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ISRAELI ADMINISTRATION AND SELF-RULE IN THE TERRITORIES:

The Israeli Perspective

Maj. Gen. Rephael Vardi

EDITORS' NOTE: The issues of autonomy, military rule, mayors, and settlements in the West Bank have been a continual source for headlines and media events in recent months. Too often they are unrelated to the evolving patterns of life and governance as developed in these areas over the past thirteen years of Israel administration.

The following article was prepared by Major General (Res.) Rephael Vardi, who for twelve years was the Military Governor of the West Bank. The article is a revised version of a paper presented by Gen. Vardi at the Third Annual Political Problems co-sponsored by the Jerusalem Institute for Federal Studies and the Senator N.M. Paterson Chair in Governmental Relations at Bar-Ilan University. It should also be noted that the presentation was not given in an official capacity.

Israeli policy regarding the territories was formulated and developed immediately after the Six Day War. As early as 15 November, 1967, the Israeli government had decided to allow and encourage the population to manage its own affairs as far as possible. The principle of self-government soon evolved two maxims. The first was non-intervention in the daily life of the population, and the second was non-presence of Israelis as long as security was not impaired. These maxims followed logically from the main policy.

The Military Commander in the territories is invested with the powers of chief legislator as well as of chief executive of the military government. He also is

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responsible for the administration of justice, including the authority to appoint and dismiss judges. According to the Proclamation No. 2, concerning law and administration, promulgated by the Commander of the I.D.F. in the West Bank on June 7, 1967, all the powers of the former sovereign were to be taken over by the Military Commander, including the powers of the King of Jordan, the legislative powers of the parliament (to the extent that the parliament participates in legislation in Jordan), and the powers of the Council of Ministers of the government. In this proclamation, the Military Commander declared that the law in force on the day of his assumption of these powers shall remain in force unless amended by him and subject to any changes that may arise from the institution of I.D.F. rule in the area.

To what extent was there devolution of power and authority to the local population?

Legislation: Legislation is almost entirely divided into two areas, the first of which is the legislation of security matters concerning the armed forces, its installations and members, and public security in the territories. In this security legislation the inhabitants (Jews and Arabs alike) have not participated, and their advice has not been sought. The sole authority remains the Military Commander, who enacts laws according to necessity for security purposes.

On the other hand, the policy with respect to legislation on civilian matters, involving amendments or changes in existing Jordanian laws, has been to adhere as far as possible to the principles of international law and not to tamper with the prevailing Jordanian law. The only exceptions would be if there arose an absolute necessity for action to maintain public order, to promote the welfare of the population, to effect an efficient and good government, or to meet new developments for which the Jordanian laws had not provided, in order to oblige the population itself to effect changes for its own sake. For instance, when in 1971 there arose a dispute among three towns, Bethlehem, Beit Jalla, and Beit Sahur, which endangered the regular water supply to the inhabitants, the Military Commander responded to the demands of the mayors of these towns and established by decree a common water authority for them within the framework of Jordanian law. The Commander took this step after consultations and discussions with the mayors and their legal advisers, who could hardly agree among themselves about the provisions governing the water authority.

Initiative to amend Jordanian laws sometimes comes from Military Government departments. There were instances in which the law had been found lacking, and amendment or change was necessary in order to meet economic developments, an improved standard of living, adjustment to open borders, and the free movement of persons and good between Israel and the West Bank (for example, the standardization of road safety regulations). In all such cases, amendments of the existing laws have been promulgated with great caution and care in adherence to international law. Otherwise, the existing policy is not to touch Jordanian law.

In all these instances, although the Military Commander was not obliged to act,

and no formally constituted body exists, we usually took advice from those among the population concerned about the amendments, such as mayors, etc. The decision was, however, in the hands of the Military Commander.

In addition, the law empowers the mayors of the municipalities to enact by-laws, and the Military Administration encourages them to do so. The fact is that they were not always willing or ready, for a variety of reasons, to initiate and enact by-laws, even when these were vital to the municipality. In order to facilitate the enactment of by-laws by the mayors, the Military Commander enacted certain by-laws which each and every municipality may, if it wishes, adopt as its own. For instance, responding to a request by some of the municipalities, the Military Commander enacted a law enabling the municipality to establish a municipal magistrate or court which would deal with offenses against municipal by-laws committed within the limits of the town. The proceeds of the hearings - fines, etc. - would create additional income for the municipality. All told, since there has seldom been legislation on civilian affairs, the participation of the population in the proceedings has been limited.

