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Human Rights in the Middle East

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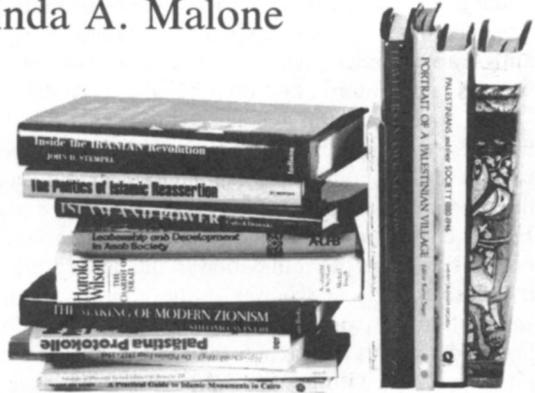
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Book Reviews

HUMAN RIGHTS IN THE MIDDLE EAST

Review Article by Linda A. Malone



Witness of War Crimes in Lebanon: Testimony Given to the Nordic Commission, Oslo, October, 1982, by the International Organization for the Elimination of All Forms of Racial Discrimination. London: Ithaca Press, 1983. xvii + 146 pages. £4.50 paper.

Torture in the Eighties: An Amnesty International Report. New York: Amnesty International Publications, 1984. 251 pages. Appends. to p. 263. \$5.95 paper.

Amnesty International Report 1983. London: Amnesty International Publications, 1983. Distributed by Dodd, Mead & Co., New York. viii + 338 pages. Appends. to p. 351. \$6.95 paper.

Egypt: Violations of Human Rights. New York: Amnesty International Publications, 1983. 27 pages. Appends. to p. 32. \$3.95 paper.

Egypt: Update to 1983 Report. New York: Amnesty International Publications, 1984. 14 pages. Append. to p. 15. \$2.95 paper.

Report and Recommendations of an Amnesty International Mission to the Government of the Republic of Iraq, 22–28 January 1983. New York: Amnesty International Publications, 1983. ii + 55 pages. Appends. to p. 74. \$4.95 paper.

Report from Amnesty International to the Government of the Syrian Arab Republic. New York: Amnesty International Publications, 1983. iii + 42 pages. Appends. to p. 65. \$4.95 paper.

Lebanon: Towards Legal Order and Respect for Human Rights. Philadelphia, PA: American Friends Service Committee, 1983. 46 pages. Bibl. Note to p. 47. n.p.

Research on Human Rights in the Occupied Territories, 1979–1983, by David Zucker et al. Tel Aviv: International Center for Peace in the Middle East, 1983. 171 pages. Appends. to p. 194. Tables to p. 203. n.p.

International Criticism of Israeli Security Measures in the Occupied Territories, by Esther Rosalind Cohen. Jerusalem: The Magnes Press, The Hebrew University, 1984. Jerusalem Papers on Peace Problems 37. 44 pages. n.p.

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In the Middle East the tension between state security interests and human rights has become a focus of international concern. Iran and Iraq continue to maintain a war outside the bounds of generally accepted humanitarian rules of war. There is evidence of increased repression of all political dissent within the borders of Iraq, Iran, and Syria. Israeli occupation forces in South Lebanon impose collective punishments in response to guerilla attacks against them. After an Israeli military tribunal imposed life sentences on four West Bank Arabs for the murder of a Yeshiva student, a classmate of the student shouted, "That is why there is an underground."¹ Israeli security officers recently arrested approximately 27 Israeli settlers from the West Bank and Golan for belonging to a "terrorist organization" responsible for anti-Arab violence,² shortly after admissions by the Israeli government that its security officers had captured and then killed two Arabs who had hijacked an Israeli bus.

In the precarious balance which must be struck between domestic security and civil liberties, the three books and six papers under review lead to the conclusion that a fear of dissent and instability throughout the Middle East is tipping the balance against individual liberties and human rights. With the possible exception of Cohen's piece and the reports on Egypt, each source documents human rights violations for which there would appear to be only a slim hope of rectification in the near future. Perhaps the most optimistic note sounded by these reports and books is the continuing vigilance of organizations such as Amnesty International in protesting human rights violations. At a time when international law is honored more in the breach than in the observance, faith in international law and insistence on compliance with human rights obligations is less and less rewarded.

Amnesty International Report 1983 contains that organization's global perspective on human rights compliance from January to December of 1982. During this particularly tumultuous period in the Middle East, Amnesty International presented information from Syria to the United Nations' Working Group on Enforced or Involuntary Disappearances, responded to inquiries from the UN Commission on Human Rights about human rights violations in Iran, and acknowledged ratification of the International Covenant on Civil and Political Rights by Egypt in 1982. By virtue of its scope, the report can present only a basic overview of any individual country's treatment of its prisoners in the context of international human rights standards adopted by the United Nations and other intergovernmental organizations. Most state entries average only a few pages, with the absence of entries for Jordan, Kuwait, Oman, Qatar, the United Arab Emirates and the Yemen Arab Republic indicating a lack of available information rather than an absence of reported violations.

