

# **Report of the Parliamentary Commission of Inquiry With Regard to Lessons to be Learned From the Maccabiah Bridge Disaster**

**Jerusalem, 6th Tammuz 5760 (9th July 2000)**

## **Preface**

On 25th October 1998, the Knesset decided to set up a parliamentary commission of enquiry to investigate the lessons arising from the Maccabi Games bridge disaster.

The Commission held 12 meetings.

A summarised report of the Commission's deliberations, setting forth its conclusions and recommendations, is attached hereto.

The members of the Commission and I trust that the implementation of the recommendations of the report will assist in healing the open wound and in alleviating the sorrow and suffering of the injured victims, the families of the victims, the Jewish community in Australia and all those who, in sorrow and in pain, have been close to the tragic series of events.

I wish to express my gratitude to Mrs. Rachel Saada, secretary of the Commission, who provided the members of the Commission with every possible assistance, and would also like to thank Advocate Amir Fuchs who helped in the preparation of the report.

Yours truly,

M.K. Eliezer Sandberg Chairman of the Commission of Enquiry

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## **Section on the Facts**

### **1. The disaster**

A temporary bridge, which had been erected in order to enable delegations to the Maccabi Games to cross in order to reach the opening ceremony of the 15th Maccabiah, collapsed a few minutes before eight o'clock in the evening on 14th July 1997.

As a result of the collapse of the bridge, most of the members of the Australian delegation, which numbered 373 men and women, fell into the waters of the Yarkon River, as did several

members of the Austrian delegation, which numbered 51 men and women. Four members of the Australian delegation, namely Yetty Bennett, Gregg Small, Elizabeth Sawicki and Warren Zines, all of blessed memory, lost their lives. 69 sportsmen and sportswomen (see Crim. File (Tel Aviv Magistrates Court) 15237/97 **State of Israel v. Bar-Ilan and Others** (hereinafter: the Verdict) p. 2) were injured, including the young girl Sasha Elterman, who has undergone more than thirty operations and continues, to this very day, to wage a courageous struggle to return to a healthy and normal life.

While the sportsmen and sportswomen were being pulled out of the water, the opening ceremony continued, albeit in an abbreviated format, only several hundred metres from the place at which people were fighting for their lives. From that moment on, the Maccabi Games, which ought to have been the high point of activity for world Jewry, became synonymous with disaster and with pain and sorrow for families, persons and communities the world over. Since then and until today the events which preceded the tragedy and those which came in its wake have constituted a discordant and schismatic element between Jews and sportspersons and there has been no rest for the injured or for the families of the injured victims and of those who were killed. This tragic episode has still not ended.

### **Establishment of the Commission of Enquiry**

On 28th October 1998 the Knesset, pursuant to the power vested in it under Section 22 of the Basic Law: The Knesset, appointed a commission of enquiry with regard to the lessons to be learned from the bridge tragedy at the Maccabi Games. This Commission was comprised of the following members:

M.K. Eliezer Sandberg - chairman; M.K. Naomi Hazan - vice-chairman; Knesset members: Naomi Blumenthal, Tamar Gozanski, Zvi Hendel, Maxim Levy, Michael Nudelman, Genadi Rieger.

This Commission was appointed in order to continue dealing with the matter, by virtue of the fact that the work of the previous parliamentary commission of enquiry (headed by M.K. Micha Goldman, (hereinafter: the Goldman Commission) had been terminated prior to it completing its work, by virtue of the proroguing of the 14th Knesset. In order to emphasise the continuity of the work, the mandate which the new commission (hereinafter: the Sandberg Commission) received was identical to that of the Goldman Commission, and at its first meeting, on 29th December 1999, the Sandberg Commission decided (p. 3 of the minutes of the meeting) to adopt the minutes of the Goldman Commission. The Commission was authorised - and this was something that was stressed innumerable times during the course of its meetings - to investigate only matters which do not form part of the criminal and civil legal proceedings being conducted in the courts following the Maccabi Games bridge disaster. More particularly, the Commission was authorised to examine the following aspects:

1. The activities of the entities concerned before and after the disaster.

2. The participation of the State of Israel and the Jewish Agency in financing the activities of Maccabi, generally, and of the Maccabi Games, in particular. An examination of the continuation of this financing following the disaster.
3. The actions taken by the State of Israel following the disaster.
4. The establishment of a special fund for compensation by the State to families of the deceased victims and the injured persons.
5. The setting up of a ministerial committee, or other body, on behalf of the executive authority which will be responsible for contacts between Australian Jewry generally and victims of the families in particular on the one hand, and the official bodies of the State of Israel, regarding the subject of the bridge disaster, on the other.

### **Proceedings of the Commission**

The deliberations of the Commission focused on matters falling within the parameters of the mandate given to the Commission by the Knesset. The scope of the discussions was determined in accordance with the importance of the subject and the necessity for hearing all the parties concerned. The first - and the most important - subject is the relationship between the Jewish community in Australia generally, the injured victims and families of the persons killed, in particular, on the one hand and the State of Israel and the Maccabi World Union (hereinafter: Maccabi World Union or World Maccabi) on the other. This relationship is dependent on two additional factors that constituted a significant part of the Commission's deliberations: the possibility of speeding up payment of the compensation and demands for the resignation or suspension of the president of World Maccabi, Mr. Ronald Bakalarz, and the chairman of World Maccabi, Mr. Uzi Netanel. On this last point it can already be mentioned that Mr. Netanel resigned his position after the verdict was handed down. In addition, the Commission studied the activities of the various entities shortly prior to the disaster and subsequent thereto, including the learning of lessons with regard to future mass events.

The Commission also heard testimony in regard to the pollution of the Hayarkon River, the manner in which this pollution is being dealt with and the link between the pollution and the injuries to the sportsmen. For this purpose, representatives of the Ramat Gan Municipality, the Hayarkon River Authority and the Ministry of Health appeared before the Goldman Commission. As mentioned above, the Sandberg Commission adopted the minutes of the Goldman Commission in this matter, but because the subject was not expressly defined in the Commission's mandate, and by virtue of a request from the State Attorney, as will be described further on, and because the main topic for the Commission was the way in which the State of Israel and World Maccabi are dealing with the families and the victims, the Commission is obliged to content itself with a reference to the minutes of the proceedings of the Goldman Commission on these matters.

## **2. The relationship between the community in Australia, the State of Israel and World Maccabi**

The Sandberg Commission heard grave and painful allegations from the Jewish community in Australia. The testimony was given by official representatives, past and present, of the community, as well as by representatives of the families themselves and - in the course of a visit by the chairman of the Commission to Australia - also from the families directly.

The Commission gained the impression that the witnesses who testified before it described an ever-growing deep chasm between the Jewish community in Australia and World Maccabi and in consequence of this, also between the community in Australia and the State of Israel. The first sense of pain, following the disaster, was replaced by bitterness due to a feeling that World Maccabi refused to assume responsibility for the disaster. At a certain stage that bitterness turned to anger, as a consequence of the sequence of events that will be described below. This rift also has ramifications on the relationship between the State of Israel with the Australian Government and it also affects ties with other Jewish communities around the world.

The attitude towards the State of Israel is characterised - so it would seem - by a certain degree of ambivalence. On the one hand, there is no allegation that Israel was directly responsible for the tragedy. Likewise, a great deal of appreciation and sentiments of gratitude were expressed for the warmth and the interest displayed by Israeli citizens for the situation of the victims and the injured persons (see letter from Lynne Zines, widow of the late Warren Zines, which was handed to the chairman of the commission during his visit to Australia; and the letter from Colin Elterman, Sasha Elterman's father, dated 29th February 2000). On the other hand, because the disaster occurred on Israeli soil, in a semi-State sponsored event, which was graced by the presence of the President of the State, the Prime Minister and many other high ranking officials, the protracted conduct of the various proceedings in the courts and the inability to bring about an end and a final decision on the matters in dispute, has caused many people in the Jewish community in Australia to point an accusing finger at the State of Israel. An especially cynical tone emerges, for example, from the letter sent by Frank R. Gaensler, who grieves the loss of the late Yetty Bennett, and who's own leg was severely injured:

### **Recipe for Disaster**

#### **Ingredients:**

1. Trip to Israel planned well in advance.
  2. Group of happy families (several).
  3. Add a mixture of incompetent builders, greedy businessman and uncaring personalities
- Result: Nothing but disaster.

A letter from Suzanne Small, widow of the late Gregg Small, which was handed to the chairman of the Commission on his visit to Australia, describes the moments of the disaster in detail, spells out the difficult position of the family which has lost a husband, father and breadwinner,

and who does not hold back on criticising the State of Israel and the World Maccabi organisation when it comes to direct contact, showing an interest and financial support (p. 3 of the letter).

