights the need for a clear and open system for dealing with suspected collaborators. There has been a growing amount of evidence documenting the gross human rights violations committed by PSS agents. By June 1997 at least 12 Palestinians had died whilst in the custody of the security services, their bodies showing signs of torture and abuse. The killing of the land agents would seem to be an extension of the disregard for basic human rights displayed by the Palestinian forces of law and order.⁷⁹

⁷⁸ *Palestine Report*, 13 June 1997, p.14.

⁷⁹ See B'Tselem, *Neither Law Nor Justice: Extra-judicial Punishment, Abduction, Unlawful Arrest, and Torture of Palestinian Citizens of the West Bank by the Palestinian Preventive Security Service* (draft), Jerusalem: B'Tselem, August 1995. See also the report of the Palestinian Human Rights Monitoring Group, *The State of Human Rights in Palestine*, 1997.

A major danger stemming from this extra-judicial pursuit of justice and the infliction of summary punishment, albeit by agents of the PA, is that it causes deep resentment amongst the families of the victims. In the absence of any 'due process', they have no opportunity to clear their family member's name, no right of appeal against the judgement, no recourse to law. So what is left for them other than to seek vengeance by whatever means available outside of the law? There is evidence that a number of Palestinians released from Israeli jails, where they had served sentences for the killing of collaborators, have been murdered by the aggrieved relatives of their victims.⁸⁰ This must be a matter of grave concern to the Palestinians, as it illustrates the way in which acts of violence incite revenge attacks and generate family feuds. Once such a cycle has developed the violence can spread throughout the community like a contagious disease.

The killing is not confined to the collaborators and their assassins. In August 1996 Palestinian police arrested three brothers who had killed their 22-year-old sister by forcing her to drink poison. She was married to a collaborator who had fled to Israel, and the brothers murdered her to defend their family honour!⁸¹ She was just one of the innocent victims of collaboration, the bulk of whom belong to the families of suspected collaborators. Throughout the West Bank and Gaza Strip whole families have been tainted with the label of collaboration and are ostracised by their neighbours. There are many children going to schools where no other child will play with them, set apart as outcasts. No charities, state or voluntary organisations exist to provide care and support for those who carry the stigma of treason, even if this is just by association. Unless a serious programme of community education and family-oriented rehabilitation is initi-

⁸⁰ See *Palestine Report*, 16 June 1994, p.3 and 7 August 1994, p.12.

⁸¹ *Palestine Report*, 23 August 1996, p.14.

ated, the consequences for Palestinian society posed by a generation of people who feel unjustly victimised for the sins of their fathers could be traumatic.

It is to a review of the possible approaches to the multi-dimensional problems posed by the presence of collaborators and their families in the midst of the emerging post-occupation Palestinian political entity and society that attention will now be turned. The aim is to explore ways in which seemingly contradictory demands and impulses might be reconciled. On the one hand there are the cries for vengeance, for justice, for recompense. On the other, there is the prompting to forgive, to work so that damaged people might be made whole again and re-admitted as valued members of the wider community.

VI.

Beyond Retribution and Reconciliation: Possible Approaches to the Palestinian Predicament

In facing up to the problems posed by the thousands of collaborators in their midst, the Palestinians and the PA have before them the experience and practice of the *épuration* in Western Europe after the Second World War, the purging of those who provided the services necessary for the Germans to maintain their domination of the conquered territory. However, over the last ten or 15 years a number of states have emerged from different forms of occupation, and a review of their approach to the problems posed by the legacy of the past can throw light upon the Palestinian predicament.

The 'occupation' from which these countries emerged was not that of an external power, but forms of 'internal occupation', the oppression of civil society by repressive and unrepresentative regimes. Thus, in 1983 the military junta in Argentina handed over power to a civilian government. In 1988 the people of Chile voted for an end to Pinochet's military rule, which came to fruition in March 1990 with the election of a civilian president. In 1989 the Soviet empire collapsed and the totalitarian state socialist regimes of Central and Eastern Europe crumbled under

the impact of 'people power'. In 1990 Nelson Mandela was released from prison, and in April 1994 there were the first elections in the history of South Africa to be open to members of all ethnic groups. In January 1992 a peace accord was signed in El Salvador between the military-backed regime and the insurgents of the national liberation movement.

