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INTERNATIONAL REVIEW of the Red Cross



Interview with Raja Shehadeh*

Palestinian lawyer and writer.

For this thematic edition on occupation, the International Review of the Red Cross *considered it crucial to complement the academic and military perspectives reflected in this issue with a viewpoint of someone who has lived and practised law in an occupied territory. The* Review *chose to interview Raja Shehadeh, a Palestinian lawyer, writer, and human rights activist who lives in Ramallah. In 1979 he co-founded Al-Haq, an independent Palestinian non-governmental human rights organization based in Ramallah, which is an affiliate of the International Commission of Jurists in Geneva. He worked with Al-Haq as co-director until 1991, when he left the organization to pursue a literary career.*

Raja Shehadeh is the author of several books on international law, humanitarian law, and the Middle East, such as The West Bank and the Rule of Law *(1980),* Occupier's Law: Israel and the West Bank *(1985 and 1988), and* From Occupation to Interim Accords: Israel and the Palestinian Territories *(1997). He was awarded the Orwell Prize in 2008 for his book* Palestinian Walks: Notes on a Vanishing Landscape. *His most recent book is* Occupation Diaries.

In this interview, Raja Shehadeh gives his views on the relevance of occupation law today, as well as his personal reflections on Israel, the Palestinian Authority, and the work of international organizations such as the International Committee of the Red Cross (ICRC).

* This interview was conducted on 13 March 2012 in Ramallah by Vincent Bernard, Editor-in-Chief of the *International Review of the Red Cross*, Michael Siegrist, Editorial Assistant, and Anton Camen, Legal Adviser of the ICRC in Israel and the occupied territories.

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How would you summarize your career as a human rights activist?

When I came from London in 1976, the occupation had already been in place for nine years. Working in my father's law office enabled me to review changes in the law that the Israeli authorities were making and I realized that there was a very big discrepancy between what was said about the occupation and its benevolent nature, and the actual reality. It became clear to me that these changes were neither haphazard nor arbitrary. At the same time, I realized that the court system was in disarray and that no one was paying attention to these aspects.

My father and I were of the opinion that the solution for the Palestine–Israel conflict was to establish a Palestinian state alongside Israel, and my view was that we, the Palestinians, have to work on establishing that state; nobody's going to do it for us. And I thought that much had to be done to establish the important principle of the rule of law, so that when we achieve our aim of a Palestinian state it would be respectful of that principle. So I have believed since then that what was needed was not just to document the legal changes and the human rights violations, but to try and do something to alleviate those violations and to work on advancing the principle of the rule of law.

The first joint publication of Al-Haq (which was then known as Law in Service of Man) and the International Commission of Jurists, entitled *The West Bank and the Rule of Law*, revealed how the military orders were not being published and the great impact this had on the local law relating to various aspects of life for the Palestinians living in the occupied Palestinian territories (OPT). At that time, the relationship between Al-Haq and the officers in the legal departments of the Israeli military government was what one can describe as 'polite'. Rather than ban the book or arrest its authors and close down Al-Haq, Israel responded by publishing a full-length book that denied the claims of human rights violations and violations of the law of occupation set forth in our publication.

So Al-Haq had a good start. Moreover, it was all voluntary work, we were all volunteers. The idea that human rights work should not be lucrative was very important to us. It was also decided early on that everybody involved in the organization would be included in the decision-making process and would be party to the decisions and responsible for them, therefore accountable. It was a training process for all of us and we wanted everyone to know how the decisions were made. In addition, we had to be very careful because there was no work being done on human rights in our region. There were no other organizations. We were under suspicion from all sides and the possibility of being closed down was considerable. So we had to tread very, very carefully.

Then we started expanding; we were trying to keep anyone interested, anywhere in the world, informed about the changes that were occurring and where they were leading. We legally analysed those changes and kept up with each and every one, however small, indicated how it fitted into the grand scheme, documented the individual human rights and published reports, and so on. And then, of course, our work developed, and with the first *intifada* that began in 1987 it had to go very fast and expand substantially.

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I stayed with the organization until 1991. By that time many of the staff had received training in human rights – proper training, with a number of them receiving academic degrees in human rights. So we had a cadre of well-trained, committed people who served the organization and it was becoming something that could stand on its own.

