

**IDF CHIEF PROSECUTOR SAYS HE WARNED
OF SETTLERS TAKING LAW INTO OWN HANDS**

By Dvorah Getzler

JERUSALEM, March 30 (JTA) -- Israel's chief military prosecutor testified this week that as far back as two years ago he issued warnings about Jewish settlers taking the law into their own hands.

The army's judge advocate general, Brig. Gen. Ilan Schiff, appeared Wednesday before the commission probing the Feb. 25 Hebron massacre.

Schiff also spoke of the difficulty of interrogating settlers because they, unlike the Palestinian residents of the territories, are responsible only to the civil, not the military, authorities.

Basically admitting that Israel had done a poor job of providing evenhanded justice in the West Bank and Gaza Strip, Schiff told the panel, "It is difficult to maintain the rule of law" within the territories.

He added that despite all the efforts of the Israeli authorities, it was difficult to envisage a time when the system of justice in the territories would resemble that within the Green Line, Israel's boundaries before the 1967 Six-Day War.

Like others testifying before him, Schiff also told the commission that the army had open-fire directives prohibiting soldiers from firing on settlers. The directives, he said, never took into consideration the possibility that Jewish settlers would open fire on Palestinians in the presence of soldiers.

The matter of the open-fire orders as they pertain to Jewish settlers has been central to the sessions of the commission, which has been attempting to understand how the Feb. 25 attack on Palestinian worshipers by Dr. Baruch Goldstein could have taken place.

Goldstein's Wife Refusing To Cooperate

Israel Television reported Wednesday that Goldstein's wife, Miriam, was refusing to cooperate with police investigating the Hebron massacre.

On Tuesday, a Jewish settler who was on reserve duty on the day of the massacre, Shlomo Edelstein, testified before the commission that Miriam Goldstein had contacted him that morning in an effort to locate her husband.

When Edelstein later told her that a security officer had dropped him off at the Tomb of the Patriarchs, she responded that her husband had not gone there to pray.

But he had not taken her words as a warning, nor did he relay her message to his commander, Edelstein told the commission.

It is still unclear whether Miriam Goldstein will testify before the panel, which is headed by the president of the Supreme Court, Justice Meir Shamgar.

A petition has meanwhile been brought before the High Court of Justice to order the Shamgar panel to desist from referring to Baruch Goldstein as "the murderer."

A Jerusalemite, Joel Lerner, has sought the order on the basis that no court has yet found Goldstein guilty of the massacre.

NEWS ANALYSIS:**LAND DAY PASSES QUIETLY IN ISRAEL,
AS ISRAELI ARABS CARVE OUT NEW ROLE**

By David Landau

JERUSALEM, March 30 (JTA) -- The split identity of Israel's 900,000 Arab citizens was highlighted again this week, as Israeli Arabs seized the national consciousness by marking Land Day with a general strike.

Despite fears of unrest, however, Wednesday's protests passed quietly, with the national police chief, Rafi Peled, praising the Arab community for its "maturity and responsibility" as the day drew to a close.

Land Day, held annually on March 30, commemorates violent protests against the confiscation of Arab land in the Galilee in 1976, in which six Arabs were killed.

This year, Land Day was a closely watched harbinger. February's massacre in Hebron had thrown the dual role of Israeli Arabs into the foreground, with signs boding both good and bad for the prospects of continued coexistence.

As Palestinians, Israeli Arabs had reacted with an unprecedented wave of unrest when Muslims were killed by a Jewish settler while praying in Hebron.

But as an Israeli, an Arab judge from Nazareth is serving on the commission investigating the massacre, effectively sitting in judgment on the army and playing an unprecedented high-profile role in Israeli democratic life.

'An Ultra-Complex Situation'

"We are dealing with an ultra-complex situation where different currents and contradictory trends all mix together," explained Elie Rekhess, a consultant to the Prime Minister's office on Arab affairs.

The result is that Israeli Arabs are experiencing both "a growing sense of Israeliness and at the same time a growing sense of belonging to the Arab nation and the Palestinian people," said Rekhess, who is a senior fellow at the Moshe Dayan Center of Tel Aviv University.