In each of these countries new regimes have come to power, proclaiming a commitment to liberal-democratic values and a determination to prevent the re-emergence of the old authoritarian patterns of rule and systems of violence. As part of this reconstruction project, they have felt the need to address the legacy of their repressive past, on the premise that if one ignores the dark and shameful side of one's history, then it will return to haunt the future. In their respective approaches to this process of 'national cleansing', two alternative models seem to have been adopted by the new regimes: the purge and the truth commission.⁸²

For various reasons, which will be explored below, the purge has been adopted more frequently in the former communist countries of Eastern and Central Europe.

Typical of the attempts to punish those considered guilty of betraying their fellow citizens, through their involvement in the old system, is the so-called 'lustration' law passed in what was then Czechoslovakia in 1991. Under this act all those who served in the para-military forces of the previous regime, or who held senior positions within either the party or the government, or who appeared on the secret police list of informers, could be banned from senior public office or government employment for a

⁸² See Rosenberg, Tina, 'Overcoming the Legacies of Dictatorship', *Foreign Affairs*, vol. 74, no. 3 (May/June 1995), pp.134-152. As in the Second World War, Poland seems to be the odd one out once more. The Solidarity government adopted a policy of drawing a 'thick line' across the past in order to start a fresh page in Polish history. See *ibid*, p.145.

period of up to five years.⁸³ In similar vein, any German who informed for, or was employed by the *stasi*, the East German secret police, can be banned from government employment for 15 years.

Whereas the purge is aimed at prosecuting the perpetrators of crimes against their fellow citizens, the prime target of the cleansing process embodied in the truth commission approach are the victims of such crimes.⁸⁴ The declared aim is to identify them, to acknowledge them and the wrongs done to them, and to arrive at appropriate compensation. The intention is that through such a process the victims and their families might be helped to come to terms with their anger and bitterness. The pattern was set by the 'National Commission on the Disappeared', which was set up by Argentina's president Raúl Alfonsín in 1983. In its report, called *Nunca Mas* (Never Again), the Commission tried to unveil the secrecy surrounding the torture, killing and disappearance of more than 9,000 victims of the military regime. Chile followed the example of Argentina, and in 1991 the report of the 'Chilean National Commission on Truth and Reconciliation' was published. Chile's president, Patricio Aylwin, marked the occasion by appearing on television to apologise on behalf of the nation to the families of the victims of Pinochet's regime.⁸⁵ Two years later, in 1993, the United Nations published the results of its 'Commission on the Truth about El Salvador', which attempted to

⁸³ One of the major criticisms of this approach has been that too many people have had their careers and reputations damaged because their name appeared on a police list somewhere, not for anything they had done. Moreover, people so listed are presumed to be guilty and have to try to prove their innocence, contrary to most conceptions of natural law.

⁸⁴ See Hayner, P.B., 'Fifteen Truth Commissions - 1974 to 1994: A Comparative Study', *Human Rights Quarterly*, vol. 16, 1994, pp.597-655, also Hayner, P.B., 'Commissioning the Truth: Further Research Questions', *Third World Quarterly*, vol. 17, no. 1, 1996, pp.19-29.

⁸⁵ An English language version of the report has been published. See *Report of the Chilean National Commission on Truth and Reconciliation (Vols. I-II)*, Notre Dame: Centre for Civil and Human Rights, University of Notre Dame press, 1993.

unravel the horrors behind the deaths of more than 75,000 men, women and children in El Salvador's ten year civil war.⁸⁶ The most recent example of the truth commission approach to exhuming the shameful periods of a nation's past is the establishment of the South African Truth and Reconciliation Commission.

A number of factors appear to be relevant in determining which of the two models, the purge or the truth commission, is adopted for dealing with national traumas of the past. Thus, in the newly-liberated countries of Western Europe during 1944-45, and in countries like Czechoslovakia and Germany during 1989-90, the new regimes had the will to engage in a purge, and believed they had the means to pursue such a policy. In other words, the path of the purge is likely to be pursued under the following conditions.

- a) When there is the will, such as when there is an overwhelming desire on the part of the vast majority of the citizenry to seek recompense from those that betrayed the common good and welfare of the society.
- b) When the new regime feels confident of its power and ability to carry out the purge.
- c) Such conditions usually prevail when the new regime has come to power as a result of a popular comprehensive victory over those who are the potential targets of such a purge.

By contrast, when one considers the situation that faced the civilian regimes that succeeded the military juntas in South America, or the unstable 'law and order' situation that confronted the new post-apartheid regime in South Africa, it would seem that the truth commission is the

⁸⁶ See Kempton, M., 'Truth and El Salvador', *New York Review of Books*, vol. 60, no 8, 22 April 1993, p.48.

approach adopted by regimes that lack either the will or the means to prosecute the perpetrators of political crimes. Such a situation is generally associated with the following conditions.