The following statements taken from the letter of Andrew Simons (dated 29th May 2000), and who was the late Yetty Bennett's brother-in-law, reflect the duality in the attitude of the Australian community to the State of Israel:

Let me say that our hearts have been touched by all the Israelis we have met, both in Israel and Australia. At first I found it surprising that everyone wanted to apologise to us. Everyone from your President to the person in the street. It was almost like every Israeli felt some degree of guilt...

[I]t is certainly important that the State [of Israel] accept some responsibility for the action of its citizens.

Such ambivalence does not apply in the attitude towards World Maccabi. It can be firmly stated that, amongst the community, there are feelings of anger and frustration at the heads of World Maccabi. In this regard see the letters of Peter Scott and Prof. Geoff Symonds, both of whom are active and important figures in the community in Australia.

### **The complaints of the Australia community**

The Commission began its meetings by hearing the testimony of Mr. Peter Wertheim, vice president of the umbrella organisation of Jewish communities in Australia. Mr. Wertheim had harsh things to say about World Maccabi and its executive (session 1, of 29th December 1999). Similar sentiments were voiced by Tom Dynos, President of Maccabi Australia, and by Izzy Liebler, a past chairman of the umbrella organisation of Jewish communities in Australia and currently chairman of the committee of the World Jewish Congress (session 9, on 29th March 2000). Based on the testimonies, the letters and the various approaches, the following allegations are to be inferred:

1. World Maccabi did not take responsibility at any level, even though it was the party that chose the contractor for the bridge. Messrs. Bakalarz and Netanel were out of order in failing to take moral responsibility on themselves vis-a-vis the sportspersons. World Maccabi saved pennies at the cost of human lives.
2. World Maccabi endeavours to distance itself from the disaster in every possible way, contending that the tragedy was caused as a result of the quality of the water in the Hayarkon River and not as a result of the collapse of the bridge.
3. People from World Maccabi focus on levelling accusations at the media and in conducting a public relations campaign against the families of the injured persons, generally, and against Colin Elterman, in particular. They do this instead of attending to the needs of, and providing compensation for, the injured persons and the families of the victims who died.

4. In the first few months following the disaster, no one from World Maccabi made contact with the families and no one so much as apologised to the families of the deceased victims and the injured persons in any manner whatsoever, nor did anyone set up direct contact with the victims and their families. First contact was made only in December 1997, on the initiative of Colin Elterman, Sasha's father. A first visit to Australia was undertaken by the heads of World Maccabi in February 1998, and in the course of that visit the World Maccabi executive displayed remoteness and aloofness to the families of the injured persons.
5. More than two years went by before World Maccabi fulfilled its undertaking to transfer a loan of \$500,000 to Maccabi Australia. Moreover, World Maccabi is not indemnifying Maccabi Australia for its expenses.
6. The persons directly responsible for the disaster, Yoram Eyal (chairman of the organising committee) and Itamar Herman (chairman of the opening ceremony) took a longer time than could be expected before resigning their positions on 22nd December 1997, more than five months after the disaster. Maccabi Australia put forward a proposal, in the course of a Maccabi congress in May 1999, to hold a secret ballot for the dismissal of Messrs. Bakalarz and Netanel, but World Maccabi rejected the request to hold a secret ballot.
7. World Maccabi sought to get families of the deceased victims and the injured persons to sign legal papers which constituted a waiver or relinquishment of the right to institute lawsuits, in consideration for their receiving loans. The victims received legal advice not to sign the documents. When the families refused to sign the documents, Maccabi altered the contents and the wording of the documents.
8. The insurance cover for the 15th Maccabi Games was effected in such an amateurish manner that, even today, it is not clear what the extent of the insurance cover is. The maximum assessment is that the full extent of the insurance cover stands at 10 million dollars, and this amount, too, is inadequate and is substantially lower than the proper cover.
9. In a book summarising the 15th Maccabi Games, which runs to 250 pages, the disaster is not mentioned at all.
10. World Maccabi prevented Maccabi Australia from expressing a protest at the behaviour of the heads of World Maccabi in the framework of the Pan-American games of Maccabi which were held in Mexico City.
11. It was revealed on Australian television that members of World Maccabi had tried to interfere with and hinder the work of the Dotan Commission. In addition it was made known that World Maccabi tried to prevent the establishment of the Knesset commission of inquiry.

12. World Maccabi has not taken steps to arrange the question of safety at future Maccabi games, and continues to plump for a concept of "business as usual" (minutes 1, p. 23). This is something that represents an insult to the victims.

From what was said by representatives of the Australian community who appeared before the Commission, three main demands emerged:

1) For the suspension of the president of World Maccabi, Mr. Ronald Bakalarz and the chairman Netanel until the end of the investigations and the relevant legal proceedings, and the demand for genuine co-operation on the part of Maccabi in the proceedings which are being prosecuted. Netanel's resignation, following the criminal conviction, came too late, and it merely illustrates the absurdity - as alleged by the Australian community - of the refusal by the president of World Maccabi, Ron Bakalarz, to resign (minutes 11, p. 7). No small number of speakers related to the symbolic dimension involved in Bakalarz continuing in office. At the opening ceremony of the Maccabi Games, the participants salute the president of the organisation. In this regard Elaine Smaller, a person who has been active for many years in Maccabi Australia, wrote:

"How could we attend a Maccabiah and as we march past the dignitaries' podium salute a man who is ultimately morally responsible for causing so much pain [?] It is unthinkable.

(Also see the report by the chairman of the commission, M.K. Sandberg, following his meetings with the families (minutes 11, p. 6)). Allegations were voiced to the effect that, immediately after the disaster, Mr. Bakalarz did not make contact with the injured persons and the families of the deceased victims to inquire as to their well-being. After criticism began being levelled at Mr. Bakalarz's continued holding of office, an interview with him was published in the Jerusalem Post on 24th July 1997, and according to that interview Bakalarz said that he knows that responsibility does not rest with the organising committee (also not by virtue of the construction of the bridge) because he himself had been part of that committee. Finally, many members of the Australia community took as a personal insult the statement made by Bakalarz in the scope of the Goldman commission proceedings that the said commission was conducting the proceedings like a "kangaroo court" (Goldman Commission, sitting 7, p. 4; and see the response by Tom Dinos within the framework of the Sandberg Commission, sitting 9, p. 11).

The failure by World Maccabi to accede to this demand serves as a significant factor in the decision by Maccabi Australia not to send a delegation of sportsmen to the 16th Maccabiah (see the letter attached to minutes 10).

2) Payment of appropriate, just and speedy compensation to families of the deceased victims and the injured sportsmen. This demand emerged from many letters from people in the Australian community and was a subject the Commission dealt with in most of its deliberations. The demand was "to get the families" out of the picture in relation to various proceedings by payment of compensation by the State of Israel, and thereafter to find a mechanism for determining the proportionate liability as between the various entities who are legally liable, who would then repay the money to the State to the extent necessary. Mr. Wertheim, for

example, expressed appreciation for the dignified manner in which the State of Israel had acted (ibid. p. 28-29), but mentioned that the attitude of the Australian community was that, even though Israel bore no direct responsibility, it was obliged to take action in order to guarantee quick and appropriate compensation to the needy families, and to take them out of the picture of the legal battle. It is important to mention that, in view of the fact that some of the injured parties have not yet gone to court, and the attorneys for others of them have not yet specified the exact amounts claimed, the State of Israel is unable to accede to this demand in its entirety.

3) A careful examination of the aspect of safety at future Maccabi Games. This demand was raised several times, although it appears that people from Maccabi Australia were also impressed by the efforts being made in this framework, primarily by the chairman of the organising committee of the 16th Maccabiah, Mr. Uzi Zwebner, who met with the families in Australia in the course of the visit there by the chairman of the Commission, M.K. Sandberg (see minutes 11, p. 9). The willingness to make members of Maccabi Australia and the Australian community parties to the decision-making process in the sphere of safety in advance of the next Maccabiah, and Mr. Zwebner's preparedness to give any information and to answer any question took the sting out of this demand to a certain extent. As opposed to that it must be mentioned that Maccabi Australia's decision to suspend its membership of the World Maccabi Organisation and in conformity therewith not to send an Australian delegation to the 16th Maccabiah, obviously also affects the degree of involvement and interest Australian Jewry will have in the safety and security arrangements in this regard (an official notification was submitted to the Sandberg Commission at sitting 10 on 23rd May 2000, and was attached to the minutes as an annexure).