In that year I also became an adviser to the delegation in Washington for the negotiations between the Palestine Liberation Organization (PLO) and Israel. I saw it as a political post because I was for a political stance that not everybody agreed with. So I thought that was the time to leave my position as co-director of the organization. I continued to maintain a relationship with Al-Haq, but not in an official capacity.

After the Oslo Accords came into force I was very disappointed with what was happening, and felt that I had given a lot of my time to making known the legal aspects of the occupation but none of this work was having any impact on the Palestinian leadership. Worse still, I felt that the strong legal case which Palestine had enjoyed had been utterly destroyed. I was actually mystified as to how the PLO could sign such surrender documents as the Oslo Accords of 1993 and the Interim Agreement of 1995. During that period I felt more depressed than I had ever been. Even though I saw the destruction of much that I had worked for, I thought that before moving on to other concerns I should use my expertise in the law to write a legal analysis of the Oslo Accords. So in 1996 I worked on the book *From Occupation to Interim Accords*, which was published by Kluwer International in 1997.

I continue to contribute to the struggle for human rights, as an author and as a member of the Palestinian Independent Commission for Human Rights – which serves as an ombudsman here. But it has always been my belief that human rights activism entails more than being a board member of a human rights organization or writing an occasional article. I have always thought of human rights activism as being fully engaged in and committed to the cause of human rights and living the life of an activist, not just that of an academic remote from the fray.

During my tenure as co-director of Al-Haq I had always continued both my literary writing and my legal practice. I saw writing as a way of serving the cause of justice and human rights. Human rights reports reach a limited sector of the population and so have limited impact, but if you write something that touches more people and is mass-distributed, the impact is that much stronger.

Books don't get through to people solely by being read. If you're affected by what you read, it becomes part of your experience and you take it in or feel it in a much stronger way.

In one of your books,* Occupier's Law *of 1988, you described certain stages of occupation. How would you describe the evolution since then?

My idea from the very beginning, which I've tried to express in my writing and work, was that the occupation is of a colonial nature. Its aim ultimately is to

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encourage – certainly not by using force – the Palestinians to leave and to be replaced by Israeli settlers. As a precaution, the Palestinians had to do everything they could, despite all the difficulties, to stay put on the land. In *The Third Way* (published in 1982) I called this *sumud*, which means perseverance, steadfastness, staying put. Over the years the Israeli tactics to implement this policy have changed, and the Palestinian response also has changed. But the main objective of the Israeli occupation has remained the same.

In order to achieve this Israeli objective a number of obstacles had to be overcome. In the beginning, I was interested in the legal methods used to make large-scale settlements of Israelis possible in the occupied Palestinian territories: I could not understand how Israel was going to encourage its population to settle in the occupied territories and transfer some of them there, yet resolve the problem of having these citizens considered, legally speaking, as living within their state although in fact living outside its borders. In other words, how to annex the territories without annexing them? I was very curious as to how they were going to resolve this problem, which is a very technical legal problem.

For the first decade or so they didn't have a solution, but – and here is something very interesting and important – in 1967 Theodor Meron, then Legal Adviser to the Israeli Ministry of Foreign Affairs, was asked by the Foreign Ministry and Prime Minister Levi Eshkol to write a secret memo on whether the settlements were legal, and he wrote that they were not legal, that they were contrary to the Geneva Conventions. He was disregarded and they found someone else who devised a curious interpretation called the 'Missing Reversioner' theory.[1] In short, it says that no other state has sovereignty over this territory because it didn't belong to anybody, and therefore it's not occupied; consequently the Geneva Conventions do not apply since Israel did not occupy it by ousting any sovereign power. This concept of the missing reversioner makes no legal sense and has no basis in international law, but Israel held on to it because it was convenient. And a few months after the occupation took place, the Israeli settlements began.

However, for the first twelve or thirteen years of the occupation the number of Israelis willing to settle in the OPT was small. The government had still not resolved the legal questions of how it would collect Israeli income tax, how it would get Israeli social benefits and services to those citizens living outside the borders of the state, how they would be considered professionals working in Israel when they're not. These were very technical, detailed, important, and fundamental legal questions that had to be resolved.