- a) When there is no overwhelming will on the part of the citizenry as a whole or the members of the new regime to engage in a purge. The kinds of circumstances in which this occurs are:
 - i) When the number of those who connived with, or were complicit in, past evils are of such a scale that their prosecution would destroy any possible basis for future reconciliation and the development of a common sense of nationality and citizenship.
 - ii) Where a significant proportion of those who would be targets of any purge are from one particular ethnic group or community within the wider society, with the result that a purge might lay the basis for future social and political division in the form of ethnic or communal conflict. An important factor in such a situation would be the desire on the part of the new regime to avoid provoking any secessionist tendencies on the part of any community or ethnic group.
- b) Where the new regime is not confident that it possesses the power or the ability to carry out a purge, because of the relative resources controlled by either those who would be the chief targets of any purge or by their patrons within and outside the country.
- c) Such conditions are likely to prevail when, rather than enjoying an outright victory over the old regime, the new regime has come to power through some negotiated process involving either the likely targets of any purge and/or their patrons.

When one starts to apply this analysis to the Palestinian case, then it appears probable that in its approach to 'national cleansing', the Palestinian authorities will tend

towards the truth commission model rather than the purge. For various reasons it would seem likely that for the foreseeable future any Palestinian political authority would lack the unanimous will to pursue a purge, and would be less than fully confident about possessing the means to implement such a programme, at least not without incurring disproportionate sanctions against itself and its citizenry.

The Palestinians have not achieved any kind of comprehensive victory over Israel. On the contrary, for various reasons the Israeli regime decided that it was in its best interests if it were to withdraw from parts of the West Bank and Gaza Strip, on its own terms and at its own speed. The relative liberation of the Occupied Territories is being achieved through a process of negotiation, one in which Israel, backed by its powerful patron the USA, has been the dominant partner. This has meant that the autonomy enjoyed by the Palestinians has been, and is likely to remain, contingent to a significant degree upon the goodwill of Israel and its patrons. The Palestinian political authority has not been, and will not be, able to enjoy a free hand in its decision making, especially in relation to issues that are seen by Israel to affect her security interests. One such issue is the treatment of collaborators, as Israel has made clear by including in the peace agreements so far signed the clauses that bind the Palestinians from prosecuting or harming collaborators until a permanent settlement is reached.

In the context of such conditions, and the likelihood of Israel exercising some kind of veto power over the treatment of collaborators, what are the options facing the Palestinians and their political leadership?

If the Palestinians are prevented from implementing an official purging process, then one possible approach might be to carry out an unofficial process such as was adopted

during the Intifada when, according to reports, the Palestinian political leadership was calling for restraint in public, whilst privately encouraging activists to continue with the execution of suspected collaborators.⁸⁷ The PA could accede formally to the wishes of the Israelis that collaborators should not be prosecuted or punished, whilst giving the green light to personnel in the security services, aided by local activists, to seek out the suspected collaborators and make them pay for their crimes. There is a strong suspicion that this is what happened in the case of the three land agents murdered in May 1997, with allegations from the Israeli police that the PA had a hit list of 16 dealers it intended to execute.⁸⁸ However, the risks attached to such a programme would be very high. It would present to the world an image of Palestine wracked by gun-law, of a political authority with scant regard for law and order, unable or unwilling to protect the lives and ensure the welfare of its citizens.

Furthermore, it is hard to see how such a process could be prevented from deteriorating into extortion, blackmail and common criminality. Moreover, there would always be the suspicion that the victims of such attacks had been targeted for factional reasons rather than for their sins as collaborators. The relatively uncontrolled and unaccountable assaults and killings that such an approach would entail would lead, almost inevitably, to revenge killings, the heightening of inter-factional rivalries, family feuds and the whole destructive spiral of communal conflict and violence.

But the alternative approach - that of the truth commission model, particularly as developed in the context of South America - would seem to carry with it severe costs also. There the truth commissions have been associated

⁸⁷ B'Tselem, 1994, op.cit., p.114.