The "loophole" in international law regarding human rights obligations which emerges from this report, as well as from Amnesty's individual state reports, is the right of a state to derogate from certain human rights guarantees under the International Covenant on Civil and Political Rights in times of a national "emergency." "Emergencies" justifying derogation range from the state of emergency imposed in October 1981 following the assassination of President Sādāt (renewed in October 1982), to the state of emergency in Syria proclaimed in 1963 and still in force. According to the United Nations Human Rights Committee, derogation measures

. . . are of an exceptional nature and may only last as long as the life of the nation concerned is threatened, and. . . in times of emergency, the protection of human rights becomes all the more important, particularly those rights from which no derogation can be made [the right to life; freedom from torture and cruel, inhuman and degrading treatment or punishment; freedom from *ex post facto* laws; the right to recognition as a person before the law; and the right to freedom of thought, conscience and religion].

1. *New York Times*, May 22, 1984, p. A3, col. 1.

2. *New York Times*, May 24, 1984, p. A9, col. 1.

Nevertheless, the International Covenant on Civil and Political Rights speaks only of a "public emergency which threatens the life of the nation and the existence of which is officially proclaimed." From the perspective of many states in the Middle East, the nation is synonymous with the government in power and, therefore, all political dissent (including dissent which does not advocate violence) threatens the life of the nation and justifies repressive measures.

Amnesty International views the imprisoned political dissenters who themselves have not advocated violence as "prisoners of conscience." This position has brought the organization into conflict most recently with the Israeli authorities. The *Report* addresses in this context the July 1980 Amendment to the Prevention of Terrorism Act which makes it an offense in Israel proper to show sympathy publicly with a hostile organization, including the PLO. However, most of the entry on Israel (which focuses on the thousands of now-released detainees who had been held at Anšār in Lebanon, on the alleged mistreatment of Arabs in the occupied territories, and on the Israeli investigation into the government's responsibility for the massacres at the Šabrā and Šhātīlā refugee camps) has been overshadowed by recent events and is more adequately addressed in other of the above sources.

Amnesty International's *Torture in the Eighties* follows the global format of the organization's yearly reports but focuses solely on incidents from January 1980 to mid-1983 of torture and cruel, inhuman or degrading treatment as defined in Article 1 of the United Nations Declaration Against Torture. As with the global report, lack of an entry for a given state may simply indicate a lack of available information. The report was in part intended to aid in the formulation of the United Nations' Draft Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which the organization proposes should provide, *inter alia*, for universal jurisdiction to try alleged torturers. Despite numerous existing prohibitions against torture in international law, the book's introduction states that more than a third of the world's states have used or tolerated torture or ill-treatment of prisoners in the 1980s.

Preceding the global survey of torture is an excellent analysis of the current practice of torture and recommended means by which to control it. The section contains a comprehensive overview of the international law sources prohibiting torture and the ambiguity in the law as to what constitutes "cruel, inhuman or degrading treatment or punishment." After a grim account of the methods of torture, the report outlines actions taken by victims and their families, national groups, intergovernmental organizations and international non-governmental organizations to curb torture. Drawing together its analysis to this point, the report examines in detail the use of torture in Northern Ireland and Brazil as case studies of the positive effects which can result from pressure to observe human rights. Finally, the analysis suggests preventive safeguards and remedial measures to end torture.

Torture in the Eighties bears out the recurrent theme in each of the Amnesty International reports that emergency legislation granting wide powers of arrest and detention promotes abuse of human rights, including the use of torture. In almost every instance, domestic law provisions prohibiting torture are ineffective and are utilized by the offending states as pat responses to allegations of torture. Only Saudi Arabia in the report poses the unique situation of having floggings and amputation of limbs incorporated in the Šarī'a, or Islamic law.

The global surveys by Amnesty International can provide only the most cursory overview of human rights violations by any particular state. In that regard, the individual reports by the organization on Egypt, Iraq and Syria provide more detailed and often more recent evaluation of human rights practices (for example, the report on Syria is based on an April 1983 memorandum and the report on Iraq includes the organization's May 1983 memorandum to the Iraqi government, the government's June 1983 reply and Amnesty International's comments on the reply). Each also contains relevant provisions of the states' domestic law

which may otherwise be difficult to obtain. As noted above, the 1983 report on Egypt and its 1984 update provides the most optimistic note of the individual reports for reform. Although not all alleged violations in the original report were rectified by the Egyptian government after the report was issued, many of them were, through legislation and the release of political prisoners as reflected in the 1984 update.

