



104 Report of the Commission of Inquiry into the events at the refugee camps in Beirut- 8 February 1983

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104. Report of the Commission of Inquiry into the events at the refugee camps in Beirut, 8 February 1983.

The Commission determined that the massacre at Sabra and Shatilla was carried out by a Phalangist unit, acting on its own but its entry was known to Israel. No Israeli was directly responsible for the events which occurred in the camps. But the Commission asserted that Israel had indirect responsibility for the massacre since the I.D.F. held the area, Mr. Begin was found responsible for not exercising greater involvement and awareness in the matter of introducing the Phalangists into the camps. Mr. Sharon was found responsible for ignoring the danger of bloodshed and revenge when he approved the entry of the Phalangists into the camps as well as not taking appropriate measures to prevent bloodshed. Mr. Shamir erred by not taking action after being alerted by communications Minister Zippori. Chief of Staff Eitan did not give the appropriate orders to prevent the massacre. The Commission recommended that the Defense Minister resign, that the Director of Military Intelligence not continue in his post and other senior officers be removed. Full text follows:

Introduction

At a meeting of the Cabinet on 28 September 1982, the Government of Israel resolved to establish a commission of inquiry in accordance with the Commissions of Inquiry Law of 1968. The Cabinet charged the commission as follows:

"The matter which will be subjected to inquiry is: all the facts and factors connected with the atrocity carried out by a unit of the Lebanese Forces against the civilian population in the Shatilla and Sabra camps."

In the wake of this resolution, the President of the Supreme Court, by virtue of the authority vested in him under Section 4 of the aforementioned law, appointed a commission of inquiry comprised as follows:

Yitzhak Kahan, President of the Supreme Court commission chairman; Aharon Barak, Justice of the Supreme Court; Yona Efrat, Major General (Res.).

The commission held 60 sessions, hearing 58 witnesses. As per the

will not be published, since, in our opinion, non-publication of this material is essential in the interest of protecting the nation's security or foreign relations.

As we have said, the commission's task, as stipulated by the Cabinet's resolution, is "to investigate all the facts and factors connected with the atrocity which was carried out by a unit of the Lebanese Forces against the civilian population of the Shatilla and Sabra camps." These acts were perpetrated between Thursday, 16 September 1982, and Saturday, 18 September 1982. The establishment of the facts and the conclusions in this report relate only to the facts and factors connected with the acts perpetrated in the aforementioned time frame, and the commission did not deliberate or investigate matters whose connection with the aforementioned acts is indirect or remote. The commission refrained, therefore, from drawing conclusions with regard to various issues connected with activities during the war that took place in Lebanon from 6 June 1982 onward or with regard to policy decisions taken by the Government before or during the war, unless these activities or decisions were directly related to the events that are the subject of this investigation. Descriptions of facts presented in this report that deviate from the framework of the commission's authority (as defined above) have been cited only as background material, in order to better understand and illustrate the chain of events.

In one area we have found it necessary to deviate somewhat from the stipulation of the Cabinet's resolution, which represents the commission's terms of reference. The resolution speaks of atrocities carried out by "a unit of the Lebanese Forces." The expression "Lebanese Forces" refers to an armed force known by the name "Phalangists" or "Ketaib" (henceforth, Phalangists). It is our opinion that we would not be properly fulfilling our task if we did not look into the question of whether the atrocities spoken of in the Cabinet's resolution were indeed perpetrated by the Phalangists, and this question will indeed be treated in the course of this report.

The commission's deliberations can be divided into two stages. In the first stage, the commission heard witnesses who had been summoned by it, as well as witnesses who had expressed the desire to appear before it. The commission asked questions of these witnesses, and they were given the opportunity of bringing before the commission everything known to them of the matters that constitute the subject of the investigation. When this stage terminated, the commission issued a resolution in accordance with Section 15(A) of the aforementioned law, concerning the harm that might be caused certain people as a result of the investigation or its results; this was done in order to enable these people to study the material, to appear before the commission and to testify (for the text of the resolution, see section I of appendix A). In accordance with this resolution, the chairman of the commission sent notices to nine people; the notices detailed how each one of them might be harmed. The material in the commission's possession was placed at the disposal of those receiving the notices and of the attorneys appointed to represent them. During the second stage of the deliberations, we heard witnesses who had been summoned at the request of the lawyers, and thus some of the witnesses who had testified during the first stage were cross-examined.

Afterwards, written summations were submitted, and the opportunity to supplement these summations by presenting oral arguments was given. We should already note that involving the lawyers in the commission's deliberations did not in any way make the commission's work more difficult; it even helped us in fulfilling our task. The lawyers who appeared before us were able to clarify properly, though not at excessive length, the various points that were the subject of controversy; and thus they rendered valuable assistance to the

and devoted and efficient work it is very doubtful whether we would have succeeded in properly carrying out our task. Our appreciation and gratitude go also to the staff investigators, Dorit Beinish, Edna Arbel and Alex Ish-Shalom, who, by virtue of their expertise, initiative and dedication, succeeded in placing at our disposal much material which served as the basis of the commission's deliberations and findings. Similarly, our thanks go to the entire staff of commission employees, whose loyalty and faithfulness enabled us to carry out and complete our task.

A Description of the Events

The Period Before the Events in Beirut

In 1975, civil war broke out in Lebanon. This war began with clashes in Sidon between the Christians and Palestinian terrorists and subsequently widened in a manner to encompass many diverse armed forces - under the auspices of ethnic groups, political parties, and various organizations - that were active in Lebanon. In its early stages, this war was waged primarily between the Christian organizations on the one hand, and Palestinian terrorists, Lebanese leftist organizations, and Muslim and Druze organizations of various factions on the other. In the course of the civil war, Syrian army forces entered Lebanon and took part in the war, for a certain period of time on the side of the Christian forces, and subsequently on the side of the terrorists and the Lebanese leftist organizations. During the early years of the war, massacres on a large scale were perpetrated by the fighting forces against the civilian population. The Christian city of Damour was captured and destroyed by Palestinian terrorists in January 1976. The Christian residents fled the city, and the conquering forces carried out acts of slaughter that cost the lives of many Christians. In August 1976, the Christian forces captured the Tel Zaatar refugee camp in Beirut, where Palestinian terrorists had dug in, and thousands of Palestinian refugees were massacred. Each massacre brought in its wake acts of revenge of a similar nature. The number of victims of the civil war has been estimated at close to 100,000 killed, including a large number of civilians, among them women and children.

The Palestinians' armed forces organized and entrenched themselves in camps inhabited by refugees who had arrived in Lebanon in various waves, beginning in 1948. There are various estimates as to the number of Palestinian refugees who were living in Lebanon in 1982. According to the figures of U.N.R.W.A. (the United Nations Relief and Works Agency), the Palestinian refugees numbered approximately 270,000. On the other hand, the leaders of the Christian armed forces estimated the number of Palestinian refugees at approximately 500,000 or more. This estimate is most probably exaggerated, and the more realistic estimate is the one that puts the number of Palestinian refugees at approximately 300,000 - and in any case, not more than 400,000.

The main Christian armed force that took part in the civil war consisted mainly of Maronite Christians, though a small number of Shiites joined them. This force comprised several armed Christian organizations, the largest among them being the organizations under the leadership of the Chamoun family and of the Jemayel family. The head of the Jemayel family, Mr. Pierre Jemayel, founded the Phalangist organization; and the leader of this organization in recent years was Pierre's son, Bashir Jemayel. In the course of time, the Phalangist organization became the central element in the Christian forces; in 1982, the Phalangists ruled the Christian armed forces. Even though the "Lebanese Forces" formally comprised several Christian organizations, the dominant and

without a solution being found to the problem of the Palestinian refugees, who, according to the Phalangists' estimates, numbered half a million people. In the opinion of the Phalangists, that number of refugees, for the most part Muslims, endangered [both] the demographic balance between the Christians and Muslims in Lebanon and (from other standpoints as well) the stability of the State of Lebanon and the status of the Christians in that country. Therefore, the Phalangist leaders proposed removing a large portion of the Palestinian refugees from Lebanese soil, whether by methods of persuasion or other means of pressure. They did not conceal their opinion that it would be necessary to resort to acts of violence in order to cause the exodus of many Palestinian refugees from Lebanon.

As we have said, the Mossad was the organization that actually handled the relations between the Phalangists and Israel, and its representatives maintained close contacts with the Phalangist leadership. In addition, the Intelligence branch of the I.D.F. (henceforth Military Intelligence) participated, albeit in a more limited capacity, in the contacts with the Phalangists; and it, by virtue of its job, was to issue a not insignificant number of evaluation papers on the Phalangists, their leaders, their aims, their fighting ability, etc. The division of labor between the Mossad and Military Intelligence with regard to the Phalangists, was spelled out in a document (exhibit 189). While this division of duties left room for misunderstandings and also duplication in various areas, there is no room for doubt that both the Mossad and Military Intelligence specifically dealt with drawing up evaluations on the Phalangists, and each one of them was obligated to bring these evaluations to the attention of all interested parties. Neither the head of the Mossad nor the director of Military Intelligence disagreed with this in his testimony before us.

From the documents submitted to us and the testimony we heard, it emerges that there were differences of opinion between the Mossad and Military Intelligence with regard to the relations with the Phalangists. The Mossad, to a not inconsiderable extent under the influence of constant and close contact with the Phalangist elite, felt positively about strengthening relations with that organization, though not ignoring its faults and weaknesses. This approach of the Mossad came out clearly in the testimony we heard from the person who was in charge of the Mossad's contacts with the Phalangists. The head of the Mossad, in his testimony before us on 27.12.82, said, *inter alia* (p. 1437), that "the Mossad tried, to the best of its ability, throughout this period, to present and approach the subject as objectively as possible; but since it was in charge of the contacts, I accept as an assumption that subjective, and not only objective, relations also emerged. I must accept that in contacts, when you talk to people, relationships are formed." In contrast, Military Intelligence was to emphasize in its evaluations the danger in the link with the Phalangists, primarily because of this organization's lack of reliability, its military weakness, and other reasons we need not specify here. A characteristic expression of the difference in approach between these two agencies, whose responsibility it was to provide evaluations on the Phalangists and the desirability of relations with them, can be found in the exchange of documents when one of the intelligence officers (henceforth intelligence officer A, whose full name appears in the list of names in section I of Appendix B) who served as a liaison officer on behalf of Military Intelligence in the Mossad's representation at Phalangist headquarters at the beginning of the war submitted an assessment (exhibit 171) on cooperation with the Phalangists. This Military Intelligence officer rendered a negative evaluation, from Israel's standpoint, of the Phalangists' policy during the war and their aims for the future. This criticism was vigorously rejected by the Mossad (exhibit 172).

The "Peace for the Galilee" war (henceforth the war) began on 6.6.82 On 12-14

soldiers as well. This dissatisfaction was expressed in various ways; and in the political echelon, as well as in the media, there was amazement that the Phalangists were not participating in the fighting, even though the war was their battle as well, and it was only right that they should be taking part in it. The feeling among the Israeli public was that the I.D.F. was "pulling the chestnuts out of the fire" for the Phalangists. As the number of I.D.F. casualties mounted, public pressure for the Phalangists to participate in real fighting increased. The plan formulated in mid-June 1982, when it was still uncertain whether the terrorists would agree to leave West Beirut, was that the Christian forces would fight to take control of West Beirut; the I.D.F. would not take part in that operation; and only in the event that it became necessary would the I.D.F. help out the Phalangists with long-range artillery fire. This plan was discussed in the Cabinet meeting of 15.6.82, where it was proposed by the Prime Minister, and his proposal was adopted by the Cabinet, namely, that I.D.F. forces would not enter West Beirut, and this job was to be done by other forces (meaning the Phalangists) with help they would be given by the I.D.F. (transcript of the Cabinet meeting of 15.6.82, exhibit 53). Even after this resolution, no real fighting was done by the Phalangists for the purpose of extending control over West Beirut; and, as we have said, eventually the terrorists were evacuated as the result of a political agreement, after the I.D.F. had shelled various targets in West Beirut.

In all the testimony we have heard, there has been unanimity regarding [the fact] that the battle ethics of the Phalangists, from the standpoint of their attitude to non-combatants, differ greatly from those of the I.D.F. It has already been noted above that in the course of the civil war in Lebanon, many massacres had been perpetrated by the various forces that had taken part in the fighting. When the war began in June 1982, the prevailing opinion among the Mossad agents who had maintained contacts with the Phalangist leadership was that the atrocities and massacres were a thing of the past, and that the Phalangist forces had reached a stage of political and organizational maturity that would ensure that such actions would not repeat themselves. This opinion was based both on personal impressions of the character of the Phalangist leadership, as well as on the recognition that the interest of the Phalangist elite to eventually rule an independent Lebanese nation, half or more of whose population is Muslim and would be interested in maintaining relations with the Arab world, requires moderations of actions against Palestinians and restraint as to modes of operation. At the same time, there were various facts that were not compatible with this outlook. During the meetings that the heads of the Mossad held with Bashir Jemayel, they heard things from him that left no room for doubt that the intention of this Phalangist leader was to eliminate the Palestinian problem in Lebanon when he came to power - even if that meant resorting to aberrant methods against the Palestinians in Lebanon (testimony on pps. 16, 17, and 168 of the transcripts; exhibit 85 of 30 June 1982, clause 14 - section 2 of Appendix B). Similar remarks were heard from other Phalangist leaders. Furthermore, certain actions of the Phalangists during the war indicated that there had been no fundamental change in their attitude toward different segments of the Lebanese population, such as Druze and Palestinians, whom the Phalangists considered enemies. There were reports of Phalangist massacres of women and children in Druze villages, as well as the liquidation of Palestinians carried out by the intelligence unit of Elie Hobeika (testimony no. 105 of intelligence officer B before the staff investigators, part of which appears in section 3 of Appendix B; also, a document which mentions the Phalangist attitude toward terrorists they had taken prisoner - section 4 of Appendix B, exhibit 39). These reports reinforced the feeling among certain people - and especially among experienced intelligence officers - that in the event that the Phalangists had an

Chief of Staff that the I.D.F. would not enter the refugee camps in West Beirut but that the fighting this entails would be undertaken by the Phalangists (Chief of Staff's testimony, p. 211). The Chief of Staff testified that the entry of the Phalangists into the refugee camps was agreed upon between the Minister of Defense and himself at 8.30 p.m. on the previous evening. The camps in question were Sabra and Shatilla. After the meeting in the Phalangists' camps, the Chief of Staff went to the forward command post.