Mr. Wertheim for the first time raised the problematical aspects surrounding Mr. Zvi Varshaviak's participation in the Israeli delegation to the Sydney 2000 Olympics. Mr. Varshaviak serves as vice-president of World Maccabi, and he is also chairman of the Israeli Olympic Council and as such he heads the Israeli delegation to the Olympic Games. Varshaviak's connection with World Maccabi makes his visit to Australia problematical in the eyes of the community, particularly because of the fact that his function as head of the Israeli delegation involves public appearances and making speeches at ceremonies. The matter was brought up in a more detailed manner at a later stage (minutes 9 of 29th March 2000, at p. 22). Mr. Wertheim emphasised that this was not something personal against Mr. Varshaviak, but that in the present state of affairs, such a step would be perceived as a demonstration of a lack of sensitivity towards those who were injured in the disaster, in particular, and a slap in the face to Australian Jewry, in general. The Commission chose not to deal with this aspect, and did not even invite Mr. Varshaviak to appear before it.

### **World Maccabi's response**

Mr. Zvi Raviv, a member of the World Maccabi executive, responded briefly during the course of the first sitting (p. 39-44) to a number of points Mr. Wertheim had raised, and subsequently Mr. Raviv sent a detailed written response, and presented what he had to say in very detailed

fashion to the Commission, in conjunction with Mr. Amir Peled, a member of the World Maccabi executive (see minutes 7). During the course of the various sittings, Mr. Eyal Tiberger, director general of World Maccabi, expressed Maccabi's position on the various subjects. In addition, sitting no. 10 was devoted to hearing addresses from the presidents of Maccabi in the various countries - Great Britain, Belgium, Canada, the United States, South Africa, the Confederation of Latin American States, and primarily what the president of World Maccabi, Mr. Ron Bakalarz, had to say.

The following are the main aspects taken from the original sources described below:

1. Maccabi has expressed its sorrow and its recognition of its moral responsibility in every possible forum. As regards responsibility for the disaster there is no disputing the fact that "bungling was at its peak" (Zvi Raviv, minutes 1, p. 42) and that members of Maccabi are to blame for the tragedy no less than others.
2. Maccabi organised memorial ceremonies for those who were killed immediately after the disaster and it is active to this very day in perpetuating their memory. Already the day after the disaster, a ceremony was held at the town of Maccabim attended by 5,500 sportsmen who participated in the Maccabiah and who came from all parts of the world (Amir Peled, minutes 3, p. 15 and sitting 7, p. 5-6).
3. Maccabi does not seek to distance itself from the disaster, but is dealing with the matter in all facets thereof each and every day. Maccabi was the first to raise the demand "to take the families out of the picture", and to ask the State of Israel to compensate the families first, and to litigate later on questions relating to the legal liability of the various defendants.
4. Heads of the movement, and in particular the president, Bakalarz, deny that they said the things which the media - and especially the Jerusalem Post - attributed to them (Zvi Raviv, sitting 7, p. 11-12).
5. The people of World Maccabi tried to set up contact with the families, but received advice from the executive of Maccabi Australia and refrained from coming to Australia during the first few months after the tragedy. In retrospect the people at World Maccabi acknowledged that this was bad advice. Time after time Maccabi regretted the fact that people on its behalf had conducted their contact with the families via Maccabi Australia, and to be more precise, that they had acceded to the request of Maccabi Australia not to come to Australia immediately (see what was said by Bakalarz, minutes 10, p. 23-24; statements by Uzi Netanel before the Goldman Commission, minutes 3, p. 8). According to Zvi Raviv (minutes 7, p. 14):

"Immediately after the disaster occurred, a delegation with the Deputy Minister of Education left for Australia. A suggestion was made that the heads of Maccabi should travel to Australia together with the coffins ... three or four weeks before the last of the deceased victims died.

There was such an intention. We referred to Maccabi Australia and consulted with them on each and every step to be taken, and the people from Maccabi Australia told us in unequivocal terms: Don't come to Australia, don't dare to come to Australia, postpone it, don't come here. We are not the people who are on the ground, but they are the people who are on the ground...

They said that the degree of anger there was so great that we would not be able to present our position in a normal way.

This was corroborated by the person who was president of Maccabi Australia at the time of the disaster, Thomas Goldman (minutes 10, p. 32-33 - the highlighting has been added):

They [Maccabi World Union] were ready to come. ... At that time the emotion in Australia was running very high and in discussing whether they should or should not come ... it was felt inappropriate for them to come at that time. The second time that they wanted to come was about a month later and again we suggested to them that it was too early, the wounds are too fresh... that decision was not one that I took myself [but] in consultation both with members of the Jewish community and with the members of Maccabi in Sydney. **I have to say that we did not at the time consult with the families as to whether they wanted to see them ...** I think it's fair to say perhaps in hindsight the question could not have possibly asked of me, **maybe they should have just gotten on a plane and come to Australia.**

Further on, Mr. Raviv also mentioned that Colin Elterman requested the chairman of Maccabi, Uzi Netanel, who came to visit his daughter Sasha, to leave the room because "we do not wish to see you". The visit which was made to Australia eventually, in February 1998, was extremely difficult and painful for the people from Maccabi, "emotional and effective", and was in no way perceived as being a cold and impassive visit (Paragraph 9 to Maccabi's reply which is attached to minutes 1).

6. The allegations regarding interference with the activities of the Dotan commission and the attempt to block the establishment of the commission of inquiry are completely without foundation and border on defamation.
7. As to the transfer of money: World Maccabi undertook to transfer \$500,000, and so far has transferred an amount of \$704,000 to Australia - the largest amount any entity has transferred. Maccabi was never called upon to transfer money on an immediate basis, but "according to needs" (Eyal Tiberger, sitting 4, p. 14-17; and Goldman Commission - minutes 3, p. 6). In actual practice, Maccabi Australia even suggested at a certain stage to send back an amount of \$125,000, because no necessity for it had yet arisen (statements made by Amir Peled and Zvi Raviv, sitting 7, p. 16).
8. As to the drawing of personal conclusions: two of the heads of Maccabi, Yoram Eyal and Itamar Herman have resigned from all their positions. Uzi Netanel, who was due automatically to receive the position of chairman of the international committee of the

16th Maccabiah, virtually immediately withdrew his candidature for the post, and after the verdict in the criminal trial, even resigned from all his positions in Maccabi.

i. The aspect of Mr. Bakalarz's resignation: throughout all the proceedings, World Maccabi has expressed unreserved support for Mr. Bakalarz and has stood uncompromisingly behind his continued holding of office. Two main grounds lie at the basis of this argument:

- Mr. Bakalarz has no connection with the everyday management of Maccabi. Because this is so, there is no public responsibility on him to resign from his position following the disaster. The people of Maccabi used a variety of different analogies from our political world, and likened the demand for Mr. Bakalarz's resignation to a demand (which of course was not made) for the resignation of the Minister of Defence (in addition to the Chief of Staff and the Chief of the Northern Command, which corresponds to the position filled by Mr. Natanel) following the helicopters' disaster, in which 73 IDF soldiers were killed.
- Maccabi is a movement conducted according to law, which has a constitution, elected organs, a disciplinary court headed by a retired Supreme Court judge (the honourable Mr. Justice Dov Levin) and an audit committee. The movement, through its elected organs, took a decision in support of the World Maccabi president (Maccabi congress, May 1998 - minutes 7, p. 11) and a year after the disaster, Mr. Bakalarz was even re-elected as president of Maccabi (minutes 10, p. 15).

It must be stressed that this attitude was clearly and explicitly expressed also by the presidents of Maccabi from the various countries (USA, Canada, South Africa, the Latin American countries, Great Britain). The presidents of Maccabi in the various countries appeared at sitting no. 10 of the Knesset commission of inquiry,. All of them, to a man, expressed support for Mr. Bakalarz and for him to remain in his position. In some cases a degree of anger was even voiced by them at people from the Australian community (see mainly: what was stated by Jane Futerin, president of Maccabi South Africa, at p. 9 onwards; and the statements made by Richard Feldman, president of Maccabi Great Britain, p. 7). Things even reached such a pass that members of the Australian community were accused of wanting "to destroy and end the movement" (Giora Esrovisky, chairman of the Latin-American confederation of Maccabi, *ibid.*, at p. 11).

The president of World Maccabi, Mr. Ron Bakalarz, stated at the same meeting that the way of assuming responsibility at that stage was not to resign. According to him, at p. 14:

"The easiest thing that I could have done from the very first day, I would have resigned, leave the organisation and leave behind a lot of trouble, a lot of chaos like any coward would do something like that. I felt an obligation towards an institution to which... I have dedicated 30 years of my life... I felt I had a moral obligation with that institution to resolve the issues. I also felt I had an obligation to my Australia Haverim.

According to him, a great many objectives were attained due to the fact that he did not resign: donations, preserving the unity of the organisation and boosting morale. However, other objectives still remain to be realised, and these will be adversely affected if he were to accede to the demand to resign. In addition, Mr. Bakalarz mentioned that there is not and cannot be any operative responsibility imposed on him for everyday affairs in the conduct of World Maccabi. The function of the president is to lay down the general lines of policy. As opposed to that, the function of the chairman is to carry out the everyday management. Mr. Bakalarz stated that, following the disaster, which profoundly affected him, he consulted with his friends, with people on the Maccabi executive and with his rabbi, and all of them, without exception, advised him to remain in his post.

