

ISRAEL AND ITS PALESTINIAN CITIZENS

This volume presents new perspectives on Israeli society, Palestinian society, and the Israeli Palestinian conflict. Based on historical foundations, it examines how Israel institutionalizes ethnic privileging among its nationally diverse citizens. Arab, Israeli, and American contributors discuss the paradoxes of democratic claims in ethnic states, as well as the dynamics of social conflict in the absence of equality. This book advances a new understanding of Israel's approach to its Palestinian citizens, covers the broadest range of areas in which Jews and Arabs are institutionally differentiated along an ethnic basis, and explicates the psychopolitical foundations of ethnic privileges. It will appeal to students and scholars who seek broader views on Israeli society and its relationship with the Arab citizens, and want to learn more about the status of the Palestinian citizens in Israel and their collective experience as both citizens and settler colonial subjects.

NADIM N. ROUHANA is Professor of International Affairs and Conflict Studies, and Director of the Program on International Negotiation and Conflict Resolution at the Fletcher School of Law and Diplomacy, Tufts University. He is also the Founding Director of Mada al Carmel Arab Center for Applied Social Research, based in Haifa. His research includes work on the Arab Israeli conflict, Israeli and Palestinian societies, the dynamics of protracted social conflict, collective identity and democratic citizenship in multiethnic states, the questions of reconciliation and multicultural citizenship, transitional justice, and international negotiations. His publications include *Palestinian Citizens in an Ethnic Jewish State: Identities in Conflict* (1997) and numerous academic articles.

SAHAR S. HUNEIDI holds a PhD in Middle Eastern Studies from the University of Manchester and is author of *A Broken Trust. Herbert Samuel, Zionism and the Palestinians* (2001). She was Director of Publications at the National Council for Culture, Arts, and Letters, Kuwait (1986-1998), and has been Director of East & West Publishing since 2008.

ISRAEL AND ITS
PALESTINIAN CITIZENS

Ethnic Privileges in the Jewish State

Edited by

NADIM N. ROUHANA

Assistant Editor

SAHAR S. HUNEIDI



CAMBRIDGE
UNIVERSITY PRESS

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UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
One Liberty Plaza, 20th Floor, New York, NY 10006, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
4843/24, 2nd Floor, Ansari Road, Daryaganj, Delhi 110002, India
79 Anson Road, #06 04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

www.cambridge.org

Information on this title: www.cambridge.org/9781107044838
10.1017/9781107045316

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First published 2017

Printed in the United States of America by Sheridan Books, Inc.

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging in Publication Data

Names: Rouhana, Nadim N., editor. | Huneidi, Sahar S., editor.

Title: Israel and its Palestinian citizens : ethnic privileges in the jewish state / edited by Nadim N. Rouhana ; assistant editor Sahar S. Huneidi.

Description: Cambridge : University Printing House, Cambridge University Press, [2016]

Identifiers: LCCN 2016041200 | ISBN 9781107044838

Subjects: LCSH: Palestinian Arabs Israel Ethnic identity. | Ethnicity Israel. | Israel Ethnic relations.

Classification: LCC DS113.7 1853 2016 | DDC 305.80095694 dc23

LC record available at <https://lccn.loc.gov/2016041200>

ISBN 978 1 107 04483 8 Hardback

ISBN 978 1 107 62281 4 Paperback

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CONTRIBUTORS

AYMAN K. AGBARIA is Senior Lecturer in educational policy and politics, University of Haifa.

YAIR BÄUML is Chair of the Department of History at the Oranim – Academic College of Education, Israel.

MATTHEW BERKMAN is a PhD candidate in the Department of Political Science at the University of Pennsylvania.

AZMI BISHARA is Director of the Arab Center for Research and Policy studies at Doha, Qatar.

HILLEL COHEN is Professor of Middle Eastern Studies at the Hebrew University of Jerusalem.

YOSEF JABAREEN is Professor of Urban Planning at the Technion – Israel Institute of Technology.

AMAL JAMAL is Associate Professor at the Political Science Department at Tel Aviv University.

RAJA KHALIDI served with the United Nations Conference on Trade and Development from 1985 to 2013 and has been Research Coordinator at the Palestine Economic Policy Research Institute (MAS) since 2016.

IAN S. LUSTICK is Bess W. Heyman Professor in the Political Science Department of the University of Pennsylvania.

NADIM N. ROUHANA is Professor of International Affairs and Conflict Studies at the Fletcher School of Law and Diplomacy, Tufts University, and Director of Mada al-Carmel – Arab Center for Applied Social Research, Haifa, Israel.

AHMAD H. SA'DI is Associate Professor of Political Sociology, Department of Politics & Government, Ben-Gurion University.

AREEJ SABBAGH-KHOURY is the Ibrahim Abu-Lughod Postdoctoral Fellow at the Center for Palestine studies, Columbia University, and Research Associate at Mada-al-Carmel – Arab Center for Applied Social Research, Haifa, Israel.

NADERA SHALHOUB-KEVORKIAN is Professor at the Hebrew University of Jerusalem – Faculty of Law, Institute of Criminology, and the School of Social Work and Public Welfare, and the director of the Gender Studies Program at Mada al-Carmel – Arab Center for Applied Social Research in Haifa.

MTANES SHIHADAH, PhD, is Director of research projects at Mada al-Carmel – Arab Center for Applied Social Research, Haifa, Israel.

NIMER SULTANY is Senior Lecturer in Public Law at the University of London's School of Oriental and African Studies.

PREFACE

The idea of this volume emerged during a discussion some years back with Dr. Sahar Huneidi, a Palestinian scholar in exile, who sought to learn about the status of the Palestinian citizens in Israel and their collective experience as both citizens and settler-colonial subjects. Her intellectual curiosity, academic background, and personal interest led to lengthy discussions about the nature of this population's citizenship and how the settler-colonial structure of the Jewish state (or more accurately the Zionist state) is manifested in their collective experience. How is this citizenship in a settler-colonial state exactly reflected in the state's relationship with them? After all, the Palestinian citizens in Israel, who comprise close to one-fifth of the total population of Israel within its pre-June 1967 borders, live under a Zionist system that is built on the premise that the state established on their homeland is actually the "state of the Jewish people" and the homeland itself is the "homeland of the Jewish people" – not theirs.

We decided that a volume is needed to focus on the ways that Israel has formulated its relationship with its Arab citizens from the very beginning, even in pre-state days, in such a way that ensures extensive, indisputable, ethnic privileges for Jews across a wide swathe of socio-political domains at the expense of Arabs, while simultaneously presenting itself as a democracy. This seemed theoretically important for reasons I present in the first chapter. We also decided that I would edit a volume on this focus, and that Dr. Huneidi would serve as Assistant Editor.

Thus, the book was structured with the focus on exploring the nature and the foundational underpinnings of the ethnic privileges granted to Jewish citizens (and noncitizens) in Israel vis-à-vis the Palestinians who are both citizens and natives of the homeland (privileges that apply vis-à-vis other non-Jews in the country). We assembled a group of scholars to examine the roots of these privileges in pre-state Zionist thinking and in the state's political structure; how these privileges are manifested in

various spheres; how they are justified by Zionist thought and resisted by Palestinian citizens; and what their long-term implications are. We did not ask the authors to take any particular theoretical approach, such as considering a settler-colonial framework of analysis, but we did ask them to examine the underpinnings and manifestations of Jewish ethnic privileges as shown in state policies.

Over the last few years, I have been heavily involved in discussions, workshops, conferences, and conversations that have influenced my thinking about the subject matter of this project. Ideas included in my introductory chapter, as well as ideas for other chapters in this volume, were enriched by discussions at Mada al-Carmel – Arab Center for Applied Social Research in Haifa, and by the countless seminars and workshops that were held there and elsewhere over the years on the relationship between Israel and its Palestinian citizens. Under Mada’s sponsorship, from 2003 to 2005, about 50 Palestinian academics, intellectuals, and civil society and political leaders came together in an ongoing project to consider the present and future relationship between Israel and its Palestinian citizens. The final outcome of this initiative was the issuance of *The Haifa Declaration* in May 2007. The thoughtful and wide-ranging debates, and the process that we underwent to develop *The Haifa Declaration*, left a deep intellectual impact on my thinking. *The Haifa Declaration* stated that the citizenship of the Palestinian citizens and their relationship with the state of Israel “are defined, to a great extent, by a formative event, the *Nakba*, which befell the Arab Palestinian people in 1948 as a result of the creation of the state of Israel. This was the event through which we – who remained from among the original inhabitants of our homeland – were made citizens without the genuine constituents of citizenship, especially equality ... the bedrock of democratic citizenship” (<http://mada-research.org/en/files/2007/09/haifaenglish.pdf>).

Similarly, the discussions generated at the Fletcher Seminar on International Conflict, which I chair at the Fletcher School of Law and Diplomacy at Tufts University in Boston, and the numerous speakers over the last few years also contributed to some of the insights reflected in my chapters, as well as in the book’s structure.

I am grateful to the many people who knowingly or unknowingly assisted in shaping my thinking, as reflected in my introductory chapter, and who have helped at various stages of this project, both at Mada al-Carmel and at the Fletcher School. My thanks go to Areej

Sabbagh-Khoury, Nadera Shalhoub-Kevorkian, Nimer Sultany, Mtanes Shihadeh, Amnon Raz Karkotzkin, Yehouda Shenhav, David Myers, Nabil Saleh, Hassan Jabareen, Walid Khalidi, Azmi Bishara, Eileen Babbitt, and many other colleagues with whom I had the privilege to discuss some of my ideas. I also want to thank the many research assistants who helped with research and writing, and in particular Alhan Nahhas-Daoud, Inas Khatib, Eitan Paul, Danielle Angel, Matthew Cancian, Jed Rouhana, and Nidaa Nassar.

My thanks also go to the more than a dozen contributors to this volume. I thank them for their valuable contributions, for their cooperation with me and my team in numerous rounds of editing, and for their patience waiting until the whole project was completed.

My special thanks go to two people who contributed enormously to the intellectual caliber and production of the volume: First, Kate Rouhana, who edited all the chapters in this volume. Her editing went beyond work on language and style to encompass structure, substance, and flow. Mia Lattanzi served as the copy editor and interacted with authors to complete their chapters to a consistent level of perfection. Kate's and Mia's tireless and meticulous editing of various versions of each chapter contributed to bringing this volume to its present standard.

Special thanks also go to Sahar Huneidi, the Assistant Editor, who offered her support and encouragement and who persisted to have this project completed, despite all the difficulties of adhering to the original time frame. Sahar helped in conceptualizing the project, reviewing chapters, and the general editing task.

My editor, John Berger at Cambridge University Press, offered his constant support and remarkable patience as the original time frame envisaged for completion was exceeded. His graceful encouragement is most appreciated.

I hope that this volume provides the reader with a rigorous understanding of the historical, ideological, and psychopolitical foundations of the Jewish privileges in Israel and of their institutional and political manifestations. I hope that this understanding will contribute to bringing an end, sooner rather than later, to the erroneous conception that Israel in its 1967 borders is, or can be, both democratic and Jewish. The Jewish part of this definition – the Zionist part – which is explicated clearly in this volume – is reflected in

extensive and entrenched ethnic privileges that are fundamentally incompatible with democracy.

I also hope that this book will contribute to future theoretical and political thought that will seek ending ethnic privileges and transforming Israel from a Zionist state to a democratic state.



Introduction

The Psychopolitical Foundations of Ethnic Privileges in the Jewish State

NADIM N. ROUHANA

Introduction

This book investigates the relationship between Israel and its Palestinian citizens, focusing on the dynamics of privileged Jewish citizenship in sharp contrast to the Palestinian citizens' underprivileged citizenship. The volume focuses on the pre-1967 borders (that is, Israel's borders before its occupation of the West Bank and Gaza) in order to problematize the concept of the Jewish state even without the 1967 occupation of what remained of mandatory Palestine. Such a focus, although confined territorially and demographically to these borders, cannot be completely dissociated from broader dynamics that have been evolving since 1967, and from the idea of the Jewish state as it emerged historically. But this focus can help elucidate in fundamental ways how Israel privileges Jewish citizens over non-Jewish citizens and how, in effect, it places Jews (whether citizens of Israel or not) in a superior position – politically, constitutionally, and otherwise – than its Palestinian citizens or, for that matter, any non-Jewish citizens. Consequently, this discussion can challenge the prevalent assumption that Israel in its pre-1967 borders is a democratic state, although the volume's direct focus is on the issues of ethnic privileging and superiority.

Jewish privileges and superiority, whether explicitly declared, implicitly assumed but openly practiced, or legally and procedurally disguised, are, in and of themselves, a worthy subject of examination in an ethnic state like Israel in order to enhance our understanding of ethnic nationalism dynamics¹ and ethnic policies in a state that is in actuality binational in both its demography and geography; at the end of 2015

¹ See, for example, Van Evera (1994), and Gagnon (1994) for the role of various types of nationalism and in particular ethnic nationalism in causing conflict.

Israel's population of 8.4 million was 75% Jewish and between 17 and 21% Arab,² a binational demographic structure, although as discussed later, Arabs are not recognized as a national group by Israel.³ It is also important for our understanding of settler colonialism, because the roots of the privileged Jewish citizenship and the underprivileged Arab citizenship should be traced to the settler-colonial project of establishing an exclusive Jewish state in Palestine and to how this project was conceived and operationalized, and how it is still unfolding as such in practice.

But in Israel's case, ethnic privilege and superiority is even more problematic, because Israel uses a single ethnic criterion (being Jewish or not) to privilege one group – whether they are citizens of Israel or citizens of any other country – over another group who are not only citizens but are also native to the land.⁴ In addition, Israel considers itself to be a democratic state. But this postulated characterization of the state as both “Jewish and democratic,” which has become a fundamental pillar of Israel's self-identity and has been uncritically accepted in Western international politics, needs to be challenged and deconstructed.

² Provided by Israel Bureau of Statistics (www.cbs.gov.il/publications15/yarhon0615/pdf/b1.pdf), Israel's total population includes the Jewish colonists in the Palestinian territories occupied in 1967 and the Palestinians in occupied East Jerusalem, most of whom do not hold Israeli citizenship (and also the Syrian Arabs in the occupied Golan Heights – about 25,000). Therefore the number of Arabs in Israel according to the Israel Bureau of Statistics is 1.75 million, constituting 21% of the population at the end of 2015. Without occupied East Jerusalem and the Occupied Syrian territories the percentage of Arabs drops to less than 18%, similar to their percentage in 1949. Despite opening its gates unconditionally to Jewish immigrants and closing it almost hermitically to Palestinians, the percentage of Palestinian *citizens* remained roughly the same over the years.

³ For comparative purposes, according to 2011 census data (www12.statcan.gc.ca/nhs/enm/2011/as/sa/99/010/x/99/010/x2011001_eng.cfm#a4), Canadians of French ancestry constitute approximately 15% of the Canadian population. According to the *CIA World Factbook* (www.cia.gov/library/publications/the_world_factbook/geos/be.html), the Walloon minority constitute 31% of the total Belgian population. In Cyprus, according to 2011 census data from the Republic of Cyprus (www.mof.gov.cy/mof/cystat/statistics.nsf/All/732265957BAC953AC225798300406903?OpenDocument&sub=2&sel=1&e=&print) and Northern Cyprus (www.devplan.org/Nufus2011/nufus%20son.pdf), the Northern Turkish population constitutes about 26% of the total Cypriot population. In Sri Lanka, according to the 2012 census (www.statistics.gov.lk/PopHouSat/CPH2011/Pages/Activities/Reports/FinalReport/Population/Table%20A3.pdf), the Sri Lankan Tamil minority constitute about 11% of the population (about 75% of the population is Sinhalese; the remaining 14% are other minorities).

⁴ Under Israel's Law of Return, some people who might not qualify as Jewish according to *Halachic* tradition can still be entitled to the same privileges if they are related to Jewish persons in specific ways (Laws of the State of Israel, 1970, vol. 24, Law of Return, Amendment no 2). Discussed in Rouhana 1997:51–52; Masri 2013:8; Lustick 1999: 422–443.

Many scholars now accept the premise that the Zionist project that aimed at establishing a Jewish state in Palestine is a settler-colonial project (for just a few examples, see Lloyd 2012; Mamdani 2015; Pappé 2012; Robinson 2013; Rouhana 2014; Sabbagh-Khoury 2015; Shalhoub-Kevorkian 2015; Shihade 2011; Veracini 2010; and Wolfe 2006, 2012).⁵ This project continues to unfold all over mandatory Palestine, including inside Israel itself (see Amara 2014; Amara, Abu-Saad, and Yiftachel 2013). Yet Israel granted citizenship to the Palestinians who survived the Palestinian ethnic cleansing of the war in 1948–1949 and who stayed within Israel – either in their towns and villages, or as internally displaced persons, expelled from their villages and towns, which were taken over completely by Israel and to which they were not allowed to return, even as citizens of the state⁶ (Cohen 2000; Sabbagh-Khoury 2011). Indeed, the citizenship that Israel granted to the Palestinians who stayed within its borders – in the context of its efforts to be admitted to the UN in 1949⁷ – obfuscated for many years the nature and extent of the ethnic privileges and settler-colonial hierarchical ethnic inequalities, whose roots are in the very idea of Zionism. Jewish ethnic privileges, as this volume demonstrates, extend to all areas of political, legal, constitutional, urban, and economic power structures. Yet mainstream voices in Israeli and Western academia rarely challenge Israel’s self-identification as a democratic state or the paradoxical self-identification as “Jewish and democratic.” Indeed, to contest such understanding in Israeli and Western academia is often an arduous task.

Some of the more critical Zionist voices might concede that vis-à-vis the Arab citizens, Israeli democracy is somewhat tenuous and demonstrates internal frictions that are expected in any democratic state (for example, Peleg and Waxman 2011). Zionist academic discourse in general recognizes some inequalities between Arabs and Jews within the state’s political framework and acknowledges some systemic discrimination against Palestinian citizens, but still maintains the

⁵ I argue that Zionism has additional features, including being a national movement. The implications of these additional features on the Palestinian Israeli conflict are discussed in Rouhana (2014).

⁶ Of the 900,000 Arabs who lived in Palestinian lands now constituting Israel prior to the Nakba, by 1949 only approximately 156,000 remained (see Rouhana 1997). It is worth noting that these figures include Israeli citizens within the “Little Triangle,” Arab towns that were intended to be annexed to Jordan but were transferred to Israel under the Armistice Agreement between Jordan and Israel. Many of the Palestinians who remained were internally displaced, and were dubbed “present absentees” (see Cohen 2000).

⁷ Israel was admitted to the UN in May 1949.

virtues of Israeli democracy (Gavison 1999). This recognition, which is relatively new to Zionist discourse and which started mainly in the 1990s, is justified on different grounds, such as security and “defensive democracy” (Arian, Talmud, and Hermann 1988; Peleg and Waxman 2011; Pinkas 1993; Yakobson and Rubinstein 2003; Yehoshua 1981)⁸. Zionist academia even sought to find theoretical foundations for the claim that a state can be at once democratic and privilege one ethnic group over another – in effect granting one group explicit and constitutionally grounded superiority over another, by advancing the concept of “ethnic democracy” (Smootha 1997). Yet scholarship from outside the Zionist camp critiqued this model as self-contradictory and fundamentally nondemocratic (Bishara 2001, 2005; Ghanem, Rouhana, and Yiftachel 1998; Jamal 2002; Rouhana 1997, 2006); by applying critical examination of the relationship between Israel and its Palestinian citizens, critical scholarship has established that this citizenship lacks both meaning and substance. The Palestinian citizenship has been variously called hollow (Jamal 2007) and stateless (Molavi 2013), and the Palestinian citizens have been characterized as “citizens without citizenship” (Sultany 2003). I have argued elsewhere that the citizenship is not only hollow but suffers from continuing settler-colonial practices. The central claim here is that the substance of the Arabs’ citizenship rights are emptied not by simple discriminatory policies that can be remedied, but by the settler-colonial structure from which these policies are derived such as: their exclusion from the state’s definition of the “public good”; the state’s deliberate efforts to erase the Arabs’ history and culture, deny their collective identity; expropriating their resources – mainly land – and their treatment as enemies in cases of land ownership, and as unwanted in cases of immigration. These policies described extensively in the literature⁹ and in this volume are not only compatible with a settler-colonial structure but are its predictable result. Yet, with democratic rights to vote and run for office, the Palestinian citizens do enjoy procedural citizenship rights, which, in turn, make it possible for Israel to claim that it is a democracy. Thus, while Palestinians in Israel are citizens they are also settler-colonial subjects who have been exposed since 1948 to devastating continuous settler-colonial policies that are still unfolding. Therefore, I conceive of

⁸ See Shalhoub Kevorkian (2015) for a critical approach.

⁹ See, for example, Lustick (1980); Jiryis (1976); Molavi (2013); Rouhana (1997); Yiftachel (2006); Zureik (1979, 2015).

their relationship with Israel as one of settler-colonial citizenship (Rouhana 2015; Rouhana and Sabbagh-Khoury 2014). The extensive examination of Jewish ethnic privileges and ethnic policies this volume provides presents substantive evidence for this claim.

The inbuilt ethnic privileges and superiority as well as their psychological foundations challenge the claim that Palestinians' citizenship is simply constrained by some discriminatory practices or "tensions" emerging from Israel's two main self-identification poles of Jewish and democratic. Such claims have been examined extensively and the security considerations were shown, while in minor cases real, to be in reality an easy, pretextual justification for bestowing sweeping ethnic privileges and superiority to the Jews whether citizens of Israel or other countries' citizens (at the expense of the Arab citizens (see, for example, Rouhana 1997)). On the one hand, Israel confines the Palestinians' citizenship to boundaries of procedural democracy, within which their citizenship has limited meanings; on the other, it continues to apply settler-colonial policies outside these boundaries. Thus, with the democratic rights to vote and run for office, Palestinian citizens enjoy major procedural rights that Israel presents – to its citizens as well as to the world – as evidence to support its claim of being a democracy. But this procedural citizenship has not halted Israel's settler-colonial policies toward its non-Jewish minority. Thus Rouhana and Sabbagh-Khoury (2014), drawing from literature on settler colonialism (Veracini 2011; Wolfe 2006), show how Israel founded the blueprint of its settler-colonial policies during its first two decades. These policies are also well described by Bäuml in this volume. While the blueprints for ethnic privileges in practice started immediately with Israel's establishment, Ian Lustick argues in this volume that the foundations started much earlier, indeed with the idea of a Jewish state itself.

During a whole generation after it was established, Israel put the Arab population under a military regime and employed the following policies as described by Bäuml in this volume and by Rouhana and Sabbagh Khoury (2014): taking over land and appropriating space; attempting to erase history and culture; making irreversible the demographic riddance it achieved in the ethnic cleansing it conducted in 1948–1949, continuing it, and later trying to extend it further by various means; installing strict limitations on political organization and repressing Palestinian freedom of expression, particularly of any sort of Arab nationalism; and establishing an unshakable tyranny of the Jewish majority supported by constitutional law – all of which were, and continue to be, vehemently

resisted by the Arab population. These policies characterize settler-colonial projects (Veracini 2011; Wolfe 2006). The outcome of this combined dynamic of underlying settler-colonial policies overlaid by the granting of citizenship constructed a particular, and perhaps unique, type of relationship between a settler-colonial state and a native population – a relationship that, as noted, has been defined as settler-colonial citizenship in which citizenship is a procedural shell within which settler-colonial policies are practiced (see Rouhana and Sabbagh Khoury 2014, Rouhana 2015).

It has become obvious that the Jewish state could not provide equality to its Palestinian citizens, for to regard them as equal to Jewish citizens calls into question Zionism itself as the embodiment of an exclusive Jewish state in which Jews only are entitled to the fundamental privileges that are defining features of democratic citizenship. Indeed, the political program advanced by one Arab party under the leadership of Azmi Bishara (see Chapter 5 in this volume) and which advocated that Israel become a state with full equal citizenship for Arab and Jew – a “state for its citizens” – is considered by many Zionist academics and by Zionist political parties as a threatening program that undermines the very essence of Zionism and the state of Israel as a Jewish state. While theorizing about the settler-colonial citizenship is obviously cognizant of this inherent inequality – for equality is incompatible with settler colonialism and it highlights Jewish privileges – it has the additional advantage of explaining the continuation of these policies that the state has adopted toward its Arab citizens, and in some cases their intensification such as in the case of the Naqab (Nasasra 2012, Richter-Devroe, Abu Rabi-Queder, and Ratcliffe, 2014); this theorizing also facilitates tracing the epistemological and psychological infrastructure that generates attitudes of ethnic superiority conducive to the implementation of these policies by using violent, legal, or “democratic” means, as circumstances require. In addition to their tangible effects, these attitudes continually assault the dignity of the colonized. Fanon (1963), Lloyd (2012), and Said (2012), among many others, have cogently described the foundations of such attitudes and their multiple manifestations in colonial contexts. In order to assert exclusive sovereignty over the land of Palestine, the Zionist movement, and later the Israeli state as its embodiment, has depended on modes of knowledge production that continue to construct the Palestinian people as inferior, violent, or incapable of self-rule and sovereignty and, consequently implicitly or explicitly,

Jews as superior. This system of justification of the conquest and settlement of Palestine employed by Zionists has relied heavily upon negation of the native Palestinians, similar to other settler-colonial movements (Lloyd and Pulido 2010). This negation lends itself to pejorative views of the natives, views that are deeply embedded within the colonial project of Zionism. As Lloyd and Pulido (2010:801) remark, “Ideologically, the constant proclamation of the inferiority of the colonized serves to justify the fact that even the most mediocre of the colonizers occupy a position of structural superiority.” Israeli views about Arabs are inseparable from the colonial project because, as Wolfe (2006:388) has argued, “race is made in the targeting,” such that “so far as indigenous peoples are concerned, where they are is who they are, and not only by their own reckoning.” Thus, that Palestinians were seen as inferior and later on as violent is closely tied to their location, their belonging to the place, and their refusal to be dislocated from that place – and not to being Arabs as such. In this sense, Zionism has nothing against Palestinian Arabs except that they are the inhabitants of the land Zionism claims to belong exclusively to the Jewish people.

Instead of reviewing these attitudes or enumerating Israeli policies that derive from settler-colonial citizenship, the remainder of this chapter will provide what I call the psychopolitical infrastructure that makes the ability to privilege a Jew – citizen or not – over the native Arab citizens the natural derivative of the Jewish state idea as envisioned and practiced by Zionism.

The Psychopolitical Infrastructure of Privileging a Jew over an Arab in a Zionist State

I define the psychopolitical infrastructure as the basic political notions that are fundamental for the political idea of the Jewish state vis-à-vis the native Palestinian population as it has been conceived and implemented by Zionism together with the political and psychological implications for Jews and Arabs in Israel. Three fundamental pillars summarize Israel’s psychopolitical infrastructure, which laid the groundwork for the sweeping political, urban, legal, educational, and economic policies toward Arab citizens as described in this volume and which I frame in a settler-colonial context – a context that necessarily privileges a Jew over an Arab and situates a Jew (citizen or not) in a superior position to an Arab citizen. These pillars are: exclusion of Arab citizens from the Jewish

state; exclusion from the homeland both as a physical and as symbolic space as a home; and denial of nationhood and national identity. The combination of the three pillars, I hope, will provide the basis for understanding the policies that are described in the various chapters of this volume.

The psychopolitical infrastructure of Israel as a Jewish state, which makes so natural the implementation of the privileges of a Jew over Arab described in many of the following chapters, is inherent to Zionism.¹⁰ This foundational infrastructure precedes Israel's establishment and has its roots in the Zionist idea itself.

The Exclusive State of the Jewish People

Much has been written about the meaning of the Jewish state for the Palestinian people in general and for the Palestinian citizens in Israel in particular (Bishara 2005; Ghanim 2014; Khalidi 2011; Rouhana 1997); therefore, I will not expand on the particular policies derived from a Zionist state or on its institutional and constitutional implications. My main point in this section will be to demonstrate how a Jewish state, which in effect means a Zionist state, constitutes a fundamental psychopolitical pillar from which ethnic privileges become naturally derived and based on which a differential system of citizenship is established. (See also Bishara in this volume.)

The procedural citizenship, including the democratic rights to vote and run for office, should not obscure the fact that the Palestinian citizens are excluded not only from meaningful citizenship in which they become full participants in defining the public good in (what is theoretically) their state, not even their own public good, but also from the most fundamental prerequisite of citizenship – that of having the state claim them as its own citizens rather than excluding them by defining itself as the state of the Jewish people *only* (see Rouhana 1997 for the Knesset debate of this particular issue). Critical scholars have examined at some length the extent to which this exclusion renders their citizenship, as mentioned earlier, meaningless, hollow, or, as I argue, settler-colonial in nature. Yet it is important to underscore that for official and public Israel to emphasize in public discourse, constitutional law, institutional

¹⁰ In fact, this infrastructure might be inherent to the particular settler colonial model that Zionism embodies and which was fully inflicted upon the Palestinian citizens since 1948, because they became citizens in the state guided by Zionism.

structure, and public policy that it is the state of the Jewish people, and by disowning its own Arab citizens in the deepest sense (even while allowing for procedural democracy), Israel lays down the foundations of one fundamental pillar of the psychopolitical structure of Jewish ethnic privileging that permeates all significant tangible and intangible advantages that citizens derive from their relationship with their state.¹¹ Furthermore this pillar, with the other two described subsequently, constructs and nourishes the hegemonic consciousness that pervades Jewish society that Jewish privileges are natural in Israel and should be taken for granted by the Jewish citizens. Therefore, when Palestinian citizens seek equality – which by definition requires ending Jewish privileges by advocating that Israel become a state for all its citizens – this demand becomes a source of conflict, as described earlier, not only with the state and its institutions, but with a majority of the Jewish citizens.

The dual process of psychologically disclaiming its Arab citizens and politically excluding them from meaningful citizenship while actively seeking to recruit Jews who are citizens of other countries to become Israeli citizens, claim them as fully its own, and grant them privileges over its own Arab citizens only because they are Jewish is perhaps the strongest psychopolitical indication of the state's historical, current, and future rejection of the Palestinian citizens. At the same time, it is a fundamental manifestation of the meaning of Jewish state from which the way for privileging Jew over Arab becomes a matter of naturally implementing this psychopolitical guiding pillar. This implementation takes the forms of privileging Jew over Arab in the broad range of policies, practices, laws, and the politics of claiming and disclaiming who is part of "we the people" in Israel.

This is partly, why it is wrong, to conceive of the fundamental inequality between Arab and Jew in Israel as a matter of discrimination that often comes with minority status and that, as in some other democratic states, can be fought by trying to change specific discriminatory policies. The inequality that the privileging reflects is rooted in the very sense of exclusive entitlement to the state and to the homeland that emanates from the Zionist ideology itself. And therefore, it is this ideology that should be the final goal of change for the Arab citizens if they ever hope to reach a state of equality.

¹¹ For arguments related to constitutional law, see Gavison (1999), Kretzmer (1990), and Masri (2015).

*Israel as the Homeland of the Jewish People: Denying the
Palestinians' Relationship to Their Homeland*

Prior to the 20th Israeli Knesset elections that took place in March 2015, the heads of most political parties running for office participated in a nationally televised debate broadcast live on prime time on Israeli TV, in Hebrew, on February 26, 2015.¹² All eight participants – seven Jewish and one Palestinian – were the heads of their party lists. The Arab participant,¹³ Ayman Odeh, was the head of a list of candidates representing a coalition of three existing Arab parties, and this debate marked his first major appearance – nationally, a rare event by itself for an Arab politician in Israel.

It is not unusual for an Arab political representative to be the ultimate outsider in the context of an Israeli national debate. But the interaction in this debate, described elsewhere in greater detail (Rouhana 2015), epitomized the second psychopolitical pillar I seek to describe in this section.

Avigdor Lieberman, the sitting Israeli foreign minister (and head of *Yisrael Beiteinu*, a right-wing party supported mostly by Russian immigrants), aggressively attacked the Arab participant. At one point he addressed him directly, and asked, “Why did you come to a studio here [in Tel Aviv] and not in Gaza? Why are you here at all . . . you’re not wanted here” (Harkov 2015; Mualem 2015). When the Arab participant, who was listening calmly with a grim expression, noted, “We [Arab citizens] are 20% of the state population,” the foreign minister replied, under his breath, “for now.” This comment was a veiled reference to Lieberman’s oft-touted plan for population transfer, which would exchange Arab citizens in Israel for Jewish settlers in the occupied West Bank, across the 1967 Green Line (see discussion that follows).

That the Palestinian head of what went on to become the third-largest party in Israel was attacked, insulted, and told by supposedly his foreign minister – live, on national television – that he is unwanted in his own homeland and that he should go to Gaza is not unusual in Israeli politics. Yet, it is a revealing micro-example of a fundamental mode of *interaction* between Zionist politicians and the Arab citizens or their leaders.

Such assaults by a sitting foreign minister, and similar assaults on Arab parliamentarians, are possible and have come to be viewed as “normal”

¹² Video of the broadcast in Hebrew and translated summaries of the relevant portions in English are available online. See Persico 2015.

¹³ I use the terms “Arab citizens” and “Palestinian citizens” interchangeably to refer to the same group of Palestinian Arab citizens in Israel.

within the Israeli context precisely because of the kind of citizenship that the Palestinians have been granted in a Zionist state. This citizenship is grounded not only in the first pillar described earlier – exclusion from the state as a political system – but also in the second pillar, a vital feature of Zionism, which is exclusion from the homeland itself. In dominant Zionist thought, the right to refer to the country as one's homeland is the exclusive right of the Jewish people. Unlike the political exclusion from the state's identity, it is the relationship to the homeland not only as a political concept but also to *the place itself as a home* that is denied. This includes exclusion from the emotional and psychological symbolic value of belonging to the physical country – its hills, valleys, coasts, deserts, mountains, and fields, whose names have been changed to Hebrew names with Zionist and/or biblical connotations to reinforce the exclusive claim. Mainstream Zionism denies the natives' very relationship with their own homeland and relentlessly seeks to destroy it. Thus, Israel doesn't consider the homeland itself as the homeland of the Palestinian citizens in an equal or similar way as it considers it the homeland of the Jews, both those who are citizens and those who are not.

The claim of exclusive indigeneity and the fight to break the ties of the native people with their homeland is not unique to Zionist settlers but is common in other settler-colonial cases (Wolfe 2006). The unique aspect, however, is that even after Jewish settlers in Palestine became citizens in Israel and after they came to perceive themselves as natives, this claim of exclusive belonging to the homeland, as Pappé (2012) observed, has remained a constant view. It is precisely because of this exclusive claim that Arabs are perceived as foreigners and alien to the land and have been so since the Zionist project started despite all the changes in political structures, balances of power, and economic and global realities.¹⁴

Within this remarkable Zionist claim of an exclusive relationship to the homeland, Palestinian citizenship is rendered, by definition, devoid of patriotism – the emotional construct at the center of which is belonging to one's homeland, and obviously of nationalism, as that is reserved solely for the Jewish people, as I discuss next. In order to have the satisfaction that patriotism provides, à la Zionism, the Arab citizens have to submit to the Zionist view that their homeland is, by the legitimacy of divine intention (or any other secular Zionist claim for

¹⁴ This uniqueness, I argue, is precisely related to the uniqueness of what I consider an ongoing and undetermined settler colonial project whose future is still at stake because of the persistent resistance it faces.

legitimacy as, for example, argued by Gans 2008), the homeland of the Jewish people (Nisan 2010).¹⁵ This does not mean that the Palestinian citizens don't have their own patriotism that is grounded in their own relationship to their homeland in a form of what I call "homeland nationalism" as I discuss elsewhere (Rouhana 2015).

In order to instill in Jewish citizens that Israel, both as modern state and biblical promise, is the homeland of the Jews and the Jews only, the state generated a Zionist public consciousness through two closely inter-related processes. The first sought to indigenize the relationship of the Jews – both in Israel and around the globe – with the land, turning immigrants/settlers into the indigenous group upon arrival in the country or even before, as they are construed as potential natives, wherever they are born and wherever they reside (Masalha 2007). The other side of this process is to de-indigenize, at least in Zionist consciousness, the Palestinians from their own homeland. This process is as fundamental to this particular settler-colonial project as is the indigenization of the settlers, for only if the relationship of the Palestinians with their motherland is destroyed can the homeland become exclusively Jewish.

The notion that the Jewish people have an exclusive right over the homeland has been translated into policy since the initiation of Zionism. The Jewish National Fund was established in Basel, Switzerland, as early as 1901 in order to "redeem the land" in Palestine from Arab owners (Wolfe 2012). Although this objective is completely consistent with the settler-colonial project, for the Fund to become "the custodian of the land for the Jewish people," the clause stipulates that the Jewish ownership should be permanent (Katz 2002). This clause is based on biblical injunction that "the land shall not be sold in perpetuity" (Leviticus 25:23, see Leon 2006: 115–121). The concept of "land redemption" itself – acquiring land from the Arab inhabitants and transferring it to Jewish perpetual ownership – is infused with religious meaning, in addition to its clear colonial connotations (see Bashir 2004). Ben Gurion and Ussishkin fused the secular political meaning of acquiring the land with the religious biblical meaning, according to which the land will be rescued only if owned by Jews. This religious component helps explain the strong emphasis on the exclusive Jewish ownership of land and the exclusive right over the homeland in this case.

¹⁵ Indeed, a negligible group within the Druze community in Israel established what it calls the Druze Zionist Movement, which adopts Zionism as its ideology and supports the idea that Israel should be the state of the Jewish people (see Nisan 2010).

The political implications of encoding this exclusive ownership into state action are immense. With the ethnic cleansing of the Palestinians, Israel took over their private and public property in the part of Palestine on which it was established – 78% of historic Palestine (Gush-Shalom 2015). The Palestinians who managed to stay in what became Israel owned private and public land of their own. But Israel started a series of land expropriation waves, all supported by laws it legislated, in order to transfer the majority of the Palestinian land to Jewish hands. Today, Israel controls 93% of the land in the country; Arab citizens have no access to 80% of the state's land; and Arab municipalities control only 2.5% of the total land (Yiftachel 2000).

This conception of exclusive ownership of the homeland by the Jewish people is precisely the psychopolitical foundation that enables so effortlessly the concept of “intruders” to become common in Zionist discourse – a concept that is used to describe Palestinian citizens who try to defend their ownership of land that is claimed by the state. The term has been frequently used to describe resistance of Arab citizens against home demolitions in the Galilee and the Naqab. In one such case, an Arab village in the Naqab was demolished by Israel (and rebuilt by the community) over 80 times in an effort to take over the land (Silver 2015). The concept of “intruders” is grounded in the idea that these citizens are foreigners to this land – the “national homeland” of the Jewish people. It is this view that brought Israeli governments to introduce a new mechanism of settlements to protect the “land of the nation” from their own citizens. In the Galilee, about 40 *mitzpim* (Hebrew plural for *mitzpe*, a lookout) were established (inside Israel itself) for Jewish settlers on mountaintops to guard the land against Arab “intruders” who “encroach” on the land of the Jewish people.¹⁶ Individual settlements were created in the Naqab for the same reason – to provide land to Jewish settlers to establish their own farms/settlements to guard against the “intruders” – the Arab citizens who seek to maintain ownership of their land.

¹⁶ Here is how the Jewish Agency describes the Galilee *mitzpim*: “They parallel another development in the settlement field in a very different, less controversial, area within Israel: this is the Galilee, where Jewish population was sparse and where new initiatives to enhance it were unfolded in the late 1970s. . . . There was a large Arab population that had stayed in place in 1948 and had ultimately been included in the post war Jewish State. . . . Occasional discomfort had been expressed over the situation through the years; Menachem Begin’s first government decided that the time had come to act. A plan was developed for a series of settlements, called *mitzpim* (lookouts), to be placed on the higher topographical points of the areas defined as priorities” (Jewish Agency for Israel n.d.).

Denying their relationship to the homeland was accompanied by the physical erasure of the Palestinian homeland as Palestinians knew it. In the official Zionist memory, as Rouhana and Sabbagh-Khoury (this volume) write, “Palestine was eliminated from the geography and history of the land as Zionism instilled new time and space coordinates. In Zionist space coordinates, names of geographical areas, towns, and places in Palestine were replaced with Zionist ones” (see also Benvenisti 2000). The reaction to the unbending settler-colonial two-pronged process of denial of the indigenous relationship with the homeland and the claim of the exclusive settler-indigeneity is not only the insistence on indigeneity in the sense of belonging to the land, although it is part of it, but it is a homeland-based nationalism that emphasizes political belonging to the homeland – reclaiming it as a national home – that becomes a focus for future political thought, as defined earlier.

Denial of Nationhood

Israel, with more than 6 million Jewish citizens and close to 1.5 million Arab citizens, recognizes only one nationalism:¹⁷ Jewish nationalism, which encompasses Jewish individuals and communities with any citizenship in the world, and even communities that do not claim or want to be considered as national groups in their country of citizenship, such as Jews in the United States. At the same time, Palestinians in Israel are not recognized by the state as a national group, even though they see themselves as such and seek to be recognized as such. Furthermore, Israel by law doesn’t recognize the existence of an “Israeli nation.” So, the Jewish national identity is overemphasized, and the Palestinian national identity (or Arab national identity) is denied.

This denial of national identity has far-reaching implications for the collective rights of Arabs in Israel as a national group – distribution of resources, political representation, recognizing their political institutions, allowing educational institutions such as universities, land distribution, and immigration policies. Because of that denial, the Palestinians in Israel are even deprived of the dignity of being called by the collective national name they choose for themselves lest that contribute to recognizing their national identity. While they emphasize their being “Palestinians” or “Palestinian Arabs,” they are instead referred to within majority discourse variously as: “minorities,” “non-Jews,”

¹⁷ See footnote 2 for demographic data.

“Muslims, Christians, and Druze,” “Israeli Arabs,” or *Aravieh Yisrael* meaning “Arabs of Israel” (Rouhana 1997).

If Jewish identity is overemphasized and Arab Palestinian identity denied, why doesn't the state seek to strengthen a common space – that of Israeli citizenship which could incorporate Jews *and* Arabs in Israel? After all, these Palestinians have been Israeli citizens since Israel was established, even before many of Israel's many immigrants. With that in mind, some 21 Israeli citizens (mainly Jewish but Arabs too) appealed to the Supreme Court to be registered as “Israeli” in the nationality category of the Population Registry. On October 2, 2013, the Israeli Supreme Court rejected their appeal. Upholding the ruling of a lower court, it argued “that there was no proof of the existence of a uniquely ‘Israeli’ people” (Hovel 2013). The court reiterated arguments made 40 years earlier in a similar case (see Gross 2013). Agreeing with the other two justices in the case, Justice Melcer argued, quoting an earlier similar case, that “it has not been proven that, legally, there exists an ‘Israeli nation’ and it is not appropriate to encourage the creation of new fractions of a nation” (Hovel 2013). So, by law, Israel does not allow for a civic nationalism that could include Jews and non-Jews – Jewish and Arab citizens.

If so, Arabs are excluded from the possibility of civic nationalism, and are not recognized as a national group. So what are they in Israel's public official eyes, and what are the implications of this double denial? In the everyday public use in Israel the term “Israeli” such as in “Israeli public opinion” and “Israeli politics” refers to Jewish Israelis. Arabs are not included in the “we-ness” in the public consciousness or discourse. This is so precisely because of the psychopolitical pillars I describe. An open official expression of this psychopolitical pillar was articulated in the Knesset by no less than Israel's deputy prime minister. In 2007, Tzipi Livni, Israel's deputy prime minister and foreign minister at the time, made it abundantly clear that Israel is the homeland of one national group only. In a carefully stated position presented in the Knesset she told the nation¹⁸ that if the Arab citizens seek national identity, the homeland of the Jewish people is not the place. Thus, according to Livni, if Arabs want to stay in their homeland, which became Israel

¹⁸ I am using the term “nation” to problematize it in this context. What does the “nation” mean if there is no Israeli “nation”? The Hebrew translation for nation is *a'am* (אָם). The nation of Israel *A'am Yisrael*, in the Israeli context means the Jewish people, whether citizens of Israel or not. But she was speaking to both Jew and Arab in the Israeli Knesset.

after 1948, they can, but not with national identity. If they seek a national identity, the place, for them, according to Livni, is in the Palestinian state that should be established in “Judea and Samaria” (biblical names for the Israeli-occupied West Bank) and Gaza. Israel, she argued, is the national home of the Jewish people wherever they are – Jewish–Israeli citizens – and “sons [*sic*] of the Jewish people in the diaspora, also if they are citizens of other countries” (Knesset Proceedings, Session 176, 17th Knesset, December 3, 2007). The Palestinian state that she hopes will be established next to Israel will be “the national home to the Palestinian people wherever they are.” This includes the Palestinian citizens of Israel: “Their national aspirations,” she says of these citizens, will be fulfilled by the establishment of the Palestinian state” (ibid.).

This denial of their national identity is inextricably related not only to Israel’s policies toward their collective rights. But in addition, the directive to see in the Palestinian state their home, rather than in the state in which they are citizens – procedurally their state – carries thinly veiled threats. These threats, often expressed openly, permeate the Zionist public discourse and remind Palestinians of the traumatic experience of their nation’s expulsion, on the one hand, and that this is not their home but rather the home of the Jewish people, in which they are unwelcome and unwanted, not to mention unrecognized as a collective national group, on the other.

Furthermore, it is this denial that opens the road for drawing up and publicly advancing political plans for the expulsion and ethnic cleansing of Arab citizens. For example, Israel’s political system embraced, as a minister in the Israeli government, Rehavam Ze’evi, a political leader whose party openly called for the transfer of the Palestinians from “Eretz Yisrael.” Because the idea most associated with him and his party is the ethnic cleansing of the Palestinians, his party became known among Arabs and Jews as the “transfer party” (Weitz and Levian 2012). He called it “voluntary transfer,” but what he meant was well understood: the state should constrain the Palestinians economically, educationally, and in other ways until they decide to leave on their own. Lest the young generations in Israel think that Minister Ze’evi represents a marginal voice, his “legacy” became memorialized by law. His name has been venerated by naming public gardens, streets, a highway, and a prize conferred by the Ministry of Education after him, and by having his “legacy” studied in Israeli schools upon the direction of the Ministry of Education (Weitz and Levian 2012). In one of the Knesset memorials for Ze’evi, in October 2013, the then defense minister, Moshe Ya’alon,

declared: “It could be that Gandhi’s [Ze’evi’s nickname] opinions were ahead of their time, and the fact that many people have sobered up in recent years is proof of this” (Haaretz Editorial 2013). Israel’s former President Mr. Peres, said, “For years, the *Eretz Yisrael* scene has missed Rehavam’s Zeevi’s presence.” He added that the absence of “his clear voice [has] left a void in the public discourse” (Weitz and Levian 2012).

Similarly, the longtime Israeli foreign minister, Avigdor Lieberman, and his party, *Yisrael Beiteinu*, espouse population exchange – exchanging Palestinian citizens of Israel with Israeli settlers in the West Bank (as further discussed next). Paradoxically, it is this Palestinians’ citizenship, even if settler-colonial citizenship, that presents some safeguard, even if insecure, against such a possibility. Yet threats abound. Israeli Jewish Knesset members commonly scream at their Arab counterparts in the Knesset to “Go to Gaza” or “Go to Syria” in verbally violent scenes that have become too frequent and even included physical attacks in the plenary of the Knesset on a female Arab Knesset member, who was defended from physical abuse at the hands of her Jewish Zionist colleagues only by the Knesset guards.

In this chapter, I have tried to explain why a “Jewish state” *ipso facto* means a state that legitimizes, legislates, constitutionalizes, and forcefully imposes a privileged citizenship on Jews and an underprivileged citizenship on Arabs. Thus the Jewish privileges, as I argued earlier in this chapter, are based on and convey a strong message of taken-for-granted superiority of Jew over Arab and at the same time are derived from the psychopolitical infrastructure of this privileging. A major source of conflict between the Jewish state and the Arab citizens is defined precisely by the privileges, broadly defined, that are based on Zionism. The reaction of the Arab citizens takes different forms but increasingly is shaped by a serious challenge to Zionism, which means a challenge to privileging of Jew over Arab. This is reflected by forming a particular form of nationalism that challenges the Zionist psychopolitical infrastructure of these privileges, which this book will not address. For this particular homeland nationalism, see Rouhana (2015).

Chapters in This Volume

While the authors in this volume were not asked to address the question of settler colonialism as a framework for understanding the relationship between Israel and its Palestinian citizens, what transpires from many of the chapters, albeit not all, whether explicitly stated or implied from the

analysis, shows the relevance of such a framework for understanding the relationship. The authors instead were requested to examine Israel's policies toward the Palestinian citizens with an emphasis on the question of Jewish ethnic privilege, its history, its roots, and how it was manifested in the various areas they examined as well as how such privilege has been resisted by the Arab minority. I chose to give expression to multiple views about Israeli policies toward Arab citizens in the first years of the state but also in the pre-state era because these policies represented the blueprint of the future policies that are still unfolding in Israel's ongoing project of defining the boundaries – physical, demographic, and democratic – of the Jewish state.

It is true that the creation of the state of Israel constituted a landmark in the conflict between the Zionist movement and the Palestinian national movement. But it is not this landmark that shaped the forms of relationship between Israel and the Palestinians who managed to stay within the borders of the state.¹⁹ The essence of the relationship and its psychopolitical foundations were defined by the idea of an exclusively Jewish state in this group's homeland. The relationship of Zionism and the state of Israel with the indigenous people of Palestine started to take shape long before Israel was established. Thus, it will be crucial to examine the vision that the pre-1948 Zionist leadership had for a future Arab population in the Jewish state, and how the Zionist leaders viewed the place of Palestinians in it. This is not a straightforward task, because it was not clear how many Arabs would remain in the Jewish state – or to state it differently – to what extent the various ethnic cleansing plans (Masalha 1997; Pappé 2006) would succeed. Such visions, in addition to the psychopolitical foundations that were discussed earlier, will help us understand the roots of the post-state Zionist policies and, as we shall see, the fundamental contradictions between liberal discourse and the settler-colonial practices of the first Israeli governments, which set the blueprint of Israel's policies toward the Arab population (Jiryis 1976; Lustick 1980; Robinson 2013; Rouhana 1997; Rouhana and Sabbagh Khoury 2014).

The book therefore dedicates the first four chapters that follow this introduction to investigating the pre-state Zionist visions for Arab citizens in the state they sought to establish, and the actual policies in

¹⁹ These borders were defined by the armistice agreements that demarcated lines reached with the Arab states that fought Israel. The Armistice Agreement between Israel and Jordan was particularly influential to the size of the Arab population in Israel due to the transfer of the Palestinian villages of the "Little Triangle" to Israeli control in exchange for territories near Hebron.

the two decades following Israel's establishment. Together, these chapters construct a fascinating representation of Israel's rhetoric, policies, and practices; this representation offers a strong scholarly and intellectual guide for understanding the foundations of Israel's policies toward its Arab citizens and a credible explanation for a fundamental contradiction between pre- and post-state Zionist public statements about intended policies toward the indigenous Arab population, on the one hand, and actual policies and practices, on the other. In this sense, this part of the book lays the foundation for the subsequent parts.

In Chapter 2, Ian Lustick and Matthew Berkman tackle the task of extracting how Zionist leaders envisioned the policies toward Arabs in a Jewish state and the future of Zionist relations with the indigenous Palestinian population. The authors are not surprised that the reality of how Zionists treated the Arabs in the state was exactly the opposite of their pre-state claims. They trace a history of post-state "double discourse" when it comes to policies toward the Arab citizens to a tradition of dissimulation about the major hurdle that the Zionist project faced in its plan to transform Palestine from an Arab country to a Jewish state: the existence of the indigenous Arab population in Palestine. Dissimulation was necessary in order to present one view to international public opinion, including the British and other inquiry commissions that sought clarity about the Zionists' visions of future relations with the native Arab population of Palestine. But reviewing the main claims that Zionism publicly offered in order to find favor in the eyes of various international audiences about the future relations between the Jewish majority and the Arab population, the authors come to the conclusion that actual Zionist realities, beliefs, and practice were unaffected by the official public face that was externally presented – a fundamental duality that characterized the Zionist discourse and practice. Many of the Zionist public statements about the future treatment of the Arabs were strikingly disingenuous. Thus, Lustick and Berkman trace the post-state "honey phrases about equality for all" to pre-state discourse. But in reality, it was more the "wolf in sheep's clothing" – a description used by Israel's first advisor to the prime minister on Arab affairs – that characterized Israel's policies toward its Arab citizens.

Interestingly, Chapter 3 reports the same duality of fundamental discrepancy between rhetoric and practice. Hillel Cohen's chapter seeks to examine the attitudes of the Zionist leadership toward the Arabs in Israel and their views on human rights and democracy during the war in

1948 and the early years of the state. The author examines reports of the Situation Committee in 1947 (the main executive body of the Jewish community in Palestine) and the protocols of the provisional government and the first government. Cohen examines in his chapter publicly available discussions that pertained to the Arabs in Israel. He reports that the protocols he examined revealed that the first government “expressed deep-seated commitment to democratic values and human rights” (p. 73). He also finds that the Zionist leadership seriously considered enabling a large Arab population in the Jewish state. However, he then observes that despite the equality discourse, policy makers encouraged expulsion of Palestinians, Jewish forces expelled large numbers of Arabs during the war, the state prevented Arab refugees from returning to their towns and villages, and that after the war, the state imposed military rule upon the Arabs who managed to stay. Cohen, then, independently of Chapter 2, finds a major contradiction between the Zionist practice of open discrimination toward the Arab citizens and a discourse of equality and human rights espoused by ministers in the first Israeli governments.

Cohen’s chapter presents a struggle to explain this discrepancy. Indeed, it is hard to dismiss the evidence that he brings to show that such discourse existed within the government itself. There seems to have been ministers who presented a humanistic approach, which seems to have existed among some leaders who survived the Holocaust and other atrocities against Jews in Europe. As Areej Sabbagh-Khoury (2015) demonstrates in a recent dissertation, archival research shows that even during 1948, there were some voices, albeit very marginal such as *Hashomer Hatzair*, that were engaged in a processes of serious deliberation and that envisioned the existence of the Arabs as part of the future Jewish state. But as she also shows, in practice they supported expulsion. The intellectual question is how to reconcile this discourse with settler-colonial practices, many of which are reviewed in Lustick and Berkman’s chapter, Cohen’s chapter, and all the following chapters. Cohen argues that one explanation is that Zionist leaders viewed the “humanistic approach as incompatible with the needs of the hour.” This of course is the story of Zionist practice – which Lustick and Berkman’s chapter so clearly explicates: this discourse is incompatible with the project itself. Thus, even if this discourse existed in the first governments on the rhetoric level, the practices on the ground that Cohen, Lustick and Berkman, and all other subsequent chapters present, the resistance this practice elicited in the native population, the ethnic privileges they provide to the Jewish citizens, and the counter policies they entail to

overcome the resistance leave very little place for any meaningful actual representation or practical expression of the liberal discourse or policies derived from it. Thus, without dismissing the genuineness of all the voices that expressed a liberal discourse, even the genuine voices seem, at a minimum, to have been incompatible with the project itself – and hence their gradual disappearance became an integral part of the unfolding project and its policies.

The second chapter provides dissimulation as the major explanation for this contradiction, and Cohen's chapter is not incompatible with this explanation. He argues that the main decisions about the Arab population were left to the military, security establishment, and Mapai institutions, and that Ben-Gurion (Israel's first prime minister), who presented a militant approach in the Mapai institutions (to the extent of saying that the Arabs do not have the right to citizenship in the Jewish state), seemed, in contrast, to present different, milder views in the cabinet. Yair Bäuml's research presented in Chapter 4 provides the ultimate post-state support of the dissimulation explanation that Lustick and Berkman advanced.

Bäuml's chapter describes the goals of the Military Government imposed on the Arab citizens immediately upon Israel's establishment: to "minimize and almost abolish the civil equality that the Arabs should have enjoyed as Israeli citizens" (p. 109). We have to remember that Israel, in its efforts to gain membership to the UN, granted citizenship to the Arabs who managed to evade expulsion and thus stayed in its territory. Bäuml describes the devastating effects of the military rule on the Arab community, the policy-making apparatus in charge of these policies, the intra-Jewish debate about the military rule, and the dynamics that led to its cancellation in 1968. He also describes how the legacies of these policies continue until today. Interestingly, Bäuml argues that one goal of the military rule was to plan and be ready for expelling Arab citizens under the appropriate circumstances if and when they emerge, but that these circumstances never fully emerged.

Bäuml sheds light on the questions that the previous two chapters open, and, through his description of the policy-making bodies about the Arab citizens, he gives some closure to the question raised by Cohen in Chapter 3. Bäuml's extensive research on the military rule shows that during that period, it was not the Israeli cabinet that devised policies toward the Arab citizens and made the most important decisions regarding them. It was rather a parallel structure of mainly "establishment bodies" (such as the Mapai Committee for Arab Affairs), which were

not official governmental institutions. Chief among such bodies was a secret committee called the “Central Security Committee” composed of Ben-Gurion – the prime minister and defense minister until 1963 – his advisor for Arab affairs, the military government commander, the head of the Arab sector of the General Security Services (known as the SHABAC), and his equivalent police official. Needless to say all members of this Committee were Zionists. The devastating policies described by all three chapters were the prerogative of this committee with Ben-Gurion’s powerful role.

Thus the equality discourse described by Cohen seems to take place in a different sphere and with little effect on policy-making about the Arab citizens. One can even say that the combination of Cohen’s and Bäuml’s findings show how in effect the double discourse that Lustick and Berkman examined during the pre-state era continued effectively, whether so planned or not, during the critical first years of the state, and by extrapolation until now, particularly by what is called in Israel the Zionist left such as the Labor party – because the liberal image is so fundamental to the left’s identity that speaks of a Zionist state and equality in the same breath.

Indeed the question of the compatibility of Zionism with equality for non-Jews is powerfully implicated but not explicitly examined in the previous three chapters of the book. It is Azmi Bishara in Chapter 5 that moves the discussion to the fundamental incompatibility between Zionism and equal citizenship. He problematizes the very concept of citizenship in the Jewish state and defines two kinds of citizenship that are fundamentally different, one for Jews and one for Arabs. This is so, because the Jewish state – “constructed not to be the state of many of its own citizens, . . . while at the same time aspiring to be a state of many non-citizens” (p. 138) – was established in an act of separation from the Arabs by expelling them to achieve this goal. It continues to reproduce systems of separation, and citizenship is just one of them. The chapter traces the roots of the two types of citizenship in Israel to the earliest legislation on citizenship. Ben-Gurion, who played a central role in this legislation, presented the Law of Return in 1950. Bishara explains that through automatic, inalienable, unconditional right of a Jew to become a citizen, the principle of self-determination of the Jewish majority or modern citizenship is challenged. The right of return (for Jews according to the Law of Return) is not even related to the existence of a Jewish majority which is, as Bishara explains, “man-made”; this right, according to the Zionist idea “is essential to the definition of being a Jew.”

The incidental citizenship is given by the Jewish majority, those who have the right to grant citizenship, to those Arabs who incidentally survived the expulsion of their people not based on the Arab citizens' identity.

Bishara's chapter explains how this incidental citizenship opens the door not only to structural discrimination but also to plans to negotiate away the Arabs' citizenship and then to defining them as demographic threat. Bishara shows how linking essential citizenship to ethnic affiliation opens the door to a legal definition of who is a Jew, essentially a *halachic* (Jewish religious law) question, and discusses the implications of the total conflation between national and religious affiliation in Israel. The chapter explains why Israel did not want to claim itself to be a nation of citizens, the reason for rejecting the concept of an "Israeli nation" and why Israel cannot separate religion from the state. As the intellectual father of the political program to transform Israel from an ethnic Jewish state to a "state for its citizens," Bishara explicates the meaning of this concept, its challenge to Zionism, and Israel's insistence on being recognized as a Jewish state as one way to undermine this program.

It is worth noting that in relation to the previous discussion about the gap between equality discourse in the first cabinet and the undemocratic practice on the ground toward the Arab citizens (although the chapter doesn't address this issue specifically), Bishara's analysis leaves no doubt that Zionism cannot provide equality for non-Jews, whatever the discourse is.

The second part of this volume, with six chapters, moves into examining the relationship of the state with the Palestinian citizens and the manifestations of ethnic privileges in various areas: governance, soft power, and media; the legal system; spatial and planning policies; economic policies; education; and surveillance in general.

