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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, ) Docket No. 03 CR 978  
)  
Plaintiff, )  
)  
vs. )  
)  
MUHAMMAD HAMID KHALIL SALAH AND )  
ABDELHALEEM HASAN ABDELRAZIQ ASHQAR, ) Chicago, Illinois  
) December 18, 2006  
Defendants. ) 10:05 a.m.

E X C E R P T  
TRANSCRIPT OF TRIAL PROCEEDINGS  
BEFORE THE HONORABLE AMY J. ST. EVE, AND A JURY

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PROCEEDINGS RECORDED BY  
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1 (Proceedings heard in open court; jury present:)

2 \* \* \* \* \*

3 MR. DEUTSCH: Both Mr. Salah and Dr. Ashqar call  
4 Khaled Hroub.

5 THE COURT: Okay. Please come forward, sir. Raise  
6 your right hand.

7 (Witness sworn.)

8 THE COURT: You may be seated.

9 MR. DEUTSCH: Professor Hroub, there's water there  
10 and a cup.

11 KHALED HROUB, DEFENDANTS' WITNESS, DULY SWORN,

12 DIRECT EXAMINATION

13 BY MR. DEUTSCH:

14 Q. Sir, could you state your first name and last name and  
15 spell it for the court reporter.

16 A. My name is Khaled Hroub. That's K-H-A-L-E-D. Hroub, my  
17 family name, H-R-O-U-B.

18 Q. Now, I'm going to ask you to speak slowly and clearly for  
19 the jury. English is not your first language, correct?

20 A. Yes, correct.

21 Q. What is your first language?

22 A. Arabic.

23 Q. And are you fluent in the English language, sir?

24 A. I hope so.

25 (Laughter.)

1 BY MR. DEUTSCH:

2 Q. And so do I.

3 THE COURT: That makes three of us.

4 (Laughter.)

5 MR. MOFFITT: Four.

6 BY MR. DEUTSCH:

7 Q. What is your nationality, sir?

8 A. I am Palestinian.

9 Q. And where were you born?

10 A. I was born in Bethlehem in a refugee camp.

11 Q. Okay. And what year were you born?

12 A. 1965.

13 Q. And I'm going to ask you about your -- did there come a  
14 time when you left the refugee camp?

15 A. Well, we left after the war, 199 -- 1967.

16 Q. Okay.

17 A. So basically I lived two, three years in the camp.

18 Q. And was there a reason that you left in 1967?

19 A. Yeah, because of the war.

20 Q. Okay. And when you -- you left with your family?

21 A. With my family.

22 Q. And where did you go when you left?

23 A. We -- we moved to Jordan.

24 Q. Okay. And did you get an undergraduate degree in Jordan?

25 A. Yes, I did.

1 Q. And what was your undergraduate degree in?

2 A. It was in civil engineering.

3 Q. Okay. So that would have been a Bachelor of Science?

4 A. Yes.

5 Q. And what year did you get that degree?

6 A. '87.

7 Q. Okay. And then did you get a post-graduate degree in 1989  
8 in Jordan?

9 A. Yes, I did.

10 Q. And what was the area that you got a post-graduate degree  
11 in?

12 A. Population studies and refugees.

13 Q. And what did that consist of very briefly?

14 A. Well, basically this is a study in demography that covers  
15 immigration, covers population and growth and also to the  
16 trends pertaining to population.

17 Q. And were you studying particularly the situation of the  
18 Palestinian refugees?

19 A. Partly.

20 Q. Okay. And did you have occasion to go back into the  
21 refugee camps or to visit refugee camps?

22 A. Yes, I did.

23 Q. Subsequent to receiving a higher diploma in population  
24 studies, did you continue your education with a master's  
25 degree?

- 1 A. Yes, I did.
- 2 Q. And what was the master's degree in?
- 3 A. I had -- I did two masters degree in the U.K.
- 4 Q. Okay.
- 5 A. One in international relations theory and --
- 6 Q. Okay. Let me just stop you there for a second. When you
- 7 say the U.K., can you explain that? Some people might not
- 8 understand that.
- 9 A. Yeah, in London.
- 10 Q. Okay. U.K. stands for United Kingdom?
- 11 A. United Kingdom, right, in London, so --
- 12 Q. And that degree was in international relations, correct?
- 13 A. Yes.
- 14 Q. And what year did you get that degree?
- 15 A. What?
- 16 Q. What year?
- 17 A. '94.
- 18 Q. Okay. And did you write a dissertation in order to get
- 19 that degree?
- 20 A. Yes, I did.
- 21 Q. And what was the subject of your dissertation?
- 22 A. It was on Hamas.
- 23 Q. Okay.
- 24 A. Hamas, the practice and methodology.
- 25 Q. And in order to get -- write that dissertation, I take you

1 it you had to study the policies and practices of Hamas, is  
2 that correct?

3 A. Yes, I did.

4 Q. And subsequent to that, did you get another master's  
5 degree?

6 A. Yes. It's called Mphil in the U.K., United Kingdom,  
7 M-P-H-I-L.

8 Q. And that stands for what?

9 A. Master of Philosophy.

10 Q. Master's of Philosophy, and where -- what university did  
11 you get the Master of Philosophy?

12 A. That was at University of Cambridge.

13 Q. Okay. And what year was that?

14 A. '97.

15 Q. And did you write a dissertation in order to get a Master  
16 of Philosophy?

17 A. Yes, I did.

18 Q. And what was the subject matter of your Master's of  
19 Philosophy?

20 A. Regionalizing in the Middle East.

21 Q. And what -- can you explain briefly what that consisted  
22 of?

23 A. Well, it's about regional integration and cooperation  
24 between states and economics, politics, all different areas.

25 Q. Okay. And are you presently working on a Ph.D.?

1 A. Yes, I am.

2 Q. And in what area are you working on a Ph.D. in?

3 A. Globalization in Arab intellectuals.

4 Q. Where are you working on the Ph.D., what university?

5 A. Cambridge University.

6 Q. Now, other than Arabic and English, do you speak any other  
7 languages?

8 A. I speak basic French and Hebrew.

9 Q. Okay. Presently what position do you hold in London?

10 A. In Cambridge, I am the director of something called  
11 Cambridge Arab Media Project, which is affiliated to Cambridge  
12 University.

13 Q. Okay. Can you tell the ladies and gentlemen of the jury  
14 what the Cambridge -- Cambridge Area Media Project?

15 A. Cambridge Arab.

16 Q. Cambridge Arab Media Project, which is CAMP, spells CAMP.

17 A. Yes.

18 Q. Can you tell the ladies and gentlemen of the jury what  
19 kind of work the Cambridge Area Media Project does?

20 A. Yes, this is research project that deals with the impact  
21 of Arab media and mainly satellite media on Arab communities  
22 within the Arab countries and beyond.

23 So basically we -- we conduct research, we hold  
24 conferences, workshops and seminars, and myself I oversee the  
25 whole, if you like, operation of this project.



1 Q. So do you have a title as part of the Cambridge Arab Media  
2 Project?

3 A. Well, I am the director.

4 Q. You're the director.

5 Okay. And how long have you held the position of  
6 director of the Cambridge area -- Arab Media Project?

7 A. Since 2002.

8 Q. And you said it's affiliated with The Centre at Cambridge  
9 correct?

10 A. Yes, correct.

11 Q. What is the name of The Centre?

12 A. Center for Middle Eastern and Islamic Studies.

13 Q. And that is a part of the Cambridge University?

14 A. Yes, it is.

15 Q. Okay.

16 A. It's part of the oriental faculty.

17 Q. Okay. And prior to your work as the director of the  
18 Cambridge Arab Media Project, were you also -- did you have a  
19 position as a professor at Cambridge University?

20 A. Yeah. That was between the year 2000 and 2002.

21 Q. Okay. And what areas did you teach in?

22 A. I was a scholar at The Centre, which is The Centre for  
23 Middle Eastern and Islamic studies, and basically dealing with  
24 media issues.

25 Q. Okay. In addition to your work as the director of the

1 Cambridge Arab Media Project, are you also a regular  
2 broadcaster and presenter on radio?

3 A. On TV.

4 Q. Oh, on TV. Okay, sorry. And what TV station do you  
5 present on?

6 A. Al-Jazeera TV.

7 Q. And can you explain to the ladies and gentlemen of the  
8 jury what Al-Jazeera TV is?

9 A. Al-Jazeera TV is an Arab media outlet that broadcasts from  
10 the Middle East in Arabic and lately in English, focusing on  
11 Middle Eastern affairs and world affairs. It's the most  
12 watched TV maybe in the world on the Middle East. It has a  
13 huge impact, and it's not only a news channel, it has a  
14 variety of TV material, including fashion, sports and book  
15 review, which is my program.

16 Q. So your program is -- deals with what exactly?

17 A. My program deals with reviewing newly published books,  
18 discussing the new ideas and hosting intellectuals, writers  
19 and reviewers.

20 Q. Now, why is it -- is it important as part of Arab studies  
21 to deal with media and media contacts?

22 A. For me, yes, it's -- it's very important because we have  
23 this new phenomenon that is transborder broadcasting, and this  
24 impacts our communities and culture, politics, different  
25 interactions.

1 Q. Okay. In addition to your work on the television show and  
2 as the head of the Cambridge Area Media Project, are you  
3 involved in any other programs or projects?

4 A. Well, on different capacities as a member of different  
5 boards of different things, yes.

6 Q. Okay. Can you tell the ladies and gentlemen of the jury  
7 what boards you're presently a member of?

8 A. Well, I just came back from the Netherlands where I am on  
9 the board of something called the Prince Claus Fund Library,  
10 which is an organization that deals with population, new books  
11 and projects on culture and development of third world  
12 countries, so I'm on the board, and we approve new titles and  
13 the new ideas.

14 I am on the board of something called -- newly  
15 established thing called Arab Booker Prize, which is an annual  
16 prize to be given to Arab literature and books.

17 I am on the board -- used to be on the board of Arab  
18 Human -- Human Rights Organization in London.

19 Q. Okay. Have you consulted and advised governments about  
20 the situation in the Palestinian territories and  
21 Israeli-Palestinian conflict?

22 A. Yes, I did.

23 Q. And what governments have you advised and consulted with?

24 A. The government of United Kingdom.

25 Q. England, right?

1 A. England, yeah.

2 Q. Yeah. And in what context did you advise and consult with  
3 them?

4 A. In the context of Arab-Israeli conflict and mainly the  
5 Palestinian affairs and the peace process pertaining to  
6 Hamas's position.

7 Q. Okay. Any other government have you consulted with or  
8 advised?

9 A. Well, I provided some advice to the Irish ambassador to  
10 the Palestinian Authority as well.

11 Q. Now, have you written any books, sir?

12 A. Yes, I did.

13 Q. Can you tell the ladies and gentlemen if you've written  
14 any books about Hamas?

15 A. Yes. I wrote three books on Hamas, one in Arabic and two  
16 in English.

17 Q. Okay. Can you tell us the title of the book that you  
18 wrote in English on Hamas?

19 A. The first one was in the year 2000 under the title Hamas:  
20 Political Thought and Practice.

21 Q. I'm going to show you --

22 MR. DEUTSCH: Can I approach the witness?

23 THE COURT: You may.

24 BY MR. DEUTSCH:

25 Q. I'm going to show you a hard or a soft-bound copy. Is

1 that the book that you wrote?

2 A. Yeah, this is my book.

3 Q. Okay. And in addition to that, have you written any other  
4 books in English on Hamas?

5 A. Yes. I wrote another book in this year, 2006, under the  
6 title Hamas: A Beginner's Guide.

7 Q. And I'm going to show you a copy. Is that your book,  
8 Hamas: A Beginner's Guide?

9 A. Yeah, this is my book.

10 THE COURT: What's the title, Mr. Deutsch?

11 MR. DEUTSCH: Hamas: A Beginner's Guide.

12 THE COURT: Thank you.

13 BY MR. DEUTSCH:

14 Q. Have you written any other books other than -- in English  
15 other than these two that I've shown you?

16 A. No.

17 Q. Okay. Have you written articles that have been published  
18 about the Middle East, the Palestinian-Israeli conflict?

19 A. Yes, many.

20 Q. Approximately how many articles have you written?

21 A. Maybe around 15 or something.

22 Q. Okay. And have you also appeared and lectured at  
23 conferences about the Israeli-Palestinian conflict?

24 A. Yes, I do, so many times.

25 Q. You said you were on the board of the -- at one point the

1 Arab Organization For Human Rights. What was the work of that  
2 organization?

3 A. Well, this is an NGO basically based in Cairo, Egypt, and  
4 it has so many branches around the Arab world and beyond,  
5 focusing on human rights, either violations or the advocating  
6 of the culture of human rights.

7 Q. When you say NGO, what does that mean?

8 A. That's non-government organization.

9 Q. Okay. So these are organizations that are not part of  
10 governments that deal with issues that concern human rights?

11 A. Correct.

12 Q. Have you also been an advisor to any movies about the  
13 Middle East?

14 A. Yes, I have been.

15 Q. And can you tell the ladies and gentlemen of the jury what  
16 movies that you've been advised -- you have advised on?

17 A. I have been the culture advisor of the Flight 93.

18 Q. That's a Hollywood movie?

19 A. Yeah, Hollywood movie.

20 Q. Okay. And you -- you were advisor to the director of that  
21 movie?

22 A. To the main producer.

23 Q. Okay. And any other movies or documentaries that you  
24 worked on?

25 A. Yes, with some U.K. TV documentaries.

1 Q. Okay. And what was the subject matter of the documentary?

2 A. Well, for example, one was on why -- why the Arabs hate  
3 the West, and it was produced in Cairo. I was the main  
4 producer, the main presenter.

5 Q. Okay. In your work, have you met with and interviewed  
6 Israeli peace activists?

7 A. Yes, I did.

8 Q. And was that part of the research and work that you do?

9 A. Yes, it was.

10 Q. Okay. Have you also had specialized training by the  
11 United Nations in human rights?

12 A. Yes, I did.

13 Q. And what kind of training did that consist of?

14 A. That consisted of the humanitarian -- the international  
15 humanitarian rights, humanitarian -- humanitarian intervention  
16 and the civilian -- civilian intervention as well, civilian  
17 officer with the peace-keeping forces in Italy.

18 Q. Now, did you also have occasion to work around issues of  
19 development in human rights in Africa?

20 A. Yes, I have.

21 Q. And where in Africa --

22 MR. FERGUSON: Excuse me. I'm going to object only  
23 because this is way beyond the scope of what this witness is  
24 being proffered for.

25 MR. DEUTSCH: Judge --

1 THE COURT: How does this go -- I assume you're still  
2 laying your foundation?

3 MR. DEUTSCH: Yeah, it goes to who he is and his  
4 expertise, and he knows about human rights. He worked in  
5 Africa around human rights, and I'm almost done with it.

6 THE COURT: Okay. I will allow you -- your objection  
7 is overruled. I will allow you to go into this as to his  
8 background, but obviously not into any findings in this area.

9 MR. DEUTSCH: No, of course not.

10 THE COURT: You may answer the the question.

11 BY THE WITNESS:

12 A. Okay. Well, I worked in West Africa in areas such as  
13 Mauritania, Senegal and Mali.

14 MR. DEUTSCH: Judge, I would tender Mr. Hroub,  
15 Professor Hroub as an expert. I don't know if the  
16 government --

17 THE COURT: Is there any objection?

18 MR. FERGUSON: The government would like to voir  
19 dire, Judge.

20 THE COURT: You may.

21 MR. FERGUSON: And can we have a clarification based  
22 on the voir dire that's been conducted to this point exactly  
23 what the witness is being proffered as an expert on?

24 MR. DEUTSCH: Judge, they know very well what the  
25 witness has been offered for. It's been clear in written



1 pleadings, et cetera, and if you want to go to side bar, I  
2 will tell the Court. I don't see what -- why this prosecutor  
3 is asking that question now.

4 THE COURT: Mr. Deutsch, I assume you're offering him  
5 consistent with the Court's rulings in what was addressed when  
6 we had a lengthy hearing on this.

7 MR. DEUTSCH: Absolutely, Judge.

8 THE COURT: All right. You're aware of the scope  
9 then.

10 You may voir dire, go ahead.

11 VOIR DIRE EXAMINATION

12 BY MR. FERGUSON:

13 Q. Good morning, Mr. Hroub.

14 A. Good morning.

15 Q. My name is Joe Ferguson. I'm one of the prosecutors for  
16 the government. Welcome to the United States.

17 Have -- has any of your research been conducted on  
18 the presence of Hamas or the support structure of Hamas  
19 operating in Britain or the United States?

20 A. Not entirely.

21 Q. And what have you reviewed here for your testimony?

22 MR. DEUTSCH: Judge, I object to that. That  
23 doesn't -- that's not a proper question. That's  
24 cross-examination.

25 THE COURT: How does that go to his qualifications as

1 an expert?

2 MR. FERGUSON: I'll move on right now.

3 BY MR. FERGUSON:

4 Q. Your principal employment in recent years has been in the  
5 context of working for Al-Jazeera, is that right?

6 A. Yes. Well, partly. I mean I have to help with Al-Jazeera  
7 and Cambridge.

8 Q. Al-Jazeera and Cambridge, that's fine. But you conduct a  
9 book-reviewing show?

10 A. Yes, I do.

11 Q. And a lot of your work actually concerns media relations  
12 in the Arab world, is that right?

13 A. Partly, yes.

14 Q. And the articles that you publish on Arab affairs and the  
15 Palestinian-Israeli conflict, are those published in English  
16 languages as well as Arab languages?

17 A. In both languages.

18 Q. In both languages.

19 Have you ever heard of the Palestinian Return Centre  
20 in London?

21 A. Yes, I do.

22 Q. And that was an organization that was founded in the mid  
23 1990s, is that right?

24 A. I think so.

25 MR. DEUTSCH: Judge, again, I don't get this.

1 THE COURT: Where are you going?

2 MR. DEUTSCH: If he wants to cross -- sorry.

3 THE COURT: Where are you going in terms of  
4 qualifications? This is not cross-examination. I allowed you  
5 to voir dire him as to his being tendered as an expert. I'm  
6 not sure where you're going with it.

7 MR. FERGUSON: This is part of his background, Judge.

8 THE COURT: Okay. I will give you some leeway, but  
9 realize this is not for general cross-examination. You'll  
10 have your opportunity to do that.

11 Go ahead.

12 BY MR. FERGUSON:

13 Q. And you were the director of that organization, is that  
14 right?

15 A. Of what?

16 Q. The Palestinian Return Centre?

17 A. No, I am not.

18 Q. Have you been associated with that organization -- were  
19 you the director of the Palestinian Return organization?

20 A. Yes, I was in '94.

21 Q. And are you currently associated with that organization?

22 A. No, I am not.

23 Q. And at the time that you were associated with it, what  
24 position did you hold?

25 A. I was the director.

1 Q. You were the director.

2 Is there any reason why you didn't include that  
3 particular employment on the curriculum vitae or resume that  
4 was provided in association with your testimony here today?

5 A. Because it was very short. It was three, three-and-a-half  
6 months.

7 Q. But isn't it the case, sir, that you also provided  
8 information going back further than 1994 on your C.V. and  
9 resume that was tendered here for your -- for your  
10 participation as a witness in this case?

11 A. Well, I mean I am not hiding that but because it was very  
12 short, I did so many other short -- short-term jobs. I didn't  
13 include them in my C.V.

14 Q. A great deal of your expertise that you've developed on  
15 Hamas over the years, has that included personal contacts that  
16 you've had with leaders of Hamas over the years?

17 A. Yeah, I had interviews with them and interviewed them for  
18 my books and research.

19 Q. And that would include Mousa Abu Marzook?

20 A. Yes, it did.

21 Q. And other leaders of Hamas?

22 A. Yeah, many of them.

23 Q. In developing your expertise on Hamas and the  
24 Palestinian-Israeli conflict, have you interviewed leaders of  
25 the Israeli government?

1 A. No, I didn't.

2 Q. How about Israeli law enforcement?

3 A. My research was basically on Hamas's political thought and  
4 practice, which is something to do with the internal thinking  
5 of Hamas. So it wasn't in the context of Hamas, Hamas --  
6 Hamas and Israel fighting each other or the perception of the  
7 Israeli officials of Hamas.

8 So my -- my focus was on the internal thinking and  
9 ideology of Hamas and because of that, there was no need for  
10 me either to interview Israeli or even Arab officials  
11 regarding Hamas.

12 Q. And where you are not -- in developing your expertise and  
13 in writing, where you're not able to directly interview a  
14 leader of Hamas, do you rely upon interviews that are  
15 published from other leading Hamas figures?

16 MR. DEUTSCH: Judge, this -- I object. This is going  
17 way too far here. They put on a Mr. Levitt, and we know what  
18 his testimony was about. He didn't speak Arabic, he didn't --  
19 he hadn't been to the occupied territories until 1997. We  
20 didn't stand up and voir dire him.

21 If they want to bring these matters out, they should  
22 do it on cross-examination.

23 THE COURT: Where are you going with this in terms of  
24 qualifications?

25 MR. FERGUSON: Judge, first of all --

1 THE COURT: We don't need to revisit Dr. Levitt.  
2 We've been there, moved on.

3 MR. FERGUSON: Thank you. I want to understand  
4 exactly what the underlying sources of material and the  
5 information that this witness relies upon that informs his  
6 particular expertise for his qualifications to testify here.

7 MR. DEUTSCH: Judge, he's written two books on Hamas,  
8 he has two master's degrees on the Middle East, he taught at  
9 Cambridge University. There's no mystery here about what his  
10 qualifications are. They've been presented to you. You have  
11 agreed that he can testify as an expert, so I don't know what  
12 Mr. Ferguson is doing here, but it's wasting everybody's time,  
13 in my opinion.

14 THE COURT: Mr. Ferguson, I will give you some leeway  
15 here in terms of testing the underlying bases, but remember,  
16 this is not general cross-examination.

17 BY MR. FERGUSON:

18 Q. Have you published articles or pieces regarding Hamas in  
19 publications that are based in the United States?

20 A. Yes, I did.

21 Q. You've published pieces regarding Hamas in a journal  
22 called the Middle East Affairs Journal, is that correct?

23 A. That was once, yes, but mostly in the Journal of Palestine  
24 Studies.

25 Q. And the Middle East Affairs Journal is a publication

1 that's put out by the United Association of Studies and  
2 Research run by or previously run by Ahmed Yousef Saleh, is  
3 that correct?

4 MR. DEUTSCH: See this is -- I'd like to have a side  
5 bar, Judge.

6 THE COURT: Yeah, let's have a side bar.

7 (Proceedings heard at side bar:)

8 MR. DEUTSCH: Judge --

9 THE COURT: Wait. Where are you going with this,  
10 Mr. Ferguson? You are dipping over into general  
11 cross-examination areas, which I will certainly give you the  
12 opportunity to do.

13 MR. FERGUSON: Judge, the offering of this witness is  
14 on the basis of a C.V. that is largely front-loaded to current  
15 matters concerning media affairs, very little discussion about  
16 actually what informs his Hamas expertise, where he relies --  
17 what he relies upon for it, where he has published with  
18 respect to his Hamas expertise, the relationships that he has  
19 that would reflect any particular viewpoints to raise a  
20 question as to whether he truly is an independent and unbiased  
21 scholar on the matters that he's about to testify.

22 THE COURT: Independent and unbiased goes to general  
23 cross-examination, and you're free to have at it with him on  
24 that if you'd like.

25 MR. FERGUSON: Okay.

1 THE COURT: You may go to the underlying sources to  
2 the extent that you were attempting to show that he's not  
3 qualified in a particular area, but you're going beyond that.

4 MR. FERGUSON: Okay.

5 THE COURT: Mr. Spielfogel, did you want to say  
6 something?

7 MR. SPIELFOGEL: No, Judge. Just exactly what you  
8 just said.

9 MR. DEUTSCH: I definitely want to say something. We  
10 sat here for two months and listened to the government put on  
11 their case. Now every witness that we want to put on, they  
12 have a problem with. They want to stop. They want motion --  
13 they're filing motions in limine at the last minute. On  
14 Mr. Ginbar, I got a motion on Friday.

15 I can't believe that the Court's going to allow these  
16 type of tactics. He's written two books on Hamas. He has two  
17 master's degrees. He works at Cambridge. They can go into  
18 anything they want on cross-examination, but to go and try and  
19 bring up this stuff under the guise of voir dire when we  
20 didn't even voir dire any of their experts, their so-called  
21 experts.

22 THE COURT: The government's entitled to voir dire or  
23 to object where they see appropriate. I've sustained your  
24 objection. I think so far I've let in every witness almost  
25 that you've wanted to with the exception of two experts, but



1 they're entitled to raise these objections where they think  
2 appropriate.

3 But, Mr. Ferguson, let me remind you again that the  
4 purpose of this is voir dire, to challenge his being offered  
5 as an expert, not general cross-examination. So if he asks  
6 inappropriate questions again, just stand up and object.

7 (Proceedings heard in open court:)

8 THE COURT: You may proceed. Ask your next question.

9 BY MR. FERGUSON:

10 Q. With respect to sources that you rely upon, you've  
11 indicated that it includes interviews with leaders of Hamas  
12 over the years, is that right?

13 A. Yes.

14 Q. Okay. And where you are unable to speak or get  
15 information directly from leaders of Hamas, do you rely upon  
16 original materials that come from Hamas?

17 A. I rely on the statements, documents, communique coming  
18 from Hamas, and these are the very original documents in  
19 Arabic, and I think so many other books on Hamas, they don't  
20 have the same material that I included in my books.

21 Q. Okay. And just so I'm clear as to the scope of the sorts  
22 of things that you would rely upon, they would include  
23 declarations that are issued by Hamas or organizations of  
24 Hamas, do you rely upon those in your work?

25 A. Yes, I do.

1 Q. Okay. And the charter of Hamas, would you rely upon that  
2 in your work?

3 A. Well, partly only.

4 Q. All right. And as for additional information on Hamas's  
5 perspectives on issues, do you rely upon published media  
6 reports containing quotes from leaders of Hamas?

7 A. Well, yes, I do, as a secondary source.

8 Q. As a secondary source.

9           So interviews that are conducted in major media  
10 outlets, would that be fair that you would rely upon those?

11 A. Yes, as I said, yeah, as a secondary source.

12 Q. Okay. And would that be both English language major media  
13 publications -- would that include English language major  
14 media publications?

15 A. Well, mostly Arabic because I trust -- there wouldn't be  
16 any -- any problems in translation.

17 Q. All right. For instance, Al-Hayat, which is an Arab-based  
18 daily out of London, would that be an example of one that you  
19 would rely upon for interviews with Hamas leaders?

20 A. Well, it depends on the interview actually. If I am  
21 suspicious of certain piece of information, I would make  
22 direct contact with the spokesman of Hamas to doublecheck the  
23 information.

24 Q. Okay. So when you see something of interest, you would  
25 follow up with a call to the Hamas spokesperson itself so that

1 you can assess as to whether it's truly reliable?

2 A. Yes, I don't take it on face value.

3 Q. Have you testified in the United States before?

4 A. No, not before.

5 Q. Have you been qualified as an expert in any testimony or  
6 court anywhere?

7 A. In the U.K., yes.

8 Q. How many times?

9 A. Twice.

10 Q. All right. On matters concerning Hamas specifically?

11 A. Yes.

12 MR. FERGUSON: No further questions, Judge.

13 THE COURT: Okay. I will accept him --

14 MR. DEUTSCH: Does the government have an objection  
15 to Mr. Hroub as an expert?

16 MR. FERGUSON: We don't, Judge.

17 MR. DEUTSCH: Oh, big surprise.

18 THE COURT: Mr. Deutsch, save your commentary.

19 Continue with your examination.

20 MR. DEUTSCH: Thank you, Judge. Thank you.

21 DIRECT EXAMINATION (RESUMED)

22 BY MR. DEUTSCH:

23 Q. Now, I want to direct your attention to 1987. At that  
24 particular time, how -- for how many years had Gaza and the  
25 West Bank and East Jerusalem been occupied by Israel?

1 A. By then, they have been occupied for 20 years.

2 Q. Okay. And as a result of that occupation, were there  
3 humanitarian problems, suffering of the people in those areas?

4 A. Yes, of course. In all aspects.

5 Q. I'm going to ask you a few questions about that.

6 Was there a problem with freedom of movement in the  
7 occupied territories?

8 A. Yes, of course. You had to have permission to move from  
9 one place to another place. You have to have permission to  
10 move from the West Bank to Gaza Strip, from Jerusalem to the  
11 West Bank. So there was all sorts of permissions that you  
12 have to obtain before moving.

13 Q. And where do you -- where would you obtain the permission  
14 to travel from one town to the other?

15 A. Well, in every single town, you have military -- an  
16 Israeli military office, which is basically the ruling body of  
17 that town or city.

18 Q. And so you would have to request the right to travel from  
19 one town to another from the Israeli military official in that  
20 town, is that right?

21 A. Yes, mostly.

22 MR. FERGUSON: I'm going to object to leading.

23 THE COURT: Sustained.

24 BY MR. DEUTSCH:

25 Q. Was there a problem with poverty and hunger in the

1 occupied territories in that period of time?

2 A. Yes, of course. In those years, the Israeli policy was  
3 designed in a way to try to drive as many Palestinians from  
4 the West Bank and the Gaza Strip so that to empty the  
5 territories from the new generation, so that would facilitate  
6 the mission of the occupation, and one of the main measures  
7 was to make the life of the Palestinians as hard as possible.

8 Q. And were there settlements built in the occupied  
9 territories which were made up of Israeli settlers?

10 A. Yes, there were, of course. Basically everywhere in the  
11 West Bank and in the Gaza Strip. In the Gaza Strip, for  
12 example, 7 or 8,000 Israeli settlers occupied more than  
13 40 percent of the Gaza Strip area.

14 Q. And did these settlers have special treatment in relation  
15 to the Palestinians?

16 A. Of course. They have had all the privileges. Basically  
17 you have two communities in the West Bank and the Gaza Strip,  
18 the Palestinian community, second-class citizens, and then you  
19 have the settlers who have all the privileges of free movement  
20 and employment, everything basically and even armed, so they  
21 can -- they can harass Palestinians and move them from their  
22 places.

23 Q. And was there a problem with the distribution of water in  
24 terms of between the settlers and the Palestinians living  
25 under occupation?

1 A. Yeah. The design of the settlements in the West Bank and  
2 the Gaza Strip was meant to occupy the strategic locations of  
3 the West Bank so that they can control water sources and they  
4 can control entry points and exits of different geographical  
5 areas.

6 So in this case, you will have -- you will have the  
7 Palestinian communities segregated as in Bantu stands. Then  
8 you have the settlers basically controlling the main roads and  
9 the water sources.

10 Q. Were the Palestinians allowed to travel on the roads that  
11 were provided for the settlers?

12 A. It's very complicated system actually. You have  
13 different -- different kind of -- of roads. Some of them were  
14 specifically designated for the settlers so that Palestinians  
15 they can't go down those roads, and then you have other roads  
16 where Palestinians can go -- go through. Other roads  
17 Palestinians and settlers can use.