⁸⁸ *Palestine Report*, 6 June 1997, p.1.

with wholesale amnesty for those responsible for human rights violations, amnesties generally demanded and imposed by the very regimes responsible for the human rights abuses as one of their conditions for allowing the truth commissions to be established. As a consequence, from the perspective of the victims who survived the abuses of the former regime, there has been no calling to account of those responsible for their suffering. The fact that the perpetrators continue to enjoy impunity has been a cause of considerable anger and grief. The general amnesty has made it possible not only for them to escape any trial or punishment, but they have not even been required to acknowledge their personal involvement in violations of the past.⁸⁹

Dr. Alex Boraine, the vice-chairperson of the South African Truth and Reconciliation Commission has reviewed some of the problems associated with impunity.⁹⁰

- Impunity undermines belief in a democratic society insofar as the denial of the demands for justice creates doubts about democratic ideals.
- Impunity, insofar as it involves the failure to punish serious crimes, creates confusion about the difference between right and wrong, and can foster a disrespect for the law.
- Impunity reconfirms people's sense of powerlessness.
- Impunity tempts people to take the law into their own hands.

⁸⁹ For a discussion of the issues of impunity and accountability in the context of Latin America, see Seider, Rachel, ed., *Impunity in Latin America*, London: Institute of Latin American Studies, 1995.

⁹⁰ Boraine, A., 'Alternatives and Adjuncts to Criminal Prosecutions', Conference on *Justice in Cataclysm: Criminal Tribunals in the Wake of Mass Violence*, 20-21 July 1996, Brussels.

From the Palestinian perspective, then, it would appear that whilst a full-bodied purge would incur too high a cost to be contemplated, the South American truth commission model associated with blanket amnesty and impunity would be equally costly for the future. There needs to be a third way, beyond the polarities of the purge and impunity, beyond - in the words of Archbishop Desmond Tutu - the alternatives of Nuremberg and amnesia.⁹¹

In exploring the possible features of such an alternative, the South African experience would seem to be particularly relevant to the Palestinian situation. In both cases the formal conclusion of the conflict came about through a negotiation process that both parties entered somewhat reluctantly, having realised that they could not expect to achieve an outright 'victory' through the defeat of the opponent. As a consequence, the transition from the old apartheid regime towards the new 'rainbow nation' has been characterised by a series of compromises. The South African Truth and Reconciliation Commission (TRC) has been no exception to this general pattern.

The African National Congress raised the idea of a truth commission during the pre-election period of 1994. Subsequently, after a number of conferences and public hearings at which the idea of a commission was developed and refined, the Promotion of National Unity and Reconciliation Bill was passed by parliament and came into force on 19 May 1995. The establishment of the Commission was seen as part of the overall process whereby the people of South Africa might transcend the divisions of the past and move beyond the legacy of hatred, fear and guilt towards reconciliation and reconstruction. As such, it was apparent that the past violations of human rights and the betrayal of humanitarian princi-

⁹¹ Tutu, Desmond, Letter to *The Sunday Times* (South Africa), 4 December 1996.

ples should not remain buried, hidden from view within the public domain and unacknowledged in the collective social memory. In order to mark a break with the past and lay the foundations for a future based on respect for human rights, the horrors of the past had to be investigated, recorded and made known.⁹²

In order to contribute towards this overall process, the architects of the South African model realised that if the divisions of the past were to be overcome, albeit not forgotten, the emphasis would have to be on reparation of the victims rather than prosecution of the perpetrators. At the same time they were anxious to avoid the pitfalls of the South American experience. As a consequence they instituted a process characterised by two key features: openness and conditional amnesty.

In order to make the whole process of unveiling the past as transparent as possible, and to create a situation that facilitated broad public involvement in this exercise, the establishment and functioning of TRC has been characterised by openness. Prior to the drawing up of the National Unity and Reconciliation Bill, conferences and public hearings were held to facilitate input from as wide a range of opinion as possible. This process of public consultation continued in the drawing up of the list of names from which the President, in consultation with his cabinet, selected the 17 commissioners required under the Act. The Act provided for three separate committees, each to complete its work within two years: a Human Rights Violation Committee to conduct public hearings for survivors, a Reparation and Rehabilitation Committee to make recommendations arising from these hearings, and an Amnesty Committee to hear applications for amnesty.

⁹² See *Truth and Reconciliation Commission*, Rondebosch, SA: Justice in Transition (on behalf of Ministry of Justice), 1995.

It was decided that the hearings of the committees should be in public, so that the general population might have access to the proceedings through the media coverage or through attendance in person. To quote Alex Boraine, 'This enables transparency and also a strong educative opportunity so that healing and reconciliation is not confined to a small group but is available to all.'⁹³ In this spirit of transparency and openness it was also resolved that the names of the victims as well as the perpetrators of human rights violations should be published. In addition, to facilitate the general process of opening up the past for public scrutiny and reflection, the Commission was vested with the powers of subpoena and of search and seizure in order that they might gain access to all relevant documents and files.