In Chapter 6, Amal Jamal draws attention to other forms of power used by the Israeli state – not just the repressive and classical power – in order to penetrate and subjugate its Palestinian citizens. He focuses on areas of soft power mechanisms, such as the media, to delineate the boundaries of legitimacy for Palestinian discourse and political behavior, as well as the use of the law as a disciplining tool. Through the politics of expectations, the state aimed to get Palestinians to adapt to the role of "good Arabs" or "quiet Arabs" by programming them to accept the state's granting of preference to Jew over Arab in the various symbolic and material areas and, accordingly, to accept ethnic privileging. In order to produce the "quiet Arab citizen," for example, the author zeroes in on the Arabic official newspapers (run by the Israeli government) that sought to

reframe Arab consciousness such that they accept Israel as a Jewish state as a final fact. The chapter presents these efforts in some detail, including the role played by “Arab Jews” – Jews from Arab countries – who knew the language and culture of the Arab citizens. The chapter then shows how through these processes, Israel produced what the author calls “hollow citizenship,” and how the majoritarian despotism made such citizenship completely ineffective. In effect, the “citizenship” was converted, through the state’s practice of epistemic violence and the use of legal and political means – into an efficient control mechanism.

In Chapter 7, Nimer Sultany examines how the Israeli legal system, while creating a citizenship hierarchy, provides the power structure with the impression of legitimacy. The chapter lays out the legal structure that contributes to the subordination of the Palestinian citizens and presents the Supreme Court’s role in the dispossession, segregation, and control of the Arab citizens. It explicates the legal system’s contribution to Arabs’ subordination in three areas of legal structure: dispossession, mainly by creating a land regime that serves an ongoing settler project; differentiated citizenship formed in the absence of formal equality and therefore “subordinating notions of equality to Jewishness as a . . . basic norm” (p. 205); and segregation, in areas such as education and housing. Sultany critically reviews a prevalent claim about Israel’s Supreme Court’s judicial activism and argues that as related to the Palestinian citizens, the court was rather minimalist in ways that advanced the subordination of the Arab citizens. He reviews minimalist legal devices the Court has employed that enabled it to deny its role in the process of subordination. Sultany concludes that “the Court effectively legitimated the primary practices of a settler regime” (p. 228). Even when the Court addressed cases of discrimination, it ended up reinforcing the state’s Zionist ideology.

Chapter 8 explores space and territoriality. Yousef Jabareen introduces the concept of “obsessive territoriality” as an ongoing process to establish territorial domination through the state apparatus, national planning, the judicial system, and the military. The chapter is based on analysis of the 12 most influential national and district urban plans, starting with the first national plan completed in 1951. The chapter, while defining the main concepts that underpin the various plans, demonstrates how territory was assigned a sense of a space to be claimed exclusively by the state for Jews and a space to prevent others – namely Arab citizens – from infringing on it. The colonized “empty” territory, or more accurately “emptied” space, became so central in Zionist planning, which became

embedded with strict and unquestioned control over the territory. Through this control, it became possible to advance the overriding dual demographic agendas of expanding Jewish presence and constricting Palestinian presence, to advance economic development designed to serve Jewish populations and de-develop Arab populations, and to define hegemonic legitimacies of setting borders, displacing, building, and demolishing in the service of ethnically driven policies formulated in the service of conferring and maintaining ethnic privileges. In Israel, the practice of achieving territoriality through planning has always excluded Palestinians from the process itself, as from resource allocation and, in effect, has often treated them as a hostile population who do not belong to the exclusively Jewish-designated territory and whose presence there is undesirable.

In Chapter 9, Raja Khalidi and Mtanes Shihadeh examine the claims about Israel's integration of the subordinated Palestinian Arab sector into its otherwise prosperous and growing economy. By looking at Israel's exclusionary economic and political policies, which historically have prioritized the development of a self-sustained Jewish economy, Khalidi and Shihadeh trace the reasons for lower labor market participation, higher unemployment, and higher rates of poverty among its large Palestinian Arab minority. The authors explore the economic divergence between Jewish and Arab economies, both inside Israel and in the occupied territories, discussing the stark structural development gaps, growing geographic separation, and differences in social structure and human capital that exist between the two populations. Although mainstream Israeli Jewish economists tend to ascribe the persistent inequality to demographic and cultural differences between the Arab and Jewish populations, Khalidi and Shihadeh argue that the reality is more complex, pointing to Israel's distinct lack of investment in the Arab public sector, privileging the Jewish sector, underfunding of Arab local municipal budgets, and its long history of land and resource expropriation in the service of the Jewish economy. In recent years, amid waning Jewish immigration, successive Israeli government administrations have belatedly eyed the economic integration of Israel's Arab population as a way to boost growth. The authors analyze how the use of primarily market-based tools, such as venture capital and public-private partnerships, has created a small group of winners, while neglecting the sustained public investment required for broad-based development and poverty reduction.

In Chapter 10, Ayman Agbaria documents the shifting way in which the state of Israel uses the education system to discipline Palestinians in Israel. The traditional way that the Israeli state had accomplished this was through gross measures of control, such as eliminating Palestinian national content from educational curricula, allocating unequal resources to Palestinian students, and effecting a close surveillance of both pupils and teachers. While these strategies are still in effect, the chapter also observes new technologies of control that are more diverse and indirect, but which in fact aim for even more fundamentalist goals. With the new discourse of “neoliberalism” has come an emphasis in the education of Palestinians on “privatization, school performance, standards, and testing.” This shift abandons gross mechanisms of control in favor of a system that seeks buy-in from Palestinians in the name of “progress” and individual achievement. This “produces an aggressive and competitive form of individualism indifferent to the virtues and responsibilities of citizenship and to group belonging and solidarity.” Failures of Palestinians can be explained as an individual lack of competence rather than a product of structural ethnic privileging. Thus the doxa of the colonizer invades that of the colonized, rationalizing power imbalances between the two and impeding Palestinian quests for parity. In the terms of structural violence (Galtung, 1990), we might see this as a shift away from an explicit strategy of marginalization toward a subtler process of fragmentation of the disadvantaged class and segmentation of their worldview.

In Chapter 11, the last chapter of the second part of the book, Nadera Shalhoub-Kevorkian examines how state surveillance and fear engendered by the state facilitate the subordination of the colonized Palestinian citizens. She looks at how land control and population and demographic management, together with legal and regulatory mechanisms, become means of surveillance that Israel uses in addition to methods such social sorting, statistical records, and land and taxation records. The chapter applies a settler-colonial framework to examine how surveillance over the indigenous population in many areas advanced the settler project while at the same time developing the very forms of surveillance. The surveillance begins with the start of the Zionist project, even before Israel’s establishment, and continues through different forms during the military government years from 1948 to 1968, up until the present. Using the example of the *Nakba* Law from 2011, which grants Israeli authorities the right to deprive state-supported organizations from funding if they commemorate the *Nakba* (the dismantlement of Palestine and the

displacement of the Palestinian people in 1948), the chapter examines also how the fear the state engenders in the colonized and the colonizer facilitates surveillance and its colonial goals.

The third and final part of the book includes three chapters and focuses on protest, the “return of history,” and the emergent homeland nationalism among the Palestinians in Israel. With policies of dispossession and subordination, the suspension of civil rights facilitated by emergency regulations of military rule, and limited political means to achieve their rights, how has this isolated community resisted Israel’s policies starting in 1948 and up to the present day?

In Chapter 12, Ahmad Sa’di provides the answers by using data sets that compiled acts of protest based on newspaper reports. Despite the shortcomings of these data, which the author discusses, they provide a rare source for having a comprehensive view on the history of protest and how it evolved. The chapter thus probes forms of resistance chronologically from 1948 to 2011 and compares the protest goals and the social movement organizations in four different periods: under military rule; since the end of military rule (1966), and until Land Day in 1976, when the Palestinian community overcame Israeli restrictions and established numerous social movement organizations; from 1976 to 2000 when what Sa’di calls “integrationist” hegemonic leadership sought to achieve equality; and finally the period since the turn of the century until 2011 which witnessed the collapse of the Oslo Accords, the entrenchment of the Israeli right, and the failure of the Arab “integrationist” approach that had struggled for equality within Israel. Sa’di finds that the scope of protest activities that took place under military rule was surprisingly broader than has been reported by earlier research. The chapter examines the frequency, geography, main acts, and causes of protest. It also locates the protest within the internal dynamics of the Palestinian society and its ideological streams, and of the Israeli society.

In Chapter 13, Rouhana and Sabbagh-Khoury trace the history of discourse by Palestinians in Israel about the *Nakba*. We examine why, until the mid-1990s, this history was silenced in the official political sphere of the Palestinians in Israel. We then show that there has been a discernible progression from a silenced collective memory around the *Nakba* to its gradual return, not only to dominate the cultural sphere but also as a salient force in the modern political consciousness of the Palestinians in Israel. We trace this progression

and examine the various manifestations of this return, which reflects a dramatic transformation in the present collective consciousness of the Palestinians in Israel. We label the recent return of the *Nakba* into public discourse in Israel as a “return of history,” which we define as “the process in which a dormant past is reconstituted and becomes a constitutive force in present collective consciousness and in envisioning the political future.” In the context of the Palestinians in Israel, this manifests as an increased awareness of the ways in which the *Nakba* influences contemporary power dynamics in Israel and how those power dynamics can be overcome. In this way, we hope to move the study of Palestinian history beyond some conceptions of collective memory that emphasize the ways in which the present shapes the past, and focus attention rather on how the past shapes the present. The project thus corresponds with a Foucauldian genealogy, enabling a “counter-memory” to speak against the hegemonic and “scientific” history of 1948 as a triumph of Zionism.

In line with the previous chapter, I conclude with Chapter 14 that argues that the Palestinian citizens’ political consciousness is being transformed as they come to full awareness of the fundamental and broad privileges that the Jews enjoy over them, and as they face the psychopolitical structure that has become clear over the years. Part of this growing awareness includes the realization that equality is unachievable within a Zionist state, as well as connecting with the larger Palestinian consciousness that a Palestinian state is unlikely to be achieved in the West Bank and Gaza. Even in the unlikely event that such a state were achieved, it would leave Palestinians in Israel effectively stateless in their own homeland (in the state of the Jewish people). Recently, there seems to be emerging a popular project of “homeland nationalism” in which the Palestinians in Israel are claiming or reclaiming their homeland and putting forward a political challenge, not only cultural and psychological discourse, to the major Zionist claim of exclusive right to, and ownership of, the Palestinian homeland. The chapter argues that not only that the rationale for denying legitimacy to a Jewish state will become clearer, but that this development of homeland nationalism can potentially become the most significant political development among all Palestinians – not only those who are citizens of Israel – in the next few years. This development of focusing on the Palestinian people and their homeland, not just the specificity of a territorial Palestinian state, opens the door for new political options based on ending ethnic privilege and promoting equal citizenship and

a democratic system for both Arabs and Jews in one united homeland – and, most importantly, advancing the ideological and psychopolitical underpinnings for such a system.

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PART I

Zionist Theories of Peace in the Pre-state Era

Legacies of Dissimulation and Israel's Arab Minority

IAN S. LUSTICK AND MATTHEW BERKMAN

In 1950, the Israeli Foreign Ministry published a booklet arguing against the return of Palestinian refugees to the country. Its contention was that any return of refugees would introduce the problem of a national minority, thereby reversing the effects of the war, which had effectively ended the presence of non-Jews within the territory of the Jewish state:

As a result of the war and the flight of the Arabs, Israel has become a State with an ethnically almost homogeneous population . . . The culture of the State is Jewish, the government administration, the army and all its important institutions are almost exclusively Jewish. It would be folly to resurrect artificially a minority problem which has been almost eliminated by the war.

(Gabbay 1959:53)

The claim that there was no Arab minority to speak of inside Israel was absurd, but the implicit belief by the Israeli Foreign Ministry that these absurd claims about Arabs in Israel would not be seen as such is wonderfully instructive. The gap this propaganda line sought to open between image and reality corresponds exactly to the gap between pre-state Zionist promises of “non-domination” of Arabs by Jews in the future Jewish state and the realities of the Jewish majority’s treatment of the Arab minority, beginning with the establishment of military rule over Arabs in 1948. It corresponds as well to a larger double discourse in the pre-state period between what Zionist leaders publicly proclaimed as their commitment to Jewish–Arab relations in the aftermath of Zionist success and what they privately expected should and would be the nature of those relations.

Dealing with an “Almost Eliminated” Minority

For Jews in Palestine, the 1948 war was both harrowing and exhilarating. One out of every hundred Jews in the country died in the fighting that began in the fall of 1947 and did not end until early 1949. But the result was not only independence but a much larger territorial expanse than had been granted by the United Nations, and a reduction of nearly 800,000 in the population of Arabs that the Jewish state would have otherwise had to integrate. The flight, expulsion, and enforced exclusion of this mass of Palestinian Arabs was as much a part of the victory as the defeat of Arab armies and the expansion of Jewish-held regions. Chaim Weizmann – the aged, sick, nearly blind elder statesman of the Zionist movement – responded to news of the exodus of Palestinian Arabs as “a miraculous simplification of Israel’s tasks” (MacDonald 1951:176). As removed as he was from operational decisions and realities, Weizmann may perhaps be forgiven if he thought it the result of divine intervention. But those in the trenches of the Zionist project, and the leadership on the ground in Palestine – foremost among them Weizmann’s bitter antagonist, David Ben-Gurion – knew full well how great was the ratio of systematic and brutal effort to happenstance or divine favor in producing massive waves of Palestinian refugees and in preventing those seeking to return from doing so.

Having achieved a Jewish majority through force of arms, the primary concern of the nascent state of Israel was to secure its territorial and demographic gains by preventing the return of Arab refugees and assuming control over “abandoned” land and property for the settlement of new Jewish immigrants. Benny Morris (1993) has written vividly about Israel’s war on refugee “infiltration” from neighboring Arab states in the immediate postindependence period. However, for all the planning that had gone into the displacement of Arabs and their evacuation from Jewish-held areas – and there is substantial evidence of such planning – there was scant planning in the late 1940s for how an Arab minority within the state would be provided for or governed.¹

¹ As documented by Yossi Katz (1997, 1998), there was a brief period in 1938 when the Jewish Agency did discuss plans for a future Arab minority. Katz argues that policies drawn up at this time were echoed in what was implemented in 1948, but his evidence is not consistent with this claim. What is clear is that the Jewish Agency’s thinking on the minority issue (1) only began when it became clear the British would not forcibly transfer Arabs from the proposed Jewish state; (2) was focused entirely on determining the minimum protections to Arabs that could be provided while still being able to claim conformity to League of Nations’ requirements regarding the treatment of minorities;

The Arabs who remained within Jewish-held territory after Israel's war of independence, whether separated from their homes as "present absentees" or huddled within villages or ghettos in the "mixed cities," were traumatized and largely leaderless. Looting by both Jewish soldiers and civilians was widespread. The absence of Zionist planning for the existence of an Arab minority in the state they were building was apparent in the absence of any publicly established policy or official guidelines for how to treat Arabs within the jurisdiction of the new State of Israel. In this vacuum low-level Jewish elites acted as they saw fit toward the remaining Arab inhabitants. These included local military commanders, Histadrut officials anxious to control the flow of labor and agricultural products, bureaucrats searching for housing for immigrants, Zionist intelligence operatives or personnel responsible for land acquisition accustomed to operating with or against Palestinian Arabs during the pre-state period, and some officials in the newly established Ministry of Police and the Ministry of Minorities. Despite honeyed phrases about equality for all, top Zionist leaders preferred not to constrain these "men of action," such as Yehoshua Palmon, Israel's first adviser to the prime minister on Arab affairs, who described his own approach to the Arabs "as a wolf in sheep's clothing." Palmon's overall assessment was that his policy had failed to achieve a sufficient reduction in the size of the state's Arab minority (Segev 1986).

The short-lived career of the Ministry of Minorities is an excellent indicator of the fundamentally improvisational response by Jewish governing authorities to the "surprising" existence of any Arabs at all within the state shortly after its establishment. The man appointed by Ben-Gurion to head the ministry was Behor Shetreet, who was also appointed as Minister of Police. Instructively, the Ministry of Minorities was the *only* ministerial department not based on preexisting institutions of the *Yishuv* (in Zionist parlance – the Jewish community living in the Land of Israel). Nor had its existence been discussed or even anticipated by the detailed planning work of the Emergency Committee, established in October 1947 to conduct detailed administrative planning for the transformation of Jewish and Zionist institutions into governing authorities (Alsberg 1989). By early 1949, however, the Ministry of

(3) ended by the close of 1938 with the withdrawal of the British partition plan; and (4) resulted in no lasting policy position except a precedent for responding to subsequent United Nations' requirements in ways that signaled a commitment to minority rights protection emphasizing the formal status of Arabs as citizens but little protection for their rights as such.

Minorities had lost whatever influence over Arab policy affairs it ever had. It was dissolved in March 1949, establishing with unmistakable clarity that the sole authority for governance in Arab areas had been delegated to the *Memshal Tsvai* – military government.

The administrative apparatus of the military government itself evolved disjointedly, shaped by different styles and attitudes of various military commanders and the orientations of those “Arab experts” among the Haganah’s intelligence operation who had close personal or professional ties to Ben-Gurion.² For almost two decades, from 1948 through 1966, suffrage rights for Arab citizens coexisted with severe and systematic restrictions on the Arab population’s civil liberties, economic and cultural rights, and freedom of movement. This regime of pass laws, permits, curfews, harassment, isolation, and petty punishments was enforced by poorly trained army units and administered by Jewish bureaucrats and military officers thought by the rest of the military to be incapable of performing serious military functions.

The military government controlled Arabs by isolating them from Jews, fragmenting them into disconnected villages and regions, enforcing divisions among religious communities, stoking interclan rivalries among kinship groups, enlisting networks of informers, and co-opting traditionalist elites. Overall, the objective was to render the presence of Arabs – a sizable non-Jewish minority in the country – as irrelevant as possible to the life of the Jewish state (Lustick 1980). Officially established in October 1948, the military government’s legal authority was rooted in emergency mandatory legislation absorbed by Israeli cabinet decree following the declaration of statehood in mid-May. The Defense Emergency Regulations “delegated effective sovereignty to the military within a specified territory and authorized its commander to suspend all basic constitutional liberties, including the property and habeas corpus rights, of its inhabitants” (Robinson 2013:33).³ Armed with these and other emergency laws, Ben-Gurion appointed Haganah commander Elimelekh Avner to oversee the military regime that replaced the ad hoc administrations set up by the army in majority Arab areas. Robinson describes the spatial consequences of early military rule:

² Haganah (“Defense”) was the name for the pre state underground army of the mainstream Labor Zionist movement and became the basis for the Israel Defense Forces, the Israeli army, after 1948.

³ For a detailed analysis of how the “makeshift” use of a “State of Emergency” was used to establish the military government as the basis for a distinctive regime of exclusion and control of Arabs in Israel, see Mehozay (2012).

By early 1949, the Military Government had divided the Galilee alone into fifty eight separate ghettos, severing Palestinians from their relatives, their commercial markets, and the urban centers where they had worked, studied, sought medical treatment, [and] taken care of administrative affairs . . . After the annexation of the Little Triangle in May 1949, roughly 90 percent of the Palestinians in Israel lived under military rule.

(Robinson 2013:39)

In addition, the 11,000 Bedouin remaining in the Beersheba area were forcibly concentrated into reserves representing 10 percent of their ancestral lands.

Although loosened gradually between its establishment in 1948 and its abolition in 1966, in its first decade the military government controlled nearly every aspect of daily life in Arab areas. Formal military permits were required for opening a shop, harvesting crops, seeking medical treatment, finding a job in a Jewish city, traveling to work, or simply moving between villages for visitation. To turn the spigots of cheap Arab labor on and off when and where it was necessary for the Jewish economy, only a fraction of all Arab requests for work permits were granted. Arab farmers were not allowed to independently market their produce but rather were forced to sell it at below-market prices to state-created monopolistic marketing firms. Blacklists were used to deny politically affiliated Arabs development loans and travel authorization (Lustick 1980:184).⁴

Complementing severe restrictions on the daily lives of Arab citizens were efforts to advance Jewish state-building in heavily Arab areas in the north by settling Jewish citizens in their midst. The “Judaization of the Galilee” (*Yehud ha-Galil*), as this effort was known, made ample use of the Emergency Defense Regulations that animated the military government. Of particular utility was Article 125, which empowered the defense minister to declare any area under martial law a “closed area” and to prohibit entry. In combination with the Cultivation of Waste Lands Ordinance, which authorized the expropriation of uncultivated farmland, Article 125 became a key legal tool in the state’s efforts to transfer Arab-owned land in the Galilee to Jewish agriculturalists. Shimon Peres, then director general of the defense ministry, openly acknowledged the

⁴ The blanket of restrictions the military government imposed on Arabs was so intricate, comprehensive, and (usually) mean spirited, and the level of corruption among military government officials so high, that in 1967 Defense Minister Moshe Dayan decreed that no officer who had served in the military government inside of Israel would be eligible for service in the newly occupied territories.

government's conscious use of this technique in 1962: "By making use of Article 125, on which the Military Government is to a great extent based, we can directly continue the struggle for Jewish settlement and Jewish immigration" (Lustick 1980:178). The state employed a similar approach when in 1954 it expropriated 1,200 dunams of Arab-owned land to create the Jewish city of Upper Nazareth. The purpose of this new settlement on the outskirts of Israel's largest Arab city, according to the northern military governor at the time, was to "swallow up" Arab Nazareth and "transfer the center of gravity of life . . . to the Jewish neighborhood" (Forman 2006:350). Most important were the political purposes served by the military government, purposes that featured decisively in repeated rejections of internal recommendations to abolish it (Ozacky-Lazar 2002). At the international level, preventing the fate of the Arab minority – and particularly the expropriation of their property – from becoming a highly visible issue was considered vital by the Foreign Ministry in its effort to reverse the initial decision of the United Nations to reject Israel's application for membership. For Ben-Gurion and his Mapai Party, an even more important political function of the military government was as a machine capable of translating intimate ties with the desperate and utterly dependent *mukhtars* and other traditional elites into mass voting for Mapai and its "affiliated Arab lists." As Korn (2000) explains, "In exchange for a new permit or a renewal, Arabs were expected to show their loyalty and behave in a politically correct manner. The latter was expressed by refraining from any independent form of political activity and by voting for the ruling party, Mapai" (Korn 2000:169).

Finally, although the UN Partition resolution had required Israel to include citizenship and voting rights for all its inhabitants, accomplishment of all its other objectives with respect to the Arab minority meant that their formal citizenship had to be prevented from having any domestic political meaning. In Israel's multiparty, proportional representation system, a united Arab party representing more than 10 percent of the country's voters could have had a real impact on coalition politics. Accordingly, the military government was called upon to prevent the formation of any independent and united Arab political movement:

[M]ilitary government officers outlawed political organizations, restricted the movements of political activists, confined them to their [villages], exiled them to Jewish towns, subjected them to house arrest or administrative detention, and obligated them to report to police stations several times a day. Villages where political meetings were scheduled to take place

were proclaimed closed military zones, access roads were blocked and “undesirables” without permits were denied entry.

(Korn 2000:168)

Although led by Jews, the Communist Party was the closest thing to a legal vehicle for protest and organization the Arab population had. Accordingly, the military government treated the party as a dangerous enemy. In 1957, the rationale behind the military government was explained: “If we cancelled the restrictions, the Communist Party would invite Arab refugees to squat on their ruins, demand their lands back . . . [and] the return of the refugees. They will form organizations, parties, fronts, anything to make trouble” (Robinson 2013:45). Absent an Arabic newspaper or publication independent of a Jewish-controlled party, the Communist Party’s Arabic-language organ, *al-Ittihad*, was a crucial source of information and analysis. Copies were smuggled into Arab villages to avoid confiscation by the military authorities. The military government sought to intimidate Communist activists, prevent villages with strong Communist Party presence from receiving various services or administrative authorizations, and purge schools of teachers suspected of sympathy with the party. Arab schools were forced to engage in Zionist indoctrination, including enactment of elaborate rituals of devotion to the Jewish state. Severely under-resourced, they were pressured to inculcate an apolitical Arab cultural identity that precluded national identification with other Palestinians or Arabs beyond Israel’s borders (ibid.:138–143).

For nearly two decades, the military government was instrumental in stripping the Arab minority of its remaining physical assets and depriving it of an independent political base from which it could promote its national, cultural, and economic interests. This was not only its effect but its *raison d’être*. The long-term consequence of this policy was noted by Peleg and Waxman (2011:34): “The extreme socio-economic inequality between Jews and Arabs is one of the biggest, if not the biggest, problems that affects minority-majority relations in Israel . . . A wide range of socio-economic measures testify to this inequality; [including] poverty levels, unemployment rates, average incomes, and occupational structure and types of professions.”

From this brief account of the military government’s establishment and its operation, three things are obvious. First, Israel not only had a non-Jewish minority from the very moment of its establishment, it was a significant minority, with more privately owned land under its

control than was in the hands of Jews, an important share of agricultural production, and territorial contiguity in areas beyond the UN Partition lines, whose fate was still uncertain. Second, Israeli leaders were fully aware of the presence of this population and were ready to authorize extensive measures to minimize its interference with the state's ability to accomplish the security, immigrant absorption, ideological, partisan-political, economic, and state consolidation tasks it had set for itself. Third, unlike just about every other domain, when it came to dealing with non-Jewish citizens of the Jewish state, Israel's leaders had neither doctrine nor institutions available from the pre-state period to transition into place. If we then return to the Foreign Ministry's 1950 declaration that the state was "almost exclusively Jewish" and that the problem of a non-Jewish minority had been "virtually eliminated," we can pose the following question: what explains this striking gap between the palpable reality of a substantial, problematic, and intensively controlled Arab minority and the public claim of its irrelevance and virtual nonexistence?

Origins of a Double Discourse

While the Ottomans ruled Palestine, most Zionists considered the local Arabs as having no separate political identity and therefore posing only limited challenges to Jewish economic development and the achievement of Jewish demographic predominance. Reflecting these attitudes, Weizmann and other Zionist leaders sought to "satisfy Arab aspirations outside Palestine in exchange for Arab support of a national homeland in Palestine" (Kolatt 1983:10). However, with the onset of the British Mandate, Zionist leaders became acutely aware of the importance, indeed the centrality, of the challenge to their ambitions for Palestine represented by its Arab inhabitants. At a crucial meeting in Kibbutz Ein Harod, following Arab-Jewish violence in 1921, the leadership of the Socialist Zionists debated a proposal by Shlomo Kaplansky to endorse a binational state in Palestine for both Arabs and Jews. The proposal was firmly rejected, both on substantive and tactical grounds. Substantively, both the rank and file, and the leaders of the movement (Ben-Gurion, Tabenkin, Ben-Tzvi, and Katznelson) were already fundamentally committed to the transformation of Palestine into a sovereign Jewish state. Tactically, they saw no profit in public recognition of the seriousness of the brewing conflict with the Arabs. The result was a posture

described by Anita Shapira as “the defensive ethos” – an odd phrase meant to convey avoidance of explicit, honest, and public engagement with the Arab question (Shapira 1992:83–126).

This stance differed sharply from that of right-wing Zionists, later to break away from the World Zionist Organization on this issue. Their leader, Vladimir Jabotinsky, insisted on open and forceful declarations that Zionism’s intent was to transform all of Palestine into a Jewish state and that this would entail a zero-sum fight with the Arab population. Not until the early 1940s would the Labor and General Zionist parties who dominated the Zionist movement officially proclaim the actual goal of a Jewish state in all of Palestine. Aside from alienating possible gentile supporters by going beyond the Balfour Declaration’s formula of “a Jewish National Home in Palestine,” the mainstream leadership feared reducing Jewish immigration by frightening those fearful of bloody conflict with the Arabs. They also preferred not to disturb cherished beliefs that theirs was a cause of pure justice, sullied by neither malign intentions nor inevitably tragic consequences (Shapira 1992).⁵

But there was one setting, the international arena, including public testimony before British commissions established to find a solution to the “problem of Palestine,” in which Zionist leaders were more or less forced to say something official about the long-term objectives of the movement. In light of obvious, violent, and entrenched Arab enmity to Jewish immigration, land transfers to Jews, and especially to any talk of Jewish rule of the country, questions inevitably arose as to why the international community should back Zionist efforts if it would mean oppression of local Arabs and endless war. What these, usually sympathetic, questioners wanted to hear was a Zionist theory of peace – not a guarantee of the disappearance of Arab opposition but some statement of Zionist aims and plans for eventual peace and stability in the country that imagined the accommodation of Arab requirements and Arab sentiments.

Within the general category of Zionist theories of peace are claims concerning the character of relations between Arabs who remained within the boundaries of the Jewish state and the Jewish majority that Zionism was fully committed to establishing. As Ben-Gurion told one Palestinian leader in the early 1930s, “Our final goal is the independence

⁵ These concerns largely vanished with the rise of Hitler and the desperate search by European Jews for places of refuge.

of the Jewish people in Palestine, on both sides of the Jordan River, not as a minority, but as a community numbering millions” (Teveth 1985:130). *Ipsa facto*, this meant Zionism’s success would produce an Arab minority in Palestine, no matter what its geographical dimensions. In light of our sketch of the fate of the Arab minority in Israel, and the process by which policies toward it were chosen and implemented, close attention to pre-state pronouncements by Weizmann, Ben-Gurion, and others on this topic will help explain the sharp contradiction we have identified between the Israeli government’s official claim of the nonexistence of the Arab minority and its actual behavior toward it. Expressed in Wittgensteinian terms, we may say that when it came to the Arab problem, Zionist “ordinary language” (actual belief, lived reality, and practice) was virtually unconstrained by Zionist “grammar” (that which was officially said to be the case).

Zionist Theories of Peace

Iron Wall Logic

On the question of how peace with the Arabs could be achieved, the most common theme in Zionist testimony before British or international investigating commissions was endorsement of the logic made famous by Vladimir Jabotinsky’s formula of *kir habarzel*, “the iron wall.” As noted, practical Zionists avoided speaking forthrightly about Zionism’s goal of transforming Palestine into a Jewish state. Jabotinsky attacked these “vegetarians” who shrunk from admitting that a deep conflict of real interests was at the core of the conflict between indigenous Arabs and the “alien settler” Jews.⁶ He warned against seeking negotiations or a basis for cooperation until the last “gleam of hope” that Zionism could be uprooted was removed from Arab eyes. This would be accomplished by repeated and overwhelming military defeats. While recognizing the reasonableness of Arab opposition, the requirement of adjusting Zionist demands was not to be considered. Combined with the justification for using force to impose Zionism’s minimum requirements, Jabotinsky’s practical proposal for coercive pedagogy

⁶ For a close analysis of Jabotinsky’s language and argument regarding “the iron wall” as a long term political strategy and the reasons for its successes and failures, see Lustick (1996).

quickly filled the void that was Zionism's official policy on the Arab question.

Though rivalry between Jabotinsky's "Revisionists" and the Zionist mainstream was intense, filled with mutual vilification and occasionally violence, the overwhelming majority of Zionists found it convenient to use at least portions of Jabotinsky's argument. Even Chaim Weizmann, the most diplomatic of Zionism's leading spokesmen in the 1920s and 1930s, regularly invoked the iron wall logic, if not the actual phrase. Repeatedly he called upon the international community in general, and the British in particular, to express categorical support for Zionism, or use force in unmistakable ways. Were they to do so, Arabs inside and outside of Palestine would realize that acquiescence in the Jewish National Home and cooperation with Zionism was their only sensible course of action.

Testifying before the Peel Commission in December 1936, Weizmann said that peace could grow out of an arrangement giving the Jewish minority in Palestine administrative "parity" with the Arab majority under the British Mandate, accompanied by unlimited Jewish immigration.⁷ The Arabs could agree, he said, but they "will never come to terms if they feel that they will get what they want out of the Royal Commission, or the government" (Weizmann [1931] in Litvinoff 1984b:226). Weizmann argued that a policy based on the real meaning of the Balfour Declaration had not failed. Such a policy had never *really* been tried because the British had never been categorical in their commitment to the transformation of Palestine: "In a sense the Mandate has never been given a chance . . . The population has never been made to understand the Mandate has come to stand or the policy has come to stand and it is going to be carried out" (ibid.:220). In further testimony before the Peel Commission, Weizmann was unusually graphic in his suggestion for how the signal of definitiveness could be sent:

I think it was in Bombay recently, that there had been trouble and the Moslems had been flogged. I am not advocating flogging, but what is the

⁷ This was the formula worked out for public distribution by the World Zionist Organization in the early 1930s. It combined effective public relations use of the term "parity" with avoidance of political recognition of the Arab majority (hence the emphasis on administration rather than a "legislative council"). It also provided for separate development of the Jewish National Home in Palestine until immigration would produce a Jewish majority capable of controlling the shape of the political order there once the British Mandate came to an end (see Kolatt 1991:22; Teveth 1985:116).

difference between a Moslem in Palestine and a Moslem in Bombay? There they flog them, and here they save their faces. This, interpreted in terms of Moslem mentality, means: "The British are weak; we shall succeed if we make ourselves sufficiently unpleasant. We shall succeed in throwing the Jews into the Mediterranean."

(*ibid.*:143)⁸

During World War II, Weizmann, speaking to American diplomats, insisted that the mistake of indecisiveness made by the League of Nations after World War I could be corrected after World War II:

[N]ow since the world was going to be remade afresh, there is a new opportunity to settle the matter; that if the Arabs were told that the United Nations mean business, that they considered this solution just, that Palestine should become a Jewish National Home open to vast Jewish immigration with the United Nations ensuring that the Arabs' legitimate rights are protected [that] may open a new period which may subsequently become a period of cooperation.

(Weizmann's report to the Zionist Political Committee, New York, January 28, 1943, in *ibid.*:506)

As mainstream Zionism shifted toward explicit pursuit of Jewish statehood, both Weizmann and Ben-Gurion offered exceedingly optimistic images of how suddenly demonstrations of Zionism's indestructibility by the establishment of a state would trigger peace. Asked in 1938 by British prime minister Neville Chamberlain whether a Jewish state would inevitably mean war with the Arabs, Weizmann responded with his opinion that "on the morrow of the establishment of the state there would definitely be peace" (*ibid.*:308). In 1940, Weizmann sought to persuade his New York audience that the logic of the iron wall was beginning to work:

I think [the Arabs] are beginning to learn the futility of destruction . . . with a little looking around one can see that there may be something in the Arab mind which, if I were to put it into words, would read something like this: The Jewish National Home is here, whether we like it or not. We have tried to eradicate it, with no particular success. Well, what is the good of fighting?

(Weizmann's speech delivered on January 14, 1940, in *ibid.*:389)

⁸ A month later, responding to a question about why Arab opposition to Zionism was continuing, Weizmann again pointed to flogging in India as an object lesson for the British in Palestine (see Litvinoff 1984b:181). In the same vein, Weizmann told the commission of what he described as a standing joke among the Arabs, "that for one Arab who dies from a bullet, two Arabs die of laughter; laughing at the performance of the British" (*ibid.*:233).

Likewise, Ben-Gurion, in the years just prior to the establishment of the state, theorized to outside observers that Arab grievances would simply dissipate once the international community had decisively put its foot down, giving rise to robust Arab–Jewish cooperation. An official memorandum submitted by the Jewish Agency to the 1947 UN Special Commission on Palestine rebuts charges that internal Arab opposition would doom a future Jewish state to permanent instability:

In a Jewish State immigration policy and constitutional policy would have been decided in advance and embodied in the very purpose of the State. They would no longer be outstanding as issues of conflict between its inhabitants; and once these issues were decided *with the full weight of international authority behind the decision* the relations between Jews and Arabs would depend on matters of economic progress and social welfare in which a mutual interest would quickly be perceived.

(The Jewish Agency for Palestine 1947b:324, emphasis added)

The Material Benefits of Peace

The second most prominent theme in Zionist evocations of eventual peace was of the irresistible opportunities Jewish Palestine would provide for Arab economic advancement. The best known of these depictions is contained in Theodore Herzl's (1960) utopian novel *Old-New Land*. After being away from Palestine between 1902 and 1923, Dr. Friedrich Loewenberg, a Jew, and his rich German patron, Kingscourt, return to a thriving Jewish national home. With the appreciative testimony of a prosperous Arab landowner, Reschid Bey, Herzl depicts the material benefits Zionism would bring to Palestine, the embrace of Western capitalist values by Muslims, and the decisiveness of these economic and civilizational contributions to the neutralization of potential political animosity.

“We Jews introduced cultivation here.”

“Pardon me, sir!” cried Reschid Bey with a friendly smile. “But this sort of thing was here before you came at least there were signs of it. My father planted oranges extensively” . . . “I don't deny that you had orange groves before we came,” thundered Steineck, “but you could never get full value out of them.”

Reschid nodded. “That is correct. Our profits have grown considerably. Our orange transport has multiplied tenfold since we have had good

transportation facilities to connect us with the whole world. Everything here has increased in value since your immigration.”

(Ibid.:121)

Many Zionist spokesmen followed Herzl's lead, contending that Arabs would benefit so handsomely in the economic realm that Arab recognition of Jewish rights would inevitably result. After World War I, the American-staffed King-Crane Commission was sent to the Levant under the terms of the Versailles Treaty to determine the will of the area's inhabitants in accordance with principles of Wilsonian self-determination. The commission visited Syria, including Palestine, Transjordan, and Lebanon. In the report of the commissioners, the petitions and testimony presented on behalf of the Zionist movement were summarized as follows:

The coming of the Jews, it was said, would materially benefit the local inhabitants. It would not injure them in any way, for in the past, relations between the Jews and their non Jewish neighbors had been very friendly. With the coming of the Zionists, Western culture would be brought to the land of the ancients and transmitted to the Arabs, as in the medieval Christian era the Arabs had transmitted the culture of the ancients to Western Europe.

(Howard 1963:97)

This public relations position existed in substantial tension with the explicitly colonialist formula used by Herzl and others (including, at times, Chaim Weizmann) to the effect that Zionism would build a “rampart” in the Middle East to help protect Europe from barbarism.⁹ Taking an opposite tack, Zionist spokesmen often publicly predicted a Jewish Palestine would function as a transmission belt to the region for the benefits of European-style modernity, as a bridge between East and West, not a bridgehead. Harry Sacher, in 1919, wrote that “Jewish Palestine . . . will strive to replace the broken tyranny of the

⁹ Herzl famously promised that were the Zionist movement to be given Palestine, “we could constitute part of the wall of defense [often translated as ‘rampart’] against Asia; we would serve as an outpost of civilization against barbarism” (Herzl 1896/1970:52). For Max Nordau's proposal to build a Zionist Ottoman alliance to protect the Ottoman Empire against Arab nationalism, see Kolatt (1983:9). In their testimonies before the Peel Commission both Ben Gurion and Weizmann expressed the view and hope that Britain would rule Palestine for 50 years, if not permanently (Esco Foundation 1947). After World War II Weizmann portrayed a Jewish state in Palestine as a bulwark in defense of democracy against the totalitarian proclivities of Arabs and Muslims (Litvinoff 1984b:427).

Turk by a harmonious cooperation between Jew, Arab, and Armenian. It will read the riddle of the West to the East, and the riddle of the East to the West” (Sacher 1919).

Weizmann often held out a vision of the eventual inevitability of Arab–Jewish cooperation and mutual economic benefit: “I feel that the inexorable logic of economic pressure on both sides of the Jordan will eventually make for common endeavor between Jews and Arabs” (from a speech in London at the Jewish Agency banquet, March 2, 1933, in Litvinoff 1984b:25). Zionists would work diligently to demonstrate their project’s material benefits for Arabs until the fruits of peace from that effort could be harvested.

[I]t is not true no, it is not true that we have uprooted the Arabs. We have not uprooted them; we have shown them the way to a better life, and we shall continue to do this until they understand that we have a common interest in reviving the Middle East, and that this task can be achieved only on the basis of a strong Jewish Palestine.

(Weizmann’s address to the 19th Zionist Congress in Lucerne, Switzerland, August 27, 1935, in *ibid.*:81)

Although Weizmann admitted that the Arabs of Palestine would probably be the last of the Arab peoples to see the light, the Arabs in general “will have to negotiate with us when we come to business because they know we have something to offer which they cannot get from anywhere else” (testimony to the Peel Commission, December 23, 1936, in *ibid.*:232). Indeed, Weizmann stressed, the Arabs would find no one else except the Zionists from whom they could secure the benefits of modern civilization and economic development.

We have to cooperate with you [the Arabs] as you have to cooperate with us ... make no mistake about this: you cannot stand on your own feet unaided. You will not escape the influence of modern culture and progress. In this world of ours there is no room for those who stand alone. You need the power of development which the Jews bring with them. We bring it to you without any of those political designs which are generally associated with Western influence in this part of the world.¹⁰

(Address to rally in Rehovot, Israel, January 1938, in *ibid.*:297–298)

The confidence Weizmann expressed in such images of how and why Arab opposition to Zionism would end was rooted in a particular

¹⁰ For the Peel Commission, Weizmann elaborated his theory that Arabs acted on economic interest rather than political commitment because of the weaknesses of Arab culture and the artificiality of Arab nationalism.

depiction of Arab rationality. Two reasons this rationality could be depended on were (1) the artificiality and inauthenticity of Arab nationalism, and (2) the inconstancy of the Arab mentality. Weizmann often characterized local Arab opposition as not particularly “deep” and, therefore, relatively easily reversed (testimony to the Peel Commission on November 25, 1936, in *ibid.*:132, 154).

From the beginning of the British Mandate, public Zionist statements had stressed the boost a Jewish Palestine would give to Arab living standards and how that would foster cooperative and peaceable relations between Jews and Arabs in the country and in the region as a whole. However, as cycles repeated themselves – from violence to committees of inquiry recommending limits on Jewish immigration, to Zionist success reversing those limits, to more violence – a key public relations question arose. Why, if the Arabs stood to gain so much from Zionism, were they so slow to realize it and to respond to offers for rapprochement?

Peace through Democracy and Modernization

A third theory of peace attributed Arab recalcitrance to the underdevelopment of Arab society. Eventually, modernization would free Arabs from oppressive leaders whose anti-Zionist agitation blinded the masses to their true interests. The most important version of this argument was cast in socialist terms, presented by Ben-Gurion in the early 1920s. He used it to justify rejecting negotiations with the Arab *effendis* (because they were oppressive and disingenuous leaders of an undeveloped Arab society). To make peace, Zionists would need to wait until Arab workers organized themselves properly as potential political interlocutors: “We have no shared program with the Arab ruling class. But we do share a program with the Arab workers” (Ben-Gurion 1931:74). Still, that “shared program” was never described. Instead Ben-Gurion, supported by other leaders of *Achdut Ha’Avoda* – Berl Katznelson, Yitzhak Ben-Tzvi, and Yitzhak Tabenkin – emphasized the separate and autonomous framework within which Jewish workers should organize in order to strengthen the Zionist project (Teveth 1985: 67–71).

In 1929, Moshe Beilinson offered an extended analysis of the reasons for violent Arab opposition and the inadequacy of Zionism’s positive economic impact on Arab Palestine as a whole. Longtime editor of the Labor Zionist newspaper *Davar*, Beilinson identified the prime factor responsible for “this situation” as “the low

level of development of the Arab Yishub” (Beilinson 1929:174). Beilinson’s treatment was considerably more detailed than the analysis provided by most Labor Zionist leaders.¹¹ Beilinson emphasized the role of British policies supporting the exploitative Arab rulers but also criticized ineffective Zionist policies for inhibiting progress toward “social and democratic advance.” The result was domination of Arab society by a “reactionary force that was not known ten years ago” (ibid.:175). Beilinson warned against reaching an agreement with this class, since in the long run it was doomed. By making peace “on the basis of social reaction and social enslavement, we would not be gaining much for any length of time. On the contrary, we would be preparing with our own hands the dreadful catastrophe that is sure to come on the appointed day both for them and their rule” (ibid.:177). To forestall this catastrophe, the Zionist movement should urge the British to carry out a revolutionary agrarian reform. In addition, massive projects of redistribution, public works, education, and social engineering would “liberate the Arab Yishub from the rule of its tyrants,” building up in its stead “another class, a free-holding peasantry, as the foundation of the Arab society” (ibid.:187–188). This would lead to a revolt by the “young Arab generation” who would then “come to demand from us their reward for agreeing to the establishment of a Jewish homeland in this country” (ibid.:190; see also Hazan 1936:239).

Since commissioners posing questions to Zionist leaders were unlikely to care about the fine points of socialist theory, these were not lines of argument prominently displayed in the testimony before investigating commissions. Nevertheless, the argument that social backwardness was the taproot of Arab opposition to Zionism was an important line taken by Weizmann in his testimony to the Peel Commission. His (non-socialist) formulation emphasized, not the effendis, per se, but the “townsmen,” including the urban-dwelling leaders of the dominant Palestinian Arab clan networks, and the intellectuals who served them.

¹¹ For parallel treatments of effendi rule of Arab Palestine as the pathology whose removal Zionism both required and would help accomplish, see Arlosoroff (1930); Liebenstein (1936); Kolatt (1983:14); Shapira (1992:167–168); Sereni (1936:259–300). For a detailed treatment of internal Zionist consideration of pursuit of these objectives via attempts to organize the Arab masses as naïve, and as abandoned by the late 1930s, see Shapira (1977).

- q: I prefer the countryman to the townsman.
- w: So do I, and it is he who matters. He does matter. If it is made patent to him that what is going to happen will improve his lot, improve his life, and, in fact, increase his wellbeing, which is the very thing the townsmen want to prevent us from doing. Does it not strike you as curious that here people who claim to be patriots still go on squeezing the *fellah*, squeezing the last ounce of blood out of him, and when they use the term “not to be disturbed” they are frightened that the feudal system which exists in this country . . . is being disturbed through the impact of modern civilization?

(Testimony offered to the Peel Commission on December 23, 1936 in Litvinoff 1984b:244)

More generally, Zionist leaders argued that Arab societies and outlooks would mature in response to Zionist-delivered processes of modernization, rendering them open to the benefits Zionism would provide. Peace would come when Arabs became what they really wanted to be – Westerners. The Jewish model of Western civilization thriving in the Middle East would be of crucial importance in this transformation. In the summary of its case before the Anglo-American Committee of Inquiry, the Jewish Agency called for the disruption of the old Arab order of “squalor, disease, corruption, exploitation.” Comparing Zionists to American colonists and British settlers in Australia and Canada, the Jewish Agency noted that history did not “invalidate their intrusion” which shattered “the old order and the existing way of life,” but rather “applauds its results.” The same would be true of Zionism’s effect on the Arabs:

For Westernism is not the bogy which overshadows the Arab future with fear and terror: It is the theme, the purpose and the aspiration of modern Arab life; it is the social and cultural horizon of Arab thought. The Arabs are in potentiality and desire what the Jews are in fact – citizens of a civilization based upon European standards.

(The Jewish Agency for Palestine 1947a:357)

Regionalism and “Great Leader” Diplomacy

Zionist leaders occasionally acknowledged that peace with the Arabs of Palestine might be more difficult to achieve than peace with the Arab world as a whole. Although Zionism objected to the untoward “intervention” of the Arab kings in the 1930s in the affairs of Palestine,

for the most part, Zionist leaders characterized their erstwhile foe and eventual partner in peace as being the Arab states outside of Palestine or the Arab or Muslim peoples of the region in general. By defining the problem this way, symmetry could be established between independence and statehood for Jews in Palestine, and the enjoyment of those prerogatives of national life by Arabs in the Middle East as a whole.

Accordingly, most Zionists publicly denied the authenticity of distinctively Palestinian Arab national feeling.

There is no separate Palestinian Arab people with a definite Palestinian national consciousness. The Arab of Palestine considers himself either a member of a tribe, or a son of the Arab people of which only a small part lives in Palestine. It is no accident that the Arab national movement, insofar as it exists, is Pan Arab.

(Greenberg 1936:253)¹²

Others, willing to acknowledge the national aspirations of Palestinian Arabs, still advocated focusing on the larger Arab national movement. "It is much simpler," wrote Eliezer Liebenstein, "for an Arab emancipation movement, which aims to build a great federated state, to come to an understanding with Zionism, than it is for a specific Palestinian-Arab movement." Only by including Palestine in a "Jewish-Arab federation" could the "difficult psychological problem" the Palestinian Arabs faced be solved, having to accept "an Arab minority position in Palestine which is the necessary outcome of a Jewish National Home" (Liebenstein 1936:227).¹³ Liebenstein went so far as to describe a "Jewish Palestine within a greater Arab federation [as] probably the final goal of any serious Zionist foreign policy" (ibid.:226).

Ben-Gurion put considerable effort in the mid-1930s into promoting this view. In a 1937 letter to the Mapai Central Committee, and in (entirely fruitless) discussions he held with some Arab notables during the period, he offered a long-term vision for regional federation that would finally ensure "no contradiction among [Jews and Arabs] in the future." After "a maximum of Jewish independence is established, an

¹² Greenberg was a prominent publicist, journalist, and Labor Zionist leader in New York. This article originally appeared in *The Jewish Frontier* in 1936. On Ben Gurion's actual recognition of the Palestinian Arabs as an authentic political force see Ben Gurion's 1936 explanation to his colleagues of why the Arabs in Palestine were ready to sacrifice and fight against Zionism, in Teveth (1985:165).

¹³ Liebenstein, later Livneh, was a founder of the Kibbutz HaMeuchad movement. This article originally appeared in German in 1933. Liebenstein, né Livni, was the father of Israel's Foreign Minister Tzipi Livni.

independent Jewish state will come into being within an Arab federation. As long as states exist, this is the solution that will satisfy all our desires and all of theirs.” Federation, he argued, was “the last stop and the goal in our relations with ourselves and with the Arabs. We should keep the goal in sight and strive continually to solve the problem in a way that moves toward this goal” (Gorni 2006:92–93). Notably, Ben-Gurion’s plan did not entail concessions to Palestinian nationalism or limitations on Zionist political goals; on the contrary, it suggested that the creation of a Jewish demographic preponderance and a strong Jewish state by way of iron wall tactics were *preconditions* for ultimate Arab–Jewish cooperation (Ben-Gurion 1973).

Weizmann’s version of this general approach featured unremitting emphasis on the 1919 “Treaty of Friendship” he had signed with the Emir Feisal, of Arabia – the Hashemite prince and leader of the Arab Revolt. At almost every opportunity, Weizmann cited this episode as proof of Zionism’s capacity to reach reasonable accords with the most influential of Arab leaders.¹⁴ During and after World War II, Weizmann sought to repeat his performance, not with Feisal, who had died as King of Iraq in 1933, but with Ibn Saud, the Arabian chieftain who had, with British help, liquidated the position of the Hashemite dynasty in Arabia.

In 1941, Weizmann raised a proposal he said was transmitted to him during a 10-hour meeting he had had with “the great Arabic scholar” St. John Philby, the British agent closest to Ibn Saud (from a meeting in New York, May 25, 1941, in Litvinoff 1984b:429). Weizmann publicly characterized Arabia under Saudi rule as the only “constructive” expression of Arab nationalism (Weizmann 1942:334). In meetings with American diplomats, Weizmann cited Churchill to give credibility to his plan, identifying the then British prime minister as having been the original source of the idea of making Ibn Saud “boss of Arabia” if he could provide Arab agreement to Jewish Palestine (in a report to the Zionist Political Committee, New York, January 28, 1943, in Litvinoff 1984b:506).¹⁵

¹⁴ See, for example, Chaim Weizmann’s 1942 *Foreign Affairs* article in which passages from the “Treaty” were quoted at length to document Feisal’s “full consent” and as evidence that Arab opposition to Zionism “will prove transitory” (Weizmann 1942:335). For similar invocations of the Weizmann Feisal agreement see addresses by Abba Hillel Silver (1947/1947) and Moshe Shertok (1947/1947) before the United Nations on May 8 and May 12, 1947, respectively.

¹⁵ Shertok is noted as having rejected the idea of negotiations with Ibn Saud as a matter of practical policy, though not as a public relations position (Litvinoff 1984b:508).

In correspondence with the American Undersecretary of State Sumner Welles, Weizmann compared Ibn Saud to Feisal.

We have from the beginning striven to reach an amicable understanding with our Arab neighbors, and it is my hope that Ibn Saud, like Emir Feisal, with whom we found ourselves in complete accord, might understand our aspirations and the benefits of a Jewish Palestine, not only to our people, but to millions of Arabs in the neighboring countries.

(Weizmann 1942:3)¹⁶

In December 1943, Weizmann presented his plan's "main outline," to wit: "The Arabs should relinquish Palestine west of the Jordan to the Jews if, at that price, complete independence is secured to them in all other Arab lands in Asia. Mr. Philby envisaged considerable transfers of Arab population, and a compensation of L20,000,000 was to be paid to Ibn Sa'ud" (Litvinoff 1984a:108). Weizmann promised that "Jewry, however impoverished, will be able to meet the financial burden . . . but the political part of the programme could only be implemented by Great Britain and the United States" (ibid.:108–109). Weizmann often also alluded to the eventual role that an independent Jewish Palestine could play as an equal partner in a great Arab federation of Middle Eastern independent states. If the Arabs of Palestine would not acquiesce in Jewish rule of the country, he held out the prospect of Zionist assistance for those Palestinian Arabs who wished to live in an independent Arab country to leave Palestine, with their property, and enjoy a new life elsewhere in the Arab world.

During Zionism's early period in Palestine, there were some among the settlers who fashioned themselves as Hebrews returning to the East to find long-lost relatives among the Arabs as fellow Semites. Although one version of this idea was that Arabs in Palestine would have a "national home" within the national home of the Jews, another was that the two peoples would, through cultural adaptation and intermarriage, become one nation. Versions of Canaanism took this idea to its logical extreme, but despite the deep intellectual and cultural impact of the Canaanite impulse among important circles of Jews, this approach never produced a serious political movement capable of challenging more conventional Zionist attitudes.¹⁷ However, a faded version of this notion did appear in

¹⁶ The attractiveness of this idea can be appreciated by reading the hagiographical treatment Ibn Saud was being given by some influential Americans (see especially Carmichael 1942).

¹⁷ In one remarkable version of this idea, Edya Horon and Yonatan Ratosh advanced the image of a region wide Hebrew power, led by the *Yishuv* but based on a reconstitution of

Weizmann's presentations. The Jews and Arabs, he often said, would make peace because, after all, they were relatives. Though quarrels within families could be most bitter, common bonds of kin and culture that had produced peace between the peoples in the past would do so in the future. Before the Peel Commission, Weizmann "confessed" that he had "not given up hope" that "the old tradition of cooperation between Jews and Arabs . . . might still prevail" (testimony to the Peel Commission on November 25, 1936, in Litvinoff 1984b.:121). He concluded his next day's testimony, *in camera*, by again expressing his hopefulness, based in part on the fact that "we are somewhat related, Jews and Arabs, and I know the quarrels of relatives are always the bitterest, but still we do cooperate" (testimony to the Peel Commission on November 26, 1939, in *ibid.*:147).

Legacies of Dissimulation: Understanding the Hollowness of Israeli Peace Policies and the Origins of the Military Government

Of all the theories of peace advanced by Zionist representatives, only two play a role in contemporary discourse. First, many Israeli leaders, especially on the right, still invoke the iron wall argument, though almost always as a rationale for toughness rather than as a vehicle for persuading Arabs that eventually successful negotiations will be possible. This "abandonment" of the intellectual core of Jabotinsky's theory is immensely significant (Lustick 2008). Virtually unique among all mainstream Zionist leaders, Jabotinsky's larger argument contained at least an implicit justification for eventual Jewish concessions. Once Arabs were prepared to accept Jewish independence in Palestine, he wrote, negotiations would lead to "mutual assurances" including limits that Zionism would place upon itself. It is noteworthy that in none of the other lines of argument analyzed in this paper did Zionist leaders identify Jewish concessions as an important element in the eventual attainment of peace. Second, during the Oslo years, Shimon Peres (1995), at least, was fond of fostering the idea of a "New Middle East" based on regional prosperity rooted in economic cooperation. The effort gained little traction even during the height of the Oslo peace process, and has disappeared *entirely* since its demise,

the ancient Semitic/Hebrew people described as dominating the "Land of Ever" between the Nile and the Euphrates (Ohana 2012:84–90).

at least in its liberal form. In recent years, Benjamin Netanyahu has voiced support for an illiberal concept of “economic peace” premised on the Palestinians’ suspension of their political struggle in exchange for a modicum of neoliberal economic prosperity. Unsurprisingly, this plan has failed to attract significant interest among the Palestinians or the international community. None of the other theories have the slightest resonance within the mainstream, or even the significant margins, of Israeli political society.

Accordingly Israeli leaders hoping to bolster their arguments about how peace can and should be achieved find thin gruel in pre-state Zionist expositions on the topic. The implications of this absence for the ability of Israel to pursue peace in the twenty-first century while remaining Zionist are the subject of a larger work. Here, we ask a simpler question: what accounts for why so many of the public Zionist arguments reviewed in this chapter sound so ludicrous as forecasts of the factors crucial to peace-making?

The fundamental explanation for the striking disconnect between pre-state theories of peace and post-state realities is that whenever pre-state Zionist leaders thought seriously about how to solve this problem, they failed. Without abandoning the core principles of unlimited Jewish immigration (usually admitted to publicly) and eventual Jewish statehood (only latterly admitted to publicly by non-Revisionists), no top-rank Zionist spokesman could think of why the Arabs would find it a compelling interest to accept Jewish independence in Palestine as right, proper, and welcome. Not having anything to say that they actually believed, but having to respond positively to questions about whether and how the Arabs could ever live in peace with Zionism, they dissimulated. The arguments publicly offered were strictly a function of calculations about how to find favor in the eyes of particular audiences, regardless of how far-fetched or sophistic they might be. As Elyakim Rubinstein (1983) has pointed out, the very absence of a solution freed them to say about the future whatever seemed beneficial at the time:

Since the Zionists did not envision what the future Palestine would look like . . . they felt no contradiction between what they said and what they did. The strategy of promoting the national home was in many ways vague . . . [b]ut tactics were clear.

(Rubinstein 1983:43)

The disingenuousness of Zionist leaders is extremely well documented. Teveth (1985:viii) summarized Ben-Gurion’s attitude toward public

truthfulness on the Arab question as follows: “Ben-Gurion was a political man and was quite capable of pragmatic insincerity. To bring the maximum number of Jews to Palestine’s shores, he was prepared to ‘sup with the devil,’ so he hardly would have shunned a tactic of dissimulation for moral reasons.”¹⁸

Occasionally, the “inconsistencies” between public and private declarations were breathtaking. In his address to the Peel Commission, Ben-Gurion insisted that Zionism never had and did not want a “state” in Palestine. He emphasized that the Basel program had used the term *Heimstätte*, the closest English term to which was “home,” and, he added, it said “in Palestine,” not “Palestine as a National Home.” In any case, even if a state were on offer, Ben-Gurion denied to the commissioners that he desired that outcome. He offered three reasons why Zionists did not [*sic*] want to make Palestine a Jewish state:

1. Since there were Arabs in Palestine, a Jewish State would entail “domination by the Jewish majority of the minority, but that is not our aim. It was not our aim at that time and it is not our aim now . . .”
2. A state would mean complete independence, while a Jewish National Home, once “fully established,” “should be a member of a greater unit, that is the British Commonwealth of Nations.”
3. A state would put Jews in control of Muslim and Christian Holy Places. “We are unwilling,” said Ben-Gurion, “and it is not in our interest that we should be made responsible for them.” (For the relevant portions of Ben-Gurion’s testimony, see Esco Foundation 1947:801–802.)

Perhaps the most amusing episode in this regard was a *lapsus linguae* that occurred during one of Chaim Weizmann’s lengthy appearances before the Peel Commission. On December 26, 1936, Weizmann was expatiating on the complex arrangements he endorsed for parity in Palestine between the Jewish and Arab communities. Swearing his fealty

¹⁸ Zaki Shalom (2002:38) characterizes Ben Gurion’s real attitude toward the possibility of peace with the Arabs as follows: “Warfare *per se*, and especially against the State of Israel, according to Ben Gurion, originated in an atavistic drive that boiled like lava in the Arabs’ blood, and could not be overcome even if they themselves wished it.” On Ben Gurion’s double discourse, see especially Heller (1988). For Sharett’s explicit acknowledgement in 1931, see Cohen (2008:27). For a sympathetic examination of the rationale for and patterns in Zionism’s double discourse on the Arab question, see Goldstein (1980: 15–29). On the general issue, see also Morris (2001:49) and Shapira (1977). Regarding Ben Gurion’s unapologetic acknowledgement of his use of what he knew to be a false *effendi* argument in the 1920s for avoiding negotiations, see Teveth (1985:170).

to the concept, he declared that the Jewish National Home “even if (Jews) were a majority would not become a Jewish National State” (Litvinoff 1984b:212). Asked if even a great majority of Jews would transform it into such a state, Weizmann insisted, still, it would be a “National Home,” but not a Jewish State. When asked why he would refuse a state with even a tiny Arab minority, he used the refrain that such a state “would mean the Jews dominating the Arabs” (ibid.:213). Asked to think far into the future, Weizmann denied he or any Zionist leaders aspired to statehood: “For practical purposes, I cannot see a Jewish State in Palestine and it is not the intention, at any rate of those who are at present guiding the destinies of the Zionist movement, either overtly or covertly to create such a state” (ibid.:213). Weizmann then suggested the idea of two separate legislative bodies in Palestine, one Arab and one Jewish.

