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Item 64 of the preliminary list*

REPORT OF THE SPECIAL COMMITTEE TO

INVESTIGATE ISRAELI PRACTICES AFFECTING

THE HUMAN RIGHTS OF THE POPULATION OF

THE OCCUPIED TERRITORIES

Letter dated 7 April 1981 from the Permanent Representative
of Jordan to the United Nations addressed to the
Secretary-General

I have the honour to enclose herewith the text of a memorandum, in Arabic, communicated to the Director-General of the International Labour Organisation at Geneva, concerning the decisions of the Israeli occupation authorities and of the Israeli Supreme Court pertaining to the takeover of the concession of the electric corporation of the Governorate of Jerusalem granted by the Government of Jordan during the unity of the two banks of the Jordan and before the Israeli occupation.

The memorandum emphasizes the flagrant violation of international law and the fourth Geneva Convention of 1949 1/ in grabbing one of the biggest public service corporations which has been providing electric power not only to Jerusalem, but to numerous Arab towns and villages throughout the area.

I have the honour to request that this letter be circulated as an official document of the General Assembly, under item 64 of the preliminary list, and of the Security Council.

(Signed) Hazem NUSEIBEH
Ambassador
Permanent Representative

* A/36/50.

1/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

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ANNEX

Memorandum addressed to the Director-General of the
International Labour Organisation at Geneva

I refer to the memorandum which I addressed to you in January 1980 on the subject of the decision of the Israeli military occupation authorities to take over the Jordanian Electricity Corporation of the Governorate of Jerusalem, inasmuch as the Israeli Minister of Power and the military Commander-General of the occupied West Bank announced a decision at that time, issued by each of them on 30 December 1979 and 31 December 1979 respectively, for a take-over of the corporation and the transfer of its concession to the Israeli Regional Electricity Company.

Since the aggression of 5 June 1967 and Israel's occupation of large areas of Arab land, the occupation authorities have set about annexing the city of Jerusalem, after enlarging the boundaries of its municipality at the expense of the occupied Arab lands, and Israel regards the corporation, in spite of its protests, as a corporation registered automatically under Israeli law, in violation of all international laws, customs, charters and decisions and the fourth Geneva Convention of 1949. Since that time, the occupying authorities have been deliberately provoking the corporation, sometimes by charging with the provision of non-obligatory services and sometimes by preventing its obtaining permission to purchase and secure tools and machinery that would help to revitalize its activity and improve its production and services. These authorities are still accusing the corporation of incompetence and disorder in its administration. They are now striving by every means to lay their hands on the corporation's concession in order to gain control of vital economic facilities in this city, in the forefront this Arab corporation, which is regarded as the largest Arab economic institution in the whole of the West Bank. The occupation authorities see this corporation's concession as one of the main obstacles in the path of their Zionist expansionist drive to establish their hold on this holy city and detaching it from the West Bank in order to consolidate the fait accompli which they have imposed and their claim to "a unified Jerusalem, the eternal capital of Israel". Meanwhile, the occupation authorities are engaged in the wide-scale seizure of occupied Arab land from its lawful owners by various kinds of coercion in order to establish Zionist settlements on it, as is now happening in the vicious colonialist assault on these lands, particularly the West Bank and the Gaza Strip.

On 7 January 1980, the officers and workers of the corporation declared a strike to express their anger and protest at this arbitrary decision, and a wave of labour strikes and popular demonstrations covered all parts of the occupied West Bank in support of the strike of the officers and workers of the corporation and in condemnation of this decision, calling for it to be stayed.

The board of directors of the corporation resorted to the Israeli Supreme Court, seeking the issuance of a provisional order against the decision of the

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Israeli Minister of Power and the Israeli Military Commander-General of the West Bank. On 16 February 1981, the Court took a decision which is regarded as a precedent in the interpretation of the law, when it arrogated to itself the right to divide the corporation's concession into two parts. When the Court refused the request of the corporation's board of directors to countermand the decision of the Minister of Power to take over the corporation's concession in occupied Arab Jerusalem on the grounds that it was subject to Israeli law, it issued a final order barring the military Commander-General from taking over the corporation's concession in the West Bank subject to Jordanian law because it was occupied territory and consequently subject to international law. In its decision, the Court ordered the Minister of Power to reconsider his decision for the take-over of the corporation and to heed the applications of its board of directors on this matter. The Court wondered whether it was possible to draw a technical distinction between the corporation's installations and property in occupied Arab Jerusalem, on the one hand, and in its installations and property in the West Bank, on the other.

The decision of the Israeli military occupation authorities to take over the said corporation, as well as the decision of the Israeli Supreme Court, is null and void for the following reasons:

I (1) According to international law and international decisions, customs and agreements and the fourth Geneva Convention in particular, military occupation does not entail as a consequence the transfer of the property of the occupied territory to the occupying State as long as the war is in progress and does not culminate in agreement on the annexation of the territory to the State. It is not legally permissible for the occupying State to declare unilaterally the annexation of the territory to it as a result of its occupation of it. Such a declaration, if issued, has no legal effect, because annexation is legitimate only by agreement upon it at the time of the conclusion of peace. Accordingly, the State to which the territory belongs retains its sovereign rights over it.