The other key feature of the South African model has been the provision for *conditional* amnesty. In the light of the South American experience the option of wholesale amnesty for all transgressors was rejected. In its stead the Act made it a requirement that amnesty had to be applied for on an individual basis. All applicants who had committed gross violations of human rights during the period between 1960 and the peace agreement of 1993 were required to make a full disclosure of all their relevant acts, and in most cases appear before one of the public meetings of the Amnesty Committee. Furthermore, all applications for amnesty had to be made during a twelve month period ending in December 1996. Failure to apply for amnesty left the perpetrators open to prosecution and sentence under the criminal justice system. In the event the deadline for amnesties had to be extended to 10 May 1997, by which time almost 8,000 applications had been received.⁹⁴

⁹³ Boraine, 1996, op.cit.

⁹⁴ *The Guardian*, 12 May 1997. The final report of the Commission is due to be completed by 14 March 1998.

Despite the refusal to countenance a blanket amnesty, the amnesty provisions of the Act have been criticised. The fact that killers can walk the streets freely, once they have convinced the Commission that they have made full and genuine confessions, has caused considerable grief and anguish to the families of those who suffered at their hands.⁹⁵

Against such criticisms the practice has been defended on two main grounds. Firstly, that the only way to reveal the truth about the horrors of the apartheid years was to persuade the perpetrators to come forward and confess fully and openly. How could this be achieved if by doing so they would render themselves liable to criminal prosecution?

Secondly, it was argued that the stability of South Africa would be undermined by a series of full-scale prosecutions, with all the recriminations and wounds re-opened by a series of revelations concerning barbaric acts of the past, unearthed in an adversarial context. It has been argued that such experiences, repeated again and again as more and more victims sought justice through the courts, with accusations and counter-accusations, would jeopardise the reconciliation process necessary for the future of South Africa and poison national life for generations. With all its faults, therefore, the provision for amnesty laid down in the Act was, according to Archbishop Tutu, 'a crucial ingredient of the compromise that reversed the country's inevitable descent into a blood-bath'.⁹⁶

There have been other problems associated with the TRC, such as the difficulties in getting senior political leaders from all sides to submit applications for amnesty, leaving

⁹⁵ In May 1996 the families of three anti-apartheid activists killed by security forces appealed to the Supreme Court in Cape Town to prevent the granting of amnesties to those responsible for the deaths. (*The Guardian*, 7 May 1996).

⁹⁶ Tutu, D., op.cit.

their subordinates and 'foot-soldiers' to take responsibility for implementing policies that they devised and endorsed. At one stage there was also concern at reports that the ANC was seeking to muzzle its rank-and-file members by requiring them to submit their statements for vetting to the party before making any approach to the Commission. But overall, despite its limitations and its shortcomings, the general opinion regarding the TRC has been positive. In the words of one of the members of the Human Rights Violation Committee,

"The Truth and Reconciliation Commission has offered South Africans an opportunity to learn about the true history of our society. Some people find it hard to think about history in such an emotionally charged context. But where is it decreed that history can only be acceptable when it is free of emotion? There is no way that we can be enlightened about the true history of our country if we fail to acknowledge the pain, the hurt, the guilt, and sometimes the joy, associated with it. ... Acknowledging this past will also help us engage more meaningfully the obstacles we face in achieving substantive reconciliation..."⁹⁷

A Palestinian Truth Commission?

As I come to the end of this report, I am very aware that at the time of writing (July 1997) much of its contents might appear far removed from the pressing concerns of Palestinians of the West Bank and Gaza Strip, for whom the reality of the peace process seems to have been continued economic suffering, social deprivation, cultural humiliation and political repression. Their focus is not upon reconciliation, forgiveness, and coming to terms with the legacy of the past. Their prime concern is with survival and how to retain some hope for the future, how

⁹⁷ Gobodo-Madikizela, P, 'Re-enactment of Old Identities and Implications for Reconciliation', Paper presented at the Convention of the Institute of Personnel Management, 21-23 October 1996, Sun City, South Africa.

to create some space within which to live a meaningful life that encompasses something more than the struggle to make it through the day.

At this stage in the conflict between Israel and the Palestinians, with the peace process virtually dead, different kinds of scenarios for the future open up. Whatever the political framework that emerges in the future, whether it be a two-state, a three-state or even a one-state solution, the past cannot be ignored. If there is ever to be anything approaching peace in the Middle East, then there has to be some kind of reconciliation process between Israeli Jews and Palestinian Arabs. There must also be reconciliation within the respective communities. Both have been traumatised by the shared history that divides them. Unless the memories of those divisions, and of the treachery of those who betrayed their own people in the service of the historical enemy, are addressed in some constructive manner, they can only serve to poison the future.