Q. That is your conception?

A. It is not a Jewish State but it is the next best.

Q. You would rather have the Jewish State?

A. No, nor do I suggest you would like to trip me up on a question.

(ibid.:215)

Zionist leaders were fully conscious of how important the Arab question was in the court of international public opinion. Their main problem was that they had no solution to the problem, or at least no solution whose articulation could possibly help their cause by being acknowledged. A great deal of evidence exists that during the 1930s and 1940s, key activists within the movement were advocating and planning the mass “transfer” of Arabs (see, for example, Ari Shavit’s treatment of Shmarya Guttman; Shavit 2013a). As Yitzhak Rabin and others have testified, Ben-Gurion was personally responsible for the expulsion of tens of thousands of Arabs from Lydda and Ramleh – a decision that may reasonably be traced to his stunned and utterly enthusiastic reaction, 10 years earlier, to the Peel Commission’s recommendation and thus legitimation of the idea that in the context of partition of the country, mass deportation of Arabs from the territory of the Jewish state could and would be effected.¹⁹ As reflected in debates within the Zionist Executive, the Mapai Party, and the World Zionist Congress in 1937 over the Peel

¹⁹ See Ari Shavit’s (2013b:99–134) analysis of the systematic preparation that went into the expulsions that occurred during the 1948 war; as well as Avi Yiftach (2000:128–143). (Hebrew).

Commission's partition proposal, it is clear that what mainly attracted support for the proposal within the Zionist movement was its recommendation in favor of the massive expulsion or "transfer" of Arabs from within the projected Jewish state to the projected Arab state, to Transjordan, or beyond. For many, this had long been a privately cherished dream, but one deemed impracticable.²⁰ By including it as a formal recommendation, Ben-Gurion believed the British had shown it to be a possibility to be systematically pursued.²¹

The result of having no real theory of peace, and nothing to say that it believed would be publicly acceptable about what to do if peace were not possible, was a litany of insincere arguments, tactically framed and adapted to the particular prejudices and concerns of questioners. As a "public affairs strategy," these arguments contributed to protecting Zionism from threats to its ambitions arising from worries of unending war. But the legacy of this practice was to enshrine propaganda over realistic assessments in Israel's relations with Arabs, thereby depriving contemporary leaders of the Jewish state of authentically Zionist rationales for peace policies based on truth and concessions to the real needs of Arabs and Palestinians.²² Systematic dissimulation also

²⁰ On the systematic deletion of discussions of and speeches supporting transfer of the Arabs of Palestine from the record of the 1937 Zionist Congress, and regarding this practice as applied to discussions of the Arab question at previous Congresses, see Morris (1994); see also Cohen (2008); Goldstein (1980); Heller (1988); Shalom (2002).

²¹ Standard Zionist accounts of the movement's response to the Peel Commission play down or ignore the excitement of Zionist leaders generated by its "exchange of population" recommendation. But for vivid details of the reaction of mainstream Zionist leaders such as Ben Gurion, Sharett, Locker, Zisling, Weizmann, Katznelson, and Myerson, to the possible practicability of transfer, and regarding development of plans for its implementation, see Nur Masalha (1992:49–92) and Katz (1998:85–109). For evidence that while considering the Peel proposal top Zionist leaders also came to appreciate the importance, from the point of view of avoiding onerous international legal obligations toward minorities, to greatly reduce the size of the Arab population remaining within the Jewish State on the way, see Feinberg (1938/1962).

²² In the decades after the 1967 war, a theory developed in Zionist circles that peace could come once the Arab nation as a whole were offered a relationship to Palestine consistent with the minimum requirements of the Palestinian and/or Arab national movements. Before 1948, however, Zionist leaders seldom, if ever, discussed partition as a solution *because* the Palestinian Arab state would eventually satisfy Arab requirements; only that, under certain circumstances, it *might* satisfy *Jewish* requirements. Although the question leads beyond the parameters of this chapter, it would be useful to study the extent to which post 1967 endorsements of partition by mainstream Zionist groups and leaders included division of the territory in ways calculated to satisfy Palestinian or general Arab political requirements (as opposed to following only criteria relating to what the Jewish Zionist community could be induced to accept).

contributed strongly to Arab disbelief in Israel's sincere commitment to peace. The pretense of Zionist theories of peace when in fact there were none also helps answer the more specific question posed at the outset of this chapter: how to explain the yawning gap between what was said publicly and officially prior to 1948 about how Arabs in the Jewish state would be treated, and the reality of rule of the Arab minority by the military government.

A relatively small proportion of pre-state Zionist public discussion on peace pertained to the specific question of Jewish–Arab relations within the future Jewish state. The topic was addressed, directly or indirectly, in four ways. One was use of the term “neighbors” to blur the question of whether the speaker was referring to relations between Jewish and Arab inhabitants within Palestine/the Land of Israel, or to relations between Palestine, with its Jewish majority, and the other Arab states of the region. Thus David Ben-Gurion's book on the subject – the only book ever published by a top echelon leader on the Arab question – was titled (in Hebrew, it was not published in Arabic) *We and Our Neighbors* (1931). This trope was useful as a way to refer to Arabs in a positive way without recognizing the collective political personality of Palestinian Arabs. If “neighbors” were heard as referring to Arab states or Arabs living outside of Palestine, then promises of neighborly relations did not imply anything at all about a relationship with the Arabs of Palestine as a political community. On the other hand, if “neighbors” were heard as referring to Arabs living in Palestine, then it could be used as a formula for portraying non-Jews living in the midst of a Jewish state, with individual and civil rights (as imagined in the Balfour Declaration) but, again, with no commitment to political rights or a recognized collective personality (see especially Shapira 1992).

Another argument was to emphasize how much the Arab minority in the Jewish state would benefit economically from their integration into the prosperous and advanced Jewish economy. This was the argument made to the United Nations Special Committee on Palestine (UNSCOP) by Zalman Shazar, a future President of Israel:

As far as the Arabs of Palestine are concerned, they will obtain even greater advantages from this Jewish immigration than they did from that of the past. A considerable increase in Jewish immigration means a strengthening of that force which is most vitally interested in doing away with the differences between the standards of living to be found in Palestine. It means raising the lower standard of living to the level of the higher. As long as Jewish workers are a minority, they naturally have to

protect themselves against the majority who accept lower working conditions. Once this situation changes, the efforts to bring about an equalization of the standard of living at the higher level will be much more likely to succeed. Mutual understanding will bear fruits in every aspect of life. Jews and Arabs will meet as equals; and as equals mutually concerned in working to raise the standard of living, they will find a common ground.

(Testimony of Zalman Shazar [Rubashov], representing the Histadrut in UNSCOP 1947)

The most common formulation used by Zionist representatives in the 1920s and 1930s to refer to majority–minority relations was “non-domination.” When explaining how Zionist insistence on a Jewish majority in Palestine could be squared with claims that transforming Palestine in this way would not entail unbearable demands on the local Arab population, they offered a kind of mantra: “non-domination of the Jews over the Arabs and non-domination of the Arabs over the Jews” (Ben-Gurion to MAPAI party council, March 22, 1934, in Hattis 1970:98; see also Goldstein 1980:21). Instructively, this formulation was used during the decades in which Jews were a substantial, but still definite, minority in Palestine. In this context, speaking of the non-domination of a minority by a majority only in *principle* applied to Jewish treatment of an Arab minority. Practically speaking, in the first two decades of the mandate, it meant securing treatment of Jews as a community with equal rights in Palestine, even though it was only a minority, by promising to accord that status to Arabs if and when a Jewish majority emerged. It was also a convenient way to reject British proposals for a democratically elected legislative council (which would have featured a clear Arab majority) in favor of focusing on sharing equally in the governance of the colony. More broadly, “non-domination” could be used to support relatively vague proposals for “parity,” “federalism,” or “cantons” – arrangements that would establish equality in the status of Jews and Arabs in the country, regardless of the size of the two communities.²³ Instructively, the formulation was largely abandoned in the 1940s as the demand for a Jewish majority in a Jewish state in all or part of Palestine became the virtually universal demand of Zionist leaders.

Once the future of Palestine began to be described more vividly as a Jewish state (or “commonwealth”) that would include an Arab

²³ “Non domination” as a principle could even be considered fully consistent with the elimination of an Arab minority via “transfer.” If only a negligible Arab population remained within the Jewish state, there would be, in fact, neither Arab domination of Jews nor Jewish domination of Arabs.

minority, another theory of how and why amity would reign between Jews and Arabs in that state took center stage. Instead of emphasizing the symmetry of the commitments to non-domination that it would be appropriate for each community to make, or the long history of Jewish suffering as a minority that would forever preclude Jews from actually discriminating against others, Zionist spokesmen increasingly based their forecast of internal harmony and justice toward the Arab minority on Jewish political prudence. In a memorandum submitted to the Anglo-American Committee of Inquiry, the Jewish Agency argued that:

any Arab minority in a Jewish State would still be an integral part of a race exercising unchallenged predominance throughout the entire Middle East. They would be surrounded on all sides by kinsmen enjoying the full panoply of sovereign independence. Thus their minority position would be formal rather than virtual. It would be impossible for any Jewish authority established in Palestine, interested in maintaining close relations with its neighbours, to show neglect or lack of consideration for the rights of Palestinian Arabs.

(The Jewish Agency for Palestine 1947a:349)

In his personal statement before the Committee, Weizmann described the Arabs as having a “perfect guarantee; whatever Palestine may be, it will only be an island in an Arab sea . . . the mere weight of their existence in organized States would prevent any Jew from doing them injustice even if he wanted to . . .” (The Jewish Agency for Palestine 1947a:24). Ben-Gurion made the same argument. When asked about whether Arabs in a Jewish majority state would be oppressed, he asked the Committee members to “suppose Jews to be the worst people in the world.” Still, he said,

[w]hen things in Palestine change, the Arabs would be a minority and we would become the majority, but the Arabs . . . would have nothing to fear, because here they are surrounded by Arab countries that are independent . . . Imagine that in the neighborhood of Poland there were a big State like Russia, with 189 million Jews, then the Jewish minority in Poland would not be persecuted; they would be perhaps in a privileged position. I am sure the Arabs will be in such a privileged position here.

(*ibid.*:78)²⁴

These pre-state theories of majority–minority relations were no less tactical in their design and presentation than were the larger theories

²⁴ Israel’s first foreign minister to be, Moshe (Shertok) Sharett made the identical argument in his United Nations speech on May 12, 1947 (Shertok 1947).

purporting to explain how deep-seated Arab opposition would eventually be replaced by peaceful acceptance of the fruits of the Zionist project in Palestine. Unsurprisingly, therefore, the reality of Jewish–Arab relations in the new state was exactly the opposite of the claims advanced by these theories. Without any serious thinking about how to integrate Arabs within a Jewish majority state, the provisional government and its successors faced the minority that did exist with no plans for the actual status and role of Arabs in the Jewish state. The result was the crystallization of policies that were justified, if not designed, in response to the Arab world’s hostility to the Jewish state, and which reflected the real imperatives of the “Zionist revolution” to wield power on behalf of the interests of Jews, and, essentially, only of Jews. They were decidedly *not* produced by desires to reassure the Arab world that Arab citizens in Israel were being well treated. These policies were implemented by a rigorous regime of military rule that dominated what remained of the Arab population in territory ruled by Israel, enabling the state to expropriate most Arab-owned land, severely limit its access to investment capital and employment opportunity, and eliminate virtually all opportunities to use citizenship as a vehicle for gaining political influence.

Resistance in Zionist circles to imagining a future Jewish state that included a non-Jewish minority was long-standing. In 1919, the King-Crane Commission reported that in conversations with Zionist representatives, it “came out repeatedly . . . that the Zionists looked forward to a practically complete dispossession of the present non-Jewish inhabitants of Palestine, by various forms of purchase” (see “The Recommendations of the King-Crane Commission” 1967 quoted in Khalidi 1987). The Israeli Foreign Ministry’s 1950 declaration, cited earlier, to the effect that following the 1948 war Israel had no minority problem, indexed both how powerful was the inclination for “wish” to become “fact” and how irrelevant were Zionist theories advanced prior to 1948 about the factors that would ensure peace between Arabs and the independent state of the Jews, whether inside or outside of Palestine. Six-and-a-half decades later, Israeli Jews still contend with problems of majority–minority relations inside the country and an existential struggle with Palestinians and Arabs outside it. To end both dimensions of this conflict, concessions toward arrangements perceived as sufficiently just by Palestinians to be sustainable will be required. A key question for further research is the extent to which the absence of pre-state theories made it difficult,

if not impossible, for Israeli politicians to promote such concessions as consistent with the pre-state Zionist doctrines, tropes, symbols, and heroes that still dominate Israeli political life. To the extent this was the case it represents a deep failure of Zionist ideology, not as an imperative to action for desperate Jews, but as a useful guide for understanding the world in which they live.

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The First Israeli Government (1948–1950) and the Arab Citizens

Equality in Discourse, Exclusion in Practice

HILLEL COHEN

This chapter examines the attitude of the Zionist-Israeli leadership toward human rights and democracy, in particular as it pertains to the Arabs in Israel, during the 1948 war and its immediate aftermath. It draws on the reports of the “Situation Committee” (*Va’adat ha-Matzav*, established in late 1947 as the main executive body of the *Yishuv*, the Jewish community in Palestine that existed before the establishment of Israel, under its leader David Ben-Gurion) and the sessions of the provisional government and the first government of Israel. It analyzes all of the discussions that dealt with the Palestinian Arabs and considers the unique discourse that emerged from these discussions vis-à-vis the Arabs in Israel.

Three important findings are suggested from careful reading of the cabinet protocols and the relevant archival sources: (a) the Zionist leadership seriously considered following the guidelines stipulated by the Partition Plan and to enable the existence of a large Arab minority within the Jewish state; (b) the ministers of the first Israeli government, and particularly Ben-Gurion, expressed a deep-seated commitment to democratic values and human rights; (c) despite a discourse that emphasized full equality and human rights, the Jewish forces expelled a large number of Arabs during and after the 1948 war. After the war, the Israeli government imposed military rule on its Arab citizens and discriminated against them in various ways. The chapter juxtaposes the progressive discourse characterized by an emphasis on equality, on the one hand, against the actions taken on the ground, on the other, and attempts to explain the discrepancy between the two.

The Partition Resolution: Arabs in a Jewish State, Jews in an Arab State

In early 1947, Britain decided to end its rule over Palestine and return the mandate it had received from the international community to the United Nations (UN). It called on the international organization to reach a decision regarding the future of the country in light of the incompatible demands for sovereignty by the Arabs, on the one hand, and the Jews, on the other. Most of the members of the UN Special Committee on Palestine (UNSCOP), the committee sent by the UN to investigate the issue, recommended the establishment of two states – one Jewish and one Arab – in the area of Mandate Palestine and proposed that Jerusalem in its entirety would be administered by an international regime. Approximately 800,000 Arabs and 9,000 Jews lived in the area earmarked for the Arab state. Half a million Jews and about 400,000 Arabs lived in the area designated as the Jewish state, where the Arabs constituted 40% (a proportion slated to decrease with expected waves of Jewish immigration). The estimated number of Jews and Arabs living in the greater area of Jerusalem was more or less equal (around 100,000 each). The Palestinian leadership and the Arab states rejected the Partition Plan (for figures and a detailed analysis of the UN Partition Plan and the Arab rejection of it, see Khalidi 1997). Two fundamental reasons are worth mentioning: first, they regarded the area in its entirety as Arab territory and refused to submit any of it to Jewish sovereignty. Secondly, they objected to a move that would render one-third of the Palestinian population a minority in a Jewish state. The Zionist leadership, for its part, promoted the proposal and worked with American assistance to secure its adoption by the UN General Assembly (*ibid.*).

The UN decided to adopt UNSCOP's recommendation. For the Zionist leadership, the decision to establish Jewish sovereignty over some sections of the land was a realization of its basic national ambitions. The Arabs of Palestine, on the other hand, saw the decision as a stamp of approval for the theft of their homeland by the international community, a move that was motivated by political, economic, and cultural interests and immoral considerations. For the purposes of our discussion, this was the decision that led to the war, and thus created the reality whereby Arab citizens live in a Jewish state.

The UN Partition Plan is a source of lively discussion among historians and the wider public. One of the questions often raised is whether the Zionists were genuine when they accepted it. An Arab popular

claim – made first by the Mufti of Jerusalem, Hajj Amin al-Husayni – was that the Jews had accepted partition only as a stage in their larger plan to conquer the rest of the country. Some historians, such as Ilan Pappé (2006) and Nur Masalha (1992), claim that the Zionist movement from the very beginning sought to expel Arabs from the Jewish national homeland, and that in 1948 the Jewish military forces followed an existing plan to implement this goal. One source that Pappé (2006) uses to support this argument in his book is a widespread survey of the Arab villages undertaken by the Haganah's intelligence services between the end of the 1930s and the eve of the 1948 war. This does not, in my opinion, constitute an irrefutable evidence base, as armies are known to prepare contingency plans for worst-case scenarios without intending to implement them unless forced to do so. I would argue that the Zionist leadership had considered several possible scenarios and that an all-out war was only one of them.

More important to our discussion is the fact that at the same time, the Jewish Agency prepared for the contingency of a large Arab minority and explored ways to integrate it into the future state. This is the conclusion we can draw from documents that are much less known to both the general public and historians; I will present them here briefly.

In late 1947, once UNSCOP had articulated its recommendations on partition and the issue was under discussion in the UN, the Jewish Agency began a comprehensive information-gathering process looking at the political situation and living conditions within Arab communities in areas designated for the Jewish state. The survey included data on health, education, and welfare conditions that were gathered as part of an effort to ensure continued essential services to these Arab communities. Dr. Esther Pines of the Jewish Agency presented the rationale behind this project immediately after the partition resolution had passed, “This short survey is a first estimate of the expenditure involved in the maintenance of educational, social and health services for the non-Jewish population of the Jewish state,” she wrote (Israel State Archives, File G-121/13, December 1947). She went on to explain that “according to the United Nations resolutions on partition, the Jewish state will have to ensure the education of the Arab children within its territory” (*ibid.*). The effort invested in this survey attests to the serious preparations undertaken by pre-state institutions to fulfill their obligations toward their future Arab citizens. It also indicates that uprooting the Arabs of Palestine was not the only option considered by the Zionist leadership. To put it differently, though the existence of a large Arab minority in the Jewish state was not

seen by the Zionist leadership as the best, ideal situation, they nonetheless decided to adhere to international law and to the UN resolution if the Palestinian Arabs adhered to it.

A very detailed questionnaire looking into educational services was designed by Dr. Michael Hendel of the Education Department of the Jewish Agency. The questionnaire examined the numbers of Arab children in each age group, existing schools, and the number of teachers in each Arab village and their educational level, in the areas designated to the Jewish state (ISA, File G-117/4, 1947). In preparing the questionnaire, Hendel was assisted by Reuven Zaslani-Shiloah, the intelligence advisor to Ben-Gurion, who founded the Mossad two years later. During a meeting held on November 28, 1947, Hendel and Zaslani discussed the main problems facing the future Israeli Ministry of Education and ways to resolve them. "Combining villages and cities, only 30% of Arab children visit school regularly. Taking into account girls, the figures are even lower. We will be in an urgent need to expand the [educational] network in at least 50% in the few first years," said Hendel. Zaslani was troubled with the content of the Arab textbooks (books produced by the Arab League were full of "anti-Jewish poison," he said). In tandem, he suggested to establish a teachers college for Jews and Arabs, and stressed the need to equalize the salaries of Jewish and Arab teachers (ISA, File G-117/4, 1947; ISA, File G-117/4, December 1, 1947). This is of crucial importance; in the midst of a political struggle and the beginning of an armed struggle, and at a time when Zaslani himself had sent agents to Arab states in order to collect information about their military preparations for war, representatives on his behalf were compiling information about the educational system in the Arab villages with the intention of improving this system and incorporating it to the general education system of the Jewish state, as required by the UN Partition Plan.

At the same time, members of the Jewish Agency's Finance Department were requested to calculate the anticipated costs involved in maintaining the existing Arab educational system in the areas designated to the Jewish state, as well as the health and social welfare systems. They presented three alternative estimates: (a) the budget necessary to *preserve the level of services* available to the Arab communities in the areas designated to the Jewish state, i.e., to avoid downgrading the level of services to the Arab communities, but also not to improve them, estimated at around 588,000 Palestinian lira (PL); (b) the budget necessary to *close the gap* between Jews and Arabs and bring them to parity, estimated at 4,500,000 LP; and (c) an intermediate budget that would

improve services to the Arab communities but *not bring them to parity* with the services provided to the Jewish communities, estimated at 1,300,000 PL. In their conclusion, the authors of the report wrote: “Whether and when such a sum is to be made available depends on the financial and social outlook of the new Jewish state” (ISA, File G-121/13, December 1947; also see surveys on which the report is based, in the same file).

These surveys were not initiated by marginal bodies; they were commissioned by the *Va’adat ha-Matzav*, whose stated objective was to prepare the pre-state Jewish community for the challenges involved in establishing a Jewish state. Heading the committee was David Ben-Gurion himself, and he was joined by members of the Jewish Agency’s Executive and the Jewish National Committee. Some of its members were subsequently appointed ministers of the first cabinet.

What can we conclude from the fact that these surveys were commissioned in the first place – even though it appears that most were not implemented due to the outbreak of violence? In my view, it would not be unrealistic to deduce that the Zionist leadership prepared itself – among other options – for a peaceful implementation of the partition resolution and for the existence of a significant Arab minority in the Jewish state. Moreover, in such a scenario, there were elements within the Jewish leadership who pushed toward improving Arab conditions and Arab–Jewish relations in the new state. Such an analysis would become even more plausible if we consider a parallel committee that was established by the *Yishuv* leadership to deal with the Jewish settlements situated in areas designated to be incorporated into the Arab state. This view should not come as a surprise, as it goes hand in hand with what remained official Zionist policy for years. In 1943, i.e., after the Jewish Agency had adopted the idea of a Jewish state as an urgent political demand, Ben-Gurion said that the Zionist aspiration was to reach a Jewish majority in the Land of Israel in the shortest period possible. Referring to the status of Arabs in the land, Ben-Gurion proposed a formula comprising the following clauses:

1. A democratic regime founded on complete equality between all residents, as in other countries.
2. Granting complete autonomy to all the ethnic groups in the country in the management of their internal affairs including religion, education, etc.
3. Independent municipal governance in the towns and cities.

4. A gradual equalization of the economic, social, and cultural standards of living for all residents of the country. (Central Zionist Archives, File S25/22162, July 8, 1943)

One might doubt the sincerity of Ben-Gurion on this issue, yet, it is interesting to see that he explained his call to safeguard the rights of the Arabs in the country on practical, rather than moral, grounds: the existence of Jewish communities in Arab countries, and the location of the Jewish state-to-be in the heart of an Arab region. To sum up, at least on the declarative level, the basic position of the Zionist leadership was of a state in which the Arab minority would receive full equal rights.

One should bear in mind, though, that the democratic, equality-oriented, inclusive position was not the only one considered by Zionist activists. As was suggested by Masalha (1992), Morris (1987), and other scholars, many preferred a state without Arabs or with as small a minority as possible, and plans for population transfers were considered by Zionist leaders and activists for years. However, in the post-World War II political context, the Zionist leadership was prepared to accept (though not happily) a large Arab minority in the Jewish state and its declared position was that it would enjoy civil equality, collective rights, and the allocation of resources as outlined by the UN Partition Plan. It is difficult to examine the degree of their sincerity and to determine whether a peaceful implementation of the Partition Plan would have led to the establishment of two democratic states, a Jewish and an Arab one; but the conduct of the Zionist leadership does teach us that such an option was not overruled by them.

During the 1948 War: Discourse and Practice

The outbreak of hostilities immediately after the UN vote in favor of the Partition Plan did not result straight away in an abandonment of Ben-Gurion's vision of equality. A few weeks into the violence, on January 8, 1948, Ben-Gurion gave a speech to the central committee of his party, the Israeli Labor party (Mapai). By then, he had already concluded that the hostilities were tantamount to war. He assessed that the Arabs had three goals: (1) annihilating the Jewish settlement in the country; (2) preventing the establishment of a Jewish state (and subjecting the Jewish settlement to Arab rule); and (3) limiting the territory of the Jewish state (should they fail to realize the first two goals). Ben-Gurion surveyed the situation in various parts of the country, talked about British policy

and its implementation, and stated that the number of Jewish casualties had already reached approximately 200, whereas the number of Arab casualties was double (Ben-Gurion 1952:33). He concluded his speech as follows:

We will not spare any measures in our preparations for a war for our very existence but we all also encourage any signs of peace on the part of the Arabs. Our political goals in this war are not identical to those of the Arabs. Our agenda now is the same as it was before the outbreak of hostilities: security, a Jewish state and a Jewish Arab alliance. All three, in that order. This is both the chronological order and the order of priorities.

(*ibid.*:33)

We can see that the importance of Jewish–Arab alliance is still emphasized by Ben-Gurion at this stage. By February 7 of that year, Ben-Gurion had already identified demographic changes and estimated that it would work “in our favor,” i.e., in favor of Zionism, but added that he believed in three things for which it is worth sacrificing one’s life: a Jewish state, a Jewish–Arab alliance, and a socialist regime (*ibid.*:61). During those months, Ben-Gurion was preoccupied with managing the war, and his speeches, like his actions, were devoted to preparing the public physically and emotionally for battle. He was also aware of the flight of Arabs from their villages, and speculated about the underlying causes as well as about ways to exploit the situation to benefit the Zionist project. As early as April 6, 1948, when the battle shifted to an offensive attack in the Jerusalem Hills (Operation Nachshon), Ben-Gurion began supporting the idea of settling Jews in the abandoned Arab villages, at least temporarily. While speaking about the abandonment of the Arab villages on the coast between Tel-Aviv and Zichron Ya’akov, in a meeting of the Zionist Executive, Ben-Gurion said that he did not know whether they left in response to a command by the “leaders of the [Arab] gangs” or out of fear (he refrained from mentioning the possibility of expulsions or Zionist psychological warfare), but he said that in any case he understood its implications for demographic relationships in the future Jewish state. “One may assume,” he stated, “that many of the Arab villages will not remain desolate, and will be inhabited by young Jewish men – some have already entered several villages” (*ibid.*:87).

At this stage of the clashes, the gap between the Zionist discourse and Zionist practices widened. The change in the conduct of the Jewish forces – above all the expulsion of Arab communities – was not

accompanied by a change in the discourse. On May 14, Ben-Gurion read the Declaration of Independence at the founding of the state ceremony which included the following widely quoted appeal: “We appeal – in the very midst of an onslaught that has been raging against us for months – to the Arab inhabitants of the state of Israel to preserve peace and participate in the building of the state on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions.” At that time, the Arabs of Tiberias, Safed, and most of the Arabs of Haifa (who were supposed to be citizens of the Jewish state, according to the Partition Plan) as well as those of Jaffa (in the planned Arab state) had already been uprooted from their cities (on the occupation of these cities, see Morris 1987). They were not to enjoy the promised equality of the Jewish state.

At that early phase of the war, the government ministers were not necessarily thinking of the Arab exodus as a *fait accompli*, and the premise of equality was considered by some of them as the desired organizing principle of the new state. During the first session of the provisional government which took place on May 16, two main topics concerning the Arabs in the Jewish state were briefly discussed: the government officially approved a directive to include Arabs in the provisional state council (the legislative body) and in the provisional government, although it also stated that “not including them in the government would not detract from its (the government’s) authority” (ISA, Protocols of the Meetings, May 16, 1948). The second topic involved the transference of authority from the Jewish national institutions active during the Mandate period in the areas of education and social welfare, to the provisional government. Minister Bechor Shetreet highlighted this need while making reference to the refugees:

We need to shape a policy that does not result in discrimination in the areas of education, health and religion as well as other services such as welfare services, because these are shared by all. These are government services. We will need to offer the same standard of services to the Arabs as to the Jews, as they are citizens of the country and as citizens they ought not to be discriminated against.

(ibid.)

At that time, Shetreet was the “minister for Arab affairs.” Two weeks later, during the government’s sixth session on May 30, Minister Aharon Tzislung of the socialist Mapam Party expressed unease over the title. “It would be interpreted as an expression of political

discrimination,” he said to his colleagues (ISA, Protocols of the Meetings, May 30, 1948). Ben-Gurion suggested an alternative title: “minister for minority affairs,” which was adopted. In other words, the title “minister for minority affairs” did not stem from a desire to blur the Arab identity of the Arab citizens, as some may think, but rather from sensitivity (perhaps misguided) to the connotations of discrimination on the basis of ethnicity arising from the previous title.

As the war progressed, and the Arabs of Palestine continued to be uprooted from their homes, the position that the refugees should not be allowed to return was gaining momentum. An official decision sealing this trend was taken in a government session on June 16. However, in that same session, Ben-Gurion referred to the future character of the state as he saw it, particularly with respect to majority–minority relations.

We must start working in Jaffa. [Israeli institutions in] Jaffa must employ Arab workers. On the question of their salary I am of the opinion that they should receive the same wages as Jewish workers. An Arab also has the right to be elected president of the state, if he is chosen for this role. If it is not possible for a Jew or a Negro in the United States to be elected president of that country then I have no faith in the quality of its civil rights. And indeed despite the democracy practiced there, I know that there is land which is not being sold to Jews and that the law tolerates this. A man can sell his land to a businessman so long as a Jew won't buy it. Were we to enforce such a regime well then we will have missed the *raison d'être* of a Hebrew state. And if that were to happen, then we would be denying the most treasured elements of our Jewish tradition.

(ISA, Protocols of the Meetings, June 16, 1948:34–35)

What emerges here is that Ben-Gurion instructed the army to prevent the return of the refugees, yet at the very same time he was proposing a model of a democratic state in which all citizens would enjoy greater equality than in the United States. Moreover, a Jewish (or Hebrew) state that would not follow this vision, said Ben-Gurion, would be undermining the very foundation of its existence.

How can we explain the contradiction between Ben-Gurion's words and his actions? Or, more specifically, between the spoken words of the leadership and the political actions of that very same leadership (as Ben-Gurion was not alone and other government ministers had also expressed positions that were unequivocally supportive of equality)? This is, as already mentioned, the central question of this chapter. But in order to avoid simplistic answers, let us continue the chronological survey of the

actions taken by the Jewish state on the ground, and then compare it with the discourse surrounding these issues within the government.

The policy that emerged in the weeks following the Arab armies' invasion was that of preventing the Palestinian refugees' return and also encouraging the expulsion of Palestinians from their towns and villages. This approach was clearly apparent during the 10-day battle (July 9–18, 1948) when almost all the residents of Ramleh and Lydda – two towns that were designated to become part of the Arab state but were considered by Ben-Gurion as a strategic threat to the Jewish state – were expelled (for an eyewitness account of the events in Lydda and Ramleh, see Busailah (1981); for a basic account, see Morris (1986); for interviews with the Palmach commanders who expelled the inhabitants, see Shavit 2013:99–115). Their expulsion was carried out on an order, or at least with the approval of Ben-Gurion (Morris 1986:91). Here too, the ambivalence within the government was clear. Shetreet, the minister for minority affairs, visited these towns immediately after they were conquered on July 12, heard about the expulsion order, and was quick to warn Foreign Minister Moshe Sharett. Around 11:30 P.M. the same night, Ben-Gurion issued a second, milder order, according to which the Arab inhabitants were to be encouraged, but not forced, to leave, but by then the expulsion had already been carried out. Such was the situation on the ground (*ibid.*).

The discussion during the government session on the day of the conquest of Lydda and Ramleh (July 11) made almost no reference to any operational or strategic issues. In fact, the ministers devoted their time to a discussion about the symbol of the state. Although it had already been decided that the symbol would be based on the candelabra (menorah) from the Temple in Jerusalem, Ben-Gurion had an alternative idea: two lions holding the Ark of the Covenant featuring the Ten Commandments. Several of the ministers were attracted to the new idea, and Minister of Social Affairs Rabbi I.M. Levine of the Agudat Yisrael party expressed his admiration for Ben-Gurion for thinking of it. However, the discussion also took another route: the ministers discussed the important question of whether the suggested symbol, the Ark of the Covenant, being taken from the Jewish tradition, would alienate the Arab citizens and make them feel excluded. "Since there will be an Arab minority in the state," said Sharett, "I think it is impossible to use what seems to be a religious symbol and use it as a state symbol" (ISA, Protocols of the Meetings, July 11, 1948). Shetreet, on his part, stated that he does not see it offensive to the Arabs. In the end, the

idea was rejected: the government had already approved the symbol of the menorah and decided not to exchange it for a symbol that might have proven to be controversial. This demonstrates an unusual level of sensitivity to the feelings of a minority that was in a state of war with the emerging Jewish state. But no less striking is the fact that this discussion was taking place at the very moment the Jewish forces were attacking Lydda and Ramleh by air and land and driving the residents out.

The conquest of Nazareth and its surrounding area, in addition to Lydda and Ramleh during the 10-day battle, confirmed the military capabilities of the newly established Israel Defense Forces (IDF) and expanded the territory under Israeli control beyond the boundaries stipulated by the Partition Plan. While most of the Palestinian population in these areas fled or were expelled, tens of thousands of Palestinian residents remained under Israeli rule. This reality was not discussed in the cabinet as a whole in the following months, but specific issues related to the status of the minorities (this became at that time a common term in the cabinet discussions) were brought to the table. One such discussion, held on August 4, concerned the status of the Arabic language. Minister Bentov (Mapam) argued that official documents should be printed in two languages – Hebrew and Arabic – to display magnanimity and give the Arabs the feeling of equality. Shetreet, an Arabic speaker and the minister responsible for the Arab population, was opposed. “Hebrew is the official language. If we offer Arabic alongside it in every instance, we would be sending a message that there are two official languages,” he stated (ISA, Protocols of the Meetings, August 4, 1948:19). The government later decided that certain forms would be printed in both languages and others in Hebrew only. Several months later the government decided that the notes and coins of the state would be minted in both languages (ISA, Protocols of the Meetings, September 5, 1948:2–3; ISA, Protocols of the Meetings, December 29, 1948:14).

On the question of language, Shetreet, as one can see, did not identify with the Arabs in the country. On other issues he felt an obligation to represent the Arab minority. On August 18, Shetreet presented a query to the minister of industry: “Why are applications for import permits tendered by minorities consistently turned down?” (ISA, Protocols of the Meetings, August 18, 1948). The minister of industry replied that he wasn’t aware of this and promised to make inquiries. On September 1, Shetreet asked Ben-Gurion: “Hasn’t the time come to replace the military regime in Haifa with a civil one?” (ISA, Protocols of the Meetings September 1, 1948:6). As we shall see later, Ben-Gurion responded in

the affirmative, but it took couple of weeks until the military government in Haifa was abolished.

But Shetreet was not the only one. Minister of Transportation David Remez (MAPAI) spoke in a government session about the need to set up an apparatus that would organize Arab education (ISA, Protocols of the Meetings, September 5, 1948:8). Subsequently, the minister of religious affairs, Rabbi Yehuda Labe Fishman (Mizrachi), spoke about the general attitude toward non-Jews:

I think you are making one mistake after another regarding our attitude towards other religions and are thus bringing our State to a dangerous place. Monasteries in the occupied areas have suffered destruction or have been sullied with rubbish and feces terrible deeds were committed.

(ISA, Protocols of the Meetings, September 8, 1948:4 5)

Fishman threatened to leave the government on these grounds. Lack of equal pay for Arabs also frustrated the ministers: "It has come to my attention that Arab workers do not receive the same wages as Jewish workers," said Interior Minister Yitzhak Gruenbaum to the Minister of Labor Mordechai Bentov (ISA, Protocols of the Meetings, December 12, 1948:5). Ben-Gurion corrected him, adding:

There are no Jewish workers. There are Israeli workers. Israeli workers according to the letter of the law include both Jews and Arabs. Well, it has come to my attention that Arab workers are not being paid the same wages as Jewish workers. I hear that, for example, in Zichron Ya'akov and in Binyamina, the farmers do not pay equal wages. I ask the Minister of Labor if this fact is known to him and to what extent does he intend to act to prevent this discrimination, which goes against everything we have agreed upon on this issue. I was surprised to hear this information and did not want to believe it was true.

(ibid.)

Minister Bentov, who represented the Mapam socialist party in the government, justified himself: "There is no law that authorizes the government to set wages. Even the Jews do not always receive equal wages," he said (ibid.).

Here, too, we see that even without implementing the clause in the provisional government's founding decree which stipulated that Arabs ought to be represented in that government, the government saw itself as being responsible for the welfare of the Arab residents in all areas and did not shy away from self-criticism, attempting to modify its actions in this area.

The desire to improve the Arab population's living conditions was only one subject discussed by the government; another was concern for their political freedoms and legal status. On October 10, 1948, during the second truce, a question about publication of the communist party's newspaper in Arabic was tabled for discussion. Interior Minister Yitzhak Gruenbaum recounted how the party representatives approached him for a license, but that officials from the Foreign Ministry objected to his granting it:

I was told that we cannot trust this group; that allowing it to publish a daily newspaper poses a danger to state security, and to the state in general [censored sentences]. Truth be told, I fail to understand what this issue has to do with trust. What is the danger we expect it will give rise to? Any act undertaken by a national minority in any state can always be seen to involve an element of danger. A national minority is always an object of suspicion. If we accept this premise, this could lead to prohibiting the Arab minority from expressing opinions, publishing newspapers, engaging in public appearances, etc. Were Jews and other minorities treated within a country like Poland in the same way that the Foreign Ministry would like to deal with the Arabs in the State of Israel there would be no Jewish newspapers, and certainly no Ukrainian newspapers. The Ukrainians in Poland never concealed the fact that they would like to secede from Poland, yet they were allowed to publish newspapers.

(ISA, Protocols of the Meetings, October 10, 1948:12–13)

Gruenbaum knew exactly what he was talking about. Before immigrating to Israel, he was a member of the Polish parliament (the Sejm) as one of the representatives of the Jewish community, and was accused (along with Ukrainian members of the Sejm) of lack of loyalty to Poland. For the purposes of our discussion, it is important to note that his experience as a member of a minority group in Eastern Europe made it possible for him to empathize with the Arab minority in the emerging state of Israel. And indeed, the Israeli communists were allowed to publish their newspaper in Arabic, though many of its contributors were put under surveillance of the security agencies (Cohen 2010).

The discourse itself, which perceives the Arabs in Israel as a national minority whose rights must be protected, distinctly characterized the first government of Israel. And yet at the very same time, military rule was imposed on this same minority – not only during the war, but also for 17 years after the ceasefire was achieved.

In December 1948, when discussions about whether Arabs should be included in the elections for the first Knesset (Israeli parliament), the

Commander of the Military Government, General Elimelech Avner, was asked to present his view. Gruenbaum reported to the cabinet that Avner and his people had reached the conclusion that:

It would be best to deny the Arabs the right to vote entirely, or to set up a special curia. Their reasoning was a concern that the battle between the political parties during the run up to the elections would draw the Arabs into the vortex of our disputes, something that could undermine the image of Jewish unity vis à vis the Arabs and the prestige of our military regime . . . In a conversation with Avner, I told him, that we cannot deny the Arabs the right to vote, while simultaneously granting them civil rights and identity cards. This is impossible because the election law does not discriminate against them in any way. A special curia is also unacceptable – they must participate in the elections.

(ISA, Protocols of the Meetings, December 20, 1948:9)

Avner had no choice but to accept this position, but the political and military leadership were concerned that permitting an intensive election campaign within the Palestinian-Arab community would “in all likelihood undermine the current state of calm in those areas,” and therefore it was decided (in the same session) to “place certain restrictions on the freedom to campaign within the Arab community and on the freedom of assembly, as well as make it possible for the central election committee to supervise the campaign” (ibid.). A similar decision was made with respect to the election campaign within the army, but for different reasons.

Gruenbaum was genuine about his intention to enable a limited, yet fair, election campaign in those Arab communities that participated in the elections (i.e., those which had been occupied before the second truce in July, 1948). The military government was not so honest about its intentions. On January 19, 1949, a week before the first general elections in Israel, Gruenbaum reported in a government session that the communists had complained of interference with their campaign and said that they had even received threats. The finger was pointed at the military government and the Mapai party. Ben-Gurion responded immediately: “I am ready to transfer all my authority to Mr. Gruenbaum so that he may act on this issue. He will issue an order to the [Commander of the Military Government, General] Avner, and if Avner fails to comply – he will be dismissed” (ISA, Protocols of the Meetings, January 19, 1949:13). Ben-Gurion also promised Gruenbaum that he would have recourse to the military police for this purpose. Here is yet another example of the nature of the discourse within the cabinet

that highlights the primacy of the rule of law and zero tolerance for discrimination. And another example from that same session: the Arab residents of the areas in the Galilee who were occupied the previous fall in Operation Hiram (November 1948) were not supposed to take part in the elections, because they had not been included in the first population census. (The preparations for the elections and the census had started before the occupation of the upper Galilee in late 1948.) The government discussed the possibility of offering the Druze of the Galilee, but not the Christians and Muslims, the right to vote because of their show of loyalty (a few influential members of this community cooperated with the advancing Israeli forces during the occupation of the Galilee). Ben-Gurion decided against this. Participation in the elections is determined by law, not on the basis of loyalty, he asserted (*ibid.*).

Even before the government was discussing the census and the elections, it had decided on resuming the fighting. In late October of 1948, the IDF launched offensives in the south and north of the country and completed its conquest of the Galilee, the Negev, and the southern coastal line to Gaza. During these conquests, dozens of thousands of Palestinians were once again uprooted from their homes. Some were expelled by Jewish forces; others fled, fearing revenge. Some left with the retreating Egyptian army (in the south) and al-Qawuqji's Arab Liberation Army (in the north). In the south, none of the Arab settlements remained standing, but some of the Bedouin communities did. In the Galilee, many managed to remain steadfastly in their villages despite efforts to expel them.

Once the fighting had ended in late 1948, the picture became clearer: approximately 700,000 Palestinians were uprooted from the area that became the state of Israel, and about 130,000 Arabs remained.¹ Six-thousand members of the Jewish population, soldiers and civilians, were killed in the war. A higher number were wounded. The dichotomy between Us and Them, between enemy and friend, was never starker in Jewish eyes. The military government was ordered to prepare itself to become a permanent apparatus.

¹ On the various estimations regarding the number of the refugees — between half a million and a million — see Morris (1987). In the summer of 1949, the total number of the Arab citizens in Israel was 156,000. This figure includes approximately 30,000 who lived in the Triangle region and whose villages were annexed to Israel following the Rhodes Agreement in April 1949.

The Post-war Period

The general elections took place in January 1949, with the participation of those Arab residents of Israel who had been counted in the population census. Many were not counted due to bureaucratic impediments and intentional acts of exclusion (on the first census as a mechanism of exclusion, see Leibler and Berslau 2005; also Robinson 2013). This move was also a statement directed at the international community, namely, that Israel was conferring full political rights upon the Arabs who remained within its boundaries. But it also implied a clear distinction between the Palestinians who remained within the state and the refugees who had gathered in camps by its borders demanding to return to their homes.

The first Knesset did include Arab representatives. The provisional government remained in place until the first government was formed in March 1949. Before the end of its tenure, it held a discussion on the issue of unemployment in Nazareth (February 23, 1949). All the speakers expressed profound concern about the situation of the Arabs in the country. All present looked for ways to improve their well-being and employment status. An examination of the statements made during that session sheds light on some of the points of view of the ministers in that Israeli government, and the nuanced differences in their perspectives. “We also took upon ourselves responsibility for the Arab citizens and residents of this country,” Minister Bentov from the Mapam party said in his opening remarks (ISA, Protocols of the Meetings, February 23, 1949:20-34). He continued:

We are all suffering from the destruction that the war has wreaked on the economy, but despite the destruction, we managed somehow to overcome the hardships. The economy of the Arabs within the state of Israel has been destroyed to such an extent that some of them are on the verge of starvation. This is true particularly for Nazareth, where many of the refugees have gathered. Currently there are 2,500 3,000 unemployed people there. There are families who literally go hungry even though they are receiving small handouts of food. Both the humanitarian and political situation could reach calamitous levels. If people begin to die of starvation that is something we wouldn't be able to conceal.

(*ibid.*)

Bentov advocated allowing the refugees in Nazareth to return to their homes in Haifa or their villages, or alternatively settling them in villages that had been partially emptied, granting them loans which would ease

their rehabilitation, and finding them places of work. While he did make reference to the political damage that could result from neglect, he was mainly motivated by a humanitarian and socialist sensibility.

Minister of Agriculture Aharon Tsizling, of the same party, agreed completely with the stated premise: “This is a population that lives in the Land of Israel and we must ensure that it is rehabilitated in a respectful manner, in a way that reflects our general goals and would respond to peoples’ requirements in a fair manner” (ibid.). He added:

Perhaps this can be done at the expense of their own property instead of their original plot of land, offer them alternative land in another place. Such a program would allow these farmers to transition to a life of free and liberated farming, not as tenant farmers or big land owners but as simple workers of the land in the hope that they will achieve the same standards as our agricultural settlements.

(ibid.)

His approach can be described as the “liberation approach,” prevalent at the time within socialist circles, according to which the Jewish state would enable the Arabs to achieve what they couldn’t throughout their history: to become self-sufficient, productive farmers in their own right. Here too one must remember that these statements were rooted in a humanist worldview, that the aim was to achieve civil equality, and the courses of action were taken straight out of the socialist toolbox, for better or worse.

Minister of health, Moshe H. Shapira, one of the leaders of religious Zionism, also displayed a fundamental belief in equality and talked about the concrete steps this would involve:

A decree must be issued by the person who is responsible for the bureau [of employment] stating that at a time when there is a shortage of work, the Arabs should not be the first to be dismissed. Work should be allocated on a fair basis. If in a given workplace there are 100 Arabs and 200 Jews, and 50 must be dismissed, the 50 should not consist of Arabs only.

(ibid.)

Minister of Commerce Peretz Bernstein accepted his position and added that there was no need for a separate government decision in order not to discriminate against Arabs: “We have always considered the Arabs as residents of this state with rights equal to those of Jews. Therefore I do not think this will necessitate a separate government decision,” he said and joined the request to ease restrictions on movement for the Arab population (ibid.).

Ben-Gurion was not present at that session, and the most senior minister there was Moshe Sharett. Being foreign minister, he treated the issue with gravity, but his attitude was also influenced by his own moral outlook:

It seems to me that we must respond sensitively to the problems in Nazareth. It hasn't been easy for us, and we shouldn't take this responsibility lightly. There are several good reasons for this: First, news of the situation will reach the world at large, which will result in much "moaning and lamentation." Therefore it would be preferable to do something to rectify the situation before it becomes a great scandal. (b) It could lead to great internal troubles [with the Arabs in Israel]. (c) I see this as an educational problem for the Jewish public, who may develop the attitude that the Arabs can starve, "but we don't care." We must discuss this issue with all those concerned. This state will experience no stability if this problem is not resolved. But we cannot decide on the details [at the moment]. Let us reach one all encompassing decision that the government sees the problem of Nazareth as a pressing issue.

(ibid.)

This all-encompassing decision was one of the last made by the provisional government. At that time, coalition negotiations were under way to form a new government. The Mapam party did not join the new government – the first elected Israeli Government – which, like its predecessor, did not include Arab ministers, despite the intentions declared in the governmental decree of May 16, 1948, published with the founding of the state. But the members of the new government continued to discuss various issues concerning the Arabs in Israel, exhibiting clear moral positions and employing a unique discourse of human rights and civic equality. Let us look at three examples before we proceed to a comprehensive analysis.

The draft of the government's security platform included the following clause: "educating the youth in military-pioneering values as part of their overall education." This sentence brought about an unintended but interesting discussion on the status of the Arabs in Israel. In the discussion over the principles, Minister Shetreet objected:

SHETREET: I recommend deleting this clause because it obligates us to enforce military education on the Arab youth, and I do not know whether the timing is right. In my opinion, we should approach this issue as we have in other situations – implementing it but without

setting it in an official program. It would be unthinkable for us to impose military education on the Arab youth.

RABBI Y.M. LEVINE: I too recommend deleting this clause.

DAVID BEN GURION: [...] I do not fully accept Shetreet's position. We cannot talk about equality and then not implement it. We cannot allow our actions to be divorced from our words. If we say that we accept the Arabs as citizens then we accept them as citizens. The Arabs are a minority and there are no grounds for fear. We have established minority troops, and the Arabs will join the gendarmerie, the police, and the army. There is no danger in Arab youth receiving military training. We do not talk about equality in order to appease others. We say equality because we mean to implement it.

(ISA, Protocols of the Meetings, March 17, 1949:17–18)

This is an impressive declaration of intent, and Ben-Gurion, who may have sensed that there was a discrepancy between his declarations and the reality, continued: “Regarding the frontier, there is only one clause, which is a vital matter of security, in relation to which I said that the army will decide who would stand on that border” (ibid.). All the same, Ben-Gurion insisted on giving top priority to an ideology of equal rights.

Another fascinating discussion took place in the government two months later, during the Israeli–Egyptian 1949 talks, when overtures were made by the United States to find out whether Israel would agree to annex Gaza with its refugees. This is an important discussion for understanding the attitudes of the government members, because it developed into a discussion about demography vis-à-vis territory and made references to notions such as sanctity of the land and sanctity of life, as well as attitudes toward minorities in general and toward the Arabs in particular. The following are quotes from the protocols of the government session from May 3, 1949:

MINISTER M. SHARETT: Yesterday I received a telegram from Dr. [Walter] Eitan [Director General of Israel's Ministry of Foreign Affairs]. Among other things, he asked the following question: “What would be our position if we were offered Gaza with its Arabs?”

MINISTER KAPLAN: What is your answer?

MINISTER M. SHARETT: I tend to reject it. Let's discuss it.

PRIME MINISTER BEN GURION: If it was offered to us, I would accept it. If we are given Gaza we will also be given the Arabs who live there.

SHARETT: Once we inherit Gaza and the Arabs who live there, the following problems arise: All at once we more than double the Arab population in the state of Israel, we then face an Arab minority

that approaches 300,000 people within the state of Israel [censored clauses]. We cannot contain such a thing, not at the moment, in any case, and in my opinion we should leave the question open [...]. Today we have to focus on looking after the 100,000 Arabs who already live here. We have not matured enough to take in 300,000 Arabs. I see it as a disaster.

BEN GURION: [...]. We are accustomed to waves of immigration and we can also absorb the Arabs. It is true that we have not done what we should have done [in the field of equality], but I am sure we will do so when we can. We have to deal with the Arabs impeccably, we need to treat them fairly and humanely and implement real equality. In order to make this happen, we must educate our public. We must treat the Arabs as if they were Jews. A large Arab minority when we have internal divisions amongst the Jews is potentially dangerous. It is a serious matter, but we must also not exaggerate this issue [...].

MINISTER G. MEYERSON (GOLDA MEIR): [...]. I certainly acknowledge the fact that we haven't accomplished what we promised ourselves we would in relation to the Arabs, and we had a desire that the circumstances of the minorities amongst us would be exemplary and we must fulfill this [commitment]. I do not know whether the attitude towards the Arab minority will worsen when it becomes a large minority — the numbers don't determine the attitude. We must cultivate a humane approach to them. On the other hand, it must come as no surprise to us that the attitude towards the Arabs is what it is. After all, something has happened to us in these last years. But we must overcome it and educate our public to develop a different attitude. Were we to receive an offer to take Gaza — and I can only hope that we will — we must take it. In any case, we will need to develop the south and we can settle the Arab refugees in the framework of this development plan.

MINISTER M. SHAPIRA: From a moral perspective, there is no difference if 100,000 Arabs are suffering or 300,000 — none of them should suffer [...]. If there are 150,000 Arabs in Gaza today, this does not mean that the number will remain constant in the future. However, even if all the Arabs in Gaza were to remain in place, it would be to our advantage to make this “match.” The land is there for eternity — the Arabs could be here one day, and elsewhere tomorrow. But land and sea are for eternity. [i.e., the Arabs of Gaza might move, with or without our encouragement, and we would remain with the territory].

MINISTER D. YOSEF: I wouldn't want to take in one more Arab for the reasons mentioned by Mr. Sharett. I would like to construct our lives without them. There was a time when I was ready to live with them, but not now. In any case, I would not want to take in any more Arabs.

I would be willing to forfeit the additional land so long as we do not have to bring any more Arabs into our state.

MINISTER RABBI YITZHAK M. LEVIN: I want to call attention to the statements by Mr. Shazar: If we are offered land without war or bloodshed, we mustn't give up a single centimeter of such territory in the Land of Israel. As for the Arabs I am of the opinion that the more Arabs there are in the state of Israel, the more we will be forced to tackle their problems. I have no doubt that we should accept the offer.

SHARETT: I will not vote against receiving Gaza. I will abstain.

VOTE: We have decided that if we are offered to annex the Gaza strip to the state along with its residents, we will respond positively.

(ISA, Protocols of the Meetings, May 3, 1949:10 18).

The idea to annex the Gaza Strip – with the refugees living there – was never implemented due to strong opposition of the parties involved (for a detailed examination of this and other plans see Gazit 1987; Masalha 2010), but what is more relevant to our discussion is the regret of some Israeli leaders for the failure of the Jewish state to establish full equality for its Arab citizens. Indeed, one of the considerations by those in favor of annexing the Strip was that creation of a larger mass of Arabs in Israel would force the state to treat the Arabs with equality. Those who participated in the deliberations also thought it would be possible to incorporate the Arabs into the country's development plans. Ben-Gurion and Golda Meir, leaders of the Mapai party, as well as Rabbi Yitzhak-Meir Levin from Agudat Yisrael and Haim-Moshe Shapira of the religious Zionist stream, advocated this approach, and it is the one that prevailed. Yet we can also observe other approaches on the part of ministers who expressed hope that the Arabs would “disappear” from the Strip, and we can assume that this was their wish regarding the Arabs in Israel in general. There were even ministers who held both viewpoints at once, which is another strong expression of the Janus face of Zionism.

Another important government session regarding the Arabs in Israel took place on May 24, 1950. This session was initiated by Minister of Foreign Affairs Moshe Sharett, who raised the “painful subject” of the attitudes toward non-Jews in Israel. This is a political question that has “profound psychological roots,” he said:

It is a question that has bearing on our position in the world, our reputation in the world, and the attitude of the international community towards us. But it is also a question of the moral demands we make of

ourselves and how we educate our citizens now and for generations to come . . . Of course, this concerns first and foremost our relations with the Arabs.

(ISA, Protocols of the Meetings, May 24, 1950:35ff)

After Sharett went on to justify his objection to the return of the refugees, at least not in any substantial numbers, and after justifying searches conducted by the IDF and the expulsion of refugees across the border, he added:

It is unacceptable that this community [the Arabs] should live with feelings of inferiority over a long period of time, feelings of humiliation and embarrassment, feelings that they are always living off charity and in a perpetual state of emotional oppression [. . .], accumulated insults, and bitterness [. . .] There is a callousness towards them, and they have been neglected . . . They are afraid of using the courts. From the outset they have no faith in the justice of the courts [. . .] Without a shift on the part of the government, without a clear sign of a change in attitude the Arabs will continue to live in such fear, which is a source of hatred and hatred fuels the desire to rise up, to commit treason and other terrible urges.

(ibid.)

The ministers then proceeded to discuss the whole list of problems that the Arabs of Israel are forced to deal with. It included citing the state's appropriation of *waqf* lands and the need to relinquish them for the benefit of the Muslim community; the destruction of a cemetery in Haifa and the confiscation of a hearse; the confiscation of land from villagers, the takeover by the Custodian for Absentee Properties of homes belonging to Arabs who remained in the country; the killing of civilians during searches, etc. Sharett comes across as pained and empathetic as he describes a meeting with one of the community leaders from Haifa:

Once this was a community 35,000 strong. Now they number a few hundreds. I won't even speak about the human aspect. This is the Arab tragedy. When you see him in his humiliation, the way he speaks, with such subservience and obsequiousness. And what does he talk about? About minor things.

(ibid.)

Minister of Finance Eliezer Kaplan added:

There are some Arab villages that have no sources of subsistence. We had set up an authority [to rehabilitate Arabs] and when we try to transfer [Arabs and settle them down] we find out that no one wants to accept them. They are kicked out of Majdal because it is too close to the border

and it has become a center for smugglers; we won't let them into the [Jerusalem] corridor and we won't let them into the Triangle or in the Western [Jezreel] Valley. Whether it is the *ha Shomer ha Tsair* [the Youth Guard], or the United Kibbutz movement or anyone else no one wants them.

(ibid.)

Minister of Interior H.M. Shapira was just as cutting:

I will not discuss this topic from the perspective of “what the gentiles might say.” In my opinion, we have a clear moral issue on our hands upon which the very existence of our state depends [. . .] I understand the need for searches, but it is not necessary when capturing a few people to murder a 22 year old Arab woman, nor afterwards should the police issue an explanation saying that the woman in question was trying to escape. We are familiar with such statements by the Polish Government when they murdered Jews.

(ibid.)

Shapira, one of the leaders of religious Zionism, was unequivocal. He clearly identified with the Arab minority, and his demand was profoundly moral. He was not afraid to reject entirely the police's version regarding the murder of the young Arab woman, and he had no qualms about comparing it to the untruthful versions spun by the Polish police between the two World Wars. Then he added:

We must decide on our political stance vis à vis the Arabs. If we want to expel them, there are those amongst us who apparently think that we have to treat them in such a way as to cause them to run away. Otherwise we recognize that we are destined to live with a large Arab minority in the country, and in this case we should be interested that they would be friends of the state [. . .] there is an attitude among officials of slaves who became masters² [. . .] We have achieved sovereignty but we cannot resist the temptation that comes with it.

(ibid.)

Indeed, this is sharp criticism from the very epicenter of the Israeli establishment – the first Israeli government – directed toward the very center of the Israeli establishment, i.e., those bodies that are accountable to that very same government. So, we arrive back at our original question: what can explain the discrepancy between the discourse of human rights

² By this, Shapira means they internalize the language of power used against them; Jews who were powerless and have been oppressed easily become oppressors once they have the power of the sovereign.

during leadership meetings in closed rooms and the reality on the ground, which included the imposition of military rule on most Arab citizens, expulsion of Arab populations during and after the war, vast land expropriation, and limitations on civil liberties?

Discussion: The Government of Israel between Vision, Constraints, Hypocrisy, and Reality

The answer to our key question involves a broad spectrum of possibilities. We would not be mistaken if we say that the boundaries of the discourse are usually defined by the basic precepts of Zionism. A traditional pro-Zionist approach would suggest that the language used by the leadership reflects the stated ideals and aspirations of the Zionist movement – i.e., to live in peace with the Arabs, and to grant all Israeli citizens full, equal rights regardless of religion, gender, or ethnic origin. The reason the Zionist movement failed to achieve its humanistic aspirations, according to this perspective, is first and foremost the Arabs' total and violent rejection of Zionism, and in particular their armed resistance to the UN Partition Plan. For this reason, the country was caught up in a whirlwind of war already at the end of 1947. Following the establishment of the state, the Arabs who remained within its boundaries remained loyal to the Arab nationalist cause and continued to reject Zionism, and in the absence of peace agreements between Israel and the Arab countries, according to this view, the need to monitor their political and social lives was self-evident. Here and there mistakes were committed, the argument goes, but principal responsibility lies with those who tried to prevent the establishment of the state. In any case, the prolonged deliberations within the Cabinet over equal rights for the Arabs and the efforts to prevent discrimination attest more than anything else to a desire by the state to establish a real democracy and integrate the Arabs as equals (for representations of this Zionist attitude, although from different perspectives and not through the documents presented here, see Gelber 2001; Karsh 2010).