9. As regards Zvi Varshaviak - even according to the people from the Australian community - he has no personal connection with the disaster. He must be regarded as a representative of the Israeli sport and no demands ought to be made against his participation in the Israeli delegation to the Olympic Games (Amir Peled, sitting 9, p. 29).
10. The insurance arrangements were drawn up by a special insurance consultant, "one of the best in Israel, Oded Werner, who also deals with sports matters, injuries to sportsmen at sports events, and so forth" (Yoram Eyal, Goldman Commission, minutes 3, p. 11) whom Maccabi engaged for the purposes of the Maccabiah, and no fault can be attributed to the people from World Maccabi with regard to the faults and shortcomings that have been found in these arrangements.
11. World Maccabi was not aware of the text of the forms which the families were requested by the insurance companies to sign. Immediately they became aware of this, the text of the documents was altered and the new text confirms receipt of amounts as part payment on account of future compensation, in the event that such payment is given (see what was said by Miriam Rubinstein, minutes 4, p. 8, and the statements by Eyal Tiberger and Amir Peled, *ibid.*, at p. 16-18).
12. Maccabi certainly does not broadcast an attitude of "business as usual", but instead devotes its full efforts and resources to the safety and security aspects related to the 16th Maccabiah.

### **Report on visits by witnesses to Australia**

Witnesses appeared before Commission who, in the scope of their functions and their businesses had the opportunity of obtaining an impression of the mood in the Australia community:

Prof. Erwin Cutler, a Jewish member of parliament from Canada, visited Australia and emphasised the pain and the grief of Australian Jewry and spoke about the ever-growing rift between Australia and Israel. He also expressed his opinion that these feelings of pain also had an influence on other Jewish communities. This is something which, in his opinion, could affect

occurrences at the Olympic Games to be held in Sydney Australia in September 2000 as well as at the 16th Maccabi Games (ibid., p. 39-44).

Avi Pazner, chairman of Keren Hayesod, visited Australia in December 1999, and obtained the impression that the subject was not being taken off the agenda of the Jewish community there. Bearing in mind the fact that "there are very few communities that have the quality of the Jewish community in Australia" (sitting 2, p. 2), this is something which, in his opinion, is especially painful. According to him, the disaster cuts across the whole field, and is not restricted only to the anger of the families who were affected personally, but is the concern of the entire Jewish community in Australia.

People from the Israeli Foreign Ministry gave the Commission their impressions:

Shmuel Ben-Shmuel, head of the Diaspora Division at the Foreign Ministry, dwelt on the projections which a disaster of this sort have on the relationship with Diaspora Jewry generally, and agreed with Wertheim that if no solution is found by the time of the 2000 Sydney Olympics, a severe setback is likely to be caused to Israel's image (p. 44-50 of minutes 1).

Shmuel Moyal, formerly Israeli ambassador to Australia, spoke of the enormous shock to the Jewish community in Australia. The disaster still has high overtones, mainly amongst the Sydney community, which lost three prominent and important personalities (sitting 4, p. 2-4). The community's scar stems from the disaster and also from the manner in which the matter was handled subsequent to the tragedy. The expectation, according to him, is that the Israeli Government will assume responsibility for payment and thereafter an accounting will be done. The main anger is directed at Maccabi, but there is also criticism of the Israeli Government. From what he says, "after the dust settled" (ibid., p. 5), not enough was done except in the sphere of public relations (visits by Knesset members and Ministers to the families). In the operative fields, they passed over the handling of the entire matter to the insurance companies and to Maccabi. According to him, the expectation was that the State of Israel "would put the cheque on the table".

Words of praise and appreciation were voiced to the Commission with regard to the devoted and professional work by the Israeli consul in Sydney, Mordechai Yadid (who served in this capacity at the time of the disaster and subsequent thereto) and that of Effi Ben-Matatiyahu, who holds that position today.

Ilana Mittelman of the Foreign Ministry mentions the feeling of "a complete breakdown" between World Maccabi and the community in Australia, to such an extent that the Foreign Ministry had to take upon itself to report to people from Maccabi Australia regarding preparations for the 16th Maccabiah (minutes 5, p. 12). It could be mentioned that it would seem that there has been some improvement in this sphere, after Mr. Uzi Zwebner joined the chairman of the Commission, M.K. Sandberg, on his trip to Australia, and following talks Mr. Zwebner had with the families and the community.

According to Mordechai Amichai, head of the Pacific desk at the Foreign Ministry, the disaster has also reverberated at the level of the Australian parliament and the Australian administration. This has manifested itself, inter alia, in a request by the Australian Foreign Minister to the Israeli Prime Minister and Foreign Minister to set up a parliamentary commission of inquiry (minutes 3, p. 19). In addition, the matter arose in the course of a meeting between the Israeli and the Australia Prime Ministers during the Australian Prime Minister's visit to Israel.

### **3. Compensation to the Injured Persons Families of the Deceased Victims**

At sitting No. 2 on 12th January 2000, Mr. Avi Pazner, Chairman of the Keren Hayesod, indicated that the thing that bothered the community was, as he put it, "Why are they not finishing the whole story". Mr. Pazner mentioned that the acrimonious feelings of the community in Australia stemmed from the fact that the community is not being kept updated with regard to the efforts being made to reach a quick finalisation of the criminal and civil proceedings (the formal and informal proceedings).

After years of standstill in the efforts to find an arrangement that would allow for fitting and relatively quick compensation, one can now point to a basic change in the State of Israel's approach to the subject. The person who took a decision and brought about this change is Minister of Finance, Avraham (Beige) Shochat, who agreed to an interim arrangement pursuant to which the court would fix the appropriate compensation and on an interim basis, without recognising final legal liability, the State would pay one-third of the compensation. Adv. Lev Segev of the Legal Department at the Ministry of Finance, described the arrangement as follows (Sitting No. 2, p. 4.):

"The court requested that, on an interim basis, the State should bear one-third of the damage. That means, the State one-third, World Maccabi one-third and Bar Ilan [sic]. The State acceded to the court's request and it has taken upon itself the interim financing until the situation really becomes clear."

The State of Israel and World Maccabi agreed to this arrangement (see what was said by Minister of Finance Shochat at Sitting No.8 on 13th March 2000), but there still remains in shortfall of two-ninths of the aggregate amount (two-thirds of the last third). At a certain stage, notwithstanding, and contrary to, the Commission's recommendation, representatives of the State did not agree to cover this amount within the scope of an interim payment (see what was said by Miriam Rubenstein, head of the Civil Division at the Office of the State Attorney on p. 7-12 of the Minutes of the Sitting No. 4). Later, the policy was changed and a satisfactory solution at this stage has been achieved.

A decision in principle was made by the Minister of Finance in respect of nine court cases and led to an acceleration of the legal proceedings. Today, after the Sandberg Commission had, directly and indirectly, contributed its part to a change in the policy, the State has agreed in a letter from the Minister of Finance to Mr. Ronald Weiser dated 28th June 2000, that this arrangement will apply to all the claimants. So far virtually all the claims have been instituted

and progress has been made, albeit not with regard to details of the monetary claims and the amount of compensation demanded in all the court cases. In parallel, the legal proceedings pertaining to 25 out of 54 of the plaintiffs have been completed. It would seem that the legal proceedings have gained momentum at least insofar as they relate to compensation for the victims and putting an end to this chapter as far as the victims are concerned. Obviously, so long as the attorneys for some of the injured parties refrain from instituting their claims, it will not be possible to finalise these proceedings.

The length of time that it took the State of Israel to adopt a new, different and positive approach, contributed towards accentuating the rift and gave rise to the harsh feelings amongst the Jewish community in Australia. The Commission's impression is that had the new policy of Minister of Finance Shohat been implemented in good time, the public damage would have been vastly reduced. The Commission gained the impression that up until that stage the handling of the matter had been entrusted to people charged with the legal side of things and to government officials, and things lacked the guiding hand of a decision-maker at the political level.

### **Interim Payments**

In order to attend to for the immediate needs of the families of the injured persons and of the deceased victims, the State of Israel and World Maccabi transferred money to the community in Australia. From the outset, Maccabi Australia requested to set up a fund of \$1 million for the aggrieved parties, one half of which would be financed by the State of Israel and the other half by World Maccabi. These moneys were intended to constitute interim payments on account of the compensation, in the event that such damages would be awarded within the ambit of legal proceedings.

As already mentioned, the State of Israel was requested, in the initial stage, to transfer a total amount of \$500,000 as interim payments. The Israeli Government gave an affirmative answer two weeks after receiving the request (Miriam Rubenstein, Minutes 4, p. 8).