The focus of this report has been upon the Palestinian collaborators with the Israeli occupation. The problem of how to deal with collaborators has to be placed within the wider context of reconstructing a worthwhile home for all Palestinians. As such, any attempts to deal constructively with the legacy of the past will require efforts to transform the social, economic and political life of the Palestinians. But it will also require a process whereby people can be encouraged to face up to their own individual experience of that past, as victims and as perpetrators of injustice, in order that they might start afresh.

It seems clear that the model of a truth and reconciliation commission, as developed in South Africa, has much to offer as part of such a process. It is not a panacea, it will not ensure the establishment of a new moral order amongst the Palestinians. But, whatever the political framework that emerges as part of any final settlement,

such an exercise, adapted to suit the particular circumstances of the Palestinian situation, could contribute to the creation of a new culture of respect for human rights within the Palestinian community, based on the acknowledgement of the gross violations of all that is decent in human behaviour perpetrated by so many Palestinians during the long years of occupation.

As an outsider, I do not feel it is appropriate at this stage to make specific recommendations as to the nature, structure and remit of a Palestinian Truth and Reconciliation Commission. This should emerge out of democratic and open debate amongst Palestinians from all walks of life, bearing in mind the particular circumstances faced by the Palestinians and the lessons that can be drawn from the experience of other countries faced with the problem of restoring the moral order and healing the wounds of a divided society. The aim of this report has been to contribute to such a discussion.

Lest anyone be tempted through misguided 'short-termism' to dismiss such a project as irrelevant, I ask them to consider the questions raised by the South African playwright Ariel Dorfman, as he considered some of the problems facing his country.⁹⁸

"How can those who tortured and those who were tortured co-exist in the same land? How to heal a country that has been traumatised by repression if the fear to speak out is still omnipresent everywhere? And how do you reach the truth if lying has become a habit? How do we keep the past alive without becoming its prisoner? How do we forget it without risking its repetition in the future? ... And how guilty are we all of what happened to those who suffered most?"

⁹⁸ Quoted in *Truth and Reconciliation Commission*, 1994, p.15.

APPENDIX

INTIFADA LEAFLETS - EXCERPTS RELATED TO COLLABORATORS

The following are quotes related to the subject of collaborators from leaflets issued by the Unified National Leadership of the Uprising (UNLU; also: Unified National Command - UNC) in the Occupied Territories (after the Palestinian Declaration of Independence of November 15, 1988: State of Palestine) and by the Palestinian Liberation Organisation.

Proclamation No. 10 - (10/03/88)

"Oh struggling masses of our people, from your trenches and arising out of the unity of our people and based on your call of direction, the Unified National Command of the Uprising places the following decisions in your trustworthy hands:

(...)

7. Strengthening the hold of our masses against the army of occupation, its settlers, against collaborators and the lackeys of the Jordanian regime. We are proud of the record of our people in punishing them and forcing them to recant and to announce that in mosques and churches and before popular committees. We also call upon the delegates to the Jordanian parliament who were appointed by the king to represent our people, to announce their immediate resignations and to return to our people, otherwise they have no place in our land."

Communique No. 11 - Land Day Appeal (19/03/88)

"We call on our people to do the following:

(...)

6. Declaring Tuesday, March 29, a day of Repentance, where all those who departed from the will of the people will have an opportunity to return and depart from their enmity to the people and where they hand over their weapons and cleanse their consciences."

Communique No. 16 - The Palestine Appeal (13/05/88)

“We urge the intensification of strikes against the police and collaborators who have remained outside the national consensus by refusing to resign from their posts. The same applies to appointed municipal councils.”

Communique No. 21 - The Al-Aqsa Appeal (06/07/88)

“Our People are warned against attempts by the occupation authorities and collaborators to sow the seeds of confessional strife, as happened in Nablus, Bethlehem and Gaza. Those taking part in this sordid campaign will be dealt with severely.” (...)

“We warn against those collaborators who hide behind the mantle of religion and who abuse nationalist symbols in their attempt to denigrate the PLO and the UNLU.”

Communique No. 23 - Appeal of the Deported (05/08/88)

“To Our People: the occupying powers are deluding themselves if they think that by deporting more from your ranks they can contain the uprising. You have proven over the past eight months that deportations, demolition of homes, torture, economic sanctions, the war on popular committees, the closure of national institutions, and the rumours circulated through collaborators and the media that the uprising was abated, will fail in the face of your determination. We urge you to continue in this spirit of defiance, and take this opportunity to confirm the following:

- We must continue to put pressure on collaborators, those who have refused to resign from their posts, those who purvey the products of the enemy, and the circulation of harmful rumors. Work in Israeli settlements must cease, and fines and bails should not be paid.”