18 Q. Now we're talking about settlers and settlements. Can you  
19 tell us -- tell the ladies and gentlemen of the jury what is a  
20 settler? What are the settlements?

21 A. Well, when -- when Israel occupied the Palestinian  
22 territories back in 1967, they started the policy of  
23 settlement, that is, bringing new settlers either from Israel  
24 proper or from beyond, from America, from different places,  
25 and to settle them in the West Bank and Gaza Strip so that

1 they have pockets, pure Israeli pockets within the Palestinian  
2 communities.

3           And these pockets, they will start expand until they  
4 have more Palestinian land into them, and as I said, basically  
5 the main idea was to have strategic locations within the  
6 Palestinian geography to control the movement of the  
7 Palestinians.

8 Q. And the settlers are what -- they're not Palestinian,  
9 correct?

10 A. They are Israelis, of course.

11 Q. Or Jewish people from other places that come and become  
12 settlers, right?

13 A. Yes, they are.

14 Q. And, in fact, can any Jewish person go to Israel and  
15 become a citizen?

16 A. Yes. There is a local law of return where any Jewish  
17 person from anywhere in the world can go and become an Israeli  
18 citizen and settle in the West Bank.

19 Q. And what about Palestinians who are living abroad, can  
20 they come and return to their land or even to the occupied  
21 territories?

22 A. No, they don't have the right to -- I don't myself have  
23 the right to go back to Bethlehem and settle there.

24 Q. So you cannot -- you cannot return to your homeland.

25 A. I can't. If you are a Jew, you can.

1 Q. Now, are the Palestinians who are living in the occupied  
2 territories allowed to develop trade relations with their  
3 neighbors, with Egypt or Jordan or other countries?

4 A. They can to a limited extent, and only under the control  
5 and the close supervision of the Israelis.

6 So basically anything that goes out of the West Bank  
7 or comes in should be monitored and controlled by the  
8 Israelis.

9 Q. So they need certain permission to conduct trade with  
10 other countries?

11 A. Certain permissions actually, and they have to -- they  
12 have to pay taxes, they have to go through high level measures  
13 to conduct any trade with the outside world.

14 MR. FERGUSON: I think we started out with 1967 to  
15 '87, but I'm unclear as to whether these questions are  
16 specific to that time frame.

17 THE COURT: Clarify the time frame.

18 BY MR. DEUTSCH:

19 Q. Yeah, we're talking about 1987. In 1987, there was an  
20 uprising called the Intifada, correct?

21 A. Yes, correct.

22 Q. And I just want to set the stage of the conditions that  
23 immediately preceded the Intifada, okay?

24 A. All these conditions, all these conditions were mainly  
25 pushing people to not only to frustration and despair, but



1 driving them to take extreme measures, and the Intifada was  
2 the culmination or the outcome of all the accumulation of  
3 different kind of frustrations.

4 Q. Okay. I'm going to get to that point, but I want to just  
5 ask you a few more questions about the conditions that  
6 existed.

7 Were the conditions of -- were there -- strike that.

8 Were there numerous refugee camps in the occupied  
9 territories in 1987?

10 A. Yes, of course, yeah.

11 Q. And what percentage of the people lived in refugee camps?

12 A. I have no exact figure in my mind right away, but I would  
13 say maybe one-fourth of the Palestinians.

14 Q. And were the conditions of the people in refugee camps  
15 harsher than those that lived outside the camps?

16 MR. FERGUSON: Objection, leading.

17 THE COURT: Overruled. You can answer that.

18 BY THE WITNESS:

19 A. Yeah, the conditions of life in these refugee camps simply  
20 were unbearable in all terms. When it comes to living,  
21 housing, you will have a huge family of eight or ten persons  
22 living in one room or two rooms maximum. You have -- you  
23 don't have clean water. You don't have any sound education.  
24 You would have maybe 60 or 70 students go to one little  
25 scruffy class. So in all terms of living, Palestinians have

1 been suffering the extreme conditions.

2 THE COURT: Let's take our morning break. We'll pick  
3 up around 11:00.

4 (Jury exits courtroom.)

5 THE COURT: Counsel, I received a note from the jury,  
6 and, Professor, I'll direct this to you as well.

7 "Can you please ask the witness to speak in the  
8 microphone and slow down a little bit. Half the jury can't  
9 hear or understand."

10 So if you would, please, sir, we've got all the time  
11 you need so no need to rush your testimony. Think about  
12 slowing down a little bit and speak in the microphone.

13 Please be back here, Professor, a little bit before  
14 11:00.

15 For the lawyers -- you may step down, sir -- a couple  
16 of things. I issued a ruling if you're on your web, Theresa  
17 should have entered it by now -- you're free to step down if  
18 you want. You can sit if you want, or you can step down if  
19 you want -- with respect to the State Department documents. I  
20 have granted the motion in part and denied it in part and  
21 given you further direction on what you need to do.

22 The 7<sup>th</sup> Circuit law is clear, and it's from the case I  
23 cited to you yesterday, the other day when we raised this,  
24 Arroyo, A-R-R-O-Y-O, that the statements are not admissions of  
25 a party opponent. However, I do believe these documents fall

1 within 803(8), the public records exception to the hearsay  
2 rule, which would make portions of them admissible.

3           The State Department documents contain multiple  
4 levels of hearsay and under -- there's no exception I could  
5 see that would allow Mr. Salah's statements to be admitted  
6 through those. Those clearly need to be redacted.

7           There are also some relevancy issues. I have  
8 directed you -- I am not going to go through the stack of  
9 documents, nor do I think it is my job, and redact what I  
10 think should be redacted in the first instance because they  
11 were provided to me unredacted. I am directing you to get  
12 together and see if you can agree with the guidance -- I've  
13 issued a page-and-a-half opinion -- with the guidance that I  
14 have given you on what is appropriately admitted.

15           Only then, and I've given you until noon on  
16 Wednesday, I will take up your objections then after you have  
17 made a good-faith attempt to see what can or should be  
18 admitted.

19           So your motion -- the government's motion in limine  
20 was granted in part and denied in part. The documents do fall  
21 within the 803(8) exception with the caveats that I have given  
22 in my ruling. That was the first issue.

23           The CIA letter I'll take up at some point today.

24           The Mr. Piers issue, Mr. Deutsch, are you going to be  
25 prepared to address that at the end of the day?

1 MR. DEUTSCH: Yes.

2 THE COURT: I will take that up at the end of the  
3 day.

4 Also, on the request to modify Mr. Salah's conditions  
5 of his bond to allow him to travel to Michigan for this  
6 seminar, I've consulted with Pretrial Services, and I am  
7 denying your request to modify the conditions of his bond.

8 I will see you at 11:00.

9 (Recess from 10:50 to 11:00 a.m.)

10 THE COURT: Would you bring in the jury, please?

11 (Jury enters courtroom.)

12 THE COURT: You may be seated.

13 BY MR. DEUTSCH:

14 Q. When we broke, we were talking some about the settlements,  
15 the influx of foreigners into the Palestinian lands.

16 Does the influx of settlements affect the land that's  
17 available to the Palestinian people to live on?

18 A. Yes, of course. It does gravely. When it started back in  
19 1967, you will have only few hundred Israelis moving to the  
20 West Bank, and by the year of 1987 when the Intifada erupted,  
21 you would have almost 100,000 settlers.

22 So basically these -- these people have expanded all  
23 over the place surrounding Israel -- Palestinian towns and  
24 cities in very segregated manner, and eventually nowadays,  
25 they occupy more than 40 percent of the land of the West Bank.

1 Q. So 40 percent of the West Bank land is occupied by outside  
2 settlers, is that right?

3 A. That's right, more or less.

4 Q. And are these settlers allowed to carry arms, weapons?

5 A. Yes. They are allowed to carry weapons.

6 Q. Are the Palestinian people allowed to carry weapons?

7 A. Of course not.

8 Q. Do -- if a Palestinian person wants to build a house on  
9 their land or expand a house on their land, can they do that  
10 without special permission?

11 A. Of course not. They have to have special permission, and  
12 it depends -- it depends on -- on the area because in certain  
13 town, in certain cities and areas that the Israelis designated  
14 as sensitive or with military use, you can't even build  
15 anything there even with permission.

16 Q. So there's certain areas that it's prohibited from  
17 building houses for Palestinians?

18 A. Yes, true.

19 Q. And in other areas, you need permission to build a house  
20 or expand your house.

21 A. And in third areas you are not allowed even with or  
22 without permission, specifically in East Jerusalem you are not  
23 allowed to expand your house because the policy is to minimize  
24 the number of the Palestinians in East Jerusalem.

25 So with limiting the housing, this means any new

1 Palestinians, they have to move outside of the city.

2 Q. Now, East Jerusalem prior to 1967 was Palestinian land,  
3 correct?

4 A. Yes, it was.

5 Q. And then after '67, it was occupied, right?

6 A. Right.

7 Q. So if you want to build a house on your land in East  
8 Jerusalem, it's not allowed if you're Palestinian.

9 A. You can't do that.

10 Q. Can the Israelis build in Jerusalem on their land?

11 A. Yes, they can.

12 Q. Now, the permits that you need in the areas that you can  
13 build, who provides the permission to allow you to build?

14 A. The military.

15 MR. FERGUSON: Judge, I'm going to object to  
16 relevance.

17 THE COURT: Overruled. You can answer.

18 BY THE WITNESS:

19 A. The military establishment basically.

20 BY MR. DEUTSCH:

21 Q. And when you say the military establishment, are you  
22 referring to which government's?

23 A. The Israeli government.

24 Q. And the permit process, can you go and to the  
25 permitting -- military permitting place and within a day get a

1 permit to build a house or to expand your house?

2 A. That's a dream. Of course not. The process could take  
3 ages. It could take years and eventually could be simply  
4 refused.

5 Q. So if they refuse you after a period of time and they  
6 refuse you the right to build a house or expand your house, do  
7 you have any recourse to go somewhere else to get permission?

8 A. Basically no because this is martial law. It's not  
9 civilian law. You can't take your case to another court, then  
10 another court. So basically this is the final decision.

11 Q. And what about educational opportunities. If you live in  
12 Gaza and you want to attend the university in the West Bank,  
13 are you able to travel from your home in Gaza to go to college  
14 or go to the university in the West Bank?

15 A. Most of the time, no, you can't. So this is why so many  
16 students, they would spend, say, ten years to get their first  
17 degree, which in normal time takes three or four years because  
18 of the curfews, because of the checkpoints, because of so many  
19 Israeli measures.

20 Q. When you say checkpoints, can you explain to the ladies  
21 and gentlemen of the jury what an internal checkpoint is?

22 If you want to go from Gaza to Hebron to see your  
23 family that lives in Hebron, what impediments, if any, are  
24 there?

25 A. Well, a checkpoint means that the Israeli military would

1 erect a military checkpoint in several places, mainly at the  
2 entry points and the exit points from cities, towns and  
3 villages and refugee camps for security considerations, and if  
4 you want to move from one place to another place, you have to  
5 cross this checkpoint.

6           Now, these checkpoints have been there since the  
7 occupation, but when -- in tense times when things get really  
8 worse, these checkpoints got just only double, maybe treble.  
9 So if you want to go to a distance one kilometer, you might go  
10 through three or four checkpoints, which means a distance that  
11 normally takes you five or ten minutes could take you two,  
12 three, four hours and maybe by the end of the day, you go back  
13 home and you cancel your trip.

14 Q. Now -- so, for example, if you wanted to go from Gaza to  
15 Hebron without checkpoints, how long would that take?

16 A. Well, you -- you chose the hardest example actually  
17 because moving within the Gaza Strip used to be very  
18 difficult. The Gaza Strip, within the Gaza Strip, you have so  
19 many checkpoints.

20           Now, the Gaza Strip is completely different area from  
21 the West Bank. If you want to move from the Gaza Strip to the  
22 West Bank, this is another suffering actually. So you have to  
23 move out of the Gaza Strip, then to move to Hebron, this might  
24 take you the whole day.

25 Q. And if there were no checkpoints, how far is it from Gaza



1 to Hebron?

2 A. One hour, hour and a half maximum.

3 Q. Are there long lines of people waiting to get past those  
4 checkpoints?

5 A. Yes. I mean this is normal -- the normal daily suffering  
6 of the Palestinian -- Palestinians is to have most of their  
7 days just waiting and waiting and waiting at the checkpoints.

8 And as I said in so many times, they just go back  
9 home without reaching their destination or just canceling  
10 their journey.

11 Q. Now, in East Jerusalem, there is a major hospital that  
12 treats Palestinians, correct?

13 A. Correct.

14 Q. What's the name of that hospital?

15 A. Al-Makised.

16 Q. Could you spell it for the court reporter?

17 A. Al-Makised, A-L - M-A-K-I-S-E-D.

18 Q. Is there a major hospital of that magnitude in the West  
19 Bank or Gaza?

20 A. In Gaza, there is a Shefa Hospital.

21 Q. Okay. If somebody has a medical emergency in the West  
22 Bank and needs to go to the hospital in East Jerusalem, do  
23 they still have to go through a checkpoint?

24 A. Yes, of course.

25 Q. And are they delayed even in an emergency from going from

1 their home to the hospital in East Jerusalem?

2 A. The military guys at the checkpoints simply don't -- don't  
3 bother. In so many cases, death is -- and even pregnant women  
4 deliver babies at the checkpoints.

5 So this is normal and there are no exception -- they  
6 are not exceptional cases. You might have somebody with heart  
7 surgery, very urgent, but they would be left at the checkpoint  
8 without being allowed to get in.

9 Q. Are there cases of people who have died waiting to get  
10 through a checkpoint to get to a hospital?

11 A. Yes. There have been cases where people died at the  
12 checkpoints.

13 Q. Now, is there freedom of the press? In 1987, could  
14 Palestinians publish their own paper and freely say whatever  
15 they wanted?

16 MR. FERGUSON: Objection, relevance.

17 THE COURT: Sustained.

18 BY MR. DEUTSCH:

19 Q. What about arrests? Did the Israelis have the authority  
20 to make arrests in the occupied territories?

21 A. The Israelis have full control and full authority to  
22 arrest whoever without any court permission.

23 Q. And do they have the right to detain people for long  
24 periods of time without bringing them to court?

25 MR. FERGUSON: Objection.

1 (Judge sneezes.)

2 MR. DEUTSCH: Bless you.

3 MR. FERGUSON: Relevance; beyond the scope of this  
4 witness's expertise.

5 THE COURT: Sustained on the expertise unless you lay  
6 a foundation.

7 BY MR. DEUTSCH:

8 Q. As part of your research and writing, have you studied the  
9 use of arrests and detention by the Israeli military?

10 A. Yes, I did. Sometimes it take two, three-month -- they  
11 have the right to detain --

12 MR. FERGUSON: I object. The foundation still has  
13 not been laid, and this is beyond the scope of what he has  
14 been tendered for.

15 THE COURT: Mr. Deutsch, I don't believe --

16 MR. DEUTSCH: Judge -- well, I'll lay the foundation,  
17 but it certainly goes to the daily life of people. If their  
18 husbands are arrested, the families suffer as a result of that  
19 and so --

20 THE COURT: See if you can lay a foundation and, in  
21 particular, the time period.

22 MR. DEUTSCH: Okay.

23 BY MR. DEUTSCH:

24 Q. I'm going to look at 1987 to 1992, '93.

25 Did you study the power and execution of arrest

1 authority by the Israeli military in the occupied territories?

2 A. Yes, I did.

3 Q. And can you tell us what you -- what you studied and how  
4 you studied it?

5 A. Well, I studied if somebody is suspected of doing  
6 something in the eyes of the Israeli military, they would go  
7 and detain him, interrogate him for two, three months. They  
8 have the right to detain him or her for two, three months  
9 without any conviction, without leveling any charges against  
10 him or her.

11 So they have the right to have them for 60 to  
12 90 days.

13 Q. And is there -- '87 to '93, was there a pattern of  
14 brutality by the military against Palestinian citizens?

15 A. Of course. These years, the years of the Intifada and the  
16 brutality of the occupation --

17 MR. FERGUSON: Objection, he's gone beyond. It was a  
18 yes or no question, and I do not see the relevance or the fact  
19 that this witness has been tendered as an expert on Hamas with  
20 very little beyond that.

21 THE COURT: Yes. Sustained as to the relevance of  
22 the last question and this witness's expertise.

23 BY MR. DEUTSCH:

24 Q. Can you tell the jury what the Intifada was and when --  
25 first, when did it begin and what was -- what caused it to

1 happen, if you know?

2 A. It began in 1987 and basically, as I was describing, it  
3 was the culmination of all the frustrations and Israeli  
4 measures against the Palestinians.

5 The Palestinians reached a point where there was no  
6 hope. All the peace initiatives, all the peace talks failed.  
7 They did not bring to the Palestinians any window for future  
8 or hope.

9 So they thought that there was no way before them but  
10 to resist the occupation in a popular uprising. Intifada  
11 means popular uprising. People go in the streets and they  
12 protest and they throw rocks and things against the military  
13 occupation.

14 Q. And you said that it was a culmination of the frustrations  
15 that had built up after 20 years of occupation, and you've  
16 talked a little bit about those different conditions, but what  
17 were those frustrations that really caused that Intifada?

18 A. The frustrations that I mentioned include the lack of  
19 employment, the lack of health care, the lack of decent  
20 education, the daily humiliation of the occupation. If you  
21 want to move from one place to another place, then you have  
22 to -- you have to face countless and numerous measures.

23 So the daily kind of suffering and humiliation within  
24 the Palestinian community led them to one single choice, that  
25 resisting the occupation nonviolently to start with.

1 Q. Now, you said it was nonviolent grass roots uprising.

2 Was it organized by any political group?

3 A. Initially, it wasn't. It was spontaneous. People just in  
4 reaction of immediate incident where a settler basically  
5 killed six Palestinians. He drove his truck over them  
6 basically, and he killed six Palestinians.

7 So that was the spark of the Intifada, the immediate  
8 cause; but the root causes of the Intifada for me is the  
9 culmination of long period of frustration.

10 Q. Now, from -- the Intifada went on between '87 and '93, is  
11 that fair to say?

12 A. Yeah, it's fair to say.

13 Q. And as a result of the Intifada, were the conditions that  
14 the Palestinians living in -- did they worsen?

15 A. They worsened big deal.

16 Q. And how so?

17 A. Because as we have been talking, the conditions have been  
18 already very bad during the occupation between '96 and --  
19 between -- sorry -- '67 and '87.

20 Now, because of the Intifada, the Israelis doubled  
21 all the military measures to curb the Palestinians, to curb  
22 their movement, to limit their access to every single I would  
23 say decent aspect of life. The schools basically shut down  
24 for so many months. There was I think two, three academic  
25 years at the educational level either in schooling or at the

1 university level.

2           The rate of unemployment reached high peaks. I think  
3 it reached at one point 30 to 40 percent of the Palestinians  
4 during the Intifada were out of work.

5 Q. Let me stop you right there. You're saying the rate of  
6 unemployment reached 30 to 40 percent. Is that a result of --  
7 what caused that unemployment to rise during the Intifada?

8 A. Well, basically, the Israeli army is all over the place,  
9 so you can't do business. You can't go to work. You can't --  
10 you can't practice your daily normal life, which was already  
11 very difficult even before the Intifada.

12           So having the military army just in your street  
13 everywhere, you can't go to work. And on the top of that,  
14 many Palestinians used to go to Israel to work, and that was  
15 an Israeli policy so that to absorb the Palestinian force work  
16 to have them in Israel because they used to be very cheap  
17 labor so, in a way, helping the Israeli economy.

18           Now, because of the Intifada, even this kind of  
19 window for Palestinian employment was blocked. So tens of  
20 thousands of Palestinians were kept home in the West Bank and  
21 Gaza Strip without any means of living to feed their families.

22 Q. So the people who were working in Israel doing the  
23 low-paying jobs could not get -- they wouldn't allow them to  
24 go into Israel through the checkpoint, is that right?

25 A. Correct.

1 Q. And were there also curfews instituted during the  
2 Intifada?

3 A. That was very long period of curfew basically for I think  
4 four or five years by -- by I think it starts at 6:00 p.m.,  
5 then overnight. So you have -- this is the daily routine. So  
6 by 6:00 p.m., nobody in the street.

7 On the top of that, you have temporary curfews that  
8 would -- that would prohibit you from even going in the street  
9 for certain hours in the daytime. So it depends. You have  
10 very long curfew, the daily one, the overnight one. Then now  
11 and then, they will introduce short-term ones.

12 Q. And as a result of the Intifada, were there an increased  
13 number of people, men particularly, who were arrested?

14 A. Oh, yes, of course. I can't remember the figure, but one  
15 statistics mentioned that the number of the Palestinians who  
16 have been jailed either for months or years starting from the  
17 occupation would amount to one -- one-fourth or one-third of  
18 the entire Palestinian population.

19 So from '67 basically, one out of every four  
20 Palestinians has been to jail.

21 Q. So, for example, in 1992, beginning in 1993 as a result of  
22 the Intifada, was the humanitarian suffering of the  
23 Palestinian people increased?

24 A. It increased, yes, dramatically.

25 Q. And was there a greater need for humanitarian aid coming



1 from outside the occupied territories in that period?

2 A. Yes, there was immense need for help from outside.

3 Q. And were there calls made to Palestinian communities in  
4 diaspora, in other places, in the United States, in the United  
5 Kingdom, to help people who were suffering under the Intifada?

6 A. Yes, that was the first address, where the Palestinians in  
7 the West Bank and the Gaza Strip went to their Palestinian  
8 families and relatives abroad.

9 Q. And were there also efforts to work with the mosques in  
10 the diaspora, in the United States, United Kingdom to help  
11 raise money and bring money to the people who were suffering  
12 in the Intifada?

13 A. Yes. During those years, so many charities, so many  
14 associations have been set up to help the Palestinians.

15 I would say in every single country, where you have a  
16 handful of Palestinians, you will end up with local  
17 organization trying to -- to make fund raising for their  
18 Palestinian brothers in the West Bank and Gaza Strip.

19 Q. And there had been some testimony here that there were  
20 actually Palestinian banks in the occupied territories in  
21 1992. Is that true?

22 A. Well, it depends. I don't know what do you mean by  
23 Palestinian banks. If you mean Palestinian banks, fully  
24 fledged bank controlled internally by the Palestinians with  
25 Palestinian assets and things, I would doubt that.

1           But if you say, yes, some quasi-bank, some sort of  
2 banking system, yes, there was such a system.

3 Q. Well, there's a system whereby people operate as money  
4 changers, right? They get -- they get -- they have people  
5 they work with in the United States, for example, who have  
6 accounts, and then money is put in an account and then someone  
7 in the West Bank can pay somebody based on the money in their  
8 account, right? Kind of an informal banking.

9 A. Yes --

10           THE COURT: Wait. Sir, when there's an objection,  
11 you have to let me rule before you answer.

12           THE WITNESS: Sorry.

13           MR. FERGUSON: Fantastically leading and compound.  
14 Objection.

15           THE COURT: Objection to form sustained.

16 BY MR. DEUTSCH:

17 Q. Was there some kind of informal banking system whereby  
18 money was able to be transferred from the United States, for  
19 example, or the United Kingdom to the people in the occupied  
20 territories?

21 A. More or less, there was.

22 Q. Okay. Now, what was the year that the organization that  
23 we know as Hamas emerged?

24 A. In December '87.

25 Q. Okay. So that was shortly after the beginning of the

1 Intifada, is that right?

2 A. Yes, that's right.

3 Q. Okay. And prior to that, were there the elements that  
4 ultimately became Hamas involved in serving the needs of the  
5 people in the occupied territories?

6 A. Yes. Prior to the establishment of Hamas, there used to  
7 be in the West Bank and Gaza Strip something called the Muslim  
8 Brotherhood, the Palestinian Muslim Brotherhood.

9           And this is an organization that was established back  
10 in 1946, two years before the establishment of Israel, and it  
11 kept up and running until '87 when they decided to transform  
12 themselves into the new movement that is Hamas.

13 Q. Was the Muslim Brotherhood and other similar Islamic  
14 forces involved in serving the needs of the people in this  
15 period prior to the creation of Hamas?

16 A. This organization and the organizations similar to it were  
17 basically the backbone of the Palestinian society during the  
18 Israeli occupation.

19 Q. You say the backbone of this. Can you explain?

20 A. I mean -- I mean these organizations provided the  
21 Palestinian people with all kinds of help under the occupation  
22 without which so many people would doubt maybe the very  
23 survival of the Palestinians because you don't have government  
24 that have -- that used to provide services to the population.

25           So in terms of health, education, social work, all

1 areas basically, you have the NGOs, the non-governmental  
2 organizations, the Palestinian organizations serving the  
3 Palestinian people in all aspects of life.

4 Q. So just to get a little more detail, were there schools  
5 set up by the Muslim community in the occupied territories?

6 A. Yes. It start from building schools to orphanages to  
7 sport clubs, running -- you just name it. Any kind of social  
8 work, you will find Muslim organization trying to help people  
9 in -- in surviving, even in the judiciary system, if you like,  
10 because the Israeli legal system wasn't covering the  
11 Palestinian community.

12 So the Palestinians, they used to have local, if you  
13 like, and popular judiciary system where you have some -- some  
14 respected figures within the community who would be given the  
15 status as a judge. So if you have a dispute with somebody,  
16 you will go to this figure, and they will resolve the  
17 conflict.

18 So the population were functioning in an autonomous  
19 way, more or less.

20 Q. And were there also places where people who didn't have  
21 enough food to eat for their families, were there  
22 organizations that provided soup kitchens or food for them?

23 A. Yes. That was one of the main sectors for service were  
24 these organizations tried on a monthly basis to provide  
25 financial help. So they would have lists of poor families,

1 and these lists will receive, say, monthly salary, quote  
2 unquote, so that to help them survive that month.

3 Q. It was kind of like some kind of alternative or  
4 non-governmental welfare program for the people who couldn't  
5 afford to feed their families?

6 A. Yes, that was the case.

7 Q. Now, the Muslim Brotherhood, were they involved in any  
8 type of violent activity in this period of time?

9 A. Until '87, no, they weren't involved in any type of  
10 violent activity.

11 Q. Were they calling for any type of violence against the  
12 State of Israel in their programs or in their service to the  
13 community?

14 A. Their program was exclusively social, and they avoided any  
15 confrontation with Israel.

16 Q. At the time that Hamas was created, what was the  
17 principles or ethics of the Intifada in terms of using  
18 violence?

19 A. In the very beginning in '87 until maybe '83, '84, the  
20 main policy of the Intifada --

21 Q. You said '83, '84. '87 to --

22 A. To '93, sorry.

23 Q. Okay.

24 A. '93, '94, the policy of Hamas and other Palestinian  
25 factions was only to employ nonviolent means in the uprising.

1           The strategy was using nonviolent means will be more  
2 effective against the Israeli military occupation because this  
3 will bring world support to the Palestinian cause. So  
4 deliberately they avoided any violent practice.

5 Q. Now, there's been a lot of testimony by an expert that the  
6 government called about the Hamas charter.

7           And was the Hamas charter some kind of pragmatic  
8 document that was followed by Hamas subsequent to its release?

9 A. Well, for me as an expert on Hamas, and I studied the  
10 movement for 16 years or more, I think this is, ironically,  
11 the most insignificant document in Hamas's literature.

12           Hamas issued the charter back in 1988, few months  
13 after its establishment. But during my research and the study  
14 of Hamas, I found out that this is the least -- the least  
15 document quoted by Hamas's figure. Hamas did not follow what  
16 is in the charter. They issued many documents after the  
17 charter that have now very -- that have now far more  
18 significance in Hamas's practice and implementation of  
19 policies.

20 Q. Who wrote the Hamas charter, if you know?

21 A. Well, when you go back, we are talking about the year  
22 1988, so everybody under siege basically. The Gaza Strip is  
23 cut off from the West Bank. Even within the Gaza Strip,  
24 people were facing extreme difficulties to move from one  
25 refugee camp to another refugee camp.

1           So under these conditions, the charter was written by  
2 one single Hamas leader who was basically a traditional figure  
3 of the Muslim Brotherhood, with the Muslim Brotherhood  
4 mentality and tradition. So this charter basically -- this is  
5 is why I keep saying this is a very insignificant document in  
6 Hamas's literature, was written by one single man without  
7 consultation, not only with Hamas's people in the West Bank  
8 but even with Hamas's people in the Gaza Strip itself.

9 Q. So was there any process by which this document was  
10 distributed to other people who were in Hamas for comment and  
11 criticism and some kind of amendment process?

12 A. No. It was the first and the final draft, ironically  
13 speaking, so it was written in its very first form, then  
14 disseminated within the occupied territories and beyond as the  
15 final charter of Hamas.

16 Q. I want to ask you some questions about what's in the  
17 charter as opposed to what has been pronounced by Hamas  
18 leaders subsequent and the actual practice of Hamas.

19           First of all, there's numerous references to Jews in  
20 the charter. Has that kind of anti-Jewish theme been  
21 clarified in subsequent pronouncements by Hamas?

22 A. Well, first of all, this is one of the prevailing  
23 misconceptions about how Palestinians and even Arabs perceive  
24 Jews in the region because if you go to any Palestinian town,  
25 city or refugee camp, people, my aunt, my uncle, they would

1 say, oh, the Jews did this or that. They mean -- they mean  
2 the Israeli army.

3 So they use the term Jew and Israeli interchangeably  
4 without any differentiation. When they say a Jewish soldier  
5 does this or that, they mean the Israeli soldier. There is no  
6 heavy loaded religious connotation in their mentality when  
7 they refer to a certain person as a Jew.

8 Now, when it comes to Hamas in the very beginning,  
9 yes, they used the language that is prevailing in the street  
10 without any attention, say, care given to the distinction  
11 between being a Jew or Israeli.

12 In later stages of Hamas, though, this distinction  
13 has been brought to the forefront and in Hamas's later  
14 document, not very late in 1992, they issued very famous  
15 document saying that our struggle is against the Zionists and  
16 the Israelis and not against the Jews. That was blunt and  
17 clear.

18 And since then, the language and discourse of Hamas  
19 became obviously differentiating between the Jews and the  
20 Israelis, saying that we are against the Israeli occupation,  
21 and it has nothing to do with Judaism as a religion.

22 Q. In your book, Hamas: A Beginner's Guide at page 34, you  
23 quote a Hamas document published in 1990. I'm going to --

24 MR. DEUTSCH: May I approach?

25 THE COURT: You may.



1 BY MR. DEUTSCH:

2 Q. I'm going to show you that and ask you whether that's  
3 consistent with what Hamas has said relative to the Jewish  
4 people and the Jewish religion?