The inverse argument is expressed by the severe critics of Zionism (on the creation of the refugee problem, see Khalidi 1997; Masalha 1992; on Israel's policies toward its Arab citizens see Jiryis [1969] 1976). According to them, the leaders of Zionism had from the very beginning wanted to push the Arabs outside the boundaries of the Jewish National Homeland. The 1948 war provided the opportunity to carry it out. Talk about equal rights for the Arabs was no more than lip service, similar to

the Zionist acceptance of the Partition Plan, which did not reflect a genuine intention to establish a Jewish state on half of historic Palestine only. In fact, the argument would go, the Zionists saw themselves as having exclusive rights to the whole of the land, and considered the Arabs as inferior from the outset. For this reason, the small Arab minority who were left in Israel was subjected to military rule, had a large portion of its land expropriated, and became second-class citizens. The strongest proof that expressions of empathy and the discourse of equality were altogether insincere and made just for public relations, the argument would continue, is the fact that the government ministers – who were responsible for the bureaucratic ranks – could, if they had desired, have changed reality, but they refrained from doing so.

My working assumption is not situated in either of the polar extremes described above, but contends that within the Zionist movement, values based on civic equality existed alongside ethnocentric attitudes, some of which were straightforwardly militaristic. Throughout the duration of the *Yishuv*, these two approaches competed. As the 1948 war approached, the militaristic approach gained traction, as Uri Ben-Eliezer (1998) has described, and had a clear impact on the way in which the events unfolded. Since from an Israeli point of view the war has never ended (the emergency laws enacted by the provisional government are still in place, and Israel still does not have peace treaties with all of its neighboring countries), this has remained the dominant approach long after those battles ended.

We therefore have two questions to discuss: first, how do we make sense of the government debates, which were characterized by a discourse of equality? In other words, what explains the disconnection of these discussions from the dominant militaristic ethnocentric imperative? And the second, considering the fact that those who participated in this discourse were the leaders of the state, why was its impact so negligible?

I would like to argue that while one can assume that for some government ministers the talk of equality was designed to create an image of Israel as full democracy, there were those who sincerely aspired to achieve equality between the state's citizens and were genuinely rooted in a discourse of equal rights. They were guided by an ethical code, even if they were not so naïve as to think that decisions should be based on ethical considerations alone. For some it was extremely difficult to see and accept the immoral acts committed in the name of Zionism, and to accept that the state was harming the minority in its midst. For the majority of the government ministers who had been born in Eastern

Europe, their own experience of being members of a persecuted minority led them to frequent displays of empathy with the Arab minority. For Shetreet, it might have been the positive memory of Arab–Jewish relations in his hometown of Tiberias. All in all, the combination of liberal or socialist principles, on the one hand, and these memories, on the other, along with Zionism’s purist self-image, were behind their discourse on human and civil rights during and after the 1948 war.

But why did these discussions have such a negligible effect on the ground, and why did the political leaders fail to guide events according to their views? First, we must remember that the values of nation-building and what they believed to be the securing of the Jews’ future took precedence over the ideal of protecting the Arabs’ human rights, even for those who believed in them. In addition, the Arab ideological rejection of the idea of a Jewish state in Palestine was considered an obstacle to the process of nation-building. More than everything else, the ministers’ statements regarding the rights of the Arabs attest to a crisis of morality that they experienced when their humanistic vision and their Zionist dream came into conflict, more than their desire to effect actual change on the ground.

This leads us to the second point. The majority of the Jewish public in the country did not share the humanistic values of the veteran elites. This is why the need to “educate the people” came up so frequently in the sessions. The disparity between the political leadership and the public was manifest on several levels, which overlapped to some extent: (a) The generational divide: Those who were born in the country adopted the militaristic approach to resolving the Jewish–Arab conflict and they constituted the bulk of the combat forces. To a great extent, the leadership, comprised of the parents’ generation who were not native-born, was more dependent on the young rather than the other way around, especially during the war. Indeed, during the war, the cabinet even did not try to control the army and its (mainly) native-born commanders, and was not updated regularly on military operations. (b) On the organizational level: The right-wing revisionist movement as well as sections of the Labor Party itself viewed the humanistic approach as incompatible with the urgent needs of the hour. (c) The class divide: in a government meeting in May 1949, Ben-Gurion said, while discussing the subject of the army during the war:

This is the first time that we have come together, all strata of society, including the mob. We have no idea about the extent to which the

leadership of the *Yishuv* is disconnected from the people, and this applies to all strata of society. There are “simple people” who live in the slums and we don’t know them. They are foreign to us and we are foreign to them and viewed as living on a higher planet. Now with the establishment of the Army, we have come together. Amongst this stratum we find dirt, illiteracy and completely different notions about everything.

(ISA, Protocols of the Meetings, May 6, 1949:2–3)

Portraying the members of the lower class as a “mob” and blaming them for atrocities committed by the Jewish forces in 1948 was a method used by Ben-Gurion, who wanted to preserve the clean image of socialist Zionism. In fact, the conduct of units that were composed of middle-class socialist soldiers or of Kibbutz members was not necessarily different; thus, it was difficult for the political leadership to impose its values, to the extent that it desired to do so, on the units in the field. In addition, we must factor in the challenges of governmentality that are present in every state; all the more so in a newborn one. A short exchange that took place during a government session in September 1948, exemplifies this best of all:

SHETREET: Has the time not come to impose a civil regime in Haifa instead of a military one?

BEN GURION: There is no military regime in Haifa, only a civil regime.

SHETREET: As far as we know, a military regime operates in Haifa.

BEN GURION: *It is operating without authorization* [emphasis added].

(ISA, Protocols of the Meetings, September 1, 1948:6)

Other examples of a lack of governmentality abound: non-transference of funds to the minister for religious affairs earmarked for religious services for Muslims, expulsion of the Arabs of al-Fallujah and Iraq al-Manshiyya by Yigal Alon in contravention of a government decree and more (ISA, Protocols of the Meetings, September 8, 1948:4–5; ISA, Protocols of the Meetings, March 16, 1949:4).

The lack of governmentality was evident in many other areas that have nothing to do with Jewish–Arab relations. But in this particular area, very often the government chose to pass on the responsibility for dealing with the Arabs to the professional security ranks. Minister Sharett expressed this tendency in a government discussion about returning the Arabs of Haifa, who were living as refugees in Nazareth, to their homes:

I don't have the feeling that this question is entirely clear in all its facets. I don't know what the defense minister will say. But once the men in charge will put their mind to it, perhaps a solution will be found. I have more faith in the judgment of men of action than in our own. I don't know whether we can appreciate all the complexities that may arise.

Such was also Ben-Gurion's approach in regards to the Bedouin tribes in the Negev. He had supported forging peace agreements with all the tribes. Some of the local Israeli Arabists objected, and he accepted their opinion (ISA, Protocols of the Meetings, October 31, 1949:7). And Minister Gruenbaum articulated the sentiments clearly and forcefully, as he was wont to do:

I daresay that in England it is really the "Intelligence" [Secret Services] who govern, just as here we are de facto governed by the military police [i. e., the security services that operated within the army at the time] and not the police force of Mr. Shetreet [i.e., the civil police]. The nature of the situation makes this a necessity – this is how the world goes in times of revolution or struggle for sovereignty.

(ISA, Protocols of the Meetings, December 19, 1948:11–12)

In other words, the political leadership let itself off the hook in terms of responsibility for developments on the ground and was satisfied to offer mild criticism for blatant human rights violations – while at the same time creating frameworks that made these violations possible.

Conclusion

Anyone who reads Zionist writings from its early days to the early 1950s cannot ignore the prevalence of the humanistic discourse of Zionist thinkers and leaders. The human rights discourse of the members of the first cabinet is a continuation of this tradition, and should not be seen as mere lip service. Moreover, it was the dominant discourse in the cabinet. Yet, this was not the discourse where the crucial decisions were taken, i.e., the military establishment and the institutions of Labor (Mapai) party. During the war but also in its aftermath, decisions in the young state were made not in the cabinet but rather in Mapai institutions (and when security matters were involved, they were made by loyal members of the security establishment). In these circles, the security discourse and the Jewish-national one were dominant. Moreover, the same Ben-Gurion who positioned himself as the defender of human rights and demanded full equality for the Arabs in the cabinet meetings

presented a different approach and used a different language in the meetings of his party, Mapai. “These Arabs should not be living here. Anyone who thinks that the Arabs have the right to citizenship in the Jewish state is saying that we should pack our bags and leave,” he said, according to Eyal Kafkafi (2008). And when the Citizenship Law was discussed, Ben-Gurion denied the Arabs the right to citizenship. “We have no need of a law of citizenship,” he argued, because civil rights for Arabs “undermine our right to this country” (ibid.).

This barefaced contradiction in Ben-Gurion’s statements can be viewed as hypocrisy or a political maneuver, maybe rightly so. But on a more profound level, I would suggest that it expresses the deep contradiction that is embedded in the very essence of Zionism: heroic endeavor to save the lives of persecuted Jews, which has been carried out at the expense of the Palestinian people.

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Israel's Military Rule over Its Palestinian Citizens (1948–1968)

Shaping the Israeli Segregation System

YAIR BÄUML

Foundation for the Establishment of the Military Government

From the beginning of Zionism, at the end of the nineteenth century – and much more so during the British Mandate (1920–1948) – the Zionist movement implemented the idea of setting up “a national home for the Jewish people” in Palestine while ensuring maximum separation, disengagement, and differentiation from the Palestinian population, which historically had always been the majority in the country (Gorny 1979). The Zionist movement never sought out a binational state, or any joint Jewish–Arab political or economic framework. Its practice, based on its clear agenda, was always uninational, aimed at contributing solely to the future establishment of a Jewish state, serving its Jewish citizens and the Jewish people elsewhere. The goal had always been to have the largest possible territory with the smallest possible Arab population. The Zionist leader Ze’ev Jabotinsky (1923) eloquently expressed this policy of differentiation and separation between Jews and Arabs, as well as the built-in danger of any attempt to bring the Arabs closer or cooperate with them, in a famous article written in 1923, “The Iron Wall.” Despite the fact that Jabotinsky did not belong to the Labor Zionist parties that led the Zionist movement, as far as Zionist ideology and practice toward the Arabs, his article expresses the nature of all Zionist parties’ daily practice from the beginning of Zionism until the present day.

Accordingly, the Arab leadership in Palestine viewed Zionism as a foreign, European, colonialist, invading project, whose aim was to drive the Arabs out of Palestine. In their view, the Arabs had sole political

rights over the country, although the Jews who had lived in Palestine before 1917 were considered to be an integral part of the country's populace.

During the Palestinian Revolt against British rule from 1936 to 1939, Palestinian fighting groups attacked not only British forces but also each other, and, whenever possible, many Jewish settlements. The Jews organized and retaliated with military anti-Palestinian actions of their own. The repeated cycles of attack and retaliation added a violent, military element to the practice of Jewish–Arab separation and segregation that Zionism had adopted from the outset – and, with it, mutual fear.¹ In 1937, a committee appointed by the British government suggested partitioning the country, annexing most of it to Jordan, and establishing a Jewish state in the Galilee and the coastal plain. As soon as this suggestion was made, the Zionist leadership in Israel set up a transfer committee whose role was to plan the Arabs' departure from the future Jewish state ("Transfer of Arabs from the Jewish State Territory," in the minutes from the Population of Transfer Committee in 1937, cited in Heller 1996). Even after the British canceled the partition proposal, it was David Ben-Gurion who led the policy centered on the hope that the solution of a state with a Jewish majority would be achieved through Arab transfer, which could still take place (Kafkafi 1998; Morris 1991; Touma 1985).

This, then, was when Zionists and their leadership began viewing the Palestinian public not only as a segregated political rival to be held at arm's length and stopped from obstructing the construction of a national Jewish homeland, but mainly as a dangerous enemy competing for ownership of, and rule over, the country – an enemy who must be subdued by force (Shlaim 2000). This was when the economic, territorial, and political conflict became militaristic and violent. It became clear that the conflict was costing thousands of human lives, and the Zionist side understood that the conflict would be decided through military action, during which it would become necessary to

¹ While the fear was mutual, it was not symmetrical and it was based on different origins. While the Palestinians experienced an existential fear based on their feeling that worldwide forces had come together to drive them out from their homeland, the Jews in Palestine did not experience a collective existential fear (on the contrary, Zionism prospered, particularly in the 1930s). They were afraid of the sacrifices they would have to make for the sake of Zionism.

create conditions for the transfer of Arabs from the territory of the Jewish state.

Indeed, 1948 became the year of war, ethnic cleansing, and the establishment of a Jewish state. Up to May 1948, this had been a civil war in which groups of Palestinian fighters who were somewhat supported by volunteers from Arab countries were unequivocally losing to the Jewish forces that were fighting more as a professional army. In May 1948, with the end of the British Mandate and immediately following the Jewish leadership's declaration of the establishment of a Jewish state, the Arab armies invaded Palestine. One goal of some of these armies was to prevent the establishment of a Jewish state; the Jordanian army, however, also sought to prevent the establishment of a Palestinian state by conquering and annexing (after achieving the tacit understanding of the Zionist leadership) parts of Palestine for the Hashemite Kingdom. However, except for the Jordanian army, the Arab armies lost the fight against the Jewish forces on most fronts. The Zionists wished to establish a Jewish state that was as large as possible – beyond the partition borders that had been suggested by the UN at the end of 1947 – with the least number of Arabs possible. Indeed, during the war, which continued until the end of 1948, the Zionists enlarged the territory of the Jewish state beyond the territory allocated to it in the 1947 partition plan, and brought about the departure of approximately 750,000 Palestinian refugees.² This departure was caused mainly by military action initiated by the newly formed Israel Defense Forces (IDF), whose aim was to expel the Palestinians (regarding the transfer, see Pappé 2006).

The Jewish state was established in the process of war. Its borders were set by war, and so was its Jewish majority. War, violence, and killing became some of the most important elements of Zionist ethos and narrative regarding the lengthy history of the Zionist movement and the establishment of Israel. The security-based, military element, as well as the presence of a constant threat to the Jews' physical existence – sometimes because of a real external military threat – became significant elements in the ability of the Israeli national leadership over the years to mobilize a national Jewish consensus, which rarely questions the policy of the Israeli establishment (al-Haj and Ben Eli'ezer 2006; Ben Eli'ezer 2006; Cohen 2006b).

² Some claim that the number is closer to 900,000 (see Morris 1991:Appendix A).

Official Institutions and Policymaking about the Arabs in Israel (Post-1948)

The Arab minority that remained in Israel after 1948 (about 160,000 people, approximately 15% of the entire population at the time³; Ben Amram 1965) was and continues to be identified by most Israeli Jews as the state's enemies. Despite the abject Palestinian loss and the fact that they had become a poor, heavily unemployed, traumatized minority that had just witnessed the destruction of its homeland and nation, Arab citizens were ruled after the 1948 war in accordance with the government's broadly publicized claim (despite the fact that it was aware of its untruthfulness) that they are part of "the enemy." As befitting an enemy, they were ruled by the army rather than by the civilian police force, which began to deal with law and order among the Jewish population. The military rule was forced upon the Arabs through a special military unit called "the military government," which was the main Israeli official mechanism governing the Arabs remaining in Israel. As the Arabs within the state of Israel had become a minority and were no longer a threat to the Zionists, the overall aim of the military government was to secure the continued traditional segregation and exclusion of Arabs from the Zionist project, which started with the beginning of Zionism. This included expropriation of large areas of Arab land that had been given over to Jewish settlement, as well as the Arabs being defined as security threats that had to be withstood. The means used to achieve these goals are described next. It is important to note that while the government, through its various institutions, did indeed carry out the majority of the policies toward the Arab citizens, the cabinet was not the official policy-making body for the Arab citizens during this period, nor was it the institution that examined or discussed the policy guidelines.

Above all other governmental bodies, both military and civilian, policymaking regarding the Arabs in Israel was the prerogative of Israeli prime minister and defense minister David Ben-Gurion until 1963. He had the last word regarding these policies (Benziman and Mansour 1992).⁴ He, together with a small, secret body called the "Central Security Committee," which existed for the sole purpose of dealing with the Arab citizens, made the most significant general and

³ Even today, the Arabs constitute about 17% of Israel's citizens (approximately 1.5 million people at this time of this writing in 2016; see Chapter 1 in this volume).

⁴ Professor Aharon Laish, a member of the Advisor's Office in the 1960s, personal interview by author, June 1999.

operational decisions regarding the Arab citizens.⁵ The military government commander was a senior member of the committee, which cooperated fully with the top members of the party *Mifleget Poalei Eretz Israel* (Mapai)⁶ who were involved with the Arab sector through a body called the "Mapai Committee for Arab Affairs" (Bäumel 2011a). Levi Eshkol, who became prime minister and defense minister in 1963, enjoyed a lower level of security authority than his predecessor had. Thus, ironically, the Central Security Committee became even stronger during his term in office.

The Mapai Committee for Arab Affairs operated side by side with the Central Security Committee. The former was established in 1957 as a main establishment body handling issues concerning the Arab citizens, but it was not an official government body, and it lacked execution or enforcement capacities. However, this was the body that shaped and determined the spirit of the times and constructed or guided the construction of practical policies on the Arabs, not only for the party but mostly for the governing bodies (i.e., the military government, the cabinet, and the *Histadrut*, Israel's organization of trade unions).⁷

In addition to the Mapai Committee for Arab Affairs, where the central deliberations about the guiding principles and policies toward the Arabs took place, and the Central Security Committee (with the prime minister as the central figure) which made the most fundamental decisions, there were several official bodies operating in the field: several cabinet ministries; the Police and the General Security Service as civil bodies; the military government department in the Ministry of Defense and the IDF as government-controlled military bodies enforcing the Emergency Defense Regulations on the Arab population; the Histadrut as a public non-governmental body acting in the Arab sector in the areas of

⁵ Shmuel Toledano, personal interview by author, December 1999. According to Toledano, the committee chair was the prime minister's advisor for Arab affairs, and the other members were head of the Arab section of the General Security Service, head of the Special Affairs Office in the Police Department (an office in charge of, among other things, supervising the Arabs), and the military government commander.

⁶ Mapai was the largest Zionist political party, established in 1933, leading the Zionist movement until 1948 and thereafter the state of Israel until 1977.

⁷ The Histadrut was the Jewish Zionist labor union. Created in 1922, it became during the Mandate period the most powerful Jewish political institution in Palestine, leading all Zionist activities and acting as the "Jewish government" vis à vis the British authorities. After the establishment of the state of Israel it remained, alongside with the government, a most powerful institution: "Our plan of action [the committee's], that is, the cabinet's, the Histadrut's, and the party's" (Labor Archives, 148 1957 926 2, 1957).

employment, labor unions, informal education, culture, and health (Katzav 1998; Ozacky-Lazar 2000b); and the prime minister's advisor for Arab affairs, whose task was to coordinate all of the above.

This structure, to which we need to add the National Jewish Institutions (the Jewish Agency and the *Keren Kayemeth Le Israel* [KKL], or the Jewish National Fund),⁸ which acted extensively in the domain of Jewish settlement, land, and water, was dominated by Mapai and created a complete equivalency between the "party" (naturally meaning Mapai) and the "government." Indeed, in the face of the almost uncontested dominance of Mapai at the time, the bodies ruling the party were identical to those ruling the Histadrut and the government (LA, 2-926-1957-148, May 4, 1962; Stendel 1992; also see, Lyn 1999).

Establishment of the Military Government and Its Aims

In 1959, the prime minister's advisor for Arab affairs determined that in 1949, the Arab population had been "shocked, scattered, divided and scared" (LA, 2-926-1959-18, September 1959). In direct opposition to this description, the government's ideological, public, and political basis for establishing and continuing to maintain the military government was the claim that this population, most of which resides near the border, presents a security risk to the existence of the Jewish state.

Thus, during the 1948 war, the Temporary State Council decided to place the Galilee, the Triangle area,⁹ the Naqab and the cities of Ramleh, Lydda, Jaffa, and Majdal Asqalan – areas with an Arab majority population at the end of the battles – under special military rule.¹⁰ From that time until the end of this rule in 1968, the military government was the central Israeli official body administering the affairs of the Arab minority in Israel. The military government apparatus was the post-1948 legal-military-political mechanism that allowed for the continued construction of the Jewish state, based on the "national home" idea

⁸ The KKL was established in 1901. Its main mission was to collect donations from Jews worldwide and purchase lands in Palestine for Zionist settlements. The KKL has served as trustee in the name of the Jewish people over the Jewish owned lands of Israel.

⁹ A narrow strip of territory in Israel, next to the Israeli Green Line, the eastern border with the West Bank (part of Jordan until 1967) that is populated with a large number of Arab towns and villages.

¹⁰ In 1949, the Arab population was approximately 15% of the entire population of Israel. In some sub areas – the Galilee, the Triangle area, and the northeastern part of the Naqab – the Arab proportion of the population reached 70% to 100%. In other places, this percentage became progressively lower, but still remained relatively high.

from the time of the British Mandate – i.e., a home without Arabs, and one that did not even acknowledge their existence. The constitutional validity of the military government was based on the British Mandate Emergency Defense Regulations (1945), which were adopted, on May 19, 1948, together with many other British Mandate rules by the Temporary State council and later on by the Knesset (Ozacky-Lazar 2002). Out of 162 British Mandate Emergency Defense Regulations, the military government made use of only 5. Three of these (nos. 110, 111, 124) were aimed at allowing the military governor to control, limit, and even prevent the freedom of movement of citizens under this rule. The remaining two (nos. 109, 125) were aimed at allowing the military governor to prevent citizens from entering areas that had been proclaimed closed.

The aim of the military government's actions was to minimize and almost abolish the civil equality that the Arabs should have enjoyed as Israeli citizens. The military government resulted in the exclusion of the Arabs from all the Jewish state systems, their discrimination in every domain, the deepening of their internal divides or the creation of new ones, the erasure of their identity, and the hindering of their sense as a national collective. During the first decade, the military government served as a mechanism whose role was to facilitate removing the Arabs physically (i.e., transfer) should this become possible as part of an additional military campaign. Indeed, as described next, the slow cancellation of the military government was made possible only after the Sinai War and the Kufr Qassem massacre in October 1956,¹¹ when Israel realized that the Arab minority would not leave Israel.

Despite the fact that both parliamentary and public opposition to the very existence of the military government grew stronger from the end of the 1950s onward, the military government's military mechanism was not canceled, given the role assigned to it by the security-related policy-makers in the country, headed by David Ben-Gurion, when he served as Israel's prime minister and defense minister. This leadership perceived the military government as the main tool for implementing control and surveillance of the Arabs, excluding them from the country's resources, and undertaking the massive land confiscation policy in line with the Zionism's

¹¹ On October 29, 1956, Israeli Border Police killed 48 Arab citizens – women, men, and children – as they returned to Kufr Qassem from their farms in the areas surrounding the village. The villagers had violated a curfew imposed on the village unbeknown to them.

Judaization project. Additionally, the leadership also relied on the military government as a deterrent – that is, to demonstrate to the Arab states that the Israeli government was vigilant and not complacent; aware of the existential danger it was facing; and militarily prepared, maintaining a high level of security preparedness and military determination to deter the Arab states from declaring war on Israel. Thus, the state could hold the Arabs in Israel as a type of hostage to deter Arab countries from invading, because they would become the first casualties.¹²

Beginning in 1963, when Levi Eshkol became prime minister and defense minister, Israel's security-related leadership no longer viewed the existence of military government as a deterrent to the Arab states. Thus, the state was able to abolish the military government in 1966, an action perceived as "cleansing" Israeli democracy from the "stain" of inequality and militarism that this policy had created. However, the same leadership continued to control and restrict the country's Arabs through civilian security measures in order to keep them excluded from the different state systems.

The Wish for a Continued Transfer of Arabs – until 1957

As mentioned earlier, the option of transferring the Arabs was fostered among the Zionist leadership as early as the 1930s and realized in 1948. Indeed, as a result of the 1948 war, approximately 80% of the Palestinians who had lived in the area that later became the state of Israel were turned into refugees. The fact that a sizeable Arab minority remained within the borders of the Jewish state was perceived by some of the young state's leaders as a temporary problem. Some of these leaders, as will be shown, hoped and wished for a lowering of these numbers or even the Arabs' complete departure. Thus, logically, the military government, an IDF unit that was the main and almost only governmental body operating in the Arab sector, was supposed to be the body that would supervise and control the Arabs in such a way that would facilitate their continued transfer from Israel.¹³

¹² This conclusion is derived from Ben Gurion speeches at the Knesset during several debates on the military government (see Bäuml 2002).

¹³ Of the documents available at the Israel State Archives, none can provide a clear reference to this conclusion, but it must be emphasized that beyond informed insight, more

With the passing of the Citizenship Law of 1952, citizenship was granted immediately to only 40% of the Arabs in Israel; an additional 40% received it gradually (Bäumel 2007:74). The remaining 20% were defined by Israeli law as “present absentees” or internal refugees,¹⁴ including their children who had been born in the state of Israel. These people were not granted citizenship at the time, with the clear purpose, according to one opinion, of encouraging them to leave Israel voluntarily.¹⁵ Ben-Gurion was not the only leader who preferred that the Arabs leave Israel, even if he thought this should be part of arrangements made with the Arab countries (Kafkafi 1998; see also, Kanu 1992). Pinhas Lavon¹⁶ also thought their emigration should be encouraged (Kafkafi 1988), and so did Yigal Allon (1969), one of the leaders of the *Ahdut ha-Avoda* party, who said it was a shame that the state of Israel “had no policy which might have brought the majority of Arab citizens to consider that it might be best to move to another country” and suggested encouraging the Arabs to leave the country by using the Jewish National Fund to purchase their land (pp. 324, 334).¹⁷ At any rate, Allon hoped the Arab percentage of the population would lower through the naturally large birth rate of Sephardi Jews, as well as through Jewish immigration.

After 1948, another similarly large-scale transfer was never executed, both due to internal establishment opposition and as not to harm Israel's effort to be accepted worldwide as a democratic country. At the same time, however, several smaller-scale transfers were executed: several thousand Bedouin were moved from the Naqab to Jordan and the Sinai and several Arab villages and their residents in northern and central Israel were evacuated and moved to the Gaza Strip or to other villages within Israel during the first years of Israeli statehood.¹⁸ In 1952, Pinhas Lavon reported that the military government officers

research should be done since files remain at the State's Archives that the public cannot access.

¹⁴ This includes the Arabs who, at the time of the first census in November 1948 were, on the one hand, missing from their permanent place of residence (as they had been chased away or fled during the war and had not been allowed to return), and, on the other hand, present in Israel usually in a neighboring village where they had sought temporary shelter for safety.

¹⁵ According to Jiryis (1981), the children's status was resolved in 1968. That of their parents and grandparents, the 1948 refugees, was resolved in 1980.

¹⁶ One of the leaders of Mapai and a minister in the first cabinet, he was appointed defense minister in 1954.

¹⁷ Regarding a practical plan made by KKL for such a transfer, see Kanu (1992).

¹⁸ Regarding the Bedouin transfer, see Falah (1991a); Jiryis (1976). Regarding the evacuation of Majdal village (Majdal Ashkelon), whose residents were moved in 1951 to the Gaza

had adopted the policy of encouraging the Arabs to leave the country, and that they felt that the next war should be used for the realization of this idea (Keiman 1984).

Additional proof that mostly during this first decade the military government, and its civilian command (i.e., the defense minister who was also prime minister), saw the Arabs leaving the country as a paramount objective can be found in the words of the military government commander, Mash'al Shechter, at a Mapai Committee for Arab Affairs meeting which took place on January 30, 1958. There, Shechter said that he was sorry the Arabs had not left on their own free will, and that they would leave only if "a special storm occurs" (LA, 2-926-1957-148, January 30, 1958:31). Reuven Barkat¹⁹ said at that same meeting, "The 10 years Israel has been in existence have clearly proven that an uprooting under acceptable conditions is not possible" (ibid.:2) The committee chair, Mordechai Namir, said, "I am assuming that the Arabs who are here will stay here, unless a catastrophe takes place" (ibid.:16). In 1959, the prime minister's advisor for Arab affairs said: "... we can safely assume that we will not see wholesale departure of Arabs from Israel in the foreseeable future. Thus we need to take this off the table when planning future policy" (LA, 2-926-1959-18, September 1959:14).

Discussions in the Mapai Committee for Arab Affairs or the cabinet during the second decade of the state of Israel did not include the issue of displacement or transfer, but it seems that the hope for a large-scale Arab transfer as part of a "storm," a "catastrophe," or "special conditions" did not die completely. No establishment contingency plans for setting forth a transfer process have been found, but some researchers and writers claim, despite being unable to prove this scientifically, that the Kufr Qassem massacre, on the first day of the Sinai War (October 29, 1956), was a first and last attempt to create a "catastrophe" leading to such a mass transfer (Jiryis 1976; see also Ozacky-Lazar 2000a; Rosental 1991; Ibrahim Sarsour, head of the Israel Islamic Movement, quoted in Dayan 1998).

Strip, see, for example, Kafkafi (1988). Regarding the evacuation of the Um El Faraj village near Nahariya in 1953, see the document collection ISA, 10/1631; see also Keiman (1984).

¹⁹ Reuven Barkat was another leading figure among Mapai officials. In the 1950s, he served as the head of the Arab department in the Histadrut. In 1962, he became Mapai's general secretary, and in 1969, he was appointed as the Knesset chairman. He died in 1972.

The Main Daily Restrictions on the Arab Citizens and the Intra-Jewish Argument regarding Their Necessity

It became increasingly clear that the goal of the military government was to control the Arab minority in Israel. This control, justified by security needs, was expressed in many ways, centering on prevention of freedom of movement, freedom of employment, and freedom of organization of the Arab citizens.

Military rule laws applied only to Arabs. This fact can be clearly seen in some of the military government's documents,²⁰ as well as in the State Comptroller's words:

Anyone entering or exiting areas declared to be closed is committing a crime. In order to avoid this one needs a permit. However, Jews do not need these permits and are not perceived to have committed a crime. Thus, the law is used only with some of the citizens.

(Schiff 1962:66)²¹

Despite the fact that Ben-Gurion reiterated time and time again that the military government apparatus was part of the military (Knesset Minutes, February 20, 1962; see also, Knesset Minutes, February 20, 1963), the military government commander received his orders from the Central Security Committee, which was (as explained earlier) the highest body dealing with government policy regarding the Arabs (ISA, 1086/6304 g, October 25, 1964).²² Using their close connection with these security bodies, the military government personnel obtained access to hundreds and perhaps thousands of Arab citizens' personal files (ISA, 310/4 l, N.d.).²³

At the end of the first decade, the prime minister's advisor for Arab affairs summed up the reasons for having the military government and for its success "in complete control of all Arab areas":

²⁰ See, for example, ISA 11/313l, August 1, 1962, which includes documents on "Area Closure decrees and Up To Date Movement Permits."

²¹ Regarding discrimination between Jews and Arabs when granting permits, see also Mahsan (1973).

²² I was informed of the Central Security Committee and the advisor's role in it in an interview I conducted with Shmuel Toledano, who served as the prime minister's advisor from 1965 to 1977 (Shmuel Toledano, personal interview by author, December 1999).

²³ This file shows the surveillance method used on hundreds of people. Other files contain additional information, such as requests for permits of all types, personal restriction orders issued against a person, and personal offenses committed by the file's owners. See also ISA, 19/358l, N.d.a; ISA 19/358l, N.d.b; ISA, 20/358l, N.d.

1. It [the military government] represented the new government to a shocked, scattered, divided, and scared population.
2. It represented the military force set up by the government to that population.
3. It served as the main and only address for all government sectors working in the Arab areas, so that every Arab citizen was dependent on the military governor of his area on a daily basis.
4. By using the *mukhtars*,²⁴ the *sheikhs*, and the heads of the clans, the military government was able to control an entire population through a small number of people. (LA, 2-926-1959-18, September 1959:12)

The intra-Jewish criticism against the military government that had been heard as early as the 1950s sheds light on its real role. This criticism was multifaceted, expressed by people from various political factions, and included many elements. Criticism and doubts regarding the character and role of the military government, and even its very existence, had been raised as early as the first years of the state in public, in the Knesset, and within the leadership of Mapai itself. Thus, from the very beginning, officials and committees examined its efficiency, and changes were made aimed at decreasing the area ruled by this body.²⁵

Yigal Allon preferred that the Arabs leave the country, but given the fact that they didn't, he demanded more democracy for them, claiming that the military government is anti-democratic and anti-educational, harming both Arabs and Jews (Allon 1969:350). Both Ya'akov Hazan, the leader of the Mapam party (which was politically to the left of Mapai), as well as Yigal Allon claimed that the military government was corrupting the IDF, as it was interfering with the private lives of civilians (Allon 1969:26; Ya'akov Hazan in Knesset Minutes, February 20, 1962:1327). People in Mapai (the party that had been in power since 1948) and in Herut (the largest right-wing opposition party) claimed that the military government provided international critics of Israel with an extremely effective weapon.²⁶ Michael Assaf, one of Mapai's most prominent "Arab experts," wrote: "Whether or not the military government means to or not, simply by existing, it pushes every Arab citizen every day to hate the state and do it harm" (quoted in

²⁴ Mukhtars refers to elders, or leaders within villages and communities.

²⁵ For the military government's actions in the first decade, see Ozacky Lazar (2002).

²⁶ Yohanan Bader (1959), one of the most prominent Herut MKs, wrote about this in his strongly worded article, "Honesty towards the Arab Israeli Citizen." The issues of harming Israel also came up in the Mapai Committee for Arab Affairs (LA, 2 926 1957 148, January 30, 1958:22).

Cohen 1990:47),²⁷ Yigal Allon (1969) added that the government was the main cause for the Arabs developing national sentiments, thus causing more harm than good. Many claimed that the military government discriminated against, humiliated, and degraded Arab citizens, denying them the most basic human rights (ISA, 6304/1085 g, October 29, 1963:84).²⁸

As part of their criticism, figures within the opposition described, some of them retrospectively, the real functions they felt the military government fulfilled (a summary of many of these can be found in Amitai 1962:71). Some claimed that the military government was nothing but a tool in the hands of Mapai to enlist Arab votes in the elections.²⁹ This claim was supported by Amnon Lyn, who chaired the Mapai Committee for Arab Affairs from 1965.

It would not be wrong to say that many Arab Israelis who voted for Mapai and its satellite parties in the elections did so assuming that it would not be wise to anger the military governor, who controls many areas of their lives. In addition, I cannot deny the possibility that some political activists reminded the voters of “the facts of life,” hinting that the governor knows what slip of paper every voter places in the ballot behind the screen.

(Lyn 1999:126)³⁰

Contemporaneous testimonies describe the *raison d'être* of the military government: This was the government's way of preventing the Arabs from working in the Jewish sector, or of regulating their employment in various ways, such as time, numbers, and areas of employment – for its own convenience (Ben-Porat 1966). The military government prevented the Arabs from taking over government land and major transportation routes (this fact was determined by the Retner

²⁷ It is important to emphasize that Michael Assaf did not object to controlling the Arabs forcefully, only to doing so using the military (regarding this, see LA, 2 926 1957 148, March 17, 1960:11)

²⁸ See also letter by Jewish Arab Council calling for the cancellation of the military government from February 22, 1962, sent to Ben Gurion, which said, among other things: “The continued existence of the emergency regulations harms the principles of democracy and is opposed to human rights” (ISA 6304/1085g, February 22, 1962).

²⁹ This criticism by the parties can be found in many places; some are mentioned here: Bader (1959); Linberg (1972); Lustick (1985); Schiff (1962). Lustick relies on a number of Israeli writers, including Yigal Allon, pointing at the fact that 53% of Arab votes were given to Mapai and only 36% of Jewish votes were given to the same party.

³⁰ Similar sentiments were also expressed in the discussions of the Mapai Committee for Arab Affairs (see the minutes from the meeting at LA, 2 926 1957 148, February 24, 1959:18).

Committee, which examined the necessity of the military government; Kafkafi 1998). It also prevented them from taking over abandoned Arab villages, establishing new ones, or moving their homes to other places at will, especially to Jewish cities (Schiff 1962; see also Ozacky-Lazar 1998 for testimony by Colonel Shacham before the Rosen Committee in 1959). Through movement and living restrictions, the Israeli government used the military government over the Arabs to keep Arabs away from their lands, thus making it easier for the government to confiscate them (Amitai 1963b; Jiryis 1976; LA, 2-926-1957-148, January 30, 1958). The government averts modernization, industrialization, and urbanization among the Arab citizens, leaving the Arab sector at a very low level of employment and material comfort, creating very large villages with no local employment opportunities (Falah 1991b; Kafkafi 1988).³¹

The Military Government as a Tool for Implementing the Segregation Policy

The role of the military government in carrying out the segregation policy described earlier was to assist the civilian personnel and enable them to carry out their plans and enforce the policy the establishment wished to implement in the Arab sector, mainly its segregation from the Jewish sector. The military government officers used their military authority to make it easier for the civilian officials to do their jobs in the Arab sector.

Economic Segregation and the Transfer of Means of Production from the Arabs to the Jewish Sector

In 1969, the Israel Government's statistical yearbook chose the following words to summarize the economic change that had occurred among the Arabs in the country:

In the time that has passed since the establishment of the state, Israeli Arabs have enjoyed economic development and have become more and more integrated in the general economic framework, leaving the narrow village based framework behind. In agriculture the closed economy gave way to a developing, mechanized, multi growth economy, while in the area of employment we are witnessing the move from agriculture to

³¹ See Lustick (1985:131) and Kafkafi (1988:359) for discussion on "A Public Appeal" by the Ihud Group, signed by Professor Martin Buber, Professor Simon, and others.

working in city based industrial areas. These changes have brought about a rise in income and a higher standard of living among the Arab population.

(Central Bureau of Statistics 1969:58)

However, a more accurate summary, provided here, emphasizes different issues.

Until the end of the 1960s, the Jewish establishment had managed to achieve its main purpose regarding the Arabs' economy, namely: ensuring that they were unable to develop into an independent economic sector, moving all their means of production to the Jewish sector, and rendering the Arabs completely economically dependent on the Jewish economy.

This main purpose was achieved through a series of simultaneous plans and actions that complemented each other. The *first action*, and the most significant in this series, was the nationalization of all land owned by Palestinian refugees from the 350 Arab villages destroyed by the Israeli government. In addition, the government implemented a policy of land confiscation as early as 1948, taking approximately 60% of the land owned or used by the Arab citizens and moving it to the Jewish sector (Bäumel 2009). At the same time, the *second action* was the confiscation of the second means of agricultural production – water – and channeling most of it into Jewish intensive agriculture (ibid.). Land and water are the two main means of production of any agrarian society, including the Palestinian society in Israel which was missing, post-1948, city centers to complement its agricultural economy. The *third action* was the Arab Agriculture Development Plan, which was actually designed to do away with 72% of Arab agriculture and move the remaining 28% under the wings of the Zionist agricultural establishment (ibid.). These three actions caused extensive unemployment in the Arab sector and, in fact, growing poverty in the Arab villages (ibid.). By contrast, at the same time, the Jewish sector was enjoying an enormous economic boom, unparalleled around the world at the time. This prosperity caused great need for a source of labor for the Jewish economy, something that was now abundantly available in the Arab community. Thus, the *fourth action* initiated by the Jewish establishment in the Arab sector was regulating the movement of Arab unemployment toward the lowest levels of the Israeli labor market. The process of moving labor to the Jewish economy was in fact the moving of the third means of

production left to the Arabs – manpower – out of the Arab economy and into the Jewish economy. The *fifth action* was a very small development program for infrastructure in the Arab sector (electricity, roads, water), aimed at allowing a partial material modernization in some of the Arab villages (ibid.). The aim of this plan was to increase consumption of goods purchased by Arab laborers in the modern Jewish shopping centers, thus encouraging a return of the capital moved as wages from the Jewish economy to the Arab economy, back to the Jewish economy (ibid.). The *sixth action* was preventing industrialization of the Arab sector, including investment in modern production, transfer of capital from investment in production to investment in consumption, hindering the employment of Arabs in the Arab market itself – which had almost ceased to exist – and a resulting complete economic dependence of the Arabs on the Jewish economy and the prevention of Arab economic competition with it (ibid.). The fifth and sixth actions complemented the process and the transfer of the last means of production – capital – from the Arab sector to the Jewish sector.

*Geographic Segregation and Segmentation, and Stifling
the Development of Arab Towns*

The Arabs in the Galilee and the Triangle lived in approximately 100 villages, which became more and more crowded. The Israeli policy not to set up modern local councils in most of them (until the end of the 1960s) meant these villages did not have construction master plans and so could not grant construction permits. All this led, according to the prime minister's advisor for Arab affairs,³² to illegal construction, with no planning or infrastructure, which only worsened the poverty, distress, and difficult sanitation conditions (Abu Kishk 1981).

In addition to confiscation of Arab land and its transfer to Jewish settlements, the IDF, and reforestation, and in addition to the planning chaos, the rapidly expanding population density, poverty, distress, and the lack of basic infrastructure in Arab areas, Israel implemented a policy of constructing modern Jewish settlements, including industrial and commercial areas, as wedges at the heart of the undeveloped Arab

³² The Toledano Document, private communication. The document mentioned here is a personal document written by Mr. Toledano (see footnote 22) and given to the author, analyzing the policy in place until 1977.

territorial concentrations (Smootha 1982),³³ because it was concerned about an Arab territorial continuity, mostly in the Galilee and the Triangle. Even 15 years after the establishment of the state of Israel, in a discussion at the Ministers' Committee for Population Dispersion, Ben-Gurion once again clarified the central principle of Jewish settlement movement over the years, which had gained renewed momentum within Israel from the 1970s: establishing Jewish settlements in the heart of Arab areas in order to cause a thinning out of the Arab village population, a cancellation of the "Arab character" of the Galilee and the Triangle, and transfer of capital amassed in the Arab villages back to the commercial areas set up in the Jewish settlements (ISA, 6397/3944/1 g, February 18, 1963:2-4).

The military government's central role in implementing Jewish settlement projects was clearly stated within the Mapai Committee for Arab Affairs:

The military government also has a Zionist purpose. The Galilee is entirely Arab, and there is a Zionist purpose in dividing it up and settling Jews there. This is the military government's Zionist purpose.

(LA, 2 926 1957 148, January 30, 1958:16)

Political Segregation: Separating the Arabs and Preventing the Creation of Arab Leadership

Due to British policy and internal Palestinian reasons, the Palestinian population did not create an authoritative leadership able to organize and mobilize at a national level during the British Mandate (see Kimmerling and Migdal 1999; Khalidi 1997). In addition, the remains of this leadership left, escaped, or was chased away, mostly in 1948, due to the war, and in effect ceased to exist. At the end of the war, much of the modern, urban, wealthy Arab population, which could potentially have given rise to a new leadership, was no longer in the country.³⁴

³³ The establishment of Nazareth Illit, Carmiel and Ma'alot were, in fact, huge operations aimed at filling the Galilee with Jews, made possible only after massive land confiscations (LA, 2 926 1957 148, January 20, 1958:4).

³⁴ Regarding the escape of the leadership, see Morris (1991); Peretz (1968); Stendel (1992); Zureik (1979). Regarding what was left in Israel, see Ashkenasi (1992). It's important to emphasize that Arab leadership in the Israeli Communist Party (*Maki*) and in the New Communist Party (*Hadash*) was not the official or the unofficial leadership of all Arabs in Israel, but only of the people who voted for the binational communist party, who numbered in the period under question between 11% and 30% at most.

Moreover, Israel aimed in every way possible to prevent any attempt to establish a leadership of the Arab minority in Israel (Cohen 1989; Laish 2001). Issar Har'el, who was Head of the General Security Service (*Shabak*) and fulfilled all the most senior roles in Israel's civil security system until the 1980s, even suggested at the end of the 1950s to threaten, mostly the Arab leadership, with actual destruction if it started a revolt (LA, 2-926-1957-148, January 30, 1958:26).

In 1959, the prime minister's advisor for Arab affairs reiterated his recommendation to forbid the establishment of Arab political parties (LA, 2-926-1959-18, September 1959), and in 1968, the Mapai Committee for Arab Affairs still urged that every effort be made to prevent the establishment of an independent Arab organization, "which would be similar to the High Arab Council from the time of the British Mandate," and to cut off the Arab intelligentsia from the "flock of sheep," i.e., the Arab masses (LA, 2-926-1957-148, June 6, 1968:6).

In the years between 1958 and 1968, six attempts at Arab political organization took place.³⁵ All six were thwarted by the government. The most important attempt was the establishment of the al-Ard organization, which called for the state of Israel to cease to exist within its borders in the form of a Jewish state.³⁶ The effort to thwart this attempt united all government authorities, including the Supreme Court (ISA, 6397/3944/2/g, July 26, 1964; ISA, 7230/51/a, November 11, 1964; see also Harris 2001).

In addition, we also need to consider the policy of encouraging and deepening internal Arab rifts. The clearest revelation regarding government policy in this area appears in a document written in the Advisor's Office, titled *Recommendations for Dealing with the Arab Minority in Israel*. The document was written in 1959, summing up the government's policy during the first decade. In the section dealing with political and social development, the document says:

Government policy over the past 10 years aimed at dividing the Arab population into separate factions and areas ... The faction based policy and family based division in the villages prevented the formation of one Arab group ... There is a possibility of slowing the pace [of advancing

³⁵ These six attempts were as follows: Elias Kusa's attempt to establish a party in 1957; The People's Front in 1958; al Ard 1959 1964; Saleh Baransi's attempt to establish a socialist party in 1965; the Sports Societies in the Triangle in the early 1960s; and the Arab Local Councils' Society in 1961.

³⁶ Much has been written regarding the al Ard affair and the legal battle against the organization (see, for example, Stendel 1992:Chapter 5).

towards forming one group] through the policy of faction based and family based division as well as other artificial means . . . We must continue to use all possibilities of this faction based division policy which has worked in the past and has so far been able to create a division – albeit a sometimes artificial one – among certain sections of the Arab population, such as the crisis of trust between the Druze and the other Arab factions. This policy allowed the leaders of each faction to deal with their own affairs instead of general Arab issues.

(LA, 2 926 1959 18, September 1959:4 5, 15)

The political policy of preventing the establishment of a political-social leadership and the economic policy halting the creation of a capitalist, city-based elite, joined with the military government policy of appointing old, illiterate men as *mukhtars* (Landau 1971; Rosenfeld 2001), ignoring the protest voiced by the young, educated generation (Rechess 2001). All these, together with the subjugation of national Arab education (see, for example, al-Haj 1996), resulted in confusion among the Arabs in general and the young generation specifically regarding their identity, hindering the possibility of a unified social and ideological basis, and as a result the prevention of the establishment of any type of leadership (Amitai 1963a).

To sum up, it is important to emphasize that as far as archival materials demonstrate, despite the unity of the different levels of this policy, this was not a master plan thought up in secret, preplanning all these actions, bringing them together to finally form the entire picture made up of all the separate parts. These were, in fact, separate plans executed by the different government bodies dealing with policy regarding the Arabs; these policies and their implementation reflected the consensus – the “Zeitgeist” – among Zionist policy makers. The essence of this “Zeitgeist” was that even if there were Arabs left in Israel, the country’s policy toward them should leave them lacking in collective organization, at the edges of society, in fact excluded from it, lacking in means of production, with no ability to compete economically, and entirely dependent on the goodwill of the Jewish government of the state of Israel.

*Segregation and Exclusion from the Public Sphere
(Culture, Education, Law, Communication, National Symbols)*

While Hebrew culture (the development of Hebrew culture and language, educational systems, film, theater, literature, journalism, etc.) was encouraged and financed by national Jewish sources during the British Mandate period and by national Israeli sources after 1948, their

Arab counterparts, if in existence, were mostly destroyed in 1948, and did not receive any national recognition or encouragement during this period.

However, as the state defined itself as democratic, and as the right to education is one of the basic rights in such a state, it had to deal with the issue of education for Arabs as well. But while the national-religious, the ultra-orthodox, and even the kibbutz movement managed to get their distinct, independent educational systems recognized, the Arabs did not receive such recognition. They became part of the national Jewish educational system, which included a Department of Arab Education always headed by a Jew (al-Haj 1996; Knesset Minutes, December 3, 1963). This department was the poorest of all Ministry of Education departments (LA, 2-929-1957-148, March 17, 1960) and was ruled, mostly regarding issues of manpower (teachers and principals), by the military government (ISA, 173/51, June 29, 1962; ISA, 233/71, July 4, 1965; ISA, 233/71, July 19, 1965). Thus, the general policy toward the Arabs described here also dictated the state's attitude toward Arab education (Knesset Minutes, October 18, 1961).

In the legal arena as well, Israel implemented a partial segregation of the Arabs from the national system. This segregation was implemented through the Qadi Law of 1960–1961. This law gave the *Shari'a* courts, appointed by the Jewish establishment (Knesset Minutes, May 16, 1961), wide autonomous jurisdiction (Central Bureau of Statistics 1969),³⁷ much more than those given to the Jewish Rabbinical courts (Ministry of Foreign Affairs 1961)³⁸ and much more than those given to *Shari'a* courts in some of the Arab countries.

Not only did this situation not improve the Muslim population's situation, it actually excluded it more from Israeli society, for two reasons. The first is that it allowed Israeli lawmakers to ignore the Muslim citizens and form the country's laws according to Jewish tradition, secular Hebrew culture, and other Western cultures, while strengthening the country's Jewish character. This decreased the Arab citizens' need to use the national Israeli jurisdiction system, which serves as an important acculturation lever. The second disadvantage was hindering modernization, since while civilian law is adaptive and

³⁷ This yearbook emphasized, "The Muslim community enjoys an extremely wide judicial autonomy" (Central Bureau of Statistics 1969:59)

³⁸ In light of this jurisdiction, the religious MKs complained during a discussion of the Qadi Law that the rabbinical judicial system is treated badly as opposed to the Muslim system (Knesset Minutes, May 25, 1960:1350).

continually renewed, religious law (any religious law) is static by nature, does not deal with changing needs and conditions, and tends to see anything new as sin. The Arab MKs Tubi and Khamis also said that it would have been better had all citizens been judged by one civilian law rather than four different judicial systems (Knesset Minutes, May 16, 1961; Harris 2001).

In addition to a partial or complete public-cultural, educational, and jurisdictional exclusion, the Arab public generally remained also excluded from the Israeli Jewish public agenda and media system for Israeli Jews. This agenda focused, much as during the British Mandate, on growing larger and securing the safety and power of the “national home” that had become a state in 1948. Within the framework of such a mono-national-civilian point of view, which continuously worried about a possible additional war with the Arab countries, the Arabs were usually mentioned only when the media would from time to time highlight their connections to the state’s external enemies. Israel’s official policy regarding the Arab sector took place away from the public eye; it had a security-related and therefore a clearly secret aspect, implemented by “Arab experts” and personnel from the military government and other security bodies, and existed side by side with a conscious and subconscious policy of ignoring the Arabs that was adhered to by the state leaders and government officials at all levels.³⁹

In addition, the state emblem, flag, national anthem, official and religious holidays, and national ceremonies are all Jewish – Zionist – Hebrew, emphasizing the state’s Jewishness, the aims of its establishment, and its ethno-national goals. All these do not allow the Jewish citizen to embrace, within the framework of these symbols, the Arab citizen who has been left excluded, foreign, and unwanted. The Arab citizen, on the other hand, even if he wished to demonstrate loyalty and civil solidarity, is unable to use these national symbols to do so.

The Process of Cancelling the Military Mechanism of Military Government and Transferring Its Authority to Civilian Bodies

Internal Jewish public and political criticism of the military government and the demand to cancel it or minimize its authority began with its very

³⁹ Amnon Lyn on Labor Party activity among Arabs and Druze in Israel in a document presented to the party’s Committee for Arab Affairs in May 1968 (Lyn 1968 cited in Landau 1971:307)

establishment in 1948.⁴⁰ The main changes made during the military government's first years (Israel's first decade) involved limiting the areas in which it was implemented in the mixed-population cities (Haifa, Jaffa, Akka, Ramleh, Lydda) in order to prevent harm to the Jewish citizens (Ozacky-Lazar 2002).

After the 1956 war, even Ben-Gurion changed his mind. As mentioned before, this war caused some Israeli decision-makers to accept the existence of an Arab minority in the country as a permanent phenomenon, meaning they also realized that it was futile to wait for their departure from the country.

In March 1958, the government appointed a five-member Ministers' Committee headed by Justice Minister Pinhas Rosen from the Progressive Party, to "examine the problems of the military government and its actions and bring their conclusions to the cabinet" (Government Decision No. 306 from March 16, 1958, see Ozacky-Lazar 2002). The committee recommended abolishing the military government, but Ben-Gurion refused to accept this recommendation. In his speeches against the committee's recommendations, he announced three basic points that he would later reiterate every time he defended the existence of the military government. The first point was the connection between the military government and the conflict between Israel and the Arab countries. The second point was that the Arabs in Israel naturally identify with the enemy Arab countries, with the insinuation that they might serve as a "fifth column" and cooperate with the Arab countries' armies. The third point was that the military government is part of the IDF, and its cancellation may cut into Israel's main deterrent military force. In addition, Ben-Gurion emphasized that the military rule assists the government in seizing public lands and absentee lands, as well as encouraging Jewish settlement in the Galilee and preventing "unplanned construction," that is, construction in Arab villages (Knesset Minutes, July 29, 1959; Knesset Minutes, August 5, 1959).

At the same time that Ben-Gurion opposed the cancellation of the military government, and in order to convince the Knesset that the government was attentive to Arab needs, he announced, "a series of constructive resolutions [and] resolutions . . . making free movement possible from [within] military government areas [to other areas]" (Knesset Minutes, August 5, 1959:2922–2926).⁴¹

⁴⁰ The two most detailed articles regarding the military government and its cancellation process were published by Bäuml (2002) and Ozacky Lazar (2002).

⁴¹ Note the wording "from military government areas" rather than "to military government areas" (Knesset Minutes, August 5, 1959: 2922–2926; emphasis added). That is, the

The issue of the military government was not taken off the parliamentary table, and on February 22, 1960, an additional debate was held in the Knesset regarding several bills put forth by various political parties to cancel the military government.

One hundred and fourteen MKs participated in this vote. All votes ended with the bills voted out and the cabinet winning by a small majority (Knesset Minutes, February 22, 1960). Two of Mapai's Arab MKs, Ahmed Kamel Tahar and Elias Nahla, voted against the cabinet, which shocked Mapai leaders; even more so as Ben-Gurion had uncharacteristically met with his party's four Arab MKs prior to the debate. Mapai's Arab division's Arab members were extremely angry with MKs Jaber Mu'adi and Diab Obeid, who had voted against the bills and with the cabinet. To calm tensions, the division's heads were forced to summon all the Arab employees and order them not to take a hostile stand (LA, 2-926-1959, March 2, 1962).

On June 16, 1963, David Ben-Gurion resigned the prime ministership "for personal reasons." Finance Minister Levi Eshkol was appointed prime minister, and tried in vain to enlarge the coalition he had inherited from Ben-Gurion by adding the Mapam party, whose members demanded that he declare that the new cabinet intended to cancel the military government (ISA, 1085/6304/g, February 25, 1964). Four months after his appointment, Eshkol announced that his wish was to cause the military government to become "invisible," that is, a situation where it exists and fulfills its role, but minimizes direct contact between its officers and soldiers and the population (Knesset Minutes, October 23, 1963:50).

Indeed, on October 21, 1963, Eshkol announced in the Knesset an additional relief in military government regulations, which, despite being a single decision, was extremely significant for people's daily lives and clearly heralded the beginning of the final phase of the cancellation process of the entire mechanism of military government. Eshkol announced that, with the exception of citizens who posed "a security risk," the entire Arab population in the Galilee and the Triangle area (with the exception of residents of Barta'a, 'Arab el-'Aramsha, Tzandala, Mukibila, Tuba, and Zangaria, which are very close to the border) would henceforth be exempt from carrying a personal movement permit. In this

Arabs will be able to move from areas where they live under the military government (the Galilee, the Triangle, and the Naqab) to Jewish cities, but not to other military rule areas. In fact, this relief was meant to meet the Jewish economy's needs at that time for labor by allowing the Arabs to move to places of work in the Jewish sector.

way, the Arab population became free of one of the heaviest restrictions that had been imposed upon it since the establishment of the state. Importantly, however, the areas in the Galilee and central Israel intended for Jewish settlement continued to be called “security areas” and Arabs were forbidden from entering them (ISA, 11/313l, November 1963).

Until autumn 1965, Eshkol continued his predecessor’s policy on three levels: the military government was not canceled; the British Mandate Emergency Regulations were not abolished; and the presence of military government personnel was minimized as part of the effort to make the military government “invisible.” On November 6, 1965, after the elections for the sixth Knesset, Levi Eshkol announced in the clearest way possible his intention “to seek ways in which the military government can be canceled” (ISA, 2/4219/6405 g, 1965; also see Jiryis 1976:56).

Following the Central Security Committee’s decision to cancel the military government, the prime minister announced in the Knesset on January 12, 1966, while presenting the new cabinet, that it was their aim to cancel the military government within a year (ISA, 1086/6304 g, July 20, 1966; see also Knesset Minutes, November 8, 1966). On November 8, 1966, Eshkol announced to the Knesset, “Beginning December 1, 1966 the military government mechanism will be cancelled. The military government’s roles will be given to the relevant civilian authorities” (see the prime minister’s announcement and following debate in, Knesset Minutes, November 8, 1966:228–242). As the legal infrastructure – established by the Emergency Defense Laws from 1945 – had not changed, there was no need to change anything in the military government’s laws and regulations. In the appointment document sent by Chief of Staff Yitzhak Rabin to different functionaries in the police department regarding implementation of the Emergency Defense Regulations, he emphasized the government’s continued responsibility: “Dealing with requests for permits will take place according to the conditions and instructions determined by me . . . and determined by me from time to time” (ISA, 7/398l, December 16, 1966; similar documents were also sent by the General Officer Commanding North, Center, and South).

Clearly, the “cancellation of the military government mechanism” and the transfer of the authority for enforcing the British Mandate Defense Regulations to a civilian mechanism were, in fact, the last phases for making the military government “invisible.” The civilian mechanism, comprising of police and General Security Service (GSS) personnel, became the only “visible” body enforcing, in practice, the supervision

and control policy pertaining to the Arab minority in Israel, a policy still regulated by the upper echelons of the military.

At a national conference of Special Tasks Department commanders, police officers reported enforcement of the Emergency Defense Regulations was stronger than ever, there were more patrols and permit checking, and they needed to overcome the military government's slack performance, as it had not enforced the regulations or closed the security zones (ISA, 3/3931, January 19, 1967).

The *Israel Statistical Yearbook* also does not confirm December 1, 1966, as the date the military government was canceled, but rather marks it as an additional signpost among the list of dates when military government regulations were loosened (Central Bureau of Statistics 1969). The *Yearbook* says, "The liberalization and relief process reached its peak after the Six Day War" (ibid.:60).

While the enforcement of Emergency Defense Regulations in the state of Israel ceased in 1968, what has not ceased and has even strengthened is the civil authorities' capacity of control (ISA, 22/4171, 1968).⁴² Among other things, this capacity consisted of a network of many hundreds of collaborators and informers, mostly made up of family leaders and teachers, who were spread in Arab villages throughout Israel, and who passed on to the GSS detailed reports regarding all aspects of the daily lives of every Arab family in Israel and every Arab village from the early 1950s (ISA, 3/3931, 1969). Following these reports, which were collected at the police stations and the GSS offices, thousands of investigations took place and thousands of personal files were opened, which largely enabled the police department and other Israeli government bodies to watch and control the Arab population and its individual members, many years after the cancellation of the military government (Cohen 2006a).

The Supervised Abandonment Policy: The Legacy of the Military Government in Israeli Policies toward the Arabs Today

As early as 1964, Simha Flapan, one of Mapam's "Arab experts," said: "It will be easier to cancel the military government than its legacy" (Hashomer Hatza'ir Archives, 3.35.90, December 21, 1964).

⁴² This file contains a new four page report form, designed in 1968 to include more details to be reported than the old military government forms. On January 19, 1967, at the Latam's Commanders' Conference, a new Intelligence Course was announced, as well as the need to reinforce the collaborators' ranks.

The essence of the military government legacy is in viewing the Arabs as a security risk and a fifth column, thus creating a demand for a government policy that minimizes their individual and collective independence, depressing any type of modernization processes and preventing their integration as equal citizens. This legacy, which remained strong for many years after the “cancellation” of the military government, also included instilling mutual fear in both Jews and Arabs. This fear was a means of keeping the Jews away from the Arabs and of convincing them to prevent Arab integration in Israeli society, thus perpetuating the inequality between the Jewish majority – represented within the Israeli government – and the Arab minority – which is not – in order to prevent the Arabs from receiving their portion in state resources, which are mostly used to serve the ultimate Zionist goal, the strengthening of the Jewish state.

The legacy of the military government remains the main basis for the Israeli government policy that extends from the establishment of the state to this day. Over time, this legacy has developed into a conscious, intentional policy with three main elements, whose shared characteristic is “supervised abandonment” (Bäuml 2011b).