Communique No. 32 - Appeal of Revolution and Continuity (09/01/89)

"To the people of the uprising:

The UNLU, which is the executive arm of the PLO in the State of Palestine, which you support and follow its directives, assures you that the era of liberation will only come by the continuous escalation of the popular uprising in all shapes until reaching the separation from the occupiers and the civil disobedience. The UNLU calls on you to take the following steps:" (...)

- "The UNLU calls on the people of the uprising to set up popular courts to try and punish thieves, collaborators and land delayers who are violating that which is sacred to the people. "

- "The UNLU calls for the necessity of full resignations from the civil administration apparatus, the municipality of Jerusalem and the Jerusalem police, and the licensing and traffic departments, the appointed village and city municipal councils. We warn those still in these jobs that their activities are being watched and the verdict of the people will not be late. The UNLU calls on the strike forces to stand up tough against anyone who tries to retract from his resignation from the civil administration, police and appointed councils."

Communique No. 33 - Appeal of Challenge and Confrontation (23/01/89)

"The UNLU urges our people to beware of attempts made by some collaborators and suspect individuals to create confusion by assaulting, under the cover of darkness, the lives and properties of honourable citizens. We urge our people to activate guard committees, and call upon striking forces to teach the perpetrators of these acts the appropriate lesson. We also warn against suspect communiques and the circulation of rumours: only communiques issued by the UNLU, the sole framework for the leadership of the uprising in the State of Palestine, should be honoured.

The UNLU warns against attending suspect meetings and receptions held by the civil administration and the apparatus of the occupation. Attendance of such events will be considered outside the national consensus and an insult to the masses of the uprising." (...)

"The UNLU lauds the role of the striking forces, and urges them to escalate their confrontations with the army, settlers, collaborators, thieves, and those who attempt to blackmail our merchants and people. We also urge them to strike at appointed [municipal] councils and employees of the civil administration." (...)

"To our great people, the people of the PLO: the UNLU urges you to observe the following:

1. To consider January 25 and 26 days of struggle by the striking forces, when collaborators, traitors, and appointed councils will be targeted."

Communique No. 34 - The PLO is our only Address (11/02/89)

"We renew our call to all employees of the civil administration, auto licensing department, customs department, and the police to resign from their posts and to join the ranks of the Palestinian people. All appointed municipal and village councils must resign immediately. We urge the striking forces to escalate their attacks against them and against collaborators, traitors and land dealers.

We warn our people to beware of suspect elements, thieves and drug dealers, who try to spread social problems among the masses. We urge you to expose these cowardly traitors, and to beware of traps set by the Zionist intelligence forces, whether they take the form of agents dressed as Palestinians the quick erection of checkpoints, or despicable attempts to entrap and corrupt innocent children and youth." (...)

"The UNLU lauds the role of the striking forces, and urges them to escalate their confrontations with the army, settlers, collaborators, thieves, and those who attempt to blackmail our merchants and people. We also urge them to strike at appointed [municipal] councils and employees of the civil administration." (...)

"To the masses of national independence, the people of the PLO, the people of struggle and sacrifice: the UNLU in the State of Palestine invites you to observe the following: (...)

2. To consider February 13 a day for the escalation of the uprising and the mounting of attacks against collaborators, traitors, appointed members of municipal councils and the civil administration."

Communique No. 35 - The Appeal of One People, One Leadership (26/02/89)

"To the People of the State of Palestine:

Your struggles, sacrifices and the precious blood of your martyrs are shortening the life of the occupation and destroying the illusions nurtured by the occupiers over the last twenty years. Your heroic sacrifice is also building the Palestinian state, which has become a reality. You, the brave youth of the stones, the heroes of the war of national independence, have embodied and strengthened national unity with the blood which you have shed on the soil of your country. You have defeated the forces of the occupation despite the repression and the attempts to starve our people. You now witness your defeated enemy resorting to the age-old colonial tactic of "divide and rule"; they are trying, with what remains of their cowardly collaborators, to sow confusion and dissention within our ranks. But you have honoured, and will continue to honour, the blood of the martyrs. We are also confident that you will preserve our national unit, and will defeat all suspect attempts which aim at compromising the unified struggle of the people and adversely affecting relations between national forces."