After the events covered in *Amnesty International Report 1983*, the Kahan Commission issued its report in February of 1983 concluding that Israel was “indirectly” responsible for the massacres at the Šabrā and Šātīlā refugee camps, but refusing to delve into the legality or illegality of the Israeli invasion of Lebanon or of any other aspect of the invasion. *Witness of War Crimes in Lebanon* delves into areas beyond the scope and conclusions of the Kahan Report through the testimony of approximately 50 to 60 witnesses on the methods and weapons of warfare utilized by Israel during its invasion. The presentation of testimony was arranged in Oslo by the *Palestinafronten* Solidarity Group of Norway and the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD) before a Nordic Commission of Scandinavian jurists and personalities, in part for the benefit of the International Commission for the investigation of Israel’s reported violations of international law during the invasion (better known as the MacBride Commission). In an opening address included in the book, the avowed purpose of the testimony was to bring useful information before the International Commission, the media and the public, the involvement of the International Commission and the Nordic Commission designed to obviate any suggestions of bias from the sponsorship of the Palestinian solidarity group. Buttressing the asserted impartiality of the proceedings is the cross-examination of witnesses conducted by the Nordic Commission, which at one point delves at some length into the potential anti-Israel bias of one witness.

As most of the witnesses were members of the medical profession working in hospitals and clinics in southern Lebanon and Beirut, the testimony is often at its most compelling when describing the destruction of hospitals and clinics, the massive attacks on and casualties in the civilian population, and the mistreatment of detainees during the invasion. The witnesses for this very same reason, however, appear to have been largely unable to evaluate many crucial questions of responsibility requiring other types of expertise—such as the existence or non-existence of PLO military strongholds in the refugee camps and the types of Israeli weapons employed against civilian populations in the camps. Nevertheless, the book provides an opportunity not often encountered to examine and evaluate testimony of a variety of eyewitnesses to the invasion.

For a more comprehensive perspective on human rights obligations in Lebanon, *Lebanon: Toward Legal Order and Respect for Human Rights* evaluates the international law obligations of Syria, Israel and Lebanon in their respective zones of control in Lebanon. Sponsored by the American Friends Service Committee and prepared by a committee including international lawyers, religious leaders and relief workers, the August 1983 report focuses on “the vulnerability of civilians in Lebanon to violent abuse and displacement, the welfare of prisoners, and the attempts of occupying powers to interfere with the Lebanese economy and administration” (p. 1). Following a brief background history of Lebanon since 1943, the report scrutinizes the conduct of Syria, Israel and Lebanon within the confines of customary international law and applicable conventions, concluding that each state has violated international human rights standards. Although not limited in its usefulness to legal analysis, there is an underlying legal frame of reference for all conclusions and recommendations of the report, making it noticeably depoliticized in its concluding recommendations to the states for adherence with the dictates of international law. Such an approach inevitably attracts praise from the international lawyer and criticism from the political scientist, particularly when what should be done from a legal perspective appears to deviate sharply

from what can be done from a political perspective. The report concludes with a plea for the United States to exert its political influence on Israel, Lebanon and Syria to encourage respect for human rights in Lebanon by the government and occupying powers, a plea less likely to be answered now than when the report was released (and duly noted in a recently added preface to a second edition of the report). The report and the American Friends Service Committee merit praise if for no other reason than that they explore the highly politicized, deplorable conditions of human rights violations in Lebanon in which even Amnesty International has been reluctant to intervene.

Conflicting views of the responsibilities of an occupying power under international law may have domestic as well as international repercussions for an occupying state. The invasion of Lebanon triggered a wave of dissent in Israel arguing that national security did not necessitate continued expansionism. Shortly afterwards, Israeli involvement in the Šabrā and Shātīlā massacres provoked the largest protest demonstration in Israel's history. As a result of its occupation, Israel is facing an identity crisis that intensifies with every day Israel continues to occupy the West Bank, Gaza, and southern Lebanon. The conflict between the security measures imposed by an occupying power and the civil liberties espoused by a democracy such as Israel have engendered what Flora Lewis of the *New York Times* calls "Israel's new sounds"³—protests against perceived Israeli chauvinism and racism. In the article, Lewis cites as examples of the "new sounds" quotes from Israeli newspapers collected by the Tel Aviv International Center for Peace in the Middle East. *Research on Human Rights in the Occupied Territories, 1979–1983*, issued by the Center, is a part of the growing Israeli literature critical of the occupation and annexation policies of the Likud government on moral and humanitarian grounds. Claiming to be the first comprehensive report on human rights in the occupied territories by an Israeli organization, the "new voices" of Israel come through clearly in the foreword:

After the 1967 war, we became occupiers, not only aggrieving the Palestinian population on the political level but also on the needs for security [*sic*]. The ruling authorities have ignored the principles of international pacts concerning the rights of a civilian population in occupied territory, undermined peoples' freedom and their basic rights, used collective punishment and punishment of the surroundings, and transformed humiliation into a system of rule.