5 A. Yes. This one is consistent with Hamas's thinking and  
6 practice.

7 Q. Can you read that, sir?

8 A. Yeah, it says, "The non-Zionist Jew is one who belongs to  
9 the Jewish culture whether as a believer in the Jewish faith  
10 or simply by accident of birth but who takes no part in  
11 aggressive actions against our land and our nation. Hamas  
12 will not adopt hostile position in the practice against anyone  
13 because of his ideas or his creed but will adopt such a  
14 position if those ideas and creed are translated into hostile  
15 or damaging actions against our people."

16 Q. Thank you.

17 What about Hamas's relationship to Palestinian  
18 Christians? What kind of relationship do they have in  
19 practice in relation to Palestinian Christians?

20 A. Well, right from the beginning, and actually even before  
21 the establishment of Hamas, the Muslim -- the Palestinian  
22 Muslim Brotherhood, which is the mother organization of Hamas,  
23 used to have a friendly relationship with the Palestinian  
24 Christians.

25 Now, Hamas itself, it is stipulated a document upon

1 which it formulates its perception and view and relationship  
2 with Palestinian Christians saying they are our brothers and  
3 they have basically the same and equal rights and the duties  
4 regarding the Palestine issue, and we don't differentiate  
5 against them on any religious basis. Hamas's doors as  
6 organization is open to any Palestinian Christian if they're  
7 willing to belong to Hamas.

8           In many cases throughout Hamas's lifetime,  
9 Palestinian Christians supported Hamas. Even in the latest  
10 elections in Bethlehem, my city, some Christians voted for  
11 Hamas, voted for the political side of Hamas, not for the  
12 religious side of Hamas. People in Palestine differentiate  
13 between two sides of Hamas, the Hamas, the nationalist  
14 movement and Hamas the religious movement.

15           Christians -- some Christians, they support the  
16 political side of Hamas and they vote for it. One of I would  
17 say maybe -- one of the most respected Christian figures in  
18 Palestine, I think, Archbishop Attalla Hanna, he once said we  
19 are all Hamas, supporting Hamas against Israeli arrests and  
20 things.

21           So when it comes to their relationship with the  
22 Palestinian Christians, it's a clear-cut case. There is no  
23 ambiguity.

24 Q. And Christians are welcome in Hamas, they can join Hamas?

25 A. In principle, yes, they can join Hamas.

1 Q. And what about the Greek Orthodox Church? Has Hamas  
2 condemned actions by the Israelis against the Greek Orthodox  
3 Church?

4 A. Yes, Hamas adopted --

5 MR. FERGUSON: Objection, relevance.

6 THE COURT: Sustained.

7 BY MR. DEUTSCH:

8 Q. Now, the charter also seems to suggest that Hamas wants  
9 all the land of the Palestinian mandate, correct? That was  
10 originally Palestine before the partition.

11 A. Correct, correct.

12 Q. And that's mentioned in the charter several times, right?

13 A. Correct.

14 Q. Has Hamas's practice since that charter was released shown  
15 some different views as to that issue?

16 A. Yes, it did. In my view, Hamas -- Hamas has -- as any  
17 political party, Hamas has two discourses. One is full of  
18 rhetoric, mobilizing discourse for the people to say we want  
19 to do this, we want -- this is our ultimate dream, and you  
20 have to support us because we will liberate the entire of  
21 Palestine. This is on the one hand.

22 On the second hand, you have the political pragmatic  
23 side of Hamas, which is the daily functioning of the movement.  
24 And when I studied Hamas, I keep -- I keep comparing this to  
25 driving forces within the movement. And you can see them not

1 only in Hamas, in any other Palestinian or even maybe movement  
2 all over the globe.

3           So the charter is full of rhetoric. They will do  
4 this and that they want to liberate the entire of Palestine.

5           Ironically speaking though, in the very same year of  
6 the publication of the charter, that's 1988, very senior Hamas  
7 leader, Mahmoud Zahar, who is now the foreign minister of the  
8 Hamas government, in 1988, the same year of the publication of  
9 the charter, he met Shimon Perez in Gaza Strip.

10 Q. Shimon Perez --

11 A. Shimon Perez at that time he was the interior minister,  
12 the Israeli interior minister, and he proposed to him a  
13 solution. It has been known now as the Zahar solution.

14 Q. Zahar solution?

15 A. Zahar solution for the conflict between Israel and  
16 Palestine. Now, that solution was based on four points. All  
17 of them, the four points, confirm two-state solution saying  
18 that we want -- we want you to withdraw from the West Bank and  
19 the Gaza Strip.

20           We want you, Israel, to withdraw from the Gaza Strip  
21 and the West Bank, to respect our freedom, to respect our  
22 independence. So the premise of the solution was anchored on  
23 two-state solution.

24           That was in the very same year of the publication of  
25 the charter. This is why we have to keep in mind two

1 discourses of Hamas, the rhetorical one, to mobilize the  
2 masses and to convince them that Hamas will do this and that  
3 and to have more votes, and the pragmatic political Hamas.

4 Q. Now, after the Zahar proposal in 1988 -- first of all, was  
5 there any positive response by the Israelis to the Zahar  
6 proposal?

7 A. No, there wasn't.

8 Q. Subsequent to that, has there been other offers of interim  
9 peace by Hamas leaders?

10 A. Yes. In so many cases, Sheikh Ahmed Yassin, who is the  
11 spiritual leader of Hamas, the main figure of Hamas and the  
12 founder of Hamas, he offered back in 1993 more or less a  
13 similar proposal focusing on the Palestinian state in the  
14 West Bank and the Gaza Strip, and when he was asked what about  
15 recognizing Israel, he answered, well, when they recognize us,  
16 we will do the same.

17           So, again, that was -- that shows the pragmatic and  
18 political outlook of Hamas. And in the year 1994, as I  
19 recall, the political bureau of Hamas, they issued an  
20 initiative called the political initiative. Again, the  
21 initiative included, I think, three or four points more or  
22 less repeating Al-Zahar's solution focusing on two-state  
23 solution. All these proposals and after that were met by  
24 rejection on the side of Israel.

25 Q. I'm going to show you --

1 MR. DEUTSCH: May I approach, Judge?

2 THE COURT: You may.

3 BY MR. DEUTSCH:

4 Q. I'm going to show you what I've identified as Hroub No. 1,  
5 and ask you if you recognize this document?

6 THE COURT: Have you shown it to Mr. Ferguson?

7 MR. DEUTSCH: I gave one to --

8 MR. FERGUSON: Yes, Judge.

9 THE COURT: Okay.

10 MR. FERGUSON: Ferguson.

11 MR. DEUTSCH: -- Ferguson. Thank you.

12 BY THE WITNESS:

13 A. Yes, I do.

14 BY MR. DEUTSCH:

15 Q. And, in fact, that document is an appendix to your book  
16 Hamas: Politics in Thought and Practice, right?

17 A. Correct.

18 Q. And that statement was translated by you from the Arabic,  
19 correct?

20 A. Correct.

21 Q. And you -- how did you receive the Arabic document?

22 A. Well, this document was publicly disseminated at that  
23 time, and it was made public by Hamas to Israel, to the  
24 Arabians, to the Americans, to everybody, and I managed to --  
25 it was very easy job. It wasn't big deal actually.

1 MR. DEUTSCH: Judge, I would move that document into  
2 evidence.

3 THE COURT: Is there an objection?

4 MR. FERGUSON: For the truth of the matters asserted,  
5 yes. I don't think a sufficient foundation has been laid for  
6 it as the basis for this individual's views, I suppose, but I  
7 don't think a proper foundation has been laid as to this being  
8 an actual Hamas document issued from Hamas figures.

9 It is -- I think it's being authenticated only on the  
10 basis of the fact it appeared in his book and he translated  
11 it.

12 THE COURT: What are you offering it for?

13 MR. DEUTSCH: I'm offering it to show several things.

14 THE COURT: Are you offering it for the truth of the  
15 matter?

16 MR. DEUTSCH: Well, I'm offering it to show what he  
17 bases his opinions on about Hamas's offer for interim peace,  
18 and later on I'm going to offer it to show that Hamas didn't  
19 commit any suicide bombings until April of '94, and this is a  
20 communique that --

21 THE COURT: That is truth of the matter, the second  
22 part.

23 MR. FERGUSON: And as this was applied on the front  
24 end, Judge, these sorts of documents were for demonstrative  
25 purposes only and weren't admitted because they were hearsay

1 and because they could not be fully authenticated, and I think  
2 the same thing should apply here.

3 THE COURT: Objection sustained. If you think you  
4 can lay a foundation, go ahead.

5 MR. DEUTSCH: Okay. Maybe I can lay a better  
6 foundation for it.

7 BY MR. DEUTSCH:

8 Q. The fax that you received -- you received this in Arabic  
9 by fax, right?

10 A. Yes, I did.

11 Q. And when you received it, were you able to know -- notice  
12 the phone number that it was faxed from? Did you look at  
13 that?

14 A. Yes. I mean these statements by Hamas at that time, they  
15 used to be faxed to so many writers, journalists, and the  
16 newspapers, everywhere. So that was one of the mechanisms of  
17 Hamas to disseminate their literature.

18 My number, my fax number was on that list and  
19 deliberately I keep insisting on -- on Hamas's people to send  
20 me every single new document, and they do so.

21 Q. Had you received other documents from the same fax number?

22 A. Yes, I did.

23 MR. DEUTSCH: Judge, I would offer it again.

24 MR. FERGUSON: Judge, one, we don't have the  
25 original. I don't think a foundation still has been laid.



1           Second, the document is hearsay. I think there has  
2 been a methodology established for the utilization of  
3 documents like this already, and to the extent it's going to  
4 apply, it should apply consistently.

5           THE COURT: Sustained on offering it for the truth of  
6 the matter.

7           MR. DEUTSCH: Okay. I'll offer it for --

8           MR. MOFFITT: May we approach your Honor, please?

9           THE COURT: Sure.

10          (Proceedings heard at side bar:)

11           MR. MOFFITT: The government has offered dozens of  
12 documents allegedly sent to my client by Hamas by the exact  
13 same methodology that this person is talking about. They've  
14 offered them for the truth of the matters asserted in the  
15 documents.

16           What this man is saying is that Hamas has a practice  
17 of sending out documents --

18           THE COURT: I don't think they were offered for the  
19 truth of the matter. They were offered, and I gave an  
20 instruction.

21           MR. MOFFITT: They were not offered --

22           THE COURT: You're shaking your head?

23           MR. SPIELFOGEL: No, they were offered to show that  
24 he had them.

25           THE COURT: Exactly. They were offered to show that

1 they were in his possession.

2 MR. MOFFITT: Well, that was why I made the objection  
3 that possession --

4 THE COURT: Well, that's a separate issue.

5 MR. MOFFITT: But what I'm saying --

6 THE COURT: Let's get to this one.

7 MR. MOFFITT: The point I'm trying to make is that  
8 the government has suggested that possession of -- mere  
9 possession of documents that the government contends came from  
10 Hamas means that they came from Hamas. This is the exact same  
11 contention.

12 THE COURT: But Mr. Deutsch is offering it for the  
13 truth of the matter. I did not introduce or admit those for  
14 the truth, and I specifically instructed the jury that they  
15 were not being offered for the truth.

16 Mr. Deutsch?

17 MR. DEUTSCH: Well, I'm a little confused on that  
18 because I thought they were somehow statements in furtherance  
19 of -- by co-conspirators in furtherance of the conspiracy, so  
20 they were offered for the truth.

21 MR. FERGUSON: That's correct. Some were, yes.

22 MR. MOFFITT: The government hasn't been clear which  
23 ones have been offered for the truth and which ones haven't,  
24 and that's the problem as I sit here.

25 If they are Hamas's statements and can be offered as

1 co-conspirator statements, why can't Hamas's statements that  
2 this person has gleaned be offered as the same thing?

3 THE COURT: Well, they can't offer a co-conspirator  
4 statement through a co-conspirator. That's hearsay.

5 Mr. Ferguson, what did you want to add?

6 MR. FERGUSON: Judge, we have two different types of  
7 witnesses that are on the stand here, two different types of  
8 evidence altogether.

9 This isn't a fact witness, first off. His possession  
10 of them is not at issue. He's an expert witness. If he  
11 relied upon them, this is a basis for his opinion, but in the  
12 context of the expert testimony put on by the government,  
13 these very sorts of documents were objected for full admission  
14 or even admission as evidence to be given to the jury to show  
15 a basis for this individual. They were only demonstratives.

16 THE COURT: Right. If you were to use it as a  
17 demonstrative --

18 MR. DEUTSCH: Okay.

19 THE COURT: -- you can do that or offer it for some  
20 purpose other than the truth.

21 MR. MOFFITT: They offered the Hamas charter for the  
22 truth of the assertion that it was, in fact, the Hamas  
23 charter. That's what Dr. Levitt said. He was cross-examined  
24 as to whether this one was one, was it the actual charter or  
25 was it another, but it clearly was offered through Dr. Levitt,

1 their expert, for the truth of it being the Hamas charter.

2 MR. FERGUSON: I think we're happy to admit their  
3 version of the charter for the same purpose, but it was  
4 admitted for the truth of the matter asserted. There was a  
5 foundation laid.

6 MR. SCHAR: It's co-conspirator.

7 THE COURT: If you think you can do more on  
8 foundation, go ahead. If you want to offer it for some  
9 purpose other than truth of the matter, then make that  
10 assertion.

11 MR. DEUTSCH: Okay.

12 (Proceedings heard in open court:)

13 BY MR. DEUTSCH:

14 Q. Do you have that document in front of you, or I didn't  
15 give it to you?

16 THE COURT: I think you gave it back.

17 BY MR. DEUTSCH:

18 Q. Okay, here. The document is entitled Important Statement  
19 By the Political Bureau, correct?

20 A. Correct.

21 Q. Do you recall -- I know subsequent to this document  
22 release, you actually interviewed Abu Marzook, correct, in  
23 '95?

24 A. Correct.

25 Q. Did you talk to him about this document in your interview

1 or the subject matter of the document?

2 A. Well, this is one of them -- the most talked about  
3 subjects actually. Whenever I meet Hamas's or interview  
4 Hamas's senior figure, the main -- the main question is what  
5 do you think about the two-state solution? And he made it  
6 clear that our position --

7 MR. FERGUSON: Judge --

8 THE COURT: One second.

9 MR. FERGUSON: -- I'm going to object. Right now  
10 what's being offered is a co-conspirator statement in a  
11 hearsay form for which there is no ability to  
12 cross-examination -- cross-examine here. It's inappropriate  
13 altogether.

14 THE COURT: Rephrase your question.

15 BY MR. DEUTSCH:

16 Q. Okay. Without getting into -- have other people who were  
17 Hamas -- Hamas leaders that you've interviewed, without  
18 getting into what they said, mentioned or talked about that  
19 document?

20 A. Yes. I recall Muhammad Nazal, he used to be in those  
21 years Hamas's spokesperson in Jordan. I recall a number of  
22 Hamas leaders in Lebanon, including -- including Abdel Aziz  
23 Al-Rantisi back in -- no, that was before, sorry. That was in  
24 '92, but basically the same substance, the same two-state  
25 solution concept.

1 Q. Did the people that talked about that document acknowledge  
2 that it was an official document of the Hamas organization?

3 A. Oh, yes. This is very clear cut. This is indigenous  
4 document very well known to everybody. It's not secret  
5 document.

6 MR. DEUTSCH: Judge, I would offer it again for the  
7 truth.

8 MR. FERGUSON: I'd still object as to foundation  
9 having been laid for this. We haven't seen the original.  
10 There has only been conclusions as to the nature of the  
11 document and the basis of hearsay offered from other --  
12 self-serving hearsay from other individuals who are part of  
13 the conspiracy. I do not think a foundation has been laid for  
14 this expert to put in as a factual matter this particular  
15 document for which the original has never been provided or  
16 made available to anybody.

17 MS. THOMPSON: Judge, I think that goes to weight.  
18 That's the subject of cross-examination. I think the document  
19 has been authenticated by the witness.

20 MR. FERGUSON: And the document itself, Judge, is  
21 hearsay.

22 MR. MOFFITT: It's no more hearsay than the charter.  
23 Absolutely no more hearsay than the charter.

24 THE COURT: Let me see the document.

25 (Tendered.)

1 MR. FERGUSON: Judge, at bottom, if I may, what's  
2 being proposed by the defense is to offer a co-conspirator  
3 statement.

4 THE COURT: Objection sustained for the truth of the  
5 matter because the document is hearsay.

6 MR. DEUTSCH: Okay. You said I could use it for  
7 demonstrative purposes.

8 THE COURT: Yes.

9 MR. DEUTSCH: Okay. I'd like to turn on the ELMO.  
10 BY MR. DEUTSCH:

11 Q. Okay. You have the document?

12 THE COURT: I'm sorry. I have it.

13 BY MR. DEUTSCH:

14 Q. If you look at -- I'm going to actually -- the bottom of  
15 the document indicates who is the group that authored it and  
16 the date, is that right?

17 A. Right.

18 Q. Okay. And a little further up, it indicates, it calls for  
19 the correct beginning for peace rests on the following bases,  
20 right?

21 A. Right.

22 Q. And it says, "The complete Zionist withdrawal from our  
23 Palestinian land and the dismantling and elimination of its  
24 settlements. Conducting general and free elections in the  
25 West Bank and Gaza to choose representatives and a leadership

1 for our people. The elected leadership would be the ones to  
2 articulate the hopes and goals of our people and to decide on  
3 all succeeding steps, including the future of our cause."

4 Now, was that consistent with the idea that Hamas  
5 sought to remove Israel from the map?

6 A. It is not, of course.

7 Q. Okay. And is this one of the peace offers that was made  
8 by Hamas in 1994?

9 A. Yes, it was.

10 Q. Okay. I want to -- I want to go back to that document in  
11 a moment because there's another important part of it, but I  
12 want to ask you in 1995, April of 1995, you interviewed  
13 Mr. Marzook, right?

14 A. Right.

15 Q. And how is it that you were able to find and talk to  
16 Mr. Marzook?

17 A. Well, it was easy. Mr. Marzook at that time was public  
18 figure as all other Hamas leaders, so you can -- you can go to  
19 the region, to Jordan, to Syria, anywhere, and it's very easy  
20 to get in touch with them. I used to have their phone numbers  
21 on my address book. So I would phone them up and say, well, I  
22 want to meet you on that day or this day.

23 Q. And where did you actually interview Mr. Marzook?

24 A. At Hamas offices in Jordan.

25 Q. Okay. Where in Jordan?



1 A. Amman, the capital.

2 Q. Okay. And did they have public offices where you could go  
3 and find people who were part of the political leadership?

4 A. Yeah. They used to have many offices. You can go to the  
5 office of Abu Marzook or the office of Muhammad Nazal, and  
6 they were publicly known for journalists or researchers or  
7 anybody and for the American ambassador in Amman as well.

8 Q. And in your interview with Mr. Marzook, did he also  
9 express a desire for some kind of interim peace resolution to  
10 the Israeli-Palestinian conflict?

11 A. Yes. The whole talk was about the two-state solution.

12 Q. And was he saying that he was willing to accept a  
13 two-state solution?

14 MR. FERGUSON: Objection, leading, and it's hearsay.

15 THE COURT: Sustained.

16 MR. DEUTSCH: Well, it's also -- it's his -- he's  
17 giving an opinion that Hamas's policy is not to destroy the  
18 State of Israel, and this is part of his opinion. So --

19 THE COURT: He, the expert, is giving an opinion?

20 MR. DEUTSCH: Yes.

21 THE COURT: Okay.

22 MR. FERGUSON: I'm hearing --

23 MR. DEUTSCH: This is the basis of his opinion, his  
24 interviews with leaders of the organization, Marzook being one  
25 of them.

1 THE COURT: You are leading, first of all.

2 MR. FERGUSON: I'm hearing Mr. Deutsch's opinions on  
3 the subject of Mr. Marzook's words, not this witness's  
4 opinion.

5 MR. DEUTSCH: All right. I'll rephrase.

6 THE COURT: Sustained.

7 MR. DEUTSCH: I'll rephrase.

8 BY MR. DEUTSCH:

9 Q. What did Mr. Marzook express to you that forms the basis  
10 of your opinion that Hamas's charter is not the policy and  
11 practice that they followed in '92, '93, '94?

12 THE COURT: Don't answer yet, Professor.

13 MR. FERGUSON: Judge, it's still hearsay.

14 THE COURT: Sustained. You can -- sustained. He can  
15 rely on hearsay in giving his opinions, but you need to  
16 establish that they are his opinions and what his opinions  
17 are.

18 BY MR. DEUTSCH:

19 Q. Okay. Well, do you have an opinion whether or not in the  
20 early '90s, let's say from '91 to '94, Hamas had a position, a  
21 pragmatic position to wipe Israel off the face of the map?

22 A. Well, my -- my record of Hamas's positions as put in my  
23 books was that the pragmatic solution offered by Hamas was  
24 consistent. It was made public by Abu Marzook. It was made  
25 public by Muhammad Nazal. It was made public by Sheikh Yassin

1 himself in the Gaza Strip, and this position goes against the  
2 essence of the charter.

3           The charter of Hamas called for the liberation of the  
4 entire of Palestine, whereas the statements, the official  
5 statements of Hamas's senior leaders were going in a different  
6 direction, acknowledging the two-state solution.

7 Q. And they -- they -- Hamas in your research and study and  
8 in your opinion has used the word armistice or hudna?

9 A. Hudna, which means truce.

10 Q. What does --

11 A. Cease-fire.

12 Q. What does hudna means in terms of Hamas's offers to  
13 negotiate?

14 A. Hamas offered hudna, which means cease-fire, long-term  
15 cease-fire. It might take ten or fifteen years' time.

16           This includes, of course, the establishment of  
17 independent Palestinian state, and after the establishment of  
18 this state side by side to Israel to cool down the situation,  
19 Hamas offers the hudna concept, which is truce.

20           During this hudna, this truce, the thinking of Hamas  
21 is as follows, as I have documented this and interviewed  
22 Hamas's people. They say over 10 or 15 or maybe 20 years of a  
23 truce that both people will come up to new atmosphere within  
24 which a new solution, new permanent and sustainable solution  
25 will prevail because the conflict now makes everybody, the

1 whole situation is volatile. We need a cooling-down period.  
2 This cooling-down period is the truce. So we need 15 years as  
3 a truce. A new generation will come in with new thinking,  
4 with new equations and new offerings to the sustainable  
5 solution.

6 Q. And in terms of Hamas's view of democracy, have they  
7 publicly stated that they're willing to have some kind of  
8 referendum of the Palestinian people to decide the ultimate  
9 resolution?

10 A. The referendum idea in Hamas's thinking goes back to 1989  
11 when Sheikh Yassin himself was interviewed several times, and  
12 the difficult question was posed to him what if a Communist  
13 Party in Palestine won the elections, would you accept that as  
14 a religious organization? He said publicly several times yes,  
15 we would. We will never, ever stand in the face of the  
16 Palestinian will. If that was the decision of the  
17 Palestinians to be ruled by a Communist Party or any other  
18 party, we will respect that wish.

19 Now, if -- if the Palestinians voted for a certain --  
20 a certain kind of peaceful solution, we wouldn't even stand  
21 against their will. We will respect the Palestinian will,  
22 whatever it comes.

23 Q. So Hamas, based on your opinion, has expressed in their  
24 policy statements a willingness to accept whatever solution  
25 the Palestinian people decide.

1 A. Yes, and this is part of this initiative and other  
2 initiatives that we have to have a Palestinian referendum on  
3 the major issues, and whatever the Palestinian people decide  
4 on, Hamas will follow.

5 Q. I wanted to ask you this other question, which is are  
6 there like formal membership process to be in Hamas? Is there  
7 like an initiation process?

8 A. Well, Hamas is -- is a mass movement. I mean if you go to  
9 the Palestinian street, so many people will say, well, I am  
10 Hamas, I am Hamas member or I am Hamas supporter or I am  
11 Hamas, period, which means -- leaves all options open  
12 basically.

13 So people just support Hamas saying we support Hamas,  
14 we are Hamas, I am Hamas.

15 Q. Do you have to -- to be a supporter or say I'm Hamas, do  
16 you have to sign an oath of allegiance to the Hamas charter?

17 A. No, you don't have to, no.

18 Q. Do you carry around a card that says you're a member of  
19 Hamas?

20 A. No, you don't.

21 Q. Now, after Hamas emerged in 1987, did the programs that  
22 you talked about, the Muslim Brotherhood programs, the social  
23 services programs continue?

24 A. Yes, they continued.

25 Q. And did they develop further in terms of providing

1 services to the people?

2 A. Yes, they did because of the Intifada, and the whole  
3 situation got worse and so the needs became even more so the  
4 social -- the social work of Hamas accordingly has increased.

5 Q. And is there a name that's used to refer to the social  
6 network of programs that Hamas affiliates provide?

7 A. Well, different descriptions and names, there is no  
8 specific one, but maybe all of them apply.

9 Q. Well, what's -- what does Dawa mean?

10 A. Dawa is a very general description that includes, yes, the  
11 social work of Hamas, but also the preaching of the word of  
12 God making -- disseminating, say, moral -- Islamic morals and  
13 values and trying to convince people following the true path  
14 of God, quote unquote.

15 Q. And are the social programs supported financially from  
16 Palestinians and others outside the occupied territories?

17 A. Yes, they are, very much so.

18 Q. And without that financial support, would those programs  
19 be able to serve as many people as they do?

20 A. No, of course not.

21 Q. And are the social programs limited to people who support  
22 Hamas?

23 A. No, they are not because I mean even the social work of  
24 Hamas and the organizations either run directly or indirectly  
25 by Hamas or affiliated to Hamas or supportive of Hamas, you

1 wouldn't go and see there is a stigma or a label or a title  
2 this is Hamas's organization.

3           Things are blurred and intermingled in a way that you  
4 have a network of social work where Hamas supports this social  
5 work. Palestinians outside Palestine, they do donations and  
6 funding these organizations without deliberate or without  
7 clear-cut distinctions that saying this organization belongs  
8 to Hamas or this organization does not.

9           So the boundaries are really blurred and even within  
10 Hamas I think themselves, they wouldn't -- they would feel  
11 it's really difficult to say X organization is completely  
12 Hamas's affiliated organization, whereas Y organization is  
13 completely not Hamas's affiliated organization. So it's --  
14 it's very gray area.

15 Q. Now, in December of '92, there was a group of people  
16 expelled from the occupied territories and sent to Lebanon,  
17 correct?

18 A. Correct.

19 Q. And did this expulsion create hardship on the Hamas social  
20 service programs?

21 A. Temporarily, yes.

22 Q. And was there a need to provide funds for the families of  
23 the people who were expelled?

24 A. Yes, of course, yeah.

25 Q. Can you explain what happened in December of '92 in terms

1 of these expulsions or deportations?

2 A. Upon -- upon -- upon the abduction of an Israeli soldier  
3 at the time, Israel decided to expel more than 415  
4 Palestinians, mostly affiliated to Hamas, and overnight they  
5 expelled them to Lebanon, south Lebanon.

6 That was in December. Of course, the weather was  
7 horrible, and, of course, the conditions were very harsh, and  
8 they stayed in that region, in that deserted region which was  
9 no man's zone between the Israeli and the Lebanese border. So  
10 you have some area in between where neither the Lebanese nor  
11 the Israelis have full control over it. They stayed there  
12 almost for one year.

13 Q. Now, were there efforts based on your research and study  
14 of efforts by the government of Israel to stop moneys coming  
15 to support the social service programs that they claim were  
16 affiliated with Hamas?

17 A. Yes, all the time there have been Israeli attempts to  
18 block the money coming from abroad to support the social  
19 network either affiliated or close to Hamas.

20 Q. Now, I want to direct your attention to affiliated with  
21 Hamas a military division or wing.

22 Was there a military wing affiliated with Hamas?

23 A. Not until late in '93 or something around that time, but  
24 in the beginning, no.

25 Q. And was this military -- did it have a name, the military



1 group?

2 A. Yeah, now they used to have Izz ad-Din al-Qassam.

3 Q. Please?

4 A. Izz ad-Din al-Qassam Brigades.

5 Q. And were they independent of the Dawa groupings, the  
6 social service groupings?

7 A. Oh, yes.

8 Q. Were they directed by the social service groupings?

9 A. No. Hamas was -- was very clever in this area and very  
10 strict as well in keeping clear division between any military  
11 activity, even up until now, and any social work so that the  
12 military activity would never affect their social network.

13 Q. Now, there were prior to 1994, April of 1994, there were  
14 military actions for which the Qassam Brigades took credit  
15 for, right?

16 A. Correct.

17 Q. And what was the target or focus of those military  
18 actions?

19 A. Over the period between 1987 to '83 or '84.

20 Q. You said '83.

21 A. '94, '94, sorry. The policy of Hamas and other  
22 Palestinian factions was to focus on military targets, Israeli  
23 soldiers, armed settlers and the like. The policy was  
24 deliberately to avoid any civilian target so that to amass as  
25 much support to the Palestinian Intifada and the Palestinian

1 cause worldwide as possible.

2 Q. So prior to April '94, there was a policy of the brigades  
3 of Hamas not to attack unarmed civilians, is that right?

4 A. Yes, that's right, and that's correct.

5 Q. And actually that policy has been put in writing, hasn't  
6 it? You've seen it in writing?

7 A. Yes, I've seen it, yeah.

8 Q. Do you have the document in front of you, sir?

9 A. Yes, on the screen.

10 Q. Do you see in the middle of the page in the same political  
11 document which is entitled, "Important Statement By the  
12 Political Bureau," it states, "The authorized Hamas policy has  
13 been that the Izz ad-Din al-Qassam Brigades target only  
14 occupation troops, their equipment and the settlers in  
15 particular because they are reservists in the enemy army. The  
16 Qassam Brigades have been careful within the limits of their  
17 abilities to ensure that no civilians are harmed as a result  
18 of military operations."

19 Was that their policy prior to April of '94?

20 A. Yes, it was.

21 Q. And, in fact, their policy somewhat changed in April  
22 of '94, right?

23 A. That's correct.

24 Q. And, in fact, something happened in February of 1994 that  
25 was the precipitating factor to change their policy, right?

1 A. That's correct.

2 Q. And what happened in February of 1994?

3 A. February of '94 an Israeli settler, armed one, entered the  
4 Ibrahim mosque in Hebron and opened -- opened fire on  
5 Palestinian prayers, and he killed I think 24 Palestinians or  
6 even more while they were praying; and as a result of that  
7 attack, there was huge and intense uproar within the  
8 Palestinian community and the calls for revenge were extremely  
9 high, and Hamas vowed to -- to retaliate to that massacre, and  
10 they did so by initiating the first suicide attack in Israel.

11 Q. And in that initial suicide attack, it -- they said that  
12 they targeted military troops, but innocent civilians were  
13 also killed, right?

14 A. Yes, they were.

15 Q. And they referred to them as collateral damage, right?

16 A. Yes, they were.

17 Q. And did they also offer in that communique to stop that  
18 policy in return for Israel stopping to attack Israeli --  
19 Palestinian civilians?