Communique No. 37 - The Call of the Land (29/03/89)

"To our people:

The UNLU wishes to underline the following: (...)

4. We stress that work at Zionist settlements must stop. Local national leaders, popular committees, and striking forces are requested to deal with this matter through counselling and consciousness-raising and not through violence. Violence is carried out against enemies and fallen collaborators, from whom our ranks must be purified. Collaborators must be exposed, contained and boycotted socially until they announce their repentance. We warn against communiques and statements authored by the enemy which mention names of honourable people [as collaborators - ed.] in an attempt to create an atmosphere of lack of trust and confusion in our ranks."

Communique No. 38 - The Call of the Martyr Khalil al-Wazir (Abu Jihad) (12/04/89)

"The UNLU urges the observance of the following activities: (...)

11. To consider April 26 a day to settle accounts with collaborators. On this day, striking forces and arms of the UNLU will use all means to punish collaborators and those who work with the occupation authorities and against the national will."

Communique No. 40 - The Appeal of Heroism and Steadfastness (22/05/89)

"The UNLU as it struggles with you is determined not to retract and not to weaken, and assures you that the Zionist terror only increase the determination of the struggle. We call for the following: (...)

- "We condemn attacks on honorable people carried out by collaborators. This calls for the activation of guard committees to protect our property and farms."
- "Following after settlers should continue so that they would be an example to all those who accept to be traitors to their people and their cause. Chasing after collaborators does not take place because of them being political opponents with a unique point of view but because of them being an instrument in the hands of the occupation supplied by weapons used to kill and terrorize our people."

Communique No. 43 - The Appeal of Unity (25/07/89)

"The UNLU denounces the irresponsible actions carried out by some of the undesirable and collaborators in the cities of Hebron, Jerusalem and Gaza, where our women were attacked on the alleged cover of religion and morality. In this respect, we praise Hamas for its denunciation of these actions." (...)

"The UNLU calls for the attacks on collaborators and traitors and calls on the strike forces to be patient in declaring sentences and not to use the death penalty except in extreme cases of collaboration and after full investigation and proof of the crime of treason and after the approval of the highest references."

Communique No. 44 - The Fatah Conference Appeal (15/08/89)

"Our Struggle against our enemy, which only knows the language of power, will continue with your determination until victory. More is needed to break down the infrastructure of the civil administration. More attacks are needed to its prominent collaborating symbols. More attacks in self-defence of the collaborators who are being organised by the enemy into armed militias whose job is to attack honorable nationalists. More, oh heroes of the stones and knives! Let the ground under the feet of the occupation soldiers, settlers, and collaborators burn, because the only language they understand is the language of suffering losses." (...)

"The UNLU calls on our people not to liquidate any collaborator without a central decision from the highest authority, or if there is not a national consensus or before they are warned and given an opportunity to repent." (...)

"The UNLU calls for the following days of protest:

(...)

2-4/9 escalation of the struggle; stones to be thrown at soldiers, border patrols, settlers and collaborators.

Communique No. 45 - The September Martyrs Appeal (04/09/89)

"...we call for:

First: Collaborators: We repeat that all cadres of the hit teams and popular committees must use control so that we do not lose our discipline, because this would allow the enemy to use this phenomena both on the field and in the media. This is why we have to take our time and be sure before we pass quick judgments, and then we need to get approval from higher authorities before punishment is carried out or even threats to be sent. Also we need to give time for repentance, using the methods of reform and observaton before carrying out punishment." (...)

Communique No. 46 - The Appeal of the Adherence to the PLO (Sept./Oct. 1989)

"...we call for
(...)

8. The UNLU calls for the continuation of following collaborators and to stop their destructive acts by means of gradual steps and not by means of executions unless there is national consensus and after consulting with supreme authorities." (...)

Communique No. 55 - Jerusalem -The Eternal Capital of the Independent Palestinian State (19/04/90)

"Collaborators: The enemy has taken advantage of the phenomena of capital punishment committed against collaborators and the mutilation of their bodies. The capital punishment against them has also not solved the problem of the collaborators and their ugly actions. Therefore the UNL with its executive elements, represented by strike forces, assures that capital punishment will not be carried out unless on order from supreme powers. The strike forces will continue to monitor these collaborators and will organise social boycotts against them and will declare punishments applicable to the degree of their deviation with the exception to the general people and the strike forces of killing attackers in cases of self-defence. In the respect the UNL announces the capital punishment against Mardous Matosian and others and their names will be declared later but the execution of these orders will be suspended until further notice." (...)

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