Rekhess said these processes have been accelerated by the accord signed last September between Israel and the Palestine Liberation Organization.

For Israeli Arabs, the accord recognized the Palestinian national identity. But they also see it as having eliminated the Israeli-Arab conflict long used by Israel as an excuse for avoiding the challenge of providing equality to Israeli Arabs.

The sense of a renewed Palestinian identity was evident in the traumatic bursts of hostility and violence that characterized the Israeli Arabs' reactions to the tragedy in Hebron.

For several days afterward, the scenes on the streets of Arab towns and villages inside Israel were reminiscent of the early days of the intifada, the grass-roots Palestinian uprising in the territories that began in 1987.

It seemed as if the Palestinian uprising had finally, and perhaps decisively, crossed the Green Line.

The Jews of Israel reeled in collective shock as this incipient mayhem even swept through Jaffa, now a mixed Jewish-Arab section of Tel Aviv.

The shops and restaurants of this bustling, picturesque section have yet to recover from the clashes between Arab youngsters and police that were widely televised during those tension-filled days in late February.

In the Bedouin township of Rahat, in the northern Negev, a young man was killed by police fire -- the first Israeli Arab to die in this way in almost 20 years.

But in less than a week, the unrest subsided swiftly and totally, a fact likely linked to the naming of Judge Abdel Rahman Zouabi of the Nazareth District Court to the five-member panel investigating the massacre.

Indeed, that appointment may have been the first major achievement of Chief Justice Meir Shamgar, who heads the commission.

Israel's Arab citizens were profoundly, and positively, affected by the appointment.

Within the Shamgar Commission, Judge Zouabi has been able to cross verbal swords with Ehud Barak, chief of staff of the Israel Defense Force.

Zouabi has been the toughest interrogator of IDF witnesses throughout the hearings. And in his questioning of Barak, he made it blatantly clear to the chief of staff, and to the Israelis glued to their television screens, that he did not accept the logic that routinely allowed Israelis to carry their weapons into the Tomb of the Patriarchs.

At around the same time, the potential of Israeli Arabs to serve as a bridge between Israel and its neighbors appeared to receive one of its biggest boosts in the first-ever visit by Israeli citizens to Damascus in early March.

The 50-member delegation of Israeli Arabs paid their respects to Syrian President Hafez Assad on the recent death of his son.

An Ambiguous Identity

But this bit of history-making also reflected the ambiguous nature of Israeli Arab identity. Knesset Member Abdel Wahab Darawshe of the Arab Democratic Party, a leader of the delegation, made statements in Damascus that seemed to identify him more with Palestinian nationalism than with the Israeli polity.

Another signal that the overwhelming sentiment in Arab public opinion is still a strong identification with the Palestinian cause came March 23 in a protest by Arab leaders against Israel's military operation against fugitives in Hebron.

The coordinating committee of Israeli Arab local authorities, under Islamic leader Ibrahim Nimr Hussein, sent a cable to the prime minister protesting the operation.

The cable, in its tenor and tone, was regarded as the most forthright public protest and denunciation of the army by the Israeli Arab leadership in recent memory.

Amid these conflicting signals, observers had feared that Land Day might reveal the quiet to be but the calm before the storm.

Indeed, tensions were primed. The leaders of the Israeli Arab community declared a full-fledged general strike, indicating a higher level of protest than usual.

And they centered their demonstration in the town of Rahat, where mourning was still underway for the Israeli Arab killed by police.

The quiet strike highlighted both facets of the Israeli Arab identity.

Through it, Israeli Arabs expressed their continuing solidarity with the Palestinians under occupation.

But, as Israeli citizens, the strike also afforded an opportunity to vent their grievances over economic and social discrimination, issues perpetually studied by Knesset committees but never fully redressed.

(Contributing to this report was JTA staff writer Larry Yudelson in New York.)