Until Menahim Begin became Prime Minister the number of settlers was small. The vanguard was the Gush Emunim (Bloc of the Faithful), who were ideological. Begin realized that unless non-religious/non-ideological Israelis were mobilized and encouraged to move to the settlements, the settlement project would

1 See Yehuda Z. Blum, 'The missing reversioner: reflections on the status of Judea and Samaria', in *Israel Law Review*, Vol. 3, 1968, p. 279, available at: http://heinonline.org/HOL/Page?handle=hein.journals/israel3&div=26&g_sent=1&collection=journals (last visited February 2012).

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not take off. So he began providing financial incentives to encourage lower-income Israelis to move to the OPT, where they would be able to have the kind of house and quality of life which they could never dream of in Israel itself. With these enticements the number of settlers soared.

Another important step was the Camp David agreement with Egypt in '79. In that agreement Israel saw itself as giving up the Sinai in return for keeping the West Bank, and settlements from that point on increased.

The most important legal change that occurred, which was and continues to be fundamental to this day, came in 1981 when Military Order 947 was issued. This order established the civil administration that continues to be in place to this day. It was a way of separating the civilian rule of Israeli Jews from that of non-Jews living in the same territory, making each group subject to different laws and different authorities that implement different laws, which is a form of apartheid. A whole series of military orders and Jordanian laws were transferred from the military government to the Israeli civilian administrator who governed the non-Jews living in the occupied territories. At the same time, using various 'legal' devices, Israeli laws came to be applied to the Israeli Jews living in those same territories. The head of the civil administration was an Israeli official appointed by the army, so it wasn't much of a civilian rule. But it was a structure that Israel devised to resolve the problem of how to apply Israeli laws to one part of the population and not to the other, and how to discriminate in an official, 'legal' manner between the two groups of inhabitants living on the same territory. This was how apartheid was introduced to the OPT.

Al-Haq immediately realized the significance of this change. Just after the order was published we carried out a thorough study with the title *Civil Administration in the Occupied West Bank: Analysis of Israeli Military Government Order No. 947.*[2] Interestingly, Israel responded again by stating its position in the *Israeli Yearbook on Human Rights*. Regardless of the popular resistance taking place against the civil administration, Israel pressed on and continued to search for Palestinians to take over the administration of the civilian aspects which it had identified. Under Begin and later Shamir, Israel created, funded, and controlled the 'Village Leagues', a system of local councils, mainly collaborators, managed by Palestinians who were hand-picked by Israel to run local city and village administrations. The Israeli thinking was that the Village Leagues could ultimately take over the civil administration. Theoretically the plan made sense, because it was based on the correct fact that the majority of the Palestinians live in villages – the countryside – and not in the urban centres considered to be in support of the PLO. But it didn't work and the search continued. Unfortunately this same line of thinking can be seen as extending to the Oslo Accords.

2 Also available on the Al-Haq website: http://www.alhaq.org/ (last visited February 2012).

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As you took part in the negotiations of the Oslo Agreement between the PLO and Israel as an adviser to the Palestinian delegation in Washington, how would you describe the process and its outcome?

On 30 October 1991 negotiations began between Israel and the PLO (which was then part of the joint Jordanian–Palestinian delegation). But from the start the negotiations were limited in scope. The terms of reference were that the two sides would negotiate interim self-government arrangements for the Palestinians. And so it was, first of all, 'interim' – although it was never to be interim, at least that was the claim – then 'self-government arrangements' and 'for the Palestinians'. I could see exactly, from knowing what had gone before, where the Israelis were heading. As far as I was concerned, the important thing would be how to expand these terms of reference to include land issues and settlements, because obviously, as long as they pertain only to the self-government of the Palestinians, they leave out the land and settlements issue. So that was why I was very interested in joining the negotiations and trying to work out something that would make a difference. I stayed with the negotiations in Washington for one year only and then realized something was happening which I couldn't understand. I was not aware that secret negotiations were taking place while the Palestinian delegation was negotiating in Washington, and that this was why Arafat was giving the delegation in DC orders and directives that I thought made no sense.

Two years later, in '93, I read the Declaration of Principles on Interim Self-Government Arrangements [official name of the Oslo Accords] in the *Guardian* newspaper while I was on vacation in Scotland. When I started reading I was disappointed; yet at the same time I thought that maybe some things could be worked out, that certain favourable interpretations might be possible. But then when I read the 'Agreed Minutes' attached to the document, I realized that every possible loophole had been closed. I realized that the policy of Israel's government that had been pursued in those negotiations and in formulating that document (because it was primarily the work of Israeli legal scholars) made peace between the two sides impossible.