The first is the abandonment element, expressed through a maximum limitation of Israeli involvement in the development of the Arab sector, including lack of enforcement of some state laws in the Arab sector and villages – such as crime investigations in the cases of the murders of women, clan disputes, ethnic rivalries, traffic laws, and discrimination against the Arab citizens. This led to *de facto* exclusion of Arabs from all circles and levels of Israeli society, despite their being included *de jure* within formal Israeli citizenship. The second element is a policy of supervision whose aim is to prevent deterioration of the abandonment policy into civil anarchy (e.g., organized civil rebellion or sporadic civil acts of violence). The third element is the violent government response, going so far, sometimes, as to kill civilians, whenever the state-wielded control fails or when the exclusion and segregation need strengthening.

This legacy gave rise to the policy’s practical principles, some of which have been described in detail in this chapter (Bäuml 2002, 2007, 2009, 2011a, 2011b). The policy principles are implemented by different government bodies. Of these, the most significant are the security bodies, headed by the GSS. An additional security body supervising the Arabs is a special division within the police department. Every so often – for example in April 2009 – a special “Minister for Minority Affairs” is

appointed and several government offices include special advisors for Arab affairs. There are also special units supervising the Bedouin in the Naqab.

This policy has resulted in the demonization of Arab citizens and has contributed over the past 66 years to the crystallization of the image of the Arab citizen in the collective Jewish awareness as belonging to an uneducated, backward, divided, and threatening group and *not* belonging to Israeli society. Indeed, it is possible to say that for an average Israeli Jew, the term "Israelis" does not include the Arab citizens.

The best proof of the eternal nature of the military government's legacy and the supervised abandonment policy decades after its official cancellation can be found in several places in the Or Committee Report, which examined, among other things, the reasons for the October 2000 events when the Israeli security forces killed 12 Israeli Arab citizens and an additional resident from the Gaza Strip who was living in Israel (Ministry of Justice 2003).

The following are quotes from the first section of the report (which includes six sections altogether), called "Before the October Events: Background, Causes, Foreseeing the Events, and Police Readiness." These quotations demonstrate that the Israeli government was aware not only of the character of its abandonment policy toward the Arab citizens, expressed in their consistent exclusion and discrimination from the state's public life, but also of the need to supervise these citizens, using security measures, so that the official abandonment will not foment civil anarchy. The report determines that the danger of this supervision policy failing ("the writing was on the wall") was well known to decision-makers before the events under discussion, when it did, indeed, fail.

Right at the beginning, the report states: "The committee feels that this connection [between discrimination and violence] did exist; and that feelings of discrimination in the Arab sector played a crucial role in the reasons for the October events" (ibid.:para. 32). The crowning glory of the report's first section is paragraph 21, which determines that:

The feeling of inequality is one of the worst feelings possible . . . It harms the person's self identity . . . we are ready to bear a burden, suffering and distress, if we know that the other equal to us is like us and with us; but we rebel and do not accept a situation where the other equal to us receives something we do not.

The report determined that the hegemony of the Jewish majority in Israel “creates among the minority feelings of discrimination and a reality of discrimination, which may become worse over time. These characteristics are also true regarding the situation of the Arab minority in Israel, who is discriminated against in many respects” (ibid.:section 1, para. 4).

The report determines that among Jews and Arabs in Israel, there is “a feeling of potential threat. This feeling of threat caused the implementation of a system of supervision of the Arab sector. In the country’s first years this system was mostly implemented through the military government, but even following its cancellation in 1966 the supervision continued, overtly or covertly, through the security bodies” (ibid.:section 1, para. 9).

The report creates a cause-and-effect relationship between the establishment’s discrimination and abandonment policy and the multiple violent altercations between the police and Arab citizens, mostly in the 1990s. The report determines that the central (but not exclusive) cause for the clashes was “land confiscation and destruction of illegal construction” (ibid.:section 1, para. 135). Indeed, illegal construction, environmental neglect, and lack of infrastructure are nothing but the main result of the abandonment policy expressed in land confiscations, not granting building permits, and not approving master plans for the construction of Arab settlements.

In order to summarize the issue of the development of government discrimination against the Arabs and use of violence against them when they oppose this policy, which is the essence of the military government’s legacy, see paragraph 40 from the Or Report in full:

It was difficult not to notice that the multiplicity of altercations had a cumulative effect. From event to event inhibitions against the rampages became eroded, the resistance threshold for breaking the law became lower, and use of violence became almost the norm. *These dynamics, which fed on feelings of frustration and anger due to the continued discrimination, were not invisible.* Scenarios of the events, which happened again and again in an almost routine manner, were familiar and their results anticipated in advance. It was possible to see that if nothing is done to halt this deterioration, the acceleration and escalation processes will sooner or later lead to disaster. The writing was on the wall.

(ibid.:para 40; emphasis added)

The Or Report was presented to the Israeli public in 2003. Most government policy principles have not changed since. Moreover, over

the past few years, since the present government has been elected (2009–2015) with the Israel Beiteinu party as one of the most important coalition partners, the anti-Arab, public, and parliamentary Israeli discourse is becoming more and more extreme. Thus, not only is there no moderation or rejection of the military government legacy, there is actually, alongside the almost completely failed attempts to include Arabs in the Israeli labor network (Steiner 2013), a significant deterioration and minimization of the civil freedom of the Arab–Israeli citizens (ACRI and Adalah 2013). The government's attitude and active policy toward the Arab citizens has direct influence on the escalating, worsening conditions characterizing the Jewish majority's relations with the Arabs.⁴³

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⁴³ For more on this, see Division of External Relations (2013).

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Zionism and Equal Citizenship

Essential and Incidental Citizenship in the Jewish State

AZMI BISHARA

Editor's note: This chapter is based on a lecture given by Azmi Bishara at the University of Oxford on February 6, 2004. The chapter maintains the lecture's structure and main arguments, but includes updated figures and relevant references.

In this chapter, I examine the question of citizenship in Israel and address the deep problem with the concept and its practice in the context of a Jewish state. I trace the emergence of two fundamentally different types of citizenship that Zionism produced – the “essential” and the “incidental.” The chapter also addresses how equal citizenship, the cornerstone of liberal democracies, is fundamentally incompatible with Zionism and with the idea of a Jewish state, and why Israel demands recognition as a Jewish state from its Palestinian citizens, its Palestinian interlocutor in negotiations, and the international community. I also discuss the concept of “a state for all its citizens,” which I advanced in the 1990s, and examine the Israeli political system's response to it.

Supposedly, citizenship is the cornerstone of modern liberal democracies. It was not always like this and its definition has varied historically, but we have to engage with the latest version of modern liberal democracies, wherein citizenship, and the rights associated with and derived from it, form the cornerstone. We use the term “universal citizenship,” meaning that citizenship no longer depends on ethnic, religious, or cultural affiliations. The mere fact of democratic citizenship presupposes a rule that regulates the relationship between individual and state – not tribe, not family, not sect, but *citizenship*. Affiliation is direct; it is granted through a system of rights, commitments, and anticipations that come as a package with the individual's affiliation to the state, unmediated through any other identity or affiliation. Without this system of rights, direct and absolute control

of the state over its citizens void of any social mediation means despotism.

In Israel, there is a deep problem with the concept and practice of citizenship. Israel was established in 1948 by virtue of a colonial project that expelled close to 750,000 indigenous Arabs who lived within the state's present borders while about 150,000 remained within the borders of the state. This was actually the first "demographic separation" between two populations – the Jews and the Arabs – which was necessary for the creation of a Jewish state. Zionist historians who overlook this history seem to believe that from that very moment, Israel started a new history as a democratic state. Nevertheless, any structural analysis of the Israeli system of citizenship suggests that this history is neither dead nor vanished; rather, it is embedded within the very structure of Israeli citizenship itself and is alive in its current dynamics. Thus, in addition to the "demographic separation" mentioned earlier, Israel as a Jewish state continues to need to produce complex systems of separation and exclusion through citizenship types (as well as through other means).

One problematic dimension of Israeli democracy can be detected in its exclusive self-definition: It is constructed not to be a state of many of its own citizens (currently close to 25% non-Jewish citizens; see Chapter 1 of this volume), while at the same time aspiring to be a state of many non-citizens. It is in this self-definition that the system of separation and exclusion is embedded and the two types of citizenship are rooted.

Two Types of Citizenship

The official legal differentiation between two types of citizenship started with the earliest legislation on citizenship and with the heavy involvement of the founding Zionist fathers. In an important speech in 1950, David Ben-Gurion, the man who played a major role in establishing the state of Israel and who is arguably one of the most important leaders of the twentieth century, presented the Law of Return in the Israeli Knesset. In his presentation, Ben-Gurion spoke of the right of return for Jews as the basis for the law, arguing, "This is not a law of the state, this is a law that constitutes the state," thus asserting that the state cannot change it, because it is not created by the state (*Knesset Proceedings* 1950).¹ This law

¹ This speech has been quoted several times by the Supreme Court on discussions on the Law of Return (1950). See, for example, H.C. 2579/99 *Toshbeim v. Minister of Interior*, Tak Al 2004(2) 1662 (2004).

creates the state. According to this constitutive (not only constitutional) law, Jews have an automatic, unconditional, inalienable right to become Israeli citizens. From this Zionist perspective, Israel is not an expression of the right of the Jewish majority in Israel to self-determination, as any two-state solution to the conflict between Zionism and the Palestinians proposed since the partition plan of 1947 would have presumed. Ben-Gurion actually refutes this principle as the basis for the state. Israel does not express the self-determination of the Jewish majority in Israel, but rather the existence of a transhistorical, transgeographical Jewish people around the world. This notion has nothing to do with modern citizenship. It is a mediaeval idea of Holy Roman Empire or, Islamic *Ummah* – without imperial universality. The form of government articulated in Ben-Gurion's seminal speech is nationalism based on sectarian religious affiliation. It has nothing to do with the fact that the majority of citizens are Jews. According to this view, this concrete reality is totally unimportant, actually accidental – or, if you prefer, man-made; a majority has been produced to meet the needs of the principle that this country is the country of the Jewish people, including those who do not live there. Thus, Israel is not the expression of the Jewish majority in the country, but rather, it is the expression of the Jewish people, in general; and the Jewish people are not all in Israel. According to Ben-Gurion, nobody can take this right from them, because this right is essential to the definition of being Jewish. You cannot separate a Jew from his right to become an Israeli citizen; his right to citizenship is derived from his Jewishness, whether he acknowledges it or not. But according to this reasoning, what is a right for Jews who don't live in Israel is not a right for non-Jewish citizens who do live there. For the non-Jewish citizens – whose “being there” has survived the expulsion of their people by “incident” – citizenship is not derived from their identity as affiliated with ethnicity, nationality, or religion: and so they came to be called “Arab Israelis,” the “Israeli Arabs,” or the “minorities” – an imposed artificial, manufactured, and neutered identity.

Even Israeli officials were not persuaded by the value of Arab citizens' citizenship or the validity of their manufactured identity. For example, many Israeli leaders, including Defense Minister Ariel Sharon in 2004, proposed that in the framework of the Israeli–Palestinian negotiations some densely populated Arab villages along the “green line” should be swapped (i.e., given to the future Palestinian state, if it were to be established) in exchange for lands from the Palestinian side in the framework of a final status solution. Thus, Sharon actually proposed to re-draw the borders in order to get rid of what he and most Zionist

leaders perceived as Israel's real problem – the so-called demographic problem. The same argument was put forth by the right wing in Israel to advocate giving up densely populated Palestinian areas like Gaza and the so-called Area A in the Israeli-occupied West Bank (“The Disengagement Plan” 2004). More recently, Prime Minister Netanyahu stretched the argument of demographic threat to include the Arab citizens of Israel. Thus, high ranking Israeli officials have frequently and consistently, openly expressed readiness to negotiate away the citizenship of some of the country's citizens and to draw a question mark concerning their citizenship: meaning that the government views this minority as a problem.² So the citizenship for part of the citizens of the country is a predicament.

While Sharon could imagine that 20% of the population of Israel can be stripped of its citizenship within the framework of a “peace” negotiation process, he cannot imagine stripping Jews from their civil status. Therefore, we can conclude that there are two kinds of citizenship in Israel: One is *incidental* citizenship, given to Arabs who happened to remain in Israel after the Nakba. The other is *essential* citizenship, given to Jews as Jews.

The essential citizenship for Jews is well demonstrated in the legitimation for their citizenship. When the Law of Return was passed in the Knesset, it was meant not only to apply to Jews who immigrated to Israel, but also to those Jews who were born in Israel.³ The ideological message was that being a *native* Jew was not a source of legitimacy; rather, what is important is being a *Jew*. In order to canonize these nationalist mystics, they had to be legalized. So the law says that from 1950 onward, every Jew, even those born in Palestine (i.e., the whole area of Mandatory Palestine), is considered to have entered Israel by the Law of Return.

² Similar proposals were raised later by senior Israeli figures such as Tzipi Livni and Avigdor Lieberman, both former ministers of foreign affairs (Ravid 2010).

³ Section 4 of the Law of Return provides that: “Every Jew who has immigrated into this country before the coming into force of this Law, and every Jew who was born in this country, whether before or after the coming into force of this Law, shall be deemed to be a person who has come to this country as an *oleh* under this Law.” Until 1980, all Jewish citizens were deemed to have “returned” even if they were born in Israel, and they acquired citizenship by way of “return,” and were registered in the Population Registry as “citizens by return.” After the Citizenship Law was amended in 1980, descendants of Israeli Jewish citizens acquire citizenship by birth. Section 4 of the Law of Return, however, is still formally valid, and Chief Justice Barak referred to it in a 2004 Supreme Court decision to show that “*aliya*” is not a technical term. See H.C. 2597/99 *Toshbeim v. Minister of Interior* (2004): para. 23.

Thus, the law applies to them retroactively. Every Jew, even if he or she was born in Israel, is considered to have come to Israel through practicing the right granted him or her by the Law of Return. Ideology produced a law, and the law determines what is real.

A set of important questions emerge when the state links citizenship to ethnic affiliation. In the case of Judaism, ethnicity overlaps with religious affiliation, and, therefore, the question, "Who is a Jew?" becomes central. A theological question first has to be posed and answered for purposes of defining civil status. Think of other countries' immigration laws: In some cases, people who are born in that country get citizenship, even if the parents are not citizens; in many other cases, citizenship is acquired through a clearly defined and documented naturalization process. In the case of Israel, by contrast, the most important question for acquiring citizenship is first to decide who is a Jew, and to decide if that person fits the definition or not. So, who is a Jew? Contrary to what some people think, the law defines it. The law defines a Jew based on the Jewish *halakhah*,⁴ (or the Jewish *sharia*) as someone who is born to a Jewish mother, but in addition as someone who is related, in ways defined in law, to somebody who was born to a Jewish mother, on condition that he or she were not Jews who changed their religion freely or willingly.⁵ If a Jew happens to have changed his or her religion freely and voluntarily, he or she stops being a Jew and loses the right to citizenship granted by the Law of Return.

This too is very interesting, since while conversion to Judaism entitles a person to Israeli citizenship,⁶ the converse is also true: Persons who were born Jewish who decide to abandon their religion lose their right to become citizens of Israel. She or he could claim, as much as they like, that they feel as a Jew and wish to remain a Jew, but to no avail. Various Supreme Court cases have established this. Perhaps the most famous case is the one known as "the Raufeizen Case," where the plaintiff went to the

⁴ *Halakhah* is Jewish religious law, as derived from the Jewish Torah, or bible. It governs far more than just aspects of religious doctrine. In fact, it is a comprehensive code of law that governs every aspect of daily life, such as what to do when you wake up in the morning, what to eat and not to eat, whom to marry, how to conduct business, how to groom oneself, how to behave towards God, other people and animals, etc.

⁵ Definition, as set in section 4B of the Law of Return, provides that the definition of a Jew is "anyone who was born to a Jewish mother, or has converted to Judaism, and is not a member of any other religion."

⁶ Thus, if an American who was born and baptized as a Christian converts to Judaism, s/he suddenly acquires the right to become an Israeli citizen. This is a fundamental component of the political theology of citizenship in Israel.

Supreme Court in 1962 saying that nationally he was a Jew, that he loved the state of Israel, and that he wanted to immigrate to Israel. He said that he changed his religion as he was influenced by Christian people who saved his life in the Holocaust when he was hidden in a monastery, and was convinced to become a Christian. The Israeli Supreme Court decision found that the plaintiff could not remain a Jew after changing his religious faith from Judaism to something else.⁷ This decision demonstrated that the conflation between national and religious affiliation in Israel is total. In the eyes of the law, one can be a Jew only if one is religiously defined as Jew. One becomes a Jew if one converts, and one stops being a Jew if one leaves the faith. This problem is not a scholastic theological issue, but rather one that has a real and direct impact on the production of types of citizenship and the character of the state.

Liberal Zionists typically respond to this claim about the conflation between religious and national affiliation by pointing to cases such as Armenia, Greece, and the Greek Orthodox Church, and the role of the Catholic Church in Poland (Yakobson and Rubenstein 2009). If we put aside the difference between all these cases and Israel in terms of the latter's colonial reality and expulsion of indigenous people in Palestine (as presumably historical), there remains a structural difference: In all the above examples, countries grant privileges to so-called compatriots in the process of acquiring citizenship, but they do not present a total overlap between religion and nationality. The Jewish nationality is the only nationality in the world that requires religious conversion to gain access to it. Thus, if one is not already Jewish by religion, conversion to Judaism is the only entrance ticket to this nationality. There is no other way: there is no other entrance to this nationality. At the same time, it is this nationality – being Jewish or not – that determines the type of your citizenship.

Israel did not, and does not, want to establish, nor claim to have established, a nation of citizens, or a civic nation.⁸ Thus, if Arab citizens have to fill in a registration form upon entry to another country, what response should they provide under the item “nationality?” Israel does not, in fact, even recognize the existence of an “Israeli” nationality. Within Israel, there is actually no Israeli nationality; only outsiders use

⁷ H.C. 72/62 *Raufeisen v. Minister of Interior*, P.D. 13 2430 (1962).

⁸ Israeli courts have refused to recognize an “Israeli nation.” See C.A. 630/70 *Tamarin v. The State of Israel*, P.D. 26(1) (1972); H.P. (Jerusalem) 6092/07 *Ornan v. Ministry of Interior* (2008); C.A. 8573/08 *Ornan v. Ministry of Interior* (2013, decision not yet published).

this term to describe Israeli citizens. Within Israel, one's nationality is defined in one's identity document as mainly "Jewish" or "Arab" (also "Druze" – invented by Israel as a "national" category in order to separate the Druze community from other Arabs by nationalizing their religious affiliation). Outside Israel, one's Israeli nationality is recognized. Why? Because the passport is Israeli, and normal nation-states consider citizenship, as reflected by one's passport, to be coterminous with nationality. That is why the famous organization is called the United Nations even if they actually mean the United States: because from the international perspective, nations are states, and nationality in international affairs equates to state affiliation.⁹ For modern nation-states, even when a person belongs to an ethnic minority, his or her nationality is determined through state affiliation.

Not only does Israel not recognize the existence of an Israeli nationality, but it also emphasizes a *Jewish* nationality. Where does that leave the Arab citizens of Israel? They are considered "non-Jews" like in Spinoza's famous sentence *omnis determinatio est negatio*, their very definition is a negation. So the simple definition is they are "non-Jews." Arab citizens are "non-Jews" because the hegemonic ideology does not recognize an Israeli nationality, nor does it recognize the Arabs as a separate nationality. They are Muslims, Christians, Druze, and others. Therefore, these other non-Jewish groups in the country have to be permanently confined in a pre-national phase of development. And if one claims to be an Arab, one is branded pejoratively as "nationalistic." If one takes it a step further and says, "We are not simply pre-nationals, religions, and tribes – there is a higher degree of organization of society called nation, nationality, and we are Arabs and Palestinians," then he or she becomes, especially in the eyes of left-wing Zionists, nationalistic. Moreover, at the same time that Arabs are denied recognition as a national group, they are also *required* to accept the Jewishness of Israel, even before they can form their own political party and run for elections (as shown next).

One cannot speak about real democratic citizenship if citizenship is "essentially" connected to a certain affiliation, whether ethnic, religious, national, or tribal. In the case of Israel, another dimension is added. Because one cannot separate between nationality and religion, one cannot also separate state from religion (i.e., the "separation of church and

⁹ See, for example, the ruling of the International Court of Justice, "The Nottebohm Case (second phase)" (I.C.J. *Liechtenstein v. Guatemala* [1955]) Rep. 4

state”). Herzl did not even try to define what the Jewish state is. He called it the state of the Jews. As a secular man, he did not try to configure what its “Jewish essence” could be or what a Jewish state could mean. He spoke about a state *for* the Jews under the title *The State of the Jews, A Modern Solution to the Jewish Question* (Herzl 1896).¹⁰ So he meant a state for the Jews, and Zionism found itself calling it a Jewish State. With time, it was proven, that without separating religion and nationality, religion couldn’t be separated from the state. So actually the state of the Jews is a Jewish state.

In the Israeli Supreme Court, a debate has been going on over the last three decades to try to define what “the Jewish state” means.¹¹ Does it mean only the national expression of sovereignty, of yearning for sovereignty of the Jews in the world? And how could this community be defined without a sacred dimension? Or does “Jewish” have more content than that? Should it have a thin or thick definition? The Supreme Court under Justice Aharon Barak was the most liberal court in the history of Israel. Liberal in this context is meant to be in a sense firstly confined to the borders of Israel within the green line, because, in the territories occupied by Israel in 1967, the court is an instrument of the occupation, and secondly confined in the framework of Zionism.¹² Barak’s response to this question was: “No, it is not only the state of the Jews, it has to hold other values, Jewish values.”¹³ For example, he said, Jewish *halakhah* is one of the sources of legislation, as well as one of the sources of the interpretation of laws. The Jewish *halakhah* should be consulted in cases of disagreement on how to interpret laws (Barak 2004:83). The state has to also have Jewish symbols, express Jewish history, and so on. Barak counted 13 characteristics of this kind to help flesh out the meaning of the phrase “Jewish state” (Barak 1997). Thus, the Jewish state is not only

¹⁰ The book title is often translated as *The Jewish State*, although the proper translation from German – the language that the author, Theodore Herzl, used to write the book – is the one provided in the text above. The official title in German is *Der Judenstaat. versuch einer modernen lösung der judenfrage*, and it was first published in 1896 in Vienna by M. Breitenstein’s Verlags Buchhandlung.

¹¹ See, for example, E.A. 2/88 *Ben Shalom v. the Central Elections Committee*, P.D. 43(4) 221 (1989); H.C. 6698/96 *‘Adel Ka’dan v. Land Administration of Israel*, P.D. 54 (1) 258 (2000); E.C. 50/03 *Central Elections Committee for the Sixteenth Knesset v. Azmi Bishara*, P.D. 57(4) 1 (2003).

¹² For an assessment of Barak’s legacy in issues related to the occupied Palestinian territories, see Sultany (2007).

¹³ H.C. 6698/96 *‘Adel Ka’dan v. Land Administration of Israel*, P.D. 54 (1) 258 (2000); E.C. 50/03 *Central Elections Committee for the Sixteenth Knesset v. Azmi Bishara*, P.D. 57(4) 1 (2003).

a refuge for Jews from anti-Semitism; it is far more. A main victim of the thick definition in the case of legislation is the Jewish woman. Personal status is the field where the religious establishment's authority persists most. All the family law in Israel is still religious law. For example, there is no secular marriage or divorce in Israel.

If one combines the two main elements of this discussion about the meaning of the Jewish state, we conclude that on the one hand, it is not possible to have equal citizenship and universal citizenship in Israel because by definition, there currently exist two kinds of citizenship as explained earlier: One, for Jews, which is "essential" to the state and to its Jewish citizens; the other, for non-Jews, which is "incidental" and not equal to the former, which means that there is discrimination in Israel. On the other hand, religion cannot be separated from the state. Therefore, Israel cannot be described as liberal and democratic.

The irony, of course, is that Israel aspires to be a liberal democracy and presents itself as the "only democracy in the Middle East." Israel's self-presentation in the West relies heavily on this portrayal as well as on the monopolization of the role of the victim. This monopolization is achieved by Israel's claim to represent Jewish history by nationalizing the histories of Jews and turning them into one history of suffering. Israel claims to represent all Jewish victims throughout history by retroactively nationalizing them and annexing them to a historical process leading directly to Israel; the Law of Return includes them retroactively in an inverted return to a future they did not even know about, as if all that happened teleologically for the sake of Israel. For example, the victims of the Holocaust did not go to the crematorium in the name of Zionism. They were not Zionists. But Israel appropriates them as a first phase in the monopolization of the role of the victim in a context in which it is, in fact, the victimizer.

Israel claims to be a young member of the exclusive liberal democratic club in the world. It has liberal individuals among its elites; it has a pluralist party system; and it has a representative parliamentary system, with voting rights and freedom of expression (with consistently increasing limitations) – but it is *not* a liberal democracy. I would argue that, in its political system, Israel is a tribal, Jewish, ethnic democracy.

In 1985, the parliament issued an amendment to Basic Law: The Knesset (The Basic Laws are the constitutional base of Israeli Legislation). Paragraph 7A of the Basic Law of the parliament was amended in 1985 to ban any party from participating in elections for the parliament if it does not recognize Israel as a Jewish state. Another

section in the amendment demanded its recognition as a democratic state. Both demands were united in one paragraph in 2002, to stipulate that a party cannot participate in the Israeli parliamentary elections if it does not recognize Israel as a “Jewish and democratic state.”¹⁴ This term has been repeated in every Basic Law since then.

Once and again, in concrete attempts to use the paragraph to prevent parties from running for elections, the Supreme Court was asked to interpret what this meant.¹⁵ What could “Britain as a British and democratic state” mean? It would be unimaginable if it were defined as evangelical and democratic. It is equally unimaginable that France would claim that “France is Catholic and democratic.” What does it mean for Britain to require a party running for the British Parliament to recognize Britain as British and democratic, or France to demand a party to recognize France as French and democratic? It would sound like Britain and France are not, in fact, democratic states. Why would a democratic parliament require this acknowledgment from a political party as a precondition for participation in parliamentary elections?

In 1985, an attempt was made to eject MK Meir Kahane from the Israeli Knesset by people who believed that, due to his activities, Israel was tainted with racism. He brought to the Knesset laws that demanded the expulsion of Arabs from Israel and the Palestinian territories occupied in 1967, and

¹⁴ Section 7A of Basic Law: The Knesset, which was last amended in 2008, provides that:

“(a) A candidate’s list shall not participate in elections to the Knesset, and a person shall not be a candidate for election to the Knesset, if the goals or actions of the list or the actions of the person, expressly or by implication, include one of the following:

- (1) negation of the existence of the State of Israel as a Jewish and democratic state;
- (2) incitement to racism;
- (3) support for armed struggle by a hostile state or a terrorist organization against the State of Israel.

(a1) For the purpose of this section, a candidate who has spent time in an enemy country in the seven years prior to the date of submitting the candidate’s list, shall be seen as someone whose actions are considered support for armed struggle against the State of Israel, unless it was proved otherwise.”

¹⁵ E.A. 2/88 *Ben Shalom v. the Central Elections Committee*, P.D. 43(4) 221 (1989); E.A. 2600/99 *Erlich v. Chairman of the Central Elections Committee*, P.D. 53(3) 38 (1999); E.C. 50/03 *Central Elections Committee for the Sixteenth Knesset v. Azmi Bishara*, P.D. 57(4) 1 (2003); E.A. 561/09 *National Democratic Assembly v. Central Elections Committee of the Eighteenth Knesset* (2009, decision unpublished).

the prevention of mixed marriages of Arabs and Jews. For many people, these laws were reminiscent of the infamous Nuremberg Laws. Kahane embodied everything that was anti-Jewish in their history in Europe: He was a racist, a fascist, and also an orthodox religious man, who regularly demanded the implementation of the *halakha* in the country. Many Zionists were genuinely repelled by his propaganda and style, and they wanted to get rid of this phenomenon. They therefore introduced a law that prevents racists from running for the Knesset by prohibiting any electoral list that does not recognize the democratic character of the state. In reaction, a new question then emerged in Israel's public discourse: Why only democratic? If the Knesset emphasizes only the democratic character of the state, this may mean that Israel is only a democratic state, a dangerous idea in the Israeli context. Some Zionists consider this the most dangerous idea of all (see Gavison 2003). For them "democratic" without "Jewish" could open a Pandora's Box.

Lately, further developments have since taken place. Israel subsequently began asking the countries of the world to recognize it as a Jewish state. Not only any political party that is running for the Knesset, but now any party wishing to make peace with Israel, even if it is not a state, is required to do this.¹⁶ In the opening of the negotiations with the Palestinians in Aqaba in June 2003,¹⁷ Israel asked the Palestinian side to recognize it as a Jewish state. This demand is explicitly stated in the Israeli reservations to the "Road Map for Peace" presented to Israel and the Palestinians by the George W. Bush administration in 2002.¹⁸ This demand has very significant and ominous implications, not only to the Palestinian citizens of Israel, but also to the Palestinians in general.

¹⁶ See, for example, comment number 6 of Israel's comments on the Roadmap: "In connection to both the introductory statements and the final settlement, declared references must be made to Israel's right to exist as a Jewish state and to the waiver of any right of return for Palestinian refugees to the State of Israel" (Israel Knesset 2003). See also the words of former deputy prime minister Silvan Shalom (2009) claiming that Yasser Arafat is a barrier to the growth of a Palestinian leadership "... that is ready to make a strategic decision to recognize Israel's right to live in *Eretz Yisrael* as a Jewish state." The demand for recognition of Israel as a Jewish state has been repeated consistently by the Israeli leadership. See, for example, the speech of Prime Minister Benjamin Netanyahu at the UN General Assembly in 2011 (see "Full Transcript" 2011).

¹⁷ The implementation of the Road Map was discussed in the meeting between the Israeli prime minister Ariel Sharon, Palestinian prime minister Mahmoud Abbas, US President George W. Bush and the King of Jordan that took place in Aqaba, Jordan, in June 2003.

¹⁸ The plan presented by President George W. Bush for "a final and comprehensive settlement of the Israel Palestinian conflict by 2005" (Yale Law School 2003; also see Israel Knesset 2003).

States generally recognize one another as states. They do not tend to define their “national character” in a peace treaty. But the Palestinians did not accept this condition. So who accepted the challenge? The United States. President George W. Bush was ready to reiterate the dictate, the whole sentence, in his opening speech.¹⁹ Then, of course, the Geneva Accords document followed suit.²⁰

Why does Israel insist, in an international context, that it is a Jewish state? No other state would care how others, especially enemies, define it. Israel insists on this in order to get not only an Arab *de facto* recognition of Israel but also a retrospective recognition of the legitimacy of Zionism as an ideology and of the expulsion of the Arab majority in Palestine, and thus exclude the right of return of Palestinian refugees²¹ and prevent any international solidarity with the struggle for equality inside Israel itself (i.e., mobilization of a movement to transform Israel from a Jewish state into the state of its citizens). So, the context is very political.

In internal relations, Israel’s demand for formal recognition as a Jewish state means that the Palestinians in Israel are second-class citizens and demonstrates their incidental citizenship. They should know their place: They are not equal citizens with those whose citizenship is essential; they are tolerated guests, and have been magnanimously and incidentally granted citizenship out of the largesse of those who own the right to grant such citizenship – that is, by the people who own the state, by those whose state it is – the Jewish people. For what is granted can also be taken away. And successive Israeli leaders, such as Ariel Sharon, Tzipi Livni, Avigdor Lieberman, and Benjamin Netanyahu, have threatened to do precisely that – to have many of them annexed to a future Palestinian state in return for annexing Jewish settlements in the West Bank.

Externally, defining Israel as the state of the Jews – a Jewish state – means that Israel has the right to maintain its Jewish majority, so the Palestinian Right of Return will become *passé*. Actually, in that speech in Aqaba in 2003,

¹⁹ “Today, America is strongly committed, and I am strongly committed, to Israel’s security as a vibrant Jewish state” (see “Final Statements” 2003).

²⁰ The Geneva Accord is an unofficial track two agreement between Palestinians and Israelis acting in their personal capacity (“The Geneva Accord” N.d.).

²¹ The return of the Palestinian refugees displaced during and as a result of the 1948 war. The number of the refugees displaced ranged between 700,000 and 900,000. The number of Palestinian refugees today that are registered with UNRWA as of December 2013 is 5.43 million (UNRWA 2014). The high number of refugees means that their return will imperil the Jewish majority among the residents of Israel.

President George W. Bush practically said “no” to the Right of Return, thus denying the resolution that was drafted in the United Nations in 1948 by the United States representative to the UN²² and which became an internationally recognized right long before the Palestinians’ right to a state in the West Bank and Gaza.

So, as if in a casual manner, and without discussion, deliberation, or consideration in the United States, the United Nations, or anywhere else for that matter, George Bush said “no” to the Right of Return. But what is the international legal basis of the Jewish state? Of course, Zionists would say the Balfour Declaration²³ is the international legal basis.²⁴ They do not consider the Balfour Declaration to be a colonial promise at all; they consider it to be the first article in international law that gives Jews the right to have a Jewish state, although somebody who did not own the country promised it to somebody who did not have legal entitlement to it and didn’t live in it. But in international law, as we understand it today, it is the UN partition plan that provides the international legal basis for the Jewish state.²⁵ The partition plan of 1947 stipulates clearly the partition of Palestine into “a Jewish state” and an “Arab state.” But in the context of the partition plan, *45% of the population of the Jewish state is Arab*. It seems a Jewish state that was 45% Arab could be imagined at that time. The partition plan did not exhort, “Deport these Arabs out of the Jewish state” but rather took the existing demographic structure of the country at the time for granted and accepted it as it was. It just drew a line, saying that in particular areas a Jewish state will emerge although it will include up to 45% Arabs, and in other areas an Arab state will emerge that has 10% Jews. The partition plan actually emphasizes that Arabs and

²² Paragraph 11 of the United Nations General Assembly (1948) Resolution 194(III) which provides that “that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible.”

²³ The Declaration by Arthur James Balfour, Foreign Secretary of the United Kingdom, declaring that the Government of the United Kingdom “view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavors to facilitate the achievement of this object . . .” (“Balfour Declaration” 1917).

²⁴ “The Declaration of Establishment of the State of Israel” referred to the Balfour Declaration (Ben Gurion et al. 1948).

²⁵ The “Plan of Partition with Economic Union” was recommended in United Nations General Assembly Resolution 181(II), “Future Government of Palestine,” November 29, 1947.

Jews have to live together. In that plan, the Arabs were expected to be about half the population in the Jewish state and a big majority in the Arab state. So international law could imagine the refugees returning because from the outset, it created a Jewish state without imagining Arab refugees. From a purely legal perspective, then, these people and their descendants can go back to their homeland on which a Jewish state was created. One can still imagine Jewish and Arab national communities coexisting somehow in a bi-national framework. This way of thinking is not totally new – as just noted, the partition plan described two states sharing one economy. The two states were merely supposed to represent two *sovereignties*, because what we call today a one-state solution was not possible according to the international community. A close reading of the partition plan reveals a two-state solution, so that two peoples would have had two political entities, with everything else left open for forms of future cooperation between them.

The main debate concerning citizenship in Israel remains an internal debate; it will not be decided in international relations. In the eyes of the Zionist establishment, the main enemy is those who believe that Israel should become a normal country, a normal state of its citizens, with equal, democratic citizenship regulating the relationship between individual and state. In effect, this would entail de-Zionizing the state. The Zionist establishment views this as the real peril. When, more than a decade ago, I advanced the idea of “the state of all its citizens” into the political arena in Israel, I firmly believed that the political culture in which such a principle could be embedded would open the way for equality for the Palestinians in the areas, that were occupied in 1948 and 1967, and are now under Israeli rule: citizenship as the basis for living together in equality.²⁶

At the beginning, many Israeli liberals were embarrassed. But very soon they came back with an offensive against people who advocated “a state for all its citizens,” a democratic political order with a clear demand for equality, one citizenship for all – not two types of citizenship – and sharing the land as the land of the citizens. Why the offensive?

Most of the land in Israel is owned by the Jewish nation.²⁷ This is the ideological basis for the laws that legalized the confiscation of the lands

²⁶ “The state of all its citizens” is one of the main principles and goals of the National Democratic Assembly – a political party that was first represented in the Israeli Knesset in 1996 and that was headed by the author until 2007.

²⁷ In other words, this means that the land in Israel belongs to the “Jewish nation,” and that while individuals may hold possession, ultimate title belongs to the state on behalf of the

owned by Arab citizens after 1948. This was the process of the nationalization (read, confiscation, dispossession, and expropriation) of Arab lands from Palestinian private owners. In many cases, the Palestinians, particularly in the small villages, had given their lands individual names.²⁸ Pieces of land, even the smallest pieces and parcels, had been named reflecting the personal relationship that their holders – largely peasants – had to their lands. With the massive expropriation of land, this relationship was also confiscated (and names were replaced with numbers). As is known, it is legitimate even in democratic countries to confiscate land for the public interest. But in the case of the Arab landowners, they lost their lands to a “nation” which is not theirs, and of which they are not members, and which confiscated the land not for their benefit. Land was not confiscated for the benefit of the public sector the way it is defined in most modern states, where the nation is the expression of the interest of the public of citizens *as a whole*. In Israel, public interest in this context often means taking lands from Arab citizens in order to build exclusively for Jews. That is why the term “development” – a term that is more consistent with the public interest of all citizens – is used in Israel as the marketing and public relations wording to cover for the “Judaization” process, which in fact includes providing incentives to Jewish citizens to move to Arab inhabited areas and the transfer of land ownership from Arab to Jew. Indeed, the term “Judaization” is also sometimes used openly.

The issue of equal citizenship undercuts the whole Zionist discourse, because Zionist discourse cannot coexist with equal citizenship. The two types of citizenship described earlier are embedded in the Zionist vision of the Jewish state. Equal citizenship poses one challenge after another, and Zionism had to make one withdrawal after another from the claim that Zionist Israel can be a liberal democracy. I thought for a moment,

Jewish people. This is the main idea underlying the land regime in Israel where 93% of the land is considered “Israel Land,” as defined in Section 1 of Basic Law: Israel Land, which stipulates that “The ownership of Israel lands, being the lands in Israel of the State, the Development Authority or the *Keren Kayemet Le Israel* (Jewish National Fund), shall not be transferred either by sale or in any other manner.” Section 2, however, allows for exceptions. According to the Israel Land Administration, out of 21,956,647 *dunum* in Israel, 19,980,000 are administered by the Israel Land Administration and are considered “Israel land” (Israel Land Administration 2012).

²⁸ Since 1948, Israel has confiscated more than 70% of the land owned by the Palestinian citizens (see Abu Hussein and McKay 2003:7). This is in addition to the land that was owned by Palestinian refugees which was confiscated under the Absentee Property Law (1950).

when I advanced the concept of “a state for all its citizens,” that philosophy could work in politics and that the choice of equal citizenship might prevail. But of course, *real politik* won.

Internationally, Israel demanded the recognition of the state as a Jewish state in return for a partial settlement of the Arab–Israeli conflict: partial because Israel occupies other Arab lands and because the settlement it envisions does not address many important issues in the Israeli–Palestinian conflict. Internally, inside Israel itself, an offensive was mounted to try to prevent political forces calling for turning Israel into “a state of all its citizens” from running for the Knesset.²⁹ Needless to say, it would be very difficult for the Supreme Court to indict this platform, because it would mean criminalizing liberal democracy. Asking the state to be “a state of all its citizens” is taken for granted by the mainstream in democratic countries today. If a group made this demand in Britain or France, for example, the left would consider it very conservative. In Israel, however, making such a demand is considered criminal by many. Clearly, however, such a state of affairs would not be easily defensible to the external world by a country that claims to be a democracy; so the state will have to link its charges against those calling for this transformation into a democratic state to other, more evil sounding, charges – such as to the fact that the same people who believe that Israel should become “a state for all its citizens” happen to believe in the right of people to resist occupation,³⁰ which in Israel would be presented as a security offense or even supporting terrorism. Yet, the pretext of security threats and fighting terrorism cannot conceal reality,

²⁹ In 2003, the Israeli Central Elections Committee banned the National Democratic Assembly – the party that the author headed from 1995 to 2007 – from participating in the parliamentary elections. This ban was overturned by the Supreme Court in a split decision of 7 to 4. See E.C. 50/03 *Central Elections Committee for the Sixteenth Knesset v. Azmi Bishara*, P.D. 57(4) 1 (2003). In 2009, the Central Elections Committee banned the party from participating in the elections for the second time. Again, the decision was overturned by the Supreme Court in a split decision of 8 to 1. See E.A. 561/09 *National Democratic Assembly v. Central Elections Committee of the Eighteenth Knesset* (2009 decision unpublished).

³⁰ Bishara was indicted for statements he made supporting resistance against Israeli occupation. At the request of the Attorney General, the Knesset removed Bishara’s parliamentary immunity and criminal charges against him were initiated in the Nazareth Magistrate Court. The Supreme Court ruled, in a split decision of 2 to 1, that the statements were protected under the substantive parliamentary immunity and thus terminated the criminal proceedings. See H.C. 11225/03 *Azmi Bishara v. The Attorney General*, P.D. 60(4) 287 (2006).

nor change the fundamental fact, that *equal* citizenship contradicts Zionism.

In conclusion, it would seem that the two types of citizenship advanced and implemented in Israel, one for Jews and one for Arabs, are congruent with Zionist ideology and the idea of a Jewish state. But the two types are so fundamentally disparate that it will be quite impossible to speak of one citizenship in Israel, and certainly not equal citizenship. It is no wonder that Israel cannot form a nation of citizens and that the very concept of Israeli nationality is not accepted in Israel. It is only a matter of time and appropriate political conditions that the contradiction between equal citizenship and Zionism will move to the forefront of political discourse and political activism – both internally within Israel and internationally.

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PART II

Mechanisms of Governmentality and Constructing Hollow Citizenship

Arab Palestinians in Israel

AMAL JAMAL

Israel has managed to fragment the Palestinian people and to convince most countries involved in promoting Israeli–Palestinian peace that a comprehensive solution of the Palestinian problem is neither feasible nor appropriate. The various Palestinian communities, which were dispersed and forced to live in various localities, due to Israel’s creation and ongoing policies, are asked to accept different solutions, including partial statehood in the West Bank and Gaza Strip, settling some of the refugees in these areas, and maintaining the current marginalized status of Palestinian citizens who live in Israel. Despite various forms of Palestinian resistance to such a strategy, it seems that the political developments of the last two decades demonstrate that Israel has managed to impose this approach as the most “realistic” one for the near future. Israel has used various means to achieve this state of affairs. Part of its effort was directed toward convincing the Palestinians that they have no choice but to accept what is offered to them by the Jewish state. Within this effort, Israel has sought to alter the geography, topography, and demography of Palestine. In areas under its sovereignty, whether recognized or not, the Israeli state has sought to reshape the consciousness of the Palestinian inhabitants. This process started before 1948 and took new forms after the establishment of the state.

This chapter explores Israel’s efforts to contain and subjugate those Palestinians who remained within its borders. Although this topic has already been addressed by several scholars, this chapter claims that it is necessary to analyze this question anew and explore a longer period of time in state–minority relations in order to identify particular state practices that reflect the complexity of Israeli mentalities of rule (Zureik 1979). In this chapter, I claim that understanding recent programmatic, legal, and judicial

policies and practices of the state toward the indigenous Arab minority necessitates examining the initial framing of the relationship between the state and the minority. The chapter aims to demonstrate that the Israeli state manifests itself not only through repressive forms, but also through other means of power practices and procedures in order to penetrate, contain, and control the Palestinian community residing within its borders and to transform this community from an indigenous people that can collectively assert the Palestinian national claim of injustice into a marginal social group that enjoys ineffective civic rights that obscure continuous efforts to construct inferior subjectivities through “modernizing” “democratic” means. The chapter explores the forms of power practices that facilitate political surveillance and social engineering on the cultural and sociological levels and thereby bypass the classical form of repression. This effort may help us clarify how Israel manages to pass as a “vibrant democracy” in the world order, despite its internal physical and cultural colonization policies. The chapter shows how the Israeli state becomes what it is through what it does, rather than the other way around. In other words, the practices of the state are what construct its identity, without entirely ignoring its vigorous characteristics. It incorporates the indigenous Palestinian community into democratic practices, but then commits itself to rules of conduct that legitimize the hollowing out of the substantial dimensions of their citizenship.

In order to explain this process, it is vital to import the concept of governmentality, as introduced by Michel Foucault and later developed by other scholars (Foucault 2003a; Garland 1997; Jessop 2007; Lemke 2001; Mckee 2009; O’Malley, Weir, and Shearing 1997; Scott 1995). This conceptualization demonstrates that power relations are sometimes more clearly examined beyond the narrow meaning of repressive forms. It is helpful to illustrate how power is introduced without being fierce in the physical sense. Power relations cannot sometimes be reduced to mere repression of the subjugated (Jessop 2007). They could be established through incorporating social groups in a system of representation that renders their presence a mechanism of surveillance and supervision, through soft forms of subjugation (Nye 2004). In this sense, power manifests itself as the management of consciousness, especially of those whose mere practicing of themselves, as such, counter the wished for identity of the powerful.

The state as practices of mentalities of rule could be manifested in various ways; the chapter follows only three areas of state–minority relations in Israel. I chose to focus on these three areas because they help illustrate the special characteristics of state power as it operates

through discursive practices and control over actions that represent the exercise of freedom, such as electoral participation and engagement in public discourse. The first area is the mental framing of minority political consciousness through expectations, the re-engineering of societal structures via the proletarianization of the agrarian family structure, and the inscription of a new authoritative “justice” system. The second area deals with subjugation through soft power mechanisms, aiming at the domestication and taming of the Palestinian subject in the new Jewish space. The third area is legal discourse, where the law forms an effective tool of disciplining and imposes clear boundaries of political and cultural legitimacy.

Before delving into these three areas, the chapter opens with a brief theoretical framing of power relations, as disciplining discursive practices, seeking subjugation and the way they are relevant to the understanding of state–minority relations. The chapter then goes on to address the three areas outlined earlier. In the second part, the chapter addresses the cultural and material practices of Israeli citizenship vis-à-vis the Arab–Palestinian minority. The chapter then explores one of the most understudied areas of state–minority relations in Israel, namely the role of the media in promoting the construction of “quiescent Arabs,” which did not succeed very much. Finally, the chapter addresses Israeli legal practices, exploring how they are used as a means of delegitimization of Arabs and as a mechanism that renders Arab representation in state institutions not only ineffective, but actually counter-representational. Exploring the three areas helps to elucidate practices of subjugation that, I argue, have led to the construction of a kind of hollow citizenship for Arabs in Israel, a citizenship that runs counter to the common ethical understanding of the term as it is used in political science and democratic theory. Such an analysis points to the existence of a huge gap between the formal manifestations of citizenship and its substantial representational meaning for Arabs who are citizens of Israel. This citizenship and its practices legitimate the representational system of the state without having any chance to impact its policies.

Theoretical Framing

Studies of the state have usually focused on its repressing power and dominating mechanisms. This chapter departs from that approach by reducing attention on the repressive dimensions of power and instead emphasizing the disciplining and subjugating practices of the state.

The chapter follows the lead of Foucault's understanding of power. In his view:

If power were never anything but repressive, if it never did anything but say no, do you really think one would be brought to obey it? What makes power hold good, what makes it accepted, is simply the fact that it doesn't only weigh on us a force that says no; it also traverses and produces things, it induces pleasure, forms knowledge, produces discourse. It needs to be considered as a productive network that runs through the whole social body, much more than as a negative instance whose function is repression.

(Foucault 2003c:307)

Accordingly, one ought to pay attention to the ways in which states wield power without their subjects' awareness of their subjugation. The chapter reiterates Jessop's note that "[o]ne should study power where it is exercised over individuals rather than legitimated at the center; explore the actual practices of subjugation rather than the intentions that guide attempts at domination; and recognize that power circulates through networks rather than being applied at particular points" (Jessop 2010:16).

Accordingly the state is an emergent player rather than a foundational, universal subject with an operational apparatus. As Foucault (1979:92) claims:

An analysis in terms of power must not assume that state sovereignty, the form of the law, or the overall unity of domination, is given at the outset; rather, these are only the terminal forms power takes ... power must be understood in the first instance as a multiplicity of force relations immanent in the sphere in which they operate and that constitute their own organizations.

This understanding highlights the importance of the rationalization of government practices in the exercise of political sovereignty, especially where specific governmental practices and regimes are articulated into broader economic and political projects. This understanding renders the coherence of power relations unthinkable, since power is practiced at various levels that do not always seem to have clear relations. The state's shaping of public consciousness and construction of historical imagination do not easily lend themselves to a legalistic and formalistic political understanding of power relations. On the other hand, the former cannot be disconnected from legal and judicial measures made to render cultural and symbolic policies possible.

Mckee's (2009) suggestion to combine discursive and realist forms of governmentality is a constructive way to understand power relations. This means that discursive analysis alone cannot demonstrate how power relations operate and reveal the centrality of the state, on the one hand, and resistance to top-down politics, on the other. An empirical dimension has to be added in order to overcome the reification of discursive power. The examination of specific government actions and policies could help us understand how power can be subtly or invisibly exercised in a context that is ostensibly "free," thus achieving surveillance and control that are ultimately far more effective than restrictive, openly repressive policies. One has to attend to the empirical concerns of state policy by examining particular mentalities of governance in its context; in this way, it becomes possible to render visible the actual *effects* of governing practices, and from that to derive their true intent. In this regard, Mckee (2009) and Lemke (2001) draw our attention to the importance of the discursive field in which the exercise of power is rationalized and actual intervention practices are promoted through their translation into actual programs and techniques by which individuals and groups are governed. This means that power is also about "the management of possibilities." It is about the ability to influence subjects' actions in a way that presupposes their freedom and ability to act and resist (Foucault 2003b:138). This form of power is reflected through disciplinarity, which emphasizes the taming of bodies and souls in order to subjugate them to acquiesce to a dominant political order. It refers to explicit programs for reorganizing institutions, rearranging spaces, and regulating behavior (Foucault 1980:9). Invoking this understanding of power, this chapter follows Mckee's (2009) suggestion and applies an analytical approach that combines these two forms of governmentality throughout the examination of this case. The chapter aims to demonstrate that through changing strategies of structuring and deploying power relations, states seek control and domination. State power is asserted through combining thought and modes of governing.

This understanding of power looks at government as "the effect, the profile, the mobile shape of incessant transactions which modify, or move, or drastically change, or insidiously shift sources of finance, modes of investment, decision-making centers, forms and types of control, relationships between local powers, the central authority and so on" (Foucault 2008:77). In the context of Israel, this understanding helps delineate the sophisticated state-minority dynamics that was constructed upon the establishment of the state and remains powerfully

entrenched to this very day. The three different interrelated areas mentioned earlier are only some of many such areas; they demonstrate how each of the governing techniques promotes a sophisticated system of surveillance and domination, leading to broader and more persistent societal and political configurations.

Disciplining through the Politics of Expectations

Expectations play a major role in politics (Brady, Lehman-Schlozman, and Verba 1993). Recruiting people through “rational prospecting” is a well-known phenomenon that renders acquiescence possible (*ibid.*). This pattern of expectations politics is well-known in political economy also (Ladner and Wlezien 2007). Political preferences are deeply related to economic expectation, reflecting the basic urge for security and well-being (Borup, Brown, Konrad, and Van Lente 2006; Ladner and Wlezien 2007). Having said that, one could argue that the strategic nourishing of expectations for a better life through economic incentives in time of insecurity and need is a strong disciplinary mechanism in the hands of state agencies. Israeli policies of expectations shed light on state mechanisms of governing the Palestinian homeland minority after the Nakba.

The breakdown and shattering of Palestinian society as a result of the Nakba have left those Palestinians who remained in Israel full of mistrust and lacking in self-confidence (Sa’di 2003). Most Palestinians who stayed did not believe that the state would allow them to remain in their own residences, after they had seen hundreds of thousands of their brethren either expelled or fled to safe areas (Jamal 2010). This mindset was fully evident to the leaders of the Israeli security forces and to the state establishment. It was also fully exploited in order to ensure the total submission of the Palestinian community to Israeli priorities (Ozacky-Lazar 2002). In a situation of total defeat and shocking loss, most Palestinians who remained in the state submitted to the prevailing reality for a long time (Lustick 1980; Rouhana 2007). State agencies propagated expectations that ought to be followed and respected, as a guarantor for the safety of the remaining Palestinians (Cohen 2010). These expectations were not always formalized, but were very effective at establishing a collective wariness, supported by practices and rules that all Palestinian citizens were to follow. The educational system played a major role in propagating this atmosphere (al-Haj 1995; Mari 1978). In other words, the main message was that Arab citizens have to not only

fear the state, but also trust its potential capability to benefit them if they demonstrate their loyalty to it. Although no communal trust was expected and therefore no identification with state symbols was expected, calculus-based trust was encouraged, especially among the young generation (Rousseau 1988).

As the Israeli declaration of independence demonstrates, state representatives expected the remaining Palestinian minority to accept the political realities resulting from the 1948 war and gradually detach from their national past (Ozacky-Lazar 2002). The state began constructing political, educational, and disciplinary policies that aimed at creating a new minority collective imagination, as “Israeli Arabs” (Rabinowitz 1993). Israeli citizenship was introduced as a safety net, protecting from a tragic and ambiguous future (Leibler and Breslau 2005). It marked the rebirth of those Palestinians who remained under Israeli jurisdiction, especially after the signing of ceasefire agreements with all Arab states that had fought against the newly established Jewish state. History then started anew for Israel’s Palestinian citizens, whose collective past had to be remolded to match the new reality (Bishara 1993). The politics of fear became a disciplining mechanism to facilitate the resocialization process taking place in the official educational system, which was fully under the control of Jewish educators (Abu-Asbe 2007; al-Haj 1995; Bäuml 2007).

Citizenship became a “control mechanism” through exchanging safety and survival in the homeland for ceremonial loyalty and political patriotism (Ben Amos and Bar-Tal 2004). Sentiments toward the Palestinian past or sympathy with the Palestinian cause, especially concerning the historical injustice and the miserable reality of the refugees, were recast by state authorities as a serious security threat and betrayal of the commitments entailed within citizenship. State agents constructed the Israeli–Arab identity as a clear possessive affiliation framework, where the legal affiliation to the Israeli state was to determine not only the priorities but also the worldview of the Palestinian minority. In this atmosphere, Arab calls were expressed to draft Arab citizens to army service in the mid-1950s (Cohen 2010; Jiryis 1976). Although citizenship did not ultimately protect the minority from severe state interference and penetrations of state agencies into its material and symbolic resources, it managed to marginalize the political and sentimental identification with Palestinian nationality and facilitate the rise of a broader identitarian consciousness, affiliated with Arab culture (Yiftachel 2006).

The Arab-Palestinian minority was expected to adapt to the priorities set by the state concerning the absorption of a growing number of Jewish immigrants and the discriminatory allocation of resources in the areas of housing, settlement, development, education, and so on. The state viewed these priorities as both natural and necessary in order to realize its character as the nation-state of the Jewish people. The Arab-Palestinian minority, who are the indigenous inhabitants of the land, was expected to accept the official material and symbolic priorities and act accordingly, as “good Arabs,” “positive Arabs,” and “quiet Arabs” (Cohen 2010; Jamal 2010; Lustick 1980; Rouhana 2007).

The Arab-Palestinian minority was expected to play according to the rules of the democratic process and accept policies based on majority rule. The fact that the majority was ethnically based and preserved through demographic engineering went unmentioned in the political agenda. As expected in deeply divided societies, the democratic processes of majority decisions have been translated into ethnic majoritarian despotism, instead of grand coalition politics, leading to the minority’s loss of tangible influence on policy making, especially in matters related to its well-being and interests (Jamal 2009; Lijphart 1977; Mill 2003). This pattern of politics in Israel has intensified in the last decade, contrary to claims of liberalization and democratization, leading to the hollowing out of Arab-Palestinian citizenship from any substantive meaning (Jamal 2007; Navot and Peled 2009). The ethos of defensive democracy – protecting democracy from its “internal enemies” – has been utilized in order to justify such politics, despite the fact that the Jewish majority in Israel has absolute power over state mechanisms and an automatic majority that is able to pass any decision it wishes (Pedazor 2004). The mechanism of facilitating the political interests of the Jewish majority through the discourse of defensive democracy remains one of the characteristics of governmentality, utilizing the majoritarian system to exclude the Arab-Palestinian community from policy making and equal share in public resources.

Another major component of disciplining of the subjects to fulfill expectations is to lead its Arab-Palestinian citizens to accept their Israeli citizenship as the major determinant legal and cultural frame of their political behavior in the Israeli–Palestinian conflict, in an attempt to minimize or eradicate the perception that they, as Palestinian nationals, were victims of state policies. Expecting them to take a minor and neutral position vis-à-vis the national aspirations of the Palestinian people has been an important official Israeli position. Any counter-position was

propagated as betrayal of the political order that guaranteed Palestinian citizens' safety in the first place (Reiter 2009; Shiftan 2011).

Another important expectation has been accepting their secondary civil status in the Jewish state as the upper limit of their political ambitions. This expectation has frequently been expressed by Israeli leaders, who have claimed that the national rights of all Palestinians are to be fulfilled in a Palestinian state in the West Bank and Gaza Strip, once it is established (Levy 2011). Arab-Palestinian citizens are expected to sever their national political bonds with their brethren and localize their political aspirations in a time when Israel, by contrast, seeks to deepen the relationship between the Jewish majority in Israel and the rest of the Jewish people in the entire world (Lainer-Vos 2011). Major efforts and material resources are invested to host Jewish Americans and Europeans for lengthy visits to Israel, aiming to tie them to the Zionist ideology and goals, as the Taglit venture and the Masa program demonstrate, at a time when Palestinian citizens are denied even the right of family unification if they are married to another Palestinian in the occupied territories (Adalah 2012).

The system of expectations developed by the state was translated into policy outlines, aiming at turning the above mentioned expectations into realities. The policy outlines were developed in various fields and were coordinated either by the Prime Minister's Office through the advisor on Arab affairs or, later, by the Israeli minister of Arab affairs. Many studies of state-minority relations in Israel have focused attention on the politics of control of the minority. These studies have made an enormous contribution to our understanding of the micro-politics of control perfected by the Israeli state, and the mechanisms used to penetrate this society and its social formations. It is important to demonstrate, along the theoretical lines of this chapter, as depicted earlier, that the policies of control were complemented by policies of neglect, which are best manifested through the politics of de-development and underdevelopment of Arab regions in the name of the development of Israeli society (Brzezinski 1956; Smith 2003). For the sake of developing the Galilee and the Naqab (Negev), for instance, Arab lands were expropriated under the cover of public interest, although the services and infrastructures built by state agencies served mostly, if not exclusively, Jewish immigrants. New settlements and roads were established, leaving Arab villages and towns outside the development plans (Forman 2006). Housing projects and building spaces in Arab areas were dragged out for years, falling short of the demand in rural villages and towns (Yaakoby and Cohen 2007).

One of the most important policy outlines has been establishing the economic dependence of the Arab-Palestinian minority on state institutions and on Jewish markets, while constructing a Jewish national material and symbolic space manifested in the land regime of the state and the exclusion of Arabs from it (Haidar 1995; Levin-Epstein and Semyonov 1993; Yashiv 2012; Yiftachel 2006). This policy was translated into expropriating Arab agricultural private lands, which were the main source of income for most Arab families, and establishing the exclusive Israeli Jewish land regime with its material and symbolic dimensions (Benziman and Mansour 1992; Holzman-Gazit 2007). This has been the main policy pursued by various legal and administrative means and until today it remains the dominant policy, as manifested in the recent legal changes in the laws that regulate new membership in community housing and the enactment of the Admission Committees Law (ACRI 2011). This law enables residents of Jewish community settlements to reject candidates who wish to live there for “lack of suitability to the sociocultural makeup” of the settlement (Adalah 2012; Friedman 2011).

The governmental investment in the development of Arab society has been minimal (Hasson and Karayanni 2006). The government utilized the official allocation of resources to nourish loyalty and patronage relations with local political forces (Cohen 2010). No industrial infrastructures were developed in Arab towns and villages, something that aimed at intensifying the proletarianization of Arab society and its dependence on Jewish economic infrastructures (Levin-Epstein and Semyonov 1993; Yashiv 2012). This policy, still in effect today, has turned most Arab workers into a cheap labor force, serving the priorities and interests that are set by Jewish entrepreneurs. The rise of a new Arab middle class and the development of local Arab business markets in Arab towns and cities in the last three decades have been taking place despite state policies rather than as a result of them.