Immediately after the disaster, it was decided by World Maccabi to transfer an amount of \$50,000 to the needy families. Subsequently, in the course of Tom Goldman's visit to Israel, World Maccabi was requested, on 10th August 1997, to transfer money "as the need arose". According to the people at Maccabi, they were told that the moneys from the State would be the first moneys that would be distributed (statement of Eyal Tiberger, Director-General of World Maccabi, Minutes 4, p.15). According to Mr. Tiberger, there was an amount of \$125,000 in the fund by May 1998, which had been given by Maccabi, but had not been distributed (ibid., p.16). World Maccabi continued transferring money to care for the injured persons. The two principal transfers were: a sum of \$80,000 was transferred to assist in treatments in Israel, as well as an amount of \$124,000, which had been obtained through the various federations of World Maccabi (USA, S. Africa, Israel, S. America, Europe). In October 1997 an amount of \$327,000 was transferred and thereby World Maccabi fulfilled its initial undertaking, and the

aggregate amount of the loan totalled \$704,000. According to Mr. Tiberger, the delay in transferring the money stemmed from a lack of adequate monetary resources in the World Maccabi movement.

After the money reached Australia, it was decided that same would be distributed by a local committee which laid down criteria for distribution (see statement by Ambassador Shmuel Moyal, Minutes 4, p.6-7). According to Miriam Rubenstein, head of the civil department at the Office of the State Attorney, the money was transferred from Israel and Australia within two weeks and the main delay in the money being remitted to the families was due to the workings of the Australian committees. As a result of a failure to explain the situation properly, most of the wrath of the families with regard to the delay was directed at the State of Israel (Sitting 4, p.8-10). According to Adv. Rubenstein:

There was an allegation made as to why the money was not being distributed, when the proper address for the complaint ought to have been the committee [the Australian committee, which was responsible for distributing the money] and not us. There was a certain amount of confusion, as though it was the State of Israel that was holding back the money whereas we, the moment we gave the answer, the money was in the bank and it was possible to withdraw it, but the procedure of the committee there took some time.

Maccabi Australia knew the true situation and knew how things stood, but the people who were in need of the money did not know, and for that reason there was some sort of problem. We tried, through the Consulate, through the Embassy and through the representatives there to explain things and in some cases we succeeded and in others not.

Recently the Minister of Finance approved the transfer of an additional sum of \$500,000. The Knesset Finance Committee has ratified the transfer. As of this date, it transpires that the money has not yet been transferred, because certain documents were not signed by the entities in the Australian community who were called upon to do so.

#### **4. Actions of the Relevant Entities and the Decision-making Process before and after the Disaster**

##### **Actions connected with the disaster itself**

By virtue of a fear that the rules of sub-judice might be violated, and in view of the legal proceedings being conducted in regard to the matter, letters were sent to the Commission by the State Attorney, Mrs. Edna Arbel, and by the legal adviser to the Knesset, Mr. Zvi Inbar, aimed at preventing deliberation on the actions of various bodies such as the Hayarkon River Authorities, the Ramat Gan Municipality, the Ministry of the Environment and the Ministry of Health, and justifying the way they had acted in connection with the bridge disaster. The Commission accepted this request and the report will not relate to those matters.

##### **Decision-making process and the immediate actions taken following the disaster**

Immediately after first details about the disaster became known (the collapse of the bridge and the rescue attempts), a consultation was held in the office of the Stadium Manager. The consultation went on for between five and fifteen minutes (see the statement of Arie Schumer, Sitting No.6, p.3). It was decided to continue with the opening ceremony, coupled with a substantial shortening of the ceremony (from two and a half hours to fifty minutes - Schumer's statement, *ibid.*, at p.8) by eliminating elements of "joy and euphoria" - to use the words of Amir Peled, Sitting number 3 at p.4) - which included a fireworks display, etc., and by leaving in the Zionist-Jewish element.

From hindsight, according to all those who participated in the various deliberations, it has turned out that this decision was the correct one from the safety-security point of view: stopping the opening ceremony on account of such a traumatic event would have been likely to endanger the lives of spectators at the ceremony (the estimate was that there were approximately 45,000 spectators in the Stadium). Furthermore, it can be stated with certainty that stopping the opening ceremony would have made the rescue of the injured persons from the water more difficult, due to the crowding around of over-curious people in the precincts of the disaster and in blocking routes of evacuation to the hospital, which would have applied as a result of the crowd leaving the stadium to go home (see the statement of Yitzhak Dadon, a member of the Dotan Commission at p.6 of Minutes 3 dated 19 January 2000; and also what was said by Zvi Barr, Goldman Commission, Minutes 3, p.16; the statements of Uzi Netanal and Yoram Eyal to the Goldman Commission, Minutes 2, p.17-18).

Immediately after the magnitude of the disaster became clear, the Deputy Minister of Education, M.K. Moshe Peled, decided to cancel the first day of activities, to marshal the whole of the Australian contingent for physical and psychological treatment and to hold a memorial service at the village of Maccabim, which was attended by 5,500 Maccabiah sportsmen and sportswomen. According to Amir Peled, a member of the World Maccabi Executive (p.15 of Minutes 3), Maccabi continued to care for and concern itself with the Australian sportsmen and sportswomen in an infinite number of other ways (providing them with services such as offices, telephones, cell-phones, talks with professionals).

In addition, Maccabi requested President Weizmann to hold talks with the Australian delegation in order to persuade them to stay and participate in the Games. According to Amir Peled (Sitting 3, p.8):

The President was requested by us to do everything in his power and to help in all matters connected with the disaster, including the important request to achieve a situation that the Australian delegation would remain and would participate in the continuation of the Maccabi Games."

These efforts proved successful, as we know, insofar as this relates to the decision of the heads of the Australian delegation to stay on and participate within the framework of the 15th Maccabiah.

## **5. Safety Arrangements and Preparatory Operations in Advance of the 16th Maccabiah**

In advance of the 16th Maccabiah, a chairman of the organising committee - Mr. Uzi Zwebner - was appointed. This is the first time someone who is not a member of Maccabi has been appointed to this position. Mr. Zwebner testified to the Commission and gave details of all the preparations being made in the scope of the organising committee of the 16th Maccabiah. The following are the main points of his testimony (Sitting 5 on 16th February 2000.)

As part of the lessons that have been learned, Mr. Zwebner explained, a number of divisions have been consolidated into a safety-security and emergency services division. This division is headed by Mr. Yakov Sandler. The former head of the Mossad, Mr. Shabtai Shavit, has been appointed as a special adviser. Brig. (Res.) Yirmi Olmert has been appointed to head the security section; as head of the safety section, Mr. Peter Magnus was appointed; and as head of the emergency services section - Mr. Moshe Kristal.

For each field of activity an accompanying international committee has been appointed, in order to increase co-operation with the delegations from abroad. These committees have become very dominant and they intensify contact with the Diaspora. There have been a number of discussions with the delegations, which also included discussions with representatives of Maccabi Australia. Mr. Eyal Tiberger accepted the recommendation of the committee to increase the number of meetings initiated by World Maccabi with Australian representatives and to incorporate them into the planning of the 16th Maccabiah. The safety committee is examining all the special facilities and installations that will be used for the Maccabiah (permanent facilities and also temporary facilities). The security committee will inspect and examine security procedures, will meet with security officers and will prepare special requirements which conform with the security needs. The emergency services committee will examine medical certificates, medical teams, liaison and contacts with hospitals.

The insurance consultant has been replaced by a person who, according to Mr. Zwebner, is one of the leading advisers on insurance matters in Israel.

Mr. Zwebner stressed that all the organisers are obliged to inspect and examine the activities of sub-contractors, and not only of principal contractors.

Deputy Commander Shaike Horwitz of the Ministry of Internal Security added that in September 1999, an inter-ministry report on mass events, was submitted to the Government (ibid., p.15-16). The report, which relates to the Arad disaster (July 1995) and to the Maccabiah disaster, was also submitted to the Commission. The report recommends the creation of a statutory order, which is detailed in the report itself, to be incorporated in the scope of an amendment to the Business Licensing Law, and the making of regulations which will give the licensing authorities the discretion to grant an exemption from the requirements mentioned therein and proclamation of "a safety target" as an objective for the licensing of a business of "public entertainment", and specifically delineating the government ministry which will be charged with the furtherance of this objective.

The main features of the proposed legislation include: definitions as to the applicability of the law, concentration and co-ordination of the relevant information, directives with regard to the safety of the site area and the facilities and installations therein, crowd management at the event, the comfort of the crowd (sanitation services, food and water, medical services, information and assistance services), properly prepared disposition for emergency situations (evacuation, medical services, fire-fighting services), directives with regard to office bearers at an event (qualifications and training, responsibility and authority), powers of the police officer appointed to serve as commander of the police forces for the event, on-going and monitoring and learning of lessons from each event.

These recommendations have not yet become part of the statute book in the State of Israel.