The forward command post was located on the roof of a five-storey building about 200 meters southwest of the Shatilla camp. The borders of the two camps were not defined exactly. The Sabra camp extended over an area of some 300 x 200 meters and Shatilla over an area of about 500 x 500 meters (testimony of the deputy assistant to the director of Military Intelligence, p. 29). The two camps were essentially residential neighborhoods containing, in the area entered by the Phalangists, as will be stated below, low permanent structures along narrow alleys and streets. From the roof of the forward command post it was possible to see the area of the camps generally but - as all the witnesses who visited the roof of the command post stated, and these were a good number of witnesses whose word we consider reliable - it was impossible to see what was happening within the alleys in the camp from the roof of the command post, not even with the aid of the 20 x 120 binoculars that were on the command post roof. Appended to this report are an aerial photograph and map of the area of the camps, as well as a general map of Beirut (sections 3, 4, and 5 of Appendix A).

It was not possible to obtain exact details on the civilian population in the refugee camps in Beirut. An estimate of the number of refugees in the four refugee camps in west Beirut (Burj el-Barajneh, Fakahni, Sabra and Shatilla) is about 85,000 people. The war led to the flight of the population, but when the fighting subsided, a movement back to the camps began. According to an inexact estimate, in mid-September 1982 there were about 56,000 people in the Sabra camp (protocol, p. 29), but there is no assurance that this number reflects reality.

The Chief of Staff was in the forward command post from the early morning hours of Wednesday, 15.9.82. The I.D.F. began to enter west Beirut shortly after 6:00 a.m. During the first hours of the I.D.F. entry, there was not armed resistance to the I.D.F. forces, evidently because the armed forces that were in West Beirut were taken by surprise. Within a few hours, the I.D.F. forces encountered fire from armed forces that remained in a number of places in west Beirut, and combat operations began. The resistance caused delays in the I.D.F.'s taking over a number of points in the city and caused a change in the route of advance. In the course of this fighting three I.D.F. soldiers were killed and more than 100 were wounded. Heavy fire coming out of Shatilla was directed at one I.D.F. battalion (henceforth the battalion) advancing east of Shatilla. One of the battalion's soldiers was killed, 20 were injured, and the advance of the battalion in this direction was halted. Throughout Wednesday and to a lesser degree on Thursday and Friday (16-17.9.82), R.P.G. and light-weapons fire from the Sabra and Shatilla camps was directed at the forward command post and the battalion's forces nearby, and fire was returned by the I.D.F. forces.

On Wednesday, 15.9.82, the Minister of Defense arrived at the forward command post between 8:00 and 9:00 a.m. He met with the Chief of Staff there, and the latter reported on what had been agreed upon with the Phalangists, namely, a general mobilization, curfew, and the entry of the Phalangists into the camps. The Minister of Defense approved this agreement. From the roof of the command post, the Minister of Defense phoned the Prime

the assassination and was in control of his forces; he is a good man and we trust him not to cause any clashes, but there is no assurance regarding other forces. He added that the primary immediate task was to preserve quiet, for as long as quiet is maintained it will be possible to talk; otherwise there might have been pogroms, and the calm was preserved for the time being (exhibit 120).

At 4:00 p.m. on Wednesday, 15.9.82, a briefing took place at the office of the Deputy Chief of Staff with the participation of the I.D.F. branch heads, including the assistant for research to the director of Military Intelligence. The meeting began with a review by the assistant for research to the director of Military Intelligence of possible political developments in Lebanon following the death of Bashir Jemayel. He stated, *inter alia* (page 4 of the transcript of the discussion, exhibit 130), that the I.D.F.'s entry into West Beirut was perceived as vital not only by the Christians but also by the Muslims, who regarded the I.D.F. as the only factor that could prevent bloodshed in the area and protect the Sunni Muslims from the Phalangists. The Intelligence officer also stated that according to what was known to Military Intelligence, the attack on Bashir was carried out by the Mourabitoun, though that was not certain. During the meeting, the head of Operations Department announced that the Phalangists "are encouraging entry into the camps" (p. 7 of exhibit 130). The Deputy Chief of Staff reported his impressions of the meeting at Phalangist headquarters in Beirut that day and said that the intention was to send the Phalangists into the refugee camps and afterwards perhaps into the city as well. He added that this "might create an uproar," because the armed forces in West Beirut that were then quiet might stir up a commotion upon learning that Phalangists are coming in behind the I.D.F. (page 11, exhibit 130).

At 6:00 p.m. the Minister of Defense spoke with the Prime Minister from his home and reported (exhibit 99) that by evening the I.D.F. would be in all the places; that he had conveyed the Prime Minister's words to Pierre Jemayel; and that "everything is in order" and the decision made on the previous night to send the I.D.F. into Beirut had been most important and [indeed] should not have been delayed.

The Chief of Staff remained at the forward command post in Beirut and followed the development of the I.D.F. actions from there. On that day the Phalangist officers did not arrive at the forward command post to coordinate operations, but Major-General Drori met with them in the evening and told them generally that their entry into the camps would be from the direction of Shatilla. Major-General Drori, who was not at ease with the plan to send the Phalangists into the camps, made an effort to persuade the commanders of the Lebanese Army that their forces should enter the camps and that they should prevail upon the Prime Minister of Lebanon to agree to this move. The reply of the Lebanese Army at the time was negative.

In the early morning hours of Thursday, 16.9.82, the Chief of Staff left the forward command post and returned to Tel Aviv. That same morning, in the wake of political pressure, an order was issued by the Minister of Defense to halt the I.D.F.'s combat operations; but after a short time the Minister of Defense rescinded the order. At 10:00 a.m. the Minister of Defense held a consultation in his office with the Chief of Staff; the director of Military Intelligence, Brigadier-General Y. Saguy; Lieutenant-Colonel Zecharin, the Chief of Staffs bureau chief; and Mr. Dudai (exhibit 27 is a record of what was said at that meeting). The meeting was opened by the Chief of Staff, who announced that "the whole city is in our hands, complete quiet prevails now, the camps are closed and surrounded; the Phalangists are to go in at 11:00-12:00. Yesterday we spoke to them... The situation now is that the entire city is in our hands, the camps are all closed." Later on in his statement, while pointing to a

appropriate force till then; second - since the members of this unit were considered specially trained in discovering terrorists, who tried to hide among the civilian population.

On 16.9.82 a document was issued by the Defense Minister's office, signed by the personal aide to the Defense Minister, Mr. Avi Dudai, which contained "The Defense Minister's Summary of 15 September 1982." This document is (exhibit 34) a summary of the things which Mr. Dudai had recorded during his visit with the Defense Minister in Beirut on 15.9.82, as detailed above. In various paragraphs of the document there is mention of the Defense Minister's instructions regarding the entry into West Beirut. The instruction in paragraph F. is important to the matter at hand; it is stated there:

"F. Only one element, and that is the I.D.F., shall command the forces in the area. For the operation in the camps the Phalangists should be sent in."

The document is directed to the Chief of Staff, the Deputy Chief of Staff and the director of Military Intelligence. The document was received at the office of the director of Military Intelligence, according to the stamp appearing on the copy (exhibit 35), on 17.9.82.

In the testimonies we have heard, different interpretations were given to the instruction that only the I.D.F. command the forces in the area. According to one interpretation, and this is the interpretation given the document by the Chief of Staff (p. 257), the meaning of the instruction is that in contacts with external elements, and especially with the Phalangists, only the I.D.F., and not another Israeli element, such as the Mossad, will command the forces in the area - but this does not mean that the Phalangist force will be under the command of the I.D.F. On the other hand, according to the interpretation given the document by the director of Military Intelligence (pp. 127, 1523), the meaning is that all forces operating in the area, including the Phalangists, will be under the authority of the I.D.F. and will act according to its instructions.

The entry of the Phalangists into the camps began at about 18.00 on Thursday, 16.9.82. At that time there were armed terrorist forces in the camps. We cannot establish the extent of these forces, but they possessed various types of arms,

which they used - even before the entry of the Phalangists - against I.D.F. forces that had approached the area, as well as against ' the I.D.F. headquarters at the forward command post. It is possible to determine that this armed terrorist force

had not been evacuated during the general evacuation, but had stayed in the camps for two purposes, which were - renewal of underground terrorist activity at a later period, and to protect the civilian population which had remained in the camps, keeping in mind that given the hostility prevailing between the various sects and organizations, a population without armed protection was in danger of massacre. It should be added here that during the negotiations for evacuation, a guarantee for the safety of the Muslims in West Beirut was given by the representative of the United States who conducted the negotiations, following assurances received from the government of Israel and from Lebanon.

Meanwhile, as we have said, the multi-national force left Lebanon, and all the previous plans regarding the control of West Beirut by the Lebanese government were disrupted due to the assassination of President-elect Bashir Jemayel.

The Events from the Entry of the Phalangists into the Sabra and Shatilla

him in English for about five minutes (for Lt. Elul's testimony, see pp. 1209-1210a). Lt. Elul did not hear the conversation between Brigadier General Yaron and Hobeika.

Brigadier General Yaron, who was on the roof of the forward command post, received from Lt. Elul a report of what he had heard. According to Brigadier General Yaron's testimony, the report conveyed to him by Lt. Elul stated that one of the Phalangists had asked the commander what to do with 45 people, and the reply had been to do with them what God orders you to do (testimony of Brigadier General Yaron, pp. 696 and 730). According to Brigadier General Yaron, he understood from what he had heard that the reference was to 45 dead terrorists. In his testimony, Brigadier General Yaron linked this report with what he had heard in the update briefing that evening - which will be discussed below - from the Divisional Intelligence Officer. From Brigadier General Yaron's remarks in his testimony it emerges that he regarded the two reports - from Lt. Elul and from the Intelligence officer - as being one report from two different sources. We have no doubt that in this instance there were two different and separate reports. As noted the report which the Intelligence Officer obtained originated in a conversation held over the radio with Elie Hobeika. Although both reports referred to a group of 45-50 persons, and it is, not to be ruled out that the questions asked over the radios referred to the same group of persons, it is clear, both from the fact that the replies given were different in content - the reply of the liaison officer was to do with the group of people as God commands, while Hobeika's reply was different - that two different conversations took place regarding the fate of the people who had fallen into the Phalangists' hands. As noted, Brigadier General Yaron did not deny in his testimony that Lt. Elul had translated for him and told him what he had heard when the two of them were on the roof of the forward command post. We have no reason to think that Lt. Elul did not inform Brigadier General Yaron of everything he had heard. It is noteworthy that Lt. Elul testified before us after Brigadier General Yaron had testified and before the notices were sent in accordance with section 15(A) of the law; and his statement to the Staff Investigators (no. 87) was also given after Brigadier General Yaron's testimony. Brigadier General Yaron did not testify again after the notice in accordance with section 15(A) had been sent, nor was there any request on his part to question Lt. Elul. We assert that Lt. Elul informed Brigadier General Yaron of the content of the conversation which took place with Elie Hobeika as specified above.

An additional report relating to the actions of the Phalangists in the camps vis-a-vis the civilians there came from liaison officer G. of the Phalangists. When he entered the dining room in the forward command post building at approximately 8:00 p.m., that liaison officer told various people that about 300 persons had been killed by the Phalangists, among them also civilians. He stated this in the presence of many I.D.F. officers who were there, including Brigadier General Yaron. We had different versions of the exact wording of this statement by Phalangist officer G., but from all the testimony we have heard it is clear that he said that as a result of the Phalangists' operations up to that time, 300 terrorists and civilians had been killed in the camps. Shortly thereafter, Phalangist officer G. returned to the dining room and amended his earlier report by reducing the number of casualties from 300 to 120.

At 20:40 hours that evening an update briefing was held in the forward command post building with the participation of various I.D.F. officers who were in the building at that time, headed by Brigadier General Yaron. The remarks made at that meeting were recorded by a Major from the History Section in the Operations Branch/ Training Section. We were given the tape recording and a transcript thereof (exhibit 155). At the meeting Brigadier General Yaron spoke of the I.D.F.'s progress and deployment, and about the Phalangists' entry into

p. 576). He went on to add that he had a heavy feeling about the significance of this report, that he regarded it as an important and highly sensitive report which would interest the senior responsible levels, and that this was the kind of report that would prove of interest to the Director of Military Intelligence personally. In the wake of these remarks, the personnel in Intelligence Branch research of the General Staff Branch who had been given the report carried out certain telephone clarifications, and the report was conveyed to various persons. The manner in which the report was conveyed and the way it was handled are described in Section 6, Appendix B. Suffice it to note here that a telephone report about this information was conveyed to Lt. Col. Hevroni, Chief of Bureau of the director of Military Intelligence, on 17.9.82 at 5:30 a.m. The text of the report, which was distributed to various Intelligence units and, as noted, also reached the office of the director of Military Intelligence, appears in Appendix A of Exhibit 29 That document contained a marking, noting that its origin lay with the forward command post of Northern Command, that it was received on 16.9.82 at 23:20 hours, and that the content of the report was as follows:

"Preliminary information conveyed by the commander of the local Phalangist force in the Shatilla refugee camp states that so far his men have liquidated about 300 people. This number includes terrorists and civilians."

The action taken in the wake of this report in the office of the Director of Military Intelligence will be discussed in this report below.

On Thursday, 16.9.82, at 19:30 hours, the Cabinet convened for a session with the participation of - besides the Prime Minister and the Cabinet Ministers (except for 5 Ministers who were abroad) - a number of persons who are not Cabinet members, among them the Chief of Staff, the head of the Mossad and the director of Military Intelligence. The subject discussed at that meeting was the situation in Lebanon in the wake of the assassination of Bashir Jemayel. At the start of the session, the Prime Minister reported on the chain of events following the report about the attempt on Bashir's life. The Minister of Defense then gave a detailed survey. The Chief of Staff provided details about the I.D.F.'s operation in West Beirut and about his meetings with Phalangist personnel. He said, *inter alia*, that he had informed the Phalangist commanders that their men would have to take part in the operation and go in where they were told, that early that evening they would begin to fight and would enter the extremity of Sabra, that the I.D.F. would ensure that they did not fail in their operation but I.D.F. soldiers would not enter the camps and would not fight together with the Phalangists, rather the Phalangists would go in there "with their own methods" (p. 16 of the minutes of the meeting, Exhibit 122). In his remarks the Chief of Staff explained that the camps were surrounded "by us," that the Phalangists would begin to operate that night in the camps, that we could give them orders whereas it was impossible to give orders to the Lebanese Army, and that the I.D.F. would be assisted by the Phalangists and perhaps also the Lebanese Army in collecting weapons. With respect to the consequences of Bashir's assassination, the Chief of Staff said that in the situation which had been created, two things could happen. One was that the entire power structure of the Phalangists would collapse, though as yet this had not occurred. Regarding the second possibility, the Chief of Staff said as follows (pp. 21-22 of Exhibit 122):

"A second thing that will happen - and it makes no difference whether we are there or not - is an eruption of revenge which, I do not know, I can imagine how it will begin, but I do not know how it will end. it will be between all of them, and neither the Americans nor anyone else will be of any help. We can cut it down, but today they already killed Druze there. What difference does it make who or what? They have already killed them, and one dead Druze is enough so that

"In the wake of the assassination of the President-elect Bashir Jemayel, the I.D.F. has seized positions in West Beirut in order to forestall the danger of violence, bloodshed and chaos, as some 2,000 terrorists, equipped with modern and heavy weapons, have remained in Beirut, in flagrant violation of the evacuation agreement..."