20 A. Initially, that was one of retaliation, and they said this  
21 is eye for eye and we will stop this if the Israelis stop  
22 killing Palestinian civilians. So it was conditional.

23 Q. And those April 1994 suicide attacks were referred to as  
24 operations at Afula and Hadera, right?

25 THE COURT: Mr. Deutsch, is that Hroub 1 that you

1 have up there for the record?

2 MR. DEUTSCH: Yeah, I'm putting Hroub 1.

3 THE COURT: Okay.

4 BY MR. DEUTSCH:

5 Q. "The latest operations at Afula and Hadera which targeted  
6 troops and settlers but did injure some civilians were for the  
7 purpose of deterring the barbaric Zionist aggression against  
8 our people. They were also legitimate retaliation for the  
9 blood of martyrs in the criminal Hebron massacre."

10 They're referring to the killing of the people who  
11 were praying in the mosque in Hebron, right?

12 A. Correct.

13 Q. And then it says, "Nonetheless, this is not the immutable  
14 policy of the Qassam Brigades but an extraordinary policy  
15 imposed on us by the government of the enemy. Yet Hamas  
16 stands ready to reconsider this extraordinary policy on  
17 condition that the prime minister of the enemy, his  
18 government, and his army pledge finally and irrevocably to  
19 cease killing unarmed Palestinian civilians. Our goal is to  
20 guarantee the safety and security of our people by deterring  
21 murderers aggressors so that our kin may not remain easy  
22 targets for enemy soldiers and rabid hordes of settlers.  
23 Hamas, of course, will continue its policy of resisting the  
24 occupation as long as it oppresses our land."

25 Was this offered to stop targeting civilians

1 responded to favorably by the Israelis?

2 A. No, it wasn't.

3 Q. Did the Israelis continue to attack unarmed Palestinian  
4 civilians and kill them?

5 A. Yes, they continued.

6 Q. Now, has -- based on your research -- Mr. Ferguson asked  
7 you whether or not you ever interviewed any Israeli officials.

8 Based on your research and study, have leading  
9 Israeli officials recognized the right of people to resist  
10 occupation with force?

11 A. Ironically, yes. I quoted -- I quoted Ehud Barak, the  
12 former Israeli prime minister, answering a question of a  
13 journalist saying -- asking him what would you -- what would  
14 you do if you were under occupation as in a similar case of  
15 the Palestinians. Then he laughed and said, of course, I  
16 wouldn't be a teacher, implying that he will -- then he  
17 continued. I mean the journalist continued, and the Israeli  
18 newspaper on the following day were angry at Barak because --

19 MR. FERGUSON: Object at this point as, first of all,  
20 this is a narrative that I don't think is responsive. Second  
21 of all, it's simply not relevant.

22 THE COURT: Sustained on narrative grounds to the  
23 last portion. Ask your next question.

24 BY MR. DEUTSCH:

25 Q. All right. Are you familiar with General Shlomo Gazit,

1 G-A-Z-I-T, former chief of the Israeli military intelligence?

2 A. Yes, I am.

3 Q. And in your book you devoted him --

4 MR. FERGUSON: Objection. He's about to quote  
5 somebody here. It is not relevant.

6 MR. DEUTSCH: Well, I'm asking him if he has an  
7 opinion whether or not leading figures in the Israeli  
8 government have recognized the right of Palestinians to resist  
9 their occupation, and this is a general that basically has  
10 said that.

11 MR. FERGUSON: Judge, I just -- I do not see how it's  
12 relevant unless Mr. Deutsch's -- I don't see the relevance of  
13 it.

14 THE COURT: Sustained on relevancy.

15 BY MR. DEUTSCH:

16 Q. Now, based on your research, your study, your writing,  
17 your expertise, has Hamas ever targeted Americans or American  
18 interests?

19 A. They never did.

20 Q. Have Israeli's government targeted and killed leaders of  
21 Hamas, political leaders?

22 A. Oh, yes. This is typical standard.

23 Q. And can you name several that have been assassinated?

24 A. Well, many of them actually. Salah Shahada, Abdel Aziz  
25 Al-Rantisi, Ahmed Yassin, Abu Shanab. Most of Hamas's leaders

1 were target at one time or another.

2 Q. And when you say targeted, they're killed without trial?

3 A. Of course. Assassinated.

4 Q. Does your research also indicate and in your opinion have  
5 many of the brigades subsequent, Qassam Brigades act of  
6 violence into the late '90s and early 2000 been responsive to  
7 Israeli acts of violence against Palestinians?

8 MR. FERGUSON: Objection.

9 THE WITNESS: Yeah, most --

10 THE COURT: Wait, one second.

11 MR. FERGUSON: Object. Objection. Relevance.

12 THE COURT: Sustained.

13 BY MR. DEUTSCH:

14 Q. Okay. I want to ask you about there's been a lot of  
15 testimony here about the Oslo Accords.

16 MR. DEUTSCH: Do you want to break now?

17 THE COURT: It's up to you. If you want to break and  
18 pick up with the Oslo Accords after lunch or if you want to  
19 keep going, and we'll break in a little bit. Whenever you're  
20 at a good breaking point.

21 MR. DEUTSCH: Does the jury want a break?

22 Yeah.

23 THE COURT: You want to break now, Mr. Deutsch?

24 MR. DEUTSCH: Okay. Take a break.

25 THE COURT: Okay. Meet back on the second floor at

1 25 to 2:00.

2 (Jury exits courtroom.)

3 THE COURT: Professor, please make sure that you are  
4 back here by 1:30, and we'll pick up with your testimony.

5 Counsel, before we break, two things. Mr. Deutsch, I  
6 will give you this back, the brochure, and I'm also going to  
7 hand to each of you my order on the State Department  
8 documents. Apparently CM/ECF is down, so you won't be able to  
9 get it off of there, but that will give you direction on what  
10 you need to do.

11 Is there anything else you need me for before lunch?

12 MR. DEUTSCH: No, Judge.

13 THE COURT: Okay. I'll see you back here at -- by 25  
14 till.

15 (Court adjourned, to reconvene at 1:35 p.m.)

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1 APPEARANCES (Cont'd):

2

Also Present: S/A BRADLEY BENAVIDES, FBI  
S/A JILL PETTORELLI, FBI

3

4

Court Reporter: MR. JOSEPH RICKHOFF  
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1 THE CLERK: 03 CR 978, U.S. vs. Muhammad Salah and  
2 Abdelhaleem Ashqar.

3 THE COURT: Ready?

4 MR. SPIELFOGEL: We're ready.

5 THE COURT: I am a minute early. I will wait for  
6 him.

7 (Brief pause.)

8 THE COURT: We are missing a couple members of the  
9 jury. So, you may be seated.

10 (Brief pause.)

11 (Jury in.)

12 THE COURT: You may be seated.

13 Mr. Deutsch, you may continue.

14 MR. DEUTSCH: Thank you, Judge.

15 KHALED HROUB, DEFENDANTS' WITNESS, PREVIOUSLY SWORN

16 DIRECT EXAMINATION - Resumed

17 BY MR. DEUTSCH:

18 Q. Mr. Hroub, I wanted to ask you one question going back to  
19 your expertise.

20 Have you consulted with the United States Department  
21 of State about the issues of the Palestinian-Israeli conflict?

22 A. Well, I was invited by the State Department a couple of  
23 months ago to talk about Hamas after they won the elections in  
24 Palestine.

25 Q. Uh-huh.

1 A. They organized some sort of brainstorming session, and I  
2 was invited to that one in Washington, D.C.

3 Q. And did you attend that?

4 A. Unfortunately, I couldn't.

5 Q. Okay.

6 A. I had a previous commitment.

7 Q. All right.

8 Can you explain to the members of the jury what is  
9 meant by the Oslo Accords? In the beginning, what was meant  
10 by that?

11 A. Oslo Accords, these are an agreement between the PLO --  
12 the Palestine Liberation Organization -- and Israel, brokered  
13 by mainly the United States, but initially organized by the  
14 Norwegians in Norway. And they meant to -- to -- reach  
15 peaceful agreement between both parties.

16 They are understood differently by different parties,  
17 different people. The final -- the final -- destination of  
18 this agreement was meant to be two-state solution, though  
19 everybody has to go through interim period of five years.

20 According to these agreements, the Palestinians  
21 should show that they deserve a Palestinian state by the end  
22 of interim period. So, in a way, these years were a test --  
23 very long test, though -- for the Palestinians to make sure  
24 for the Israelis that they deserve to be given a Palestinian  
25 state.

1 Q. And was there other problems with the process, in terms of  
2 recognizing the rights of the Palestinians?

3 A. Yes. Oslo Accords divided the Palestinian people,  
4 actually, I would say, deeply because, as I said, they have  
5 been seen differently. On the one hand, some Palestinians --  
6 and I would even venture to say the minority -- have seen in  
7 them some sort of hope of having the Palestinian aspiration  
8 accomplished.

9           The other part of the Palestinians -- the majority,  
10 in my view -- saw in them as somehow some adventurous process  
11 that wouldn't lead to accomplishing five main Palestinian  
12 issues. Number one, the refugees, because Oslo agreements did  
13 not guarantee the return of the Palestinian refugees who fled  
14 the country during the wars.

15 Q. Okay. Let me just stop you there.

16           About how many Palestinian refugees have left the  
17 territory of Palestine?

18 A. Over the, say, different wars, I would say they are around  
19 5 million Palestinians now.

20 Q. And they're --

21 A. And their descendants.

22           Sorry.

23 Q. And those 5 million are where?

24 A. They are scattered all over the place, in Jordan, Egypt  
25 and the United States, in Europe, Australia, Africa. You just

1 name it.

2 Q. And one of the aspirations of the Palestinian people  
3 living -- we call it the diaspora -- outside Palestinian  
4 territory is, what?

5 A. To return back to Palestine. This is one of the major  
6 issues for every single Palestinian living abroad -- to be  
7 given the right to go back to Palestine -- including my own  
8 family.

9 Q. Okay. That's number one.

10 Go ahead.

11 A. Yeah.

12 Number two, Jerusalem. Jerusalem was divided into  
13 East Jerusalem and West Jerusalem. East Jerusalem was  
14 occupied in 1967. And the United Nations acknowledged that it  
15 has been under occupation. And, in so many resolutions, the  
16 Security Council said the city should be returned back to the  
17 Palestinians. So, this is Issue No. 2.

18 Oslo agreements postponed the five issues, including  
19 now Jerusalem.

20 The third issue is the settlements. And we talked  
21 about the settlements. The settlements by the time signing  
22 Oslo agreement -- that's 1994 -- they have by then, I would  
23 say, eaten 40 percent of the land of West Bank and Gaza Strip.  
24 The settlements were postponed, as well. The issue of the  
25 settlement.

1           Number four is the control of the borders. If you  
2 want to have a Palestinian independent state, common sense  
3 tells you that you have at least full control of your borders.  
4 Oslo agreements did not offer that for the Palestinians. So,  
5 this issue, again, it has been postponed for after five years.

6           And number four, the natural -- natural --

7 Q. Five --

8 A. Five, sorry.

9           Number five is the natural resources. The water  
10 resources and everything else was kept in the hands of the  
11 Israelis. So, basically, the main basic aspects of life  
12 remained in the hands of the Israelis.

13           Because of these five issues, many Palestinians  
14 objected to Oslo agreements and they said, "We are simply  
15 selling out our cause for nothing and there is no guarantee,  
16 even after five years, that these issues will be resolved."

17 Q. And was there any recognition in the Oslo Accords that  
18 Palestinians had rights to their land under international law?

19 A. Oslo agreement adopted very vague language open to  
20 interpretation. And I would say there were -- the language  
21 was biased and written according to -- to -- the upper hand,  
22 of course, to the Israeli -- according to Israeli terms.

23           For example, the term "occupation." This is  
24 Palestinian land occupied by Israeli military since 1967, as  
25 acknowledged by the international law and the Security Council

1 and the United Nations. Now, the term "occupation" wasn't  
2 even mentioned, not a single time, in these agreements. So,  
3 the language and the whole -- the whole -- jargon of the  
4 agreement were written in a way that is favoring the Israeli  
5 version of seeing the issue.

6 Q. We've heard in this trial a lot of opposition of Hamas to  
7 the Oslo Accords. But was there opposition way beyond Hamas  
8 in terms of the Oslo Accords and the Palestinian -- among the  
9 Palestinian people?

10 A. Yes, of course. I mean, this is why I said, in my view,  
11 that the majority of the Palestinians -- I would even say  
12 maybe 60 to 40 -- oppose Oslo agreements. Hamas was one out  
13 of ten Palestinian organizations at that time opposed Oslo  
14 agreements vehemently.

15 And they said, "We have to have -- we are not -- we  
16 shouldn't be subjected to five years period test so that to be  
17 able to have a Palestinian state; and, the five major issues  
18 should be on the table on Day One. Without resolving these  
19 issues, we can't move any step forward; otherwise, we are  
20 losing our way."

21 Q. Was there any indication within that five-year trial  
22 period that some of these issues were not going to be resolved  
23 favorably to the Palestinians?

24 A. Well, in the very beginning, there were so many, I would  
25 say, gloomy indicators.



1           First of all, when it comes, say, to the issue of  
2 settlements, for example, settlements -- even during  
3 negotiating the agreement, Israel refused strongly even to  
4 freeze, let alone to stop officially, building more  
5 settlements.

6           So, you are negotiating one major issue -- that is,  
7 the settlements -- but, on the ground, you are on a daily  
8 basis increasing them. You are building settlements and  
9 bringing in new settlers. So, that wasn't really promising.

10           The issue of Jerusalem is the same case, basically.  
11 East Jerusalem over time was de-Arabized, if you know what I  
12 mean. I mean, the identity and the number of Arabs,  
13 Palestinians living in Jerusa- -- East Jerusalem -- were  
14 diminishing. And that is because the Israeli measures.

15           So, even during negotiating Oslo Accords, the Israeli  
16 policies against East Jerusalem against the identity of the  
17 city and the population of the city continued to be the same.

18           So, people were in Washington and Oslo negotiating  
19 the deal, but things in the East Bank and in the West Bank and  
20 the Gaza Strip were, basically, the same continuation of the  
21 Israeli policies. So, it wasn't really promising from the  
22 beginning. And this is why Hamas and others took a strong  
23 position right from the beginning.

24 Q. And I think you told us this morning that in about 1987,  
25 1988, there was about a hundred thousand settlers occupying

1 the land in the West Bank and Gaza, correct?

2 A. Correct.

3 Q. At the end of the five-year Oslo period -- which would  
4 have been '98 -- how many settlers were occupying the land?

5 A. Say, between -- between -- '94 and '99 -- that is the five  
6 years period -- interim testing period -- the number of  
7 settlers has doubled. Even more than doubled. I think the  
8 number of settlers now in the West Bank is some -- something  
9 around 230,000 settlers. And they started -- they started --  
10 say, in '94 with maybe 110 or something like that.

11 So, during the testing period, the other party --  
12 Israel -- has doubled the number and the size of settlements,  
13 which was, of course, aborting any potential Palestinian state  
14 in the formation.

15 Q. Well, in your opinion as an expert, was it Hamas that  
16 caused the Oslo Accords to fail?

17 A. Well, in my opinion, Oslo -- Oslo -- agreements were  
18 doomed to fail from the beginning because the structure of the  
19 agreement wasn't really made to be successful.

20 If you put any -- any -- group of people under un- --  
21 unachievable test, then you will judge -- you will judge --  
22 them after that test saying, "Well, you haven't -- you  
23 haven't -- done it really right, so you don't deserve the  
24 reward," if you made the test really impossible to be  
25 accomplished, then you can't blame them. You can't because

1 structurally, the agreements were designed in a way that  
2 wouldn't be really successful.

3           So, I don't think that Hamas or any other Palestinian  
4 organization could be blamed for the failure of Oslo  
5 agreements.

6 Q. Okay.

7           I'm going to ask you one last question: In your  
8 expert opinion, is Hamas a legitimate part of the Palestinian  
9 movement for land and peace?

10 A. Yes, it is.

11 Q. Is there any question in your mind that Hamas is not a  
12 legitimate movement?

13 A. There is no question in my mind at all, because otherwise  
14 you will have -- more than 60 percent of the Palestinians  
15 nowadays, you have to put them in a question because they  
16 voted for Hamas. So, if you proscribe Hamas, you are  
17 proscribing the majority of the Palestinians.

18           MR. DEUTSCH: Thank you.

19           THE COURT: Mr. Moffitt?

20           MR. MOFFITT: Yes, just briefly.

21           DIRECT EXAMINATION ON BEHALF OF DEFENDANT ASHQAR

22 BY MR. MOFFITT:

23 Q. Good afternoon, sir.

24 A. Good afternoon.

25 Q. My name is Bill Moffitt, and I represent Dr. Ashqar.

1           Let me ask you a question. In your expert opinion,  
2 is Hamas a reaction to the occupation of Palestine?

3 A. Absolutely.

4 Q. How many refugee camps are in the occupied territory?

5 A. I really don't know, I mean, the exact answer. But I  
6 would say we are -- we are -- talking about scores of them.

7 Q. And the occupied territories are territories that are  
8 supposed to be Palestinian territories; is that correct?

9 A. Yes, that's correct.

10 Q. And the Palestinian people, are they considered refugees  
11 in their own country?

12 A. Yes, they are.

13 Q. Are you familiar with that occurring anywhere else in the  
14 world?

15 A. Maybe in Afghanistan. I'm not sure.

16 Q. Okay.

17           Tell me, can you describe what the entrance to a  
18 refugee camp looks like?

19 A. What's that?

20 Q. What the entrance -- how you get into a refugee camp.

21 A. Well, it depends on -- on -- the refugee camp itself.  
22 Some of them are really difficult to enter. Some of them are  
23 placed under heavy security measures.

24 Q. Well, can you --

25 A. You have to --

1 Q. Can you describe for me the security measures, please?

2 A. Well, let me tell you about my refugee camp. That's  
3 Dheheisha Refugee Camp in Bethlehem. At one point, they built  
4 two -- well, multiple of walls surrounding the refugee camp,  
5 one of them wired -- electrified -- and another in certain  
6 parts with concrete. And you have very narrow entrance. And  
7 if you want to get in the camp -- which is one of the biggest  
8 refugee camps inside and outside Palestine, by the way -- you  
9 have to go through that very narrow gate.

10 You have a checkpoint, of course. You'll have so  
11 many Israeli soldiers. They will have -- search you. They --  
12 you have not only metal detector. You have -- they will  
13 search you by hand, by everything. They might ask you to go  
14 back and have a good sleep. And when you want -- sometimes  
15 even if you want to come back to the refugee camp, say, from  
16 the market or any other place, you might not be allowed to  
17 enter for unknown reasons.

18 So, it depends. This doesn't apply to every single  
19 refugee camp, I have to be -- to say. But some of them, they  
20 vary according to the level of security and what kind of  
21 perception within the Israeli security community is having  
22 about this or that refugee camp.

23 Q. You said the fences are electrified. Are they electrified  
24 to keep people in or keep people out?

25 A. Both.

1 MR. FERGUSON: I object to relevance.

2 THE COURT: Overruled. It can stand.

3 BY MR. MOFFITT:

4 Q. You discussed United Nations. Are you familiar with  
5 United Nations Resolutions 242 and 338?

6 A. Yes, of course.

7 Q. Would you tell us what they are?

8 A. These resolutions, they were issued by the Security  
9 Council collectively after the war in 1967, calling for Israel  
10 to withdraw from the territories that it occupied as a result  
11 of the war, including East Jerusalem and including some other  
12 land occupied from Arab countries, like the Golan Heights,  
13 Sinai and others.

14 The United States and the other four permanent  
15 members of the Security Council agreed on these resolutions.  
16 And the terminology was made in a way that -- that -- was  
17 clear that this is a military occupation and everything  
18 emanated from this occupation is illegal in the eye of  
19 international law and things should go back as they were  
20 before the war.

21 Q. Have the Israelis obeyed those UN resolutions?

22 A. No, they didn't.

23 Q. As we stand today, are there still refugee camps in  
24 Palestine?

25 A. Yes. There are many.

1 Q. All right.

2 Are they still enclosed with barbed wire?

3 A. Some of them are, yes.

4 Q. What's the sanitation like in the camps?

5 A. Well, simply horrible. In -- in -- some of the refugee  
6 camps, I think, under -- under -- whatever health conditions  
7 you might -- you might -- judge, these refugee camps are  
8 inappropriate for any human living. You would have open  
9 sanitary sewage maybe sometimes everywhere. You have huge  
10 ponds of -- of -- dirt and sewage.

11 So, specifically, this aspect of -- of -- Palestinian  
12 living in the refugee camp is horrible.

13 Q. You used the term in your testimony with Mr. Deutsch of  
14 "bantustans" to describe the situation in Palestine. What did  
15 you mean by that?

16 A. Yes, I did.

17 Bantustans is a system of segregating people that was  
18 used in South Africa, where you have the whites, then you have  
19 the black living separately and in complete segregation  
20 manner; when you have, say, roads for the white and roads for  
21 the black. You have certain means for the whites that are not  
22 given to the black.

23 And, of course, the bantustan system means you give  
24 the privileges and advantages to one group of the people --  
25 mostly the minority -- over the privileges and other

1 advantages of the majority.

2           And we are having this system nowadays in -- in -- in  
3 -- Palestine, unfortunately. And you have -- you have -- even  
4 in terms of geography, the bantustans are separated,  
5 segregated and surrounded by certain measures, roads,  
6 securities to keep their nature intact, so that there is no  
7 mingling, no changing in the status quo for a long period of  
8 time.

9 Q. What are the social services that are provided by Hamas?

10 A. Well, there are many. First of all, helping the poor  
11 families in these refugee camps. This comes as top priority  
12 for Hamas' social work.

13           They would provide schooling for many, many pupils in  
14 these camps and -- and -- beyond, in some cities and villages.  
15 They would have nurseries. They would provide healthcare  
16 clinics. They would even provide some kind of sport clubs so  
17 that -- to alleviate the conditions under which these  
18 Palestinians are living.

19           They would -- so, in all -- actually, all -- aspects  
20 of needs, I would say.

21 Q. What would happen if Hamas stopped providing those social  
22 services?

23 A. Well, simply, so many families -- we are talking about  
24 tens of thousands of Palestinian families -- would suffer  
25 immediately. These families have -- have -- been already



1 suffering despite the help provided by Hamas. So, if you even  
2 left this help, this means that you are raising the poverty  
3 line to include the majority of the Palestinians. You would  
4 have children thrown out of schools. You would have so  
5 many -- I don't know -- people who need healthcare deprived  
6 from this healthcare.

7           So, it would be disastrous in certain -- in many  
8 places in Palestine.

9 Q. Is the Palestinian view of Hamas a lot different from the  
10 American view of Hamas?

11 A. Is the Palestinians --

12 Q. View of Hamas --

13 A. Oh, yeah -- you mean the Palestinian people?

14           MR. FERGUSON: Objection. Relevance.

15           THE COURT: Sustained.

16 BY MR. MOFFITT:

17 Q. Education. Let me talk with you about higher education.

18           How often have the universities been closed by the  
19 Israelis?

20 A. So many often.

21 Q. What does that mean when I say "closed"? What does it  
22 mean to you when I say "the universities being closed"?

23 A. Well, if you have any -- any -- incidents in or around any  
24 university and an Israeli official -- Israeli officer,  
25 sorry -- would think that this security matter is something to

1 do with the university or a student of the university is --  
2 might have done or might have potentially been affiliated to  
3 any security consideration, this means the first measure is to  
4 shut down the university for a couple of days, maybe a week,  
5 or something.

6           And because of this, the unfortunate fact in  
7 Palestine is that if you need to finish your degree in three  
8 or four years, you might need to double that period of time  
9 because of the long period of closing down of these  
10 universities.

11 Q. What about the library facilities at universities in the  
12 occupied territories?

13 A. Well, as you would imagine, I mean, this is a very poor  
14 facility because the channels and connection with the outside  
15 world have been kept to the minimum. So, you wouldn't be  
16 having access to newly-published books, new facilities, new  
17 periodicals, and all of that.

18           So, the unfortunate -- it is very unfortunate,  
19 actually, to have the level of education in these universities  
20 either stagnated or sometimes even going down.

21 Q. Do the Israelis censor books at these universities?

22 A. Sometimes, yes, but not all of the times.

23 Q. All right.

24           Does Hamas provide books for the universities?

25 A. Not to my knowledge.

1 Q. Okay. All right.

2 Where are the universities located in the --

3 A. Well, in the Gaza Strip, there are two main universities.

4 In the West Bank, we have four or six universities.

5 And when we say "university," we have to put it

6 between two brackets because you shouldn't think of Yale

7 University or any American university. We are talking about

8 small colleges with few thousand students.

9 So, there is a univers- -- a Palestinian university

10 -- in Nablus. This is a city in the West Bank around

11 Jerusalem. There is another one in Bir Zeit, the biggest and

12 largest educational institution in the West Bank. In

13 Bethlehem there is a university.

14 So, I would say between maybe around six or -- more

15 or less.

16 Q. Okay.

17 MR. MOFFITT: I have no further questions.

18 THE COURT: Cross-examination.

19 Mr. Ferguson.

20 CROSS-EXAMINATION ON BEHALF OF THE PLAINTIFF

21 BY MR. FERGUSON:

22 Q. Mr. Hroub, all the things that you've been discussing

23 about conditions in the territories and the life of

24 Palestinians, is it your position that that constitutes a

25 legal justification for blowing up civilians on buses in

1 Israel?

2 A. I didn't say that.

3 Q. I'm asking you if that's your opinion.

4 A. No, I don't think so.

5 Q. You have indicated in your testimony that it is not Hamas'  
6 objective to eliminate Israel; is that right?

7 A. Yes, I did.

8 Q. And that Hamas' stated positions over time have become  
9 more moderate relative to the way it articulated -- or at  
10 least the charter articulated -- objectives and methodology;  
11 would that be fair?

12 A. More or less, yes.

13 Q. And that's particularly the case since Hamas has become a  
14 governing entity --

15 A. Not --

16 Q. -- in Gaza?

17 A. Not necessarily.

18 Q. Hasn't changed at all?

19 A. No. I mean, as I said, Hamas has got rhetorical line and  
20 a pragmatic line. And both of them, they have been with the  
21 movement right from the beginning up until now. Even when  
22 Hamas is in -- is in -- the government, you will have some  
23 rhetoric coming from some of the leaders and you will have  
24 political and the pragmatic statements coming from them, as  
25 well.

1 Q. So --

2 A. So, what I'm saying, you have two lines of thinking within  
3 Hamas from the beginning up until now.

4 Q. So, Hamas talks out of both sides of its mouth?

5 MR. DEUTSCH: Objection.

6 BY THE WITNESS:

7 A. No.

8 THE COURT: Sustained.

9 Rephrase it.

10 BY MR. FERGUSON:

11 Q. Hamas has two different paths of rhetoric that it  
12 simultaneously employs; is that what you're saying?

13 A. I said Hamas is similar to any political organization or  
14 party. They have mobilization discourse and rhetoric to amass  
15 people and rally supporters behind them. Then they have a  
16 pragmatic and political thinking when it comes to hard issues  
17 and negotiating with others.

18 Q. Would it change your view as to how Hamas articulates its  
19 position to know that in 2006, Mahmoud Zahar said to --

20 MR. DEUTSCH: Judge, I'm going to object to this  
21 because we've got an indictment that goes to 2004 and now he's  
22 going to talk about 2006.

23 MR. FERGUSON: Judge, they have -- they have -- taken  
24 everything right up to the present.

25 THE COURT: Objection overruled.

1 Finish your question.

2 BY MR. FERGUSON:

3 Q. Mahmoud Zahar stated that the goal of Hamas is to liberate  
4 Palestine -- all of Palestine -- and said, "I dream of hanging  
5 a huge map of the world on my wall at my Gaza home which does  
6 not show Israel on it."

7 Does that change your opinion as to how Hamas  
8 articulates its views and whether those views have moderated  
9 over time?

10 A. No, it doesn't because, as I said -- you said this is a  
11 dream. But the reality is that Mahmoud Zahar, himself, he  
12 sent Kofi Annan a letter a few months before this statement  
13 saying that, "We want two-state -- two-state -- solution."  
14 And this is documented in the UN archives and everywhere.

15 So, the same Mahmoud Zahar said so-and-so.

16 Q. You're absolutely right, sir.

17 And would it surprise you or change your opinion to  
18 know that Mahmoud Zahar's comments, that I just read to you,  
19 were in direct response as to whether or not that letter that  
20 was sent meant that Hamas adopted a two-state -- was adopting  
21 a two-state -- solution?

22 A. Yes. This is a statement for journalists; whereas, the  
23 letter was official document sent to the UN.

24 Q. Mahmoud Zahar denied that he was seeking a two-state  
25 solution in public statements; fair enough?

1 A. Well, I am telling you he sent an official document  
2 archived by the UN saying that, "We are for two-state  
3 solution."

4 Now, he made the -- a public statement for  
5 journalists saying that, "We have -- we have -- done  
6 so-and-so," or justifying, whatever. But for me, what matters  
7 is the official document.

8 Q. Even though he denied sending it and said it was a mistake  
9 that it was sent because it was drafted by somebody without  
10 his authority?

11 A. It confirms to me the rhetoric and the pragmatic nature of  
12 Hamas.

13 Q. It certainly does.

14 MR. DEUTSCH: Objection to comments like that.

15 THE COURT: Sustained.

16 BY MR. FERGUSON:

17 Q. You were asked to highlight or asked to focus on certain  
18 passages in what is in your Hamas book as Document No. 4,  
19 which is an April, 1994, document issued by the political  
20 bureau of Hamas --

21 A. Yeah.

22 Q. -- do you recall that?

23 After discussing its various views on the possibility  
24 of interim positions with the Israelis, didn't it conclude,  
25 "Hamas, as it clarifies its positions to refute the

1 allegations and utterances of the Prime Minister of the enemy,  
2 pledges to our people to continue on the road of holy  
3 struggle, jihad and martyrdom until Palestine -- all  
4 Palestine -- is liberated"?

5 That is how that public declaration ended; is that  
6 right?

7 A. Yes, that's right.

8 Q. And all of Palestine includes the land that right now is  
9 Israel; is that right?

10 A. That's right.

11 MR. DEUTSCH: Are we getting that document in now for  
12 the truth of the matter, or what?

13 THE COURT: No. I do not think that was --

14 MR. DEUTSCH: Before, Mr. Ferguson didn't want us to  
15 put that in because of the -- he fought that. Now --

16 THE COURT: Mr. Deutsch --

17 MR. DEUTSCH: Now is he saying it's true? I don't  
18 know --

19 THE COURT: Mr. Deutsch --

20 MR. DEUTSCH: Yes. Thank you, Judge.

21 THE COURT: Sustained, to the extent that was an  
22 objection.

23 It was used as a demonstrative in the same way that  
24 you used it.

25 Overruled.



1 BY MR. FERGUSON:

2 Q. You've offered, sir, numerous opinions about the purposes  
3 of various Israeli policies and procedures in the West Bank,  
4 including the purpose being to make life miserable for  
5 Palestinians so that they would leave?