The Arab economy in Israel suffers from strong structural impediments that are mostly caused by official policies (Gharrah 2012). There is hardly any governmental investment in the Arab economy or in developing industrial zones in Arab localities (*ibid.*). The number of Arab families living below the poverty line is much higher than in Jewish society. In 2011 there were 442,200 families (1,838,600 persons) living below the poverty line in Israel (Andbald, Berkley, Gotleb, and Froman 2012). When we look at poverty based on national affiliation we find that whereas 14% of Jewish families live below the poverty line (18.1% of children), we see that 46.5% of

Arab families (55% of children) live under the same conditions (Andbald, Heler, Gotleb, and Berkley 2013).

In addition to the elimination of agricultural infrastructure in Arab society, the land expropriation policy aimed at narrowing the geographic spaces under Arab control. The territories under the jurisdiction of Arab municipalities were limited to a minimum, thereby restricting development and leading to the ghettoization of Arab towns and cities (Jamal 2008; Khamaisi 2002). National planning and zoning policies and intensive Jewish-only settlement development have turned most Arab towns and cities into islands within geographical spaces controlled by Jewish cities or Jewish-dominated regional councils. Two major aims were pursued by these planning, zoning, and settlement policies: First, Judaizing the land, by facilitating the migration of Jewish citizens from the center of the country to the Galilee and Negev areas in the North and South, and the establishment of Jewish cities and communal settlements with high standards of living (Falah 1989). The “national priority plan” promoted by the government illustrates its intentions, insofar as Arab towns were hardly included (Adalah 2012). These plans include massive governmental investment in infrastructure to facilitate purchase of lands for housing, reduction of taxes that reach 68% on purchase of lands, and reduction in income and other taxes (*ibid.*). The second aim has been to secure Jewish control over all routes that connect Arab towns and cities and fragment the areas in which Arabs have a demographic majority. When looking at the settlement and road map in the Galilee, for instance, it becomes more than clear that roads cut between Arab towns and bypass them, leaving them as islands in a sophisticated network of highways (Rabinowitz and Vardi 2010; Yaakoby and Cohen 2007). When looking at the settlement plans and at the fact that Jewish settlements not only control huge swathes of land for future development, but they are also built mostly atop hills and mountains, especially in Arab areas, one cannot but think that there must be a master plan behind this pattern. From a security perspective, one can assume that the aim is to segregate and fragment areas of dense Arab population, such as in the Galilee, and to take over areas in which Arabs have a so-called “distorting” presence, such as in the Naqab area, as the Prawer Plan clearly demonstrates (ACRI 2011).

The state established a tradition of discriminatory allocation of resources to Arab municipalities and educational and welfare institutions (Ghanem and Azaiza 2008). Most prime ministers in the last two decades have admitted that the state has discriminated against Arab citizens in its

allocation of resources. The Israeli Supreme Court has admitted that state policies of allocation have marginalized Arab needs and diverted unequal resources to the Arab municipalities and other institutions (Saban 2005). The Official Or Commission appointed by the Ehud Barak government after the October 2000 events outlined the well-institutionalized discrimination against Arab citizens in the allocation of resources (Or et al. 2003). Although none of the above has admitted that such discrimination was based on racial grounds, one cannot ignore the fact, admitted by the Or Commission report, that such a structured discrimination was the consistent default policy. The discrimination in the allocation of state resources is a well-established and intended policy until this very day (ACRI 2011). It cannot be explained as a result of an administrative miscalculation or technical deviation from the formal policy. Discrimination against Arab institutions has been a well-established policy that aims to maintain the gaps between a modern Jewish society and an underdeveloped and neglected Arab society.

Another major policy outline the state pursued toward the Arab-Palestinian minority is suppressing attempts to establish an effective national Arab leadership and delegitimizing Arab efforts to challenge state policies by popular means. The state invested major efforts and resources in order to co-opt leaders of the Arab minority and fragment Arab political forces in order to prevent coordinated national political mobilization by the Arab minority (Jamal 2006; Lustick 1980). The state has never recognized the Arab Higher Follow-Up Committee, despite the fact that it is a coordinated political body that includes all political parties and representatives from all major Arab institutions and movements. Political and religious leaders who “diverted” from expected and accepted behavior were tamed by various means, especially legal and judicial. Although a majority of the Arab-Palestinian population still participates in Knesset elections and views the participation of political parties in parliamentary politics as normal, the dominant Jewish Zionist political parties have steadily reduced the spaces Arab parties have to maneuver and set new restrictive limits on their political participation (Jamal 2012a).

In Israel, majoritarian rule has become an effective instrument to impose laws that counter the basic rights of the minority to influence decisions related to its own basic rights. Thus, majority decisions have been translated into a tyranny of the majority. The fact that the Arab-Palestinian parties have never been integrated in any of the governmental coalitions and their participation in crucial national

decisions has come to be viewed as illegitimate, and even aligned with betrayal – as happened, for example, in the confirmation of the Oslo Accords in 1994 – is a major indication that Arab participation in the Israeli political system has been turned into a “fig-leaf” (Ghanem and Mustafa 2009).

These expectations and policies outlined briefly thus far demonstrate some of the disciplining practices that have fundamentally shaped state–minority relations in Israel. The state manifested itself through practices that render the Arab-Palestinian minority subject to rules of behavior set almost fully by the Jewish majority. Spaces of freedom are defined in order to promote surveillance and control rather than to empower the Arab-Palestinian community and transform its representative bodies into legitimate players that can influence official policies. When zooming in on one of the central areas used to discipline the Arab population, such as the media, one can begin to elucidate the efforts the state has made to construct a new collective consciousness in the Arab-Palestinian community that serves the expectations and priorities of state agents.

Manufacturing “Quiet Arab Citizens”

The disciplining policies as discursive power manifesting the complexity of state formation are a long-dated phenomenon. Despite the fact that the state did not manage to fully subjugate the Arab-Palestinian minority, its power was manifested through soft practices. As argued elsewhere, the state is manifested through material as well as cultural practices. The following section concentrates on cultural practices.

Previous studies have examined the cooperation between Israeli intelligence organizations and local Arab collaborators, who were nicknamed “good Arabs” (Cohen 2010). These were Arab residents or citizens who assisted the Israeli intelligence services in return for benefits such as permission for one’s family, who had become refugees during the 1948 war, to remain in the country, or for significant monetary remuneration, enabling them to support their families.

The importance of the aforementioned research studies is that they revealed patterns of activity the state used to control and supervise its internal homeland minority, which authorities persistently defined as a “security threat.” However, these studies were limited, because they involve only a small group of collaborators, and therefore could potentially be misleading. The state invested considerable effort to

achieve control of the entire Arab-Palestinian community by “soft” means in order to pacify its presence in the physical as well as mental environment of the community. Because these state-framing policies have not been thoroughly studied in the past, their examination provides access to the symbolic and cultural dimension of state disciplining power.

During the first decades of its existence, the state of Israel, like other hegemonic regimes, turned the mass media into a central mechanism, second only to the educational system, of resocialization, acting to promote consent and to form a collective common imagination among citizens (Negbi 1999; Yu and Cohen 2009). In practice, the Hebrew press, both party-controlled and private newspapers, and the national radio station, *Kol Yisrael* (The Voice of Israel), were strongly linked to information organs operating from the Office of the Prime Minister, from the Foreign Ministry, and from the Israeli Army (Frenkel 1994; Lebel 2005). Thus, even if there were differences among them, most Hebrew media organizations were mobilized concerning anything to do with security or foreign policy, a tendency which has traditionally continued with varying levels of intensity until the present day (Caspi and Limor 1999; Cohen and Wolfsfeld 1993; Elbaz 2013; Liebes 1997).

A policy of manufacturing consent by means of stringent submission, discipline, and policing was quickly imposed on Palestinian citizens who had remained within the state following the Nakba (Bäumel 2007; Gopher and Ben Porat 2013; Jamal 2009; Peled 1992; Reiter 2009). One of these, whose central objective was to achieve a monopoly over consciousness formation in Arab society, was the media, manifested in establishing a number of newspapers in Arabic (Jamal 2005a). These newspapers, which were controlled by the Histadrut, the second-largest employer and simultaneously the main workers’ union in Israel at the time, and by the Zionist parties Mapai and Mapam, were directed toward the Arab-educated elite and aspired to become the primary source of information and commentary in Arab society, seeking to establish a majority of “quiet Arabs.” The goal was to reframe Arab consciousness to enable the normalized recognition of Israel as the Jewish state in the region, so Arabs would accept Israel’s existence as an accomplished fact, as a permanent part of the natural order of their environment (Jamal 2012b).

The policy of information and consciousness disciplining toward the Arab-Palestinian community during the state’s early decades was led by “Arab-Jews” (Meir-Glitzenstein 2004; Shohat 1988; Wurmser 2005). Many educated Middle Eastern Jews (*Mizrahim*), whose cultural background was Arab and who spoke Arabic with authentic imagery,

chose to join the Information Office and other media institutions as they were established, thus supplying a new type of service to the state that no other group of elite Jewish Israelis could supply. These Jews behaved as though their main goal was “to serve” the needs of the Arab community, but they actually constituted part of the disciplinary power system of the state, both for the Arab population and for other Mizrahi Jews who were exposed to the literary and media products of this elite (Jamal 2012a).

An instructive example of state-controlled media was the daily newspaper *al-Yom* (Today), which was first issued in 1948 by the Arab unit of the Histadrut from the former offices of *Filasteen*, a Palestinian newspaper that had appeared in Jaffa in 1920s–1940s and had ceased publication as a result of the 1948 war. *Al-Yom* was later integrated into the Arab Publishing House of the Histadrut, which published a number of journals, including the biweekly *al-Yom* for children, the biweekly *Sada al-Tarbiya* (Educational Echo), the monthly *al-Hadaf* (The Objective), and the quarterly *Leka’a* (Meeting). Some of these are still being published today. In addition, the publishing house was responsible for the production of textbooks for Arab schools and, thus, controlled the income from these books and, in cooperation with the Ministry of Education, determined their content, which was responsible for the socialization of Arab youth (Bäumel 2007).

Al-Yom employed Jewish-Arabs whose mother tongue was Arabic, who were known for their attraction to and affection for the Arabic language and literature, and who had some kind of journalistic experience. Among the key personalities in this group were Menachem Zarur (who was known by his nickname, Abu Ibrahim), who had served as the editor of the newspaper *al-Balad* (The Homeland) in Baghdad before his immigration to Israel; Meir Jarakh, an Iraqi who worked in the Information Center of the Prime Minister’s Office and was a connecting link between the Information Center and the prime minister’s advisor on Arab affairs, and at the same time, a member of the newspaper editorial staff; and Nissim Rejwan, a noted author whose books were published in English and in Arabic, and who wrote a weekly column in *al-Yom* and later became its editor. Rejwan, who had worked as a journalist for *The Baghdad Times* during the 1940s, used this experience to advance the influence of *al-Yom* in Arab society, and actually became a leading figure in the Israeli information machine. Tuvia Shamush, of Syrian extraction, was the editor of *al-Yom* for 20 years and also translated fine literature from Arabic to Hebrew – for example, *Season of Migration to the North* by al-Tayyib Salih and *Eight Eyes* by Sufi

Abdallah – and was one of the leading figures in determining the editorial policy of the newspaper and giving it a more “authentic” tone in language and content for the average Arab reader (Eitan 2013; Jamal 2012b).

The content of the newspapers tried to disseminate a cognitive framework wherein Israel was to be accepted as an immutable fact, and Arabs were subtly warned that if the state were forced to adopt a harsh policy, they would be sorry. At a meeting of the newspaper’s Advisory Committee on April 1, 1963, it was noted:

The newspaper would penetrate into the readers’ consciousness that the State of Israel was an established fact by focusing on how it was becoming stronger culturally, economically, politically and militarily.

(ISA, 3551/5, N.d.)

In addition, *al-Yom* published ideas and opinions whose objective was to create the sense that Israel was a permanent fixture and to recommend integration of the Arab community in the country. In a summary of the newspaper’s Board of Directors’ meeting with the representative of the Prime Minister’s Office on September 5, 1962, it was suggested that:

The newspaper should provide its readers with values of good citizenship, and general and Israeli culture, while safeguarding and respecting the religious heritage, the ethnicity and the national feelings (but not negative nationalism) of the reader. Thus, the newspaper should encourage integration of Arab citizens in the State of Israel and to contribute to the understanding and to the good relations among all of the sectors.

(ISA, 3551/5, N.d.)

Opening the newspaper to Arab voices reflected attempts by the state to create the impression that it was making every effort to improve the living conditions of Arab citizens. The responsibility for the defeat of 1948 and for the unfortunate situation of the Arab citizens was placed on the “irresponsible” Arab and Palestinian leadership who were concerned with their own narrow interests, while the Arab public was forced to pay a heavy price. The newspaper presented its worldview in a sophisticated manner and in accessible language to the average Arab reader, taking care not to arouse antagonism among the Arab public. Accordingly, the newspaper editors invested great care in giving the impression that the newspaper intended to serve the basic interests of the Arab community. The objective was to appeal to Arab citizens and to manipulate Arab public opinion in Israel, as a component of the aspiration to control the Arab self. This can be understood from the words of Shmuel Toledano,

a former advisor on Arab affairs, which imply the aim of the daily newspaper:

In contrast to the prevailing opinion, I don't see a problem or implications, even from the viewpoint of the Arab reader, in the fact that this was a government newspaper. It's illogical to attempt to conceal the link between the newspaper and the government ... The orientation of the newspaper should ... like the broadcasts of the Arab Israeli radio programs, relate to foreign policy and attitudes towards Israel. Special emphasis should be focused on information about Arabs in the country and how their special needs are handled.

(ISA, 5948/12C, N.d.)

Al-Yom was distributed in all areas with a large Arab population, both in cities and in villages. The attempt to organize a permanent readership among Arab citizens led those who were responsible for the newspaper to utilize a number of channels: First, they took advantage of contacts that newspaper staff had with officials in various government offices to pressure Palestinians, who needed government permits, to subscribe. Second, they requested that government officials provide financial support for sectors of Arab society, to encourage them to subscribe. There were also attempts to identify potential readers from among the Arab educated elite. This included a request from the newspaper director to the Hebrew University to receive a list of names of Arab students in order to encourage them to read the newspaper (ISA, 3551/10, N.d.).

Despite the considerable efforts undertaken to enable *al-Yom* to continue publishing, it ceased publication immediately after the 1967 war (Yu and Cohen 2009). The decision to close the newspaper and to establish an alternative was made by a committee of Information Directors. The principal reason was *al-Yom's* lack of success in drawing a large reading public, which would justify the economic investment by the Histadrut and the Prime Minister's Office. The demographic change following the 1967 war and the addition of hundreds of thousands of Palestinians to Israeli control in the West Bank and Gaza required a significant change in the Israeli information dissemination policy. Those responsible for Israeli information provision decided to reorganize, including closing down *al-Yom* and, a year after the end of the war, establishing the newspaper *al-Anba'a* (The News), which had a new orientation and reputation (Jamal 2012a).

Al-Anba'a continued the policy guidelines of *al-Yom*, but in a more sophisticated way, with the aim of making much more meaningful

inroads into Arab society and taking responsibility for determining its public agenda. The staff of the new newspaper defined *al-Anba'a* as an official newspaper "which would represent the official position of the state" and would be directed to Arabs "in Israel, on the West Bank and the Gaza Strip and the Arab states," while, according to the founding staff, the target audience would dictate the newspaper's content and the editorial policy (Eitan 2013:76–77). Most of the editorial staff and reporters who had worked for *al-Yom* continued to operate at *al-Anba'a*, but they were faced with new challenges in 1967 after the occupation of Palestinian territories, where hundreds of thousands of Palestinians live that are antagonistic to Israel's presence in the region. In practice, the editors of *al-Anba'a* tried to create the impression among the Palestinians that the newspaper was a spokesman for the common people, and was established to serve its readers and to relate to their problems (Eitan 2013).

Like *al-Yom*, *al-Anba'a* made great efforts to widen its circulation and to exploit personal connections between its directors and official bodies so as to create pressure on Arab citizens associated with the ruling party and governmental offices to read the newspaper (Jamal 2012b). The newspaper directors even tried to win the trust of the leaders of the Palestinian community in East Jerusalem and to turn them into regular readers of *al-Anba'a*. To this end, they initiated meetings with key figures, such as Anwar Nusseibeh, in order to penetrate Arab society and to improve their competitive position against local newspapers, especially the daily *al-Quds*, the pro-Jordanian newspaper which was most widely disseminated in the West Bank and which was later known for its national Palestinian stance from the early 1970s (Jamal 2005b).

The objectives of *al-Anba'a* can be summarized as follows: to establish the image of an open public sphere to which a variety of Arab voices were invited to participate in discussion regarding the relations between the state and the Arab minority who resided in the state, and with its Arab neighbors; second, to advance the acceptance of Israel as an established fact, which should be respected. Those in charge of the newspaper wished to present the state as aspiring to integrate the Arab-Palestinian population within the state structure, in the spirit of the Israeli Declaration of Independence. The newspaper propagated the idea that Israel was a state, one of many, which had won its independence in the late 1940s and thus it should be seen as a part of the wave of international decolonialization after World War II. This was meant to distract readers from the dominant Arab position during this period, in which Israel was viewed

as a colonial occupying power. Regarding internal affairs, the newspaper emphasized public works efforts undertaken for “loyal” Palestinians, like connecting to the electricity network, paving of roads, and similar works while simultaneously blatantly neglecting to report about policies of land expropriation, arrests of national activists, and other harsh measures leveled against “disloyal” Palestinians. Furthermore, the newspaper encouraged Palestinians with opinions supportive of Israel to write articles that emphasized the advances in Jewish–Arab relations; special emphasis was placed on the praiseworthy attempt of official state bodies to solve local problems in Arab villages. The directors of the newspaper stated:

the newspaper will serve as an open platform for expressing opinions even if they are not in line with official opinions, but will make sure that “the last word” will be in the spirit of government policies ... but [the news paper] would emphasize how Israel solves its internal problems (social, economic, scientific and others).

(ISA, 17084/13, N.d.)

In order to strengthen the pretensions of the newspaper to reflect Israeli pluralism and liberalism, the newspaper directors decided to publish a weekly column written by Mohamed Hassanein Heikal, who was a prominent Egyptian columnist close to Jamal Abdel Nasser in their Sunday edition, but maintained the right to react “from time to time to these articles and to refute what could be refuted.” The newspaper targeted efforts at encouraging Arab citizens to adopt an appeasing attitude when dealing with their problems with the state. Or, as expressed by Shmuel Toledano, one of those responsible for publishing the newspaper, the paper’s objective was to assist in developing “quiet Arabs” (ISA, 304/63, N.d.).

With the wane of the Histadrut and the beginning of privatization and liberalization of the Israeli economy initiated by Menachem Begin’s first and second governments (1977–1981), and the withdrawal of the Prime Minister’s Office from subsidizing the newspaper, *al-Anba’a* was beset by severe financial difficulties. Finally, the end of official support for the newspaper led it to cease publication in 1984. However, even before its closure, in practice, its existence had become superfluous. This was due to its very small number of readers, but mostly because a large number of Palestinian citizens had already internalized the political rationale which the newspaper had been trying to advance, and particularly its basic assumption, that the Palestinians were a minority completely dependent on the state. Although one cannot claim that the newspaper alone was

behind this “success,” it helped in establishing the public atmosphere and collective mindset that supported it.

In summary, through the years, the existence of an Israeli state-sponsored media system in Arabic contributed to the illusion of a well-developed and liberal public sphere. An additional contribution was provided by the voices of loyal Arabs who emphasized the efforts of the state to aid in solving the problems of the Palestinian minority regarding road construction, water and electricity infrastructure, the educational system, and health and welfare facilities. Arab officials working in state bodies, especially school principals and Histadrut officials, were placed as leaders of public opinion, active in advancing governmental programs designed to penetrate and influence Arab society through its cultural gateways (Bäumel 2007). These constituted the dependable stratum of propagandists who provided the state with the internal legitimizing voice that it needed. However, the 1980s witnessed the rise of a new generation of Arab leaders who began changing the entire nature of the relationship between the Israeli state and its native national minority, a process that led to the development of new forms of subjugation, which will be addressed in the following section (Jamal 2006).

Hollow Citizenship, Majoritarian Despotism, and Ineffective Political Participation

In his treatment of technologies of contemporary government, Nikolas Rose argues that the creation of freedom, where subjects are obliged to be free and are required to conduct themselves responsibly, to account for their own freedom is a central strategy of governing (Rose 1999). According to this understanding, the freedom ethic is a part of a particular formula of governing society (Rose, O’Malley, and Valverde 2006). Taking responsibility for freedom becomes an important form of disciplining the conduct of the individual and of society. As Rose et al. claim “the very ethic of freedom [is] itself part of a particular formula for governing free societies” (ibid.:91). This is true in the political and social fields.

A major question that comes to mind when discussing state–minority relations in Israel is, who is the sovereign of the Israeli state? Defining the sovereign is of crucial importance, since it reveals central characteristics of the political game. Answering this question could shed light on the

complexity of the political reality of the Palestinian community in Israel and the complexities of Israeli politics. Since it is not possible to understand technologies of power without an analysis of the political rationality underpinning them, this section follows formal dimensions of the political practices, aiming at defining the tools of legitimization and spaces of political behavior allotted to the various political players, especially the Arab-Palestinian minority in the state.

The definition of the sovereign in the Israeli state is not a one-time act. It takes place every day, as manifested by various political and legal philosophers (Rousseau 1988). The first discursive act to externalize the Israeli sovereign was the Israeli Declaration of Independence, which became a central constitutional document in the Israeli political and legal culture (Barak 2006). This founding document states: "The Land of Israel was the birthplace of the Jewish people. Here their spiritual, religious and political identity was shaped. Here they first attained to statehood, created cultural values of national and universal significance and gave to the world the eternal Book of Books." The declaration indicates the exact sovereign in the newly established state asserting:

On the 29th November, 1947, the United Nations General Assembly passed a resolution calling for the establishment of a Jewish State in Eretz Israel; the General Assembly required the inhabitants of Eretz Israel to take such steps as were necessary on their part for the implementation of that resolution. This recognition by the United Nations of the right of the Jewish people to establish their State is irrevocable. This right is the natural right of the Jewish people to be masters of their own fate, like all other nations, in their own sovereign State. Accordingly we, members of the peoples council, representatives of the Jewish community of Eretz Israel and of the Zionist Movement, are here assembled on the day of the termination of the British Mandate over Eretz Israel and, by virtue of our natural and historic right and on the strength of the resolution of the United Nations General Assembly, hereby declare the establishment of a Jewish state in Eretz Israel, to be known as the state of Israel.

It is made clear that the declaration speaks of a historical sovereign in a specific territory that has been restored after a long period of forced absence. The absence of the sovereign does not and should not have reduced or abolished the right over the land on which sovereignty is reasserted. The sovereignty of the Jewish people over the land – Palestine in which hundreds of thousands of Palestinians live – is asserted as a continuous transhistorical power that is not affected by historical and demographic realities on the ground. The historical, spiritual, symbolic,

and constitutional status of the declaration leaves no doubt as to the exclusive character of the Israeli sovereign, especially when considering the fact that part of the indigenous population of Palestine lives within the borders of the Israeli state. The Jewish people have been constructed as the eternal and exclusive sovereign, and the Zionist narrative becomes the ultimate truth in state ideology and practices. This narrative renders the Palestinians occasional visitors in their own homeland. The recent engagement with the declaration and the emphasis put by Israeli leaders on the Jewish character of the state make clear that the Israeli sovereign is best articulated in ethno-national terms (Yiftachel 2006).

The second element to manifest the Israeli sovereign is through decision-making that has to do with determining the strategic character of the Israeli state. There is a prevalent consensus among Israeli Jews that the state should invest all resources possible to preserve the hegemony of Jewish culture in the public sphere, even if this means the exclusion of non-Jews (Democracy Index 2012). Only Jews are viewed as fully legitimate participants in determining the character of the state and its major policies. A majority of the Israeli Jewish public would prefer if Arabs were excluded from involvement in crucial decision-making processes (*ibid.*). Anti-liberal tendencies among major proportions of the Israeli Jewish public have been found in public opinion surveys that demonstrated the narrow ethnic political culture and the lack of tolerance toward the Arab population and the unwillingness to justify their equal participation in the representative organs of the state (*ibid.*).

Recent developments in Israeli politics clearly demonstrate that the Jewish majority in Israel seeks to delegitimize Arab representation in the Israeli parliament, redefine the political field in which Arabs can play, and redefine the meaning of their citizenship (Navot and Peled 2009). This can be best demonstrated by law-making processes in which basic and regular laws were amended twice in order to exclude or even render illegal any attempt to challenge – legally – the Jewish character of the state. The first time took place in the first Sharon government 2001–2003, and the second during the second Netanyahu government, 2009–2012.

On May 15, 2002, the Israeli Knesset changed article 7(a) of the Basic Law: The Knesset (Amendment No. 35) – 2002, Political Parties Law (Amendment No. 13) – 2002, Knesset and Prime Minister Elections Law (Amendment No. 46) – 2002 (Jamal 2011). These changes have led to continuous attempts by the Jewish national parties to block the participation of national and religious Arab parties from participating in the elections through constitutional and legal disqualification charges, the

last of which took place against The United Arab List and the National Democratic Assembly toward the January 2013 elections. These attempts, which have not succeeded so far as a result of the intervention of the Israeli High Court, mark the efforts made by the Jewish majority in the Knesset to set the boundaries of the legitimate participation in the political game in Israel.

To this, one should add the 2003 “amendment” of the Citizenship and Entry into Israel Law, which made it almost impossible for Palestinian citizens of Israel to get permits for their Palestinian spouses and children from the Occupied Palestinian Territory (OPT) to enter and reside in Israel for purposes of family unification (Adalah 2012). In 2007, the law was amended again to prohibit spouses from “enemy states” – Syria, Lebanon, Iran, and Iraq – to enter Israel as part of family unification, in order to avoid charges that the law was racist since it is directed solely and specifically against Palestinians (ibid.). These amendments, which were declared by the Israeli High Court as constitutional, stand in sharp contrast with the laws providing for any person of Jewish descent to obtain automatic and rapid citizenship. In thousands of cases, people with loose and unproven Jewish ancestry received automatic citizenship in Israel, reflecting the racial discrimination embedded in the Israeli citizenship law, aiming to cope with what has become known in Israel as the “demographic threat.”

The “war” waged against the Arab-Palestinian presence in Israel does not stop at the gates of demography. It has always involved the cultural and symbolic existence of Palestinians in the Jewish state. These efforts have taken many avenues, one of which could be demonstrated through what has become to be known as the “Nakba law,” which allows the minister of education to withhold funds from official organizations that commemorate the Palestinian tragedy of 1948 (ACRI 2011). This law is a part and parcel of the grand policy of “epistemic violence” against Palestinian history, memory, and consciousness, as manifested in formal school books, literary and art policies, and even gastronomy (Bar Tal 2013).

Constitutional and legal instruments are utilized to narrow spaces of freedom for Arab-Palestinians. Israeli state institutions and policies are not “color-blind” when it comes to issues of civil justice as well as citizenship. Israel is a nationalizing state. It creates a range of burdens, barriers, stigmatizations, and exclusions against the Arab indigenous minority for being Palestinian. It is true that the Arab participation in the Knesset creates the impression that Arabs are genuine participants in

the Israeli moral community and participants in the definition of the moral order that dominates Israeli public culture. This participation is part of a concealed coercion in which Arab participation is marginal, if not devoid of any meaning, especially when it comes to defining the moral order in Israel or the rules according to which the deliberations about such an order take place. The best example to illustrate this point is the recent law proposal made by right-wing politicians, aiming at guaranteeing a Jewish majority in any decision made in the Knesset concerning territorial compromises (Lis 2013).

Israeli representative politics are based on ethnic majoritarianism that translates into automatic Jewish majority for important decisions or disputes. Most of the crucial decisions are made in institutions, representative or administrative, in which there is Jewish hegemony. As a result, Arabs are excluded from real and effective participation in determining the political agenda and from defining the possible choices within it. Arab participation in the Israeli Knesset obscures deep moral and ideological disagreements that do not always find their way into the public sphere for serious discussion and determination. To the contrary, the majority tacitly presents Arab participation in electoral politics as an acceptance of the structure of the public order and the ideological ethos that legitimizes it. The presence of Arabs in the Israeli Knesset obscures the deep moral disagreements between Arabs and Jews in regard to the conception of justice that stands behind the whole Israeli system.

The representative institutions of the Israeli political system view themselves as major mechanisms in promoting the interests of the Jewish majority in the state. This fact is best illustrated through the laws enacted by the Knesset. The latter's sovereignty does not derive from its representing the Israeli public only. There is a widely accepted underlying assumption among the Jewish majority that the Knesset is an articulation of the sovereignty of the entire Jewish people worldwide as the discussions of the proposed "nationality" bill demonstrate (Jamal, 2016). It therefore expresses the aspirations of Jews living in the United States, Canada, Australia, Russia, France, the United Kingdom, and so on. This concept deprives the meaning of civic sovereignty of any meaning and replaces it with an ethnic sovereignty that extends far beyond state borders. This transethnic sovereignty renders the meaning of citizenship empty and replaces it with kinship as the main logic of sovereign power. No wonder that Jewish communities, especially wealthy Jews, feel that they can intervene and influence policies of the Israeli government, as if the state belongs to them, as much as – and even more than – some of its citizens.

The deep ethnic majoritarian character of the Israeli political system and its promotion of Jewish hegemony, while setting limitations on its representativeness in regard to the Arab-Palestinian citizens, demonstrate an intrinsically embedded Zionist bias and the need for an alternative rights system other than the one manifested in the current electoral system. Jews have an automatic majority in all fields of policy, while Arab-Palestinians are subordinated to priorities that view them as threat. As a result, their well-being is jeopardized by their mere participation in a system that undermines their presence instead of empowering them as integral and equal partners. Israeli officials have utilized Arab participation in Knesset elections for propaganda purposes. Netanyahu spoke recently of the freedom of the Arab community in comparison to all other Arabs in the region in his speech to the U.S. Congress, aiming to praise the Israeli democracy.

This short depiction of the creation of freedom as one of the technologies of government shows that the Israeli state should not be understood in foundational terms. Government is achieved through asymmetrical relationships of power when the subordinate party has little room to maneuver because their margin of freedom is extremely limited. The mere participation of Arab citizens in the Israeli democratic game – the mere practice of freedom – renders them subjugated to a mechanism that renders their presence devoid of substantive meaning. The practice of freedom becomes imprisonment in a system of power that hollows out their citizenship and delegitimizes any attempt to exercise their power.

Conclusion

The three parts of this chapter explored the theoretical argument that rules of governments are various and not necessarily coherent. In the Israeli case, we have shown that the politics of expectations, the manufacturing of consent, and the hollowing out of citizenship run on various levels and comprise complementary mechanisms of governmentality. The disciplining of subjects and subjugation of citizens are achieved through the production of discourse. Power is practiced as a productive network that runs through the whole social body, as actual practices of subjugation. Nonetheless and in contrast to Foucault's point of view, one cannot ignore the intentions that underlie attempts at domination. It is true that power circulates through networks rather than being applied at particular points. But when viewed from the perspective of state–minority relations, the end result is

a combination of control and neglect that serves and preserves the sovereign power. Although one cannot view the state or the sovereign in foundational terms, nevertheless it makes sense to speak about statecraft, without falling into “the assumption that the state is always-already there as some sort of master subject or super-machine” (Jessop 2010:67).

The Arab-Palestinian community in Israel faces various mechanisms of power, including social engineering, disciplining, taming, and delegitimization. Epistemic violence is utilized in order to define the Arab minority and delimit its maneuvering space. When mechanisms of discourse production are conceived to be inefficient, legal means are introduced in order to subjugate the Arab minority and compel it to submit to rules set by the hegemonic Jewish majority. This is done through “democratic” means, turning majority decision into majoritarian despotism. The political and legal developments of the last decade demonstrate that this mechanism is turned into a major component of the hegemonic political culture, rendering democratic procedures a mask for promoting anti-democratic substance that reach a peak with the hollowing out of citizenship from any substantive meaning and converting it into an efficient control mechanism. It seems that the efforts made by the Arab-Palestinian community to counter these efforts fall within the frames provided by the same governing rules that render these efforts ineffective, if not void. However, the internal fragmentation of the Palestinian community and the weakening of the broader Palestinian national movement open the way for continuation of the same Israeli disciplining policies under the cover of modernization, democratization, and development.

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The Legal Structures of Subordination

The Palestinian Minority and Israeli Law

NIMER SULTANY

The law is a potential site for socio-political contestation. Legal systems may be open to competing interpretations and applications, because they are not necessarily coherent, and abstract legal concepts are not necessarily determinate. Nevertheless, the ability of legal actors to destabilize (or stabilize) legal categories and expose the incoherence of the legal system (or to present it as coherent) depends on the availability of maneuvering space and on the actors' willingness and ability to do the necessary work to achieve these effects (Kennedy 2008). Therefore, in order to examine the law's role in a particular country, one has to take into account not only the letter of the law, but also its judicial interpretations and applications as well as its effects in a particular context.

Israeli law, the subject of this chapter, is not monolithic. Zionist ideology influences Israeli law, but ideologies are rarely homogenous, and different actors within legal systems strive to advance their own conceptions and interests. Yet, an examination of the role of the legal system since Israel's inception reveals that far from significantly challenging power structures, Israeli law effectively created a hierarchy among Israeli citizens. As I show here, it generally advanced, justified, and perpetuated a separate and inferior status for the Palestinian citizens in Israel. At the same time, it granted the Israeli regime an aura of legitimacy by containing its practices under the "rule of law." Ultimately, although the legal system has a moderating effect – because it often pushes the political system toward the political center – this center itself has been moving toward the right-wing continuum of the Zionist movement.

The chapter is organized as follows: Part I examines the conventional story about the rise of constitutionalism and judicial activism in Israel. I question the analytical utility of this story in evaluating the role of law in Israeli society. The chapter shows that, at

least with respect to the Palestinian citizens, the Supreme Court was far from the counter-majoritarian hero who stood in defense of basic rights. Part II examines three primary areas in which the legal system, and the Court in particular, contributed to the “subordination” – that is, systematic disadvantaging – of the Palestinian citizens. Israeli legal structures have facilitated the dispossession of Palestinian land, the establishment of inferior and differentiated citizenship, and the segregation of Arabs from Jews in housing and education. I use the word “structures” to convey that this injustice is a result of resilient institutional practices (as opposed to a moral failing on the part of few individuals). I use “structures” in the plural to convey that these practices are irreducible to an overarching “function” of a “coherent” legal system. I show how the legal and judicial deployment of seemingly neutral and technical legal categories effectively obscures this subordination while simultaneously justifying, shaping, and advancing it. Part III discusses some of the rhetorical and legal tools the Court deploys to justify its deferential attitude toward state power and oppressive practices: security, thin rulings, political questions, general questions, delay, ripeness, and facially neutral jurisprudence. This by no means suggests that the Court’s performance has been uniform and monolithic. Part IV mentions three examples of cases in which the Court moderated excessive or peripheral cases of discrimination: political participation, free speech, and state subsidies. Yet even in these cases, the Court affirmed the state’s Zionist ideology, and its rulings were often ineffective given the delay in delivering rulings, the Court’s dependency on other branches to enforce its rulings, and the lack of implementation by these branches.

The Conventional Story: The Rise of Judicial Activism?

Constitutionalism is often understood as the “rule of law” rather than the arbitrary “rule of men” and requires the imposition of constraints on politics (Sultany 2012a). The conventional story in Israeli legal history is one of ascendance from an absence of a written, codified constitution to the rise of constitutionalism and the increasing influence of the discourse of rights. These were achieved through a stronger role played by the Israeli judiciary, which started to exercise the power of judicial review – that is, the power to review the conformity of legislation and state policies with supra-political norms. Supporters of this activist

judiciary consider this activism as necessary for the protection and vindication of rights and the separation of powers. Yet detractors consider this activism a form of usurpation of power from the hands of popularly elected branches of government.

The Absence of a Written Constitution

Israel failed to enact a constitution, despite the fact that both the UN Partition Resolution 181 and the Israeli Declaration of Independence required such an enactment. Following this requirement, an interesting debate took place in which the opponents of promulgating a comprehensive, formal constitution prevailed. David Ben-Gurion – the founder of the state and leader of the ruling party Mapai – and the religious parties were the main opponents. Consequently, on June 13, 1950, the Knesset adopted the “Harari resolution” compromise, according to which the Knesset’s Constitution, Law, and Justice Committee would be in charge of drafting the constitution through a series of Basic Laws.

Scholars usually point out that the reasons for the failure to adopt a constitution include (Cohen 2003) the following: the heritage of the British Mandate, which did not include constitutionally protected human rights; the socialist and illiberal perceptions of many of the Zionist leaders; Mapai’s desire to safeguard its coalition with the Religious Front; and Mapai’s desire for “unhampered freedom to govern” (Sager 1976:93). Yet the arguments against the adoption of a written constitution included the following (Cohen 2003; Goldberg 1998; Kohn 1954; Sager 1976; Sapir 1999; Shapira 1993): (1) Only a minority of the Jewish people reside in Israel, and the state does not have the right to tie the hands of the Jewish people with a rigid constitution; (2) the state is in its formative years with an ongoing immigration of thousands of Jews, and there is a need for unification before a constitution can be adopted; (3) the debate over a constitution requires addressing the most fundamental issues in the life of the state and the people. These kinds of discussions might endanger the unity of the people and lead to a “cultural war” between the secular and religious parties; (4) as exemplified by the British experience, the rule of law can be maintained and the freedoms can be secured without a written constitution; and (5) religious parties further claimed that the Torah is the constitution of the Jewish people and there is no need for another constitution. These parties

rejected the notion of popular sovereignty and recognized divine sovereignty as the source of legitimacy.

These arguments betray ideological orientations that perceived the formation of the state as an ongoing project of Zionist nation building, and did not consider Israel an ordinary nation state, because the majority of the ethnically and religiously-conceived nation resides outside the state. It also shows that religious arguments played a role in rejecting secular constitutionalism. In addition, Nadim Rouhana argues that the “founding fathers” needed some time to “incorporate the spoils of the war with the Palestinians – the enormous property that Palestinians left behind – and to employ these spoils for the benefit of Jewish society,” and that “constitutional efforts could have hindered the designs of the founding fathers” (Rouhana 2004:1). Indeed, Israeli legislators were concerned that a constitution would undermine security legislation, specifically the emergency regulations (which allowed for the seizure of Palestinian property, as I explain next; Karp 1993).

The Rise of Constitutionalism

Israeli scholars often argue that Israeli legal consciousness has moved from a formalist, technical, inductive conception of the law in the first three decades of Israel’s history toward a value-oriented, purposive, educative conception of the law during the 1980s and onward (Mautner 1993). Alongside this change in legal reasoning and conceptions of the law, a change occurred in the role of the Supreme Court. The Court’s early approach was deferential toward the legislative and executive branches. In the first decades of the state, the Court tried to establish its institutional legitimacy and ability to curb the power of the executive branch, which exemplified an “Eastern European background of czarism, Bolshevism, and authoritarianism that shaped the consciousness of Israel’s ruling elite and contributed to the rise of étatism (*mamlakhtiyut*) in the early 1950s” (Lahav 1997:100). Facing these non-liberal attitudes, the Court deployed a Zionist, collectivist, “nationalistic liberalism” (Oz-Salzberger and Salzberger 1998). Following this approach, the Court challenged the executive on only a few occasions and based on formal, procedural, and technical justifications (see, e.g., Peretz 1958).

On the rare occasions in which the Court stepped outside technical reasoning and resorted to an overt normative and substantive reasoning, it more often than not endorsed the prevailing Zionist consensus. For instance, the *Yardor* (1965) case dealt with the disqualification of al-Ard’s

Socialist Arab List from the Knesset's elections.¹ The Court approved this disqualification despite the fact that the list met all the procedural requirements, and the law did not enumerate any substantive ground for disqualification. The fact that the Arab left-wing list had a democratic, secular, and egalitarian agenda for all citizens made it difficult for the Court to justify its disqualification on notions of "defensive democracy." Instead, the Court chose a doctrine of "defensive Zionism" (Oz-Salzberger and Salzberger 1998). The Court approved this disqualification because it considered the list to undermine the "fundamental constitutional premise" of the continuity of Israel as a Jewish state.

Even in the celebrated case of *Kol Ha'am* (1953), the Court can hardly be seen as a counter-majoritarian hero who defended extreme or marginal minority voices against governmental suppression.² In that case, the Court defended the right to free speech by imposing a restrictive "clear and present danger" standard for assessing governmental regulations of free speech. Accordingly, it rejected the state's closure of the Arabic and Hebrew communist newspapers, which were vocal critics of the state's policies. However, seen in historical context, the Court joined in this ruling the "societal center" (Rozin 2006). Indeed, mainstream newspapers and the Journalists' Association were very critical of the government's decision to close these newspapers and saw it as their interest to defend freedom of speech (Rozin 2006). Thus, although the Court's ruling contradicted the government's position, it was consistent with influential mainstream voices. In any case, this ruling remained largely ignored in the Court's jurisprudence for three decades as the Court hardly referred to it in its subsequent rulings (Saban 2011).

The Court became an "activist" court and abandoned this deferential posture toward the executive and legislative branches given their inability to resolve controversial and political issues – such as questions of state and religion – that ended up at the Court's docket. The culmination of the changes in the Court's stature, power, and jurisprudence occurred in the 1990s with the enactment of two basic laws – Basic Law: Freedom of Occupation and Basic Law: Human Dignity and Freedom. These laws constitutionalized for the first time the values of Israel as a "Jewish and democratic" state. They also introduced for the first time a partial list of rights. The enactment of these Basic Laws at that specific time originates,

¹ E.A. 1/1965 *Yardor v. Central Elections Committee for the Sixteenth Knesset*, P.D. 19 (3) 365 (1965).

² H.C. 73/1953 *Kol Ha'am Co. v. Minister of Interior*, P.D. 7 871 (1953).

at least partially, in the desire of some legislatures to entrench certain legal and political arrangements against the backdrop of the change in the constellation of the Israeli ruling elites from secular to religious and from Ashkenazi to Mizrahi Jews (Kimmerling 2001). Thus, the threatened cosmopolitan and neoliberal elites sought to insulate their preferred arrangements from majoritarian decision-making by delegating these issues to the judiciary, which shared these values (Hirschl 2000).

Glaringly, the Israeli legislature omitted equality from this list of rights. The reason for this omission was the fear that the imposition of egalitarian norms would undermine the Jewish character of the state. Accordingly, equality might upset the religious-secular status quo within the Jewish majority by weakening the status of religion and the religious establishment, and might undermine discrimination against the Palestinian citizens (Karp 1993). The failed attempts of Palestinian lawmakers to introduce the formal principle of equal protection of the laws into Israeli law illustrate that the Knesset feared that formal equality might undermine the Jewishness of the state (Sultany 2003). Nevertheless, former Chief Justice Aharon Barak considered this constitutionalization of rights as a “constitutional revolution” that granted the judiciary the power to review the validity of legislative acts.

The Limits of Judicial Intervention

Yet there are many reasons to doubt the simplistic conventional wisdom. The notion of “judicial activism” has been subjected in recent years to critical scrutiny. To begin with, there is no agreed-upon, non-controversial, neutral baseline that demarcates the legitimate boundaries of judicial intervention and according to which “activism” and “passivism” can be assessed (Sultany 2012a). Indeed, the dichotomies between activist/passivist and substantive/proceduralist courts are hard to defend. The theoretical distinction between passivism and activism merely obfuscates the real political differences (Seidman 2001). They may be more accurately seen as two sides of the same coin and as different postures of judicial and legal politics. The difference between them is one of visibility of intervention. It is a difference in degree rather than kind. Tribe writes: “Judicial authority to determine when to defer to others in constitutional matters is a procedural form of substantive power; judicial restraint is but another form of judicial activism” (Tribe 2000:xvi). In this sense, a passive court is always already an activist court and vice versa. Likewise, a proceduralist court is always already a substantive court and

vice versa. Even so-called substantive courts often claim that their review focuses on processes and procedures and distinguish between “legality” and “merits.” Thus, arguably, they generally produce a limited and ineffective protection of rights (Galligan 1982).

Additionally, the wealth of recent scholarship questions the activist reading of judicial intervention: Empirical studies show that supreme courts never stray far from mainstream public opinion (Friedman 2010); historical research shows that judicial rulings may de-radicalize demands for social change (Forbath 1991), have little effect on the reality of subordinated minorities (Klarman 1996; Rosenberg 2008), and may also produce a backlash from conservative actors (Klarman 2006). Comparative inquiry shows the gap between law in the books and law in action and the inefficacy of judicial activism as in the case of some rulings of the Indian Supreme Court or the question of advancing socio-economic rights (Cassels 1989; Krishnan 2003).

These critiques are relevant to the Israeli Court’s record. From the story of the rise of judicial activism and of a liberal Court challenging the other branches of government and spreading the discourse of rights, some Israeli scholars exempt two major areas of judicial decision-making: cases dealing with the occupation of the West Bank and the Gaza Strip (Sheleff 1993), and cases dealing with the expropriation of lands from the Palestinian citizens (Holzman-Gazit 2007). Indeed, the Court limited only the excessive practices of the occupation regime, but not its ordinary operation (Kretzmer 2002), and legitimated its practices and overall structure (Shamir 1990; Sultany 2007, 2014). Likewise, the “constitutional revolution” left no significant marks on the land regime inside Israel and provided very few protections to Palestinian landholders (Holzman-Gazit 2007).

Land and occupation, however, are not the only areas of law that are inconsistent with the image of an activist Court. The gap between law in the books and law in action is evident in the very limited effect of the Court’s intervention in political agreements, political appointments, and political allocations (Barak-Erez 2002). Furthermore, with respect to social rights, the Court exercised a minimalist, rather than an activist, approach (Barak-Erez and Gross 2007). Simultaneously, it enforced a conservative anti-distributive approach to economic rights that protected the status quo (Gross 1998). This shows that “activism” is not necessarily progressive. Additionally, the story of the transformation from form to substance and values is challenged by the existence of a significant “exception,” which is constitutional law (Segev 2006).

Finally, scholars cite the Court's concern about its legitimacy as an explanation for its early deferential attitude. Yet this concern did not end after the first three decades. In fact, the increasing power of the Court made it more vulnerable to critiques and attacks by other branches and substantial segments of the Jewish population (Saban 2008). Consider, for instance, the judges' vocal opposition to attempts by the Minister of Justice Daniel Friedmann in 2008 to curtail judicial power through changes in the appointments' method of Supreme Court justices or empowering the legislature to override judicial rulings (Yoaz 2008). Consider also the 250,000 ultra-orthodox demonstrators who expressed in February 1999 their rejection of the Court's interventions in religious questions (Sontag 1999). Thus, the Court's perceived vulnerability and its need to maintain its legitimacy influence its choice of a course of action – whether its primary orientation is “formalist” or “substantive,” “passivist” or “activist”.

This chapter does not seek to evaluate the overall performance of the Court or, more generally, the Israeli legal system. Rather, I focus on the main ways in which this system has influenced or contributed to the subordination of the state's Palestinian citizens. Unlike the previously mentioned conventional accounts, I will not distinguish between different periods or Courts, because my argument will be that the effect of subordination remains overall similar despite the changing legal tools and postures. There is no necessary connection between one form of legal consciousness (whether “formalist” or “substantive”) and judicial posture (whether “passivist” or “activist”). And there is no necessary connection between the latter and subordination. Law is relatively autonomous. As such, it does not necessarily reflect or mirror the interests of ruling elites (Kennedy, *The Rise and Fall*, 2006; Tushnet 1977). Legal consciousness – the social practice and understanding of the law – mediates the influence of ideologies and interests on concrete arrangements and institutions (Kennedy, *The Rise and Fall*, 2006). It effectively reproduces and legitimates power structures and systems of privilege, but it does not reproduce them in the same way; that is, it may moderate their influence and limit their excesses.

In Israel's case, legalism (the belief that outcomes in judicial rulings follow from applying legal reasoning to the legal materials) and the rule of law (the semblance of legality) – whether in the formalist or the value-oriented mode – mediates the influence of Zionist ideology through negotiating the contradiction between Jewishness and democracy (as in denying its existence or reconciling it through modifications). But by

doing so, the law shapes this Zionist ideology and contributes to its evolution. Legalism imposes a false necessity by obscuring the intertwining of law and politics and the inescapable legislative and policymaking role of the judiciary (Kennedy 1998; Posner 2008). The law is not necessarily a coherent gapless system. Judges resolve gaps, ambiguities, and contradictions in the law by choosing among alternative policy choices. The law does not necessarily mandate these choices; rather, they are related to, influenced by, and contribute to political and ideological debates (Kennedy 1998). This implicates the judiciary in an active lawmaking role regardless of the visibility of judicial intervention (whether the judge is “activist” or “passive”). In this sense, the law did not mirror Zionist ideology; rather, it constituted it.

Law and Control?

An example of an instrumentalist conception of the law as “mirroring” Zionist ideology is to perceive the law as a servant of a control system. Following Lustick’s model of control – which includes segmentation, economic dependency, and cooptation of minority members (Lustick 1980) – Saban (2011) argues that in the first three decades, the law was an “able servant” of the control system within a project of colonization. Despite the admission that the control system itself may contain a tension between different interests, such a functionalist view risks either lapsing to a reductionist instrumentalist conception of the law (according to which the law is a mere “servant”) or a totalizing discourse (in which legal developments that are contrary to the control model are represented as legitimating devices for the control system) (Saban 2011:339).

I reject this view for several reasons. First, not all legal rules and institutions are oppressive and seek to control; some rules are “facilitative,” providing citizens with tools to pursue social or economic activities (Tushnet 1977). In other cases, the law can be a strategy in warfare (Kennedy, *Of War and Law*, 2006). It can play a constitutive role in humanizing and civilizing the colonized (Esmeir 2012). Legal rules can indirectly influence citizens’ lives (as in libel suits that touch upon the historical memory of Arab citizens; Bilsky 2011). Control may be one of the effects of legal arrangements if it is understood narrowly (as in security legislation to control political protest). If defined broadly (to include all aspects of the Palestinian minority’s interaction with the legal system: control of land, people, consciousness, memory), however, it loses its analytical utility, because it lumps together too many diverse

practices and arrangements. For instance, if control means governance or regulation, then every legal system seeks to control citizens.

Secondly, the legal system might not be the most important component in a control system. Control can be achieved in various other ways, such as by establishing an extensive intelligence apparatus and an elaborate system of recruiting informants (Cohen 2009, 2010). The efficacy of this control can also be achieved given several historical – social, political, economic – factors and contingent upon them (Smooha 1980).

Thirdly, both the instrumentalist and totalizing conceptions ignore the law's indeterminacy. Whether gaps, ambiguities, and contradictions in Israeli law have been used to improve or subordinate the status of the Palestinian citizens is a question that requires examining the effects of the deployment of legal tools. Yet one cannot deduce a function from observing effects (Hunt 1985), because there is no necessary correspondence between the effects and the form of law. Legal actors may produce different effects from the same legal language under different circumstances. In this sense, functionalism is legalistic, because it assumes that these effects are legally mandated.

Fourthly, reducing the law to a mere servant of the function of control misses the active and constitutive part of the law. It is exactly given the existence of gaps, ambiguities, and contradictions that the judiciary does not just *apply* the law, but also *makes* the law. As mentioned earlier, Israeli law does not merely reflect Israeli politics; it also mediates state ideology and shapes it. It is, then, a mistake to scrutinize the law's role through the ends that a political regime pursues and ignore the law's internal politics and constitutive role (Esmeir 2012).

Therefore, in contrast to functionalist approaches, I do not posit an overarching function of the legal system nor an inherent feature in it. Unlike instrumentalist approaches, I maintain that the judiciary is a policymaker and does not mechanically reflect political will. Israeli law's seemingly neutral and general language is potentially indeterminate and permits judicial discretion. Nevertheless, as will become apparent next, disagreements among or between the judges and the political branches are relatively limited. Ultimately, legal arrangements systematically disadvantage the Palestinian citizens vis-à-vis the Jewish citizens in the distribution of material and symbolic benefits and resources.

Subordination by Law

In this section, I describe briefly the primary ways in which Israeli law is implicated in dispossessing the Palestinian citizens, in granting them a differentiated and precarious citizenship status, and in segregating them from the Jewish majority.

The Legal Structures of Dispossession

Through the ethnic cleansing of Palestine, the Zionist movement transformed Palestine from an Arab majority country into a Jewish majority state (Pappé 2006). This transformation was by no means merely demographic. Jewish ownership by 1948 comprised about 8.5% of the lands (6.6% according to Jiryis 1973; Kedar 2001). Yet after 1948 and by the 1960s, the situation was reversed, with the state and the Jewish National Fund owning 93% of the lands inside Israel (Kedar 2003). In 1960, the Basic Law: Israel Lands defined “Israel lands” as those owned by the state, the Development Authority, or the Jewish National Fund. It declared that the ownership of these lands “shall not be transferred either by sale or in any other manner.”

The lands that the state appropriated did not include only the spoils of war (refugees’ property) in the immediate aftermath of the war; they also included Palestinian citizens’ lands that that state expropriated. At the time, as the Palestinian community inside Israel grew from 156,000 in 1948 to 1.4 million in 2013, the state transferred most of these citizens’ private lands to its control. An elaborate legislative and judicial apparatus has enabled the state to make these changes and to create a land regime congenial to the needs of the ongoing formation of an ethnocratic settler regime (Forman 2011; Holzman-Gazit 2007; Jiryis 1973; Kedar 2001, 2003; Kretzmer 1990; Mehozay 2012a). Ethnocracies seek to utilize the country’s resources for the benefit of an ethnic group whose members control and dominate its decision-making institutions to the exclusion of citizens who do not belong to this group (Yiftachel 2006). Settlers’ law – and especially the supreme courts’ jurisprudence – uses many seemingly neutral, technical, and procedural legal tools that justify and facilitate the appropriation of natives’ lands for the benefit of the settlers (Dakwar 2000; Kedar 2003).

One major component of the legal structures of dispossession in Israel is the seemingly technical category of “absentee.” Through this category, the law disconnects the native from his historical entitlements and his

homeland. At the time the law entrenches the war's outcome, it whitewashes the spoils of war by ignoring the context of raw power that severed civilians' relationship with their property and homeland. The Absentees' Property Law – 1950 effectively defined every Palestinian refugee as an absentee whose property could be transferred to the Custodian of Absentee Property. The definition was so broad that anyone who left the areas controlled by Zionist military for a short period of time between November 29, 1947, and May 15, 1948, to an adjacent Palestinian or Arab territory could be considered an “absentee” (Peretz 1958). Even those who remained in their homes, which happened to fall under Jordanian control during the war until their territory was transferred to Israel in the Rhodes Armistice Agreement of 1949, became “present absentees” (Jiryis 1973; Kedar 2003). The Custodian had very broad powers to declare persons as “absentees” and their property as “absentee property.” Contributing to this process, the Court imposed the onus of proof regarding title over land on the “absentee” landowners rather than on the state that seized their lands (Kedar 2003). In order to whitewash this land grab and make it permanent, the Custodian transferred the seized lands to the Development Authority. The latter, in turn, “sold” these lands to the state and to the quasi-state body, the Jewish National Fund. The latter, along with the government's representatives, is part of the Israel Land Administration that governs and regulates all state lands in Israel.

In other cases, the state exploited the Ottoman category of *Mewat* land (uninhabited and uncultivated land) to expand its holdings. Accordingly, the Court developed evidentiary rules that expanded the *Mewat* category – and hence state land – and rejected oral and written evidence that the landowners provided (Kedar 2001). The Land (Acquisition for Public Purposes) Ordinance – 1943, a British Mandate law that Israeli law incorporated, authorized the minister of finance to seize lands for “any public purpose.” The state used this Ordinance to seize Arab lands in order to establish new Jewish communities (Kretzmer 1990).

Other legislation relied on the existence of the military regime that the state imposed exclusively on the Palestinian Arab citizens from 1948 to 1966. This regime curtailed their basic rights, including strict limitations of the right to movement under a pass permits regime administrated by military governors who regulated Arab access to the labor market and suppressed their political activities. For instance, Article 125 of the Defense (Emergency) Regulations – 1945 empowered military commanders to declare certain areas as “closed areas.” Likewise, the state used

security measures and pretexts through the Emergency Regulations (Security Zones) – 1948. These regulations empowered the defense minister to declare “security zones.” These military orders prevented landowners or village residents from physically being in and using their property. Finally, the Emergency Regulations (Cultivation of Uncultivated Land) – 1949 authorized the minister of agriculture to seize “uncultivated” lands. Occasionally, the state used these legal tools simultaneously to dispossess an Arab landowner: a land in a security zone or closed area remained uncultivated and thus allowed the minister of agriculture to seize it on the grounds that it is uncultivated (Jiryis 1973).

These few examples show that Israel went to considerable lengths to legalize its actions in order to present them under the aura of “rule of law.” The state, however, appropriated a “considerable amount of land . . . with no legal basis at all, or based on provisional laws” between 1951 and 1953 (Forman and Kedar 2004). These appropriations were retroactively legalized through the Land Acquisition (Validation of Acts and Compensation) Law – 1953.

It is unclear whether the existence of a written constitution would have hindered some of these measures of dispossession, as the founding fathers may have feared. It is clear, however, that the right to private property became a constitutional right in the Basic Laws of the 1990s only *after* most of the Palestinian citizens’ lands have been taken away. This constitutionalization of property rights effectively entrenches this dispossession, because it protects existing property relations and presents them as a neutral baseline (Gross 2004). This entrenchment is facilitated, on the one hand, by the Supreme Court’s general conception of property rights as possessive – and hence very protective of current property owners – rather than distributive (Barak-Erez and Gross 2007). On the other hand, the Court’s jurisprudence of dispossession with respect to Arab property rights continued after the enactment of the Basic Laws (Holzman-Gazit 2007). This jurisprudence is manifested, for instance, in approving very broad definitions of the public purposes that justify land confiscation. In a recent case regarding the Lajjun lands, the Court rejected an appeal by Arab landowners.³ The state seized the Lajjun lands (200 dunams) in 1953 according to the abovementioned Land Acquisition (Validation and Compensation) Law. The finance minister

³ C.A. 4067/2007 *Muhammad Khalil Abdelfattah Jabareen and 486 others v. State of Israel* (2010). Last accessed July 29, 2013 (<http://elyon2.court.gov.il/files/07/670/040/E01/07040670.E01.pdf>).

issued a certificate stipulating that the lands are taken for “vital settlement and development needs.” However, the lands were used for forestation only. In 2007, the landowners requested the Court to annul the expropriation, given the fact that the state did not use the land for the specified goals despite the passage of more than 50 years. The petitioners relied on a 2001 landmark ruling in which the Court ordered the government to offer Jewish landowners the right to regain ownership of their private land that the state had confiscated for a public purpose, but ceased to use it for that purpose. In that case, the state seized the land for military training and after three decades changed the public purpose, and decided to establish a residential neighborhood on that land.⁴ In the case of the Arab owners of Lajjun, however, the Court ruled that forestation falls within the “settlement and development” goals of the state. The Court reasoned that the interpretive influence of the new Basic Laws is limited, and the Land Acquisition Law is exceptional and needs to be interpreted according to its time.

The story of dispossession is incomplete without the denial of Bedouin land rights in the Naqab in southern Israel. Ronen Shamir, who reviewed the Court’s rulings on Bedouin land rights, argues that the question cannot be reduced to a binary between “nomads” and Western conceptions of property. Rather, this binary – as the Court constructs it – is itself part and parcel of the Bedouins’ dispossession (Shamir 1996). On the one hand, the Court constructs the Naqab as an empty space waiting for (Zionist) redemption, and perceives the Bedouin as nomads even when they reside in permanent communities (ibid.). On the other hand, the law facilitates their concentration in specific townships. Bedouin are allowed to reside and build only in designated places; all the other places are considered state lands. Thus, the law transforms them from citizens with claims over disputed lands into lawbreakers of the Planning and Construction Law – 1967, which the state enacted long after many of their communities have existed. In light of this, state law transforms the conflict between the Palestinian Bedouin and the state from a collective question into individual criminal cases (ibid.).

The record of the Israeli Court, then, does not display a “jurisprudence of regret” in which the settler-colonial society critically reviews its history of dispossession of the indigenous peoples (Webber 1995; as observed by Gross 2004). This attitude was evident in the 1992 Australian case of

⁴ H.C. 2390/1996 *Yehudit Kersik et al. v. State of Israel, Israel Land Administration*, P.D. 55 (2) 625 (2001).