In view of the policy of occupation and annexation and the national-religious justifications which guide the Likud government and which culminated in the order and authorization of immoral acts by Defense Minister Ariel Sharon and Chief of Staff Rafael Eitan last year [1982], we have found it appropriate to make a small contribution to the preservation of our identity and moral life by distributing information about the practices occurring in the occupied territories (p. 2).

The report is designated an interim report pending responses to it from the Israeli government's legal advisor, the Minister of Defense and the Minister of Labor and Welfare. Covering events from April 1979 to August 1983, the report finds the international law of military occupation inadequate for a long-term occupation and purports to "fill the vacuum" with the 1948 Universal Declaration of Human Rights and moral standards of Israeli society.

The authors are not overly concerned with the precise legal standards—international or domestic—that guide Israel's conduct in the occupied territories. They refuse even to address the legal status of the territories under international law. When they do embark on a legal discussion, the result is often confusing and the report as a whole is sometimes impaired by incorrect grammar and unclear references. However, it does convey adequately a sense of the maze of legal systems governing the occupied territories and their interrelationship.

3. *New York Times*, May 17, 1984, p. A27, col. 5.

The report's weaknesses are eclipsed by its examination of conditions of detention for Arabs and its comparison of living conditions for Israelis and Arabs in the occupied territories. Relying in large part on information from the Red Cross and Amnesty International, the report concludes that there is evidence of improper conditions of detention, but is less willing to find evidence of torture as claimed in the Arab and international press. (*Amnesty International Report 1983* and *Torture in the Eighties* note that Amnesty International has asked the Israeli Attorney General for a public inquiry into allegations of ill-treatment, which so far has been refused.) The comparison of legal rights and economic conditions for the Israelis and Arabs in the occupied territories is the most fascinating aspect of the report. According to it, Israeli settlers have the legal advantages of Israeli law while the Arabs in the occupied territories are restricted in their rights and living conditions by the emergency defense regulations and military orders. The report warns of growing Jewish settlements in the West Bank leading to increased anti-Arab violence and notes suspicion of an Israeli anti-Arab terrorist organization in the West Bank. Since issuance of the interim report, the question of Israeli violence against West Bank Arabs has become commonplace in the press. The report also explores the relatively unexplored area of wages and social benefits for Arabs in the occupied territories, the analysis being impeded by lack of information and what the authors term a "conspiracy of silence among those informed" (p. 78).

The interim report is perhaps the most interesting of the above sources as a demonstration of the schizophrenic political atmosphere evident in Israel's 1984 elections. The "new voices" in Israel are not without their counterparts. For example, one need only read *International Criticism of Israeli Security Measures in the Occupied Territories* and its indictment of sources from the London *Times* to Amnesty International to realize that Israeli critics of human rights practices in the occupied territories have produced their own backlash. According to a straw poll in Tel Aviv, 84 per cent of those questioned viewed as "acceptable" the killing of the two bus hijackers by Israeli security men.⁴ It remains to be seen whether this backlash will be tempered or fueled by application of the government's security measures to Israeli defendants and its own press, as in the prolonged detention of the 27 alleged anti-Arab terrorists and the closing of the newspaper *Hadashot* for publication of information on the killing of the bus hijackers in Tel Aviv.

4. *Newsweek*, June 11, 1984, p. 52.

EGYPT

Autumn of Fury: The Assassination of Sadat, by Mohamed Heikal. New York: Random House, and London: Andre Deutsch, 1983. xiii + 278 pages. Index to p. 290. £10.95.

Negotiating for Peace in the Middle East, by Ismail Fahmy. Baltimore, MD: Johns Hopkins University Press, 1983. 321 pages. Chron. to p. 325. Index to p. 331. \$25.00.

L'Égypte des ruptures: L'ère Sadate, de Nasser à Moubarak, by Pierre Mirel. Paris: Edi-

tions Sindbad, 1982. 264 pages. Contents to p. 270. FF 78.00 paper.

Reviewed by Nazih Ayubi

"The Legacy of Sādāt": this is a subject that will doubtless remain controversial for some time to come, for Sādāt was indeed a complex leader whose characteristics and actions should not be oversimplified. He was the most admired Third World politician among Western leaders, and the "darling" of many American housewives, although at his funeral