6 A. Yes, I did.

7 Q. Do you recall that testimony?

8 A. Yes, I did.

9 Q. But you've never talked to a single Israeli government  
10 official, you told us; is that right?

11 A. Well, I studied the -- the -- annual book of Israeli  
12 statistics that shows the numbers of Palestinians who are  
13 leaving in the single year without coming back.

14 Q. Sir, I asked you a simple question: Have you spoken to  
15 any Israeli government officials in formulating your opinion  
16 as to what the purpose of their policies was?

17 A. Well, I think -- I think -- for me as a researcher, as an  
18 academic, the facts on the ground are speaking for themselves  
19 when it comes to the Israeli measures. There is no point --  
20 no point -- in asking an Israeli official if -- if the -- what  
21 kind of intention is behind placing the heavy security  
22 measures on my refugee camp that I see. And I wouldn't  
23 comprehend any reasoning behind having so many Palestinians in  
24 that refugee camp living the miserable life that they are  
25 leading at this very moment.

1 Q. So, the purpose as stated by the people formulating and  
2 implementing the policy doesn't matter to you in forming your  
3 opinion; is that what you're saying?

4 A. I didn't say that, but I said the facts on the ground,  
5 sometimes they speak volume. So that in a way, you didn't  
6 need to ask for explanation for these facts.

7 Q. Have you spoken to Israeli terrorism officials?

8 A. Terrorism officials?

9 Q. Counter-terrorism officials. Individuals responsible --

10 A. I didn't, but --

11 Q. -- for counteracting terrorist acts, to determine or to  
12 come to your opinion as to reasons why many of these security  
13 measures and policies -- and you've used the word "security"  
14 -- have been implemented over the years?

15 A. I didn't, but I -- I -- check on a regular basis the Web  
16 sites of the Foreign Ministry; the Interior Ministry; the  
17 counter-terrorism think tanks, the official ones and the  
18 non-official ones. So, I am fully aware of the just- -- of  
19 the Israeli justification behind their security measures.

20 Q. You've never spoken to anyone -- any Israeli official --

21 A. They would repeat --

22 Q. -- on the subject; "Yes" or "No"?

23 A. They would repeat what --

24 Q. "Yes" or "No," sir?

25 A. Well, I am telling you. They would repeat what they have

1 on their Web site. So --

2 Q. That's a "No"?

3 A. That's what I said.

4 Q. You said "No"?

5 A. I said they would repeat whatever they have on their Web  
6 site.

7 Q. I want an answer to the question.

8 Have you or have you not spoken to Israeli officials  
9 about their purposes in implementing some of these procedures  
10 and policies?

11 A. I answered you right from the beginning that I didn't --

12 MR. FERGUSON: Judge, I would ask that the witness be  
13 required to answer the question.

14 MR. DEUTSCH: He answered the question.

15 BY THE WITNESS:

16 A. I said -- I said -- to you "No."

17 THE COURT: I am sorry? You said?

18 THE WITNESS: I said "No," yeah, from the beginning.

19 But you kept -- you kept -- asking me the same  
20 question.

21 THE COURT: I think you have your answer now. Move  
22 on.

23 MR. FERGUSON: Thank you, Judge.

24 BY MR. FERGUSON:

25 Q. Aren't many of these security measures, that you've

1 discussed, efforts to limit the effects of terrorism by  
2 Palestinian radicals, including members of Hamas?

3 A. Well, they have enormous effect on the daily life of the  
4 Palestinians, and including -- including -- bringing their  
5 life down to -- to -- I would say, not back -- back -- in  
6 history, but at least bringing their lives under poverty level  
7 and all sorts of miserable rates that you can think of.

8 Q. Are you saying the measures have nothing to do with  
9 terrorism?

10 A. I said they have to -- they have -- they -- they deal with  
11 -- with -- with -- the Palestinian military actions. But, at  
12 the same time, if you compare their impact on the daily  
13 Palestinian life, this means they breed more and more military  
14 actions --

15 Q. I'm not asking you about the consequences.

16 You indicated that not every camp has the same level  
17 of security measures; isn't that correct?

18 A. Yes, I did.

19 Q. All right.

20 And isn't that because some camps are more seabeds  
21 for terrorists and terrorist activities than others?

22 A. No, not necessarily. Not necessarily. Because sometimes  
23 the Israeli measures, they would go harsh on this camp or that  
24 city without having any -- any -- military action coming from  
25 that camp. If you have popular uprising or any -- I mean, you

1 have so many definitions for security considerations within  
2 the Israeli community, and they would even consider this camp  
3 or this town a security hazard, quote-unquote, without having  
4 any military operation coming from that town --

5 Q. When you say "military operation," does that include  
6 terrorism?

7 A. Well, this is very problematic.

8 Q. I'm asking you what you use the term "military operations"  
9 with respect to Palestinians to mean. Does it include  
10 terrorism?

11 A. Well, this is -- this is -- simplification because you  
12 are -- if you have a military occu- -- a military operation  
13 against a military convoy or soldiers, what would you call  
14 this? If you have something against civilians, there is  
15 another terminology.

16 Q. Well, let's focus on civilians.

17 A. Uh-huh.

18 Q. An individual in a camp --

19 A. Yeah.

20 Q. -- leaves the camp, sneaks into Israel and blows himself  
21 up on a bus killing civilians. Is that a terrorist act?

22 A. It's -- I call it and I depict it in the same manner that  
23 the Israelis do the same thing for Palestinian civilians. If  
24 you call that terrorism, then this is terrorism.

25 Q. I'm asking you, is that terrorism?

1 A. Well, for me -- for me -- we have -- you can't -- you  
2 can't -- take one part of the picture. This is complete  
3 picture. We are deluding ourselves if we just take out one  
4 single action from this picture and try to analyze it. We  
5 have to bear in mind the context.

6 I call -- I call -- the same act undertaken by  
7 Israeli military against Palestinian civilians, I call it in  
8 the same manner and way the Palestinians would do against  
9 Israeli civilians.

10 Q. Sir --

11 A. If you call it --

12 Q. Sir, can you name me an instance where an Israeli citizen  
13 or military man strapped on a backpack bearing bombs, ball  
14 bearings and nails and went on a public conveyance in the  
15 occupied territories and blew himself up in the midst of  
16 civilians?

17 MR. MOFFITT: Objection.

18 BY MR. FERGUSON:

19 Q. Can you give me a single --

20 MR. MOFFITT: Objection.

21 BY MR. FERGUSON:

22 Q. -- instance of that?

23 MR. MOFFITT: Assumes facts not in evidence.

24 MR. FERGUSON: I asked him if there is such a thing.

25 THE COURT: Objection overruled.

1                   You can answer, if you can.

2 BY THE WITNESS:

3 A. Well --

4 BY MR. FERGUSON:

5 Q. "Yes" or "No"?

6 A. There is no "Yes"/"No." No, I mean, these are very  
7 difficult questions -- I mean, very difficult situations. You  
8 are ultimately simplifying the whole -- the whole -- issue.

9                   But what is the difference between this guy who blow  
10 up himself in a civilian bus or dropping a bomb in the middle  
11 of refugee camp in Gaza Strip killing more than 20 or 50  
12 Palestinian civilians? It is the same thing. I mean, the  
13 same result -- the same end result.

14                   If you talk about the means, if you talk about, well,  
15 this guy, maybe he did this because he doesn't have the  
16 technology, he doesn't have the airplanes to do the same  
17 sophisticated operation that is undertaken by the Israeli  
18 military, but --

19 Q. It sounds like you think it's okay, sir.

20 A. But -- no, it's not -- I'm not saying that. I am not  
21 saying that.

22                   MR. MOFFITT: Asked and answered.

23 BY THE WITNESS:

24 A. What I am saying --

25                   MR. MOFFITT: Asked and answered.

1 BY THE WITNESS:

2 A. -- is the end result --

3 THE COURT: He is still giving his answer to the same  
4 question. I am not going to interrupt --

5 BY THE WITNESS:

6 A. The end result is the same: Killing civilians.

7 BY MR. FERGUSON:

8 Q. The Palestinian Return Centre in London that you did not  
9 put on your resume, you worked there for a period of some  
10 months back in the middle 1990s; is that correct?

11 A. Yes, I did.

12 Q. And isn't one of the primary purposes of that organization  
13 to promote and advocate for the right of return of  
14 Palestinians in the lands that include Israel?

15 A. Yes, as -- as -- it was stipulated by the UN Resolution  
16 181.

17 Q. And you were the director of that organization while you  
18 worked there?

19 A. Yes. For a couple of months, yes.

20 Q. So, while you were working on your research that led to  
21 your published work on Hamas, you were engaged in active  
22 advocacy of the Palestinian cause; is that right?

23 A. Well, in some aspects, yes.

24 Q. And when I was with you briefly this morning, you  
25 acknowledged that you published at least one piece in a



1 publication called the Middle East Affairs Journal; is that  
2 correct?

3 A. Well, partly correct because it was -- it was -- in  
4 Arabic. They took it and they translated and they published  
5 it in their journal.

6 Q. So, it was -- your piece was published in the Middle East  
7 Affairs Journal; is that right?

8 A. Yes.

9 Q. And it was a monograph on Hamas; isn't that correct?

10 A. Correct.

11 Q. " Hamas Military Operations, Resistance of Terrorism?" was  
12 the title of your piece; is that right?

13 A. Correct.

14 Q. And you're, of course, aware that the Middle East Affairs  
15 Journal is published by an organization called United  
16 Association For Studies and Research -- or UASR -- in  
17 Virginia?

18 A. Yes, I am.

19 Q. And the head of that organization and the editor of the  
20 journal where your piece was published in the mid-1990s was  
21 Ahmed Yusif or Yusif Saleh; is that right?

22 A. Yes.

23 Q. Were you aware that UASR was started in Chicago?

24 A. Yes, I was, I think.

25 Q. Were you aware that one of the founders and funders of

1 UASR is Mousa Abu Marzook?

2 A. I wasn't, but I learn afterwards.

3 Q. And Mousa Abu Marzook is someone who you've personally met  
4 and spoke with in the context of your development --

5 A. Yes, I did.

6 Q. -- and your expertise; yes?

7 And you know him to be one of the longtime leaders of  
8 Hamas; is that right?

9 A. Yes.

10 Q. Were you aware that defendant Muhammad Salah worked at  
11 UASR?

12 A. No, I didn't.

13 Q. Were you aware that defendant Abdelhaleem Ashqar worked at  
14 UASR once it moved to Virginia?

15 A. No, I didn't.

16 Q. You're aware that Ahmed Yusif or Yusif Saleh left the  
17 United States a couple years ago and moved back to Gaza,  
18 aren't you?

19 A. Yes, I do.

20 Q. Because right now he is an adviser to Ismail Haniyeh;  
21 isn't that right?

22 A. Yes, I know.

23 Q. The Hamas leader inside of Gaza; isn't that correct?

24 A. No, he is the Prime Minister of Palestine.

25 Q. For the Hamas government, "Yes"?

- 1 A. Well, elected by the Palestinians.
- 2 Q. And before he was elected by the Palestinians, he was a  
3 longtime leader of Hamas; isn't that correct?
- 4 A. Which was supported by the Palestinians.
- 5 Q. "Yes" or "No"?
- 6 A. Yes. Yeah.
- 7 Q. And is there any reason why you didn't include that  
8 publication at UASR on Hamas, the very subject that you're  
9 testifying about here, on your resume which was provided in  
10 this case?
- 11 A. Because it was a chapter of my book and I included my  
12 book. So, it wouldn't be academically correct to double  
13 include the same piece in the same resume.
- 14 Q. You provided lots and lots of publications in your --
- 15 A. Nothing --
- 16 Q. -- CV and resume; didn't you, sir?
- 17 A. None in -- none of them is duplicated. So --
- 18 Q. Now, you indicated that you've provided some testimony as  
19 an expert in trials before; is that correct?
- 20 A. Yes, I did.
- 21 Q. Here in the United States?
- 22 A. In the UK.
- 23 Q. In the United Kingdom?
- 24 A. In the United Kingdom.
- 25 Q. Okay.

1                   How many times?

2     A.   Once.  Twice, sorry.

3     Q.   And was that with respect to Hamas?

4     A.   Yes, it was.

5     Q.   Did that include a trial in England in 2004?

6     A.   I think so, yeah.

7     Q.   And was that trial related to a suicide bombing operation  
8   carried out by two British citizens at a location in Tel Aviv,  
9   a nightclub called Mike's Place, next to the U.S. Embassy?

10    A.   Well, I don't know the location, but I know the trial,  
11   yes.

12    Q.   In that trial, those two men traveled from Britain --

13                   MR. DEUTSCH:  Judge --

14    BY MR. FERGUSON:

15    Q.   -- to Israel?

16                   MR. DEUTSCH:  -- objection to -- what the trial was  
17   about is not relevant.  It's what he testified to.  If he  
18   wants to ask him what he testified to, I think that's proper.  
19   But to try and bring in the facts of a case, it seems unfair.

20                   THE COURT:  Mr. Ferguson?

21                   MR. FERGUSON:  I think the facts of the case are the  
22   context for what he testified to.

23                   THE COURT:  It is cross-examination.  I will give you  
24   a little leeway.  But I agree with Mr. Deutsch, it is what he  
25   testified to that matters.

1                   Go ahead.

2 BY MR. FERGUSON:

3 Q. Three people died and 65 were wounded in that terrorism  
4 attack; isn't that true?

5 A. I am not sure of the number; but, yeah, some people have  
6 died, yeah.

7 Q. And Hamas took credit for that attack?

8 A. Yes.

9 Q. And you testified as an expert with respect to how long it  
10 would take for these men to be recruited and trained to  
11 conduct a suicide bombing operation; isn't that right?

12 A. No, not really.

13 Q. Didn't you opine in that case that those two men could  
14 have been recruited and trained for their mission during the  
15 short time that they were in Israel?

16 A. Yes, but that wasn't the crux of my expertise argument in  
17 that case. They wanted to know --

18 Q. But you --

19 A. But I have to clarify.

20                   They wanted to know if that was Hamas' policy to  
21 recruit people from outside Palestine to conduct operations of  
22 this kind in Palestine. So, my focus, my -- my -- focus -- of  
23 expertise was on that issue mainly.

24 Q. But you testified as an expert as to the other matter that  
25 I just mentioned: The amount of time it would have taken to

1 recruit and train these guys for this suicide operation?

2 A. Well, yes. They asked me in -- in -- in -- the court, as  
3 you are asking me, and I -- I -- made my view that, in my  
4 view, yes, it would have -- it would have -- taken them short  
5 time in -- in -- Gaza Strip to recruit these people and  
6 conduct the operation.

7 Q. Have you ever testified for victims of Hamas suicide  
8 bombings?

9 A. Sorry?

10 Q. Have you ever testified for Hamas -- victims of Hamas  
11 suicide bombings?

12 A. No, I haven't.

13 Q. Now, you would agree, Mr. Hroub, that throughout its  
14 history, controlled violence has been one of the major methods  
15 through which Hamas has pursued its objectives?

16 A. Well, it depends on the meaning of the term. What do you  
17 mean by "controlled violence"?

18 Q. Explain to us your meaning of "controlled violence."

19 A. Well, you said -- you asked me. Explain to me, what do  
20 you mean by your question?

21 Q. Hamas has sometimes lessened -- over its history, Hamas  
22 has sometimes lessened -- or lowered the amount and the  
23 intensity of certain, what I call "terrorism activities," you  
24 might call "military activities"; isn't that true?

25 A. Yes, to a certain extent, yes. They lower or increase.

1 Q. Right.

2 And they do that in order -- they do that as a  
3 reflection of certain circumstances that exist at a particular  
4 moment or period; is that right?

5 A. Including the Israeli measures at this period of time.

6 All that.

7 Q. And that's what I mean by "controlled violence." They  
8 control levels of violence --

9 A. Okay.

10 Q. -- in pursuing aspects of its overall objectives; is that  
11 right?

12 A. Well, yes. I mean, they say they are resisting military  
13 occupation. What you call violence is for them resisting  
14 military occupation. So, they think they have the right to  
15 resist this occupation at all times. Now, to increase or  
16 decrease the level of resistance goes in accord to certain  
17 circumstances, yes.

18 Q. And throughout its existence, Hamas has viewed -- both in  
19 its public rhetoric and its official statements, recognizing  
20 this dual track that you have mentioned, Hamas has viewed --  
21 and articulated Israel as an occupier; specifically, an entity  
22 engaged in the occupation of Palestinian lands. Is that  
23 right?

24 A. Well, this is the view of the United States.

25 Q. I'm asking -- I'm asking -- not the United States' view.

1 I'm asking Hamas' view.

2 A. Yes, this is Hamas' view.

3 Q. And occupation has a number of different levels to it in  
4 this context; isn't that right?

5 A. Yes.

6 Q. There's occupation of the West Bank and Gaza, correct?

7 A. Correct.

8 Q. And, then, Israel's very presence, its existence  
9 constitutes an occupation for Hamas; isn't that true?

10 A. Well, in the terminology of Hamas when they say, "We want  
11 to drive the occupation from our land, from the occupied  
12 land," what is clear is they talk about the West Bank and the  
13 Gaza Strip.

14 Q. Its historical objective includes removal of the  
15 occupation of the lands that constitute Israel itself, doesn't  
16 it?

17 A. Again, it depends -- it depends -- on what kind of  
18 discourse, what kind of circumstances and the statement, if it  
19 was directed or addressed to this party or that party.

20 Q. Haven't you written that there are two levels of objective  
21 or solution that Hamas pursues? An interim goal, correct?

22 A. Uh-huh, yes.

23 Q. And that is with respect to the West Bank and Gaza,  
24 correct?

25 A. Correct.



1 Q. And there is a historical goal, as well? A long-term  
2 goal?

3 A. (Nodding.)

4 Q. And that is removing Israel from the land that is Israel  
5 itself; isn't that correct?

6 A. Yes, in some -- in the charter, they have said so.

7 Q. And Hamas has never recognized the legal existence of  
8 Israel in any respect; isn't that true?

9 A. Directly, no.

10 Q. And its refusal to do so is part of why it has not  
11 participated in any peace process directed to a two-state  
12 solution as the final historical resolution of the  
13 Palestinian-Israeli conflict; isn't that true?

14 A. Not really because Hamas keeps asking, as well, what kind  
15 of borders that Israel does have that we are required to  
16 acknowledge and recognize. Israel as a -- as a -- legal state  
17 doesn't have declared final borders.

18 So, Hamas' official line, even up until now, is  
19 saying that, "Let us know what kind of borders that Israel is  
20 having. Are they the 1967 borders? Is this before the war?  
21 If Israel withdraw before the war -- the war -- then we can  
22 talk. Until now, Israel doesn't have official boundaries."

23 Q. Peace negotiations for a final solution with Israel that  
24 involves the existence of a two-state solution have been  
25 opposed throughout -- by Hamas throughout -- its history;

1 isn't that right?

2 A. It's not really right. Opposed -- they opposed Oslo, yes.

3 Q. Can you give me an example of an instance where Hamas has  
4 proposed a final resolution of the Israeli-Palestinian  
5 conflict that involves the existence of the State of Israel on  
6 any inch of land that is part of historical Palestine?

7 A. Yes. I mean, if you read my book, back in 1988, Mahmoud  
8 Zahar, whom you have quoted, he said -- he said -- "Yes, this  
9 is the final -- this is the -- this is the -- solution that we  
10 offer Israel."

11 Q. That's an example, sir, wasn't it, of an interim solution?  
12 Israel would withdraw from the territories -- West Bank  
13 and Gaza -- correct?

14 A. Yes.

15 Q. It would allow the Palestinians to govern themselves in  
16 the West Bank and Gaza, correct?

17 A. Correct.

18 Q. And are you saying that that solution involved Hamas  
19 completely giving up the notion of Israel being removed from  
20 the remainder of Palestine?

21 MR. MOFFITT: I object. The word "completely" was  
22 not in the original question.

23 MR. FERGUSON: He can answer the question, Judge.

24 THE COURT: You can answer.

25 BY THE WITNESS:

1 A. Well, I didn't exactly say so. What I said, they offered  
2 this interim solution -- which is two-state solution --  
3 followed by long-term hudna -- long -- long-term truce -- in  
4 which a new atmosphere will emerge between the two people and  
5 upon which they can create final and sustainable solution.

6 BY MR. FERGUSON:

7 Q. You said it's an interim solution, correct?

8 A. Yes.

9 Q. Okay.

10 You discussed in your testimony that from 1967 to  
11 1987, Israel occupied the West Bank and Gaza; is that right?

12 A. Yes.

13 Q. From 1948 to 1967, was Israel in control of the West Bank  
14 or Gaza?

15 A. No.

16 Q. The Israeli government or military didn't occupy those  
17 lands; is that right?

18 A. That's right.

19 Q. The Palestinians didn't have a government -- or they  
20 didn't govern themselves -- in the West Bank or Gaza from 1948  
21 to 1967, when Israel wasn't there; isn't that correct?

22 A. At the time, they sought unification with Jordan.

23 Q. The Palestinians didn't have self-rule in the territories  
24 even when Israel wasn't occupying them; isn't that true?

25 A. That's true.

1 Q. In fact, the Palestinians in the Gaza Strip were -- I  
2 think, in your words in your books -- under Egypt's total  
3 control; isn't that right?

4 A. More or less.

5 Q. Egypt's an Arab country?

6 A. Yes.

7 Q. And, in 1978, Egypt entered into a formal peace agreement  
8 with Israel recognizing the existence -- the legal existence  
9 -- of the State of Israel --

10 MR. MOFFITT: Objection.

11 BY MR. FERGUSON:

12 Q. -- is that correct?

13 THE COURT: I did not hear you, Mr. Moffitt.

14 MR. MOFFITT: Objection. Relevancy as to what Egypt  
15 may have done.

16 MR. DEUTSCH: And I agree.

17 THE COURT: Sustained.

18 BY MR. FERGUSON:

19 Q. You only used the term "occupied" with respect to the Jews  
20 in Israel over West Bank and Gaza, not with respect to Egypt  
21 or Jordan; isn't that true?

22 MR. MOFFITT: Objection. Again, the same -- this is  
23 typical --

24 MR. FERGUSON: Judge --

25 MR. MOFFITT: -- of the same question.

1 MR. FERGUSON: -- this is --

2 MR. DEUTSCH: Nobody used the word "Jews in Israel."  
3 He used the word "Israelis."

4 MR. FERGUSON: Fine. Israelis.

5 MR. MOFFITT: I still object.

6 THE COURT: Okay, but what about the Egypt issue?

7 MR. FERGUSON: Under the very same circumstances --  
8 no government and an outside entity controlling all affairs of  
9 these territories -- this witness doesn't use the term  
10 "occupation."

11 BY THE WITNESS:

12 A. Maybe I can --

13 MR. FERGUSON: I think it shows bias, Judge.

14 THE COURT: Wait.

15 MR. MOFFITT: I --

16 THE COURT: There is an objection.

17 MR. MOFFITT: I object. The United Nations has said  
18 that this was an occupation. There was a United States --  
19 United Nations -- resolution with regard to the Israeli  
20 occupation. There was no United Nations resolution on it.  
21 He's using a term that -- a term of art that -- has been used  
22 in international law circles.

23 MR. FERGUSON: That's the witness' term, Judge.

24 MR. MOFFITT: It's not the witness' term.

25 THE COURT: What is the relevance of this?

1 MR. FERGUSON: Bias, Judge.

2 THE COURT: Overruled.

3 You may answer.

4 BY THE WITNESS:

5 A. Well, number one --

6 BY MR. FERGUSON:

7 Q. "Yes" or "No," sir, you don't -- you have not used the  
8 term "occupied" with reference to Egypt's and Jordan's control  
9 over the West Bank and Gaza; isn't that correct?

10 A. Because we didn't talk about that.

11 Q. Isn't that correct?

12 A. We didn't -- no, no, this is different. This is  
13 different.

14 First of all, the Palestinians voluntarily get into  
15 unity with Jordan. So, that wasn't occupation.

16 Number two, even it was occupation, does this give  
17 legitimacy to the Israel occupation? So, if I occupy -- if  
18 number X occupies the Palestinians, so number Y has the  
19 legitimacy to occupy the Palestinians?

20 Q. You don't use the term "occupied" for that, correct?

21 A. What I said, even if it was occupation --

22 Q. Sir, "Yes" or "No"?

23 A. Even if it was occupation --

24 Q. "Yes" or "No"?

25 A. No.

1 Q. Hamas itself was founded in December of 1987; is that  
2 correct?

3 A. Correct.

4 Q. And it grew out of the Muslim Brotherhood?

5 A. Correct.

6 Q. In fact, the founding members of Hamas were the leaders of  
7 the Muslim Brotherhood in Gaza; isn't that true?

8 A. True.

9 Q. Sheikh Ahmed Yasin, the founding father of Hamas?

10 A. True.

11 Q. He was its spiritual leader until the time of his death in  
12 2004?

13 A. Yes, more or less.

14 MR. DEUTSCH: His assassination.

15 MR. FERGUSON: Judge --

16 THE COURT: Mr. Deutsch --

17 MR. DEUTSCH: Sorry.

18 THE COURT: -- please keep your comments to yourself.

19 BY MR. FERGUSON:

20 Q. And Sheikh Ahmed Yasin had been the head of the political  
21 bureau of the Muslim Brotherhood in the 1980s up to the time  
22 that Hamas was founded; isn't that true?

23 A. There wasn't anything called political bureau of the  
24 Muslim Brotherhood, but he was -- yes, he was -- the leader of  
25 the Muslim Brotherhood.

1 Q. Sir, in your book, " Hamas, Political Thought and  
2 Practice," do you recall writing, " Sheikh Ahmed Yasin, who  
3 is -- "

4 MS. THOMPSON: Page, counsel?

5 MR. FERGUSON: Sorry. Page 35.

6 BY MR. FERGUSON:

7 Q. " Sheikh Yasin, who was the head of the Brotherhood's  
8 political bureau in the Gaza Strip for a long time, became the  
9 founding father and spiritual leader of Hamas."

10 Is that what you wrote based on your scholarly  
11 research?

12 A. Yes, I did.

13 Q. Salah Shahadah was also one of the founders of Hamas in  
14 December of 1987; isn't that true?

15 A. True.

16 Q. Salah Shahadah was also a member of the Muslim Brotherhood  
17 political bureau under Sheikh Yasin; isn't that correct?

18 A. True.

19 Q. He was also the Director of Student Affairs at Islamic  
20 University in Gaza in the mid-1980s; isn't that true?

21 A. I can't actually remember. I mean, if I've written this  
22 in my book, it should be true. I mean, that was in the year  
23 2000. I can't remember the names and the titles.

24 Q. The Islamic University of Gaza was founded by Muslim  
25 Brotherhood members as an institution of higher education that



1 would teach in accordance with Islamic precepts; isn't that  
2 true?

3 A. Not in all disciplines. It depends.

4 Q. But in most?

5 A. Well, religion, Sharia law. But when it comes to  
6 mathematics and physics or civil engineering, it's no. So, it  
7 depends on the subject.

8 Q. You testified that the Muslim Brotherhood, during the  
9 period that preceded the establishment of Hamas in December of  
10 1987, wasn't involved in and steered clear of military  
11 activities.

12 Do you recall that testimony?

13 A. Their overarching policy and strategy was that, yes.

14 Q. Well, are you saying that it was involved in military  
15 activities?

16 A. No. What I'm saying is that is their policy. And there  
17 might be this incident or that incident militarily, but that  
18 that -- that -- doesn't contradict -- or, I mean, it doesn't  
19 deviate -- with the strategy. You have a strategy or policy.  
20 Sometimes you have exceptions.

21 Q. Isn't it true that while Sheikh Yasin was heading the  
22 political bureau of the Muslim Brotherhood in the period  
23 immediately preceding Hamas, that he was also involved in  
24 secret military activities?

25 A. To a certain extent, yes.

1 Q. Sheikh Yasin and some of his Brotherhood colleagues  
2 actually were arrested and convicted in the mid-'80s on  
3 charges of possessing arms and planning military operations;  
4 isn't that correct?

5 A. Correct.

6 Q. And that was part of what you've characterized as a small  
7 and secret military apparatus to acquire a cache of arms and  
8 prepare for military action by the Brotherhood; isn't that  
9 right?

10 A. Correct.

11 Q. And isn't it also true, based on your prior research and  
12 studies, that top leaders of the Brotherhood, from 1984 to  
13 '87, led by Sheikh Ahmed Yasin embraced the principle of armed  
14 resistance? Isn't that true?

15 A. They were leading themselves or heading towards that. I  
16 mean, in those years, prior to the intifada -- we are talking  
17 about '84, '85, '86 to '87 -- they were, in certain ways,  
18 preparing themselves to the change of policy within the  
19 movement.

20 Q. I'm not sure if you're agreeing or disagreeing with the  
21 proposition.

22 Haven't you written the top leaders in that 1984-to-  
23 1987 period, top leaders led by Sheikh Ahmed Yasin embraced  
24 the principle of armed resistance?

25 A. Well, as I said, I mean, I said -- I said -- they were

1 preparing themselves for the military confrontation with the  
2 Israeli occupation, yes, between the '84 and -- and -- '87.

3 Q. Is that a "Yes"?

4 A. Because when you say "embrace" --

5 Q. Sir, let me --

6 A. -- as if -- as if --

7 Q. Let me --

8 A. -- they are doing actions --

9 Q. Let me show you --

10 A. Yeah.

11 Well, I know what I wrote.

12 Q. -- the passage in your book.

13 THE COURT: What page?

14 MR. FERGUSON: That's Page 34.

15 BY MR. FERGUSON:

16 Q. Starting right here (indicating).

17 (Document tendered.)

18 BY MR. FERGUSON:

19 Q. You've written, sir --

20 A. Well, I'm --

21 Q. -- "Top leaders -- "

22 A. Yes.

23 Q. " -- led by Sheikh Yasin -- "

24 A. This is what I said.

25 Q. " -- embrace -- " your words, "embrace" " -- the principle

1 of armed resistance."

2           Those are your words in your book based on your  
3 research; "Yes" or "No"?

4 A. This is not a discovery. What I said is a --

5 Q. Sir, are those the words that you wrote in that book?

6 A. Yes, they are my words. Yeah.

7 Q. Thank you.

8 A. Let me -- let me -- tell --

9 Q. Thank you, sir.

10 A. This is the building --

11 Q. Thank you, sir.

12 A. -- of a new --

13           MR. DEUTSCH: Judge, can he explain his answer?

14           THE COURT: You can redirect him on that. I think he  
15 was reading additional, not explaining.

16 BY MR. FERGUSON:

17 Q. And you've characterized, haven't you, based on your  
18 research on Hamas, that the activities that resulted in Sheikh  
19 Yasin's arrest and conviction in the middle 1980s was that  
20 group's "first operational military attempt"; isn't that  
21 right?