Here we must note that the Director of Military Intelligence was present at the outset of the meeting but left, after having received permission to do so from the Minister of Defense, not long after the start of the session, and certainly a considerable time before Minister D. Levy made the remarks quoted above.

Brigadier-General Yaron did not inform Major-General Drori of the reports which had reached him on Thursday evening regarding the actions of the Phalangists *vis-a-vis* non-combatants in the camps, and reports about aberrations did not reach Major-General Drori until Friday, 17.9.82, in the morning hours. On Friday morning Major-General Drori contacted Brigadier-General Yaron, received from him a report about various matters relating to the war, and heard from him that the Phalangists had sustained a number of casualties, but heard nothing about casualties among the civilian population in the camps (testimony of Major-General Drori, p. 404). That same morning Major General Drori spoke with the Chief of Staff and heard from him that the Chief of Staff might come to Beirut that day.

In the early hours of that morning a note lay on a table in the Northern Command situation room in Aley. The note read as follows:

"During the night the Phalangists entered the Sabra and Shatilla refugee camps. Even though it was agreed that they would not harm civilians, they 'butchered.' They did not operate in orderly fashion but dispersed. They had casualties, including two killed. They will organize to operate in a more orderly manner - we will see to it that they are moved into the area."

Lieutenant-Colonel Idel, of the History Section in Operations Branch/Training Section, saw this note on the table and copied it into a notebook in which he recorded details about certain events, as required by his position. It has not been clarified who wrote the note or what the origin was of the information it contained, even though on this matter the staff investigators questioned many persons who held various positions where the note was found. The note itself was not found, and we know its content only because Lieutenant-Colonel Idel recorded it in his notebook.

The G.O.C. held a staff meeting at 8:00 a.m. in which nothing was said about the existence of reports regarding the Phalangists' actions in the camps.

Already during the night between Thursday and Friday, the report about excesses committed by the Phalangists in the camps circulated among I.D.F. officers who were at the forward command post. Two Phalangists were killed that night during their operation in the camps. When the report about their casualties reached the Phalangists' liaison officer, G., along with a complaint from one of the Phalangist commanders in the field that the I.D.F. was not supplying sufficient illumination, the liaison officer asked Lieutenant-Colonel Treiber, one of the Operations Branch officers at the forward command post, to increase the illumination for the Phalangists. Lieutenant-Colonel Treiber's response was that the Phalangists had killed 300 people and he was not willing to provide them with illumination (testimony of Lieutenant Elul, pp. 1212-1213). Lieutenant-Colonel Treiber subsequently ordered that limited illumination be provided for the Phalangists.

Phalangist commanders. On that same occasion Major General Drori spoke with the Chief of Staff by phone about several matters relating to the situation in Beirut, told him that he thought the Phalangists had perhaps "gone too far" and that he had ordered their operation to be halted (p. 412). A similar version of this conversation appears in the Chief of Staff's testimony (pp. 232-233). The Chief of Staff testified that he had heard from Major General Drori that something was amiss in the Phalangists' actions. The Chief of Staff asked no questions, but told Major General Drori that he would come to Beirut that afternoon.

As mentioned above, the cable report (appendix exhibit 29) regarding 300 killed reached the office of the director of Military Intelligence on 17.9.82 at 5:30 a.m. The text of this cable was transmitted to the director of Military Intelligence at his home in a morning report at 6:15 a.m., as part of a routine update transmitted to the director of Military Intelligence every morning by telephone. From the content of the cable, the director of Military Intelligence understood that the source of the report is Operations and not Intelligence, and that its source is the Northern Command forward command post. According to the testimony of the director of Military Intelligence, the details of which we shall treat later, he did not know then that it had been decided to send the Phalangists into the camps and that they were operating there; therefore, when he heard the report, he asked what the Phalangists were doing - and he was told that they had been operating in the camps since the previous day (p. 120, 123). When the director of Military Intelligence arrived at his office at 8:00 a.m., he asked his bureau chief where the report had originated, and he was told that it was an "Operations" report. He ordered that it be immediately ascertained what was happening in the Sabra and Shatilla camps. The clarifications continued in different ways (described in section 6 of appendix B) during Friday morning, but no confirmation of the report was obtained; and the intelligence personnel who dealt with the clarifications treated it as a report which for them is unreliable, is unconfirmed, and therefore it would not be proper to circulate it according to the standard procedure, by which important and urgent intelligence reports are circulated. The content of the cable was circulated to a number of intelligence personnel (whose positions were noted on the cable form) and was conveyed to the Mossad and the General Security Services. Since the source of the report seemed to those Intelligence Branch personnel who dealt with the matter to be Operations, it was not accorded the standard treatment given reports from Intelligence sources, but rather the assumption was that Operations personnel were dealing with the report in their own way. The answers received by the director of Military Intelligence to his demand for clarification were that there were no further details. The director of Military Intelligence did not know that the report had been transmitted by Intelligence Officer A. The report was transmitted verbally, incidentally, by the assistant to the bureau chief of the director of Military Intelligence to Lieutenant Colonel Gai of the Defense Ministry's situation room, when the latter arrived at about 7:30 a.m. at the office of the director of Military Intelligence. One of the disputed questions in this inquiry is whether Lieutenant Colonel Gai transmitted, the report to Mr. Dudai; we shall discuss this matter separately. Suffice it to say here that we have no evidence that the report was transmitted to the Defense Minister or came to his knowledge in another way.

At 7:30 a.m. on Friday there was a special morning briefing at the [office of] the assistant for research to the director of Military Intelligence. At the meeting, in which various intelligence personnel participated, the aforementioned report was discussed, and it was said that it can not be verified. The assistant for research to the director of Military Intelligence gave an order to continue checking the report. He knew that the source of the report was Intelligence

Ambassador Draper and other representatives of the United States and a group of representatives of Israel, including the Minister of Defense, the director of Military Intelligence, and the head of the General Security Services (exhibit 124). The Foreign Minister did not tell any of those who came to the meeting about the report he had received from Minister Zipori regarding the actions of the Phalangists, and he explained this inaction of his by the fact that the matter did not bother him, since it was clear to him that everything going on is known to the persons sitting with him, and he did not hear from them any special report from Beirut (p. 1238). The meeting ended at 3:00 p.m., and then the Foreign Minister left for his home and took no additional action following the aforementioned conversation with Minister Zipori.

Let us return to what occurred on that Friday in West Beirut.

In the morning hours, Brigadier General Yaron met with Phalangist commanders for coordination, and agreed with them that a larger Phalangist force would organize at the airport, that this force would not be sent in to the camps until it receives approval from the Chief of Staff and after the Chief of Staff holds an additional meeting at Phalangist headquarters (pp. 705-706).

Already prior to the Chief of Staff's arrival, Major General Drori held a meeting with the commander of the Lebanese Army in which he again tried to persuade the commander, and through him the Prime Minister and Ambassador Draper, that the Lebanese Army enter the camps. Major General Drori told that commander, according to his testimony, the following (p. 1633):

"You know what the Lebanese are capable of doing to each other; when you go now to Wazzan (the Prime Minister of Lebanon) tell him again, and you see what is out here, and the time has come that maybe you'll do something, and you're going to Draper, to meet with Draper... get good advice from him this time, he should give it to you this time, he should agree that you enter the camps, it's important, the time has come for you to do it, and get good advice this time from Draper, or permission from him to enter or do it."

Major General Drori explained in his testimony that he had approached the commander so that the latter would speak with Ambassador Draper, since he had heard that Ambassador Draper had told the commander of the Lebanese Army a day earlier that the Americans would get the Israelis out of Beirut, that they should not talk to them and not negotiate with them. The answer which Major General Drori later received to his request from the commander of the Lebanese Army was negative.

On Friday, 17.9.82, already from the morning hours, a number of I.D.F. soldiers detected killing and violent actions against people from the refugee camps. We heard testimony from Lieutenant Grabowsky, a deputy commander of a tank company, who was in charge of a few tanks which stood on an earth embankment - a ramp - and on the adjacent road, some 200 meters from the first buildings of the camps. In the early morning hours he saw Phalangist soldiers taking men, women and children out of the area of the camps and leading them to the area of the stadium. Between 8:00 and 9:00 a.m. he saw two Phalangist soldiers hitting two young men. The soldiers led the men back into the camp, after a short time he heard a few shots and saw the two Phalangist soldiers coming out. At a later hour he went up the embankment with the tank and then saw that Phalangist soldiers had killed a group of five women and children. Lieutenant Grabowsky wanted to report the event by communications set to his superiors, but the tank crew told him that they had already heard a communications report to the battalion commander that civilians were being killed, [and] the battalion commander had replied, "We

response to Major General Drori's testimony that the latter had told the Chief of Staff about the three things which he knew about (see above), the Chief of Staff said that he is prepared to accept that these were the things said to him, but emphasized that the meaning of the things he had heard was not from his point of view that there had been acts of revenge and bloodshed by the Phalangists (p. 1663). In any case, according to his second testimony as well, the Chief of Staff was satisfied with hearing a short report from Major General Drori about the reasons for the halting of the Phalangists' actions, and did not pose questions regarding this.

At about 16:00 hours, the meeting between the Chief of Staff and the Phalangist staff was held. We have been presented with documents containing summaries from this meeting. In a summary made by Mossad representative A who was present at the meeting (exhibit 80 A) it was said that the Chief of Staff "expressed his positive impression received from the statement by the Phalangist forces and their behavior in the field" and concluded that they "continue action, mopping up the empty camps south of Fakahani until tomorrow at 5:00 a.m., at which time they must stop their action due to American pressure. There is a chance that the Lebanese Army will enter instead of them." Other matters in this summary do not relate to the matter of the two camps (a summary with identical contents appears in exhibit no. 37). We heard more precise details on the content of the meeting from witnesses who participated in it. The Chief of Staff testified that the Phalangists had reported that the operation had ended and that everything was alright that the Americans are pressuring them to leave and they would leave by 5:00 a.m., and that they had carried out all the objectives. His reaction was "O.K., alright, you did the job."

According to the Chief of Staff, the discussion was very relaxed, there was a very good impression that the Phalangists had carried out the mission they had been assigned or which they had taken upon themselves, and there was no feeling that something irregular had occurred or was about to occur in the camps. During the meeting they requested a tractor from the I.D.F. in order to demolish illegal structures; the Chief of Staff saw this as a positive action, since he had long heard of illegal Palestinian neighborhoods, and therefore he approved their request for tractors (pp. 234-239). In his second testimony, the Chief of Staff added that the commander of the Phalangists had said that there was almost no civilian population in the camps, and had reported on their killed and wounded (p. 1666). He did not ask them questions and did not debrief them about what had happened in the camps. They wanted to send more forces into the camps, but he did not approve this; and there was no discussion at that meeting of relieving forces (pp. 1667-1670). At the same meeting, the Chief of Staff approved the supply of certain arms to the Phalangists, but this has nothing to do with events in Beirut. Major General Drori testified during his first appearance that the commander of the Phalangist force, who was present at the meeting, gave details of where his forces were and reported heavy fighting - but did not make mention of any irregularities, and certainly not of a massacre. The Phalangist commanders spoke of American pressure [on them] to leave the camps. When Major General Drori was asked for additional details of that conversation he replied that he could not recall (pp. 415-420, 444-444). Brigadier General Yaron also testified that at that meeting the Phalangists commanders had said nothing about unusual actions in the camps, [that] the reason given for departure from the camps the next morning was American pressure, and that it seemed to him that the Chief of Staff even had had some good words to say, from a military standpoint, about their action. It was also agreed at that meeting that they would get tractors in order to raze illegal structures. At the end of the meeting it was clear to Brigadier General Yaron, as

According to the Defense Minister's statements, this was the first report that reached him of irregular activity by the Phalangists in the refugee camps. The Chief of Staff did not confirm that he had told the Defense Minister all the above. According to him, he told the Defense Minister that the Phalangists had carried out their assignment, that they had stopped, and that they were under pressure from the Americans and would leave by 5:00 a.m. does not recall that he mentioned disorderly behaviour by the Phalangists, but he is sure he did not speak of a massacre, killing or the like. When the Chief of Staff was asked whether the Defense Minister had asked him questions in that same conversation, his reply was that he didn't remember (p. 242). In his second round of testimony, the Chief of Staff said that it was possible and also reasonable that he had told the Defense Minister the content of what he had heard from Major General Drori, although he reiterated that he didn't recall every word that was said in that same conversation (pp. 1687-1688). At the conclusion of his second round of testimony, the Chief of Staff denied that there had been discussion, in the telephone conversation with the Defense Minister, of killing beyond what had been expected (p. 1692).

This conversation was not recorded by anyone, and the two interlocutors testified about it from memory. It is our opinion that the Defense Minister's version of that same conversation is more accurate than the Chief of Staff's version. It is our determination that the Chief of Staff did tell the Defense Minister about the Phalangists' conduct, and that from his words the Defense Minister could have understood, and did understand, that the Phalangists had carried out killings of civilians in the camps. Our opinion finds confirmation in that, according to all the material which has been brought before us in evidence, the Defense Minister had not received any report of killings in the camps until that same telephone conversation; but after that conversation, the Defense Minister knew that killings had been carried out in the camps - as is clear from a later conversation between him and Mr. Ron Ben-Yishai, which we will discuss further on.