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Back in Ramallah I attended a conference on the Oslo Accords in January '94 where I spoke about the legal aspects, quoting from the Agreed Minutes, and people said: 'What Agreed Minutes? We don't know about these!' As it turned out, the local papers had published the Declaration of Principles without the Agreed Minutes and so there was a deliberate attempt to delude people, to get them to support the Accords without knowing all the facts.

It was difficult for me to understand how, after all this struggle and when the settlements were at the heart of the problem, the PLO would agree to something that would not include as a pre-condition the cessation of settlement activity. How was it that the PLO had allowed Israel to pursue a policy that was anathema to peace, namely building Jewish settlements in the Palestinian territories? Worse still, the illegal changes in the law which Israel had thus far made through unilateral military orders were effectively made bilateral when the Palestinians signed the Oslo Accords. It was all a terrible disappointment.

At the time of the Oslo Accords the Jewish settlements were still reasonably small in number. But after the signing of the Interim Agreement in 1995, when some 60% of the West Bank was designated as Area C, the Israeli population was made to believe that settlement in Area C[3] was safe because this was the area which was going to be annexed to Israel, and those who settled in it would not have to worry about being evicted in the event that a final peace settlement is reached with the Palestinians. So in the eyes of most Israelis, if you settle in Area C then you're not really a settler and you're not breaking international law or jeopardizing future peace.

Thus settlement has increased manifold since the Oslo Accords and, while I believe that the settlements are one of the fundamental obstacles to peace, then the problem has become much more complicated since the signing of the Oslo Accords.

What are the specific problems and challenges of an occupation that lasts for more than four decades, in terms of humanitarian consequences or legal consequences for the people?

Well, even though in many respects it remains, according to international law, an occupation, and these territories here continue to be occupied territories, yet over time it has moved so far away from the rules and parameters of what is allowed under occupation that it has acquired certain colonial features. So in a sense the question is the same as in a colonial situation, namely how the relationship between the colonial power and the colonized people develops and the effect of a long-term colonial situation on the colonized people. I think this is the heart of the matter here.

3 Editor's note: Under the Oslo Interim Agreements, Area A is under full Palestinian civil and security control, Area B is under full Palestinian civil control and joint Israeli–Palestinian security control, and Area C is under full Israeli control over security, planning, and construction. For a map, see United Nations Office for the Coordination of Humanitarian Affairs (OCHA), occupied Palestinian territory, *Humanitarian Factsheet on Area C of the West Bank*, July 2011, available at: http://www.ochaopt.org/documents/ocha_opt_Area_C_Fact_Sheet_July_2011.pdf (last visited 2 March 2012).

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In the early days of the occupation, when there were not so many settlements and they were not having such a negative impact on the lives of people, the relationship between Israelis and Palestinians was entirely different from what it is today. There were all kinds of possibilities for the sort of future that could develop; there was interaction, there were sometimes benefits, mutual benefits. Things could have gone entirely differently. But now we cannot speak about the occupation without speaking about the settlements and the fact that people do not see Israel only as an occupier that controls certain aspects of their lives, but as a colonizer that is after their land. It feels like a cancerous growth that is eating up their body and making normal life impossible in every way.

I remember, when we at Al-Haq were speaking about settlements in the late '70 s, that people would ask: 'Why are you making a big deal of it?' This was because most people couldn't see the settlements or feel their impact on their lives. Of course, if you were a farmer and your land had been taken, you did. But the immediate effect on most people was not perceptible. Settlements were being established mainly in places that were far away from Palestinian population centres (Hebron being an exception). Now it is a different matter. Settlements have an impact on every aspect of the Palestinians' lives, and so we cannot speak of the effect of the Israeli occupation without keeping in mind the nature of this occupation, in particular its colonial nature.

How do you see the tension between the obligation for the occupying power to maintain local legislation in force and the need to adapt it to the changing needs of the population, especially in this case of prolonged occupation? What is your assessment of the role of the High Court of Justice in this regard?