NRP SHARPLY DIVIDED OVER RULING BY RABBIS AGAINST EVACUATING HEBRON **By Dvorah Getzler**

JERUSALEM, March 30 (JTA) -- The National Religious Party is in turmoil over rabbinical calls to soldiers to disobey orders to evacuate Jews from Hebron.

A trio of rabbis earlier this week issued a halachic pronouncement saying that orders to evacuate Jews from that West Bank town are "a sin equivalent to the eating of pork."

The three rabbis -- former Ashkenazic Chief Rabbi Avraham Shapira, Moshe Zvi Neriya and Shaul Yisraeli -- are seen as the NRP's spiritual guides, although the party does not have a supreme rabbinical council as do the fervently religious Agudath Yisrael and Shas parties.

There have been increased calls for the removal of the approximately 400 settlers living among 70,000 Palestinians in Hebron since the mosque massacre at the Tomb of the Patriarchs.

Prime Minister Yitzhak Rabin, in remarks to reporters, branded the rabbis' call to disobey army orders as marking "the beginning of the destruction of the (Israel Defense Force) and of the security of the state."

But NRP Knesset member Yitzhak Levy endorsed the halachic pronouncement as the official line of the party.

"We are behind the rabbis, without any hesitation," said Levy, who is one of six NRP officials currently serving in the Knesset.

Levy's endorsement immediately provoked other NRP Knesset members -- including the parliamentary faction's chairman, Yigal Bibi, and former Cabinet ministers Zevulun Hammer and Avner-Hai Shaki -- to protest and demand a meeting with the rabbis to clarify the issue.

Bibi previously made clear his stance on the matter of disregarding clear army directives when he publicly stated, "I could not ask my son, a brigade commander, to disobey orders."

Rabbi Yosef Burg, the NRP's elder statesman and a longtime former interior minister, strongly condemned the rabbis' halachic ruling.

"This is a political matter," he said, adding, "I reject the rabbis who made such a pronouncement. It is religiously unacceptable."

Secular right-wing parties, including Likud and Tsomet, have sharply rejected the rabbinical ruling, as have the Labor Party and its coalition partner Meretz.

The fervently religious Shas party and the United Torah Judaism bloc have so far remained silent on the issue.

SUPREME COURT HEARS ARGUMENTS IN CHASIDIC SCHOOL DISTRICT CASE

By Steven Weiss

WASHINGTON, March 30 (JTA) -- The Supreme Court heard arguments this week in a case involving a special New York school district for handicapped Chasidic children that tests the limits of church-state relations.

Lawyers for New York state and the Satmar Chasidim argued before a packed courtroom Wednesday that the school district was a constitutionally permissible way for the state to accommodate the needs of a particular religious community.

But Jay Worona, the attorney for two taxpayers who sued to close the district, said that by creating a public school to service the needs of one religious group, the state had created a "religiously segregated environment" that violated the constitutional separation of church and state.

The New York Court of Appeals, the state's highest court, ruled last July that the district was indeed unconstitutional and ordered the school closed.

"The New York court has said that these people, because they are religious, cannot be trusted to run a public school," said Nathan Lewin, a Washington lawyer who represented the school district.

Formed by the New York State Legislature in 1989, the school district provides services to some 220 emotionally and physically disabled children in the Orange County village of Kiryas Joel, where most of the residents are Satmar Chasidim.

It was created in response to complaints by Chasidic parents that they could not send their handicapped children to area yeshivot because of inadequate facilities, and they could not send them to nearby public schools for the handicapped due to religious and cultural differences with the other students.

Lewin argued that the district -- and the village itself -- are not exclusive of other religions or beliefs. "Anyone can own property there," he said.

O'Connor Asks If It's Dangerous Precedent

He also said the state was not taking part in the teaching of religious doctrine. The subject matter taught at the school is entirely secular.

Julie Mereson, an assistant attorney general from New York, argued that the state had not authorized a religious group to run the district.

"The power (to run the school district) was not transferred to any religious organization but to the residents of the community," she said.