The Judiciary: Of the former powers of the King of Jordan, only one matter has remained under the authority of the Military Commander - the appointment of judges. The local courts have retained their competence to adjudicate all civilian cases and criminal offenses. The status and competence of the local courts has not been changed except for one major amendment which increased their authority and independence. Since the Jordanian system of government is a centralized one, the highest court was located in Amman. Appeal and other cases from the West Bank courts were referred to the Court of Cassation for final judgment. Therefore the Military Commander empowered the Court of Appeal, first sitting in Jerusalem and later, after Jerusalem was unified, in Ramallah, to exercise the powers of the Court of Cassation as well as the authority of the High Court of Justice.

Once the judges were appointed, there was no intervention whatsoever in the judicial process. The offices of Attorney General and district attorney remained in local hands. Prosecution is at their full discretion, as is execution of the decisions of the court.

Two more points deserve emphasis: 1) the appointment of judges is done after consulting the President of the Court of Appeal; 2) there has not been a single dismissal of a judge in the West Bank.

The Civil Administration: We inherited the Jordanian system of administration which was centralized. Branches of the various departments of the ministries in Amman operated in the West Bank, down to the district and sub-district levels. Their authority was limited, and they acted according to directives and instructions from the center in Amman.

Another structure of the Jordanian centralized administration was the office of District Governor (in Arabic, the Muhafez), which was responsible for security and public order, and had a certain power of supervision over civilian affairs, including the government departments operating in the district and the municipal corporations. Subordinate to the Muhafez were the Mutazarif, who was in charge of the sub-district with similar authority and the Kaimekam, the sub-district officer. Their major task was to observe and report on the loyalties of the local government officials, mayors and other leaders, to the regime in Amman. This structure of government has been abolished. Some of their responsibilities were invested in the District Military Commander.

The system of government established by the Military Government consisted of Israeli civilian officials representing the Israeli governmental departments. These officials operate within the framework of the Headquarters of the Military Government. To each of them has been delegated the authority of the appropriate former minister of the Jordanian government according to the prevailing Jordanian law. For example, the officer in charge of agriculture under the Military Government has the powers and authority of the Minister of Agriculture in Jordan. Only a few Israelis work under these officials: the rest consist of former Jordanian officials or new local officials employed by the Israeli military government.

The administration consists of two layers: 1) the Central Headquarters in which Israeli civilian officers in charge of the department operate; 2) seven districts. The various governmental departments in the districts are managed by local Arab officials and staff. The Israeli officer mainly controls the budget and limits his involvement to policy, general directives, and supervision of the orderly and efficient operation of the department. He is not involved in the day-to-day work of the local governmental departments. Virtually all the local departments in the districts now have much more authority and power than they had when they were discharging the same functions under the Jordanian government.

In his daily life, the West Bank citizen meets only the local Arab officials whenever he requires government services such as health, welfare, and education, or when he pays for these services through income and property tax collectors. Even if the Israeli officers are willing to intervene more thoroughly in the work of the departments, they are virtually unable to do so, because they are very few in number. At present about 350 Israeli officials operate in the West Bank of Jordan in civilian government, in contrast to about 17,000 Arab officials. For example, the Department of Education consists of about 20 Israeli officials, including clerks, accountants, and the like, with only four Israeli supervisors. The number of Arab teachers is about 7,000. One does not need much imagination to envisage the scope of supervision when the number of supervisors does not exceed three or four.

Local Government

Immediately in June 1967, we restored and reactivated all municipal corporations existing at that time. Then, in response to demand from the population - and in accordance with Jordanian law - we established two new municipalities, Yata and Kabatya.

The municipalities continue to function according to Jordanian law and their powers have been extended. Under the Municipalities Law, the municipal corporations are invested with vast authority. In fact, only part of these were exercised under the Jordanian regime. For instance, the law empowers the municipalities to construct hospitals and clinics and operate them. Their powers extend to education and culture as well. In fact, those matters were managed by the Jordanian government.

