

TO THE EDITOR-IN-CHIEF

March 27, 1977

Professor Murphy, in his letter to the Editor-in-Chief, published in the January 1977 issue of the *Journal*, has argued against the position taken by Professor Gross about the illegality of the PLO's participation in the UN Security Council's deliberations.¹

I find fault with Professor Murphy's criticism on two grounds. In the first place, I do not believe he meant to say that Israel has refused "to recognize the Palestinians." He, like me, was undoubtedly constrained by the format of a letter and was unable to be as explicit as possible. But from the argument as published, two inferences may be drawn: (1) Israel has refused to accept the concept of a Palestinian nationality or (2) Israel has refused to recognize the PLO. Statements have indeed been issued, formally and informally, regarding the existence of a Palestinian people or nation, and Israeli officials have formally announced a policy of rejection of the authority of the PLO to represent the Palestinian interests in any political settlement that may take place among the parties to the conflict. Second, while one may agree with Professor Murphy's statements that "all parties in interest should be brought before [Courts of Equity] in order that a matter in controversy may be finally settled," and that "the Middle East controversy is not solvable without a representative of the interests of the Palestinian people,"² it is fallacious to accept the PLO as the *only* representative, now or at the time that organization was invited to speak before the Council. The source of the representative authority of the PLO within the Occupied Territories has been indirect—the election of local officials who support the PLO. It is also too early to write off the Jordanian Government as a possible representative of the Palestinians.

I am greatly concerned about the PLO's participation in the United Nations because of the significance of the precedents set.³ The PLO represents no state, government, government-in-exile, or even demarcated territory; it is a nonstate political representative at best, seeking a negotiating status equal to that of a state.

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TO THE EDITOR-IN-CHIEF

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Max Tardu's comparative analysis of "Co-Existing" human rights petition procedures within the UN and regional OAS legal systems provides useful insight into possible areas of conflict between the two systems and approaches to solution.¹ Within his commentary one can also glean awareness of an ultimate clash between: (1) the interests of certain states and organizations in "unification,"² "a minimum of juridical order,"³ "res judicata,"⁴ and a hierarchic stability or control, and (2) the interests of individuals in obtaining effective remedies to human right deprivations imposed upon them by control-oriented state actors or private groups and individuals who, for one reason or another, are insufficiently restrained by state actors and domestic legal systems.

¹ Gross, *Voting in the Security Council and the PLO*, 60 AJIL 470 (1976).

² Stated earlier by Professor Murphy in a slightly different context in *The Middle East*, 44 Sr. JOHN'S L. REV. 390, 396 (1970).

³ See Silverburg, *The Palestine Liberation Organization in the United Nations: Implications for International Law and Relations*, ISRAEL L. REV. (forthcoming).

¹ 70 AJIL 778 (1976).

² See *id.* at 793.

³ See *id.* at 795.

⁴ See *id.* at 786 and 799.