Justice Sandra Day O'Connor challenged the district's attorneys, asking if there was "a dangerous precedent here" in the state legislature's creating a school district for a particular group.

Arguing against the district, Worona said the legislature formed the district considering only the religious beliefs of the village's residents.

Justice Antonin Scalia responded by questioning the legislature's exact motives.

"Certainly the district is culturally segregated and linguistically segregated, but is it religiously segregated?" he asked. "You could say that the district was drawn (to include only) those who speak Yiddish."

The case, Board of Education of Kiryas Joel vs. Grumet, has made headlines as the major church-state case of this Supreme Court term.

Its popularity was evidenced by the number of observers who crowded into the courtroom, including several Chasidim who were forced to remove their hats once inside.

Jewish groups have been vocal but divided over the case. Many got involved by filing friend-of-the-court briefs with the justices.

Orthodox groups, including Agudath Israel of America, the Union of Orthodox Jewish Congregations of America and the National Jewish Commission on Law and Public Affairs, support the school district as a necessary source of services to which the handicapped children are entitled.

In its brief, Agudath Israel argued against closing the school district, which would amount to "the refusal of local governmental entities adequately to accommodate" religious communities.

But mainstream Jewish organizations applauded the New York court's rejection of the district, which was consistent with their view that government should be neutral on religion.

Rabbi David Saperstein, director of the Religious Action Center of Reform Judaism, said the government cannot create a school district with the idea of isolating one group of people.

"There are many school districts in the United States with primarily white students," he said. But "government can't create a single one with the intention of having it be white."

Case Could Alter Legal Doctrine

The American Jewish Committee, American Jewish Congress, Anti-Defamation League, National Jewish Community Relations Advisory Council, National Council of Jewish Women, Religious Action Center of Reform Judaism and the Union of American Hebrew Congregations all filed briefs against the school district.

All interested parties, however, were watching for the Supreme Court's treatment of a long-established but controversial legal doctrine, which some experts say could be changed with this case.

That doctrine, known as the "Lemon test" after a 1971 case, has been used by courts to determine to what extent state governments can accommodate religious practices without violating the Constitution.

The test says a government action dealing with religion must have a secular purpose; its effect must neither enhance nor inhibit religion; and it must not involve excessive government entanglement with religion.

This test, formulated in the case of Lemon v. Kurtzman, has long been criticized as vague, difficult to apply and inconsistent in its results. But most Jewish groups have supported it as vital protection from government interference.

The New York court based its decision to close the district on the doctrine.

Some justices have indicated in previous cases that a new test should be adopted, and experts agreed that this could be the case in which the standard is changed.

But supporters of the so-called "Lemon test" were encouraged because none of the justices mentioned possible alternatives.

But while Saperstein found this encouraging, Lewin acknowledged that the justices could still decide to adopt a new standard in this case.

CANADIAN TOP COURT UPHOLDS ACQUITTAL OF FINTA, CHARGED WITH NAZI WAR CRIMES

By Gil Kezwer

TORONTO, March 30 (JTA) -- The Supreme Court of Canada has narrowly upheld the acquittal of the first person charged under the country's 7-year-old war crimes legislation.

By a 4-3 vote, the Supreme Court ruled March 24 that the 1990 jury acquittal of Imre Finta should stand. The court also strongly defended the war crimes legislation.

The Toronto man, 81, had been found innocent by a Supreme Court of Ontario jury after a six-month trial. The trial was the first in Canada under a 1987 amendment to the Criminal Code that broadened the definition of war crimes.

The amendment allowed for prosecution for war crimes committed outside Canadian jurisdiction against non-Canadians. A Justice Department war crimes unit was established to work with the Royal Canadian Mounted Police war crimes squad.

Finta, a captain in the pro-Nazi Royal Hungarian Gendarmerie during World War II, was accused of forcibly confining 8,617 Jews in the southern Hungarian city of Szeged from May 16 to June 30, 1944. He was also accused of stealing the detainees' money, jewelry and valuables while using threats of violence.

The detainees were later deported to Auschwitz and other camps, where most perished.