## **Conclusions**

**The conclusions of the Commission are being written 3 years after the Maccabiah disaster and almost 2 years since the first meeting of the Knesset Commission of Enquiry in this regard. The initial pain and sorrow have, in the course of the three years that have gone by, been joined by anger and despair.**

We are about to start the fourth year of mourning and bereavement as we set forth our conclusions.

The conclusions of the Commission relate to the tragic event along the axis of time, starting from a point immediately before the disaster and up to the present day.

### **1. The Decision to Continue with the Opening Ceremony**

As already mentioned, the opening ceremony of the 15th Maccabiah continued at a time people were fighting for their lives. The decision in this regard was taken in the office of the stadium manager and it was taken by members of Maccabi, in consultation with the President of the State, Mr. Ezer Weizmann, who was present at the event. The duration of the consultation did not exceed ten minutes. Eventually the length of the ceremony was significantly reduced, and it lasted less than fifty minutes (as compared with the original plan of two and a half hours).

Was this the proper thing to do? In the Commission's opinion the grotesque situation reached a climax when the television chose to split the television screen and simultaneously to show pictures of people fighting for their lives, and alongside that dancers whirling around on the grass. The Commission believe that this decision was extremely problematic, and aroused harsh feelings amongst the spectators at the event and also, subsequently, amongst the injured people and the families of those who died (in this regard see what was said by M.K. Naomi

Hazan - Minutes 6, p.7). Live broadcasts of spectacles of disasters and terrorist attacks are not uncommon in the State of Israel. However, this case was exceptional even according to the customary norms in Israel and it is something that cannot be allowed to go by without a proper public discussion in the appropriate forum.

Leaving aside the decision to broadcast the opening ceremony on television in the above-mentioned manner, the Commission finds that the decision to continue with the ceremony was a correct decision in the circumstance of the matter. The simple security explanation was three-fold:

Firstly, a danger to the spectators themselves; a decision suddenly and drastically to stop an event at which more than 45,000 people are present would be likely to give rise of feelings of panic and stampede. Spectators would attempt to leave the stadium in a rush, and there was a fear that part of the crowd could be trampled on if this was not done in a properly controlled manner. The risk that the dimensions of the tragedy might be multiplied was a genuine danger.

Secondly, interference with the rescue forces in the area of the disaster: thousands of spectators who would leave the stadium would be likely to collect in large crowds trying to assist in the rescue operations or simply to observe them, and eventually would do nothing more than hamper the rescue attempts.

Thirdly, the blocking of access roads: even assuming that tens of thousands of spectators would have rushed directly to their cars and would not have congregated around the area of the disaster, an insufferable impediment would have been caused on the access roads to and from the hospitals required for the evacuation of the injured persons.

To sum up - the tough decision that was taken to continue with the ceremony in a truncated format was the best possible decision in the existing circumstances. However, the screening of the ceremony along with the broadcast of pictures of the injured persons merits severe criticism and requires additional public discussion.

## **2. The Contact with the Injured Persons, Families of the Deceased Victims and the Community in Australia during the Maccabi Games**

Immediately after the opening ceremony it was decided, on the initiative of the Deputy Minister of Education, M.K. Moshe Peled, to cancel the first day of competition and on the evening of that day to hold a memorial ceremony at the village of Maccabim with the participation of 5,500 Maccabiah sportsmen and sportswomen.

After the ceremony, when competitions were due to commence, the organisers sought, first and foremost, to achieve a situation that the Australian delegation would stay on and compete, and in addition they tried to attend to everything the Australian delegation needed and to provide everything they were short of.

Their first task was successfully achieved. The President of the State came to the assistance of World Maccabi and, according to the testimonies, held emotional talks with people from the Australian delegation, which led to a joint decision that they would remain and would compete, as a mark of respect to their injured colleagues and the memory of those who were killed (see what was said by Arie Schummer, Minutes 6, p.5; the statement by Zvi Raviv, Minutes 3, p.19 and Minutes 7, p.8; the statement by Zvi Barr and Yoram Eyal to the Goldman Commission, Minutes 3, p.7).

As regards the way in which the Australian delegation was dealt with, these are matters which are the subject of controversy. In the Commission's opinion, this controversy is partly a dispute on the facts and partly a dispute about feelings.

Whereas World Maccabi contends that the Australian contingent was dealt with in the best possible manner, by keeping them apart for purposes of physical and psychological treatment, and the holding of group therapy discussions and taking all the necessary steps (Amir Peled, Minutes 3, p.15), complaints have been voiced, though not many, amongst representatives of the Australian delegation, that the treatment was not a thorough one, and primarily that the President of Maccabi, Mr. Bakalarz, did not go to the injured sportsmen and the families of the deceased victims, and did not try to enquire as to their state of health, but chose to ignore them.

It would seem that the findings are not completely contradictory: Maccabi did indeed provide everything it could from the logistical point of view but Maccabi's assisting hand was unable to caress and embrace with warmth. Specifically in the scope of the justifiably well-known Israeli culture of warmth and informal contact, which have all proved themselves on numerous occasions throughout the entire case itself, the members of Maccabi focussed actually on the bureaucratic and technical solutions, which are important in themselves, and failed to devote the same energy to the human and indirect contact with the sportsmen and sportswomen and their families. It is possible that the people at Maccabi chose this way because of the feeling of embarrassment associated with being connected with such a terrible disaster. Perhaps it was the first shock after the collapse of the bridge and the results which came in its wake, which led to this. There is no doubt that it was one of the seeds of the trouble which brought about the rift and friction.

### **3. Contact with the Jewish Community in Australia, Aspect of Compensation, Demands for Resignation, and Ancillary Questions which have arisen up to the Present Day**

#### **A) The State of Israel's links with the Jewish community in Australia**

The Commission has found that, apart from a few exceptional cases, the State of Israel dealt with those aspects which were in the field of its responsibility in a correct and a speedy manner. The first loan that was requested, in the sum of \$500,000, was approved within two weeks and was available to the families shortly after its approval. Contrary to the forms which World Maccabi sent to the families (see below), the forms which the State of Israel demanded that the

recipients of the loans should sign, were found to be in order and acceptable to the families, in that they indicated merely that what was involved was a loan on account of future compensation in the event that future compensation would be awarded.

Under this heading we make favourable mention of the laudable and fitting work done by the Israeli Consulate in Sydney under the direction of the Consul at the time of the disaster - Mr. Mordechai Yadid - and the present Consul, Mr. Effi Ben Matityahu, who from the day the disaster occurred and up to this very day have spent days and nights attending on the families of the injured victims, maintaining contact with the community, the injured sportsmen and sportswomen and their families, and in keeping them updated with regard to the developments on the legal side and on the other frameworks in Israel which relate to the disaster. The Israeli consulate in Sydney has supplied and continues to supply translation services from Hebrew to English of the Court records of cases and Commissions, and the information which flows helped entities at the foreign ministry in Israel to explain the complexity of the subject to State and Government entities in this country (see what was said by Ilana Mittelman, Minutes 2, p.7-8 and also Minutes 4, p.19).

#### **B) Relationship between World Maccabi and the Jewish Community in Australia**

It would seem that there can be no argument that at this point in time a critical sequence of tragic mistakes began, and it embodies the real failure in the handling of the matter following the disaster. In practice there is no dispute about the fact that the delegation of members of World Maccabi did not visit Australia until February 1998, and **did not set up direct contact with the families** - that is to say, not through Maccabi Australia, (statement of Bakalarz, Minutes 1, p.21). There is also no dispute that the natural tendency of members of World Maccabi was to go to Australia "together with the coffins" (statement of Zvi Raviv, Minutes 7, p.14). As mentioned earlier, Maccabi Australia, headed by its president at that time, Mr. Thomas Goldman, assumes "the blame" for this. However, Mr. Goldman in his appearance before the Commission added the following key sentence (Minutes 10, p.33):

"Maybe they should have just gotten on a plane and come to Australia".

Indeed, it seems that everyone agrees that the members of the Maccabi Australia erred in their recommendation to people from World Maccabi not to come to Australia, and all are in agreement that the heads of World Maccabi listened to and acted in accordance with that recommendation. However, apart from a visit, it is virtually astounding that high-up members of World Maccabi failed to make direct contact with the families other than through their representatives in Australia. The people from Maccabi hide behind the contention that "they are the representatives on the ground", to use the words of members of World Maccabi, but the impression of the Commission is that World Maccabi chose the easy way out and that the various events ought to have lifted them out of this apathy and indifference they showed. Specifically an organisation which boasts that it is "the largest Zionist sports movement in the world" (the words of Uzi Netanel, Goldman Commission, Minutes 2, p.5), which espouses the

Jewish and Zionist vision, and warm and family-like contacts such as World Maccabi, did not know how to act correctly on this important point.