Under the Israeli Military Government, municipalities have extended their powers and authority in three ways: 1) informally, they extend their influence and representation in a variety of affairs to villages beyond the boundaries of the town; 2) the boundaries of most of the municipalities have been extended due to the demands of the mayors - both the town planning area and the town boundaries (the reasons for this were rapid economic and public services development, construction of thousands of new houses, roads, etc. under the Israeli Military Government during this period); 3) we gave them more powers whenever they asked for them. Usually we were willing to invest them with more authority than they were ready to take, but we avoided coercion. The reason for their reluctance was quite obvious. Generally, more authority meant competence to collect more municipal taxes. It was of course more popular to demand grants from the Military Government and from abroad than to tax the citizens, especially under the Military Government.

The mayors have become the primary representatives of the population to the military government on matters far beyond strictly municipal affairs. They bring to the attention of the military government in the district or to the commander of the area all kinds of problems, requests, and complaints of the citizens of their municipalities and villages.

Most of the towns have their own electricity and water supply systems which were extended by the Military Government. Some of the towns supplied water and electricity to the surrounding villages, and some were connected to the Israeli electricity system, but only when they requested it. Israeli generated electricity was sold to them in bulk, and the municipalities distributed to the town and surrounding villages, as they did formerly. Since Israeli electricity was much cheaper than that of local power stations, the municipalities continued to sell at the former rates and increased their income considerably.

I wish to stress another point, perhaps the most important one, about local government. Elections were held in 1972 and 1976 according to the Jordanian law. The elections were organized and held by local election committees without any interference by Israeli officials. According to the Jordanian law, the government has the privilege of appointing two councillors to the elected municipal council, as well as to appoint the mayor. We did not take advantage of these provisions, and in no case was a councillor appointed to the elected councils of the municipalities. We introduced the practice of the mayor being elected by his fellow councillors, both in the 1972 elections and again in 1976.

Security is one of the basic problems in the area and dominates matters of policy. Even when security was involved, however, we preferred not to intervene in the election results. In 1972, for example, one of the councillors elected to the newly formed municipality of Yata had just recently been released from jail after serving a long sentence for participating in terrorist activities. In spite of that, he was not denied his candidacy to the council and then, having been elected, his membership. Moreover, his fellow councillors elected him as mayor. We then faced the question of whether to permit a man convicted of terrorism to become mayor and represent the population. We decided not to intervene, and the man became the mayor of the town of Yata.

In 1972, we were severely criticized for not amending the Jordanian law in order to extend the franchise to women and allow them to participate in the elections. In 1976 we amended the law on two points: granting the franchise to women, and relaxing some property tax regulations which limited the number of eligible voters. Through these two amendments, the number of voters rose from about 32,000 in 1972 to roughly 88,000 voters in 1976, over one-third of whom were women. If self-rule is considered to be the participation of the local population in establishing their own local government organs, these elections permitted the utmost expression of self-rule.

We also reactivated the village councils, and today almost 90 village councils are operating. In 1975 elections were held to the village councils as well, applying the same rules as those used for the municipal elections. In addition, elections were held to the chambers of commerce whenever requested by the members, again according to Jordanian law.

Culture, Religion, Education

Autonomy is often defined in terms of culture. It is measured by the degree to which a certain population can live in its own cultural environment, manage its own education in its own language, and control its religious affairs. In this sphere, self-rule or self-management of the population has achieved its greatest independence.

Education: Education is free of charge. The Military Government employs the teachers, pays their salaries, constructs new schools, furnishes them and distributes free books. The Jordanian curriculum is used, and the sole language of instruction is Arabic. Hebrew is not taught in private or government schools even as a second language. The books are the Jordanian texts. In 1967, immediately after the Six Day War, the Israeli Ministry of Education, struck by the

anti-Israeli and anti-Semitic contents of some of the textbooks used in the West Bank and Gaza, decided to introduce the Israeli Arab program of studies. The immediate reaction of the local leaders, teachers, and students was the declaration of a strike. They did not open the schools on the scheduled date. The Military Government realized that there was a genuine apprehension among the Arabs that the Israelis were trying to intervene in their own education and culture and impose Israeli views on them. The government then decided that it would only review the books and the Jordanian program of study, and unless it found something which was anti-Israeli or anti-Semitic, it would continue to allow them to teach according to the Jordanian texts and curriculum. We reviewed hundreds of books and partially censored 58 of them.

A committee of local educators called "The Committee for High School Examinations" was established. Formally, the Committee is responsible for the preparation of the exams, but it virtually directs education in the West Bank introducing changes in the programs according to changes effected in Jordan. Here we see how complicated the self-rule issue is. Their problem is not only with Israel, because they still receive directives from Jordan in almost all matters. Due to the absence of universities in the West Bank until 1972, high school graduates had to continue their studies in Amman or in universities in other Arab countries. The Jordanian government issued Jordanian graduation certificates to the high school students that were examined in the West Bank, and only then were they admitted to the Arab universities.