According to the court's majority opinion, it was not sufficient to prove that the offense would constitute robbery, forcible confinement or manslaughter had it been committed in Canada.

"An added element of inhumanity must be demonstrated to warrant a conviction under this section," Justice Peter Cory wrote in the opinion.

Talking About Deportation

The minority opinion argued that this approach may thwart further such prosecutions.

B'nai Brith Canada said this ruling showed how difficult it is to resort to a criminal trial as a means of bringing Nazi war criminals to justice.

That option "must now be abandoned in most cases in favor of denaturalization and deportation," B'nai Brith said. The group urged that proceedings to strip Finta of his Canadian citizenship commence without delay.

The Canadian Jewish Congress, however, saw the court's ruling as optimistic, despite the legal technicalities that led to the acquittal of three of four men arrested here as alleged war criminals.

"Justice Department prosecutors should not be discouraged by the refusal of the court to order a new trial," said CJC War Crimes Committee Chair Milton Harris.

Finta arrived in Canada in 1951 and later opened a Toronto restaurant that was frequented by government officials and celebrities.

He was arrested in Hamilton, Ont., in December 1987 as he waited to board a bus for the United States with a one-way ticket. A month earlier, Finta lost a libel suit to Sabina Citron of the Canadian Holocaust Remembrance Association. Citron won a \$30,000 judgment in the suit.

The libel suit stemmed from an earlier statement by Citron, in which she called on the Canadian government to take action against war criminals living in Canada. Pressed by reporters, Citron cited Finta and his role in deportations.

At the time, Finta told a reporter for the Toronto Sun, "I'm not a Nazi. They are telling awful dirty lies."

Finta had also sued the Canadian TV television network for libel after the network aired a show which implied that he had been involved in war crimes.

BAZ PLEADS NOT GUILTY IN SHOOTING OF LUBAVITCHERS

By Alexandra J. Wall

NEW YORK, March 30 (JTA) -- Rashad Baz, the Lebanese national charged with second degree murder, attempted murder and various weapons charges in the shooting of four Lubavitch students March 1, faced an almost empty courtroom as he entered his plea of not guilty this week.

Rabbi Sholem Hecht, a Lubavitch spokesman, said that due to the celebration of Passover, some 30 or 40 Lubavitchers who came to the Manhattan courtroom arrived too late.

The hearing was held at 9:00 a.m. on Tuesday, Hecht said. But because the first days of Passover ended only Monday night after sunset, the Lubavitchers were only able to find out about the hearing Tuesday morning.

Baz, 28, was ordered held without bail for the murder of Aaron Halberstam, a 16-year-old student, and for wounding Nachum Sossonkin, 18, who remained in "very critical" condition this week.

The teens were shot while riding in a van as it drove across the Brooklyn Bridge after a visit to a Manhattan hospital to pray on behalf of the Lubavitcher rebbe, the sect's ailing leader.

Also pleading not guilty were two Jordanian men, Hilal Mohammed and Bassam Reyati. Both are charged with hindering prosecution and weapons possession, but are free on bail.

Baz's next court appearance is scheduled for April 6, when he can seek bail, and Hecht promised that the Lubavitchers would be out in force for that hearing.

ALERT AT ISRAELI EMBASSY IN BONN

By Igal Avidan

BERLIN, March 30 (JTA) -- Acting on warnings of possible terrorist activity, German police have tightened security around the Israeli Embassy in Bonn.

A police spokeswoman said that streets surrounding the Israeli Embassy were sealed off Tuesday and that security has been tightened around the ambassador's residence. She added that people living near the embassy have to show identity cards before they will be allowed into the area.

The new measures were taken to protect the Israeli diplomats after German intelligence sources warned of possible terrorist acts, the spokeswoman added.

She said the measures will continue during the next few days due to "the specially tense situation" in Israel.

A spokesman for the Israeli Embassy, Ilan Mor, said that many policemen were posted at the roadblocks nearby, but that Israeli diplomats were carrying on with their normal activities.

"We did not receive any threats lately," he said.