On Friday at approximately 4:00 p.m., when the television military correspondent Mr. Ron Ben-Yishai was at the airport in Beirut, he heard from several I.D.F. officers about killings in the camps. These officers were not speaking from personal knowledge, but rather according to what they had heard from others. Likewise, he saw Phalangist forces comprising about 500-600 men deployed at the airport. The Phalangist officer with whom Mr. Ben-Yishai spoke at that time told him that the Phalangist forces were going to the camps to fight the terrorists, so as to remove the terrorists and the arms caches in the camps. Asked what explanation had been given to the soldiers, the officer replied that it had been explained to them that they must behave properly and that they would harm their image if they didn't behave in the war like soldiers in all respects. He heard members of the forces in the field shouting condemnations and making threatening motions toward Palestinians, but he attached no importance to this, since he had encountered this phenomenon many times, during the war. Mr Ben-Yishai went from the airport to Baabda; and there, at 8:30 p.m., he heard from various officers that they had heard about people being executed by the Phalangists. At 23:30 hours, Mr. Ben-Yishai called up the Defense Minister and told him that a story was circulating that the Phalangists were doing unacceptable things in the camps. To the Defense Minister's questions, Mr. Ben-Yishai replied that he had heard this story from people he knew who had heard about civilians being killed by the Phalangists. The Defense Minister did not react to these words (statement 10 by Mr. Ben-Yishai, and testimony by the Defense Minister, p. 298). According to the Defense Minister, what he heard from Mr. Ron Ben-Yishai was nothing new to him, since he had already heard earlier about killings from the

city, but he would look into the matter. At his order, an investigation was conducted in the Northern Command and also in the Operations Branch, and the reply he received was that there was indeed a hospital called "Gaza" but that no killings had been perpetrated, and he so informed the Prime Minister. According to the Chief of Staff's initial testimony, the Prime Minister called him on this matter at approximately 10:00 a.m. (p. 243). In his second round of testimony, when the Chief of Staff was presented with the fact that the Prime Minister was in synagogue at 8:00 a.m. on that same Saturday, the first day of the Rosh Hashana holiday, the Chief of Staff said that the first telephone conversation with the Prime Minister had apparently taken place at an earlier hour of the morning. The Prime Minister stated in his testimony that he had gone to synagogue at 8:15-8:30 hours, returning at 13:15-13:30 hours; that he had had no conversation with the Chief of Staff before going to synagogue; that there had been no American call to him regarding the Gaza Hospital; and therefore, the conversations regarding the Gaza Hospital about which the Chief of Staff testified (pp. 771-772) had not taken place. The Defense Minister testified that the Chief of Staff apparently spoke with him by phone between 9:00-10:00 on Saturday morning and told him that the Prime Minister had called his attention to some occurrence at the Gaza Hospital; but the Defense Minister was not sure that such a conversation had indeed taken place, and said that he thought that there was such a conversation (p. 300). We see no need, for the purpose of determining the facts in this investigation, to decide between the two contradictory versions regarding the conversations about Gaza hospital. We assume that the contradictions are not deliberate, but stem from faulty memory, which is understandable in view of the dramatic turn of events taking place in those days.

On Saturday, the Defense Minister received additional reports about the acts of slaughter. He heard from the Director-General of the Foreign ministry, Mr Kimche, that Ambassador Draper had called him to say that I.D.F. soldiers had entered banks on the Street of Banks and that Palestinians had been massacred. It emerged that the report about the entry into the banks was incorrect. Regarding the report about the massacre, the Defense Minister's reply to the Foreign Ministry Director-General, which was given at about 13:00 hours, was that the Phalangists' operation had been stopped, the entry of additional forces blocked, and all the forces in the camps had been expelled. At 15:00 hours, Major General Drori spoke with the Defense Minister and told him about the reports concerning the massacre, adding that the Phalangists had already left the camps and that the Red Cross and the press were inside (testimony of Maj. Gen. Drori, pp. 428-429). At about 17:00 hours, Major General Drori met with a representative of the Lebanese army and appealed to him to have the Lebanese army enter the camps. The representative of the Lebanese army replied that he had to get approval for such a move. Between 21:30 and 22:00 hours the reply was received that the Lebanese army would enter the camps. Its entry into the camps was effected on Sunday, 19.9.82.

After the Phalangists had left the camps, Red Cross personnel, many journalists and other persons entered them, and it then became apparent that in the camps, and particularly in Shatilla, civilians - including women and children - had been massacred. It was clear from the spectacle that presented itself that a considerable number of the killed had not been cut down in combat but had been murdered, and that no few acts of barbarism had also been perpetrated. These sights shocked those who witnessed them; the reports were circulated by the media and spread throughout the world. Although for the most part the reports said that the massacre had been executed by members of the Phalangists, accusations were immediately hurled at the I.D.F. and at the State of Israel, since, according to the reports published at that time, the Phalangists'

When a public furor erupted in Israel and abroad in the wake of the reports about the massacre, and accusations were levelled that the I.D.F. and Haddad's men had taken part in the massacre, several communiqués were issued by the I.D.F. and the Foreign Ministry which contained incorrect and imprecise statements about the events. These communiqués asserted explicitly or implied that the Phalangists' entry into the camps had been carried out without the knowledge of - or coordination with - the I.D.F. The incorrect statements were subsequently amended, and it was stated publicly that the Phalangists' entry into the camps had been coordinated with the I.D.F. There is no doubt that the publication of incorrect and imprecise reports intensified the suspicions against Israel and caused it harm.

After the end of the Rosh Hashanah holy day, at 21:00 hours on Sunday, 19.9.82, a Cabinet meeting took place at the Prime Minister's residence with the participation of, in addition to the Cabinet members, the Chief of Staff, the head of the Mossad, the director of Military Intelligence, Major General Drori, and others. The subject discussed in that meeting was "the events in West Beirut - the murder of civilians in the Shatilla camp" (minutes of the meeting, Exhibit 121). At that meeting the Prime Minister, the Minister of Defense, the Chief of Staff and Major General Drori reported on the course of events. The Defense Minister stressed that the I.D.F. had not entered the camps, which were terrorist bastions, because it was our interest not to endanger even one soldier in the camps (p. 5, minutes of the meeting). He added that on the day following the entry, "when we learned what had taken place there, the I.D.F. intervened immediately and removed those forces" (p. 6). According to him (p. 7) no one had imagined that the Phalangists would commit such acts. In his remarks, the Chief of Staff stressed, among other points, that in previous Cabinet meetings various Ministers had asked why the Phalangists were not fighting - after all, this was their war. He, too, noted that no one could have known in advance how the Phalangists would behave, and in his view even the Phalangists' commanders did not know what would happen, but had lost control of their men. The Chief of Staff added that "the moment we learned how they were behaving there, we exerted all the pressure we could, we removed them from there and we expelled them from the entire sector" (pp. 9, 10). Major General Drori said that even before the Phalangists entered the camps, "we made them swear, not one oath but thousands, regarding their operation there. There was also their assurance that the kind of actions that were committed would not be committed. The moment it became clear to us what had happened, we halted the operation and demanded that they get out - and they got out." Major General Drori also told about the group of 15 persons, among them doctors, whom the I.D.F. had extricated from the hands of the Phalangists, thus preventing a major complication. He gave details of his appeal to the heads of the Lebanese army that they agree to enter the camps, and about the negative replies he had received (pp. 18-22). Afterward the Chief of Staff spoke again, and according to the recorded minutes (p. 25) he said as follows:

"On Friday, I met with them at around noon, at their command post. We did not yet know what had happened there. In the morning we knew that they had killed civilians, so we ordered them to get out and we did not allow others to enter. But they did not say they had killed civilians, and they did not say how many civilians they had killed; they did not say anything..."

In his second testimony the Chief of Staff explained that by his words, "in the morning we knew they had killed civilians," he was referring to reports that existed on Saturday morning and not to the reports that existed Friday morning, as might have perhaps been understood (p. 1665). The remarks quoted above

The furor that erupted in the wake of the massacre, and various accusations that were levelled, led those concerned to carry out debriefings and clarifications. A clarification of this kind was carried out on behalf of the General Staff (exhibit 239) and in the office of the director of Military Intelligence (exhibit 29 from October 1982). The summation of the Military Intelligence report states that "it emerges from a retrospective examination that the telephone report... had its source in a rumour/'gut feeling' that the (Intelligence Officer A) had happened to overhear, and that he himself was unable to verify that rumor in his on-site examinations, or in reaction to the briefings he had received..." The cable in question is Appendix A to Exhibit 29, which has already been quoted above; and from what has already been said above it is clear that it was not based on a "gut feeling." This investigative report contains other inaccuracies, which we shall note when we come to discuss the responsibility of Mr. A. Duda'i. A more detailed clarification was carried out in a Senior Command Meeting (SCM) with the participation of the Chief of Staff. The minutes of that meeting were submitted to us (exhibit 241). At that meeting, the Chief of Staff said, inter alia, that whereas prior to the I. D.F.'s entry into Lebanon atrocities had been perpetrated throughout that country, after the I.D.F.'s entry "the Phalangists did not commit any excesses officially and did nothing that could have indicated any danger from them," and they looked to him to be a regular, disciplined army. In his remarks the Chief of Staff also stressed the pressure from various elements for the Phalangists to take part in the combat operations. Major General Drori related the course of events from his point of view, which in general lines is consistent with what he related in his testimony before us. He said, inter alia, that he had originally wanted the I.D.F. or the Lebanese army to enter the camps, and that he did not concur in the considerations which had led to the decision regarding the entry of the Phalangists. Major General Drori was asked by one of the participants why a tractor had been needed, and he replied that there was a plan of the Lebanese administration, including the Phalangists and the Lebanese army, to destroy all the illegal structures, including the many structures in the camps. Brigadier General Yaron also related the course of events. He said, inter alia, that when he had been informed by the command that approval had come to let the Christians into the refugee camp he had expressed no opposition or reservation, but had been quite pleased because it was clear to him that this camp contained many terrorists and the battalion had come under quite heavy fire from it. Brigadier General Yaron stressed that he had warned the Phalangists not to harm civilians, women, children, old people or anyone raising his hands, but to clean out the terrorists from the camps, with the civilians to go to the area of the stadium. He said that until Saturday morning he did not know what was happening and when he saw the group of doctors and nurses, they had not told him about the acts of slaughter either. Following a quite lengthy debate, Brigadier General Yaron responded to the remarks of the participants by stating, inter alia (pp. 85 to 87, exhibit 241):

"The mistake, as I see it, the mistake is everyone's. The entire system showed insensitivity. I am speaking now of the military system. I am not speaking about the political system. The whole system manifested insensitivity..."

"On this point everyone showed insensitivity, pure and simple. Nothing else. So you start asking me, what exactly did you feel in your gut on Friday... I did badly, I admit it. I did badly. I cannot, how is it possible that a divisional commander - and I think this applies to the Division Commander and up - how is it possible that a Division Commander is in the field and does not know that 300, 400, 500 or a thousand, I don't know how many, are being murdered here? If he's like that, let him go. How can such a thing be"? But why didn't he know? Why was he oblivious? That's why he didn't know and that's why he didn't stop it... but I take myself to task..."

were drawn. To be sure, Dr. Morris did not say specifically that the armed men who came to the hospital were Phalangists, but he described their uniforms, which bore Arabic inscriptions, and also heard them talking among themselves in Arabic and with someone from the hospital staff in French. Dr. Morris does not read Arabic, but Ms. Siegel, who does read Arabic, testified that the Arabic inscription was the one that signifies Phalangists. Therefore, the testimony of these three witnesses also indicates that the only military force seen in the area was a Phalangist one. A similar conclusion can be drawn from the statement of Norwegian journalist John Harbo (no. 62).

In the course of the events and also thereafter, rumors spread that personnel of Major Haddad were perpetrating a massacre or participating in a massacre. No basis was found for these rumors. The I.D.F. liaison officer with Major Haddad's forces testified that no unit of that force had crossed the Awali River that week. We have no reason to doubt that testimony. As we have already noted, the relations between the Phalangists and the forces of Major Haddad were poor, and friction existed between those two forces. For this reason, too, it is inconceivable that a force from Major Haddad's army took part in military operations of the Phalangists in the camps, nor was there any hint of such cooperation. Although three persons from southern Lebanon - two of them from the Civil Guard in southern Lebanon - were in West Beirut on Friday afternoon, and got caught in the exchanges of fire between an I.D.F. unit and Jumblatt's militia, with one of them being killed in those exchanges, this did not take place in the area of the camps; and the investigation that was carried out showed that the three of them had come to Beirut on a private visit. There is no indication in this event that Haddad's men were at the site where the massacre was perpetrated. We can therefore assert that no force under the command of Major Haddad took part in the Phalangists' operation in the camps, or took part in the massacre.

It cannot be ruled out that the rumors about the participation of Haddad's men in the massacre also had their origin in the fact that Major Haddad arrived at Beirut airport on Friday, 17.9.82. From the testimony of the I.D.F. liaison officer with Major Haddad's forces, and from Major Haddad's testimony, it is clear that this visit by Major Haddad to the suburbs of Beirut and the vicinity had no connection with the events that took place in the camps. Major Haddad arrived at Beirut airport in an air force helicopter at 8:30 a.m. on 17.9.82. The purpose of his visit was to pay a condolence call on the Jemayel family at Bikfaya. At the airport he was met by three vehicles with members of his escort party, who had arrived that morning from southern Lebanon. En route, they were joined by another jeep with three of Haddad's commanders, who also arrived to pay a condolence call. Major Haddad and his escorts paid their condolence visit at Bikfaya, and then for security reasons returned via a different route, arriving at the point where the road from Bikfaya meets the coastal road. From there, Major Haddad, along with about eight of his men, went to visit relatives of his in Jouniyeh. Following that visit to his relative, Major Haddad returned that same afternoon to his home in southern Lebanon, from where he phoned the aforementioned liaison officer that evening.

Hints were made about the participation of Haddad's men in the massacre on the basis of a southern Lebanese accent which several of the survivors mentioned, and they also said that a few of the participants in the massacre had Moslem names. This, too, does not constitute concrete evidence, since among the Phalangist forces there were also Shiites - albeit not many - and they were joined also by persons who had fled from southern Lebanon.

We cannot rule out the possibility - although no evidence to this effect was found either - that one of the men from Major Haddad's forces who was visiting

were bewildered, that it was possible that they did not know what had happened in the camps and had no control over their people there (testimony of the Chief of Staff, p. 251). Even after that meeting the Phalangist heads continued in their public appearances to deny any connection with the massacre. That denial is patently incorrect.