Again, we have to distinguish between pre-Oslo and post-Oslo periods. In the pre-Oslo period, Israel had full control of everything. Post-Oslo, Israel transferred some of the powers to the newly established Palestinian Authority, mostly those relating to the civilian aspects of life; and, within the limits prescribed in the Interim Agreement of 1995, the Palestinians had the right and the amount of control to change the laws, to adapt them to the changing reality of life. So that's one aspect. Whereas in the areas and aspects of life that continue to be under Israeli control, the changes in the law were and continue to be made by the Israeli civil administration, which is now – and has been for quite a while – highly influenced and staffed by settlers.

The civil administration legislates very simply by drafting a new law or an amendment of an existing law. When Al-Haq came to learn of these unilateral and often illegal changes to local law, it would analyse this legislation and bring it to the attention of whoever could protest against it. And sometimes that worked; with the support of others we were able to stop the implementation of certain military orders. At other times it would be decided that a new law, or a decision, should be challenged before the Israeli High Court.

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Over the years, many challenges were taken to the High Court by various groups and with the encouragement of Al-Haq and other organizations. This has been a great disappointment because the High Court, which could have played an important role in stopping these illegal Israeli changes in the law, only found justifications for legalizing these dangerous and illegal developments. It would produce very erudite and lengthy decisions, making one fine distinction after another, which would literally make your head spin. But the result was almost always disappointing.

For instance, the High Court introduced the most important change, when it began to consider that the 'local population' whose interests and needs ought to be protected by the Military Commander also encompasses Israeli settlers living in the occupied territories. In this way it turned international law on its head, because this law is, to a large extent, designed for the protection of the occupied people and for their wellbeing, and not that of the citizens of the occupying state.

The whole point of the 1907 Hague Regulations and the Fourth Geneva Convention was that they were formulated and adopted for the benefit of the local population and to safeguard them, they being the weaker party in the equation. Yet the Israeli High Court has made the Israeli settlers part of the local population whose benefit should be sought. So it's entirely an ideological position; it's confusion between the ideology of Israel, which sees the occupied Palestinian territories as part of the biblical land comprising Judea and Samaria, and the legal rules. And so international law is deprived of playing the role that it was intended to play.



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What are the needs of the Palestinians in terms of human rights protection and what is the role of the Palestinian Authority in this regard?

I'm a commissioner on the Palestinian Independent Commission for Human Rights and every year the Commission publishes an annual report on the political and civil rights situation. I think that one of the successes of the work of human rights organizations and the NGO [non-governmental organization] and civil society movement has been to instil in the Palestinian population a feeling for the importance of human rights. I think that this has happened. But it is never a static

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thing. You can never feel that this has been achieved and then say 'Okay, I can go home now and take a break'. It's a constant struggle.

When the PLO first came here, their attitude was: 'Okay, you people who were working on human rights, you are part of the resistance against the Israeli occupation; now the resistance should be stopped because we have reached an agreement with Israel. Go home.' Literally, that was their position.

Then we explained that this was not going to happen because now there were new challenges and the Palestinian Authority was part of it. They were rather surprised, because they did not come from places where they would have experienced that kind of work. But I think that now a positive change has taken place. They realize that human rights work is an important safeguard and helps in the healthy development of society. So every year we've been going to the Prime Minister and the President of the Palestinian Authority to report on the situation – sometimes we also go in the course of the year – and we are always received very politely and they listen. This at least is positive. I think it has been possible to have some influence in the civil rights sphere.

What worries me is something else. The Palestinian police commit violations, but the present system is more responsive to our appeals against these violations. However, the security forces are another matter because it's not clear who they are accountable to, and their structure is not clear. It is also not clear which laws they apply. They seem to operate as though they are above the law.

One example is the case of civil servants. The security services, the *Mukhabarat* ('intelligence agency'), insist that civil servants need clearance from them and that if they decide someone is not politically favourable, so-and-so will be dismissed from their work. There have been at least 100 cases of people who were accepted for employment as teachers in government schools, had started their work, had even in some cases gotten a positive review, and then were dismissed simply because the security services wanted them dismissed. The Human Rights Commission went to the Palestinian High Court to appeal against the decision for their dismissal, and it is a perfectly good case because the law does not allow for dismissal on those grounds. And this has taken – how long is it now? At least two years. And the High Court is unable or perhaps does not dare to decide on the matter. Every time we take the report, go to the people in power, and tell them: 'You are always speaking about the importance of an independent judiciary and the rule of law, and this is the case in point. You must resolve it.' Yet nothing happens; it has still not been resolved.[4]

There are some improvements. Certainly some action has been taken against corruption. They're trying to improve the judiciary. But it's still very worrisome because once a police state is entrenched, it's very difficult to dismantle it.