During the entire period, therefore, education has been managed by the local educators, while the Military Government provided the budget and all the necessary equipment.

Religious Affairs: From the very beginning, the Military Government was anxious not to interfere in any religious affairs. It absolutely safeguarded religious freedom, free access to the holy places, and so forth. The justices of the religious courts, the Shariah courts, according to Jordanian law, are appointed by the King. The Military Commander did not demand to appoint them. They were appointed by the self-nominated Chief Justice in Jerusalem (the Kadi Kudat) who at most notified the Military Government, on his own initiative, about the new appointments. He did not ask for approval, but just forwarded the notifications.

This non-interference applies to all religious matters and to the relationship between the military government and the Moslem religious establishment. In fact, the religious establishment, including the courts, the self-appointed Supreme Moslem Council, and the management of the Wakf estates, enjoy under Israeli government far more independence in the management of their religious as well as temporal affairs than under the Jordanian government.

Several attempts were made, mainly on Israeli initiative, to extend administrative self-government. The first was as early as 1968. We conducted negotiations and talks with the local leaders, with the aim of establishing an all-West Bank administration or executive of local leaders. This has not materialized.

Later on, in 1969, talks were resumed, among them a program for restoring the function of the Muhafez and appointing local leaders as heads of the Muhafeza with full authority, according to the law, over internal public security matters and local police. This has not materialized. Throughout the period these negotiations have been resumed, but without result.

Another attempt was made by handing over more authority to local Arab officials, creation of all-West Bank functions, and appointment of Arab directors-general to government departments who in due time would take over from the Israeli officials. This endeavor has not been successful so far. Although some authority was delegated and a few all-West Bank functions created, the Arab officials were unwilling to take part in this program. There were cases in which good administration required an overall local manager-director; in the health services, for instance. In a few cases in which a local official has been appointed, such a person was usually called to Jordan and instructed not to accept or to resign if already appointed. All these efforts, which were mainly initiated by us to devolve more authority on local officials, by and large failed. In the management of civilian affairs we were ready to give full powers, including a certain control of the budget. (It should be remembered that the budget comes mainly from the government of Israel and not from local taxes.) Unfortunately, for reasons of Arab external and internal pressures, the population, leaders, mayors and government officials were unwilling to take more responsibility than that established in practice throughout the period.

Conclusion

In the realms of the judiciary, education, cultural and religious affairs, and local government, the population enjoys a great amount of self-government, both legally and in practice. In administration, it enjoys a certain degree of self-government, and to a much lesser degree in legislation. Regarding the future, a firm basis has been established for a local self-governing body, whenever it may be decided upon, to create an administration in the widest sense of the word.

It should be noted that the Israeli military authorities during these thirteen years were always ready to grant the population more independence and freedom in managing their affairs than the population was ready to accept. I have mentioned many endeavors that have not materialized, not because Israel was unwilling to devolve authority, but always because some external body, sometimes the Jordanians sometimes the PLO, instructed local leaders to refuse.

Such was the case in the municipal elections of 1972, Jordan, the PLO, and other Arab countries demanded that the population should boycott the elections. The mass media, propaganda, threats, bribes, physical violence, were all harnessed to sabotage the elections. Usually in civilian affairs we do not impose our will upon the population. But in the case of the 1972 elections, we had to use some measures of counter-pressure in Nablus only. In spite of that overwhelming oppo-

sition, the elections were held and carried out freely and smoothly in Samaria as well as in Judea. Hardly a month later, the Jordanian government recognized the elections and recognized the mayors elected under occupation. In 1976 no such problem arose. The Jordanian government and the PLO pushed forward their supporters to participate in the elections and present their candidacy.

Here we reach the crux of the problem. Throughout the period, the population and the leaders were not free to formulate their independent opinion about their own present and future, because of external pressures by Jordan, the PLO, and others. It is interesting to point out that in this triangle of Jordan, the PLO, and Israel, the latter, although present in the territory, is the least influential. The voices being heard and obeyed were either those of Jordan or the PLO.

Note:

The preference throughout is for the term "administered" rather than "occupied" regarding the territories, as this is the accepted Israeli terminology.

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