Contentions and accusations were advanced that even if I.D.F. personnel had not shed the blood of the massacred, the entry of the Phalangists into the camps had been carried out with the prior knowledge that a massacre would be perpetrated there and with the intention that this should indeed take place; and therefore all those who had enabled the entry of the Phalangists into the camps should be regarded as accomplices to the acts of slaughter and sharing in direct responsibility. These accusations too are unfounded. We have no doubt that no conspiracy or plot was entered into between anyone from the Israeli political echelon or from the military echelon in the I.D.F. and the Phalangists, with the aim of perpetrating atrocities in the camps. The decision to have the Phalangists enter the camps was taken with the aim of preventing further losses in the war in Lebanon; to accede to the pressure of public opinion in Israel, which was angry that the Phalangists, who were reaping the fruits of the war, were taking no part in it; and to take advantage of the Phalangists' professional service and their skills in identifying terrorists and in discovering arms caches. No intention existed on the part of any Israeli element to harm the non-combatant population in the camps. It is true that in the war in Lebanon, and particularly during the siege of West Beirut, the civilian population sustained losses, with old people, women and children among the casualties, but this was the result of belligerent actions which claim victims even among those who do not fight. Before they entered the camps and also afterward, the Phalangists requested I.D.F. support in the form of artillery fire and tanks, but this request was rejected by the Chief of Staff in order to prevent injuries to civilians. It is true that I.D.F. tank fire was directed at sources of fire within the camps, but this was in reaction to fire directed at the I.D.F. from inside the camps. We assert that in having the Phalangists enter the camps, no intention existed on the part of anyone who acted on behalf of Israel to harm the non-combatant population, and that the events that followed did not have the concurrence or assent of anyone from the political or civilian echelon who was active regarding the Phalangists' entry into the camps.

It was alleged that the atrocities being perpetrated in the camps were visible from the roof of the forward command post, that the fact that they were being committed was also discernible from the sounds emanating from the camps, and that the senior I.D.F. commanders who were on the roof of the forward command post for two days certainly saw or heard what was going on in the camps. We have already determined above that events in the camps, in the area where the Phalangists entered, were not visible from the roof of the forward command post. It has also been made clear that no sounds from which it could be inferred that a massacre was being perpetrated in the camps reached that place. It is true that certain reports did reach officers at the forward command post - and we shall discuss these in another section of this report - but from the roof of the forward command post they neither saw the actions of the Phalangists nor heard any sounds indicating that a massacre was in progress.

Here we must add that when the group of doctors and nurses met I.D.F. officers on Saturday morning, at a time when it was already clear to them that they were out of danger, they made no complaint that a massacre had been perpetrated in the camps. When we asked the witnesses from the group why they had not informed the I. D. F. officers about the massacre, they replied that they had not known about it. The fact that the doctors and nurses who were in

Lebanese territory. If the territory of West Beirut may be viewed at the time of the events as occupied territory - and we do not determine that such indeed is the case from a legal perspective - then it is the duty of the occupier, according to the rules of usual and customary international law, to do all it can to ensure the public's well-being and security. Even if these legal norms are invalid regarding the situation in which the Israeli government and the forces operating at its instructions found themselves at the time of the events, still, as far as the obligations applying to every civilized nation and the ethical rules accepted by civilized peoples go, the problem of indirect responsibility cannot be disregarded. A basis for such responsibility may be found in the outlook of our ancestors, which was expressed in things that were said about the moral significance of the biblical portion concerning the "beheaded heifer" (in the Book of Deuteronomy, chapter 21). It is said in Deuteronomy (21:6-7) that the elders of the city who were near the slain victim who has been found (and it is not known who struck him down) "will wash their hands over the beheaded heifer in the valley and reply: our hands did not shed this blood and our eyes did not see." Rabbi Yehoshua ben Levi says of this verse (Talmud, Tractate Sota 38b):

"The necessity for the heifer whose neck is to be broken only arises on account of the niggardliness of spirit, as it is said, 'Our hands have not shed this blood.' But can it enter our minds that the elders of a Court of Justice are shedders of blood! The meaning is, [the man found dead] did not come to us for help and we dismissed him, we did not see him and let him go - i.e., he did not come to us for help and we dismissed him without supplying him with food, we did not see him and let him go without escort." (Rashi explains that escort means a group that would accompany them; Sforno, a commentator from a later period, says in his commentary on Deuteronomy, "that there should not be spectators at the place, for if there were spectators there, they would protest and speak out.")

When we are dealing with the issue of indirect responsibility, it should also not be forgotten that the Jews in various lands of exile, and also in the Land of Israel when it was under foreign rule, suffered greatly from pogroms perpetrated by various hooligans; and the danger of disturbances against Jews in various lands, it seems evident, has not yet passed. The Jewish public's stand has always been that the responsibility for such deeds falls not only on those who rioted and committed the atrocities, but also on those who were responsible for safety and public order, who could have prevented the disturbances and did not fulfill their obligations in this respect. It is true that the regimes of various countries, among them even enlightened countries, have side-stepped such responsibility on more than one occasion and have not established inquiry commissions to investigate the issue of indirect responsibility, such as that about which we are speaking; but the development of ethical norms in the world public requires that the approach to this issue be universally shared, and that the responsibility be placed not just on the perpetrators, but also on those who could and should have prevented the commission of those deeds which must be condemned.

We would like to note here that we will not enter at all into the question of indirect responsibility of other elements besides the State of Israel. One might argue that such indirect responsibility falls, inter alia, on the Lebanese army, or on the Lebanese government to whose orders this army was subject, since despite Major General Drori's urgings in his talks with the heads of the Lebanese army, they did not grant Israel's request to enter the camps before the Phalangists or instead of the Phalangists, until 19.9.82. It should also be noted that in meetings with U.S. representatives during the critical days, Israel's spokesmen repeatedly requested that the U.S. use its influence to get the

one, regarding which there may be legitimate differences of opinion and outlook. We do not find it justified to assert that the decision on this participation was unwarranted or that it should not have been made.

It is a different question whether the decision to have the Phalangists enter the camps was justified in the circumstances that were created. From the description of events cited above and from the testimony before us, it is clear that this decision was taken by the Minister of Defense with the concurrence of the Chief of Staff and that the Prime Minister did not know of it until the Cabinet session in the evening hours of 16.9.82. We shall leave to another section of this report - which will deal with the personal responsibility of all those to whom notices were sent under Section 15(A) of the law - the discussion of whether personal responsibility devolves upon the Defense Minister or the Chief of Staff for what happened afterward in the camps in the wake of the decision to have the Phalangists enter them. Here we shall discuss only the question of whether it was possible or necessary to foresee that the entry of the Phalangists into the camps, with them in control of the area where the Palestinian population was to be found, was liable to eventuate in a massacre, as in fact finally happened.

The heads of Government in Israel and the heads of the I.D.F. who testified before us were for the most part firm in their view that what happened in the camps was an unexpected occurrence, in the nature of a disaster which no one had of hostile actions between various militias and communities. The Lebanese army could have performed a function in the refugee camps, but it did not then have the power to enforce order in all of West Beirut. Under these circumstances it could be assumed that were I.D.F. forces not to enter West Beirut, various atrocities would be perpetrated there in the absence of any real authority; and it may be that world public opinion might then have placed responsibility on Israel for having refrained from action.

Both the Prime Minister and the Defense Minister based the participation of the Phalangists in the entry into West Beirut on the Cabinet resolution adopted at the session of 15.6.82. We are unable to accept this reasoning. Although there was much talk in the meeting of 15.6.82 (Exhibit 53) about the plan that the I.D.F. would not enter West Beirut, and that the entry would be effected by the Phalangists with support from the I.D.F. - but the situation then was wholly different from the one that emerged subsequently. During the discussion of 15.6.82 the terrorists and Syrian forces had not yet been evacuated from West Beirut, and the entire military picture was different from the one that developed after the evacuation was executed and after Bashir's assassination. However, even if the Phalangists' participation was not based on a formal Cabinet resolution of 15.6.82, we found no cause to raise objections to that participation in the circumstances that were created after Bashir's assassination. We wish to stress that we are speaking now only of the Phalangists' participation in connection with the entry into West Beirut, and not about the role they were to play in the camps.

The demand made in Israel to have the Phalangists take part in the fighting was a general and understandable one; and political, and to some extent military, reasons existed for such participation. The general question of relations with the Phalangists and cooperation with them is a saliently political one, regarding which there may be legitimate differences of opinion and outlook. We do not find it justified to assert that the decision on this participation was unwarranted or that it should not have been made.

It is a different question whether the decision to have the Phalangists enter the camps was justified in the circumstances that were created. From the description of events cited above and from the testimony before us, it is clear

given the state of affairs existing when the decision was taken to have the Phalangists enter the camps, it could not be foreseen that the Phalangists would perpetrate a massacre, or at all events the probability of that occurring was low; and had they been asked for their opinion at the time they would have raised no objections to the decision. We are not prepared to attach any importance to these statements, and not necessarily due to the fact that this evaluation was refuted by reality. It is our impression that the remarks of the experts on this matter were influenced to a certain extent by the desire of each of them to justify his action or lack thereof, the experts having failed to raise any objection to the entry of the Phalangists into the camps when they learned of it. In contrast to the approach of these experts, there were cases in which other personnel, both from Military Intelligence, from other I.D.F. branches, and from outside the governmental framework, warned - as soon as they learned of the Phalangists' entry into the camps, and on earlier occasion when the Phalangists' role in the war was discussed - that the danger of a massacre was great and that the Phalangists would take advantage of every opportunity offered them to wreak vengeance on the Palestinians. Thus, for example, Intelligence Officer G. (whose name appears in Section I of Appendix B), a branch head in Military Intelligence/ Research, stated that the subject of possible injury by the Phalangists to the Palestinian population had come up many times in internal discussions (statement no. 176). Similarly, when Intelligence Officer A. learned on Thursday, in a briefing of Intelligence officers, that the Phalangists had entered the camps, he said, even before the report arrived about the 300 killed, that he was convinced that the entry would lead to a massacre of the refugee camps' population. In a working meeting held at 7:00 p.m. between Major General Drori and the liaison officer with the Lebanese army at Northern Command [headquarters], the officer was told by Major General Drori that the Phalangists were about to enter the Sabra and Shatilla refugee camps; his reaction was that this was a good solution, but care should be taken that they not commit acts of murder (statement No. 4 and testimony of Major General Drori, pp. 402-403). In his statement, Captain Nahum Menahem relates that in a meeting he had with the Defense Minister on 12.9.82, he informed the Defense Minister of his opinion, which was based on considerable experience and on a study he had made of the tensions between the communities in Lebanon, that a "terrible" slaughter could ensue if Israel failed to assuage the inter-communal tensions in Lebanon (statement No. 161, p. 4). We shall mention here also articles in the press stating that excesses could be expected on the part of the Christian fighters (article in the journal Bamahane from 1.9.82, appended to the statement - No. 24 - of the article's author, the journal's military reporter Mr. Yinon Shenkar) and that the refugee camps in Beirut were liable to undergo events exceeding what had happened at El Tel Za'atar (article in a French paper in Beirut from 20.8.82 appended to the statement, No. 76, of the journalist M. Strauch). We do not know whether the content of these articles was made known to the decisionmakers regarding the operation of the Phalangists in West Beirut, or to those who executed the decision. We mention them solely as yet another indication that even before Bashir's assassination the possibility of the Phalangists perpetrating a massacre in the camps was not esoteric lore which need not and could not have been foreseen.

We do not say that the decision to have the Phalangists enter the camps should under no circumstances have been made and was totally unwarranted. Serious considerations existed in favor of such a decision; and on this matter we shall repeat what has already been mentioned, that an understandable desire existed to prevent I.D. F. losses in hazardous combat in a built-up area, that it was justified to demand of the Phalangists to take part in combat which they regarded as a broad opening to assume power and for the restoration of

consider ourselves free to draw conclusions, on the basis of our findings, that relate only to direct responsibility, and we do not see it as our task to express an opinion on what is implied by parliamentary responsibility.

"Indeed, in Israel, as in England - whence it came to us - the principle prevails that a member of the Cabinet is responsible to the elected assembly for all the administrative actions of the apparatus within his ministry, even if he was not initially aware of them and was not a party to them. However, while it is clear that this principle obligates him to report to the members of the elected assembly on such actions, including errors and failures; to reply to parliamentary questions; to defend them or to report on what has been done to correct errors - even the English experience shows that the traditions have not determined anything regarding the question of which cases of this kind require him to resign from his ministerial office; this varies, according to circumstances, from one case to the next. The main reason for this is that the question of the possible resignation of a Cabinet member in cases of this kind is essentially a political question par excellence, and therefore we believe that we should not deal with it..."

Later on in the partial report, the Agranat Commission deals (in Section 31) with the "direct personal responsibility of the Minister of Defense" and arrives at the conclusion that "according to the criterion of reasonable behavior demanded of one who holds the office of Minister of Defense, the minister was not obligated to order additional or different precautionary measures..."

The Agranat Commission also dealt (in Section 32 of its partial report) with the personal responsibility of the Prime Minister and arrived at the conclusion that she was not to be charged with any responsibility for her actions at the outbreak of the Yom Kippur War and afterwards.

From the above it is clear that the Agranat commission did not in any way avoid dealing with the question of the personal responsibility of the Prime Minister and other ministers, and regarding responsibility of this kind it did not distinguish between ministers and other people whose actions were investigated by the commission. The Agranat Commission did not discuss the question of a minister's responsibility for the shortcomings and failures of the apparatus he heads and for which he should not be charged with any personal responsibility. It is not necessary to deal in this report with the question of a minister's responsibility for the failures of his apparatus which occurred without any personal blame on his part, and we shall not express an opinion on it.

The claim has been made, albeit not in the framework of the commission's deliberations, that the matter of a minister's judgment cannot serve as the subject of investigation of a commission of inquiry according to the Commissions of Inquiry Law, 1968, because a minister's judgments are political judgments; there are no set norms regarding judgments of this kind; and therefore one cannot subject such judgments to scrutiny. We reject this view. It is unfounded from both a legal and a public point of view. From a legal standpoint, it is a well known rule, and attested by many rulings of the Supreme Court (sitting in its capacity as the High Court of Justice), that any judgment of a public authority, including that of ministers, is subject to scrutiny and examination in court. Decisions made on the basis of unwarranted, irrelevant, arbitrary, unreasonable, or immaterial considerations have more than once been disqualified by the courts.