There are also problems of attacks on human rights activists. The trend is neither totally negative nor totally positive; it can swing both ways. So sometimes the police authorities and the security services allow visits to prisons under their control,

4 The High Court eventually decided in favour of the petitioners on 3 September 2012.

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but this is not always the case. They have reduced the number of people dying under torture, yet torture still takes place and people still die under torture. They have not removed the death penalty, despite a lot of work done to stop this violation of the right to life.

And what is the role of civil society in promoting respect for the law?

I think there is a very important role for civil society. But it's difficult for me to assess completely because I feel I might be prejudiced – one always tends to put oneself first and think of one's own times.

One of the things I feel saddened about is that when civil activities began, much of the work was on a voluntary basis. Many of the big organizations – such as the Palestinian Medical Relief Society, the Palestinian Agricultural Relief Society, and Al-Haq – were totally staffed by volunteers. And certainly in the first *intifada* there was a lot of volunteering. I very firmly believe that a society must feel that it can help itself and that serving your society on a voluntary basis is an important part of belonging to it and seeing it as your own and looking for ways to improve it.

I think that what happened after the Oslo Accords was a serious corruption of this spirit, because massive amounts of international aid money began pouring in. And in a way, one of the disservices that international aid did for us – in addition to financing the occupation, which is another great disservice, and relieving Israel of some of its responsibilities under international law – is to have attracted some of the best people who were otherwise volunteering their services, offering them well-paid jobs and, in a sense, corrupting them.

That's not to say, though, that there isn't a lot of important work still being done on all fronts and above all on the cultural front by NGOs. Civil society work has become so deeply integrated in our society that it has not been possible to destroy it.

So it's a mixed bag, but I think one of the successes of the human rights movement is that it established something lasting, that has gone through all these stages and has produced activists in the field and human rights professionals who are knowledgeable. All of these are important achievements. But human rights is an ongoing battle, and that's what one needs to understand. There's no end to it.

In one of your books,* Palestinian Walks, *you describe how you relied on law as a tool. How do you see the value of using and relying on international law, particularly occupation law, and to what extent is it still useful for your work today?

I'm a believer in international law. I'm passionate about the fact that, if we don't want war, we have to have a way of avoiding conflict, and international law is an important instrument for doing so. That's why we must be extremely careful to guard this instrument, this major human development, because humanity did not always have international law to fall back on. It's something that developed over

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time. And in a way it's very sad that now Israel is helping to destroy much of it. This is having a strong and direct impact on us Palestinians, but it also affects humanity as a whole.

Initially, international law was of great value to us because for Al-Haq the criteria we depended on were the principles and the standards of international law. So it provided us with a very important basis for much of our work. I still think that international law is vital for the future. In my view, all these divisions in the Middle East into small non-viable states as a result of the First World War are arbitrary, artificial, and non-workable. They do not take into consideration the scarcity of the resources in the region, especially water. And just as we are stuck with that situation now, we will eventually be rid of it in the future. That is why international law remains important.

However, I still believe that, in order to get to a position where we will have some sort of federation between Jordan, Palestine, Israel, and perhaps Syria and Lebanon as well (which in my view would eventually happen), we have to sort things out step by step. So the people who say the solution is one state including Israel and the occupied Palestinian territories are, I think, dreaming. Yes, there has to be one state eventually, or one political unit, but it cannot bypass the first essential step, which is ending the occupation. So ending the occupation and complying with the principles of international law are an important first step we must take in order to reach other steps. If we abandon international law, we will only have confusion.

I think international law is very important as a means of maintaining order and standards. We just can't abandon it. Naturally, like all other aspects of law, international law needs to be developed and to evolve, but until it does, we have to abide by what it contains now. Otherwise there would be chaos.

Do you believe that occupation law as it stands today is still appropriate to govern situations of occupation all around the world, or do you see a need for reform?

It's a very big question, which I am probably not qualified to answer, because all I can say from my understanding of occupation law is that it was intended to stop aggressors from benefiting from their aggression. That to me is a very important principle, and I don't see a way around it. International law tries to preserve relations between nations and keep them on a legal basis, so it has to accept that nations are formed and have a place. And then if one nation captures territory from another, international law should provide for sanctions against that nation.