Coupled with that, we cannot refrain from mentioning the part Maccabi Australia played in this rift, by its failure to discern the various possibilities and the clearly expected consequences thereof and even if it seemed that they were "between the devil and the deep blue sea" by virtue of their long-standing relationship of friendship with members of World Maccabi, on the one hand, and the leading personalities active in the life of the Jewish community in Australia on the other hand, they ought to have taken a brave decision in acceding to the request of World Maccabi to come to Australia and to have contended with the difficult situation as it arose.

World Maccabi's contact with the community began with the visit of people from World Maccabi to Australia in February 1998. That visit was accompanied by extremely discordant tones. According to members of the Australian community, the men from World Maccabi acted coldly and in a sanctimonious way, and refused to accept moral or public responsibility. According to members of World Maccabi, they made their utmost effort to explain their position, but there was an unwillingness to listen amongst people in the Australian community.

Once again, even though it seems that we are dealing with a factual dispute which cannot be smoothed over, it is possible that this is not so. It is indeed likely that people from World Maccabi wished to meet the families in order to apologise and in order to express their sympathy and condolences in their pain and their loss (as emerges from their response in the appendix to Minutes 1, and also from Minutes 7, p.13). However, this description may well be a case of being wise after the event and too much emphasis was placed on distinguishing

between moral responsibility and the projections thereof, including everything connected with the expression of sorrow, pain, memorial assemblies and including everything made necessary in collecting together matters connected with the disaster, compensation, etc., and personal responsibility which is required following the occurrence of the disaster, which, as already mentioned, is a judicial matter being adjudicated in the appropriate forums. (Maccabi's response, appendix to Minutes 1, at p.3)."

**It is possible that members of Maccabi did indeed wish to express sorrow, but it is possible that this expression of sorrow was mixed with "the legal responsibility that the people from Maccabi sought, and rightfully as far as they were concerned, to avoid taking upon themselves the 'moral responsibility'" These two were joined together from time to time and presented a picture that Maccabi sought "to distance itself" from the disaster. All this was in the circumstances where people in the Australian community wanted to hear "We sinned, we committed a crime". One can only refer to letters from members of the Australian community (see mainly the letter from Andrew Simon) in order to see just how touched they were by the many Israelis who tried to apologise to them, solely by virtue of their being Israelis. These people asked themselves, with a large degree of justification: "Are they not deserving of an apology from the people at Maccabi?" A sincere and direct apology, face to face, in an**

**intimate forum and not within the scope of a speech at a formal commemoration - an apology to the people who belonged to an organisation in the framework of which a disaster occurred that destroyed several families in a small and intimate community.**

It is no wonder that, in this situation, the conduct of members of Maccabi in their meetings with the families seems to the Australian community to be "cold, sanctimonious and aloof" and it is no wonder that the members of World Maccabi don't understand why.

The sending of formal papers of insurance companies as a pre-condition to receiving a loan brought forth a similar result and for similar reasons. These forms were perceived by people in the Australia community - and rightly so - as humiliating and as unbefitting the special situation in which they found themselves (Minutes 1, p.21-22). World Maccabi responded in a way which is reminiscent of pleading in the alternative before a court of law.

First, "it wasn't me" (Maccabi's response to the allegations of Mr. Wertheim (Appendix to protocol 1,p.7):

Maccabi does not draw up the text for loans or applications for loans. The matter is not handled by it at all, but is dealt with by attorneys on behalf of the insurance companies and attorneys who attend to the financial handling of the matter.

Secondly, "that is the right thing to do" (ibid., ibid.)

Most certainly the drafters of documents will do everything necessary from the legal point of view in order that these loans will not be deemed at an early stage, and in particular after the filing of claims by the injured persons, as a legal admission of some or other form or liability."

**Thirdly, "a mistake was made and it has been rectified" (statement of Eyal Tiberger, Minutes 4, p.17):**

"... the families again contended that these forms created pre-conditions as between the acceptance of the loan and a waiver of future claims. We referred to the insurance company, to the attorneys, and asked them to alter this, and it was in fact changed."

See also what was said by Amir Peled (ibid., p.18).

As the feelings of anger and frustration at the manner in which World Maccabi was handling the matter grew, so voices in Australia grew louder for deposing and unseating the heads of Maccabi. Indeed, immediately after the end of the Maccabiah, the Chairman of the Organising Committee for the 15th Maccabiah, Mr. Yoram Eyal and the Chairman of the opening ceremony Mr. Itamar Herman, resigned their positions. A short while thereafter Mr. Uzi Netanel withdrew his candidature for the post of chairman of IMC even though his being given this position was, according to the custom in World Maccabi, "automatic" (Minutes 7, p.9). On this point we must also mention that Mr. Netanel resigned from all his positions in Maccabi after the verdict was given in the criminal trial (the verdict was given on April 17th, 2000). The topic which remains

open at the time of writing this report relates to the continued holding of office by Mr. Ronald Bakalarz as president of World Maccabi.

### **C) The Question of Mr. Ronald Bakalarz continuing to hold office**

The Commission feels that Mr. Ronald Bakalarz ought to resign from his post as President of World Maccabi.

Mr. Bakalarz mentioned that in taking his decision to remain on in his post after the disaster, he chose the more difficult of the possibilities he had open to him. We will again quote what he said (Minutes 10, p.14):

"The easiest thing that I could have done from the very first day, I would have resigned, leave the organisation and leave behind a lot of trouble, a lot of chaos like any coward would do something like that. I felt an obligation towards an institution to which ..... I have dedicated 30 years of my life. I felt I had a moral obligation with that institution to resolve the issues."

Indeed, after having made a contribution over 30 years to an organisation dear to his heart, which included three years following the disaster in which he was called upon to heal wounds, to strive for unity in the movement and to attend to the obtaining of financial resources for dealing with the families, Mr. Bakalarz is called upon, as the Commission sees it, to vacate his position to enable the movement he so much loves to get back on to a proper road.

It must be clarified that the Commission has not found - nor was it alleged before it - that Mr. Bakalarz has any direct legal or operational responsibility for the disaster. Likewise, as regards the public-moral responsibility, it must be pointed out that the demand for Mr. Bakalarz's resignation came up more than one year after the disaster.

There is no doubt that under Mr. Bakalarz's presidency, World Maccabi made some grave mistakes which have deepened the rift between Jewish communities. Things have reached such a pass that in the eyes of the members of the Australian delegation, he represents a personification of disaster, and in their letters they expressed an inability to show respect at the opening ceremony of the next Maccabiah to a man who, as far as they are concerned, symbolises responsibility for the disaster.

The Commission is of the opinion that the heads of Maccabi erred all along the line in the way in which they contended with the ever-growing fracture in the relationship between World Maccabi and the Australian community. We have cited and will again mention the following aspects; the way in which the bridge was erected, the aspect of the unclear insurance cover and the fear of under-insurance, the feeling of indifference and a lack of interest during the course of the Games and subsequent thereto, aloofness (in the opinion of the community) in the first months following the disaster which was manifested by postponing the visit to Australia, the demand to sign legal deeds of waiver as a precondition to obtaining assistance money, a change in the forms, a feeling of haughtiness which accompanied the visit members of World Maccabi

made to Australia, and a feeling of distant aloofness which was the lot of members of Maccabi Australia. To this must be added the feeling of frustration and anger which attach to the need to salute Maccabi World president Bakalarz at the opening of the next Maccabiah, and the decision that has been taken by Maccabi Australia not to participate in that Maccabiah (also, and perhaps equally, by virtue of the fact that the proceedings regarding compensation have not yet been concluded).

All these have, in the opinion of the Commission, created an irreversible situation in the scope of which the Australian community will not participate in the next Maccabi Games. Without them, so the Commission believes, the Games will be profoundly, radically and seriously damaged to such an extent as to raise doubts whether or not there is any justification in staging the Games in such circumstances.

The Commission's impression is that only if people who were at the helm of World Maccabi within the framework of the 15th Maccabiah do not head World Maccabi, will it be possible to resolve this crisis.

Contrary to the contentions of the men at World Maccabi, to the effect that after the resignation of Bakalarz, more demands will be made by Maccabi Australia to depose other people to such an extent that the Maccabi organisation will be destroyed in its entirety (Minutes 10), the Commission got the impression that these arguments are unfounded. Based on a report by the Chairman of the Commission, M.K. Sandberg, regarding his visit to the families in Australia, and also from the letters received by the Chairman of the Commission during the course of that trip, (see for example the letter from Mr. Elterman which deals with this specific point, p.6), it becomes apparent that there will be no further demand for resignations (Minutes 11, p.7).

Specifically what was said by Mr. Bakalarz regarding how much he cares for the Maccabi organisation and the continuity thereof, are things which lead the Commission to the conclusion that he must do what is perceived in his own outlook as an act of responsibility - namely, to resign his position and pave the way for the continued holding of the Maccabi Games.