In examining the considerations that served as the basis for decisions, the court never distinguished between the obligations of a minister and those of any other public authority. The fact that there exists no hard and fast law stating

concerning the content of the conversations with the Prime Minister. We have described above the two conversations between the Prime Minister and the Defense Minister from the roof of the forward command post on Wednesday, 15.9.82, in the morning hours. According to the testimony and the notes of those conversations, the matter of the Phalangists was not mentioned in them at all. In a further conversation between the Defense Minister and the Prime Minister, on Wednesday at 18:00 hours, nothing was said about the participation of the Phalangists in the entry into Beirut. Similarly, on Thursday, 16.9.82, when the Defense Minister spoke by phone with the Prime Minister during the discussion in the Defense Minister's office, the Defense Minister said nothing about the Phalangists. According to the content of the conversation (see Exhibit 27), his report to the Prime Minister was in an optimistic vein: that the fighting had ended, the I.D.F. held all the key points, and it was all over. The only mention of the camps in that conversation was that they were encircled.

We may certainly wonder that the participation of the Phalangists in the entry to West Beirut and their being given the task of "mopping up" the camps seemed so unimportant that the Defense Minister did not inform the Prime Minister of it and did not get his assent for the decision; however, that question does not bear on the responsibility of the Prime Minister. What is clear is that the Prime Minister was not a party to the decision to have the Phalangists move into the camps, and that he received no report about that decision until the Cabinet session on the evening of 16.9.82.

We do not believe that we ought to be critical of the Prime Minister because he did not on his own initiative take an interest in the details of the operation of the entry into West Beirut, and did not discover, through his own questions, that the Phalangists were taking part in that operation of the entry into West Beirut. The tasks of the Prime Minister are many and diverse, and he was entitled to rely on the optimistic and calming report of the Defense Minister that the entire operation was proceeding without any hitches and in the most satisfactory manner.

We have cited above passages from remarks made at the Cabinet session of 16.9.82, during which the Prime Minister learned that the Phalangists had that evening begun to operate in the camps. Neither in that meeting nor afterward did the Prime Minister raise any opposition or objection to the entry of the Phalangists into the camps. Nor did he react to the remarks of Deputy prime Minister Levy which contained a warning of the danger to be expected from the Phalangists' entry into the camps. According to the Prime Minister's testimony, "no one conceived that atrocities would be committed... simply, none of us, no Minister, none of the other participants supposed such a thing..." (p. 767). The Prime Minister attached no importance to Minister Levy's remarks because the latter did not ask for a discussion or a vote on this subject. When Minister Levy made his remarks, the Prime Minister was busy formulating the concluding resolution of the meeting, and for this reason as well, he did not pay heed to Minister Levy's remarks.

We have already said above, when we discussed the question of indirect responsibility, that in our view, because of things that were well known to all, it should have been foreseen that the danger of a massacre existed if the Phalangists were to enter the camps without measures being taken to prevent them from committing acts such as these. We are unable to accept the Prime Minister's remarks that he was absolutely unaware of such a danger. According to what he himself said, he told the Chief of Staff on the night between 14 and 15 September 1982, in explaining the decision to have the I.D.F. occupy positions in West Beirut, that this was being done "in order to protect the Moslems from the vengeance of the Phalangists," and he could well suppose

In his testimony before us, and in statements he issued beforehand, the Minister of Defense also adopted the position that no one had imagined the Phalangists would carry out a massacre in the camps and that it was a tragedy that could not be foreseen. It was stressed by the Minister of Defense in his testimony, and argued in his behalf, that the director of Military Intelligence, who spent time with him and maintained contact with him on the days prior to the Phalangists' entry into the camps and at the time of their entry into the camps, did not indicate the danger of a massacre, and that no warning was received from the Mossad, which was responsible for the liaison with the Phalangists and also had special knowledge of the character of this force.

It is true that no clear warning was provided by military intelligence or the Mossad about what might happen if the Phalangist forces entered the camps, and we will relate to this matter when we discuss the responsibility of the director of Military Intelligence and the head of the Mossad. But in our view, even without such warning, it is impossible to justify the Minister of Defense's disregard of the danger of a massacre. We will not repeat here what we have already said above about the widespread knowledge regarding the Phalangists' combat ethics, their feelings of hatred toward the Palestinians, and their leaders' plans for the future of the Palestinians when said leaders would assume power. Besides this general knowledge, the Defense Minister also had special reports from his not inconsiderable [number of] meetings with the Phalangist heads before Bashir's assassination.

Giving the Phalangists the possibility of entering the refugee camps without taking measures for continuous and concrete supervision of their actions there could have created a grave danger for the civilian population in the camps even if they had been given such a possibility before Bashir's assassination; thus this danger was certainly to have been anticipated - and it was imperative to have foreseen it - after Bashir's assassination. The fact that it was not clear which organization had caused Bashir's death was of no importance at all, given the known frame of mind among the combatant camps in Lebanon. In the circumstances that prevailed after Bashir's assassination, no prophetic powers were required to know that concrete danger of acts of slaughter existed when the Phalangists were moved into the camps without the I.D.F.'s being with them in that operation and without the I.D.F. being able to maintain effective and ongoing supervision of their actions there. The sense of such a danger should have been in the consciousness of every knowledgeable person who was close to this subject, and certainly in the consciousness of the Defense Minister, who took an active part in everything relating to the war. His involvement in the war was deep, and the connection with the Phalangists was under his constant care. If in fact the Defense Minister, when he decided that the Phalangists would enter the camps without the I.D.F. taking part in the operation, did not think that that decision could bring about the very disaster that in fact occurred, the only possible explanation for this is that he disregarded any apprehensions about what was to be expected because the advantages - which we have already noted - to be gained from the Phalangists' entry into the camps distracted him from the proper consideration in this instance.

As a politician responsible for Israel's security affairs, and as a Minister who took an active part in directing the political and military moves in the war in Lebanon, it was the duty of the Defense Minister to take into account all the reasonable considerations for and against having the Phalangists enter the camps, and not to disregard entirely the serious consideration mitigating against such an action, namely that the Phalangists were liable to commit atrocities and that it was necessary to forestall this possibility as a humanitarian obligation and also to prevent the political damage it would entail. From the Defense

Asked if he would not have allowed the Phalangists to enter the camps despite the aim of having them operate together with the I.D.F. and spare the I.D.F. losses, the Chief of Staff replied:

"Then maybe we should have acted differently, by closing the camps, by surrounding them, or bringing them to surrender in another week or in another few days, or shelling them with all our might from the air and with artillery. As for me, if I had anticipated that this is what would happen, or if such a warning had been given, they would not have entered the camps."

And the Chief of Staff added that if he had suspected or feared that what happened would happen, "they would not have entered the camps at all, they would not have come anywhere near the camps." We quote these remarks here in order to show that despite the usefulness of having the Phalangists enter the camps, that step should have been abandoned if a massacre could not have been prevented using the means in the I.D.F.'s hands.

We do not accept the contention that the Defense Minister did not need to fear that the Phalangists would commit acts of killing because in all outward aspects they looked like a disciplined and organized army. It could not be inferred from the Phalangists' orderly military organization that their attitude toward human life and to the non-combatant population had basically changed. It might perhaps be inferred from their military organization that the soldiers would heed the orders of their commanders and not break discipline; but at the very least, care should have been taken that the commanders were imbued with the awareness that no excesses were to be committed and that they give their men unequivocal orders to this effect. The routine warnings that I.D.F. commanders issued to the Phalangists, which were of the same kind as were routinely issued to I.D.F. troops, could not have had any concrete effect.

We shall remark here that it is ostensibly puzzling that the Defense Minister did not in any way make the Prime Minister privy to the decision on having the Phalangists enter the camps.

It is our view that responsibility is to be imputed to the Minister of Defense for having disregarded the danger of acts of vengeance and bloodshed by the Phalangists against the population of the refugee camps, and having failed to take this danger into account when he decided to have the Phalangists enter the camps. In addition, responsibility is to be imputed to the Minister of Defense for not ordering appropriate measures for preventing or reducing the danger of massacre as a condition for the Phalangists' entry into the camps. These blunders constitute the non-fulfillment of a duty with which the Defense Minister was charged.

We do not believe that responsibility is to be imputed to the Defense Minister for not ordering the removal of the Phalangists from the camps when the first reports reached him about the acts of killing being committed there. As was detailed above, such reports initially reached the Defense Minister on Friday evening; but at the same time, he had heard from the Chief of Staff that the Phalangists' operation had been halted, that they had been ordered to leave the camps and that their departure would be effected by 5:00 a.m. Saturday. These preventive steps might well have seemed sufficient to the Defense Minister at that time, and it was not his duty to order additional steps to be taken, or to have the departure time moved up, a step which was of doubtful feasibility.

The Foreign Minister Mr. Yitzhak Shamir

in which dramatic events had occurred, and the situation as a whole was permeated with tension and dangers. In this state of affairs, it might have been expected that the Foreign Minister, by virtue of his position, would display sensitivity and alertness to what he had heard from another minister - even if we were to accept unconditionally his statement that the point under discussion was only the "unruliness" of the Phalangists. The Foreign Minister should at least have called the Defense Minister's attention to the information he had received and not contented himself with asking someone in his office whether any new information had come in from Beirut and with the expectation that those people coming to his office would know what was going on and would tell him if anything out of the ordinary had happened. In our view, the Foreign Minister erred in not taking any measures after the conversation with Minister Zipori in regard to what he had heard from Zipori about the Phalangist actions in the camps.

The Chief of Staff, Lieutenant General Rafael Eitan

The notice sent to the Chief of Staff, Lieutenant General Rafael Eitan, according to Section 15(A), detailed a number of findings or conclusions that might be harmful to the Chief of Staff if the commission established them.

The first point in the notice has to do with the Chief of Staff disregarding the danger of acts of vengeance and bloodshed being perpetrated by the Phalangists, against the population of the refugee camps and his failure to take the appropriate measures to prevent this danger. In this matter, the Chief of Staff took a position similar to that of the Minister of Defense which was discussed above and which we have rejected. The Chief of Staff stated in his testimony before us that it had never occurred to him that the Phalangists would perpetrate acts of revenge and bloodshed in the camps. He justified this lack of foresight by citing the experience of the past, whereby massacres were perpetrated by the Christians only before the "Peace for Galilee" War and only in response to the perpetration of a massacre by the Muslims against the Christian population, and by citing the disciplined conduct of the Phalangists while carrying out certain operations after the I.D.F.'s entry into Lebanon. The Chief of Staff also noted the development of the Phalangists from a militia into an organized and orderly military force, as well as the interest of the Phalangist leadership, and first and foremost of Bashir Jemayel, in behaving moderately toward the Muslim population so that the president-elect could be accepted by all the communities in Lebanon. Finally, the Chief of Staff also noted, in justifying his position, that none of the experts in the I.D.F. or in the Mossad had expressed any reservations about the planned operation in the camps.

We are not prepared to accept these explanations. In our view, none of these reasons had the power to cancel out the serious concern that in going into the refugee camps, the Phalangist forces would perpetrate indiscriminate acts of killing. We rejected arguments of this kind in the part of this report that dealt with indirect responsibility, as well as in our discussion of the responsibility borne by the Minister of Defense, and the reasons we presented there likewise hold for the Chief of Staff's position. Here we will restrict ourselves to brief reasoning.

Past experience in no way justified the conclusion that the entry of the Phalangists into the camps posed no danger. The Chief of Staff was well aware that the Phalangists were full of feelings of hatred towards the Palestinians and that their feelings had not changed since the "Peace for Galilee" War. The isolated actions in which the Phalangists had participated during the war took place under conditions that were completely different from those which arose after the murder of Bashir Jemayel; and as one could see from the nature of

was of value in obtaining certain military information on combat operations, but it was worthless in terms of obtaining information on the Phalangists' operations within the camps. Another step was taken to obtain information on exchanges over the communications sets between the Phalangist forces in the field and their commanders. It is difficult to regard this step as an efficient way to discover what was going on in the camps, because it was based on the assumption that what was said over the communications network would provide an accurate picture not only of the combat operations but also of any atrocities, and this assumption was not sufficiently grounded. It is true that the first reports of the massacres came from this source of information, but that was merely fortuitous; and just as questions had been asked about the fate of 45 to 50 people, it could have happened that such questions would not have gone over the communications network. As stated, the fact of 300 dead was not discovered as a result of listening in on the communications set; and it is a fact that whatever was said over these sets did not reveal the fact that the massacre of hundreds of people was going on in the camps. The final means whereby it was hoped that the Phalangists' operations in the camps would be revealed was by placing a Phalangist liaison officer on the roof of the forward command post and a liaison officer from the Mossad in the Phalangist headquarters. The obtaining of information from these two sources was likewise based upon unfounded assumptions. As to the Phalangist officer, there was no reason to believe that on his own initiative, he would tell the I.D.F. officers about the Phalangist operations, for he knew that the I.D.F. would vigorously oppose them if word of such operations came to its attention. While Phalangist liaison officer G. did tell of 300 dead, this was evidently a slip of the tongue on his part, for he immediately tried to play down the assessment by decreasing the number of casualties to 120. No information was received from the Mossad liaison officer; and the hope that he would be able to supply information of this sort was based on the unrealistic expectation that the Phalangist commanders would let him in on all the information that came in about the Phalangists' actions, even if it was a report on an action they knew the I.D.F. would vigorously oppose.

We asked the witnesses why an I.D.F. liaison officer was not attached to the Phalangist force that entered the camps, and we received the reply that there were two reasons: first, the point was that the I.D.F. should not enter the refugee camps, and the presence of an I.D.F. liaison officer would contradict that point; second, there was fear for the life of any such liaison officer, for obvious reason. We are prepared to accept this explanation and have no criticism of the fact that this step was not adopted. On the other hand, no explanation was given for failing to provide special briefings to the I.D.F. units that were in the vicinity of the camps - something which should have been done, considering the importance of the matter.

The claim that every possible step was taken to obtain detailed information on the excesses of the Phalangists - in the event that such excesses would take place - is not congruent with the claim that such excesses were not foreseen at all. But we do not wish to go into this logical contradiction, as in any case it is clear that the steps which were adopted fell far short of satisfying the need to know what was going on in the camps; and in fact, the truth about what was happening there only came out after the Phalangists left the camps.