22 A. That's right.

23 Q. And it's also the case that those activities involving  
24 Sheikh Yasin had the distinction of being an operation under  
25 the personal direction of the top echelon of the Brotherhood,

1 not a mere adventure mounted by secondary or marginal groups;  
2 isn't that right?

3 A. Right.

4 Q. I want to direct your attention back to Salah Shahadah.

5 He, also, was involved in military activities while  
6 he was a member of the political bureau of the Muslim  
7 Brotherhood under Sheikh Yasin in those middle 1980 years  
8 right up to the founding of Hamas; isn't that correct?

9 A. Correct.

10 Q. He, too, was arrested and jailed in connection with those  
11 activities in the middle 1980s; isn't that right?

12 A. Right.

13 Q. And after he was released for those military activities is  
14 when he went to work as the student director at Islamic  
15 University of Gaza; isn't that right?

16 A. I can't recall, but maybe.

17 Q. And at the same time he was part of the political branch  
18 of the Muslim Brotherhood under Sheikh Yasin just prior to the  
19 founding of Hamas, and while he was Director of Student  
20 Affairs at Islamic University in Gaza, he also was the  
21 organizer of a secret military cell called Group No. 44; isn't  
22 that correct?

23 A. I can't really recall. I mean, if it's in my book, then  
24 that's -- yes.

25 Q. Now, you take my word for it, that your book says --

1 A. I take your word for it, but --

2 Q. -- "Group No. 44 organized by Sheikh Salah -- "

3 MR. MOFFITT: What page?

4 BY MR. FERGUSON:

5 Q. " -- by Salah Shahadah -- "

6 MR. FERGUSON: On Page 30- --

7 MR. MOFFITT: What page, sir?

8 MR. FERGUSON: I'm sorry, sir. Page 35.

9 BY MR. FERGUSON:

10 Q. " -- organized by Salah Shahadah in 1986"?

11 A. Then that's fine, yeah. I can't memorize every single  
12 sentence in there.

13 Q. And it's the case that Group No. 44, and other military  
14 cells organized by the Muslim Brotherhood at that time, was  
15 involved in operations such as planting explosives, firing on  
16 Israeli patrols and liquidating Israeli agents; isn't that  
17 right?

18 A. If it's written, then that's correct.

19 Q. Would you like to see it?

20 A. No, no, I take your word for it.

21 Q. And from all of that and other literature that you  
22 researched, did you come to the assessment that it all  
23 indicated that in the second half of the '80s, the Brotherhood  
24 had acquired the organizational capacity and sufficient  
25 following to engage in jihad?

1 A. Yes.

2 Q. Now, there are various accounts of, for lack of a better  
3 word, what the precipitating event or flash point for the  
4 intifada was; is that correct?

5 A. Okay.

6 Q. But, at bottom, it involved the killing of an Israeli  
7 settler in a Gaza public square area, which Israel responded  
8 to with stepped-up military presence; isn't that right?

9 A. Well, the chronology is maybe disputed because -- but  
10 anyway, I mean, that's the -- that's the -- that's the --  
11 atmosphere that led to the intifada.

12 Q. Okay.

13 And that quick sequence of events led to street  
14 demonstrations that spread across Gaza and, then, over to the  
15 West Bank; is that right?

16 A. Yes.

17 Q. And within a day or so of that outbreak, the Muslim  
18 Brotherhood political bureau -- that included Sheikh Yasin and  
19 Salah Shahadah -- met, and it was from that meeting that the  
20 Muslim Brotherhood members established Hamas; is that right?

21 A. Right.

22 Q. And present at that meeting was also Abdel Aziz  
23 Al-Rantisi; is that right?

24 A. Correct.

25 Q. Now, as a general policy matter, you testified, again,

1 that the Muslim Brotherhood was not engaged or to be engaged  
2 in military activities immediately preceding the outbreak of  
3 the intifada; isn't that right?

4 A. Right.

5 Q. But isn't it also the case -- isn't it actually the  
6 case -- that there were numerous components of what would be  
7 the basic branches of Hamas that were already in existence  
8 prior to the outbreak of the intifada, that carried into the  
9 new organization?

10 A. Only in the social side because we are talking about a  
11 history that starts from 1946 to 1984 when the preparation of  
12 military confrontation is started.

13 Q. Only the social side, though; is that --

14 A. The social side --

15 Q. -- your testimony?

16 A. -- yes, was widely spread.

17 Q. Well, is the security apparatus part of the social side?

18 A. No, it is not.

19 Q. Well, haven't you written that the security apparatus  
20 known as the Majd -- or "glory" in English -- that functioned  
21 in Hamas' early history as the security apparatus for Hamas,  
22 predated Hamas and was part of the Brotherhood and the  
23 security apparatus of the Brotherhood dating back to 1983?

24 A. The security apparatus has to do with collaborators with  
25 the Israeli military. So, they have to -- to -- know them.



1 They have to be aware of them.

2 So, yes, the security apparatus might not have direct  
3 relationship with the social work, of course; but, from  
4 organizational perspective, they thought that they have to be  
5 careful and aware and vigilant of the Israeli agents in the  
6 Gaza Strip and the West Bank.

7 Q. So, there were elements of Hamas more than the social  
8 branch that existed in a precursor form in the Brotherhood,  
9 right?

10 A. If we are talking about the mid-'80s, yes. '85.

11 THE COURT: Mr. Ferguson, let us take our afternoon  
12 break.

13 MR. FERGUSON: Thank you, Judge.

14 THE COURT: We will pick up at 3:15.

15 (Jury out.)

16 MR. DEUTSCH: Judge, there's a lot of room outside --  
17 people outside -- and they're reserving the whole front row  
18 for reporters and we don't have any reporters. Can we let the  
19 people sit in the front row?

20 Oh, they all went up to the other. Sorry.

21 THE COURT: Okay.

22 Is there anybody else in the hall, Jim?

23 SENIOR INSPECTOR SMITH: No.

24 THE COURT: All right.

25 Bring in the jury, please.

1 (Jury in.)

2 THE COURT: You may be seated.

3 Mr. Ferguson, you may continue.

4 MR. FERGUSON: Thank you, Judge.

5 BY MR. FERGUSON:

6 Q. Mr. Hroub, just before we broke, you had testified that it  
7 was really the social branch of the Brotherhood that carried  
8 on into Hamas. And, then, we discussed the fact that the  
9 security apparatus from the Brotherhood carried forward into  
10 the Hamas elements.

11 In your answer, sir, you used the term  
12 "collaborators," and the security apparatus identifying  
13 collaborators.

14 What are collaborators?

15 A. A collaborator, he is a Palestinian -- he or she is a  
16 Palestinian -- who would do service to the Israeli military in  
17 different aspects. Basically, servicing the Israeli military  
18 establishment against the Palestinian community.

19 Q. And this security apparatus, the Majd, they try to  
20 identify -- they tried to identify -- these collaborators?

21 A. Yes. To know them, to be vigilant of them, and to know  
22 their functioning.

23 Q. In discussing the activities of the secret military cells  
24 of the Brotherhood in the mid-1980s up to the founding of  
25 Hamas, you characterize their operations -- and we spoke of it

1 a little earlier -- as including liquidating Israeli agents.

2 Is that a reference to collaborators?

3 A. In certain aspects, yes.

4 Q. And, so, these Muslim Brotherhood units would seek to kill  
5 collaborators?

6 A. That's in -- in -- the documents. However, in practice,  
7 they seldom implemented this policy.

8 Q. But you wrote that their operations included liquidating  
9 --

10 A. Yeah --

11 Q. -- Israeli agents?

12 A. -- because -- according to their documents, yeah.

13 Q. Okay.

14 So, beyond the social branch, there is this security  
15 apparatus that -- you would agree that's not part of the  
16 social branch or organization, correct?

17 A. Yeah, more or less.

18 Q. All right.

19 But there are also other component branches of Hamas  
20 that predated the actual establishment of Hamas on December,  
21 1987; and, that included the military apparatus, too, didn't  
22 it?

23 A. Yeah. I mean, as I said, it was internal transformation.  
24 You have the Muslim Brotherhood, widespread movement. This  
25 movement transformed itself into Hamas. So, whatever has been

1 there before the establishment of Hamas was carried over in  
2 the face of Hamas. So, yes.

3 Q. But it wasn't just the social branch, correct? It  
4 included the security branch and --

5 A. Yes.

6 Q. -- the military apparatus?

7 A. Yes. Yes.

8 Q. And the military apparatus that was in the Brotherhood and  
9 that carried over, your work drew you to the conclusion that  
10 their activities included targeting collaborators, gathering  
11 intelligence, and creating an infrastructure of arms storage  
12 for future years; is that right?

13 A. Right.

14 Q. And that included specifically an entity called the  
15 Palestine Mujahideen; is that right?

16 A. Right.

17 Q. And there were actual operations that had been attributed  
18 to the Palestine Mujahideen when it was under the Brotherhood  
19 before the formation of Hamas; is that right?

20 A. Right.

21 Q. And Salah Shahadah was one of the founders and directors  
22 of this unit; is that right?

23 A. I think so. I mean, if it's in the book, yeah. Yeah.

24 Q. Okay.

25 And the Palestine Mujahideen -- that was in the

1 Brotherhood and carried into Hamas after its establishment --  
2 was the organization that had cells that carried out the  
3 kidnappings and murders of Avi Sasportas and Ilan Sa'doan in  
4 1989; isn't that right?

5 A. I don't know about if they were the same cells; but, yes,  
6 they were kidnapped by Hamas.

7 Q. And Sheikh Yasin was arrested and convicted for conspiracy  
8 in connection with those two operations, right?

9 MR. MOFFITT: Objection. Relevance.

10 MR. FERGUSON: There has been a characterization by  
11 the defense that Hamas was engaged simply in social activities  
12 and the defendants --

13 THE COURT: Objection overruled.

14 MR. FERGUSON: -- were not on notice.

15 THE COURT: Overruled.

16 BY MR. FERGUSON:

17 Q. Sheikh Yasin was arrested in a conspiracy in connection  
18 with the kidnappings and murders of Sasportas and Sa'doan,  
19 correct?

20 A. Correct.

21 Q. And months after the founding of Hamas in 1987, in 1988  
22 Salah Shahadah -- who was involved in all of these military  
23 activities while in the political branch of Hamas and while  
24 being a founding father of Hamas -- was, again, arrested for  
25 carrying on military activities; is that right?

1 A. Correct.

2 Q. And from prison, he became a founder and the first  
3 mastermind for the Iz Al-Din Al-Qassam Brigades, which was the  
4 formal military wing of Hamas established around 1990; is that  
5 right?

6 A. Maybe a bit later than that.

7 Q. And, so, in addition to the social branch and the military  
8 apparatus and the security apparatus, Hamas was also formed by  
9 members of the political branch of the Muslim Brotherhood in  
10 Gaza, right?

11 A. Right. This --

12 Q. And, so, the political branch itself from the Brotherhood  
13 carried forward into the political branch of Hamas?

14 A. Yes.

15 Q. And these different spheres or streams or branches of  
16 activity of the Brotherhood, committees of the Brotherhood,  
17 pretty much mirrored how Hamas set itself up after its  
18 establishment; isn't that right?

19 A. It's difficult to say "Yes," because when they transformed  
20 themselves into Hamas, they have -- they have -- restructured  
21 themselves in -- in -- ways that were convenient to the new  
22 stage. So, during their Muslim Brotherhood phase, things were  
23 peaceful more or less, say; but, when they became Hamas, the  
24 confrontational, say, methodology or methods have been  
25 adopted. Consequently, they have changed some of their

1 internal structuring.

2 Q. Tracking collaborators and liquidating them, that was  
3 peaceful?

4 A. Well, I said -- I mean, more or less the main policy, if  
5 you go back to their -- in the '60s, '70s, early '80s, all  
6 these things, they haven't been there. So, the policy -- yes,  
7 the policy -- was peaceful. There has been some -- some, I  
8 would say -- exception to this policy. But this doesn't  
9 affect the overarching attitude of the Muslim Brotherhood  
10 during those years.

11 Q. Planting explosives and firing on Israeli patrols, that  
12 was peaceful?

13 A. Well, I will repeat the same thing. These incidents took  
14 place in '84, '85; but, prior to that, back to 1946 -- you  
15 have more than 40 years -- yes, it was peaceful.

16 Q. Now, you indicated on direct, in direct testimony, that  
17 the Hamas charter is, comparatively speaking, an irrelevant  
18 document for the organization for much of its history; is that  
19 right?

20 A. Yes, I did.

21 Q. And the charter indicates that jihad is one of the methods  
22 through which Hamas would pursue its objectives, correct?

23 A. Correct.

24 Q. And the jihad is designed to prevent the infidels from  
25 ruling over the land of Islam. And that's from the charter;

1 is that right?

2 A. I think so, yes.

3 Q. And death, dying in the service of jihad, would qualify an  
4 individual as a martyr; isn't that correct?

5 A. Yes, as in the charter.

6 Q. As in the charter.

7 And it's your position that since Hamas took control  
8 of the Palestinian Authority after the elections in 2006, it  
9 hasn't expressed a single word of the old rhetoric of the  
10 charter or issued any ill-considered slogans; is that right?

11 A. More or less, apart from some statements you can pick for  
12 this -- pick on this leader or that leader.

13 Q. But that's what you wrote in your "Hamas -- "

14 A. Uh-huh.

15 Q. " -- A Beginner's Guide."

16 You would regard Ismail Haniyeh as a Hamas leader,  
17 correct?

18 A. Correct.

19 Q. And you're aware that in recent weeks, he returned from an  
20 international trip to places like Iran to raise funds?

21 MR. DEUTSCH: Judge, objection. I think that is  
22 intentionally prejudicial. It does not involve the charters  
23 in this case. The indictment ends at the time these people  
24 were charged in 2004. Now he's interjecting fundraising in  
25 Iran.



1 THE COURT: Sustained.

2 Let us -- it is the end of 2006.

3 BY MR. FERGUSON:

4 Q. And would it change your view, sir, as to whether Hamas  
5 has not expressed a single word of the old rhetoric of the  
6 charter or issued any ill-considered slogans to know that just  
7 this last Friday, as published in video and audio and print  
8 media around the world, Mr. Haniyeh stated, "We have joined  
9 this movement to become martyrs and not ministers"?

10 Does that change your view at all about the  
11 utilization of terms of the charter or ill-considered slogans  
12 by Hamas leaders?

13 A. It doesn't. It confirmed my view that in certain places  
14 when they want fundraising, when they want mobilization, they  
15 would gear up the rhetoric. In certain other places, when  
16 they need to be more pragmatic and political, they will adopt  
17 political stance.

18 Q. But, sir, your words were, "Hamas hasn't expressed a  
19 single word." Isn't that an expression of the sentiment  
20 utilizing specific language that comes from the charter?

21 A. In -- in -- my discussion in the book, the context was  
22 discussing the new documents of Hamas. I mentioned that in  
23 the new documents of Hamas, the electoral platform, the -- the  
24 -- the -- cabinet program, when they won the elections, the  
25 government should present a program to the Parliament.

1           When they presented this program, when they presented  
2 a national unity government program for other Palestinian  
3 organizations, not a single word of the charter was included  
4 in these three documents.

5           So, yes, in -- in -- the new formation prior and  
6 around the government, Hamas adopted the pragmatic political  
7 language so that to include others within the government.

8 Q.   Would it surprise you that there's no mention of new  
9 documents in reference to that passage?

10           MR. MOFFITT:   Could we have a --

11 BY THE WITNESS:

12 A.   Well, see the tab -- the white tab.

13 BY MR. FERGUSON:

14 Q.   Page 39.

15 A.   Well, see the white tab.  I mean, this is my book.

16           (Document tendered.)

17           (Brief pause.)

18 BY THE WITNESS:

19 A.   There is whole chapter about the new documents of Hamas.

20 BY MR. FERGUSON:

21 Q.   There is a chapter, but that phrase isn't used in that  
22 chapter, is it?

23           There's nothing about new documents in relationship  
24 to what we have -- what -- that passage we have just been  
25 speaking about.  Not a word?

1 A. Well, you can move on a few pages after.

2 Q. And when Mahmoud Zahar said, on the day that Palestinian  
3 elections were held and Hamas won its first electoral victory,  
4 that the movement would not change a single word in its  
5 charter, that's not a single word of the old rhetoric of the  
6 charter or issuance of any ill-considered slogans?

7 A. Well, still, I told you, I mean, they would use so many  
8 statements in rallying. They are celebrating the elections.  
9 Everybody's surrounding them -- their supporters, the millions  
10 of people, you know, inside and outside Palestine -- saying  
11 Hamas has won the elections.

12 The first speech, they would say -- naturally and  
13 common sense, they would say -- we will stay the same movement  
14 before and after the elections. So, for me, it's complete  
15 rhetoric.

16 Q. Are you saying that none of the provisions of the charter  
17 have any relevance today or that the charter in its entirety  
18 stopped being relevant for the organization --

19 A. Well, I --

20 Q. -- throughout its history?

21 A. I didn't say that. I said the charter as it is, as a  
22 document, from A to Z is now very insignificant in Hamas'  
23 literature. They have produced -- over the many years, they  
24 have produced -- so many documents, so many literature, for me  
25 it's more significant and more in functioning in the daily

1 political life of the movement.

2 Q. Article 8 of the charter -- sir, I'm going to give you  
3 your book that contains the charter, correct, in the appendix?

4 A. (Nodding.)

5 (Document tendered.)

6 BY MR. FERGUSON:

7 Q. And is this your translation of the charter?

8 A. Yes.

9 Q. Article 8 is the slogan of the organization Hamas; is that  
10 right?

11 A. Yes.

12 Q. The slogan is, "God is its goal, the messenger is its  
13 leader, the Koran is its constitution, jihad is its  
14 methodology, and death for the sake of God is its most coveted  
15 desire."

16 "God" here is Allah; is that correct?

17 A. Correct.

18 Q. "And the messenger is its leader." That's the Prophet  
19 Mohammed?

20 A. Correct.

21 Q. "And jihad is its methodology." And that's a reference to  
22 violent struggle; is it not?

23 A. Not necessarily, because jihad is very broad definition  
24 that incorporates so many things, including military action.

25 Q. Okay.

1           So, it includes violence?

2   A.   For Hamas, resistance.

3   Q.   Well, the next passage, "Death for the sake of God is its  
4 most coveted desire," doesn't that mean martyrdom?

5   A.   Yes.

6   Q.   Isn't that passage consistent with Ismail Haniyeh's  
7 comments, "We have joined this movement to become martyrs and  
8 not ministers"?

9   A.   Well, martyrs and martyrdom, these are concepts that --  
10 that -- are used in -- in -- in -- in -- I would say, in the  
11 very common -- not very common, but commonly used by so many  
12 people in -- in -- Muslim atmosphere.

13           So, they would say, "Well, I would love to be a  
14 martyr." A martyr in Islam is somebody who might even drown  
15 in the sea. He's a martyr. Somebody who might lost his life  
16 unfairly, he would be a martyr. So, the concept is very  
17 broad.

18           And when you limit it to military connotation, you  
19 don't actually make justice to the whole -- to the whole --  
20 concept and people would seem like they -- they -- love only  
21 to die and this lust for death. It's different.

22           I mean, in Arabic -- I mean, I -- I -- struggled hard  
23 in translating these phrases because in Arabic, they have  
24 wider and broader connotation. When you say "jihad," I am --  
25 I am -- I am -- working and earning my daily living, this is

1 jihad. This is in Islam. This is jihad. In the eyes of God,  
2 from religious perspective, you are doing jihad. So, jihad is  
3 multi-dimensional, multi-definitional, if you like, concept.  
4 You can apply everything.

5 I am not saying, I am not trying to say, that this  
6 doesn't mean or doesn't include military action. It does.  
7 But there is a difference between limiting the concept to  
8 military action or having the military action as one of the  
9 meanings of the broad concept.

10 Q. Well, let's take jihad as a very broad concept. It can  
11 include all sorts of acts of betterment?

12 A. Of?

13 Q. Of betterment --

14 A. Yeah.

15 Q. -- improvement, correct?

16 So, acts undertaken as a minister of government to  
17 better the circumstances of people, populus in your society,  
18 that would certainly be included in that very broad concept of  
19 jihad; would it not?

20 A. Yes, it would, yeah.

21 Q. But Ismail Haniyeh distinguished martyrdom from being a  
22 minister, didn't he?

23 There is a notion of violence and giving your life,  
24 dying in fighting, in violent fashion, jihad. That's what's  
25 being referenced here, isn't it?

1 MR. MOFFITT: Objection.

2 BY THE WITNESS:

3 A. Well, in this --

4 MR. MOFFITT: That's compound question.

5 BY THE WITNESS:

6 A. -- context, of course --

7 MR. MOFFITT: There's at least three questions.

8 THE COURT: Sustained.

9 Rephrase your question.

10 BY MR. FERGUSON:

11 Q. Ismail Haniyeh's reference to martyrdom tracks the  
12 reference to death for the sake of God in the charter, doesn't  
13 it?

14 A. For Ismail Haniyeh and so many Hamas members, when they  
15 say -- when they talk about martyrdom, what you call violence  
16 for them is resistance against military occupation. And they  
17 are not hiding or shying away from this. They say, "We -- our  
18 name is the Islamic Resistance Movement, and our goal is to  
19 resist and even die in facing this occupation." This is --  
20 there is no secret about this. They are not hiding this. And  
21 they keep repeating this day and night. So, I can't actually  
22 see the point.

23 Well, yes, they -- they -- link martyrdom with  
24 serving the government, with doing social work, with so many  
25 things. But all in all, they bring together all these kind of

1 actions under the broad concept of resistance, resisting the  
2 occupation. They think by delivering social work, they are  
3 resisting the military occupation. In every single aspect of  
4 their activity, they think this is part of an overarching  
5 resistance movement.

6 Q. I direct your attention to Article 13, "Peaceful Solutions  
7 Initiatives and International Conferences."

8 And, again, this is your translation. I direct you  
9 to the passage that reads, "The initiatives. What is called a  
10 'peaceful solution' and 'international conferences' to resolve  
11 the Palestinian problem are contrary to the ideology of the  
12 Islamic Resistance Movement because giving up any part of  
13 Palestine is like giving up a part of religion."

14 And, in fact, to this day and throughout its history,  
15 Hamas has never publicly participated in any international  
16 peace conference regarding a resolution of the  
17 Palestinian-Israeli conflict that would provide for the  
18 existence of Israel as a historical final matter in the  
19 future; isn't that right?

20 A. First of all, as I said, this is more or less irrelevant  
21 to Hamas' position nowadays because this charter was written  
22 by one single man.

23 Secondly, not only Hamas did not participate in the  
24 peace efforts and Oslo agreements and others, you have nine  
25 more Palestinian organizations who have adopted the same --



1 the same -- political line.

2           So, it's not from purely religious perspective that  
3 Hamas rejected the peace deals. They think they compromise on  
4 the major national aspirations of the Palestinians, as many  
5 other Palestinians do.

6 Q. The fact is, the charter says it's against Hamas'  
7 principles to engage in these peace conferences, peaceful  
8 solutions and international conferences and, in fact, Hamas  
9 never has participated in one; isn't that right?

10 A. But Hamas engaged in different kinds of negotiations and  
11 talks, back channels and so many, I would say, secret  
12 negotiations that I am aware of that goes completely against  
13 this charter thing.

14           So, this is why, in my view, this is -- this is --  
15 insignificant document. It doesn't apply to Hamas nowadays,  
16 as I understand it.

17 Q. And would it change your opinion about the irrelevance of  
18 this particular passage of the charter to know that Sheikh  
19 Ahmed Yasin, as quoted by the BBC in October of 2000, stated,  
20 "The restoration of our rights and realization of peace will  
21 not be achieved except through resistance, not through  
22 negotiations. We will continue to march along the path of  
23 either victory or martyrdom. The Palestinian people cannot  
24 tolerate the relinquishment of any part of Jerusalem or any  
25 inch of Palestine, nor can they accept re-settlement in lieu

1 of their right to repatriate their homeland, Palestine"?

2           Isn't that pretty much straight out of the charter?

3 A. Well, you have -- yes, it is just out -- I mean, you can  
4 have other statements, even more stronger than this one. And,  
5 again, I compare them -- I keep comparing them -- with what  
6 Hamas' people nowadays negotiating with European Union in Gaza  
7 Strip. They negotiate the four conditions with the Quartet  
8 people. So, they -- they -- have completely different  
9 mindset.

10           When you talk to people who -- of Hamas who -- speak  
11 that we need to sit with the Europeans and we need to open  
12 channels with Americans so that to sort out parameters for  
13 two-state solution, this is Hamas people, as well, as well as  
14 Ahmed Yasin and other people are Hamas people.

15 Q. The charter says, "Giving up any part of Palestine is like  
16 giving up a part of religion," correct?

17 A. Yes, it says so.

18 Q. And would it change your view as to the relevance of the  
19 charter to know that Abdel Aziz Al-Rantisi, in December of  
20 2000, as quoted in the BBC said, "Hamas' stand on political  
21 settlements and Oslo and Camp David remains the same. We do  
22 not agree to relinquishing a single inch of homeland or any  
23 right of the Palestinian people. We fully reject any  
24 settlement"?

25           Isn't that a reflection of what the charter says?

1 A. Actually, no. This one -- specifically, this statement --  
2 because I am very aware of it, this statement is highly  
3 pragmatic and political. Abdel Aziz Rantisi was raising  
4 only -- was raising the ceiling on negotiation. And they  
5 think, pragmatically speaking, that they have to stick to  
6 their original position and they are not ready to give in any  
7 card before negotiating with Israel.

8           So, why to give in some concessions even for free and  
9 without having anything in return? This is what I keep  
10 hearing from them when I interview them.

11           When I say, "Well, at least you haven't recognized  
12 Israel. You haven't -- you haven't -- done so-and-so," they  
13 would reply to me, "We are not ready to give any free  
14 concession just for the media -- for the sake of either  
15 Western media or to please the Israelis -- without having  
16 anything in return. So, we are keeping our cause in our hands  
17 until the moment comes."

18 Q. And the position that is stated -- as reflected in  
19 Mr. Rantisi's remarks, and as reflected in Sheikh Yasin's  
20 remarks, and as reflected in Ismail Haniyeh 's remarks -- is  
21 exactly what the charter says?

22 A. In -- in -- my view, in the three principle documents that  
23 Hamas has issued, prior to the elections and after the  
24 elections, these are the new Hamas. These are the most  
25 significant documents that Hamas -- that Hamas -- could be

1 held against.

2           You have said in these documents that the whole  
3 premise, the whole thesis of your political outlook is based  
4 on the two-state solution clear-cut. There is no contention.  
5 No even controversy -- controversy -- about that. So, the  
6 whole thought in three major documents is about documented --  
7 official documents -- presented to the Palestinians -- to the  
8 Palestinian people, to the Palestinian Parliament, and to the  
9 Palestinian parties -- saying, basically, "What we want is  
10 two-state solution with a long truce after that."

11           This is -- this is, for me -- far more important than  
12 journalistic statements quoted here and there and nobody knows  
13 how reliable, how accurate or how -- how -- have been  
14 translated or -- or -- other stuff.

15 Q. So, we shouldn't hold the leaders of Hamas to their words  
16 stated publicly; is that what you're saying?

17 A. I don't say that. Maybe you can. I mean, I don't care.

18           But what I care about is the official documents  
19 issued by Hamas.

20 Q. And anything anyone else says doesn't make any difference  
21 to you?

22 A. Not saying that. I'm not saying that.

23           What I said -- I said -- well, I know -- I know --  
24 major very well. I have -- I have -- come across so many  
25 statements made by Hamas officials and non-Hamas officials

1 regarding Hamas issues. And when I go back to the original  
2 Arabic statement, I can tell you complete, complete  
3 misunderstanding. Complete even mistranslation,  
4 misconception.

5           So, I am very careful in taking all these kind of  
6 statements on face value. I go to the original documents and  
7 I rely on them.

8 Q. In your 1996 article in the UASR-published Middle East  
9 Affairs Journal, you described Hamas' organizational goals and  
10 methods by quoting at some length from the charter.

11           In 1996, did you view the charter relevant,  
12 therefore, to Hamas and what it was?

13 A. I said it's insignificant. This doesn't mean completely  
14 irrelevant.

15           And, yes, of course. I mean, I quoted -- I -- I  
16 quoted the entire charter in my book, though I believe it's  
17 very insignificant. But, still, this document is issued by  
18 Hamas and it's Hamas official document. So, we can't simply  
19 just ignore it and say, "Well, nothing there is called the  
20 charter."

21 Q. Hamas has thousands of official documents, doesn't it?

22 A. Yes, it does.

23 Q. And you chose five, maybe six of them to put in the  
24 appendix of your book; isn't that right?

25 A. Yeah, these are the most important ones.

1 Q. And that includes the charter?

2 A. Includes the -- yes. The charter is -- the charter is --  
3 the first document issued by Hamas. And the significance of  
4 the charter comes and emanates from this fact. So, it  
5 wouldn't be an integral academic work if I simply ignored the  
6 charter. I ignored so many other documents. But the charter,  
7 from completely research point of view, should be included in  
8 the book, of course.

9 Q. This runs for about 25 pages. You published it in its  
10 full length, correct?

11 A. Yeah. So that people just like you can quote it.

12 Q. This irrelevant document, you put it in your book, right?

13 A. Yes. Well, I am -- I keep repeating myself, I think. I  
14 think, well, it's important official document of Hamas; but,  
15 practically speaking, it's insignificant.

16 Q. Well --

17 MR. FERGUSON: Permission to approach?

18 THE COURT: You may.

19 MR. FERGUSON: And I've approached a number of times  
20 without asking, and I'll apologize for that.

21 BY MR. FERGUSON:

22 Q. I'm handing you Government Exhibit Hroub UASR.

23 (Document tendered.)

24 MR. FERGUSON: And I have copies.

25 MR. MOFFITT: Thank you.

1 BY MR. FERGUSON:

2 Q. Is that the article that you published in the Middle East  
3 Affairs Journal in 1996?

4 A. Yes, it is.

5 Q. Published by the UASR?

6 A. Yes, it is.

7 Q. And in referencing the charter to describe the methods and  
8 objectives of Hamas in 1996, when this was published, you  
9 quoted it -- the charter -- at length, but you didn't say it  
10 was irrelevant, did you?

11 A. Let me just go through the whole thing. I mean, that was  
12 '96.

13 But, also, I quoted -- I quoted -- four more  
14 references, not only the charter, talking about the military  
15 action of Hamas. So, I didn't limit my discussions with the  
16 charter or I didn't consider it as the final word of Hamas on  
17 the military action.