(2) A state of war still exists between Jordan and Israel, and, on the basis of what was stated in section I, paragraph (1), Jordan still retains its sovereign rights with regard to the occupied West Bank and, in particular, the occupied Arab city of Jerusalem, which is an inseparable part of the Arab occupied territories. This is in addition to the refusal by the entire international community to recognize the decision of the Israeli military occupation authorities to annex the city of Jerusalem following the aggression of 5 June 1967, as expressed, in particular, in resolution 2253 (ES-V) of 4 July 1967 of the United Nations General Assembly, General Assembly resolution 2254 (ES-V) of 14 July 1967 and all the resolutions on this subject generally. The case of the Jordanian Electricity Corporation of Jerusalem is an inseparable part of the question of Jerusalem and the other occupied Arab territories, and the occupation authorities must not interfere with, harm or lay hands on this corporation because of this status and because the funds and property of the State and the municipalities and of individuals in the occupied territory must not be exposed to seizure, take-over or looting generally on the basis of the foregoing.

In the light of this, is it permissible for Israel to use the pretext of its domestic legislation to cast off international responsibility for its violation and infringement of the provisions of international law and custom in the occupied Arab territories? Is it permissible for it to place itself, with its legislation, above the rules of international law and custom in order to consecrate its aggression and occupation and its confiscation and subsequent Judaization of Arab property?

II. The decision of the Israeli Supreme Court was based on political elements, because the main feature of this decision had a political nuance which was in keeping with the political line of the Israeli military occupation Government with regard to the Judaization of the occupied Arab territories, and this nuance is incompatible with the Court's competence to apply the law and do justice, of which the Israelis have long boasted in order to convince others of their justness. The Court should have based itself on and been bound by purely legal considerations and should not have become involved with the political line of its Government, in particular, the policy of the annexation and seizure of lands for the purpose of Judaizing them. The decision, as we have stated above, drew a distinction between occupied Arab Jerusalem, on the one hand, and the occupied West Bank, on the other and facilitated the Government's take-over of the corporation's concession in West Jerusalem, on the alleged grounds that it was subject to Israeli law. Moreover, from the legal, practical and technical standpoints, it is impossible to divide and break up the corporation's concession, because the concession was granted to a legal person and is indivisible, and the operational territory of the concession is one and indivisible.

III. The granting or withdrawal of it or the right to dispose of it is an act of sovereignty which can be performed only by the State which has legal sovereignty over the area of the concession. From the standpoint of international law and all international customs, charters and decisions and in the eyes of the international community, Israel is not the State having legal sovereignty but an occupying State occupying the territories of another by military force. It therefore has no right to dispose of the corporation's concession, because the granting of the concession for this vital utility is the actual exercise of sovereignty, for the concession becomes valid only after it is ratified and confirmed by law. Enactment of the law is a sovereign act which is performed by the Government of the State concerned by virtue of legitimate sovereignty, and this is the Government of the Hashemite Kingdom of Jordan. The Electricity Company of the Jordanian Governorate of Jerusalem is therefore a corporation established and registered under Jordanian law and therefore Jordanian by nationality and from the legal standpoint. That was stated in the Jordanian Official Gazette, No. 1072, of 19 June 1951, supplement No. 1 to 1262, of 16 February 1956, and also in the 1957 agreement between the Jordanian Government and the corporation and the 1962 agreement between the Jordanian Government and the corporation, and it was dealt with in Act No. 37 (1963) and Provisional Act No. 21 (1967), the Act on the Jordanian Electricity Authority. However, the exercise of Jordanian rights and sovereignty has been temporarily suspended since the aggression of 1967 because of the state of occupation created by Israel.

Since this matter comes within the competence of the International Labour Organisation, inasmuch as it concerns the three labour parties (the Jordanian Government, the shareholders of the corporation, represented by their board of directors, and the employees and workers of the corporation), taking into consideration the statement in the Organisation's Constitution that "universal and lasting peace can be established only if it is based upon social justice", the statement in the Philadelphia Declaration that "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity" and recalling International Labour Conference resolution No. 9 of 1974 concerning the Israeli authorities' policy of racial discrimination and violation of trade-union freedoms and rights in Palestine and the occupied Arab territories and the International Labour Conference resolution of 1980 concerning the effects of Israeli settlements in Palestine and the other occupied Arab territories on the situation of Arab workers, we urge you to intervene immediately to support the position of the Jordanian Government, the board of directors of the corporation and the Arab employees and workers, which is a position of decisive rejection of the policy of confiscation and Judaization. We express to you our deep concern over the direct and indirect effects of the policy of confiscation and Judaization of economic facilities in the occupied Arab territories on the situation of Arab workers and employers and, in particular, the employees and workers of this corporation, which is regarded as the largest of the vital economic facilities in the occupied West Bank. We urge you to endeavour, by such means as you deem appropriate and within the framework of the Constitution and Standing Orders of the International Labour Organisation, to support the position of Jordan as represented by the three parties, the Government and the owners and workers of the corporation, in order to prevent the loss of this utility and to halt all measures under this arbitrary decision, which, as we have said earlier, is incompatible with all international laws, customs and decisions. We reserve our right to defend our rights by such means as we deemed appropriate at future sessions of the International Labour Conference.

Accept, Sir, the assurances of our highest consideration.

Jawad Al-Anani
Minister of Labour