We find that the Chief of Staff did not consider the danger of acts of vengeance and bloodshed being perpetrated against the population of the refugee camps in Beirut; he did not order the adoption of the appropriate steps to avoid this danger; and his failure to do so is tantamount to a breach of duty that was incumbent upon the Chief of Staff.

nothing out of the ordinary had happened that would require the immediate removal of the Phalangists from the camps, and that there was nothing wrong with - and perhaps there was benefit to be derived from - their completing their operation through Saturday morning. It is impossible to reconcile what we heard from the Chief of Staff regarding this matter with what he told the Minister of Defense in a phone conversation when he returned to Israel. We have already established above that in this conversation, the Chief of Staff told the Minister of Defense things about the conduct of the Phalangists that could have led the Minister of Defense to understand that the Phalangists had perpetrated the murder of civilians in the camps. But even if we go by the Chief of Staff's version of that conversation, according to which he said only that the Phalangists had "overdone it," it is difficult to reconcile this statement with the absence of all suspicion on his part regarding what had happened in the camps and the possibility of further similar actions.

Likewise, after the meeting, the Chief of Staff did not issue any order to Major General Drori or Brigadier General Yaron to prevent the entry of additional Phalangist forces or to send in or replace [Phalangist] forces, because he did not have the impression that there was any reason to stop them.

In our opinion, after the Chief of Staff received the information from Major General Drori in a telephone conversation that the Phalangists had "overdone it" and Major General Drori had halted their operation, this information should have alerted him to the danger that acts of slaughter were being perpetrated in the camps and made him aware of his obligation to take appropriate steps to clarify the matter and prevent the continuation of such actions if the information proved to be of substance. Toward that end, the Chief of Staff should have held a detailed clarification [session] with Major General Drori, Brigadier General Yaron, and other officers of the division, as well as with the Phalangist commanders, immediately upon his arrival in Beirut. If, as a result of this clarification, he was not satisfied that excesses had not been committed in the camps, he should have ordered the immediate removal of the Phalangist forces from the camp, admonished the Phalangist commanders about the aberrant actions, and demanded that they issue immediate orders to their forces to refrain from any act that would cause harm to civilians while they were still in the camp. None of these things were done by the Chief of Staff. On the contrary, the Phalangist commanders could have gotten the impression from the Chief of Staff's words and from his agreement to supply them with tractors that they could continue their operations in the camp without interference until Saturday morning and that no report of excesses had reached the I.D.F. - and if they had reached the I.D.F., they had not roused any sharp reaction.

We determine that the Chief of Staff's inaction, described above, and his order to provide the Phalangist forces with tractors, or a tractor, constitute a breach of duty and dereliction of the duty incumbent upon the Chief of Staff.

Director of Military Intelligence Major General Yehoshua Saguy

In the notice sent to the Director of Military Intelligence, Major General Yehoshua Saguy, non-fulfillment of duty was ascribed to him because he did not give sufficient attention to the decision regarding sending the Phalangists into the camps and did not warn after the murder of Bashir Jemayel of the danger of acts of revenge and bloodshed by these forces against the Palestinian population in West Beirut, and especially in the refugee camps.

The Director of Military Intelligence testified that he did not know at all about the decision regarding the sending of the Phalangists into the camps and did not hear about the role assigned to the Phalangists in connection with the entry into

the Phalangists. Even if we were to unreservedly accept Major Saguy's testimony in this matter, his statements would have been surprising. The Director of Military Intelligence, who is required to provide an intelligence assessment regarding the Phalangists, knows that the I.D.F. is entering Beirut, knows that in the past there had been complaints about the non-involvement of the Phalangists in the fighting, hears, at the latest on Wednesday morning during the meeting at Phalangist headquarters, that these forces will cooperate with the I.D.F. in the entry into West Beirut, he does not demonstrate any interest and does not raise any question as to the role assigned them and does not make any comment to the Defense Minister or the Chief of Staff on this matter in the meetings in which he participated. The picture received according to the testimony of Major General Saguy himself is of indifference and a conspicuous lack of concern, of shutting of eyes and ears to a matter regarding which it was incumbent on the director of the intelligence arm of the I.D.F. to open his eyes and listen well to all that was discussed and decided.

The only explanation which can be found for the aforementioned behavior of the Director of Military Intelligence apparently lies in the fact that the approach of the Director of Military Intelligence to the Phalangists and to cooperation between Israel and these forces was much more skeptical than the sympathetic approach of the Mossad, and that he knew that the Defense Minister, Chief of Staff and perhaps also the Prime Minister accept the Mossad's approach, and Military Intelligence's approach had been rejected in favor of the Mossad's approach. Therefore, the Director of Military Intelligence was satisfied with Intelligence reports compiled and sent on his behalf, in which, according to his claim, there is sufficient warning of the dangers to be expected from cooperation with the Phalangists.

In our opinion, the Director of Military Intelligence did not fulfill his duty by [providing only] these situation evaluations. The verbal warning following the murder of Bashir, about which the Defense Minister testified, was given rather weakly. According to Major General Saguy's testimony (pp. 105-106), he said in a telephone conversation with the Defense Minister on the night of 14.9.82, when it became clear that Bashir had been killed, that there were two possibilities: one, that there would be acts of revenge on the part of the Phalangists; and two, that they would fall apart. It is difficult to view these vague statements as a substantial warning. On 15.9.82, at about 18:00 hours, Intelligence Branch prepared a document (exhibit 26) bearing the title, "Main Emphases for Situation Assessment," and the only thing said there regarding the danger of acts of revenge by the Phalangists is that the I.D.F.'s entry into West Beirut could "be received by some of the parties involved, and perhaps even among some of the Muslim elements, as a development which might contribute, at least temporarily, to stability in the city, and provide them with protection from possible acts of revenge by the Phalangists" (paragraph I-a in exhibit 26). This document cannot be considered a clear warning of the danger of involving the Phalangists in the I.D.F.'s entry into Beirut or an indication of the need to take special precaution in order not to enable the Phalangists to carry out acts of revenge against the Palestinians. In an additional Intelligence document which was issued on 15.9.82 and bears the title "The Murder of Bashir Jemayel - Main Implications," it was said that "the assassination creates conditions for heightening the polarization between the rival Lebanese power elements, for mutual settling of accounts, and for deterioration, which, in the absence of a stabilizing element, is liable to develop into a general civil war" (paragraph 4, exhibit 25). Neither can this be considered a substantial warning which draws attention to the dangers of acts of revenge by the Phalangists entering West Beirut with the I.D.F. or in its wake.

The director of Military Intelligence said in his testimony that for the issue of

The head of the Mossad was sent a notice under Section 15(A) of the law in which it is stated that he is liable to be harmed if the commission determines that he did not pay appropriate attention to the decision taken regarding the roles to be played by the Phalangists during the I.D.F.'s entry into West Beirut, and did not warn after the murder of Bashir Jemayel of the danger of bloodshed by these forces against the Palestinian population.

The head of the Mossad testified that he first learned of the role given to Phalangists to enter the camps, only at the cabinet meeting on Thursday 16.9.82. On Friday, 15.9.82, he received cables from the Mossad representative in Beirut (exhibits 161 and 162) in which it was reported to him about the meetings of the Chief of Staff and Defense Minister with the Phalangist elite; but in neither of these documents is there any report of the role given the Phalangists in the camps, but rather there is general mention in them that the Phalangists will enter West Beirut after the I.D.F. and will assist the I.D.F. in its operations. In a third cable (exhibit 163), sent on Thursday at 12:00, it was stated that there had been a coordination meeting with the G.O.C. to prepare the Phalangists "for operations to clear the city of terrorists." In an additional cable sent at that time (exhibit 164) it was said that the Phalangists would start work at the Burj el-Barajneh camp.

Apparently, the Mossad was not explicitly informed of the Phalangists' entry into the camps, and the head of the Mossad did not know of the decision which had been made on this matter. The testimony of the head of the Mossad should therefore be accepted, that only at the cabinet meeting of Thursday evening did he hear of the decision regarding the role of the Phalangists and of their entry into the camps, which by then had already taken place.

In the aforementioned circumstances it does not appear to us that the head of the Mossad was obligated, before knowing of the decision regarding the role of the Phalangists, to offer at his initiative an assessment regarding the situation which was liable to develop, if the Phalangists would be given the opportunity to take revenge on the Palestinians and attempt to carry out their plans for them in West Beirut. The head of the Mossad was present at the cabinet meeting until its conclusion. He heard what was said there, but did not himself give a situation assessment regarding the entry of the Phalangists into the camps, and did not express any reservation about this entry. He spoke at that meeting about the Mossad's assessment regarding the situation created after the murder of Bashir, but his remarks did not explicitly deal with the issue of the Phalangists' entry into the camps or with the problems which could ensue therefrom. A certain hint of the danger of irregular actions by the Phalangists can be found in the following remarks made by the head of the Mossad at that meeting (p. 26 in exhibit 122):

"When we learned of the death of Bashir - and this was close to midnight we thought that there could be two phenomena: one, that the whole forest would catch fire, and the Phalangist forces themselves, which were suddenly left without a commander, [and] with a desire for revenge, could also have taken uncontrolled action; and on the other hand, those Palestinians and Lebanese organizations which were in West Beirut, when they suddenly learned that the leader of the Phalangists is dead and possibly the Phalangists have been weakened following this, it was possible that they would start up - i.e., there was definitely the possibility that a situation of total conflagration would flare up in the city."

These remarks should not be considered an unequivocal warning of the danger entailed in the entry of the Phalangists into the camps, an entry about which the

G.O.C. Northern Command Major General Amir Drori

In the notification sent to G.O.C. Northern Command Amir Drori, it was stated that he is liable to be harmed if the commission determines that he did not take appropriate or sufficient steps to prevent the continuation of the Phalangists' actions in the refugee camps when he received reports of acts of killing or acts which deviate from regular combat operations which were carried out in the camps.

On Thursday night, the division intelligence officer transmitted the report of 300 killed to the Northern Command, but this report did not reach Major General Drori and he did not hear a thing about what was happening in the camps until Friday morning.

We have enumerated above the differences between the versions of Major General Drori and Brigadier General Yaron regarding the circumstances surrounding Major Drori's visit to the forward command post, the conversation which preceded this visit, and the conversation which took place during the visit. According to the testimony of Major General Drori, the visit was made at his initiative, without his knowing that any problem had arisen regarding the camps, while according to Brigadier General Yaron's version, Major General Drori's appearance was the result of a conversation in which Brigadier General Yaron reported his uneasy feelings regarding what was being done in the camps. We do not find that the differing versions on this subject are important in the matter before us.

Neither was there a uniform version regarding the reports transmitted to Major General Drori during his meeting at the forward command post. Colonel Duvdevani said in his statement that he had told Major General Drori about 100 killed in the Phalangists' operations; while according to Major General Drori's testimony, he did not hear in this visit about killing in the camps or about a specific number of killed. From Brigadier General Yaron's remarks it is apparent that he did not report to Major General Drori about the reports of the 300 killed and the 45 persons who had been captured by the Phalangists, since he had thought that these reports were unsubstantiated. Regarding the things Major General Drori heard from Brigadier General Yaron, Major General Drori's version differs only in unimportant details from Brigadier General Yaron's version. It appears to us that it is not possible to determine with sufficient certainty that clear reports were given to Major General Drori about killing in the camps. We believe, however, that in his testimony before us, Major General Drori belittled the importance and significance of the things about which he had heard in the meeting at the forward command post, as well as the impression these had made on him. It should be noted that Major General Drori was aware that the Phalangists were liable to act in an uncontrolled way, and this not necessarily from his conversation with an officer connected with the Lebanese Army on Thursday evening, but mainly from his knowledge of the Phalangists, based on his constant contact with them. There is therefore no room for doubt that after the conversations which he held on the roof of the forward command post on Friday morning, he was aware that the continuation of the Phalangists' actions in the refugee camps posed a danger. Three actions which he took are evidence of this. The first - the order he gave regarding cessation of the Phalangists' actions; the second - a telephone report to the Chief of Staff that the Phalangists "had overdone it" and that he had ordered their operation stopped; and the third - the continuation of his efforts to impress upon the commander of the Lebanese Army that this army enter the camps instead of the Phalangists. Here we should mention that in this persuasion effort, Major General Drori told the commander of the Lebanese Army, "You know what the

conducted the meeting for the Israeli side, it was Major General Drori's duty to at least make an attempt to raise the issue at this meeting. He also made no attempt to persuade the Chief of Staff to raise the matter at the meeting with the Phalangists, but was satisfied with sitting idly by. Major General Drori is a senior commander with a very important task, who bears heavy responsibility for events on a wide front. A commander at such a level and rank should be expected to take the initiative when he sees that the Chief of Staff does not intend to deal with the issue which was the main cause of his coming to Beirut and holding a meeting with the Phalangist staff. If this passive behavior by Major General Drori was the result of a significant decline in his alertness during the time which had gone by since ordering a halt to the Phalangists' operations, then we have already said above that this reduced alertness was not at all justified. Also, after the conclusion of the meeting with the Phalangist commanders, Major General Drori did nothing about the behavior of the Phalangists and did not raise the matter for discussion with the Chief of Staff. The Phalangists' request that the I.D.F. supply them with tractors should have increased the suspicion that actions which are difficult to describe as combat operations were being carried out in the camps; and apparently this suspicion arose, since the order was to provide the Phalangists with only one tractor and remove the I.D.F. markings from it. We cannot find justification for Major General Drori's disengagement from any treatment of the subject of Phalangist behavior, from the moment the Chief of Staff arrived in Beirut and until after the departure of the Phalangists from the camps.

We determine that it was the duty of the G.O.C. to warn the Chief of Staff when the latter arrived in Beirut on 17.9.82 and during the rest of the Chief of Staff's stay in Beirut, that the population in the camps is endangered by the continued presence of the Phalangist forces in the camps, and that they should be removed from there immediately -or that at least steps be taken to ensure the safety of the population in the camps or to reduce the danger they face to the barest possible minimum. Major General Drori's refraining from any action regarding the danger facing the civilian population from the Phalangist forces, from the time the Chief of Staff arrived in Beirut and until Saturday, 18.9.82, constitutes, in our opinion, a breach of the duty which was incumbent on Major General Drori.

Division Commander Brigadier General Amos Yaron

The first issue specified in the notice sent to Brigadier General Amos Yaron under section 15(A) of the law is that Brigadier General Yaron did not properly evaluate and did not check reports that reached him concerning acts of killing and other irregular actions of the Phalangists in the camps, did not pass on that information to the G.O.C. and to the Chief of Staff immediately after it had been received on 16.9.82, and did not take the appropriate steps to stop the Phalangists' actions and to protect the population in the camps immediately upon receiving the reports.