Mabo v. Queensland (No. 2),⁵ in which the High Court rejected legal doctrines that justified the dispossession of aborigines. Specifically, the High Court rejected the doctrine of *terra nullius* (no man's land) and recognized native title as part of the common law and as predating the British colonization of Australia in 1788. The Court referred to the history of land acquisition as "a national legacy of unutterable shame." The Israeli Court's record also differs from the Canadian ruling in *Delgamuukw v. British Columbia* (1997),⁶ in which the Canadian Supreme Court recognized the evidentiary weight of oral history in proving title over land. The effect of these rulings has hitherto been limited on indigenous rights in Australia and Canada. Nevertheless, they point toward a direction never taken by Israel's Supreme Court.

The Legal Structures of Differentiated Citizenship

Differentiated citizenship is not necessarily objectionable. Many scholars, especially multiculturalists, have criticized notions of universal citizenship and formal equality (Fiss 1976; Kymlicka 1996; Young 1987). Yet these are critiques of the insufficiency of formal arrangements to guarantee genuine equality to disempowered groups and historically oppressed minorities. These are critiques that seek to supplement formal equality with a substantive notion of equality. Nonetheless, some Zionist scholars use these critiques of formal equality to justify preferential treatment of the dominant Jewish majority (Yakobson and Rubinstein 2009; for a critique, see Sultany 2010). Differentiated citizenship in Israel is objectionable because it is practiced against the backdrop of the lack of formal equality.

The Court's jurisprudence subordinates notions of equality to Jewishness as a *Grundnorm* (basic norm). Indeed, this is manifested even in the celebrated case of *Qa'adan* (2000) in which the Court declared discrimination against non-Jews in land allocation and housing illegal.⁷ In this case, an Arab family's application to purchase a house in the community of Katzir was rejected on the grounds that Katzir was established for Jews. Chief Justice Barak used the metaphor of the state as a Jewish house whose key the state gives exclusively to Jews via the Law of Return. He claimed that those who

⁵ *Mabo v. Queensland* (No.2), 175 CLR 1 (1992).

⁶ *Delgamuukw v. British Columbia*, 79 DLR (4th) 185 (B.C.S.C.) (1997).

⁷ H.C. 6698/1995 *Adel Qa'adan v. Israel Land Administration et al.*, P.D. 54 (1) 258 (2000).

are already inside the house are entitled to equal rights. Chief Justice Barak then is implying a distinction between rights *over* the land and rights *in* the land. Only Jews are entitled to the former, whereas the Arab citizens are entitled to the latter only (Sultany 2005). Indeed, the Court's inclusion of the Arab citizens is conditioned upon stripping them from their collective Palestinian national identity and endorsing a forward-looking perspective that ignores the past injustice committed against them (Jabareen 2002). Furthermore, in some cases (like the housing case of *Bourkan* and the religious budgets case discussed later in the chapter), the Court uses notions of substantive equality in order to deny formal equality for Arab citizens and justify preferential treatment of Jewish citizens.

Yoav Peled captures this differentiated and unequal status when he argues that Israeli Jews' status is one of republican citizenship while Arab citizens' status is one of liberal citizenship (Peled 1992). In republican citizenship, the bearer of the citizenship is part of the national group that owns the state and is part of the definition of the common good. By contrast, the bearer of liberal citizenship is entitled to individual rights and is not part of the communal definition of the public good. In fact, in the case of the Arab citizens, the public good is defined at their expense, as in the case of land ownership (Rouhana 1998).

Some scholars mistakenly conceive certain differentiated arrangements as if these were acts of granting group rights to the Arab citizens, such as in education, exemption from military service, and religious status (Rubinstein and Medina 2005; Saban 2011). Thus, the fact that Arab citizens have a separate educational system is taken to exemplify self-government rights in education. Yet these scholars' own acknowledgment that this self-government is "extremely limited" (Rubinstein and Medina 2005) undermines this argument. In other cases, like the exemption of Palestinian citizens from military service, these scholars wrongly consider the arrangement as a right (Rubinstein and Medina 2005; Saban 2011). Yet the practice of exempting the Arab citizens from compulsory conscription is not entrenched in a legislative act. This practice is not a legally protected interest (and hence a "right"), as it does not give rise to a legal claim by those who are bearers of this alleged right. In other words, the practice does not correspond to a duty upon the state not to recruit Arab citizens. The state is under no duty to exempt them. Should the security establishment decide to send recruitment orders to some – or all – Arab citizens, the latter cannot argue in a court of law that they have a right to be exempted. The petitions

challenging the exemption of the Ultra-Orthodox Jews from military service are instructive. The Court ruled in February 2012 that the Tal Law, which enshrines this exemption, is unconstitutional.⁸ Furthermore, the fact that the army does recruit those Arab citizens who are Druze or Bedouin shows that this exemption is not granted to all Arab citizens as a national group.

Likewise, group-based religious rights do not reflect recognition of the Arab minority as a national group. Rather, religious communities are granted jurisdiction over personal status, including those comprising the Arab minority. The state is willing to grant Arab citizens religious rights but not meaningful national rights (Karayanni 2012). Moreover, these religious rights substitute for, rather than complement, equality. The state, in this case, delegates religious jurisdictions against the backdrop of lack of separation between religion and state; that is, it does not proffer equal status to the different religious groups. Rather, Israel endorses one religion and merely tolerates others (Dworkin 2006). Religions are privatized because the public sphere is Judaized and, consequently, debates on religion and state are conducted from the perspective of Jewish domination (Karayanni 2006).

In this section, I revisit the Arabs' citizenship status given recent developments. I address three primary aspects of Arab citizenship: citizenship and nationality; citizenship and family life; and citizenship and loyalty. I argue that while the difference between the republican and liberal citizenships is evident in the first instance of differentiation, the "liberal," individualistic citizenship is undermined by the second instance, and then further undermined by the third instance.

Between Citizenship and Nationality

The legal system creates two tracks for acquiring citizenship: the Citizenship Law and the Law of Return. It is only the latter that serves as Israel's nationality law (Tekiner 1991). The Knesset enacted the Citizenship Law only in 1952, four years after the establishment of the state, whereas it enacted the Law of Return – which grants every Jew around the world the right to Israeli citizenship by virtue of being a Jew and immigrating to Israel – in 1950. Prior to the enactment of the Citizenship Law, the British Mandate's Palestine Citizenship Orders

⁸ H.C. 6298/2007 *Yehuda Resler et al. v. The Knesset* (2012). Last accessed July 29, 2013 (<http://elyon1.court.gov.il/Files/02/270/064/a22/02064270.a22.HTM>).

(1925–1942) remained legally valid, and the state registered residents according to the Residents Registration Ordinance of 1949. For some authors, this suggests that Israel had no “citizens” – in the strict sense of the word – between 1948 and 1952 (Margalith 1953). In fact, the delay in the enactment of the Citizenship Law was due to concerns about dual nationality and racial discrimination. Regarding the former, the law allowed dual nationality (i.e., Diaspora Jews who wanted to acquire Israeli citizenship could still retain their previous foreign citizenship). Regarding the latter, the law created differentiated citizenship. Indeed, the enactment of the Law of Return prior to the Citizenship Law exemplifies not only the extreme importance of the Law of Return in the Israeli constitutional structure, but also the distinction between nationality and citizenship in Israel and the precedence of nationality status over citizenship status.

Some authors justify the Law of Return on cultural grounds, on preferential immigration policies, or on maintaining connections with compatriots (e.g., Yakobson and Rubinstein 2009). Yet these arguments ignore both the violent conditions that allowed the emergence of a Jewish majority in the wake of the deliberate expulsion of the majority of the Palestinian people and the constitutive role the law plays in maintaining this majority status (Zreik 2008). The law is not comparable to other repatriation measures, because the Jewish majority is a recent immigrant community; the majority of the Jewish people reside outside the state; and the law is ideological as it considers even Jews who were born inside Israel as those who acquired their citizenship through the Law of Return (Sultany 2010).

The backdrop for the gap between nationality and citizenship is the lack of alternative inclusive nationality (“Israeli nationality”). That is, there is no nationality that citizens are entitled to by virtue of being citizens and without differentiation according to their religious, national, and ethnic affiliations. The Supreme Court endorsed this gap between nationality and citizenship when it rejected in the *Tamarin* (1970) ruling an attempt to designate a citizen’s identity as Israeli rather than Jewish in the identity card issued by the Ministry of Interior.⁹ The state opposed a similar attempt 33 years later by a group of Jewish and Arab petitioners by claiming before the Court that registering the nationality as Israeli rather than Jewish or Arab would undermine the foundations on which the state was established (Yoaz 2004). The petitioners withdrew their

⁹ H.C. 630/1970 *Tamarin v. State of Israel*, P.D. 26 (1) 197 (1972).

petition to the Supreme Court on procedural grounds and resubmitted to the District Court in its capacity as an Administrative Court. The District Court rejected the petition on grounds of non-justiciability. Judge Solberg – who became a Supreme Court Justice afterward – reasoned that there is no legal recognition of an Israeli nationality, and the Court cannot create such a nationality *ex nihilo*.¹⁰ The Supreme Court rejected the petitioners' appeal, notwithstanding its decision that the question is justiciable. The Court highlighted that the petitioners ignored or obscured the difference between nationality and citizenship; that the “constitutional Jewishness” of Israel leaves no room for “Israeli nationality”; that the *Tamarin* ruling's conclusion regarding the lack of existence of an Israeli nationality remains valid; and that the petitioners failed to prove the evolution of such a nationality since the *Tamarin* ruling.¹¹ Thus, the Israeli legal system rejected attempts to create an inclusive nationality for Arabs and Jews that would create an Israeli civic nation composed of all citizens. The legal bond between the state and a person, then, remains differentiated: It privileges those who belong to the dominant ethnic-religious community.

Between Citizenship and Family

Another method of acquiring citizenship is naturalization. In Israel, naturalization generally requires: residency in the country for a specified number of years, intent to settle in Israel, knowledge of Hebrew, and the renunciation of foreign citizenship. Because Jews can acquire immediate citizenship through the Law of Return, this procedure applies only to non-Jews. If the Israeli legal system couched the legal arrangements described in the previous subsection in ethnic-religious terms, it defended the legal rules governing naturalization on dubious security grounds. The Citizenship and Entry into Israel Law (Temporary Order) – 2003 suspends the naturalization of spouses of Israeli citizens if they were from the West Bank, the Gaza Strip, Lebanon, Syria, Iraq, and Iran. This law follows an earlier governmental decision in May 2002 to suspend these naturalizations (Sultany 2003). Despite the classification of the law as a Temporary Order, it has been in effect since 2003 through multiple extensions. In 2006 and 2012, the Court upheld the law's

¹⁰ District Court (Jerusalem) 6092/2007 *Ornan et al. v. Minister of Interior* (2008). Last accessed July 29, 2013 (www.daat.ac.il/daat/maamar.asp?id=136).

¹¹ C.A. 8573/08 *Uzi Ornan et al. v. Ministry of Interior* (2013). Last accessed October 16, 2013 (<http://elyon1.court.gov.il/files/08/730/085/m15/08085730.m15.pdf>).

constitutionality despite its discriminatory nature and its violation of civil rights. The law is discriminatory – notwithstanding its neutral and general language – because it virtually exclusively impacts the Palestinian citizens who are more likely to have spouses from these countries than are Israeli Jews.

The law effectively forces the Palestinian citizen whose spouse resides in one of the listed Arab territories and states to make a difficult choice: Either have a family life outside the state (a choice, as we shall see next, that may lead to revoking citizenship) or to give up the family unit in order to stay in the state and hold on to the citizenship status (Davidov, Yuval, Saban, and Reichman 2005).

In upholding the law as constitutional, the Court approved dubious national security arguments. The state argued that terrorists might use their acquired citizenship status to perpetrate attacks inside Israel. Yet it was obvious to some of the dissenting judges that this security justification is unfounded.¹² Indeed, for the minority judges the individualized case-by-case, graduated process of naturalization that existed prior to the ban on family unification seemed more appropriate for security examination than a blanket, sweeping ban. Such a ban “amounts to an extreme case of profiling on the basis of national origin” (Barak-Erez 2008:185). Justice Cheshin, writing for the majority in 2006, acknowledged the collective injury caused to the Arab citizens by this blanket ban. Yet he imposed a sense of necessity by claiming that it is unavoidable in “times of war” in which the extremely destructive actions of the few justify curtailing the rights of all the members of their community.¹³ The split in the justices’ opinions shows that a different outcome was available in Israeli law. Yet the scope of disagreement was limited. The main dissenting opinion of Chief Justice Barak did not disagree with the majority as a matter of principle regarding the security rationale and the propriety of the laws’ purpose. Rather, Barak disagreed primarily regarding the proportionality of the violation of rights (Jabareen 2007).

Then-prime minister Ariel Sharon acknowledged the dubious nature of the security justification in the debate on the extension of the law: “There is no need to hide behind security arguments. There is a need for

¹² See Justice Levy’s dissent in the 2012 ruling in H.C. 466/2007 *MK Zhava Galon v. Attorney General* (2012). Last accessed July 29, 2013 (<http://elyon2.court.gov.il/files/07/660/004/O30/07004660.O30.htm>).

¹³ H.C. 7052/2003 *Adalah v. Minister of Interior*, P.D. 61(2) 202 para 115 of Cheshin’s opinion (2006).

a Jewish state” (quoted in Ben and Yoaz 2005). Only two of the dissenting judges in the 2006 ruling suggested that demographic considerations motivated the enactment of the law. Yet demographic considerations were implicit in other judges’ opinions (Ben-Shemesh 2008; Masri 2013). The Court effectively upheld the law’s demographic rationale and thus legitimized the depiction of the Palestinian minority as a demographic threat.

The rulings on family unification exemplify the weakness of individual, liberal notions of Palestinian citizenship inside Israel. The law approved in these rulings suggests that the Palestinian citizens are “inherently suspect” and unequal (Barak-Erez 2008). The interests of state security, behind which lurks the demographic interest, supersede the right to family life and to equality. This is, as Michael Karayanni (2012:319) points out, a setback: If the *Qa’adan* ruling stripped the Palestinian from her collective identity and history in order to prevail over the state interest, in the family unification cases, the individualized Palestinian citizen loses before the state interest.

Between Citizenship and Loyalty

The expansion of the power to revoke citizenship is another measure that security justifications obfuscate. On July 28, 2009, the Knesset amended Article 11 of the Citizenship Law (Amendment No. 9) to empower the Administrative Court to revoke citizenship, upon the interior minister’s request, if a citizen committed a “breach of allegiance.” The Amendment defines “breach of allegiance” as one of the following three acts: (1) a terrorist act as defined by the Prohibition on Financing Terrorism Law – 2005, as well as assisting in the commitment or inciting to commit such a terrorist act or active membership in a terrorist organization as defined by the said law; (2) treason or grave espionage (both violations of the Penal Law – 1977); and (3) the acquisition of citizenship or the right to permanent residency in one of the following states or territories: Iran, Afghanistan, Lebanon, Libya, Sudan, Syria, Iraq, Pakistan, Yemen, or the Gaza Strip. Amendment No. 10, enacted on March 28, 2011, authorizes courts to revoke citizenship as a form of punishment in criminal proceedings in addition to any other punishment stipulated in the Penal Law.

Amendments No. 9 and No. 10 are part of ideologically motivated laws by right-wing Knesset members. Member of Knesset David Rotem, of Yisrael Beiteinu, who initiated Amendment No. 10, declared: “There is

no citizenship without loyalty” (quoted in Lis 2011a). This was the slogan of Yisrael Beiteinu’s electoral campaign against the Palestinian minority inside Israel. In particular, centrist and right-wing Jewish politicians repeatedly accused minority leaders of disloyalty. The laws governing charges of terrorism or support of terrorism are often very broad and obscure. Thus, the security apparatus and Israeli establishment can abuse them to criminalize dissent and reframe political opposition as extremism or security threat. Indeed, “security” is not a neutral notion; rather, it is part and parcel of the state’s ideology (Barzilai 2003). Revoking citizenship becomes an ideological tool to punish Palestinian Arab citizens for their political views and activism.

Indeed, some officials have increasingly attempted to revoke the citizenship of Arab citizens and political leaders as a punishment for their actions and views. Few of these attempts have materialized so far. For instance, the minister of interior sought to revoke the citizenship of the Palestinian Member of Knesset Azmi Bishara (National Democratic Assembly), who left Israel after being suspected of “aiding the enemy during war” (Khoury 2009). The minister also asked the Attorney General whether he could revoke the citizenship of Member of Knesset Haneen Zoabi (National Democratic Assembly) pursuant to her participation in the May 2011 freedom flotilla to break the siege on Gaza because her acts were “a premeditated act of treason” (quoted in Ravid 2010).

In contrast to this legislative expansion of the possible ways to revoke the citizenship of a Palestinian, it is virtually unthinkable to revoke the citizenship of a Jew. The bond between Jewish nationals and the state is far stronger than the one between Palestinian citizens and the state. For instance, Yigal Amir, an Israeli Jew, assassinated Prime Minister Yitzhak Rabin on November 4, 1995. A petition to the Supreme Court demanded that the minister of interior revoke his citizenship status. In response, the Ministry of Interior claimed that even when a crime amounts to a breach of allegiance, the minister is not obligated to revoke citizenship, because reasonable discretion is still granted to the minister. The Court approved the Ministry’s position and rejected the petition.¹⁴

Although measures for revoking citizenship impact a relatively small number of Palestinian citizens, this differentiated approach exposes the precarious status of Palestinian citizenship. It is based on weak and unequal foundations, and the state may strip it if these citizens do not

¹⁴ H.C. 2757/1996 *Hila Alrai v. Minister of Interior*, P.D. 50(2) 18 (1996).

behave according to the Zionist consensus that has been increasingly lurching to the right in recent years. The *Qa'adan* ruling conceived the Palestinian citizen as an individual rights holder with no title over the homeland. In the family unification cases, the Court compromised the right to family life and equality in this bundle of individual rights at the altar of the state's interest in maintaining a Jewish demographic majority. Loyalty laws further undermine the remains of this bundle of individual rights because the state gives, and the state takes away.

The Legal Structures of Segregation

The vast majority of Palestinian citizens in Israel live in Arab communities. Only a small minority of these citizens live in the so-called mixed [Arab-Jewish] cities. Virtually all school-age Palestinians – from kindergarten to high school – study in Arab schools. Arab communities are overcrowded, economically underdeveloped, with high poverty rates, and deficient schools (Sultany 2012b). Attempts by individuals to escape the fate of low-quality life confront the reality of extremely limited social mobility. One possible reason for this limited mobility is the prevalence of stereotypes and racist attitudes toward Palestinian citizens among the Jewish majority. The state education system, the militarization of Israeli society, outspoken religious figures, and a sensationalist media all nurture these attitudes (Bar-Tal and Teichman 2005; Peled-Elhanan 2012). They effectively decrease the possibility that Jewish citizens would rent or sell apartments to Palestinian citizens. However, the main factors for low social and spatial mobility are legal and institutional.

Education

Segregation in education is manifested in the institutional separation of the state education system into Arab and Jewish systems (the latter are internally divided into secular and religious systems). The state education system in the Palestinian community relegates Palestinian children to second-class status (Coursen-Neff 2004; Human Rights Watch 2001). The state discriminates against the Arab state education system in virtually every respect. Admission policies of the universities further disadvantage students coming from the periphery, as the heads of universities recognized when they decided in 2003 to change the admission criteria to admit poorer Jewish students (Sa'ar 2003). The increase in Palestinian students that followed this change alarmed the education

establishment, and it quickly reverted to the previous admission criteria (Sa'ar 2003). Additionally, medical schools introduced different requirements that effectively lowered the number of admitted Palestinian students (Stern and Traubmann 2006; Traubmann 2007).

Furthermore, the state's resources are dedicated to using the Arab education system as an important tool for control and subordination (Abu-Saad 2004; al-Haj 1995). The long-standing involvement of the General Security Service in appointing educators based on political considerations exemplifies this control (Ettinger 2004; Sultany 2004). This control of the education system is part and parcel of the security establishment's general surveillance and political control of the minority that continued after the formal dismantlement of the military government in 1966 (Cohen 2010). In 2005, the state declared its intention to cancel the position of a security service representative in the Arab education system after Adalah – The Legal Center for Arab Minority Rights – petitioned the Supreme Court. Whether the security apparatus's interference in other ways will discontinue remains to be seen.

The legal system has contributed to this attempt to control the education system – be it state or private institutions – through a myriad of laws (such as the State Education Law – 1953; Education Ordinance (New Version) – 1978; Supervision of Schools Law – 1969; and The Civil Service (Discipline) Law – 1963). These laws sought to restrict political activism in schools and used disciplinary measures against teachers if they participated in political activities or exhibited “improper behavior,” even if that activity occurred outside the school itself (Saban 2011).

Moreover, the decentralized structure of local government law perpetuates the Arab education's separate and unequal status. As Yishai Blank (2006) argues, the educational segregation is not a result of the free choices of Jewish and Palestinian citizens. Rather, these choices and preferences are shaped by the background rules that local government law creates. These legal rules enhance segregation despite the seeming absence of a formal and direct state-sanctioned policy of segregation. Specifically, the “involvement of local governments in education . . . has been made possible by the basic legal infrastructure, which gives local governments seemingly ‘technical’ powers in education matters: placement of students in schools; establishment of special and selective schools; . . . and participation in funding schools within their jurisdictions” (Blank 2006:371–372). Processes of suburbanization led to fears of white flight (wealthy parents leaving to smaller communities), and

disparities between localities and between neighborhoods led to disparities between schools. Blank argues that:

the shift from state funding to self generated funding and the emergence of competition between localities in Israel over economically strong populations, have . . . exacerbated the disintegration of the public education system and have contributed to the widening gaps within the system . . . The principal victims of this phenomenon are pupils in peripheral towns, in poor neighborhoods, and in Arab towns and villages.

(ibid.:374)

The taxing and zoning power of local municipalities contributed to these processes (ibid.). For instance, residential segregation leads to segregation in education through enrollment zones (ibid.). Blank critiques the lack of state intervention – to guarantee an equal baseline – and the commodification of education. The withdrawal of the state – especially with the advancement of neoliberal policies – makes segregation in education resilient. Although the background rules seem neutral and technical, they have distributive outcomes and influence the incentives and preferences of different actors and citizens. Without attending to these background rules, the separate and unequal education system is likely to persist.

Housing

Segregation in education goes hand in hand with housing segregation (Denton 1996). State law and policies in land allocation and housing restrict the spatial mobility of young Palestinian couples. While the state has established hundreds of Jewish communities, it has not established any single new Palestinian town or village since 1948 (except in the forced concentration of the Bedouin communities in poor towns that accompanied their dispossession from their ancestral lands and the demolition of their villages). Quasi-governmental Zionist bodies whose status the state has legally enshrined – the Jewish National Fund and the Jewish Agency – played a major role of Judaizing Palestine and established gated Jewish-only communities.

The Supreme Court contributed to this segregation. In a famous case, it approved the refusal to sell an apartment to an Arab in East Jerusalem.¹⁵ Bourkan – a former resident of the Jewish Quarter in East Jerusalem – sought to purchase an apartment in the neighborhood.

¹⁵ H.C. 114/1978 *Bourkan v. Minister of Finance*, P.D. 32(2) 800 (1978).

The legal challenge to the Jew-only selling policy failed, because the Court justified this preferential and exclusive policy on grounds of the previous historic expulsion of the Jews from the neighborhood. In other words, the Court used the notion of affirmative action – that is associated with a substantive notion of equality and seeks to remedy historical patterns of discrimination against minorities – to privilege the Jewish majority and deny equal access to housing for Arabs.

Unlike the *Bourkan* ruling, the Court's ruling in the *Qa'adan* case (2000) advanced formal equality. Nonetheless, it hardly challenged the segregation policies. Although it prohibited discrimination in housing and land allocation, the Court limited its holding to the specific settlement of Katzir. Moreover, the Court did not examine the decades-long discriminatory land policies, nor did it examine the role of admission committees in gated communities. Thus, it “may remain a symbolic victory, as discrimination may continue behind a façade of [formal] equality” (Gross 2004:90). Furthermore, the Knesset entrenched the loophole of admission committees on March 23, 2011, when it enacted the Cooperative Associations Ordinance (Amendment No. 8) – 2011. This statute legalized the role of the admission committees and their ability to reject candidates on grounds of “social incompatibility.” Given public criticism, the statute includes a prohibition on rejecting candidates on grounds such as race, religion, gender, and nationality. Nonetheless, “social incompatibility” is a blanket and vague criterion that can be applied in practice to effectively exclude vulnerable sectors of the Israeli citizenry, specifically the Palestinian citizens. The Supreme Court rejected petitions seeking to invalidate the law and thus sanctioned housing segregation. A majority of 5 out of 9 judges claimed that the petitions lacked “ripeness” and enough factual basis for judicial determination because the effects of the law can be assessed only after its implementation and in a case-by-case analysis. Some of the judges, however, added substantive comments in which they rejected the logic of “formal equality,” that *Qa'adan* exemplifies, and returned to the logic of “substantive equality” to privilege the majority, that *Bourkan* exemplifies.¹⁶

Despite the growing influence of globalization and neoliberal ideology in Israel since the *Bourkan* ruling, the state continues to maintain a strong presence in the market through multilayered cooperation with

¹⁶ H.C. 2311/11 and 2504/11 *Uri Sabah et al. v. The Knesset, et al.* (delivered on September 17, 2014).

private actors in order to produce a spatial order congenial to Judaization. Even in the so-called “mixed cities,” planning authorities reproduce the *de facto* segregation between Jewish and Palestinian populations (Falah 1996; Yacobi 2009). Separation walls exist not only in the West Bank but also inside Israel, between Jewish and Arab neighborhoods in the “mixed cities” Lydda and Ramle, and between the adjacent communities of Caesarea (Jewish) and Jisr Al-Zarqa (Arab).

The separation between the communities is also an effect of personal law arrangements. Mixed Jewish–Arab marriages are extremely rare. This rarity cannot be understood without the backdrop of the lack of civil marriage in Israeli law, on the one hand, and the preservation of the Ottoman legally sanctioned autonomous status of Jewish, Christian, and Islamic religious authorities over personal status, on the other. These legal and institutional arrangements effectively make the prospect of such mixed marriages even less likely.

The “Passive Virtues” of the “Activist Court”

The foregoing shows that seemingly apolitical categories (like absentee, *Mewat*, breach of allegiance, mixed cities, and equality) advance and conceal subordination of one ethnic group to another. This subordination is represented as either an outcome of law – rather than politics – or of private choices rather than law. It thus conceals the intertwining of law and politics, and ignores the role of background rules in shaping private choices. These representations allow the Court to deny its role in the process of subordination. Another method of denial is the pretense of non-intervention. Alexander Bickel (1986) suggested in his canonical book that courts should deploy what he called the “passive virtues”: a set of “procedural” devices that allow the court to refrain from deciding cases on the merits when the application of general legal principles hinders the required flexibility for political expediency or when these principles are controversial. These devices include standing requirements (restrictions on petitioners’ access to the court), ripeness (temporal restrictions according to which the issue is not ripe for judicial intervention), and the political question doctrine (according to which the court would refrain from deciding issues that are considered “political questions” and hence nonjusticiable). Other scholars followed Bickel in suggesting a form of minimalism that leaves more room for the legislative and executive branches of government and asks the courts to decide cases on the basis of narrow and thin justifications (Sunstein 1999). These

devices are suggested as an attempt to prevent judicial activism and advocate for a deferential attitude vis-à-vis other branches. These are devices for a minimalist court, and not an activist court. Yet critics of these approaches have long pointed out that the deployment of minimalist devices requires the court to use its political judgment and thus it does not really extract the court from politics (Deutsch 1968; Tushnet 2005).

In Israel, the Court's political judgment on using avoidance devices is entangled with the Court's conception of its role within the Zionist project. The Court, considered by many as an activist court, used minimalist devices. Although the Court expanded access to the court system by minimizing the standing requirements, it used different rhetorical and legal devices to effectively limit this access and, ultimately, affirm state power. These minimalist devices are largely "technical" or "procedural," but they allow the Court to deny responsibility. The consequences of this judicial "non-intervention," however, are detrimental to the status of the Palestinian citizens. In what follows, I mention briefly some of the devices that the Court used to justify or show deference: security, thin rulings, political questions, general questions, delay, ripeness, and color-blind jurisprudence.

Security

Foot-dragging and delay in deciding controversial cases is a hallmark of a reluctant judiciary. The Court exemplified such hesitation in cases that are related to security, even when security considerations were ostensibly tenuous. In May 2012, the Court decided to reject the petition against the long-standing emergency declaration.¹⁷ Israel has declared a continuous state of emergency since its inception in 1948. This makes it an enduring state of emergency and longer than, for instance, Egypt's declared state of emergency that lasted (with few interruptions) since 1958 and expired only after the ousting of President Mubarak in 2011. In Israel, it took the Court about 13 years to decide the 1999 petition against the declaration of a state of emergency in the country. The Court noted that the extensive legislation that made use of the emergency declaration often had no apparent connection to security (as in ordinances related to economy and consumerism; see also Lis 2011b). Yet, it granted the authorities

¹⁷ H.C. 3091/1999 *The Association for Civil Rights in Israel v. The Knesset* (2012). Last accessed July 29, 2013 (<http://elyon1.court.gov.il/files/99/910/030/t38/99030910.t38.pdf>).

more time to make the necessary changes despite the fact that the government made few changes during the 13 years after submitting the petition. Writing for the Court, Justice Rubinstein – who served prior to his appointment as a legal advisor to the security establishment, a cabinet secretary, and an attorney general – argued that “Israel is a normal state that is not normal” given the security threats that it faces.

The long-standing nature of emergency powers and their different legal sources reveal that far from being exceptional measures addressing security needs, these powers serve as a governing norm; rather than being tools that suspend the law, they extend and channel state power under the rule of law (Mehozay 2012b). Emergency regulations have been used against Palestinian citizens and their political leaders long after the end of the military regime in 1966. For example, the Supreme Court refused to intervene in the travel ban issued by the minister of interior against the political and religious leader Ra’ed Salah, who intended to visit the religious sites in Mecca.¹⁸ It also refused to intervene in the travel ban issued against the author, translator, and literary critic Anton Shalhat.¹⁹ In both cases, the Court heard the security apparatus representatives *in camera*, and Salah and Shalhat had no way of challenging the alleged evidence against them. The Court avoided writing an opinion in Shalhat’s case and pressured the petitioner to withdraw his petition. These cases exemplify the Court’s common and uncritical acceptance of the security apparatus’s reasoning.

Thin Rulings

Security considerations often go hand in hand with “thin” rulings, as in the case of the curtailment of prisoners’ rights. Following Hamas’s capture of an Israeli soldier in Gaza in June 2006, the government decided to worsen the conditions of the Palestinian prisoners, including those who are citizens of Israel and are classified as “security” prisoners. These new punitive measures included preventing the security prisoners (but not the criminal prisoners) from pursuing an academic

¹⁸ H.C. 4706/2002 *Shiekh Ra’ed Salah et al. v. Minister of Interior* (2002). Last accessed July 29, 2013 (<http://elyon1.court.gov.il/files/02/060/047/M05/02047060.m05.pdf>).

¹⁹ H.C. 841/2006 *Anton Shalhat et al. v. Minister of Interior* (petition withdrawn). See Adalah The Legal Center for Arab Minority Rights. 2006. “Supreme Court Submits to GSS Dictates and Does Not Cancel Order Banning Literary Critic . . .” *Adalah’s Newsletter* 24, April. Last accessed July 29, 2013 (<http://adalah.org/newsletter/eng/apr06/2.php>).

degree via correspondence from the Israeli Open University. These measures persisted even after the Israeli soldier was released in a prisoners' exchange deal between Israel and Hamas in October 2011. The District Court rejected the prisoners' petition to allow them to resume their education, and the Supreme Court rejected in December 2012 their request for an appeal.²⁰ The Court reasoned that the discrimination against security prisoners is not an impermissible discrimination. The thin nature of the Court's ruling exemplified another hallmark of a minimalist court: The ruling consisted of four short paragraphs and did not explain the Court's conclusion concerning the permissibility of discrimination in this case.²¹

"Political" Questions

At the time the Court expanded its rhetoric of judicial review and intervened in the "nitty-gritty" politics (Barak-Erez 2002), it used occasionally the "political question" argument to avoid intervening in governmental decisions against Arab citizens (and also in petitions of Palestinians in the Occupied Territories, see Sultany 2002, 2014). This is especially striking, not only because it reveals the political judgment of the Court regarding when and where to intervene, but also because it shows the Court's unwillingness to intervene even when at face value the state's decision is flawed. Consider the case of the Palestinian village of Iqrith. The Israeli army occupied Iqrith in October 1948. A week later, the villagers were requested to leave for 15 days for security reasons. The Court ordered the army in an early ruling to allow the return of the displaced persons to their village.²² The army reacted by destroying the village (Peretz 1958). During the subsequent years, several government-appointed committees recommended that the villagers return to their village, but none of these recommendations or promises materialized (Jamal 2011). In 2003, the Court rejected a 1997 petition by the displaced villagers.²³ The Court accepted the petitioners' argument that the

²⁰ P.A. 2459/2012 *Said Salah et al. v. Israel's Prison Service* (2012). Last accessed July 29, 2013 (<http://elyon1.court.gov.il/files/12/590/024/s07/12024590.s07.pdf>).

²¹ The Court reiterated its position in a longer ruling in an expanded panel in April 2015. Additional Hearing in H.C. 204/13, *Said Salah et al. v. Israel's Prison Service* (delivered on April 14, 2015). Last accessed September 3, 2016 (<http://elyon1.court.gov.il/files/13/040/002/C25/13002040.C25.pdf>).

²² H.C. 64/1951 *Dawood et al. v. Minister of Defence*, P.D. 5 1117 (1951).

²³ H.C. 840/1997 *Awni Sabit et al. v. Government of Israel*, P.D. 57(4) 803 (2003).

security conditions that have justified their displacement are no longer valid. It also acknowledged the governmental promises made to the villagers. Nevertheless, the Court argued that this is a political question in which the state has wide discretion. It also accepted the Sharon government's tenuous argument that allowing the return of these citizens will be a precedent that will be detrimental to Israel's vital interests because it may be used in the context of the Palestinian right of return in the Oslo process.

"General" Questions

In other cases, the Court justified its lack of intervention in the political branches' decisions by claiming that petitions regarding discriminatory distribution of state resources are too "general" to warrant a judicial remedy and lack a sufficient "factual basis." In a petition against the state budget, petitioners argued that a budget that grants Arab citizens who comprise one-fifth of the population only 1.86% of the Ministry of Religious Affairs budget is discriminatory. The Court rejected the petition, maintaining that it refuses to be a "general supervisor" of the state budget.²⁴ It also claimed that the petition is general and lacked a factual basis, despite the numbers the petitioners provided. The Court reasoned that the focus should be on substantive equality rather than formal equality, and this requires an inquiry into the religious needs of every community. In the absence of such an inquiry, the petition is general. This is a remarkable argument: As previously mentioned, notions of substantive equality are normally used to allow minorities to obtain equality beyond the formal measures given the persistence of structural impediments and historical discrimination. Yet here the Court uses substantive equality in order to *deny* formal equality.

Moreover, the Court is selective and inconsistent as it vacillates between the general and particular in accordance with the case before it. In the ban on family unification cases, the Court approved a blanket measure that supplanted the existing case-by-case system. Similarly, in the political prisoners cases, the Court approved a general suspension of the education privileges for all "security prisoners." In contrast, in the "admission committees" case, it deemed the petition general because it lacked a case-by-case analysis of the law's effects. In the Religious Affairs budget case, it is unclear how specific should the petition be to avoid

²⁴ H.C. 240/1998 *Adalah v. Minister of Religious Affairs*, P.D. 52(5) 167 (1998).

“generality” and provide sufficient factual basis. What is clear, however, is that the Court’s intervention – whether requiring general or “particular” analyses – disadvantaged the Palestinian citizens.

Delay

If the *Sabit* case mentioned earlier used the political question to reject the petition of those displaced from Iqrith, the Court rejected an earlier petition of the displaced because the petitioners were “late” in approaching the Court.²⁵ The petitioners challenged in 1981 the legality of a Certificate that the minister of finance issued in 1953 and that transfers Iqrith’s lands to the Development Authority. They also challenged the military commander’s 1963 and 1972 closure orders of the village. The Court reasoned in a few pages that the passage of a long period of time hinders the ability to examine the considerations that guided the state authorities in issuing these orders. The Court did not distinguish between the 1972 and 1953 orders concerning the lapse of time. Despite the sympathy that the Court expressed to the petitioners, it denied their claim that the security conditions that prevented their return were no longer valid given the “well known” fact “that requires no proof” that the security conditions on the northern border adjacent to the village are not peaceful. In other words, the security conditions cited by the Court were not internal to Israel but external to it and bear no relationship to Iqrith and the displaced.

Ripeness

The ruling on the so-called Nakba Law deployed a different rhetorical tool of deferential courts. If the previous case was rejected because it was too late, here the case was rejected because it was premature. The Budget’s Foundations Law (Amendment no. 40) – 2011 authorizes the minister of finance to lower state funding of institutions or bodies that organize events that reject the Jewish and democratic character of the state or consider Independence Day as a catastrophe day. This law is clearly directed against Palestinian citizens who present an alternative narrative to the Zionist narrative and commemorate the Nakba (catastrophe), the ethnic cleansing of the Palestinians. The Court rejected the

²⁵ H.C. 141/1981 *Iqrith’s Committee of the Displaced, Rameh Village et al. v. Government of Israel*, P.D. 36(1) 129 (1982).

petitions against the constitutionality of the law despite the chilling effects of the law. The Court reasoned that the law's impact couldn't be assessed prior to its implementation, and thus the question is not ripe for judicial intervention.²⁶ The Court made a similar argument in the above-mentioned case concerning admission committees.

Color-blind Jurisprudence

Facially neutral discrimination in the distribution of benefits and resources complements the absence of formal equality. The criterion of military service has operated as a pretext to discriminate against Palestinian citizens, even though they are not legally required to serve. This criterion has influenced housing and employment. Yet additional criteria have proliferated over the years like tax and investment benefits, land development, and unrecognized villages. The Supreme Court has allowed this facially neutral discrimination and legitimated it by deploying a "color-blind" jurisprudence (Benvenisti and Shaham 2004). According to this approach: "If discriminatory policies can be explained on any seemingly neutral grounds other than group-based bias, they are upheld. The petitioner has the almost unattainable burden of proving in court that group membership, rather than seemingly neutral criteria, forms the basis of the challenged policy." (ibid.:700) By employing this jurisprudence, the Court allowed the growing disparities between Arabs and Jews to proceed under the judicial imprimatur.

Disparate impact under facially neutral criteria is evident also in lower courts' application of criminal law. Palestinian citizens who are suspected of violating criminal law are more likely than Jewish citizens in a similar position to be indicted, convicted, and sentenced to prison in lower courts (Rattner and Fishman 1998). This shows disparity in the application of criminal law and a harsher policy against Palestinian citizens. During the military government period, the state criminalized Palestinian citizens for violating the pass-permits regime that regulated their movement and their access to the labor market (Koren 2004). Criminalization is also evident in cases involving political speech and popular protest in more recent times. The mass arrests of Palestinian

²⁶ H.C. 3429/2011 *Graduates of the Orthodox Arab College v. Minister of Finance* (2012). Last accessed July 29, 2013 (<http://elyon1.court.gov.il/files/11/290/034/c04/11034290.c04.pdf>).

citizens in the October 2000 protests and the arrests following the protest against the onslaught on Gaza (December 2008–January 2009) are examples of this phenomenon (see, e.g., Baker and Asali 2009; Rosenberg 2002).

Occasional Limits on the Excessive and the Peripheral

Although the subordination of the Palestinian citizens is the dominant effect of Israeli law, the intervention of the Supreme Court occasionally limits excessive and peripheral cases of this subordination. By “peripheral,” I mean cases in which many liberal Zionists would consider a particular instance of discrimination unrequired by the Zionist or Jewish nature of the state or unnecessary to maintain them. These issues are located in the penumbra rather than in the core of the definition of the state as a “Jewish state” or as the “state of the Jewish People.” The core issues include the demographic question of maintaining a Jewish majority as we saw in the family unification cases. By “excessive,” I mean those cases that may be related to the core issues but the methods of advancing these core ends are themselves controversial, because many liberal Zionists would consider them excessive. Had Chief Justice Barak’s opinion in the family unification case garnered the support of the majority in the Court, it would have been another example of limiting the excess. Ultimately, Zionism may house a spectrum of views and thus does not necessarily determine the outcome in every case before the courts. Nevertheless, the very fact that the concepts of Zionism or Jewishness of the state – no matter how contestable – are the concepts that frame the debate has important exclusionary effects from the standpoint of those whose political/normative identity is defined in opposition to Zionism or Jewishness.

I describe here briefly three examples of this occasional moderating effect: political participation, freedom of speech, and state subsidies. Yet, as we shall see, limiting the excesses is often accompanied by a judicial avowal of the mainstream ideology: either by affirming ethnocentric values (as in the case of political participation), or accompanied by a judicial condemnation of protected individual Arab interests (as in the case of free speech). These are not necessarily rhetorical tools, but indicate that the judges themselves are part of the dominant ideology. In the case of limiting peripheral discrimination, the Court’s ruling is at times too late and

ineffective to be consequential (as in the case of state subsidies). This shows the weakness of the judicial system in the overall power structure. This weakness is inconsistent with the image of a powerful, interventionist Court.

It should be noted, however, that limiting the excessive and the peripheral is not a consistent or coherent judicial strategy. Rather, it is contingent on the specific case and its context as well as on the composition of the Court. As many of the cases discussed in this chapter show, it is not clear what cases the Court would consider excessive and in which areas of the law. Yet this occasional moderating effect allows the overall power structure to persist while providing it with a semblance of legality. This moderating effect on particular practices contributes to an overall effect of moderation on the socio-political system by pushing it toward centrism (Kennedy 1998). This centrism ensures that the power structure will not lean drastically toward either the left or the right extremes of the Zionism continuum: Contrary to left-wing hopes, as mentioned earlier, the Court endorsed neo-liberal economic attitudes. Contrary to right-wing hopes, the Court protected Arab political participation.

Political Participation

The state not only entrenches in its Basic Laws the Jewish character of the state; it also further prohibits the political attempt to change the rules of the game that are rigged for the benefit of the Jewish majority. The Basic Law: The Knesset may allow disqualification of political parties or individual candidates from participating in specific parliamentary elections if they explicitly or implicitly reject the Jewish character of the state by demanding democratization through equal status for all citizens. Article 7A stipulates that a candidate or a candidates' list may be disqualified from Knesset elections if they explicitly or implicitly, through their goals or actions: (1) deny the existence of the state of Israel as a Jewish and democratic state; (2) incite to racism; or (3) display support of an armed struggle of a hostile state or of a terrorist organization against the state of Israel.

Unlike the previously mentioned *Yardor* case, the Supreme Court has prevented several attempts in recent years to disqualify Palestinian parties. In the case of the disqualification of Azmi Bishara and the National Democratic Assembly, a majority of a deeply divided Court

(7 to 4) decided to reverse the disqualification.²⁷ Then-Chief Justice Barak invoked the lack of evidence to justify his ruling. But in discussing Bishara's advocacy of "a state for all its citizens," Barak insisted that the only meaning of "state of all its citizens" that is compatible with the Jewishness of the state is the individualist meaning that seeks equal individual rights within the state of the Jewish People and does not challenge the ideological structure of the state. The Jewishness of the state for Barak is not defined merely on cultural terms, but also demographic and ethnic terms, namely, the continuity of the majority status for Jews. Thus, while the Court prevented the Knesset from thwarting Arab representation, it simultaneously reproduced the political ceiling under which this representation is permitted.²⁸

Freedom of Speech

A review of the Court's jurisprudence on free speech shows that there is a hierarchy of rights: the Palestinian citizens and the Palestinian residents of the Occupied Territories are not granted the same protection that the Court grants to the Jewish majority (Salzberger and Oz-Salzberger 2006). In many cases, including during the 1980s, the Court allowed the closure or refusal to grant publication permits. In some of these cases, the Court either ignored the ruling of *Kol Ha'am* (1953), or coopted it (by claiming that the governmental curtailment of free speech has passed the muster of "real and present danger"), or distinguished the case before it from *Kol Ha'am*, given the use of a different legal regulation to restrict speech (Salzberger and Oz-Salzberger 2006). We saw in the abovementioned case of the Nakba Law that the Court continues its weak protection of Arab citizens' free speech rights.

Occasionally, the Court did protect free speech, but this protection came at a price. The Court annulled the decision of the Censorship Board to forbid the screening of the movie *Jenin*,

²⁷ E.A. 11280/2002 *Central Elections Committee for the Sixteenth Knesset v. MK Ahmad Tibi et al.*, P.D. 57(4) 1 (2003).

²⁸ More recently, the Court approved the Knesset's decision to increase the electoral threshold for political representation from 2 % to 3.25 % and thus to disadvantage minority representation. See H.C. 3166/14 and 4857/14 *Yehuda Gutman et al. v. Attorney General, State of Israel* (ruling delivered on March 12, 2015). Last accessed September 5, 2016 (<http://elyon1.court.gov.il/files/14/660/031/s13/14031660.s13.htm>).

Jenin by the director Mohammad Bakri.²⁹ This movie sought to present an alternative, Palestinian narrative to the Israeli narrative surrounding the Israeli army's major incursion in the Occupied Territories and destruction of the Palestinian Authority's institutions during the so-called Operation Defensive Shield. One can read this ruling as a protection of a "democratic threshold" and a "major aid" to the Palestinian minority (Saban 2008). Yet the Court did not justify the protection in line with classical liberal defenses of speech as in the market place of ideas in which a variety of views are heard and from which the truth can emerge. Rather, the Court reasoned that it was protecting untruthful speech to avoid violence and critiqued the movie as deceptive and insulting to the Israeli public. This reasoning makes the Court's approach "apologetic" (Salzberger and Oz-Salzberger 2006). Only by endorsing the Zionist consensus through denying the possibility of an alternative narrative to the events could the speech of the Palestinian director be allowed. Only through disparaging the speech (by reframing it as a lie and marginalizing it) could the speech be heard.

In addition, around the same time of the decision against Bakri's documentary, the interior minister decided in December of 2002 to close the Islamic Movement's weekly *Sawt al-Haq wa al-Hurriyyah* according to the British Mandate's Press Ordinance of 1933 (Rofeh-Ofeer and Waked 2002). The Ordinance gives wide discretion to the minister based on vague and broad provisions ("danger to public safety"). The minister justified the closure of the newspaper for two years by arguing that its content includes incitement to violence and "endangers public safety." The Court is implicated in the continued validity of this Ordinance. It rejected a petition asking the Court to declare some of the provisions as unconstitutional given their infringement on free speech and freedom of occupation following the enactment of the basic laws during the 1990s.³⁰

The Peripheral

Earlier we saw in the case of religious budget distribution that the Court is reluctant to intervene in state distribution of resources. Yet on other occasions, the Court has intervened. The case of subsidies and tax

²⁹ H.C. 316/2003 *Bakri v. Censorship Board*, P.D. 58(1) 249 (2003).

³⁰ H.C. 6652/96 *The Association for Civil Rights v. Minister of Interior*, P.D. 52(3) 117 (1998).

benefits is an instance in which the Court limited relatively peripheral manifestations of discrimination. Yet even in these cases, the delay in the legal proceedings and lack of implementation made the rulings quite ineffective.

In 1998, the High Follow-Up Committee, the body representing the Arab citizens, submitted a petition against the governmental classification of localities to National Priority A and B. This classification allowed the distribution of greater benefits and incentives to those communities in the A category. The petition focused on education-related benefits and argued that this classification is discriminatory given the fact that the government included only 4 Arab communities (out of 553) within the A category. Eight years after the submission of the petition, the Court ruled in 2006 that the governmental decision constituted an illegal discrimination. Yet it gave the government a one-year period to begin the implementation of the ruling by ceasing to distribute benefits according to the impermissible classification.³¹ The Court granted the state another extension until 2009. The state sought another extension through a 2009 law that extended the implementation of the discriminatory decisions until January, 2012 (Adalah 2010). Following another petition, the state announced that it intends to comply with the 2006 ruling (Adalah 2011). In other words, only in 2011 and more than a decade after the original state policy did the state announce that it will cease to use that specific discriminatory policy. During these 12 years or so, the state continued to distribute benefits in a discriminatory manner to the detriment of the Arab communities. In this sense, justice delayed – as the saying goes – is justice denied.

Conclusion

This chapter has laid out the legal structures of subordinating the Palestinian minority in Israel. For this purpose, it challenges the view of the Israeli Supreme Court as a liberal, rights-vindicating Court. As far as the rights of the Palestinian citizens are concerned, the Court has overall justified, refined, and advanced their subordination. Far from being a counter-majoritarian or activist court defending the weak and the disempowered, it has been an active participant in the evolution of

³¹ H.C. 2773/98 *The High Follow Up Committee for Arab Citizens of Israel v. The Prime Minister* (2006).

the Zionist project. This chapter presented the primary manifestations of the Court's contribution to the dispossession, subordination, segregation, and control of the Palestinian citizens as well as the legal and discursive tools it has deployed.

Although the Court has occasionally delivered rulings critical of the Israeli executive and legislature, these were too few and too limited to meaningfully challenge existing power structures. They often reflected disagreements regarding the form and extent of discrimination rather than a rejection of discrimination altogether. The Court effectively legitimated the primary practices of a settler regime by providing it with an aura of the rule of law. Without that aura, Zionist practices would appear to be mere raw power and force. The Court depoliticized the oppressive practices and presented them as more natural and necessary than they were likely to be perceived without the legal imprimatur (see, e.g., Kennedy 1998).

The Court's dismal record is likely to worsen even further. Since the Likud's victory in 1977, the Zionist right wing has been strengthening its grip on the Israeli political system. The failure of the Camp David summit in July 2000, the second intifada, and the October 2000 mass protests have all accelerated this movement to the right. These developments have led to the evolution of a new Zionist consensus that seeks to redraw the boundaries of citizenship in Israel (Rouhana and Sultany 2003). It is too early to tell how this will influence the Court's jurisprudence. Nevertheless, in 2012 the right-wing politicians secured the appointment of Asher Grunis – considered by some as “the darling of the right wing” – as the Chief Justice of the Supreme Court (Karpel and Zarchin 2011). In the same month, Justice Noam Solberg – a resident of the West Bank settlement Gush Etzion – became the first settler to sit on the Court. With the retirement of former Chief Justice Barak – the most influential liberal Zionist judge in the Court's history – these changes might signal a right-wing turn in the Court's jurisprudence as well. The Court is still likely to uphold a Zionist centrist position, through its moderating effect, but the political center itself has been consistently moving rightward.³²

³² The Court's record in 2015, after writing this article, supports this conclusion (Adalah 2015).

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Controlling Land and Demography in Israel

The Obsession with Territorial and Geographic Dominance

YOSEF JABAREEN

Introduction

This chapter suggests that Israel has been obsessed with territory and territoriality since its establishment. The state and its planning, military, and judicial apparatuses have been striving to gain more and more territorial domination since Israel's establishment through various measures. I call this type of territoriality *obsessive territoriality* because Israel's quest for territory and spatial control can be characterized as a continuous, never completed, compulsive project. In the aftermath of the 1948 war, Israel was established, and 780,000 Palestinians were dispossessed and displaced (Abu Lughod 1971; Morris 1987). The new state subsequently carried out various territorial policies aimed at achieving geopolitical ends. The astonishing territorial result of these policies within Israel in its borders of 1948 (without the territories occupied in 1967) was the control of 93% of the country's lands, which became publicly owned by the state itself (Jabareen 2014); the establishment of about 1,065 settlements for Jews within Israel's 1948 borders (see Table 8.2); the prevention of Palestinian refugees from returning to their homes; the destruction of about 400 Palestinian cities, villages, and communities (Abu Lughod 1971; Morris 1987); and the confiscation of the vast majority of lands privately owned by Palestinian citizens of Israel (Jabareen 2015a, 2015b).

This chapter argues that Israel has been obsessive in applying various policies, or what I will call "concepts of territoriality," in order to achieve its desired geopolitical ends – mainly territorial expansion and tight control over territory. By *territory*, we mean a "land or space that has had something *done to it* – it has been acted upon," it is "a bounded space which there is a compulsion to defend and secure – to claim a particular kind of sovereignty – against infringements by others who are perceived

to not belong” (Cowen and Gilbert 2008:16). *Territoriality* uses bordered spaces for purposes of social control, classification, communication, symbolism, inclusion and exclusion of things and people (Sack 1986). To “territorialize” means to assign “identities” for collective subjects within structures of power, therefore to categorize human beings (Balibar 2004). Territoriality is an action of power and coercion (ibid.). Moreover, democracy, sovereignty, ethnicity, and nationalism are seen as a total package tightly wrapped up in territoriality, while the national interest of the territorially defined community is often an ideological mask for the interests of dominant ethnic groups (Anderson 2010). Therefore, territoriality can be “a blunt and crudely distorting instrument” (ibid.). This chapter seeks to investigate the multifaceted spatial, demographic, economic, and geopolitical concepts of territoriality in the Israeli context, which Israel has been applying in order to achieve particular territorial results. In other words, this chapter seeks to identify the concepts that underpin what I am terming Israel’s “obsessive territoriality.”

The chapter suggests that Israel’s national and urban *planning practices since its establishment provide rich and significant empirical sources* for gaining a deep understanding of these territorial policies and their intentions and results. So far, scholars have only focused on the role of planning as a political tool in Judaization policies in individual cities, particularly in East Jerusalem (Jabareen 2010); Lydda (Yacobi 2003); and Jaffa (Rabinowitz and Monterescu 2008). This chapter is the first critical account of the nature and results of the Israeli planning system as implemented at the national and regional levels.

This chapter has three sections. The first describes the national planning system in Israel and the selected plans that this study uses. The second presents the concepts of territoriality. The final section draws conclusions.

National Planning in Israel

This section identifies the main concepts of territoriality through planning practices that Israel has employed since its establishment. Since 1949, dozens of different comprehensive land-use and population distribution plans have been produced at the national and district levels to guide Israel’s geographic and demographic constituents, to develop its infrastructure, and to shape its economy and environment. The practice of developing national plans with the goal of population distribution does

not appear to be a common practice in most nations (Alterman 2001; Carmon 2001). Some argue that this type of planning is important for Israel because there was a perceived need to have fortified secure boundaries, a national consensus to populate and colonize the peripheral areas, and the need to absorb large influxes of new Jewish immigrants (Alterman 1995). Shamai Assif, one of the leaders of the planning team of the recently approved *National Outline Plan #35 – Comprehensive National Outline Plan for Building and Development and Conservation* (or TAMA 35), suggests that national planning in Israel has a big influence on what happens on the ground (Zandberg 2000).

The Planning and Building Law (1965) is a major law that firmly organizes and controls all statutory planning and development aspects in Israel. Israel has a centralized planning system for the use of land, in which the central government is involved, first and foremost, by way of its extensive powers to oversee local-level planning decisions, and secondly, through its power to draw up binding national plans for land use (Alterman 2001). In addition, the involvement of the central government is channeled through the hierarchy of plans, from national plans, to district plans, and down to the level of local plans (*ibid.*). The law determines an organized hierarchy in which the central government is the authority for approval of national plans that determine policy, the National Planning and Building Board approves district plans that detail this policy in the districts, and planning implementation is done by means of local outline and detailed plans, on the basis of which building permits are issued (Rachewski 1992).

The National Planning and Building Board is Israel's principal planning agency. It comprises 32 members, of whom 14 represent government ministries, 10 represent local authorities, and the remaining 8 represent non-governmental, public, and professional organizations including representatives of nature, women's, and young people's organizations, and the Jewish National Fund (JNF). The primary responsibilities of the National Board are to enact national level master plans, review regional master plans, and serve as an appeal board for decisions of the six District Planning and Building Commissions. National Master Plans are prepared for issues of national planning significance or for land uses that serve national interests. They are commissioned by the National Board and submitted to the government for final approval. Once approved and announced in the official gazette, they have the status of legally binding plans. This study analyzed the 12 national and district plans listed in Table 8.1. These plans were selected

Table 8.1 *Israeli national and district plans analyzed in this study*

National or district plan	Year	Description
Physical Plan for Israel (known as the "Sharon Plan")	1951	The first comprehensive plan for Israel. Prepared by a team of 180 professionals headed by Arie Sharon.
The Hilly Galilee: A Plan for Intensive Development	1974	Initiated by the Jewish Agency in 1974.
The National Outline Plan for the Geographical Distribution of 5 Million Inhabitants in Israel	1975	Initiated by the Interior Ministry and the Treasury Ministry in 1968. Approved by the Israeli cabinet in 1975.
The National Outline Plan for the Geographical Distribution of 7 Million Inhabitants in Israel	1985	Initiated by the Interior Ministry in 1985.
"Mitzpeem" Plan	1978-1980	Aimed to establish 30 Jewish settlements nearby Arab cities. Initiated and implemented by the Jewish Agency.
Outline Plan for the Southern District T.M.M. 2	1986	Initiated by the Interior Ministry in 1972. Approved in 1986.
The Stars Plan The Hills Axis	1990	Approved in 1990 by the Ministerial Cabinet on Immigration Issues. Aims to establish 12 Jewish settlements close to the Green Line where there is a dense concentration of Arab population.
Outline Plan for the Northern District T.M.M. 2, Change No. 9	1992	Initiated in 1986 by the National Planning Board. Approved by the National Planning Board in 2007.
The National Outline Plan#31 Comprehensive National Outline Plan for Building and Development for Absorption of Immigrants	1993	Initiated as a result of the massive immigration wave from the former Soviet Union in 1989. Approved by the National Planning Board in 1992 and by the Cabinet in 1993.

Table 8.1 (*cont.*)

National or district plan	Year	Description
The National Outline Plan#35 Comprehensive National Outline Plan for Building, Development and Conservation	2005	Initiated by the National Planning Board in 1999 and approved by the Cabinet in 2005. Serves as the current authorized statutory plan for Israel.
Negev 2015 National Strategic Plan for the Negev Development	2005	Initiated by the Cabinet in 2005. A 10 year plan for developing the Naqab with a budget of 17 billion New Israeli Shekels (NIS).
Beer Sheva Metropolitan: A Partial District Plan T.M.M. 4/14/23	2006	Initiated by the National Planning Board.

because they are the most influential plans in constructing the country's geography and demography (Alterman and Mossieri 1993).

Concepts of Territoriality in the Israeli Context

Based on the analysis of these plans, I identify eight concepts of territoriality that I argue apply within the Israeli context. This chapter uses conceptual analysis to identify the concepts of national planning in Israel (Jabareen 2009). The conceptual analysis was designed to trace the major concepts of the national planning that together build the conceptual framework that helps us in understanding the politics of spatial planning and its territoriality. This method is a grounded theory technique that aims to generate, identify, abstract, and trace a phenomenon's major concepts, which together constitute its theoretical framework (*ibid.*). This methodology delineates the following stages in conceptual framework building: (a) mapping selected data sources; (b) reviewing the literature and categorizing the selected data; (c) identifying and naming the concepts; (d) deconstructing and categorizing the concepts; (e) integrating the concepts; (f) synthesis, resynthesis, and making it all make sense; (g) validating the conceptual framework; and (h) rethinking the conceptual framework.

This original study identifies and names the following concepts.

Concept 1. Strict Control

This concept suggests that since its establishment in 1948, Israel has been striving relentlessly to gain territorial domination through various measures, including by applying strategies of *strict control* over its entire territory. The idea behind *strict control* is to set up national and urban planning policies that then effectively determine the disposition of every single parcel of land in the country. In fact, *strict colonization* aims to achieve hegemonic and unquestioned authoritarian control over territory and to thereby determine the geopolitical future of the state's geography and borders.

Immediately after the 1948 war and the establishment of Israel, the Israeli prime minister, David Ben-Gurion, ordered the development of a national plan for the state. The immediate aim was to follow the Israeli military success by creating territorial and demographic facts on the ground. The final outline, *Physical Planning for Israel*, known as the Sharon Plan, was prepared by 180 professionals and eventually presented to David Ben-Gurion in 1951. The plan aimed to "shape the future patterns of the land, its settlements, towns, and country-wide services" (Sharon 1951:4). The Sharon Plan was the most influential national plan for many years in Israel. Moreover, it dominated the planning agenda up to the late 1980s, when a new national plan, the *National Outline Plan #31 - Comprehensive National Outline Plan for Building and Development for Absorption of Immigrants* (or TAMA 31), was prepared following the massive wave of immigration from the former Soviet Union (Alterman and Mossieri 1993; Assif in Zandberg 2000; Mazor and Yiftachel 1992; Lerman and Raphael 1992).