So that principle is a sound principle. However, for international law to have teeth something has to change. The idea as I understood it was that the Geneva Conventions, which say all the right things, have the ICRC as their neutral guardian, so the organization could play a significant role. That is a very crucial position which, in my assessment, has failed.

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What were your expectations of the ICRC?

You cannot underestimate the importance of the individual help the organization provides. I know that the visits of the ICRC to someone who is isolated mean a lot to that person. The help given on a small scale, on restoring contacts, getting things to that person, is not to be underrated. And this help has always been given by the ICRC.

Israel has always sought to establish a separation between the humanitarian aspects – which it has always said apply to the occupied territories – and the non-humanitarian aspects of the Conventions. It then defined and drew the line it wanted between the two. It also wanted to safeguard some of those humanitarian aspects because, if it didn't, things would blow up. But caring for the humanitarian aspects is not a substitute for working on the others; this is the crucial point. Maybe my expectations were simply too high.

I started out with high hopes: that the ICRC is a neutral organization, that it is interested, willing, and able to play an important role. Maybe that's always a problem when you start out with high hopes – the hopes are dashed. However, I have felt reluctance on the part of the ICRC to take up issues in an effective way, to speak out openly against the settlements or the civil administration, and to use every possible power the organization has to help put a stop to these detrimental violations. Sometimes I detected more fear of speaking out against Israel than I had witnessed in Israel itself. On the many occasions when I met with the ICRC delegates and challenged the organization, I was told that your policy is not to speak out too often. But then in the case of Iraq, I saw many more public statements expressing condemnation and taking a clear stance than in our case.

I understand fully the importance of being economical in the frequency of public statements. From the beginning Al-Haq decided not to issue a press release on every occasion, because if it did they would be less effective. So by the time I left we probably had something like forty press releases. Very, very few, but whenever we did speak out we made sure that it was opportune, that it was strongly worded, that it was right, and so on.

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So I share with the ICRC the opinion that condemnation is not always the best way to counter the violations. However, I believe that the ICRC did not speak out when it should have. The ICRC did not take positions that were effective and use every means at its disposal to draw the world's attention to what is really taking place here.

Furthermore, this was a perfect case of an occupation where the Geneva Conventions applied, and in a sense their effectiveness was being tested. I'm not so knowledgeable about history, but I believe that this lengthy occupation was one of the first opportunities of its kind to see how the Geneva Conventions work. So it must also have been an extremely important opportunity for the ICRC to play its role to make sure that they are properly applied, and warn against the danger of the occupier being carried away by its power and turning the occupied territories into a colony that it uses to expand its own territory.

At present I'm not involved enough in the field to know exactly, but my assessment of the work of international organizations in general, whether developmental or on human rights, is that by and large everybody respects the Israeli parameters. One example of this is Israel's *de facto* annexation of some 60% of the West Bank, which under the Interim Agreement has been dubbed Area C and kept under total Israeli jurisdiction. Little is being done by the ICRC and others to challenge this Israeli practice, which is in complete and utter violation of the international law of occupation.

How do you see the current wave of social and political protest in the region as having an influence on the situation of Palestinians?

I think it will have a big influence. The previous political set-up had allowed Israel to enjoy a long period of false peace between it and Egypt. This enabled it to proceed with the colonization of the West Bank. With Syria, there was also *de facto* peace. With Jordan, there is another false peace. And instead of helping Israel and Israelis work towards reaching real peace with their neighbours, they were led to believe that, as long as those tyrants ruled in the Arab world, then they would continue to suppress what people really felt about the Israeli policies towards the Palestinians, who are fellow Arabs. Now perhaps this will change and perhaps there will then be a movement towards something more positive. My own position is that I don't believe Israel should be destroyed, because that would be a disaster. I think the Israeli people are here to stay. The question is, on what terms? And I don't see that the Israeli people are thinking about those terms. For instance, what is their relationship to the region? How can workable long-term relationships with their neighbours in the region be established?

You speak to them in Arabic, and they reply: 'We don't speak Arabic'. Why don't you speak Arabic? You are in an Arabic-speaking region! They have no interest in being part of the region. They have no interest in building bridges with the region. They have total reliance on their military power and on their alliance with and full support by the United States. If they want to think of their long-term benefit, they have to see how they can be part of the region.