18 Q. Has the charter ever been revoked?

19 A. Sorry?

20 Q. Has the charter ever been revoked?

21 A. No, not really.

22 Q. Not really?

23 A. Not really, no.

24 Q. Has the charter ever been amended?

25 A. No.

1 Q. Have any of its provisions been changed in any way?

2 Removed, modified, anything?

3 A. Actually, Hamas tried at one point to amend the charter,  
4 but they felt politically embarrassed. They thought that if  
5 they change the charter, this means -- this could send the  
6 wrong message to their masses and supporters.

7 So, the -- I think the final sort of thought was, "We  
8 just leave it as it is. We try to downplay it, not quote it  
9 frequently, and just leave it there in the shadow."

10 Q. So, it's important to the masses and its supporters, is  
11 what you're saying? Do I hear --

12 A. No.

13 Q. -- that right?

14 A. I said -- I said -- it will send the wrong message to the  
15 masses because when you say, "Well, we are changing our  
16 charter," this could be read by so many people as if the  
17 movement is changing itself.

18 So, what I said is the message that could be read of  
19 any step on changing the charter could be harmful for Hamas,  
20 and this is why they opted for just keeping it as it is.

21 Q. And all the words of its leadership in recent years --

22 A. Sorry?

23 Q. -- adopting or restating the charter --

24 A. Say that, again.

25 Q. All the words of its leadership stated publicly in recent



1 years reasserting essential provisions of the charter don't  
2 make any difference in your opinion as to whether or not the  
3 charter is relevant; is that right, "Yes" or "No"?

4 A. No, because you have quoted four or five statements among  
5 thousands of statements made by Hamas' leaders. So, if you  
6 put them into context and compare them to so many numerous  
7 statements made by Hamas' leader, then you will see and you  
8 will discover the insignificance of the charter over the past  
9 years.

10 (Brief pause.)

11 BY MR. FERGUSON:

12 Q. I'd like to discuss some the relationship -- testimony  
13 regarding the relationship -- of the military with other wings  
14 of Hamas.

15 Isn't it the case, sir, that the military takes its  
16 guidance, in general terms, from the political branch of  
17 Hamas?

18 A. The military follows the strategy of Hamas. Hamas, the  
19 leadership -- say, the political -- say, the parliament of  
20 Hamas, if you like -- they would draw the strategy of Hamas.  
21 That is resisting the occupation. And, according --  
22 accordingly -- the military wing of Hamas will implement this  
23 strategy.

24 Q. So, I'm not -- I'm not -- sure I understand. The Iz  
25 Al-Din Al-Qassam Brigades or Battalions, are you saying it has

1 or hasn't acted under the general guidance --

2 A. It has acted.

3 Q. -- and parameters set forth by the political branch?

4 A. It has acted.

5 Q. Because the political leadership is the ultimate authority  
6 in Hamas; isn't that right?

7 A. Yes.

8 Q. And all the other wings and all the other branches are  
9 subject to the strategies and guidelines drawn by the  
10 political bureau and its consultative council, correct?

11 A. More or less, yes.

12 Q. So, the political leadership in relation to Hamas'  
13 military action decides whether at a certain period of time  
14 the military should carry on or halt military operations, or  
15 increase or reduce them; is that right?

16 A. Right.

17 Q. And throughout much of its history, however, the political  
18 leadership has claimed that it knows nothing about specific  
19 operations, specific times, specific locations, or specific  
20 activities that are contemplated by the military branch; is  
21 that right?

22 A. Yes. This is the general line.

23 Q. And they do that for security reasons; isn't that correct?

24 A. Correct.

25 Q. If the political branch knows these details, then it's

1 going to be the subject of greater scrutiny and investigation;  
2 isn't that right?

3 A. The political?

4 Q. The political branch. If it knows the particular details  
5 of these operations, it will subject it to greater scrutiny?

6 A. Well, it might even risk them and risk -- yeah, for -- for  
7 -- security considerations, yes.

8 Q. And, so, since the political branch purposefully keeps  
9 itself uninformed of the specifics -- particular attacks --  
10 isn't it generally the case that the political branch learns  
11 of these major operations the same way the rest of the public  
12 learns about them: When they're announced on the news?

13 A. I really don't know, to be honest. I can't say "Yes" or  
14 "No." This is very specific question.

15 Q. But it's a possibility, you would say?

16 A. It's a possibility, yeah.

17 Q. And, then, from your review of Hamas materials, it is the  
18 case that once an attack has occurred and been made public,  
19 the spokespersons from the political branch then make  
20 statements or issue statements, comments or attributions  
21 regarding the attack; is that correct?

22 A. Maybe he would make comments, but the responsibility would  
23 be claimed by the military wing him- -- themselves. The  
24 military wing, they will allow a spokesperson in Gaza Strip or  
25 who- -- whatever -- to claim responsibility of the attack.

1 Q. And you would agree that one way to test the proposition  
2 that the political branch exercises this sort of general  
3 control guidance over the military -- and that would include  
4 suicide bombings and kidnappings, wouldn't it? Military  
5 operations of Hamas?

6 A. More or less, yes.

7 Q. One way to test the political branch's control is to look  
8 and see whether the military has drawn back its activities  
9 when the political leadership publicly says, "We're going to  
10 stand down for a temporary period"?

11 MR. DEUTSCH: Judge, can we have a time frame for  
12 these questions?

13 THE COURT: Sure.

14 Give him a time frame.

15 BY THE WITNESS:

16 A. In doing it --

17 THE COURT: Sir, wait one second. Mr. Ferguson is --

18 THE WITNESS: Sorry.

19 THE COURT: -- going to give you a time frame.

20 THE WITNESS: Sorry.

21 BY MR. FERGUSON:

22 Q. Has it always been the case that the political branch has  
23 provided this general guidance or direction to the military?

24 A. Yes, more or less.

25 Q. Okay.

1                   So, that would apply in the early 1990s?

2   A.   Things got more clear after 1993 and '94.  Before that, I  
3   would say there was, relatively speaking, more freedom to the  
4   military wing to operate without the strict guidance of the  
5   political wing.

6   Q.   Has the military wing, in your review of Hamas' history,  
7   ever acted in a way that was in direct contravention of what  
8   the political branch was indicating should be done?

9   A.   Oh, yes.

10  Q.   Haven't you written, sir, that based on the history of  
11  Hamas, there has never been any divergence from the guidance  
12  of the political branch to the activities of the military  
13  wing?

14  A.   I have written that the control of the political wing over  
15  the military wing is strong during the history of Hamas.  But,  
16  say, the incident that we have just talked about in Britain  
17  where two guys from the UK were recruited and did that attack  
18  in Tel Aviv; that was against the policy of Hamas and without  
19  a prior knowledge of the political wing.

20  Q.   Without the prior knowledge of the political wing.

21                   And, so, would that suggest that the political wing  
22  generally has prior knowledge of significant attacks that are  
23  going to take place?

24  A.   No.  I -- I -- I -- put it wrongly.

25                   What I meant, that was against the policy of Hamas in

1 -- in -- in -- in -- not making any -- any -- either  
2 recruitment or attacks outside Palestine. So, the general  
3 policy of Hamas is not to undertake any attack, either outside  
4 Palestine or to recruit people from outside Palestine, and  
5 send them to -- to Pal- -- the occupied territories.

6 In that sense, that was a contradiction to the Hamas'  
7 policy.

8 Q. All right.

9 But we're talking about exceptions here, correct?

10 A. Yeah.

11 Q. All right.

12 In general, it's your conclusion, is it not -- and  
13 you've written about it -- that based on the past experience  
14 of Hamas, the military wing has shown discipline in following  
15 the general parameters set for it by the political branch?

16 A. Correct.

17 Q. For example, Hamas stopped suicide attacks in 1995 for a  
18 period of a few months; did it not?

19 A. It did.

20 Q. And, then, there was an assassination of the functional  
21 head of the Iz Al-Din Al-Qassam Brigades, Yehiya Ayash, in  
22 early 1996, correct?

23 A. Correct.

24 Q. And the political branch took the shackles off and allowed  
25 the military branch to proceed, and there were major suicide

1 bombing events that occurred in retaliation for the  
2 assassination of Ayash; is that right?

3 A. Yes, in '96.

4 Q. All right.

5 Let's talk for a few minutes about some of the people  
6 who make up the political branch that provides these guiding  
7 parameters, that doesn't have knowledge of specific attacks or  
8 operations beforehand.

9 Mousa Abu Marzook. He has long been a leader of the  
10 political wing of Hamas; is that right?

11 A. Correct.

12 Q. And his history and involvement dates back to the period  
13 of the Muslim Brotherhood; is that right?

14 A. Correct.

15 Q. One of his Dawa activities in his early years was  
16 assisting in the establishment of the Islamic University of  
17 Gaza and sitting on its first Board of Governors; isn't that  
18 right?

19 A. I think so.

20 Q. And his rise in prominence in the organization came from  
21 his relationship to various Islamic societies while he was  
22 studying in the United States; is that right?

23 A. Partly so.

24 Q. And, in 1992, he was chosen to head Hamas' political  
25 bureau; is that right?

1 A. Correct.

2 Q. And he was arrested in July of 1995 entering the United  
3 States after Jordan had expelled him; is that correct?

4 A. Correct.

5 Q. And he was jailed here for a couple of years?

6 A. Correct.

7 Q. And while he was -- Mr. Marzook was -- jailed in the  
8 United States, Khaled Mishal was named to succeed him as the  
9 political chief of the political branch of Hamas; is that  
10 right?

11 A. Correct.

12 Q. And once Mr. Marzook was released from jail in 1997,  
13 Jordan allowed him to return. So, he went back to Amman where  
14 Mr. Mishal was; is that right?

15 A. Correct.

16 Q. And, then, Mr. Marzook and Mr. Mishal and other members of  
17 the political bureau were expelled from Jordan in 1999 because  
18 the political branch had violated its agreement with Jordan  
19 not to direct military activities --

20 MR. DEUTSCH: Judge --

21 BY MR. FERGUSON:

22 Q. -- from Amman; isn't that right?

23 MR. DEUTSCH: -- I mean, this is all very  
24 interesting, but it seems quite irrelevant to what we're here  
25 for. I object on relevancy.



1 THE COURT: Mr. Ferguson?

2 MR. FERGUSON: Judge, the involvement throughout the  
3 period of certain of the individuals here that we're going  
4 through, I think, is relevant to -- it's generally relevant to  
5 enterprise.

6 And the subject of the offices in Amman on direct was  
7 explored by Mr. Deutsch, talking about they're open, they're  
8 available to the public. I think I'm entitled to inquire into  
9 Mr. Marzook's general presence and the time periods of his  
10 presence in Amman and the circumstances that resulted in his  
11 departures from Amman in response to the characterizations put  
12 out there on direct.

13 THE COURT: Overruled.

14 BY MR. FERGUSON:

15 Q. And, so, it is the case that Mr. Marzook and Mr. Mishal  
16 and all the members of the political branch were expelled by  
17 Jordan in 1999; is that right?

18 A. That's right. But the reason is disputed, actually. The  
19 reason for their expulsion at the time was the change in the  
20 Jordanian policy. The policy of the Jordanian government at  
21 the time took certain shift in relation with Hamas and the  
22 Palestinian Authority. And they decided to -- not to -- go  
23 more with -- with -- the playing with the two groups, either  
24 the Palestinian Authority -- the PLO -- or Hamas.

25 Up until then, they tried to play the two cards

1 hoping for the future for whatever option, whatever scenario.

2 But by then, the Jordanian policy have completely changed.

3 Q. Okay.

4           And Khaled Mishal who succeeded -- and let me just  
5 confirm here that when Mr. Marzook returned to Amman, he  
6 returned as the Deputy Chief, second to Mr. Mishal; is that  
7 right?

8 A. Correct.

9 Q. All right.

10           And that's the position he holds still, right?

11 A. I think so.

12 Q. And Mr. Mishal, he is still the Chief?

13 A. Yes, he is.

14 Q. All right.

15           And they're both in Damascus?

16 A. Yes.

17 Q. And Mr. Abdel Aziz Rantisi has also -- had also -- long  
18 been a leading member of the political wing; is that right?

19 A. Yes.

20 Q. And Mr. Rantisi is one of the deportees who was sent to  
21 Marj al-Zuhur in December of 1992; is that right?

22 A. Right.

23 Q. And he was the spokesperson for the deportees?

24 A. Correct, in Arabic.

25 Q. And after that deportation was ended in 1993, he was

1 arrested, wasn't he?

2 A. I think so, yes.

3 Q. And he was jailed until 1997 or so?

4 A. Yeah.

5 MR. MOFFITT: Your Honor, may we approach?

6 THE COURT: Yes.

7 (Proceedings had at sidebar:)

8 THE COURT: Yes?

9 MR. MOFFITT: I object to an arrest without a trial  
10 or a conviction as being irrelevant.

11 MR. FERGUSON: Well, first, I didn't say he was  
12 convicted. And his arrest and detention, I think, is actually  
13 quite relevant, given the issues that have been raised by the  
14 defense as to the absence of recording of Mr. Ashqar and  
15 communications that post-date 1993. And given that  
16 Mr. Rantisi, among others, was not available after that point  
17 in time, it would certainly explain why there would not have  
18 been communications.

19 MR. DEUTSCH: Judge, here's the problem I have with  
20 all this arrest and convictions. These people are being  
21 arrested --

22 MR. MOFFITT: Would you let me finish, please?

23 MR. DEUTSCH: I'm sorry. Go ahead.

24 MR. MOFFITT: It's still only an arrest. Okay?

25 Their wiretap was off in '94. All right? That's the

1 reason if there were any other con- -- they can't assume  
2 conversations that don't exist out of the air, because they  
3 have no proof of them. They can't assume that they took  
4 place.

5           So, to the extent that he was arrested, the mere  
6 arrest of him would not be admissible in an American courtroom  
7 at all, under any set of circumstances, because it proves  
8 nothing. It's not probative of anything.

9           Now, the suggestion is that they can talk about his  
10 arrest simply because they want to explain the absence of  
11 phone calls to him. They have no proof that that's the reason  
12 that there was no -- that he didn't have access to a phone,  
13 that there was no way he could contact people. There's no  
14 proof in the record of any of that. And to merely put the  
15 arrest in under those circumstances, I suggest, should be  
16 stricken for 403 purposes.

17           THE COURT: Mr. Ferguson?

18           MR. FERGUSON: Judge, I think an individual being in  
19 prison certainly would restrict his ability to engage in  
20 extensive communications with the outside world, including  
21 international calls to the United States. And --

22           THE COURT: Did your question not go beyond '94?

23           MR. FERGUSON: From 19 -- I said from 1993 to 1997.

24           THE COURT: What is the relevance of post-'94, when  
25 the wiretap was down?

1 MR. FERGUSON: It was -- Judge, simply, it was -- the  
2 period that he was detained. I offered it as a complete --

3 MR. SCHAR: Also --

4 MR. MOFFITT: Well, I also offer to you he is not the  
5 only leader of Hamas someone could have communications to. If  
6 there's no other communications to other people, the fact that  
7 he did not have a communication with Rantisi is not probative  
8 of anything.

9 MR. FERGUSON: Well, Judge, let's -- and I'm relying  
10 on my colleagues here.

11 The fact that an individual is in jail does not mean  
12 -- or an individual is removed from general free activities on  
13 the outside does not mean -- that the individual is not  
14 conducting furthering activities of Hamas and is no longer a  
15 member of the conspiracy; and, that's certainly been an  
16 implication that's been raised at a number of junctures by  
17 Mr. Deutsch. And, so, I think for that purpose it was also  
18 relevant.

19 THE COURT: I think that is a stretch.

20 The '94 time period -- and you are free to redirect  
21 on it or argue what you want from it -- I will allow it in at  
22 that time period.

23 Mr. Deutsch, go ahead.

24 MR. DEUTSCH: Well, what I was going to say is that  
25 I'm troubled by putting in arrests and convictions under a

1 military court system where there's not due process, where we  
2 don't have any information about how these -- whether there  
3 was even probable cause for arrest, whether there was  
4 sufficient evidence to convict. If we're going to open up  
5 doors to --

6 MR. FERGUSON: Judge, I can put it in, in terms of --

7 MR. DEUTSCH: -- military tribunals, let's do it.

8 You know, we're going to call in every one of these questions.  
9 So, I think it's beyond probative, in any event.

10 THE COURT: How many more questions on arrests or  
11 detained individuals do you have for the 1994 period, which is  
12 what I am going to limit you to?

13 MR. FERGUSON: I don't think any.

14 THE COURT: Okay.

15 I will allow this to stand. If he asks an arrest  
16 question, again, you can object.

17 How much longer do you have on cross?

18 MR. FERGUSON: Judge, I think I'm going to use the  
19 rest of the time here. If I bleed over into tomorrow, it  
20 won't be very much time tomorrow morning.

21 THE COURT: Okay.

22 MR. FERGUSON: But I don't think I'll be finished  
23 before the day ends.

24 THE COURT: Okay.

25 We will go until 5:00 and, then, see where we are at

1 that point.

2 (Proceedings had in open court:)

3 THE COURT: You may continue.

4 MR. FERGUSON: Thank you, Judge.

5 BY MR. FERGUSON:

6 Q. Imad Al-Alami, sir, has also long been a leader working  
7 from the political wing of Hamas?

8 A. Who?

9 Q. Imad Al-Alami.

10 A. Imad Al-Alami.

11 Not as long as Mousa Abu Marzook or others.

12 Q. But for a substantial period --

13 A. Yeah.

14 Q. -- of Hamas' history?

15 A. Yes.

16 Q. And, in fact, he was the political bureau's representative  
17 in Iran for some years in the early 19- --

18 A. Correct.

19 Q. -- -90s; is that right?

20 A. Correct.

21 Q. You discussed at some length in your direct testimony,  
22 sir, the conditions in the territories and the need for social  
23 services that you've testified that Hamas, in part, has  
24 provided over its history.

25 Do you recall that?

1 A. Yes, I do.

2 Q. Now, it is the case, is it not, that in the West Bank and  
3 Gaza, in addition to people living under difficult  
4 circumstances, as you've described, that there are affluent  
5 people?

6 A. Yeah, some of them, yes.

7 Q. That there are people who, in approximate terms, are  
8 middle class?

9 A. Yes, there are.

10 Q. There are many trained professionals living in the  
11 territories, correct?

12 A. Yes, but not in proportion to what should have been,  
13 having these conditions were absent.

14 Q. An education is an important and highly-valued thing in  
15 Arabic culture, correct?

16 A. Yes, it is.

17 Q. And there is a substantial number of well-educated people  
18 living in the territories, correct?

19 A. Right.

20 Q. You've indicated that there are schools in the  
21 territories, correct?

22 A. Yes, of course.

23 Q. And universities in the territories?

24 A. Yes.

25 Q. And it's also the case, sir, and it's always been the case



1 that if an individual wants to help a poor Palestinian -- or  
2 poor Palestinians, generally -- there are other choices  
3 available than sending your money to Hamas, correct?

4 A. Yes, of course.

5 Q. And since 19 -- well, going back through much of the  
6 history that was discussed on your direct examination, a major  
7 provider of social services has been the United Nations Relief  
8 and Works Agency; is that right?

9 A. Correct.

10 Q. And it works specifically to serve Palestinians, and  
11 Palestinian refugees most particularly; is that right?

12 A. Right.

13 Q. And "Palestinian refugees" is defined broadly -- and I  
14 think you may have indicated this on direct -- not just to be  
15 the individuals who were displaced back in 1948 or in 1967,  
16 but their descendents?

17 A. True.

18 Q. And the UN provides all kinds of social services to people  
19 in Gaza and the West Bank, correct?

20 A. Correct. But insufficient, though. Insufficient.

21 Q. Insufficient.

22 But still substantial; wouldn't you agree?

23 A. In the education sector, yes; but, other sectors, no.

24 Q. And you're aware, from your attention to Palestinian  
25 issues over the years and your brief role as an advocate of

1 sorts for Palestinian refugees and their right of return, that  
2 the UN Relief and Works Agency has tens of thousands of people  
3 working to assist Palestinians in the territories and in the  
4 immediate surrounding countries?

5           You're aware of that, sir, correct?

6 A. Yes, I am. But tens of thousands may be a bit of -- taken  
7 over the limit.

8 Q. And if the UN were to indicate in its official Web sites  
9 that the number was about 30,000, do you have any reason to  
10 doubt that?

11 A. No, I don't.

12 Q. And because the UN provides services normally provided by  
13 the public sector, the government in a country, it works in  
14 close association with the authorities in the places that it  
15 serves; would that be fair?

16 A. Say that, again, please.

17 Q. I'll move on from that.

18           Among the things that the UN does, is it builds and  
19 administers schools, correct?

20 A. Correct.

21 Q. And medical clinics and services, correct?

22 A. Correct.

23 Q. And you're aware generally that it currently provides  
24 education to approximately 500,000 Palestinian children?

25 A. I don't know about the figure, but yes, I said. I mean,

1 substantially they contribute to the education sector.

2 Q. And as part of its educational programs, it provides  
3 textbooks and translates academic textbooks to be utilized in  
4 schools in the areas that it services; is that correct?

5 A. I don't know about the translation thing, but I know for  
6 sure that they, yes, provide good help in the education  
7 sector.

8 Q. And it runs teacher training programs for Palestinians so  
9 that they can teach the next generation themselves; isn't that  
10 right?

11 A. I think so.

12 Q. And it also assists in providing healthcare at community  
13 healthcare centers and hospitals that it has built and  
14 operated; isn't that right?

15 A. Yes. But, as I said, they're insufficient.

16 Q. And it engages in disease prevention programs through safe  
17 drinking water programs and sewage programs; isn't that  
18 correct?

19 A. Correct, more or less.

20 Q. And it also provides direct material and financial  
21 assistance to Palestinian families, refugee families -- you've  
22 used the term here -- unable to meet their own basic needs in  
23 food and shelter; isn't that correct?

24 A. Well, in food and financial help, I am not sure about  
25 this. I don't know.

1 Q. Do you have any reason to doubt it?

2 MR. MOFFITT: Objection. He doesn't know.

3 THE COURT: Sustained.

4 BY MR. FERGUSON:

5 Q. And you must also be generally aware that the United  
6 Nations Relief and Works Agency also funds economic  
7 development programs in these areas, as well?

8 A. They used to do these things; but, lately, over the past  
9 10, 15 years, their -- their -- funds from abroad have been  
10 drastically cut down. So, they haven't been doing the same --  
11 the same -- job, I would say, that they used to do during,  
12 say, the '70s.

13 Q. But their annual budget over the last decade has been in  
14 the order of hundreds of millions of dollars each year; isn't  
15 that right?

16 A. I don't know about the budget, but I know that the same  
17 budget have been -- have been -- the same for so many years,  
18 when you have the Palestinians in numbers and needs have  
19 dramatically increased.

20 Q. And you're aware that the United Nation Relief and Works  
21 Agency, in addition to its ordinary regular programs, also  
22 makes special funding appeals to the public?

23 A. Yes, I think, yeah.

24 Q. And since 2000, its taken in approximately \$672 million  
25 through these special appeals? Are you aware of that,

1 generally?

2 A. Yes, more or less. Yeah, I know about these appeals.

3 Q. And are you aware that the greatest source for this  
4 additional funding -- greatest single source -- is the United  
5 States?

6 MR. DEUTSCH: Judge, I object. Relevance. I fail to  
7 see the relevance of all of this.

8 THE COURT: Sustained.

9 BY MR. FERGUSON:

10 Q. Isn't it the case, sir, that an individual who wants to  
11 provide assistance directly to poor Palestinians can make  
12 donations to and through the United Nation Relief and Works  
13 Agency, and doesn't have to send their money to an  
14 organization that sends out suicide bombers into public  
15 places?

16 MS. THOMPSON: Objection.

17 MR. MOFFITT: Objection.

18 THE COURT: Sustained as to form.

19 BY MR. FERGUSON:

20 Q. Isn't it true, sir, that an individual who wants to make  
21 donations or provide assistance to poor Palestinians can  
22 direct money or donations to and through the UN and UN  
23 agencies?

24 A. Well, so many Palestinians and even non-Palestinians, they  
25 would doubt the efficiency and the bureaucracy of the UN

1 agencies and they would go directly to donate funds and money  
2 to NGOs in the field directly. This is, I would think, common  
3 sense everywhere, not only within the Palestinian atmosphere.

4 Q. But it's available -- that particular avenue is available;  
5 is it not, sir?

6 A. You have so many other available channels and NGOs, as  
7 well; and, they are more effective in the eyes of so many  
8 Palestinians. Why to donate to the UN -- maybe 20 percent or  
9 25 percent of your donation goes to the administration or  
10 bureaucracy -- when you can donate the whole -- the whole --  
11 lot of your money and reach the needy people in Palestine  
12 completely?

13 Q. Is that a "Yes"?

14 A. Well, there is -- I mean, I'm trying to explain, to  
15 explain to you why Palestinians donate to Palestinian NGOs in  
16 the field directly.

17 Q. Sir, my question isn't why it goes one place or another.  
18 My question is: Doesn't the avenue exist to send money for  
19 Palestinians and poor Palestinians, doesn't the avenue exist  
20 to send it to and through the UN agencies?

21 A. If you want "Yes" or "No," my answer is "No" because this  
22 avenue is not available in every single country around the  
23 world.

24 Q. How about the United States?

25 A. You wouldn't -- you wouldn't -- have the, you know,

1 offices --

2 MR. MOFFITT: Objection.

3 Let him answer his question before he propounds  
4 another one.

5 THE COURT: Let him finish, Mr. Ferguson.

6 Finish your answer.

7 THE WITNESS: Sorry? Say that, again.

8 MR. FERGUSON: I'm sorry.

9 THE COURT: You were interrupted. You may --

10 BY THE WITNESS:

11 A. Well --

12 THE COURT: -- finish your answer.

13 BY THE WITNESS:

14 A. -- what I said, I said, you can't -- you can't -- find  
15 these offices or people who -- of the UN in every single city  
16 from Australia to Africa to, let's say, America to Russia  
17 where you can, as a Palestinian, make your donation. The easy  
18 and shortcut way, these NGO Palestinians available just next  
19 door to you.

20 BY MR. FERGUSON:

21 Q. How about from the United States? Is it possible to send  
22 your money for the purpose of helping poor Palestinians to and  
23 through UN agencies?

24 A. Well, as if I live in Chicago and there is an NGO --  
25 Palestinian NGO -- next to me, I would donate to them instead

1 of going to New York or to the UN or whatever obscure agency.  
2 For me, as a layman in the street, I wouldn't know even the  
3 measures, the parameters, the hierarchy of the organization.  
4 I mean, I think for ordinary people, they would see it common  
5 sense and easier to donate to people whom they know and NGOs  
6 that they function in the field directly.

7 Q. Is the avenue available to send money?

8 MR. MOFFITT: He said "Yes." He said -- but he  
9 doesn't like the answer and so he wants to badger him about  
10 it.

11 MR. FERGUSON: I didn't hear "Yes."

12 It's easy. If he would just say "Yes," I would stop  
13 asking.

14 THE COURT: Well, he can say "Yes" or "No," if he can  
15 answer it that way.

16 BY THE WITNESS:

17 A. I mean, you are just limiting the whole discussion. It's  
18 superficial. It's simplifying the whole thing. What I'm  
19 saying, I said yes, you have it in the -- in the -- New York,  
20 of course. The avenue is there. The moon is there. Can you  
21 reach it? No, I can't reach it.

22 But the NGO -- the Palestinian NGO -- is next door to  
23 me. I can donate to them. I mean, who -- every single  
24 Palestinian in the world would know about the offices of the  
25 UN and how to reach them, the whole complication of making a



1 donation and you never know where this money will -- would --  
2 go.

3 This is my answer.

4 BY MR. FERGUSON:

5 Q. Sir, with respect to the Oslo Accords, you've testified  
6 that many people objected -- many Palestinians objected -- not  
7 just Hamas people or members; is that correct?

8 A. Correct.

9 Q. Now, Oslo -- the Oslo agreements -- in principle, in  
10 September of 1993, that was to be the start of a process. I  
11 think you indicated it was a five-year process; is that right?

12 A. Right.

13 Q. And did all of the Palestinians who were unhappy with the  
14 Oslo Accords and process engage their opposition through acts  
15 of terrorism and jihad?

16 A. I disagree with the definition, of course. But the  
17 opposition of Oslo agreements took different forms.

18 Q. Describe some of the forms.

19 A. Well, they have the Palestinian organizations that -- ten  
20 of them. The so-called ten opposition Palestinian parties.  
21 They keep running, making demonstrations, collective  
22 statements, different kind of -- well, certain kind of -- I  
23 would say, civil even obedience to the Oslo system. Then you  
24 have the more confrontational forms up to the military action.

25 Q. So, speaking out against the Accords was one means by

1 which people stated their opposition; is that right?

2 A. Yeah, that was it.

3 Q. Criticizing them publicly would be one of the means;

4 "Yes"?

5 A. Yes, correct.

6 Q. You mentioned civil disobedience. Are you talking about

7 violence -- violent disobedience -- necessarily?

8 A. Not necessarily, no.

9 Q. And the Oslo process also provided for elections at the  
10 national level, correct?

11 A. Correct. In the beginning, yes.

12 Q. And there was an election under the Oslo process in  
13 January of 1996, correct?

14 A. Correct.

15 Q. And people who objected -- Palestinians who objected -- to  
16 the Oslo Accords and their Palestinian representatives who  
17 were moving the Oslo process, many of them voted in those  
18 elections against those individuals; isn't that true?

19 A. Could you please rephrase?

20 Q. Those people who objected to where the Oslo Accords were  
21 taking them, they could have expressed themselves through  
22 voting for people who were opposed to the Accords; isn't that  
23 right?

24 A. Well, the mere voting in those elections was seen as  
25 acknowledging Oslo. So, the people who refrained from getting

1 in the process of the elections, the -- the -- the --  
2 refraining from doing so was a political statement saying  
3 that, "If we get engaged in the process even to express our  
4 rejection, this means we are agreeing on Oslo agreement and  
5 what comes out of it."

6 Q. That's what Hamas' position was, right?

7 A. More or less, yes.

8 Q. Hamas boycotted those elections, correct?

9 A. Yeah, more or less.

10 Q. It didn't participate, correct?

11 A. Well, they supported tacitly some -- some -- candidates.

12 Q. At the national level?

13 A. At the national level.

14 Q. But it generally didn't participate, right?

15 A. Yeah, in -- officially they didn't.

16 Q. It expressed its opposition in multiple ways, that  
17 included military operations, in your terms; terrorist  
18 operations, as I've described them, correct?

19 A. Incorrect. Because for them, these operations were not  
20 meant to -- to -- to -- to -- fail or destroy Oslo. They were  
21 strongly linked to the occupation. They kept saying, "These  
22 operations, these -- this kind of resistance is against the  
23 military occupation and we will carry doing them as long as  
24 the occupation is there."

25 Now, Oslo agreements did not finish the military

1 occupation. So, the rationale behind Hamas' action was,  
2 "Because the occupation did not end, we will carry on doing  
3 these actions."