#### **D. The manner in which the claims for compensation have been handled**

The main criticism voiced against the State of Israel regarding this whole affair relates not to what it did, but rather to what it [did not] do. From letters handed to the chairman of the Commission, M.K. Sandberg, on his visit to Australia, and also from reports by Mr. Shmuel Moyal to the Commission (minutes 7, p. 4-7), criticism emerges against the State of Israel on its tardiness in intervening on the aspect of compensation and bringing it to a quick conclusion by removing the families from the scene of litigation. However, specifically now, three years after the disaster, where a large part of the court cases have entered the formal judicial process, the Minister of Finance, Mr. Avraham (Beige) Shochat, has volunteered, where others before him failed to volunteer to put up money, which is likely - after the scale of the damages has been fixed - also to bring this aspect to finality (in this regard see minutes 8).

It should be mentioned that the State of Israel recently approved another loan in an amount of \$500,000, and the fact that it is actually on the Australian side that the technical requirements for the transfer of the money have not been fulfilled, necessitates an examination in the backyard of those who allege neglect on the Israeli side.

The Commission was barred from deliberating on the legal issues being conducted before the courts in Israel to the extent that these relate to the disaster. However, the Commission gains the impression that the main problem which led to a delay in handling the arrangement of payment of compensation was the absence of a decision by an authorised political figure with regard to the desirable policy in these court cases. The Commission believes that it was totally incorrect that a case such as the Maccabiah bridge disaster be dealt with from the standpoint of the State of Israel as if it were an ordinary legal claim and the State ought, from the inception, to have taken into account the far-reaching public aspects attaching to this affair which were made clear to the authorities in Israel by the Foreign Ministry and other parties. Only the political echelon could have taken a decision in this regard, and indeed all the time the handling of the matter was left in the hands of professionals (jurists and treasury officials) no real progress was made.

These people acted to the best of their professional ability, but they did not have the authority to take decisions of principle. With this as the background the Commission applauds the courageous and correct decision by the Minister of Finance, Avraham Shochat, to delve intensively into the matter and to take decisions of principle. This move has paved the way to compensation settlements in many court cases, and the Commission's impression is that there is a good prospect that this will assist in putting an end to the whole affair from the judicial standpoint. The Commission has seen fit to point out that some of the families of injured persons have not yet submitted their claims, while other plaintiffs have not specified the amount of their claims, or have not made a detailed demand with respect to compensation in the customary way. It is desirable that the plaintiffs themselves should display a greater involvement in the legal proceedings in the course of demanding from their Israeli lawyers to report to them regularly. If that is done, the fear of an unnecessary delay, which is due to such a lack of communication, will be avoided.

#### **E. The handling of mass events**

As mentioned above, it would seem that the immediate decision taken after the disaster to continue with the opening ceremony, was correct in essence, for the reasons recited above. Nonetheless, it must be borne in mind that, following the Arad disaster and the Maccabiah disaster, the Israeli Government set up an inter-ministry team which presented a detailed report, in September 1999, with regard to the handling and treatment of mass events. The report contains detailed recommendations with regard to changes in legislation and the making of regulations. These recommendations have not yet been adopted and steps must be taken, as soon as possible, to make them part of the statute book of the State of Israel.

The Commission is satisfied that Maccabi is leaving no stone unturned in order to attend to the required safety arrangements within the scope of the 16th Maccabiah. However, for the avoidance of doubt, the Commission refers to the actions which are required and are necessary in view of the conclusions of the Dotan Commission and the inter-ministry report, and the Commission highlights the necessity for the meticulous implementation of each aspect of these recommendations and that steps be taken to ensure their full application.

In this regard it seems appropriate to quote what was said by Mr. Zwebner, chairman of the organising committee for the 16th Maccabiah:

"It is very very important to see the smallest details and always to look for... the blind spots which for some reason one does not look for naturally. ... to go forward but all the time with antennas searching at every place and in every corner for things that we did not think about in advance...

#### **F. Insurance cover**

The fact that throughout all the deliberations of the Commission, and right up until this stage, the Commission has not succeeded in obtaining an unequivocal opinion regarding the scale of insurance cover for the 15th Maccabiah is something that must be seen in a very serious light. Not only that, but also according to the most "optimistic" estimates, the total insurance cover will be a sum of 10 million dollars, and we have to contend with the fear that several sportsmen and sportswomen will not be compensated because of under-insurance. The Minister of Finance's letter to Mr. Ron Weiser dated 28th June 2000 constitutes recognition - in the opinion of the Commission - of the liability to top up the compensation in every case of under-insurance, so that such a fear will cease to exist.

#### **G. Personal appointment for attending to contact with the families**

A large part of the criticism voiced against Israel turned out to be unjustified. As a blatant example mention can be made of the fact that a complaint emanated from Australian Jewry regarding a delay in the transfer of the money from the Israeli Government, whereas this money was already in the possession of the Australian committee that is responsible for the distribution thereof. In addition, it transpired that there is considerable bitterness amongst the families about the fact that they are not being apprised about the developments in the various proceedings - both formal and informal - taking place in Israel and which relate to the disaster. It is possible that the personal appointment of a man who will fill the function of informing the families in cases of this sort in which families from abroad are involved, will resolve this problem and all the features thereof.

### **Recommendations**

1. **Finalising the aspect of compensation:** The Commission calls for a continuation of the efforts in order to bring about an end to the aspect of compensation as quickly as possible. This aspect clouds the relationship between Israel and the Jewish community in Australia, and the utmost efforts must be made to put it behind us. The Commission believes that the decision in this regard is of a political nature and it has many implications which go far beyond the narrow legal plane. Accordingly the decision-makers - and first and foremost the Israeli Government - must act in every possible way in order to finalise this issue. The best thing would be for the Government to assume public responsibility which will guarantee that the injured persons will not be left without compensation and that their legal interests be pushed ahead with the greatest possible speed until completion.
2. **Continuation of the term of office of Mr. Ronald Bakalarz as president of World Maccabi:** The Commission is of the opinion that Mr. Ronald Bakalarz should resign from his position as president of World Maccabi. If this is not done, the Commission recommends to the State of Israel that it should refrain from financing the 16th Maccabi Games and should not participate in the public events which accompany it.
3. **Mass events:** The Commission calls upon the Minister of Justice to procure the enactment of the recommendations contained in the inter-ministry report and in the Dotan Commission report for dealing with mass events, which was submitted to the Government in September 1999, and that the Government should promulgate the regulations suggested in that report. If this is not done, the Commission will take steps amongst Knesset members with the objective of initiating private bills on these subjects.
4. **Personal appointment for attending to contact with the families:** The Commission recommends in the case of similar events of disaster, appointing a specific person (as distinct from a government institution or ministry) whose task it will be to update the families of the victims on the formal and informal proceedings being conducted in Israel. The name of such person should be made public and steps should be taken to ensure that this information reaches the relevant public.
5. **Personal appointment for attending to contact with the families:** The Commission calls for the holding of a public discussion which will examine the aspects of broadcasts of a similar nature to that screened during the bridge disaster, with the accent being placed on examining the extent of normalcy in the decision to broadcast - on a split screen - attempts to rescue the Australian sportsmen, alongside pictures of the opening ceremony celebrations. A copy of this report will be sent to the Press Council, with their attention being drawn to the chapter which deals with the screening of the opening ceremony and the Commission's comments in this connection.
6. **The aspect of the insurance cover:** In view of the uncertainty shrouding the sphere of insurance cover in an event having features of a state-sponsored event, such as the

Maccabi Games, and in view of the danger that without the willingness of the State of Israel to provide financial assistance, there would be a very real possibility that some of the families would not be compensated due to under-insurance, the Commission is sending a copy of this report to the Inspector of Insurance, drawing his attention to the necessity for laying down norms for arrangements in respect of similar cases.

7. **Inclusion of Zvi Varshaviak in the Israeli delegation to the Sydney 2000 Olympics:** The Commission regarded its main function as being to relate to the aspects of compensation for the injured athletes and for the families of the deceased victims. Implementation of the Commission's recommendations will lead to the start of a new road, coupled with a rehabilitation of the relationship between the State of Israel, World Maccabi and the Jewish community in Australia. In this situation, the Commission did not see fit to take a stand with regard to the inclusion of Mr. Varshaviak in the Israeli delegation to the Olympic Games which are due to be held in Sydney. However, because the matter remains open, and is dependent upon the implementation of other recommendations, the Commission is sending a copy of the report to the Minister of Science, Culture and Sport, in his capacity as the person having ministerial responsibility for Israel's participation in the Olympic Games.
8. **Participation of Maccabi Australia in the 16th Maccabiah:** Subject to the conclusions and recommendations of this report, the Commission calls on Maccabi Australia to participate in the 16th Maccabiah and to contribute its share in healing the wounds and in re-igniting old friendships.