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In the past, the communities used to live together. Do you believe that such co-existence is possible again, and how?

You know, I have seen many phases of the relationships between Israelis and Palestinians and I have also learned my lesson from the Oslo process, which is that the mistake most people make is that they think of the future on the basis of their experience of the present. So after the Oslo Accords I was openly sceptical, but I was mainly alone in my scepticism. Almost overnight many of the younger generations started saying: 'We have to be given a chance. We want to live in peace. We want a future. We want to forget about the past. We want to make friends with Israelis!' The people who were then in their early twenties were too young to know anything of what I had experienced. I realized that my experiences during the first *intifada* and the struggle were only mine and those of my generation! So I just can't expect them to know what I know. And that's how it goes and that's why there is hope in the world, because there are always new people and new experiences. And this is not a negative thing.

I've never bought the opinion that there's something in the make-up of Jews and Arabs to make them eternal enemies, because Jews and Arabs have always lived together in this land and co-operated, and it enriched the land to have the three monotheistic religions. So there's nothing in the make-up of the two peoples that prevents this from happening again.

I'll give you an example from just last Friday. Most Fridays we go on walks. In the course of our walk last Friday, we came upon a settlement. It has become almost impossible now to take a walk in these hills and not encounter settlements or settlement roads that cut through the hills and destroy them, or barbed wire, or walls, etc. So we came upon this settlement, which was on one side of the *wadi*, and then there was a huge rock face on the other, and some settlers had come to do rock climbing. In normal times we could have stopped, chatted, and invited them to share some of our food. Out in the countryside people are usually friendlier than anywhere else. Instead, just as we were passing close by – and not that close because we were on one level, they were on another and in between was barbed wire – we noticed that they had called for a security car from the settlement. They were afraid that we would harm them and had called for help.

In the end they went their way and we went our way. But what a sad state of affairs! These are rock climbers; they can't rock climb without having fortifications, needing more bodyguards to come and drive over the wild flowers in their 4×4 cars, and there's no common humanity between the two sides. There's no humanity. That's ugly, it's cruel, and it's unworkable. That's a perfect example, I think.

But that doesn't mean that eventually the two groups will not live together. If the injustice is removed and if the issues are resolved, they will learn to live together, because there is more commonality between them than differences. After all, most Israelis come from Arab countries and we are fellow Semites. Wherever I happen to be in the world, immediately the attraction is to somebody from the Jewish faith and we find that we have a lot in common. Maybe there are now far more common experiences, common sufferings, and common attitudes. So there's more commonality, but the obstacles would first have to be removed. Just as in the

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case of the people of India and the British. Now, they're much closer and they appreciate each other's cultures, but when India was a colony, this couldn't happen.

What little steps could be taken by both sides to move towards this future you just described?

Amongst the obstacles that stand in the way of co-operation between the two sides, there is not only the exploitation, economic and material, of resources, but also the views of the past. The more I think about it, the more I realize that, unless the Israelis come to terms with what happened in 1948, when the Jewish forces expelled over 75,000 Palestinians from their homes and refused to allow them to return – which the Palestinians call their *Nakba* ('catastrophe'), there can be no possibility of reconciliation between the two sides. So work on understanding the past is important.

Also, for the Palestinians it is important to understand the impact of the Holocaust on the Jewish people. The Israelis might not be aware that, when we grew up, we didn't know about the Holocaust at all. I think the impact of the Holocaust on Israelis has to be understood by the Palestinians.

I've written a short book in two parts that is only in French. The first part is on the right of return, which I think is very crucial, and in it I also speak about what was happening in Europe during and after the Second World War and its impact on Palestine. The second part is a futuristic fantasy that takes place in 2037. The book is called *2037: Le Grand Bouleversement* [*The Great Transformation*]. It's a vision of how things could be in 2037. It's an arbitrary date, but I think it is far enough ahead for something to have happened, for the entire region to be experiencing a different reality.

I believe that the time will come when there will be a different reality. To persist as we are today requires so much force, both military, physical, and intellectual; it requires a forced distortion of history, forced positions, forced narratives, forced economics, forced misuse of natural resources. The benefits that the whole region could have from interaction and co-operation between the different nations that live here is tremendous. Instead, so much is spent on the military. The whole region is just a tiny part of the globe. We're too small in the world and too troublesome . . . for nothing. What is it all for?

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