4 So, it wasn't directed to Oslo agreement.

5 Q. But you indicated the Oslo Accords were doomed to failure,  
6 right?

7 A. Yeah.

8 Q. And that Hamas was not responsible for the failure of the  
9 Oslo process, right?

10 A. Right.

11 Q. And, so, it would necessarily be your view, sir, that  
12 suicide bombings in public places in Israel had no impact in  
13 undermining the confidence of the parties to Oslo as to  
14 whether there would be the sufficient stability to move  
15 forward?

16 A. They do, but before them, the military actions over the  
17 Israeli Army in the West Bank and the Gaza Strip have had more  
18 impact on the failure of Oslo. More than Hamas' operations.  
19 Hamas' operations came as a retaliation. If the root cause  
20 was ended, these operations would never happen.

21 So, in that -- if that happened -- the whole, say,  
22 mutual cease-fire, I would say, took place -- we would see --  
23 we would -- we would -- observe the failure of Oslo agreement  
24 without -- without -- the military actions from both parties.

25 Q. You've indicated the military branch, in general terms, is

1 guided by the political branch; would that be fair?

2 A. Fair.

3 Q. And you testified that the Dawa has no relationship to the  
4 military branch; is that right?

5 A. Right.

6 Q. But isn't it the case, sir, and haven't you written, that  
7 Hamas' rise is largely attributed to its social work as part  
8 of a complex of strategies that includes the political and  
9 includes the military?

10 A. The rise of Hamas is attributed to a complex of these  
11 factors, right.

12 Q. So, at least strategically, the social work is linked with  
13 these other strategies that include the political and the  
14 military; would that be fair?

15 A. Well, depends on the way that you look at it. This is  
16 multi-dimensional movement having overarching resistance  
17 strategy, including social work, military work, educational,  
18 and others. So, if you look at it as this is the overall  
19 strategy was very effective and gave rise to Hamas, in this  
20 sense, yes.

21 Q. And the social work takes many forms, right?

22 A. Yes.

23 Q. Education, health, welfare, those services Hamas has  
24 provided over the years?

25 A. Yes.

1 Q. And it does that through, I think you've indicated,  
2 mosques and charities and social-type organizations?

3 A. Yes, true.

4 Q. And hasn't Hamas' Dawa and social sector also included  
5 providing monthly stipends to the families of martyrs to the  
6 cause of liberation, such as suicide bombers?

7 A. Partly, yes.

8 Q. And doesn't that payment, sir, constitute a form of  
9 financial support and endorsement of these military  
10 activities, that include suicide bombing?

11 A. This is contested on the basis how to deprive the family  
12 of anybody who does anything and, basically, punishing them  
13 for their -- the act of their son or daughter. So, this is  
14 highly debated, even within the Palestinian community.

15 Q. I'm not talking about punishing them by not paying. I'm  
16 talking about giving them something more because they had a  
17 son who was a martyr.

18 A. Well, they lost a living provider. So, basically, their  
19 living is dramatically affected.

20 Q. And over the years, Hamas has conducted social and  
21 charitable activities through a network of organizations under  
22 what I think in English is referred to as the Islamic Society;  
23 is that correct?

24 A. Well, this is very general term. I mean, Islamic Society.

25 Q. Al-Mujamma Al-Islami?

1 A. Oh, yeah, in Gaza Strip.

2 Q. Have you heard that term?

3 A. Yeah, yes, yeah.

4 Okay.

5 Q. "Al-Mujamma -- "

6 A. Al-Mujamma Islamiya.

7 Q. " -- Al-Islami Gaza Strip," you've heard that term.

8 A. Yes.

9 Q. That is an entity that dated back to the period of the  
10 Muslim Brotherhood, correct?

11 A. Correct.

12 Q. And carried forward as part of Hamas, correct?

13 A. Not officially.

14 Q. Conducting the social work?

15 A. Yes.

16 Q. The Dawa --

17 A. Yes.

18 Q. -- that Hamas has --

19 A. Yes.

20 Q. -- as part of its strategy --

21 A. Yes.

22 Q. -- would that be fair?

23 And Al-Mujamma Al-Islami was founded and directed by  
24 Sheikh Ahmed Yasin, wasn't it?

25 A. Yes. I don't know the dates, but I think another Hamas

1 leader or affiliate took charge, I guess. But my answer is  
2 "Yes."

3 Q. And this is the same Sheikh Yasin who headed the political  
4 branch of the Muslim Brotherhood?

5 A. Yes.

6 Q. And the same Sheikh Yasin who was involved in forming the  
7 military cells under the auspices of the Muslim Brotherhood?

8 A. Yes.

9 Q. The same Sheikh Yasin who founded Hamas?

10 MR. DEUTSCH: Judge, this has all been gone over and  
11 these questions have been asked before on cross-examination by  
12 Mr. Ferguson.

13 THE COURT: Mr. Ferguson, I thought you did go  
14 through some of this.

15 MR. FERGUSON: I think it's a slightly different  
16 context, but I'll move on, Judge.

17 THE COURT: Good idea.

18 BY MR. FERGUSON:

19 Q. And there have been various efforts over the years,  
20 including by the Israelis, to block Hamas funds or funding  
21 passing through Al-Mujamma Al-Islami over -- I'll stop there.

22 There have been efforts to block funds going there  
23 and coming from there; is that correct?

24 A. Correct.

25 Q. And the efforts to block those funds haven't stopped the



1 flow of funds to and through Dawa organizations and  
2 institutions of Hamas; is that right?

3 A. Well, partly, yes.

4 Q. And, in fact, sir, isn't it the case that there's been  
5 open defiance of efforts to block the flow of funds to and  
6 through those organizations?

7 A. I didn't hear --

8 MR. DEUTSCH: Judge --

9 BY THE WITNESS:

10 A. -- the first part.

11 MR. DEUTSCH: -- objection. I don't understand "open  
12 defiance." To whom by whom? It's a vague question.

13 BY MR. FERGUSON:

14 Q. Isn't it true, sir, that Hamas organized a one-day  
15 fundraising campaign in the Gaza Strip on April 9th of 2004?

16 A. They did. I am not sure about the date, but I recall,  
17 yes.

18 Q. And they went into mosques and other public institutions  
19 and appealed to Gazans to donate to the movement -- and  
20 specifically, to the Iz Al-Din Al-Qassam military wing -- and  
21 not to any outfit or charity affiliated with it; isn't that  
22 true?

23 A. That's true. So, that's -- the rationale behind that --  
24 and I have to clarify -- was to say -- to deliver a message --  
25 to Israel at that time that they can support the military wing

1 internally without the need of any external funding or  
2 support, neither from the UK or the U.S. So that to -- to --  
3 tell the people that they can run the military wing of Iz  
4 Al-Din Al-Qassam from internal funding and the external  
5 funding goes only to social work.

6 Q. But they went to the mosques and the Dawa institutions to  
7 raise the funds --

8 A. To the --

9 Q. -- correct?

10 A. -- mosques.

11 Q. Correct?

12 A. To the mosques. It was Friday prayer.

13 Q. All right.

14 The mosques?

15 A. Yeah.

16 Q. And there's proselytizing that occurs in the mosques,  
17 correct?

18 A. Well, the mosque -- I mean, doing a donation after a  
19 Friday prayer is an Islamic tradition that goes everywhere.  
20 And you can't describe that as a military activity as such.  
21 People would finish their prayer and go out -- outside the  
22 mosque -- and, then, they donate for this or that issue, or  
23 whatever. And this is some sort of Islamic custom everywhere.

24 Q. But you've written, sir, that they canvassed the mosques  
25 on that day across Gaza and collected huge sums of money

1 specifically for the military wing --

2 A. Yes, I wrote that, yes.

3 Q. -- of Hamas, correct?

4 A. Correct.

5 Q. And that occurred under the political leadership of

6 Hamas -- that campaign -- correct?

7 A. I don't know.

8 Q. Did all of the members of the Iz Al-Din Al-Qassam Brigade

9 get up in the public square and announce themselves as --

10 MR. MOFFITT: Objection.

11 BY MR. FERGUSON:

12 Q. -- needing money?

13 MR. MOFFITT: Objection.

14 THE COURT: Sustained.

15 BY MR. FERGUSON:

16 Q. So, Hamas went to the mosques and solicited and received

17 --

18 MR. MOFFITT: This has been asked and answered five  
19 times now.

20 BY MR. FERGUSON:

21 Q. -- monies specifically for the military, sir; is that  
22 right?

23 THE COURT: He did not finish the question.

24 MR. MOFFITT: It's the exact same question.

25 THE COURT: Mr. Ferguson?

1 MR. FERGUSON: I don't think it is, Judge.

2 THE COURT: Overruled.

3 You may answer.

4 BY THE WITNESS:

5 A. The call and the slogan under which that campaign was  
6 carried out was resisting the occupation. Now, that was the  
7 reason behind the success of that campaign.

8 Whatever you repeat and call and underline that we  
9 need to resist the occupation, everybody will donate, either  
10 in mosques or churches or anywhere. People think that the  
11 military occupation is number one the priority and they have  
12 to face it. So, we can't just simply take this out of the  
13 context and say, "Well, this is for the military wing of  
14 Hamas."

15 Hamas put the whole thing under the perspective of  
16 resisting the occupation, and this is why the appeal was  
17 highly successful at the time.

18 BY MR. FERGUSON:

19 Q. The appeal was for money to the Al-Qassam Brigades?

20 MR. MOFFITT: Objection.

21 MR. DEUTSCH: Objection.

22 MR. FERGUSON: Judge, I didn't get an answer to my  
23 question.

24 MR. DEUTSCH: He got it.

25 MR. MOFFITT: Yes, he did. He got it three or four

1 times.

2 MR. FERGUSON: I asked --

3 MR. MOFFITT: He admitted that it was an appeal to  
4 the Al-Qassam Brigades. He said in his answer that the reason  
5 that it was done that way was to show that they could be  
6 financed through outside -- without the United States. He  
7 said that before: Without outside funding. He said that.

8 THE COURT: Mr. Ferguson?

9 MR. FERGUSON: I don't feel I got a direct answer to  
10 my question, Judge.

11 THE COURT: I think he did answer that.

12 Sustained.

13 MR. FERGUSON: Okay.

14 THE COURT: Ask your next question.

15 BY MR. FERGUSON:

16 Q. Now, it's your view that Hamas has never specifically  
17 targeted Westerners, either inside or outside of Palestine; is  
18 that right?

19 A. Correct.

20 Q. In fact, you believe that the Hamas literature and record  
21 of events since its founding attests to this strict policy and  
22 its ability to uphold it, correct?

23 A. Correct.

24 Q. And that's because the political branch actually exercises  
25 meaningful control over the parameters of how the military

1 conducts itself; is that right?

2 A. Correct.

3 Q. Attacks outside of Palestine would have great  
4 ramifications for Hamas' ability to function, correct?

5 A. Correct.

6 Well --

7 Q. Now --

8 A. -- not only that. I have to clarify something because  
9 within the Palestinian history of the struggle against  
10 occupation, targeting Westerners or Western targets outside  
11 Palestine was a policy that have been -- that has been --  
12 exercised and experimented and failed during the '70s. So, we  
13 used to have within the Palestinian factions people who  
14 thought that we have to attract the world attention by  
15 executing operations against Israeli targets outside Palestine  
16 so that people would ask what's happening there. That policy  
17 failed.

18 And Hamas is fully -- fully -- con- -- I mean,  
19 con- -- fully under- -- understands fully that this policy  
20 would harm the Palestinian cause in the first place, before  
21 harming Hamas' functioning.

22 Q. But it is true, sir, that when the United States has taken  
23 actions that directly impact on Hamas or a member of Hamas,  
24 that the rhetoric that we've been discussing raises threats as  
25 to actions outside of the Palestinian arena to United States

1 interests; isn't that correct?

2 A. Only partly. And I would -- I would -- put my finger on  
3 two or -- two statements or three statements that -- that --  
4 implying -- implied threatening Americans or Westerners to be  
5 targeted by Hamas people. And that was extremely exceptional  
6 of the general official line.

7 Q. And what are those two or three examples?

8 A. I can't really remember, but I think they -- most of them  
9 -- are really late, over maybe one year or two years.

10 Q. Well --

11 A. I mean, maybe you have them so you can remind me.

12 Q. Is this one of them, sir?

13 In response to the United States' continued detention  
14 of Mousa Abu Marzook, Mahmoud Zahar, in quoted remarks in  
15 February of 1997 in the Christian Science Monitor, stated, "If  
16 now America is kidnapping Marzook and handing him over to the  
17 Israelis, this is a new American policy. This means the  
18 Americans and Israelis are looking for more waves of violence  
19 in the area."

20 Would that be an example of one of those remarks that  
21 you're referring to?

22 A. Well, not really. This is not very specific. This is  
23 very general. And if it was issued in '97, history has proved  
24 that it was very hollow statement.

25 Q. Well --

1 A. I think there are a couple of more recent ones.

2 Q. You would agree that some of the locations successfully  
3 targeted by Hamas suicide bombers have been in places where  
4 there is significant risk and likelihood that foreigners,  
5 Westerners, even Americans might be killed or injured?

6 A. I would think so, yes.

7 Q. That's a "Yes"?

8 A. Yes.

9 Q. I'm sorry.

10 And as a consequence, numerous Westerners have died  
11 in Hamas' attacks; isn't that right?

12 A. Not numerous. I don't know the numbers, but when you say  
13 "numerous," I think this is somehow sweeping term.

14 Q. Okay.

15 40 Americans?

16 A. I don't know the figure. But I know that, yes, some  
17 Westerners have been killed in these attacks.

18 MR. FERGUSON: Nothing further, Judge.

19 THE COURT: Do you have redirect?

20 MR. MOFFITT: Yes.

21 THE COURT: Okay.

22 We will pick up tomorrow with it.

23 Ladies and gentlemen, we are done for the evening.

24 We will pick up tomorrow morning. Please be on the 2nd Floor  
25 by 9:15. Remember, do not discuss the case, watch, listen to



1 or read any media coverage.

2 Have a good evening.

3 (Jury out.)

4 (Whereupon, there were further proceedings, which not  
5 ordered transcribed.)

6 \* \* \* \* \*

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8 I certify that the foregoing is a correct excerpt from the  
9 record of proceedings in the above-entitled matter.

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11 \_\_\_\_\_, 2006  
Official Court Reporter

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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, ) Docket No. 03 CR 978  
)  
Plaintiff, )  
)  
vs. )  
)  
MUHAMMAD HAMID KHALIL SALAH AND )  
ABDELHALEEM HASAN ABDELRAZIQ ASHQAR, ) Chicago, Illinois  
) December 19, 2006  
Defendants. ) 9:15 o'clock a.m.

VOLUME THIRTY-THREE  
EXCERPT OF TRIAL PROCEEDINGS  
BEFORE THE HONORABLE AMY J. ST. EVE, AND A JURY

APPEARANCES:

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1 THE CLERK: 03 CR 978, USA vs. Muhammad Salah and  
2 Abdelhaleem Ashqar. Jury trial continues.

3 THE COURT: Good morning.

4 MR. FERGUSON: Good morning, Judge, Joe Ferguson,  
5 Reid Schar, Carrie Hamilton for the government.

6 MR. DEUTSCH: Michael Deutsch, Erica Thompson, Ben  
7 Elson and Mr. Salah for Mr. Salah.

8 MR. SPIELFOGEL: Bill Moffitt and Keith Spielfogel on  
9 behalf of Dr. Ashqar, who is present in court.

10 MR. DEUTSCH: Judge, there's a brief matter I wish to  
11 take up at sidebar.

12 THE COURT: Okay.

13 Is Mr. Hroub here?

14 MR. DEUTSCH: Yeah, he's here.

15 THE COURT: Okay.

16 (Proceedings had at sidebar:)

17 MR. DEUTSCH: Judge, the next witness after Mr. Hroub  
18 is Dr. Ginbar. Actually, he's become a doctor.

19 THE COURT: I was going to say "Doctor," that is new.  
20 Okay.

21 MR. DEUTSCH: He got his Ph.D.

22 And he doesn't swear; he affirms.

23 THE COURT: Okay.

24 MR. DEUTSCH: And I would prefer that he affirm in  
25 front of you, without the jury being present, because the fact

1 that someone affirms may be prej- -- he might be prejudiced in  
2 the eyes of some jurors.

3 THE COURT: Do you think they will even notice if I  
4 say, "Raise your right hand. Do you solemnly affirm -- "?

5 MR. DEUTSCH: Maybe not. I mean, I just --

6 THE COURT: I do not think they will notice.

7 MR. DEUTSCH: Okay.

8 THE COURT: I will not do anything different other  
9 than switch out "swear" for "affirm."

10 MR. DEUTSCH: All right. That's fine.

11 THE COURT: I am going to take a quick break and I  
12 will be back.

13 Mr. Hroub is here.

14 I will be back.

15 (Brief recess.)

16 (Proceedings had in open court:)

17 THE COURT: Are you ready?

18 MR. FERGUSON: Yes, Judge.

19 THE COURT: Okay.

20 (Jury in.)

21 THE COURT: You may be seated.

22 Good morning, ladies and gentlemen.

23 We are going to continue with the testimony of  
24 Professor Hroub.

25 Professor, let me remind you, sir, you are still

1 under oath.

2 KHALED HROUB, DEFENDANTS' WITNESS, PREVIOUSLY SWORN

3 THE COURT: Mr. Ferguson, you may continue.

4 MR. FERGUSON: Judge, I think we're on redirect.

5 THE COURT: That is correct.

6 You were tendered back.

7 Mr. Deutsch --

8 MR. DEUTSCH: Mr. Moffitt is going to go first.

9 (Laughter.)

10 MR. DEUTSCH: Judge, I'm not going to do redirect  
11 unless something comes up --

12 THE COURT: Okay.

13 MR. DEUTSCH: -- in the course of the redirect.

14 THE COURT: Mr. Moffitt, your turn.

15 MR. MOFFITT: Thank you.

16 REDIRECT EXAMINATION ON BEHALF OF DEFENDANT ASHQAR

17 BY MR. MOFFITT:

18 Q. Good morning.

19 THE COURT: Before you begin, do you have water for  
20 your witness, please.

21 (Brief pause.)

22 BY MR. MOFFITT:

23 Q. Good morning, sir.

24 A. Good morning.

25 Q. Once again, I'm Bill Moffitt and I represent Dr. Ashqar.

1                   How many millions of people in Gaza and the West Bank  
2 support Hamas?

3 A. It's difficult to say; but, judging on results of the  
4 election January, 2006, one can easily say that almost 60  
5 percent of the Palestinians support Hamas.

6 Q. And, as best you can tell me, 60 percent of the  
7 Palestinians support Hamas, how many people would that be?

8 A. If we say -- well, we are talking about 2 millions and a  
9 half, maybe a bit more, between the Gaza Strip and the West  
10 Bank.

11 Q. All right.

12                   Now, all the people who support Hamas or affiliate  
13 with Hamas, do they all support killing civilians?

14 A. No, they don't.

15 Q. You can support Hamas without supporting killing  
16 civilians?

17 A. Yes, you can.

18 Q. Now, on cross-examination Mr. Ferguson suggested that  
19 there was affluence in the West Bank and the Gaza Strip. Do  
20 you remember that he asked you about people being affluent?

21 A. Well, I agreed on the "middle class" term. "Affluence"  
22 may be a bit too much.

23 Q. All right.

24                   Does being middle class spare you from the pain of  
25 occupation?

1 A. No, of course not.

2 Q. Does having a degree or several degrees spare you from the  
3 pain of occupation?

4 A. Well, briefly, nothing would spare you from the brutality  
5 of the occupation.

6 Q. All right.

7 Has the occupation been described as a brutal  
8 military occupation?

9 A. Yes, it was, and still.

10 Q. Now, I want to talk to you briefly about your book a  
11 little bit. Okay?

12 A. Okay.

13 Q. On Page 60, you discuss Oslo.

14 MR. FERGUSON: I'm sorry --

15 MR. MOFFITT: 60.

16 MR. FERGUSON: -- which book?

17 THE COURT: For the record, which one is it?

18 MR. MOFFITT: It's "The Beginner's Guide."

19 BY MR. MOFFITT:

20 Q. That's your latest book; is that right?

21 A. Yes, it is.

22 Q. All right.

23 Do you have a copy there?

24 A. No, I don't.

25 (Document tendered.)



1 BY MR. MOFFITT:

2 Q. Would you turn to Page 60, please.

3 And you give a list of eight items on Page 60 going  
4 into Page 61, correct?

5 A. Correct.

6 Q. And those are all problems that have occurred since Oslo,  
7 correct?

8 A. Correct.

9 Q. Let me ask you, No. 1 is, "The territories are occupied --  
10 " "were occupied in 1967 are still occupied"?

11 A. Correct.

12 Q. Do the Palestinians have a vote on that?

13 A. What do you mean?

14 Q. Can the Palestinians vote on the continuation of the  
15 occupation?

16 A. Of course not.

17 Q. You say, No. 2, "More than ever, the West Bank and Gaza  
18 has been carved up, mutilated and turned into isolated islands  
19 of human concentrations or cantons administered on behalf of  
20 the Israelis by the Palestinian Authority," correct?

21 A. Correct.

22 Q. Did the Palestinians have a vote on the mutilation of the  
23 West Bank and Gaza?

24 A. No, they don't. Everything is done against their will.

25 Q. No. 3, "Existing illegal Jewish settlements continue to

1 expand and new ones have been erected."

2 Did the Palestinians get to vote about that?

3 A. No, they don't.

4 Q. "Jerusalem is being expanded and de-Arabized."

5 Did the Palestinians get to vote about that?

6 A. No, they didn't.

7 Q. "Large areas of land have been confiscated to allow for  
8 construction of bypasses for exclusive use of Jewish motorists  
9 and especially settlers who illegally live on confiscated Arab  
10 land."

11 Did the Palestinians get to vote about that?

12 A. No, they didn't.

13 Q. No. 7, "Various forms of collective punishment continue to  
14 be adopted by the Israelis, including demolition of  
15 Palestinian homes, the closures of entire areas and an  
16 enforcement of economic blockades, and destruction of  
17 Palestinian infrastructure, and the uprooting of trees and  
18 crops."

19 Trees and crops are uprooted by the Israelis?

20 A. Yes, they are.

21 Q. What kind of trees are we talking about?

22 A. Well, all kinds of trees. Olive trees, citrus trees.  
23 Palestinian farmers depend largely on these kind of trees.  
24 And, in so many cases, under the pretext of security  
25 considerations, the Israelis would uproot these trees and

1 crops.

2 Q. All right.

3 And I want to talk to you about collective  
4 punishment.

5 What is that?

6 A. Collective punishment means that if somebody, say, from  
7 the Gaza Strip undertakes military action or something  
8 suspected by the Israeli military, something harmful on  
9 Israel, they would close down the entire Gaza Strip not  
10 allowing anybody to get in, get out. They would place  
11 curfews -- long -- long ones -- against everybody, regardless  
12 of whoever is suspected of doing that kind of action.

13 Q. You also talk here about the demolition of Palestinian  
14 homes.

15 Can you tell us about the demolition of Palestinian  
16 homes?

17 A. Well, in the -- basically, similarly, if somebody  
18 undertakes or suspected of being the doer of military action  
19 or taking part in even minor thing, one of the policies of the  
20 military establishment is to demolish their house as a  
21 deterrent policy so that in the future, nobody would think of  
22 doing the same thing.

23 In destroying the house, they deliver a message to  
24 the wider Palestinian community saying that anybody who even  
25 thinks of doing the same action would pay high price in losing

1 the house of their family.

2           So, if you have somebody 17 years old, a son of a  
3 large family -- maybe of 12-member or even more -- doing  
4 something against the Israelis, they will go and demolish the  
5 house of the family and expel everybody and everybody will be  
6 left without any home.

7 Q. So that if somebody does an act, they render the entire  
8 family homeless?

9 A. Yes, they do.

10 Q. Regardless of whether or not the family participated?

11 A. Usually, these guys, the military -- the people who do any  
12 military act -- they keep their actions completely secret from  
13 their families. So, the family -- the families -- have no  
14 prior knowledge of whatever their kids are doing.

15 Q. Do the families who are rendered homeless, do they need  
16 support?

17 A. Oh, yes, of course.

18 Q. Well, how are they supported if they no longer have a  
19 home?

20 A. Excuse me?

21 Q. How are they supported if they no longer have a home?

22 A. Well, I mean, they need some -- some -- some -- help --  
23 immediate help, of course -- mainly from local associations,  
24 local societies and local donations.

25           And, in the Palestinian communities, either in the

1 West Bank or in the Gaza Strip, there are organizations  
2 deliberately -- or set up -- to help these people because this  
3 is -- this is -- not a unique event. This is something done  
4 routinely. Maybe every single week or every other week, you  
5 will have a Palestinian house demolished under security  
6 pretext.

7 Q. How does this demolition take place?

8 A. Well, by different means. Either bulldozing the --  
9 these houses with giving very short notice to the family,  
10 sometimes no more than half an hour. So, the military order  
11 comes from the Army: "You have to evacuate your house in half  
12 an hour and we will undertake the demolishing." Sometimes it  
13 takes place by exploding the house. So, they would have --  
14 detonate the house.

15 Q. All right.

16 Now, this collective punishment and the destructions  
17 of homes and economic blockades, and what you discussed in  
18 that section there, did the Palestinians have any vote on  
19 whether those are appropriate punishments?

20 A. No, they don't.

21 Q. They are imposed upon them; are they not?

22 A. Yes, they are.

23 Q. Would you turn to Page 39 of your book.

24 Would you look at the second full paragraph  
25 beginning, "In summary"?

1 A. Yeah.

2 Q. Are you familiar with that paragraph?

3 A. Just one second, please.

4 (Brief pause.)

5 BY THE WITNESS:

6 A. Yes, I am.

7 BY MR. MOFFITT:

8 Q. You discuss in that paragraph why it would be naive to  
9 assume that Hamas could destroy Israel; am I right?

10 A. Yes, you are correct.

11 Q. Would you tell the ladies and gentlemen why you believe it  
12 would be naive to believe that Hamas could destroy Israel?

13 MR. FERGUSON: Object.

14 BY THE WITNESS:

15 A. Well, I think --

16 MR. FERGUSON: Object to relevance, whether Hamas has  
17 the capacity to destroy Israel.

18 MR. MOFFITT: Mr. -- my colleague here went through  
19 this whole thing about the charter and various other things  
20 about the destruction of Israel. This is an expert.

21 THE COURT: Overruled.

22 You can answer.

23 BY THE WITNESS:

24 A. Well, I think the assumption that Hamas intends and -- to  
25 destroy Israel has -- has -- so many hollow arguments in it.

1 First of all, it assumes that Hamas should assume power --  
2 should remain in power -- over the Palestinians for decades.  
3 This is number one.

4           Number two, they have to be able to -- to -- bring in  
5 weapons from all over the globe and have great arsenals within  
6 the territories under the eye of Israel and the surrounding  
7 countries, under the eye of the Americans, the West and  
8 everybody. Everybody will be just watching the building up of  
9 the Hamas arsenal so that to achieve the point of being  
10 capable of destroying Israel.

11           So, I think this is very rhetorical and hypothetical  
12 thesis of keeping saying Hamas -- Hamas' aim and intention and  
13 capability is to destroy -- destroy -- Israel.

14           Israel is the most powerful military state in the  
15 Middle East. It defeated all the Arabs in -- in -- five days  
16 back in 1967. They have the military might that not a single  
17 Arab country -- not even the collect- -- a collective group of  
18 Arab countries -- with official armies could defeat Israel,  
19 let alone an organization at the scale of Hamas.

20           So, I think the assumption in itself is -- is -- is  
21 -- is -- naive and only used to -- for other political ends.

22 BY MR. MOFFITT:

23 Q. Now, you talked about checkpoints, correct?

24 A. Correct.

25 Q. And let me ask you, does your status as a holder of a

1 degree prevent you from having to deal with a checkpoint?

2 A. No, it doesn't.

3 Q. Is that something that is imposed upon Palestinians  
4 regardless of their economic means and their status with  
5 respect to education?

6 A. Yes, it does.

7 Q. Tell the ladies and gentlemen of the jury what happens at  
8 a checkpoint.

9 A. What happens at the checkpoint --

10 MR. FERGUSON: Judge, I'm going to, one, object to  
11 relevance; and, two, I don't think there was any question on  
12 cross-examination that called into question anything that was  
13 testified to with respect to what happens at checkpoints.

14 THE COURT: Mr. Moffitt?

15 MR. MOFFITT: I'll pass on the question.

16 THE COURT: Okay.

17 BY MR. MOFFITT:

18 Q. You talked about, on cross-examination, the Islamic  
19 University, correct?

20 A. Correct.

21 Q. And there was some discussion about the courses offered at  
22 the Islamic University?

23 A. Correct.

24 Q. Would you tell the ladies and gentlemen about the courses  
25 that were offered at Islamic University?



1 A. Well, they offer, more or less, most kind of courses.  
2 They offer courses to do with medicine. They offer  
3 engineering: Electrical, civil, mechanical. They offer  
4 mathematics, physics, chemistry. They offer Arab language,  
5 literature, English literature, languages. They offer  
6 religious studies, sociology, history, geography.

7 This is what comes to my mind.

8 Q. Are scholars from all over the world invited to teach at  
9 the Islamic University?

10 A. Yes, they are.

11 Q. Do many of them come and teach at the Islamic University?

12 A. Yes, they -- they -- go, yeah.

13 Q. Are you familiar with Islamic chemistry?

14 (Laughter.)

15 BY THE WITNESS:

16 A. No, I am not.

17 BY MR. MOFFITT:

18 Q. How about Islamic physics?

19 A. I am not.

20 Q. How about Islamic mathematics?

21 A. I am not.

22 Q. So, those courses are taught at the Islamic University,  
23 aren't they?

24 A. Yes, they are.

25 Q. Now, as you sit there today, as a result of the

1 occupation, you can't go home; am I right?

2 A. I can't go home and -- and -- reside or live there.

3 Neither my family nor my relatives and many million

4 Palestinians.

5 Q. What does it feel like not to be able to go home?

6 MR. FERGUSON: Objection.

7 THE COURT: Sustained.

8 MR. MOFFITT: No further questions.

9 THE COURT: Mr. Deutsch?

10 MR. DEUTSCH: I don't have any questions, Judge.

11 THE COURT: Mr. Ferguson, any recross?

12 MR. FERGUSON: No, Judge.

13 THE COURT: Thank you, Professor. You may step down.

14 THE WITNESS: Thank you very much.

15 (Witness excused.)

16 (Whereupon, there were further proceedings, which  
17 were not ordered transcribed.)

18 \* \* \* \* \*

19

20 I certify that the foregoing is a correct excerpt from the  
21 record of proceedings in the above-entitled matter.

22

23

\_\_\_\_\_, 2006  
Official Court Reporter

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