We determined in the specification of the facts that Brigadier General Yaron received reports of acts of killing in the evening and night hours of 19.9.82. He received the first report from Lieutenant Elul, and from it it should have been clear to him that the Phalangists were killing women and children in the camps. Brigadier General Yaron heard an additional report that same evening from the division intelligence officer concerning the fate of the group of 45 people who were in the Phalangists' hands. A third report was delivered by the Phalangists liaison officer, G., about 300 killed, a number which was later reduced to 120. Even if we suppose that the first and second report were considered by Brigadier General Yaron to be about the same event, nevertheless, from all the reports, it became known to Brigadier General Yaron that the Phalangists were

General Yaron, considering the reports that had reached him.

During Friday as well, Brigadier General Yaron did not act properly with regard to the Phalangist operation in the camps. When he met with Major General Drori, he was obligated to report all the information that had reached him, but he did not do so. As a result of this failure, Major General Drori was not apprised of all the information that had reached the division by that time. A number of times, Brigadier General Yaron approached the Phalangist officers who were at the forward command post, including Elie Hobeika and repeated the admonition not to do harm to women and children; but other than this he did not take any initiative and only suggested that the Phalangists be ordered not to advance - and an order to this effect was issued by Major General Drori. This order might have been regarded as enough of a precaution by Major General Drori, who had not heard about instances of killing; but Brigadier General Yaron should have known that halting the advance did not ensure an end to the killing.

The notice sent to Brigadier General Yaron under Section 15(A) also speaks of the failure to provide any warning to the Chief of Staff when the latter reached Beirut on 17.9.82, as well as of Brigadier General Yaron's granting the Phalangists permission to send a new force into the camps without taking any steps that would bring a stop to the excesses. When the Chief of Staff came to Beirut, Brigadier General Yaron did not tell him everything he had heard and did not make any suggestion to him about the continuation of the Phalangist operation in the camps. From the time he saw the Chief of Staff (after his arrival in Beirut) until the Chief of Staff left Beirut, no warning was heard from Brigadier General Yaron - not even a significant comment regarding the danger of a massacre. Brigadier General Yaron was not oblivious to this danger. We have evidence that on Friday he had spoken to the Phalangist liaison officer charging that his men were killing women and children (statement No. 23 by Colonel Agmon), but he did not express this awareness clearly in his meetings with Major General Drori and the Chief of Staff.

Brigadier General Yaron's inaction regarding the continuation of the Phalangist operation in the camps was epitomized by the fact that he did not issue, any order to prevent them from replacing forces on Friday and did not impose any supervision on the movement of the Phalangist forces to and from the camps, despite the fact that the order halting the operation was not rescinded.

We have already cited Brigadier General Yaron's statement at the Senior Command Meeting in which he admitted with laudible candor that this was an instance of "insensitivity" on his part and on the part of others concerned. As we have already stated above, Brigadier General Yaron's desire was to save I.D.F. soldiers from having to carry out the operation in the camps, and this appears to be the main reason for his insensitivity to the dangers of the massacre in the camps. This concern of a commander for the welfare of his men would be praiseworthy in other circumstances; but considering the state of affairs in this particular instance, it was a thoroughly mistaken judgment on the part of Brigadier General Yaron, and a grave error was committed by a high-ranking officer of an I.D.F. force in this sector.

We determine that by virtue of his failings and his actions, detailed above, Brigadier General Yaron committed a breach of the duties incumbent upon him by virtue of his position.

Mr. Avi Dudai, Personal Aide to The Minister of Defense

The sole issue regarding which the notice was sent to Mr. Dudai was "that on

turned out that Lt. Col. Gai - after receiving the report from the bureau chief of the director of Military Intelligence - looked into the matter on the morning of 17 September with Operations Branch, after he, too, had gotten the impression that an operations report/ occurrence was at issue; and in the investigation, he was told that Operations did not know about such an action by the Phalangists." In his testimony, Gai said that these statements were inaccurate, and that he had only inquired at Operations if there was anything new from Beirut and had received a negative reply. In paragraph 14 of exhibit 29, it is said that in a second update between minister's aide Avi Dudai and Lt. Col. Gai, Dudai reported that he had spoken with the bureau chief of the Director of Military Intelligence, who had told him that the report had not received verification from Military Intelligence personnel who had looked into the matter." What is said here was not confirmed by Lt. Col. Gai's testimony; and as mentioned, Dudai denied receiving any report. The rather obvious general trend of exhibit 29 regarding the report to Gai is: to show that report on the contents of the cable on the 300 killed was conveyed from the Director of Military Intelligence's bureau to the Defense Minister's bureau. According to Lt. Col. Gai's testimony, the conversation between him and Captain Sinai cannot be viewed as more than "an exchange of gossip," and it is difficult to treat such a conversation as a proper act of conveying an important report.

Captain Sinai gave a statement to the staff investigators (No. 112) in which he said that he had read the cable (Appendix A, exhibit 29) in front of Lt. Col. Gai, and that the latter had reacted to it with the words, "Listen, that's very interesting" - and, as far as Sinai recalls, he said, " I spoke with the minister during the night, and I'll go talk with him in a little while; the story is very interesting, and the minister will be very happy to bear the report." According to Sinai, this is more or less the version he heard from Gai. We find it difficult to attribute importance to this statement. In his statement, Sinai gave exact details concerning a search for the two documents which preceded the conversation between Gai and himself, and at present it is already clear that he erred in this, because the search for the documents was not conducted in the early hours of the morning, but rather close to the noon hour. It is not reasonable [to suppose that] if Gai did indeed receive Sinai's report as an interesting or important report, he would not immediately convey it to Dudai, who on that same morning complained several times about a lack of reporting on what was happening in Lebanon and inquired after such reports from time to time.

It is our opinion that it cannot be determined that Gai did indeed pass on the contents of the above report to Dudai on Friday. The doubt stems not only from contradictions revealed in the witnesses' statements, but also from [the fact] that the witnesses who told about the conveying of the report have an interest in showing that they fulfilled their obligation in transmitting the report from the director of Military Intelligence's bureau to the Defence Minister's aide. It is also difficult to treat Gai's testimony as testimony by someone who is a disinterested party in the matter, since it is in his interest to show, after all that happened, that he did not keep the contents of the report he'd heard from Sinai to himself. Gai also did not give a satisfactory explanation as to why, according to his version, he had told Dudai about this report only in the afternoon, despite the fact that Duda'i was constantly asking whether reports had come in from Lebanon and was complaining about a lack of reports. In view of the entire body of evidence, we do not determine that Dudai indeed received the report about the 300 people killed on Friday, 17.9.82, and it therefore cannot be determined that he refrained from fulfilling an obligation which was incumbent upon him, as was stated in the notice of (possible) harm which was sent to him.

The Functioning of Establishments

examined, nor were its advantages and disadvantages weighed. This is explicable in that the decision was taken under pressure of time. Nonetheless, enough time existed before the Phalangists' entry on Thursday evening (16.9.82) to carry out a situation appraisal in which the decision, its manner of execution and its possible results could be examined. No such deliberation in fact took place. The discussion held by the Defense Minister on Thursday morning (exhibit 27), in which he said, "I would move the Phalangists into the camps," cannot be regarded as a situation appraisal in the usual sense of the term. The Chief of Staff told us that on Wednesday he ordered his deputy to hold a consultation among branch heads. Such a discussion did in fact take place in the late afternoon hours (exhibit 130), but it was a briefing and not a situation appraisal. The issue of the Phalangists' entry was mentioned in that discussion in a general manner, but the decision was not presented in detail, no examination was made of the security measures to be taken, and no evaluation was made of the possible ramifications of the decision.

The way in which decisions are to be taken and the appropriate bodies to that end have been laid down in the procedures. These formats ought to be exploited in order to enhance the prospect that when decisions are taken, all the information at hand, the various positions, the pros and cons, and the possible ramifications of the decision will be taken into account.

Experience and intuition are very valuable, but it is preferable that they not constitute the sole basis on which decisions are taken.

The absence of the required staff discussion regarding the entry of the Phalangists into the camps was accompanied by another inevitable flaw. The information about the decision was not transmitted in an orderly fashion to all the parties who should have known about it. We have already seen that the Prime Minister was unaware of the decision. The Foreign Minister, too, learned of the Phalangists' entry only in the Cabinet session. We have already cited the account of the director of Military Intelligence that he, too, did not learn about the decision until Friday morning. Although we have stated that we find it difficult to accept that account, this cannot justify the absence of an orderly report about the decision being made to all the various staff elements.

Thus, for example, it emerged that the Command Intelligence officers were first briefed by the Command Intelligence Officer about the fact that the Phalangists would enter the camps on Thursday, some two hours after the operation had already commenced. According to the testimony of the Military Intelligence/Research officers whose task it is to prepare situation appraisals, they received no prior information about the decision to have the Phalangists enter the camps.

As a result, that department was unable to prepare its own appraisals, as would have been expected of it prior to the Phalangists' entry into the camps. This also had a certain effect on the manner in which that department functioned at the stage when it received the report about the 300 killed (Section 6, Appendix B).

The head of the Mossad learned of the decision only at the Cabinet session. Despite the fact that Mossad personnel were in Beirut when the events occurred, and maintained ongoing contacts with the Phalangist commanders, no report was received from them regarding the special role of the Phalangists in the camps prior to their entry, nor did they collect any data at all on events in the camps after the Phalangists had entered.

This is not a satisfactory state of affairs. Orderly processes require that the

responsible personnel. Contradictions were often evident in the testimony about these conversations - not out of any intention to conceal the truth, but as a natural result of flaws in human memory. There is no satisfactory explanation of why no notes were taken of these conversations. The Prime Minister held many conversations with the Defense Minister and the Chief of Staff, including the conversations in which the decision was taken to seize key positions in West Beirut. It is not surprising, therefore, if a certain difference exists between the Prime Minister's version of a guideline issued by him, and that of the Chief of Staff regarding the guideline he received.

The Defense Minister and the Chief of Staff held a conversation on Tuesday evening in which a number of important decisions were taken. This conversation was not recorded in any form.

We believe that it is desirable to determine guidelines in this matter in order to prevent a situation in which important decisions are not documented. Precisely because human memory is often faulty, it is desirable to determine a proper method and procedure for recording those conversations which, according to criteria to be determined, it is important to keep on record.

Recommendations and Closing Remarks

Recommendations

With regard to the following recommendations concerning a group of men who hold senior positions in the Government and the Israel Defense Forces, we have taken into account [the fact] that each one of these men has to his credit [the performance of] many public or military services rendered with sacrifice and devotion on behalf of the State of Israel. If nevertheless we have reached the conclusion that it is incumbent upon us to recommend certain measures against some of these men, it is out of the recognition that the gravity of the matter and its implications for the underpinnings of public morality in the State of Israel call for such measures.

The Prime Minister, The Foreign Minister, and the Head of the Mossad

We have heretofore established the facts and conclusions with regard to the responsibility of the Prime Minister, the Foreign Minister, and the head of the Mossad. In view of what we have determined with regard to the extent of the responsibility of each of them, we are of the opinion that it is sufficient to determine responsibility and there is no need for any further recommendations.

G.O.C. Northern Command Major General Amir Drori

We have detailed above our conclusions with regard to the responsibility of G.O.C. Northern Command Major General Amir Drori. Major General Drori was charged with many difficult and complicated tasks during the week the I.D.F. entered West Beirut, missions which he had to accomplish after a long period of difficult warfare. He took certain measures for terminating the Phalangists' actions, and his guilt lies in that he did not continue with these actions. Taking into account these circumstances, it appears to us that it is sufficient to determine the responsibility of Major General Drori without recourse to any further recommendation.

The Minister of Defense, Mr. Ariel Sharon

We have found, as has been detailed in this report, that the Minister of Defense

either out of cruelty or to give vent to vengeful feelings. It is regrettable that the reaction by I.D.F. soldiers to such deeds was not always forceful enough to bring a halt to the despicable acts. It seems to us that the I.D.F. should continue to foster the [consciousness of] basic moral obligations which must be kept even in war conditions, without prejudicing the I.D.F.'s combat ability. The circumstances of combat require the combatants to be tough - which means to give priority to sticking to the objective and being willing to make sacrifices - in order to attain the objectives assigned to them, even under the most difficult conditions. But the end never justifies the means, and basic ethical and human values must be maintained in the use of arms.

Among the responses to the commission from the public, there were those who expressed dissatisfaction with the holding of an inquiry on a subject not directly related to Israel's responsibility. The argument was advanced that in previous instances of massacre in Lebanon, when the lives of many more people were taken than those of the victims who fell in Sabra and Shatilla, world opinion was not shocked and no inquiry commissions were established. We cannot justify this approach to the issue of holding an inquiry, and not only for the formal reason that it was not we who decided to hold the inquiry, but rather the Israeli Government resolved thereon. The main purpose of the inquiry was to bring to light all the important facts relating to the perpetration of the atrocities; it therefore has importance from the perspective of Israel's moral fortitude and its functioning as a democratic state that scrupulously maintains the fundamental principles of the civilized world.

We do not deceive ourselves that the results of this inquiry will convince or satisfy those who have prejudices or selective consciences, but this inquiry was not intended for such people. We have striven and have spared no effort to arrive at the truth, and we hope that all persons of good will who will examine the issue without prejudice will be convinced that the inquiry was conducted without any bias.

Publication of the Report

In accordance with Section 20(a) of the Commissions of Inquiry Law, this report and the attached Appendix A will be published after the report is submitted to the Government. Appendix B to this report will not be published, since we are convinced that this is necessary to protect the security of the state and its foreign relations.

Transcripts from the commission hearings which were conducted in open session have already been made public. In accordance with regulation 8(b) of the Commission of Inquiry Regulations (Rules of Procedure) 1969, we resolve that the right to examine the transcripts from those sessions which were held in camera, as well as Appendix B to the report, will be given to all members of the cabinet, all members of the Knesset Defense and Foreign Affairs Committee, the General Staff of the Israel Defense Forces, and any person or class of persons which may be determined by the Ministerial Defense Committee. Similarly, the right to examine Appendix B is given to those persons who received a notice in accordance with section 15(a) of the law, and to their representatives who appeared before the commission.

This report was signed on 7 February 1983.

Yitzhak Kahan
Commission Chairman
Aharon Barak