In order to understand the success and implementation of the Sharon Plan, it is necessary to understand the ways in which the outcomes of the 1948 war were catastrophic for the Arab Palestinian population, and how these outcomes contributed to the geographic and demographic context in which the plan was developed.

The Sharon Plan suggested three major factors of the planning agenda and practice in Israel: land, people, and time (Sharon 1951). These factors represent the strategic framework of achieving a strict colonization over the country. The land was perceived as mostly "empty" of people – a result of the displacement and dispossession of 780,000 Palestinians (Abu Lughod 1971; Morris 1987) and "a rich and colorful mosaic offering ample planning opportunities" (Sharon 1951:3). The people dimension of the plan suggests that the people of the country are Jews, and the target

people are exclusively the Jewish population. The main agenda of the planning framework was melting the Jewish population into one pot. It suggested:

with the founding of new towns and their expansion, and with the objective of balanced distribution of the population, attention must be paid to social composition; and a planning framework prepared that will promote the acclimatization of the diverse groups of the population, old and new, and expedite their integration into one organic and productive entity.

(ibid.:3)

The time dimension suggested, in fact, colonizing the “empty” country in a “quicken tempo of development” (ibid.:3). Moreover, since the country was “empty” with an enormous amount of vacant, previously Palestinian-owned towns, villages, and lands, the task of colonization and development became easy, as the plan suggested:

Since the establishment of the State of Israel a great proportion of land is in governmental and public ownership. This facilitates the possibilities of urban expansion and agricultural settlement, and of harmonious and well balanced population distribution throughout the country ... The directing of the incessant and overgrowing stream of immigration to undeveloped agricultural areas, and to new urban centers, is a relatively simple task.

(ibid.:4)

This first national plan for Israel had two main departure points. The first was the availability of vast resources – mainly lands and mostly vacant cities and towns – which resulted from the Palestinians’ displacement. The second was the existing distribution of the Jewish communities in the country. At the end of the British Mandate rule, the Jewish population was concentrated in the large towns (Jerusalem, Haifa, and Tel Aviv and its satellites), and “in addition to a few dozen settlements, existed mainly in the valleys” (Sharon 1951:10). Therefore, the major concern of the plan was to colonize the entire country and secure full control over the land. Seemingly, the idea was to prevent Palestinians from returning to their lands and towns, and the “distribution” strategy uses the “population” in fact as some sort of a “human shield.” Therefore, the plan suggested achieving security through a proposed:

distribution of population, accompanied by a comprehensive plan determining the location of settlements, towns, industries and fence

standpoints, and can be fulfilled only by a daring and consistent planning and development policy. In the absence of such a policy the masses of population will apathetically follow the line of least resistance, drifting towards the existing conurbations, so that large stretches of the country will be left void of population and human enterprise.

(*ibid.*:5)

The Sharon Plan was a blueprint for carrying out a policy of colonizing the “empty” country, which was presented by the Zionist ideology as “undeveloped,” “desert,” and “uncultivated” lands, even though it had hitherto been extensively populated and cultivated by Palestinians. The plan acknowledged that it was going to use the evacuated urban centers such as Safed, Tiberias, Akka, Lydda, and Ramleh (*ibid.*:7), which had been populated by hundreds of thousands of Palestinians before 1948.

The Sharon Plan treated the country as sparsely populated and set the guidelines for the establishment of more than two dozen development towns and hundreds of agricultural settlements. Eventually, this plan significantly contributed to the shape of the geopolitical structure of Israel, its map, its built environment, and most importantly, its colonization project and the dispossession of the Palestinians who become refugees in neighboring countries and in the West Bank and Gaza Strip. The plan’s realization was made possible, as one of Sharon’s planning colleagues, architect Shmuel Yavin, stated, because:

The state at that time controlled all the means of production: economic, planning and social. The Planning and Construction Law did not yet exist. There was only the Mandatory planning command, and there was no need to submit building plans for authorization by local authorities.

(quoted in Zandberg 2000:1)

The strict colonization agenda has been moving through two major strategic stages. The first stage extended from 1948 to 1990. This stage was characterized by massive colonization and territorial capturing throughout the country through intensive construction of new cities and settlements. The most important features of the colonization project were practically expressed and implemented through the establishment of settlements and towns and the occupation of existing Palestinian cities, towns, and villages. Table 8.2 shows that the intensity of this process, expressed by the number of newly established settlements, reached its peak in the first decade, and the establishment of new cities has been declining drastically since the early 1990s. Most importantly, the major achievement of

Table 8.2 *Jewish settlements by years of establishment*

Years	Number of Jewish settlements	Percentage (%)
Up to 1948	283	27.0
1948-1960	447	42.0
1961-1970	54	5.0
1971-1980	122	11.0
1981-1990	135	13.0
1991-2000	18	2.0
2001-2010	6	1.0
Total	1,065	100.0

Source: Developed by the author based on CBS (2012).

Note: Data do not include settlements in the Palestinian West Bank.

the first stage is the spread of more than 1,000 settlements throughout the country in addition to the overwhelming territorial control of over 93% of the country's land, which became publicly owned by the state itself.

The second stage began in the early 1990s, when the state was more confident regarding its overwhelming territorial control and presented a spatial strategy aiming at designating land-use measures to control building and development and in order to prevent sprawl and natural expansion of Palestinian cities and villages. This has been done through the last two national plans: The *National Outline Plan #31 – Comprehensive National Outline Plan for Building and Development for Absorption of Immigrants* (approved in 1993), and the *National Outline Plan #35 – Comprehensive National Outline Plan for Building, Development and Conservation*, which was approved by the Cabinet in 2006. These plans represent the new agenda of strict control over planning and development and direct the development instead to creating new settlements. Interestingly, Lerman and Lerman, the chief planners of the *National Outline Plan #31*, question the premises for constructing new settlements inside Israel, arguing that “there is no political or military significance in the establishment of new settlements.” They go on to suggest focusing on developing existing urban centers and metropolitan areas (Lerman et al. 1991:39).

Concept 2. Demographic Territoriality

This concept represents the demographic and social aspects of territoriality. This concept suggests that territoriality has specific demographic and social agendas based on explicit policies to include and grow certain social and ethnic groups in the fabric of the country, and to exclude and erase others. In Israel, the demography of territoriality has been a major goal of the governmental agenda and the national planning apparatus and plans. The policy of “demographic distribution” has a central role in the entire comprehensive national and district plans in Israel, without exception.

The policy guidelines of the first government in 1949 proposed to prepare “a four-year plan of development and absorption of immigrants, to be directed to double the population by means of massive immigration and intensive development of the country.” The guidelines suggested to master and cultivate the neglected lands and to achieve “a fast and balanced housing of the state lands that have scarce population.” These guidelines were maintained until the sixth government in 1966 (Alterman and Mossieri 1993).

Arieh Sharon (1952) suggested that the first National Plan should make effective use of the massive influx of immigrants to the country. His plan anticipated a national population of 2.5 million, of which 500,000 were expected to be engaged in agriculture. Principally, the plan aimed to distribute the immigrant influx evenly throughout the country, such that the concentrated, congested coastal strip – the Tel Aviv metropolitan area – would decrease from its high contemporaneous level of 80% of the national population to a more reasonable ratio. Referring to the Jewish population, Sharon noted that the new immigrant influx offered a considerable advantage insofar as it enabled demographic redistribution without the need to relocate the current population, which would be “a process inevitably involving considerable dislocation and hardship” (Sharon 1952:46). The desired “adjustment” could be achieved purely by directing newcomers to the more remote, but soon-to-be-developed, areas.

Thus, *The Hilly Galilee: A Plan for Intensive Development* (approved in 1974) suggested establishing new Jewish settlements in the “empty areas in the Galilee.” The main goals of the *National Outline Plan for the Geographical Distribution of 5 Million Inhabitants in Israel* (1975:164) were: “a. to increase the population portion in the Northern District by increasing the Jewish population, mainly in the mountains part; b. to

continue increasing the portion of the population in the Southern District complying with its development potential; and c. to increase the population of Jerusalem and its district as spiritual, cultural, and tourist center.” The main goals of the *National Outline Plan for the Geographical Distribution of 7 Million Inhabitants in Israel* (1985:2) were “to intensify the housing of the external areas of the state (Jerusalem, the north, the south, and Judea and Gaza Strip) and to mitigate the unplanned growth of the centre.” The Jewish Agency’s *Nahal Eron Plan* (1989:15) suggested to “increase the Jewish population in the region dramatically and in a specific time.”

The *Outline Plan for the Northern District* (T.M.M. 2, Change No. 9 1992), where half of the population are Palestinians, suggests that “the Galilee could and should be one of the first and central regions to absorb the waves of [the Jewish] immigration to the country,” and this will contribute to the achievement of the “fulfillment of the national population distribution” and “the increase of the Jewish inhabitants in the Galilee according to the spatial distribution of the Arab population” (T.M.M. 2 1992:5–6).

The major goal of the *Outline Plan for the Northern District* (T.M.M. 4 1992, 1994) was to “increase the Jewish population in the southern district, according to the national objective framework of immigrant’s absorption and population distribution, and to distribute the population in a balanced and effective settlement system” (T.M.M. 4 1992:1–2).

The plan suggested spatial distribution of the Jewish population in order to strengthen Jerusalem, the Naqab, and the Galilee. One of the main goals of the current national plan of Israel, *National Outline Plan #35 – Comprehensive National Outline Plan for Building, Development and Conservation*, which was approved by the Cabinet in 2006, is: “To give high priority to the development of Jerusalem as a capital of Israel, the Galilee and the Naqab – with an emphasis on the Beer Sheva metropolitan region” (TAMA 35 2006:3).

Some scholars consider the political “revolution” of 1977 in Israel, which brought to power a Likud government, as a milestone that symbolizes the end of the national consensus regarding the central goals of national planning – mainly the goal of population distribution – and the beginning of a new era of colonizing the West Bank and Gaza Strip (see Alexander, Alterman, and Law-Yone 1983). However, our analysis of the main goals of the national and district plans within Israel demonstrates that the goal of population redistribution, mainly

altering the demographic balance in the Galilee, the Naqab, and Jerusalem, has remained a high-priority consistently.

To sum up, national and district plans have been consistent with the national goal of demographic redistribution since Sharon's first plan in 1951. Although in recent years, the focus has shifted to the urban areas and away from the outlying rural areas, ensuring Jewish demographic superiority throughout the country is still a chief goal of Israel.

Concept 3. Economic Territoriality

This concept suggests that territoriality has an economic agenda and strategies aiming at achieving the geopolitical ends of territoriality. In other words, economic development serves territoriality and its framing. In Israel, the strategy behind the economic development as presented in various national and district plans is to attract Jewish people, preferably a "strong Jewish population," to the areas targeted by the plans. The first comprehensive plan, the Sharon Plan, suggested that "a balanced distribution of the population requires a planned geographical distribution of industry" (Sharon 1951:5). Moreover, it suggested:

Economic considerations and the needs of town planning proper, which are opposed to exaggerated concentrations of industry in only few places, are strengthened in Israel by political and security factors ... We therefore, have to direct most of the new industries to the various parts of the country in which they can best serve the requirements of economics, security and planning.

(*ibid.*:5)

Importantly, the first plans also suggested that this strategy of distribution of industry stemmed from "considerations of defense and economics, no less than of social policy and good town planning" (Sharon 1952:46). To achieve this, the government established industrial estates and planned and developed in advance so as to offer all the necessary services and facilities such as water supply, electric power, road, and rail links. Land was rented at low prices, and in some cases the industrial facilities were built in advance, ready for leasing to smaller firms. The first such estates were planned for Ramleh, Netanya, Bir al-Saba (known today as Beer Sheva), and al-Majdal/Asqalan (known today as Migdal Gad-Ashkelon).

The Hilly Galilee: A Plan for Intensive Development (1974) suggested attracting and increasing the Jewish population to Palestinian-populated

regions by establishing 12 industrial villages in the Segev and Tefen areas. The *Outline Plan for the Northern District T.M.M. 2/4* suggests developing Jewish industrial areas close to Palestinian populated areas in order to attract Jewish families to migrate to these areas. The *Nahal Eron Plan*, initiated by the Jewish Agency, proposed to increase the Jewish existence in Wadi 'Ara, an area densely populated by Palestinians, through economic development. It suggests that "up to this day, the region is not attractive to [Jewish] inhabitants and investors . . . Yet, the reservoir of available lands for immediate development is relatively large: about 10,000 *dunum* . . . and about 20,000 public lands *dunum*" (Jewish Agency 1989:16). Therefore, in order to attract Jews, it suggests to develop some new Jewish settlements, to expand existing settlements, and besides that to develop transportation infrastructures, industrial areas, and employment and commercial centers designed to serve the Jewish population and promote tourism.

Negev 2015 (2005) suggests various economic and residential incentives in order to attract a strong Jewish population to the Naqab. The plan suggests developing 10,000 "unique real-estates" for Jewish settlers. It assumes that these types of unique habitats will improve the "housing experience in the Negev" for Jewish households (see Table 8.1, *Negev 2015* 2005:d-7). Moreover, the plan suggests promoting a convenient land policy in order to facilitate the state lands for housing in the Naqab: promote plans to expand jurisdiction of settlements via the proposed real-estate profile. In addition, the plan suggests various types of tax exemptions for people and businesses (ibid.:a-20).

To conclude, the proposed economic strategies have unambiguous geopolitical and demographic ends and have been seeking to attract a socioeconomically strong Jewish population.

Concept 4. Legalizing Territoriality

The legal framework is highly significant for territoriality. It gives territoriality the legitimacy and official powers to control, displace, evacuate, reframe, set borders, confiscate, zone, allocate resources, build, and demolish. In Israel, legality has played a central role in territoriality, particularly in regard to land confiscation, planning and zoning, allocating resources and criminalizing according to the Jewish state's agenda and geopolitical ends.

Zionist leaders of the pre-state era viewed Jewish ownership and control of land as the defining component of success in the struggle for

a Jewish state. Regardless of the tremendous efforts that had been made by the Zionist movement to purchase land in Palestine, only a small proportion (11.6% of the total area of Israel) of this land was owned by Jewish institutions or individuals (Forman and Kedar 2004). Immediately following the state's establishment, mainly between 1948 and 1966 when a military government was imposed over the country's Palestinian Arab population, the "Israeli authorities gradually but rapidly created legal structures to seize, retain, expropriate, reallocate, and reclassify the Arab lands appropriated by the state" (ibid.:809). In addition, the Israeli government used these laws "to institutionalize the dispossession of Palestinian Arabs displaced by the 1948 war and trace the legal transformation of their land during the formative years of Israel's land regime (1948-60)" (ibid.:809-810). The state of Israel has used many laws in order to control the land, to ensure Jewish presence in all parts of the country and settle Jewish immigrants. Promulgation and practice of these "Judaizing the land" laws have enabled the state to achieve massive confiscation of Palestinian land such that the state currently owns 93% of the land in Israel. Only 7% of Israel's land is privately owned, a situation that does not exist in any other country in the world. That is, the state of Israel directly controls the vast majority of the country's land and is responsible for land-use planning and allocation according to its policies. Rightfully, David Kretzmer (1990:50-51) has observed:

The issue of land expropriation is possibly the most painful in the relationship between the Arabs in Israel and Jewish state. It is an issue that has caused tremendous resentment and bitterness among Israeli Arabs and galvanized them into political action.

After the massive land Judaization, the Palestinian minority in Israel today owns only about 2.5% of the entire land of the country, despite their constituting nearly 20% of the population.

Aside from the massive land confiscation from Palestinian hands, the legal framework enables the planning system to firmly control the spatial and territorial land use and planning according to the state's ethnocentric agenda. Israel's centralized planning system provides the government with extensive powers to control land allocation and development. Therefore, since its establishment, the government has proposed and approved many "legal" national and district spatial plans that in fact aim at maximizing Jewish control over the territory and minimizing Arab control, in keeping with its geopolitical agenda. Moreover, through the

planning system and the tools of zoning and land use, the state authorizes desired spaces (those that benefit the Jewish public) and sanctions others (those that would benefit the non-Jewish public). For example, there are 45 Palestinian Bedouin villages in the Naqab, which are not recognized by the state. Yet, inside Israel, there are only 40 Palestinian villages that are not recognized (Jabareen 2015b).

Concept 5. Exclusionary Territoriality

This concept represents the ethnic and group divisions of territoriality. According to this concept, territoriality seeks to include and exclude social or ethnic groups according to its agenda. It also strives to gain national consensus and legitimacy for its mission and territorial tasks. Moreover, territoriality may become for various disadvantaged groups, such as minorities and indigenous groups, hostile and antagonistic. Without doubt, territoriality has dark sides.

A major attribute of territoriality discourse in Israel, which is also a product of national planning, is the almost unquestioned consensus among the Jewish public and all Israel's consecutive governments since 1949. The policy of demographic redistribution has achieved an uninterrupted, wide consensus, has been approved by all the governments of Israel, and was the cornerstone of all the physical land-use plans. Lerman and Lerman, the chief planners of the *National Outline Plan #31*, argue that this policy can be defined today as "a balanced population distribution and increasing of the population in the Galilee, the Negev and the other sparsely populated areas of the country while considering matters of defense, and avoiding too much concentration in the central areas" (Lerman et al. 1991:38–39). While on the face of it this language appears to be ethnically neutral, the practice of territoriality in general and national planning in particular has entirely excluded Palestinians, both from its procedure and from its resource allocation, and it has exclusively served the Jewish community and contributed to the colonization of the country. The legitimacy of the national planning discourse has constituted this discourse and almost keeps its consistent goals and strategies to last for decades. Moreover, our analysis (see Table 8.3) demonstrates that Israeli national planning has excluded the Palestinian minority, citizens of Israel, from participation since the first national plan and the establishment of Israel. In the 1990s, some plans did include one Arab member in their staff; however, in terms of resource allocation and participation in decision-making at the

Table 8.3 *Ethnic representation in steering committees and professionals of national and district plans: Selected plans*

The Plan	Year	Jews	Arabs
Physical Plan for Israel (Sharon Plan)	1951	180 professionals	0
T.M.M. 4/Changes	1992	7 professional	0
Israel 2020: A Long Range Master Plan for Israel	1991	Higher Committee: 12 Steering Committee: 27 Senior staff: 2	1
Outline Plan for the Northern District T.M.M. 2, Change No. 9	1992		0
The National Outline Plan #31	1993	30 professionals	0
Haifa Metropolitan Plan	1998	27 professionals	1
Outline Plan for Haifa District T.M.M. 6	2003	101 professionals	0
The National Outline Plan #35	2005	Steering committee: 52 Planning staff: 22 Working staff: 24	10

national level, the Palestinian citizens of Israel have almost no formal power and are left only with the option of opposing (through carefully neutered political channels) centrally made decisions.

The ethno-political structure of the state makes it impossible for Arabs to exercise their right to participate in national public planning. Within the Israeli political system, Palestinian political parties have never been represented in the central government decision-making centers or been invited to participate in a governmental coalition. Moreover, the hierarchy of power in the statutory planning, development, and producing of physical spaces weakens the ability of the inhabitants of Palestinian cities to genuinely shape their space. Palestinians are greatly underrepresented at the level of government or at the national and district levels of planning committees. Legally, therefore, in addition to the lack of community participation in the planning process, they have little say in the statutory planning process, except for having the right to submit formal objections to the plans. The interests of the Palestinians in general, and their cities in particular, are not represented in the central government or within its powerful planning institutions. Although

Palestinian citizens have the right to vote, to be elected to the Knesset, and although there are representatives of their political parties serving in the Knesset, the right to real and influential participation in the space planning and production is fundamentally limited (Jabareen 2014).

Unfortunately, Palestinians were not only excluded from the space production and planning processes; national and district plans treat the Palestinian population in a hostile and antagonistic manner. The indigenous Palestinians are presented as “illegal builders”; “illegal invaders” to the state lands; a “spreading out population”; and a “demographic threat.” In many cases, up to the mid-1990s, they were presented as “non-Jews” or “population of minorities” instead of an Arab or Palestinian ethnic minority. One of the documents of the “*Mitzpeem*” Plan, “A Suggestion for Regional Development in the Western Galilee,” describes the planning problems in the region as follows:

Recently, because of the increasing natural growth of the population of minorities [the Palestinians] in the Galilee, and because of the social, economic and political pressure, we are witnessing a spread out phenomenon of the minority sector beyond their traditional villages’ boundaries. This phenomenon is accompanied with invading the state lands and fire zones, illegal buildings, illegal building without direction and guiding plans etc. The spreading out and occupying the lands are done without order and without geographical continuity. . . The anticipated results of this process are that by occupying small parcels of lands the population of minorities will control the entire central Galilee, and this will avert the option of distributing Jewish settlements and other resources allocation in the region.

(Alterman and Stav 2001)

The major problem of the Northern District according to the *Outline Plan for the Northern District T.M.M. 2* (approved in 1986:43) is that:

a very gloomy picture is portrayed regarding the Jewish population in the Northern District . . . the picture casts doubt on the term and project of “the Galilee Judaization” . . . there is a dreadfully real danger to reverse the Jewish population in the Northern District to a minority among its entire population.

(trans. by author, emphasis is original)

The recently submitted *Outline Plan for the Northern District T.M.M. 2, Change No. 9* describes the major problems that face the Northern district. Among them was, “Occupying lands [by Palestinians] and illegal

buildings [of Palestinians]" (*Outline Plan for the Northern District* 1992:1).

The *Outline Plan for the Northern District T.M.M. 2* (1986) presents the Arab Bedouin as "invaders to the state lands" and "spread over huge areas, generally in state lands." Therefore, the plan suggests transferring them to "concentrations" (*recozeem* in Hebrew; *ibid.*:34–44). The *Outline Plan for the Northern District T.M.M. 4* (1992, 1994) similarly presents the indigenous Palestinians of the Southern district (about 150,000 inhabitants), Bedouins according to the plan's terminology, as invaders to the "State lands, and who suppose to harm any plan of development in the southern district" (*Outline Plan for the Northern District* 1992:7–9). Moreover, this outline suggests solving the land problems in the unrecognized Palestinian villages through a strategy of "tough negotiation and sophisticated compromise that provides a set of solutions to the Bedouin's problems and stand according to their expectations" (*ibid.*:7–11). Moreover, the outline proposed "to suggest to the Bedouins special incentives as a substitute to give up their land rights" (*ibid.*:7–14).

The *Nahal Eron Plan* (Jewish Agency 1989) argues that there are many Palestinians on both sides of the Green Line that borders the 'Ara Valley area, and that the area is therefore not attractive for Jews:

The region of Nahal Eron (Wadi 'Ara) . . . was a border area up to 1967, and spreads out over both sides of the border . . . Despite the known great importance of the region where there is a national consensus to develop it (according to the Alon Plan) it is a region where the Jewish population is extremely low instead: On an area of about 180 square kilometers live only 1000 Jews and around 160,000 Arabs.

(*ibid.*:5)

The *Outline Plan for the Northern District T.M.M. 2 Change No. 9* (1992), which was submitted in 2001, describes the major problems that face the Northern District, where about half the population is Palestinian, and defines the foremost problem as being "a striking Jewish minority in various areas in the Galilee," and "negative immigration balances." The "negative balances" refer to the Arab to Jewish immigration ratio in the region – i.e., that the rate of Arab to Jewish population growth is unacceptably high. The plan describes the major problems that face the Northern District, among them "unbroken territorial Arab settlements" (*ibid.*:4), a territorial phobia that is repeatedly mentioned in national, district, and regional plans.

In recent decades, the government has set its geo-economic and demographic-economic national targets in a plan called the National Priority Map, which provides various economic and financial incentives for specific geographic areas. Usually, these areas are those targeted for Judaization, either in the southern Naqab or the northern Galilee. The main idea behind these maps is to enhance Jewish settlements and towns in order to encourage Jewish migration to these areas to counter “unfavorable” demographic balances. The incentives are based on the location of the settlement; they are given to the local municipalities, and they include specific, individual incentives such as tax reduction and financial incentives for prospective residents who wish to buy a house or apartment.

For example, on February 15, 1998, the government approved Decision No. 3292, which defined 533 towns and villages in Israel proper as National Priority Areas (NPAs): “A” and “B.” In accordance with this decision, NPAs that were rated “A” received large-scale benefits, incentives, and grants, while NPAs rated “B” received similar benefits, but on a lesser scale. These incentives include tuition assistance for students, subsidies for travel and car rent subsidies for teachers, exemption from tuition fees for kindergarten, subsidies for matriculation examination fees, additional classroom hours, funding for installing computers in schools, and preference in scholarships for students in higher education. Among the 553 towns and villages defined as NPAs, only four were Arab villages (Adalah 2010:3). The human rights center of the Arab minority in Israel, Adalah, appealed to the Israeli Supreme Court in 1998 on behalf of the Higher Follow-up Committee for Arab Citizens of Israel, a political umbrella of the Arab minority in Israel, suggesting that the National Priority Map is illegal and discriminatory against Arab citizens and their towns and cities. On February 27, 2006, a seven-justice panel of the Supreme Court ruled that the government’s decision constituted illegal discrimination against Arab towns and villages. Moreover, the Court stated that such a massive distribution of state resources was beyond the government’s residual authority, and that clear, explicit legislation stipulating the rules and criteria governing the classification of NPAs was needed.¹

¹ H.C. 2773/98 *Higher Follow Up Committee et al. v. Prime Minister of Israel*, amended and resubmitted as H.C. 11163/03 *Higher Follow Up Committee et al. v. Prime Minister of Israel* (2006). Last accessed May 2, 2014 (http://elyon1.court.gov.il/files_eng/03/630/111/a18/03111630.a18.pdf).

In recent years, since the *National Outline Plan #31* in the early 1990s, as the next section shows, national and district planning discourse softened its previously hostile language somewhat and adapted a more politically correct terminology, yet without fundamentally changing the same territorial strategies.

In sum, national planning in Israel has been markedly driven by the country's ethnic divide, not by existing socioeconomic divisions or considerations. Consistently, the national planning process has viewed the Jewish population as demographic assets to be distributed in the "empty" lands in order to secure control over them. To a large extent, Israel's national and district planners have otherwise turned a collective blind eye to social, cultural, religious, and ethnic diversity in Israel, and remained obsessively focused solely on the Jewish-Arab demographic balance.

Concept 6. Environmental Territoriality

"Environmental territoriality" suggests that nature and environmental issues are used in order to serve an overall territorial and geopolitical agenda. In the case of Israel, territoriality and its national planning have treated nature and environment manipulatively. In many cases, when territoriality purports to protect nature out of ostensibly environmental concerns, its real goal is to block "undesirable" Palestinian natural urban expansion. In Israel, environmental sustainability and nature often fall victim to obsessive territoriality and desire for complete geostrategic control.

The strict colonization of lands has dominated the national planning mission in Israel. Therefore, environmental issues have largely been neglected for decades. Zionist ideology created planning strategies meant to master the "empty" and "vacant" lands, make the "desert" bloom, and cultivate the "uncultivated" lands. For decades, territoriality and its national planning mission have used nature mainly to achieve territorial and geopolitical ends. Concerns about nature, the environment, and sustainability were not at the heart of the territoriality agenda. Only recently have these concepts been integrated into the Israeli national and district planning agenda.

Arieh Sharon (1952), the chief planner of the first National Plan of Israel, reiterated the crucial role that comprehensive planning played and will continue to play in determining the success or failure of Israeli society or economy. Writing at the time, he noted that the "state is only

at the start of its evolution,” and most of its lands are still undeveloped, underpopulated, and unplanned. As a modernist who aimed to utilize natural resources for development and national determination goals, he suggested that the natural landscape of the country provide rich and varied opportunities for physical planning:

A national plan must seek to indicate not only the best town planning layout but the most rational location of new villages and cities, the most suitable setting of new industrial centres, roads, etc., and generally provide the best possible design [sic] for the efficient utilization of the country's resources and assets.

(ibid.:45)

It seems that Sharon and his team admired “progress” and “development,” the key icons of modernism, at the expense of nature and open landscape. For Sharon, the landscape of the country was “lost” and the land was “abused”:

The materialization of this initial phase of the National Plan would be followed by increased progress in the development of the Negev. Thus, the erstwhile fertility and verdure of the country, lost after centuries of neglect and abuse of the land, would be restored and a proper environment created for the growth of a healthy, prosperous and progressive community.

(ibid.:56)

In the early 1990s, the *National Outline Plan #31* (1998:228) was the first national comprehensive plan to suggest ensuring “the quality of life and environmental quality of the country within rapid development.” The current national comprehensive plan of Israel, the *National Outline Plan #35* (2005), could be the first formal national plan in Israel to acknowledge moderately environmental issues in general and to adopt in part the terminology of sustainable development. The plan uses what it calls a “language of textures,” whereby the entire country is organized by five types of textures. These textures determine the scope of development in each area and decide whether the land is destined for development or conservation. The idea is to control development in preserved and agricultural areas.

Significantly, a spatial analysis of the territories of nature and protected lands such as parks and green open areas, as they appear in national and district plans (such as TAMA 22), demonstrates that these land allocations and zoning have been used to prevent Palestinian cities and villages from natural territorial expansions. Our analyses suggest that

there is no Palestinian city or village in Israel without “green uses” that prevent its expansion for housing development. The *Nahal Eron Plan* suggests building new Jewish settlements and other strategies in order to protect the lands from the Palestinian “invaders” and suggests that: “We have to give our opinion regarding other alternative means to protect the State land in accepted manners: plantation, forestation, etc.” (Jewish Agency 1989:17).

Concept 7. Geopolitical Territoriality

“Geopolitical territoriality” suggests that territoriality is also a geopolitical tool that has almost a clear geopolitical function that transcends merely the rationality of land allocations and planning for the public good. Importantly, territoriality has dark sides and could even be a violent act. The territoriality process usually changes borders and sometimes moves populations, and similar to state building, it could be accomplished with violence (Tilly 1992). Fukuyama (2007:10–11) suggests that “state-building in a strict sense is about creating the Weberian monopoly of legitimate violence over a defined territory, and therefore has at its core the concentration of the means of coercion – in practical terms, armies and police – under the control of a central political authority.”

In Israel, territoriality is a grand national project, and its national planning agenda has clear geopolitical goals aimed at controlling the vast conquered territories; determining the fate of the Palestinian refugees of 1948 and preventing their return to their homes, lands, villages, towns, and cities; protecting state borders; determining the nature of the borders between Israel and the future Palestinian state; determining the status of Jerusalem and ensuring that it serves as the “united capital of Israel”; controlling the ethno-demography of the state; gaining territorial and demographic hegemony over the country’s spaces; serving security and military policies; and contributing to state building.

Importantly, the ideology of the Zionist movement since its inception in 1898 with the aim to build a homeland for Jews in Palestine is a major source of the geopolitical agenda of territoriality. In the territoriality context, this movement sought to colonize and control the lands in Palestine, build a homeland for Jews, establish cities and villages throughout the “Promised Land” (Chyutin and Chyutin 2007). This has been referred to as the Judaization of the land (Yiftachel 1999).

Apparently, since the establishment of Israel, state planning has been consistent with Zionist territorial ideology and national territorial and settlement policies.

Interestingly, the vision of the current authorized national plan of Israel, which deals with spatial and allocation of land uses at the national level, ironically suggests developing Israel as a “Jewish and democratic state,” and *not* as a state of all of its citizens including the indigenous people – the Palestinian Christians, Muslims, and Druze. In other words, the processes of territoriality through land uses and national planning has a geopolitical agenda of constructing a nation state with an absolute priority of the dominant ethnic group who will enjoy democracy while the Palestinian minority, who compose more than 20% of Israel’s population, will be excluded by deliberate design.

In sum, the geopolitical concept lies at the heart of the territorial agenda. It is the glue that holds all concepts together, while each concept contributes to some aspects of the geopolitical agenda.

Concept 8. Militarizing Territoriality

This concept suggests that security and military considerations play a powerful part in territoriality. In the name of security, states and authorities legitimize their territoriality. In Israel, the military apparatus has an influential power in territoriality. The involvement of the security system, specifically the Israel Defense Forces (IDF) in spatial planning in Israel, has been rooted in both the civilian and military planning institutions alike since the state’s early days (Oren 2009). Oren and Regev (2008) suggest that the IDF completely controls nearly 46% of the land in Israel, and the IDF actually affects, in terms of planning and development, about 80% of the country’s land. Since 1948, the IDF has influenced territoriality in various aspects and measures, such as:

1. Capturing lands of Palestinian refugees and preventing their return in the aftermath of the 1948 war and for a decade after it.
2. Influencing strategic planning of national infrastructures, such as the national plans for railways; ports, harbors, and marines; gas; electricity; tourism; communications; water; and all other comprehensive national plans.
3. Planning and developing the vast lands that are under the direct and exclusive IDF control – about half the lands in the country.

4. Confiscating, according to the law, privately owned lands and also closing areas for “security” reasons. These lands usually belong to Palestinian citizens and are then closed off to their towns and cities (e.g., in the Palestinian towns of Sakhnin, Arabyeh, Deir Hanna, Umm el-Fahm, Ara, Arara, and Mu’awiya).
5. Establishing new “pioneering settlements” for Jewish youth and soldiers in militarily closed or confiscated areas in order to capture lands and prevent Palestinians from using them. Recently, the IDF planned Bahadim City, which has been under construction since 2012. It is a Training Base City located in southern Israel. The IDF Colonel Shalom Alfasi, the administrative director of Bahadim City, suggests, “This plan is of national importance,” and “When tens of thousands of soldiers and commissioned officers move to the south, the whole region will flourish, and the Negev will really bloom” (KKL-JNF 2012). Apparently, the basic idea behind this city follows also the geopolitical agenda of the national territoriality in Israel.
6. Planting trees and forests for security ends.
7. Planning and constructing walls and barriers between Israel and the West Bank and Gaza Strip.

Conclusions

Israel has been striving obsessively to gain more and more territorial domination since its establishment in 1948 through various measures (Jabareen 2015a, 2015b). In this chapter, I call this nature of territoriality “obsessive territoriality.” This type of territoriality is obsessive because it is a continuous project, compulsive, violent, militant, never completed, and ravenous for territory and spatial control despite the state’s having already achieved full control over the overwhelming majority of lands, as 93% publicly owned lands are under state control. I identified eight major interrelated concepts that I have argued constitute the framework of Israel’s territorial project – Israeli obsessive territoriality. The framework is a product of Israel’s national planning, legal system, and geopolitical agenda. It is socially, politically, legally, militarily, and spatially constructed. This territoriality uses coercion over human and material resources, mainly coercion over demography, territory, economy, and the environment in order to serve territoriality and the territorial obsessive project. It is ethnically exclusionary, violent, and uses military force for serving its agenda and obsessive nature.

Indeed, the Israeli framework of territoriality is unprecedented in contemporary history for its comprehensiveness, persistence, and desire to control the geographies and demography of the territories in the service of ethnic supremacy. It is an unprecedented comprehensive framework of territoriality, which applies multi-social, spatial, economic, and militarily planned measures that all are directed and channeled toward achieving geopolitical ends. All these concepts and their measures have been orchestrated to achieve the strict control over territories and populations. Yet, the direct territorial results of these territorial concepts are dispossession of both Palestinians who became refugees since 1948 and of Palestinians who are citizens of Israel.

The concepts of territoriality discussed in this chapter comprise a coherent geopolitical framework aiming at controlling the vast conquered territories; determining the fate of the Palestinian refugees of 1948 and preventing their return to their previous territories, cities, towns, and villages; protecting the state's amorphous and deliberately vague borders; determining the nature of the borders between Israel and the future Palestinian state; determining the status of Jerusalem and its fate as the "united capital of Israel"; controlling the ethno-demography of the state; gaining territorial and demographic hegemony over the country's spaces; serving security and military policies; and contributing to the state territory building. Importantly, this type of territoriality gravely exacerbates the Israeli–Palestinian ethnic conflict and dramatically undercuts the possibility of ever achieving a two-state political solution to the conflict.

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Israel's "Arab Economy"

New Politics, Old Policies

RAJA KHALIDI AND MTANES SHIHADAH

Introduction

This chapter aims to examine recent Arab economic development in Israel and to reassess the question of integration/exclusion of the Palestinian Arab minority in the Israeli economy. Israeli policy continues to declare that its intended aim is to integrate the marginalized one-fifth of Israel's citizens into the state and its economy. But carving out a space of equity and development for them within the Israeli state and society is counterintuitive to the *raison d'être* of Israel, whose national economy has always been geared to building the "Jewish state."

Over the years since 1948, the Israeli national economy, dominated by its Jewish private and public sectors, has alternatively included or excluded "its" Arab sector in its development path, depending on the overriding prerequisites of, and constraints upon, Jewish development in different periods. Indeed, like many newly industrialized economies, the Jewish "developmental state" nurtured the economic growth of Israel since its inception. Even before the state's establishment, a self-sustained, exclusive Jewish economy (agricultural, then industrial and services) was always the dynamo of a broader Zionist program of ensuring Jewish colonization, settlement, and prosperity throughout Palestine. Since 1948, the existence within state territory of a Palestinian Arab population and economy has not been an overriding impediment to the progress of that project.

Certainly, the existence of over 120 Arab towns and villages inside Israel has remained an obstacle to Zionist demographic and spatial planning dedicated to Jewish settlement of the land. But this unwanted minority population spread through the new state served ultimately as only one of the important resources transferred to the Jewish economy (over and above land) that long fueled its economic growth (e.g., labor).

Hence, in such periods, the Arab sector was "incorporated" into Israeli national projects without integration (Sa'adi 1995). On the other hand, since 1948, a range of policies was adopted to contain, circumvent, and prevent Palestinian Arabs from developing autonomous economic strength or benefit from the state's development programs and achievements. State funding of social services and economic activity was charged with promoting Jewish "national" priorities. By definition, this meant that less attention, if any, was paid to Arab development, which lagged far behind that of the Jewish majority and was subordinated to the growth imperatives of the colonial settlement program. This Arab exclusion from the fruits of Israeli economic growth has created a stark structural development gap that endures (Bäumel 2007; Khalidi 1988).

The Arab economy within the state has hence become an appendage of the Israeli economy, effectively mortgaged to it, dependent upon it and with limited productive capacity, consumption power or autonomous market potential. Over the years, as priorities of consolidating the state's sovereignty and economic growth evolved, different measures were deployed to address the needs of a growing Arab population or to respond to discontent about denial of collective and individual rights in a self-declared democratic system. Since the 1960s, government investment plans and other programs were launched, ostensibly to bridge the development gap between the Arab and Jewish "sectors" in Israel through "integration" of the former into the latter. As reviewed next, many of these initiatives were declamatory more than substantive; some were abandoned, and others were simply misguided and ineffective.

In any case, the socioeconomic conditions of the Arab areas in Israel have only slowly improved in 60 years, while poverty has spread and the attrition of Arab resources has proceeded apace. While gaps between the two populations have narrowed in some areas, and conspicuous individual wealth is not rare in Arab communities, *collectively*, the 150-odd Arab towns and villages in Israel are a world apart from the neighboring Jewish cities and settlements that have arisen in their midst. Their separate economy is usefully defined in analytical and policy terms as an "economic region," which in this case is delineated by: demo-geographic concentration in certain areas (the Galilee, the Triangle, and the Naqab); distinct social structure and human capital (largely underutilized); limited natural resources (mainly expropriated or controlled by the Jewish economy); a weak, "post-agrarian," domestic productive and service capacity; and a partial, low-level incorporation into the Israeli (national) labor

market (Shihadeh and Khalidi 2014; Shihadeh 2006). This Arab “regional economy” today straddles the remnants of the pre-1948 Arab economy, especially its rural sector, and the predominant Jewish economy whose growth has proceeded apace for a century.

Since 2000, government policy has renewed efforts to accelerate the integration of the Arab economy into national markets and tap its potential beyond its mass consumption power through “market-based” programs. It continues to be widely accepted in liberal Israeli thinking and even among some Palestinian Arab citizens of Israel that state policy actually has an “integrative” motivation toward the Arab population, or at least is as neoliberal and capitalist as it is Zionist. In challenging that claim, our inquiry aims to establish whether recent initiatives are really new. We also assess whether they are sufficient to ensure the development of the Arab economy, reduce its dependency on Israeli state welfare, and end its exclusion from mainstream Israeli economic growth. Specifically, we examine the extent to which these initiatives herald a broader renewal and structural transformation of the Arab economy or will go down in history as the most recent episodes in a series of aborted efforts that were, in a strategic sense, destined to fail.

Theories of Economic Integration and Israeli–Palestinian Realities

As the British Mandate in Palestine drew to a close, a dual economy model of Jewish–Arab economic relations had taken shape, diffused territorially and demographically throughout the country (the most recent comprehensive treatment of the subject may be found in Metzger 1998; contemporaneous accounts of the Mandate economy are found in Himadeh 1939; Hobman 1946). However unbalanced, unequal, and separate the Arab and Jewish economic sectors may have been, they were nonetheless actively linked, and together they constituted the “national” economy of Mandatory Palestine. Despite a demographic balance overwhelmingly in favor of the Palestinian Arab population at the time, the economy of the Jewish minority was predominant, enjoying dynamic links with European capital, industrial know-how, and high-quality human resources. The mainly rural/agrarian Arab economy, by contrast, was clearly at a different stage on the developmental ladder and on a separate trajectory with respect to external trade networks, financial links, and structural transformation processes. Still, exchanges

(of labor, merchandise, and services) between the two were intense and often complementary.

However, an objective study of the Palestinian Arab society/economy in Israel since 1948 must be placed within the wider context of the historic clash between a settler-colonial project and a native population rooted deeply in the land and culture of Palestine. This conflict has not only shaped the strategic actions of Israel and framed the resistance of Palestinians, but equally is translated directly or indirectly in laws, institutions, processes, and instruments governing relations between Arabs and Jews in the state of Israel. This recognition has equally led to a range of critiques, some of which understand the prospects for Arab development in the Jewish state as predetermined by the Zionist nature of the state of Israel and hence illusory by definition. Other narratives, including those we have challenged in our own previous research, uphold a premise, and repeated promise, of "integration" delivered from within the neoliberal paradigm, so to speak. In this review, we critically assess such narratives, which remain dominant and hence need to be challenged on their own terms.

The earliest coherent analysis of the socioeconomic status of the Palestinian Arab minority in Israel, by Elia Zureik (1979), focused on the innovative concept of "internal colonialism," which simply viewed Zionist policy within the state after 1948 on a continuum from the 50 years preceding the state's establishment. This concept implies that pursuing any other analytical approach runs the risk of sanitizing Israeli state policy, which ultimately is about how to handle an unwanted minority in a settler-colonial state, one that would preferably disappear from the settler state's perspective. The crux of the issue from this vantage point is that by definition, Jewish state policy is discriminatory toward non-Jews, and by default, the state cannot accept integration.

Beyond this, our own previous analyses of the Arab economy in Israel have examined its development from within mainstream analytical frameworks. These aimed primarily to challenge the hegemony of Zionist political economy (and Israeli neoliberalism) on its home terrain by demonstrating how it provides a distorted narrative of Arab socioeconomic development in Israel. One approach emphasizes the extent to which Arab economic development indicates a distinct, regional pattern divergent from that of the national, Jewish economy, but never has been subject to a sustained regional development program (Khalidi 1988, 2008). Another treatment examines the manner in which state policy toward the Arab economy has been powered by a mercantilist imperative

(associated with Jewish state-building) that systematically favors and protects the Jewish economy from Arab encroachment (Shihadeh 2006).

But an equally relevant challenge is to uncover the inherent flaws in the prevailing state-advocated narrative of Arab–Jewish economic relations – in particular, its repeated promise of “integration.” This is useful even while acknowledging the essential impossibility of integration (or from the state’s perspective, a “dilemma”), whereby in the absence of the minority population disappearing, ways will always be needed to contain, control, and pacify them.¹ In this treatment of the issue, rather than explain why in any case integration *cannot* ensue, we demonstrate how in all versions of state policy toward the Arab sector, integration *was not* the result.

Research by UNCTAD on four decades of economic dependence of the “occupied Palestinian territory”² of the West Bank and Gaza Strip (WBGS) on Israel illustrates that in aggregate terms, short of decolonization, development will always be blocked by growth-inhibiting structures that were formed at different stages during the colonial era and were never dismantled – so-called adverse path dependence (UNCTAD 2006). This is clear in the relation between Israel and the occupied territory, with the Israeli economy already more than 15 times the size of the Palestinian economy in 1967. Its product diversification was much greater, and the manufacturing sector’s share of GDP was more than four times larger (*ibid.*). Since then, a complex array of channels of exploitation linking the two economies has been added to these initial disparities and further solidified adverse historic trends.

As UNCTAD (2006) explains, orthodox theories of economic integration contend that economic relations between the (large, advanced) Israeli and (small, weak) Palestinian economies (in the occupied territories or in Israel) had been subject to the dynamics of normal, uncontrolled market forces, the gap between per capita incomes should have widened in the first years of the occupation, and then become smaller. One scholar has termed this approach in the Palestinian context as the “market failure school of the economics of occupation.”³ This refers to thinking that remains predominant among Palestinian and international economists, based on a lingering assumption of the

¹ We can clearly see this presented as a dilemma in PM Netanyahu’s Speech at the Arab Economic Development Conference (2011), discussed further below.

² Under international law, the West Bank, including east Jerusalem, and the Gaza Strip occupied by Israel in 1967 are designated as “the occupied Palestinian territory”.

³ Sobhi Samour, email correspondence with Raja Khalidi, December 2010.

existence and normal functioning of "markets" in such a colonial situation, which only fail to deliver development for reasons related to occupation restrictions (a good recent example of such reasoning is seen in Kanafani 2011). What happened, in fact, was the opposite. In the economic relationship between Israel and the occupied territory, UNCTAD (2006) has shown that the pattern was one of a *slow convergence* during the first two decades of occupation, *followed by divergence*. Under the non-market conditions of occupation, divergence bred more divergence as the economic imperatives of colonization effectively appropriated the usual gains from "integration." After 40 years of occupation, this means that the per capita income gap between the Israeli economy and the Palestinian economy in the occupied territory had doubled, from 9-fold to over 17-fold.

By widening the discussion to focus on all Arab "economic regions" including in Israel, we compare here the changes over 60 years in the two (Arab and Jewish) economies' relative size, namely (a) gross national income (GNI) and (b) welfare, that is, per capita GNI. In Israel, since 1948, the path has been one of Jewish–Arab economic divergence as it has been since 1967 between Israel and the occupied WBGS.

Table 9.1 takes all regions into account and provides an initial picture of Jewish–Arab economic divergence: In 1944, the Jewish 32% of the population produced 49% of GNI. By 2007, the Jewish 52% of the population produced 89% of GNI, demonstrating its growing and higher productivity. In 1944, the two economies were roughly the same size. And today, the Jewish economy dwarfs the Arab economies by 8:1, no doubt benefitting from the massive land and resource transfer to the former since 1948. Meanwhile, the economic welfare imbalance has been aggravated, with the ratio of Jewish to Arab per capita incomes growing from 2.04 before 1948 to 7.4 today. This trebling of the income gap reflects the "opportunity gain" of 60 years of expropriation, demographic transformation, and occupation.

Such a conclusion is disputed by Zionist political economists, as expressed in a comment on this data by Professor Ephraim Kleiman, who emphasizes that the role of the demographic factor cannot be ignored, especially the higher proportion of children under 15 and of the lower female labor participation rate in the Arab sector.⁴ In this view, for GDP per capita to fully converge, the productivity of Arab labor would have had to be nearly twice the Jewish one, an unrealistic

⁴ Ephraim Kleiman, email correspondence with Raja Khalidi, June 9, 2009.

Table 9.1 *Convergence–divergence in population, gross national income (GNI), and GNI per capita: Jewish and Arab regions of Israel/Palestine, 1944, 2007*

	Mandate Palestine: Jewish/Arab			Israel: Jewish/Arab			Israel Jewish/Palestine Arab			
	Arab 1944	Jewish 1944	Ratio J/A	Arab 2006/7	Jewish 2006/7	Ratio J/A	oPt 2007	Arab (Israel / oPt) 2007	Jewish (Israel / oPt) 2007	Ratio J/A
Population (thous)	1,185	554	0.47	1,231	5,435	4.41	1,485 GS2,350 WB/EJ	5,066	5,435	1.07
Total GNI (thous)	63,000	60,000	0.95	\$14,000	\$157,000	11.2	\$5,600	\$19,600	\$157,000	8.01
GNI/pc	53.1 PP	108.4 PP	2.04	\$9,300	\$28,900	3.11	\$1,465	\$3,900	\$28,900	7.4

Sources: Authors' estimates based on: (a) for 1944, British Mandate data cited in Metzger (1998); (b) for 2006/2007 for Israel, based on methodology referred to in fn. 5; (c) for 2007 (occupied Palestinian territory), UNCTAD (2006).

eventuality with such a low proportion of the Arab population engaged in the labor force.

Classic Zionist, neoliberal economic thinking such as this contends that much, if not all, of the demographic factor is a matter of cultural choice. Except insofar as the low participation rates of females are due to their greater distance from employment centers and others, in the view of Israeli economic policy makers, *the resultant difference in incomes cannot be ascribed to structural economic or political divergences*. Hence from this curious viewpoint, the Arab population should accept inferior socio-economic status as long as its women cannot participate in the labor force to the same extent as Jewish women. Indeed, the bulk of research published by Israeli academics, as well as those issued by official Israeli institutions, ascribes the low rate of Palestinian women's participation in the Israeli labor market to "cultural" reasons (i.e., the traditional structure of Arab society; see Bank of Israel 2008; also Lewin-Epstein and Semyonov 1994; Semyonov, Lewin-Epstein, and Brahm 1999).

However, studies by Palestinian researchers and feminist organizations reveal that, in addition to social obstacles, there are also considerable political and structural obstacles to Arab women's advancement, such as the inadequate nature of the transportation system both to and from Arab communities and inappropriate post-secondary and vocational training programs appropriate for Palestinian women citizens of Israel (Awad 2007; Hazzan 2007; Kayan 2007; Kuttab 2008; Shihadeh 2006; also see Zu'bi 2009). It can be inferred that the orientalist state policies toward Palestinian women, backed up by reputable academic opinion, play a role in reinforcing the Arab citizens' supposed "inferior" status and thwarting their full development.

The Arab "Regional" Economy within Israel: Socioeconomic Discrepancies and Persistent Gaps

Regardless of the analytical framework adopted to examine the Arab economy in Israel, some salient factors shape its distinct status, namely, the Israeli Jewish economy and its failed development experience. In particular, land loss, limitations on regional zoning, and the enclave pattern of Arab settlement in Israel have defined its frontiers: from more than 90% in 1947, only 3% of land inside Israel today remains under Arab ownership or control (Falah 2003; Yiftachel 2011). Consequently, there is a distinct geographic concentration of Arab localities in the Galilee, Haifa, the coastal plain, and the Naqab regions of the country. This

“in situ” urbanization has arisen amid an enfeebled productive sector of a post-agrarian, pre-industrial economy. While domestic manufacturing has become increasingly knowledge-intensive in the liberalized Israeli economy, the Arab workshop economy continues to operate at small, peripheral, and capital- and technology-poor levels of industry. High geographic mobility of workers has been an important feature of Palestinian labor force development since the 1970s, but this has entailed limited occupational advancement.

Though Arabs constitute around 20% of the Israeli population, the Arab economy in Israel is estimated to produce, at best, 9% of gross national product.⁵ The Arab economy demonstrates distinct consumption, production, and investment dynamics, defined by spatial constraints and ethnocentric state policies. As reviewed here, the Palestinian Arab economy has remained apart from the Jewish economy in terms of geographic separation, income deprivation, consumption divergence, and poverty entrenchment.

The Palestinian Arab population in Israel in 2010 numbered 1,229,936, 52% of whom lived in the North, 18% in the Haifa area, 14% in the coastal area, and 15% in the Naqab. A majority (60%) lives in large, exclusively Arab localities (>15,000 residents), with only 12% residing in smaller villages (<5,000 residents).⁶ Around a third of the population (380,000 persons) resides in the 10 biggest cities, radiating from/around the four biggest: Nazareth (72,000), Umm el-Fahm (46,000), Taybeh (36,000), and Rahat (51,000), respectively. Only 8% of Palestinians live in Arab quarters of the so-called “mixed” Arab–Jewish cities, further highlighting the geo-demographic separation of the Arab population, even within the same municipal boundaries.

An Israeli version of a “human development index” for 2003 covers 197 Israeli local councils and municipalities, accounting for just under 6 million people.⁷ Of the total 197 localities covered, 70 are Arab, representing some 838,000 persons, or about 80% of the Arab citizens

⁵ This percentage is a rough estimate made by unofficial sources and has been calculated at even less, at around 8% (Sadan 2006) and quoted more recently by the Director of Regional Development in the Authority for Economic Development (2012).

⁶ Rikaz Databank: The Databank of Palestinian Minority in Israel. 2011. “Table 5.4: Percentage Distribution of Population by Selected Indicators, Region and Sex, 2010.” P. 81 in *The Palestinians in Israel: 3rd Socio Economic Survey, 2010*. Shefa Amr, Israel: Rikaz Databank. Last accessed October 18, 2013 (www.rikaz.org/en/publication/SE3/Third%20Socio%20Economic%20Survey.pdf).

⁷ Israeli Central Bureau of Statistic (ICBS). 2003. *Characterization and Classification of Local Authorities by the Socio Economic Level of the Population, 2003*. Last accessed July 15, 2013

of Israel. The Israel Central Bureau of Statistics (ICBS) data on this critical mass of the Arab–Israeli economy paint a dismal picture of the results of 60 years of failed integration in Israel. Of the 197 Arab, Jewish, and mixed localities, 102 show composite socioeconomic indices below the median. Of these sub-average localities, two-thirds (66) are Arab. Only four small Arab villages are above the median. Of the 10 localities at the bottom of the index, 7 are Arab; of the 70 least advantaged localities, 52 are Arab.⁸

In 2008, there were 281,000 Arab households in Israel, 76% of which were supported by one provider.⁹ This is primarily due to the low participation of Arab women in the labor force, which historically has been low, and was at 21% in 2009, as compared with 60% among Arab men and 58% among Israeli Jewish women.¹⁰ The average monthly household income in Israel in 2008 was approximately NIS 13,000 (\$3,500).¹¹ According to ICBS, Arab household income is nearly half that found in Jewish households.¹²

Distinct geo-economic patterns persist in the structure of income of Arab households in Israel (2006–2010), reflecting three components:¹³

- *The local economy:* Thirty-two percent of Arab households in Israel derive their principal income from the local private economy: agriculture, crafts, local services, and other family businesses constitute the core of the Arab regional economy.

(www.cbs.gov.il/publications/local_authorities2003/local_authorities_e.htm). A 2013 version of this has been released as this text was going to press, hence could not be reflected here.

⁸ Ibid.

⁹ ICBS. 2009. "Table 2: Households, by Labour Force Characteristics of Households Members, Sex of Households Head and Population Group." In *Labour Force Surveys Households, Economic Characteristics and Housing Density*. Last accessed July 10, 2013 (www.cbs.gov.il/publications12/1505/pdf/t01_02.pdf).

¹⁰ ICBS. 2011. "Table 12.1: Population Aged 15 and Over (1), and Population Aged 25–54 (Prime Working Age Group), By Civilian Labour Force Characteristics, Population Group and Sex." In *Statistical Abstract of Israel No.62*. Last accessed October 18, 2013 (www.cbs.gov.il/reader/shnaton/templ_shnaton.html?num_tab=st12_01x&CYear=2010).

¹¹ ICBS. 2008. "Table 2: Gross Monthly Income per Household in the Entire Population and in Households Headed by an Employee, by Number of Persons in the Household, Population Group and Continent of Birth of Head of Household." In *Income Survey: Gross Monthly Income per Household*. Last accessed October 23, 2013 (www.cbs.gov.il/publications10/1403/pdf/t02.pdf).

¹² Ibid.

¹³ Calculation of the authors according to ICBS *Income Survey: Gross Monthly Income per Household 2006–2010*. Last accessed October 20, 2013 (http://cbs.gov.il/reader/?MIval=cw_usr_view_SHTML&ID=747).

- *The integrated economy*: 35% of households are income-dependent on jobs in the Israeli/Jewish economy: 13% in the public sector (especially education and local authority services almost exclusively within Arab areas), and 22% in the Israeli private sector in neighboring Jewish towns and cities.
- *The dependent economy*: Another 32% of households are dependent on government benefits/welfare – linked to the state but effectively residing (and spending) within the Arab region. Old-age benefits are the principal source of income for 15% of households, while retirement pensions are significant for only 3% of households. Another 16% of households are dependent on unemployment, disability insurance, and income benefits.

Indeed, when only the proportion of Arab households dependent on the Arab private sector (32%) and on those public sector jobs inside Arab localities (13%) are combined, an enduring “core” Arab regional economy is revealed: about half of the Arab economy effectively operates within its geographical heartland with another one-third dependent on the state but residing and mainly consuming within the region as well. Only one-fifth is integrated into Israeli private sector labor markets.

Another important differential indicator is that Arab household expenditure levels (at a monthly average for Arab households at NIS 8171 or around \$2200 in 2008) are well below national averages.¹⁴ Meanwhile, the structure of Arab average monthly household expenditures indicates around 43% devoted to (immediate) household and personal consumption.¹⁵ Education and health expenses account for a relatively small share of the household consumption basket (7.2% and 4.7%, respectively). These patterns differ from those for Jewish households, wherein only 32% of household income goes to household and personal consumption and a relatively larger share is devoted to housing expenses and education, culture, and entertainment.¹⁶

In 2009, the number of households living under the poverty line in Israel was about 435,000; of those, 156,000 (36%) were Arab.¹⁷ The number of poor households increased in 2009 compared to 2008 by 15,000, 14,200 of which were Arab, which means that 94% of the newly

¹⁴ ICBS. 2008. “Table 6.2: Monthly Consumption Expenditure per Household by Population.” In *Expenditure Survey*. Last accessed October 21, 2013 (www.cbs.gov.il/publications10/households08/pdf/t06_02.pdf).

¹⁵ Ibid. ¹⁶ Ibid.

¹⁷ The National Insurance Institute. 2010. *Poverty and Social Disparities Indexes, 2009*. Last accessed July 15, 2013 (www.btl.gov.il/Publications/oni_report/Pages/oni2009.aspx).

poor households were Arab.¹⁸ In 2009, the incidence of poverty in Israel rose by 3.6%; but among Arab households it rose by 15%. These figures are a clear indicator that poverty in Israel has a disproportionate impact on Arab households. The data in Table 9.2 indicate the persistence of significant gaps between the two national groups and the absence of a positive relationship between the rate of poverty among the Arab minority and economic growth in the state. Even in periods when the Israeli economy exhibited strong growth, poverty among Jewish households declined while among Arab households it continued to rise, whether measured by gross or net income.

Poverty is found among all types of Arab households regardless of their size. In 75% of cases of poor households, Arab families are living below the poverty line not due to demographic factors, but for other reasons such as lack of education, fewer providers, discrimination in the labor market, and limited employment opportunities (Gera and Cohen 2001). Since 2000, Arab poverty rates began to rise dramatically, but in the same period, there was a significant decline in insurance and tax benefits that could have compensated for growing economic disadvantage. (For further analysis of the poverty trends among the Arab population and use of economy and poverty as a policy of punishing, see Shihadeh 2004). Since 2002, the share of poor Arab households receiving state welfare benefits fell from 27% to 13%, resulting in a deeper kind of poverty in the Arab community. While the majority of Jewish families who lived below the gross income poverty line in the same period received economic relief from state welfare payments, the percentage of Arab households living under the poverty line in 2009 dropped by only 11.4% after the state's intervention. By the end of the decade, a stunning half of Arab households were still in poverty even *after* state relief, compared to only 15% of Jewish households.¹⁹

Following the lifting of military rule over the Arabs in 1966, the Arab economy became increasingly connected to the national Israeli economy, and the participation rate of Arabs in the labor force rose to as high as 46% (Lewin-Epstein and Semyonov 1993). But as shown in Table 9.3, since the 1980s, the rate has remained depressed at just over 40%, compared to levels closer to 60% for the Jewish population. By 2009, the participation rate for Arab men reached nearly 60% compared to

¹⁸ Ibid.

¹⁹ The National Insurance Institute. 2011. *Poverty and Social Disparities Indexes, 2010*. Last accessed October 23, 2013 (www.btl.gov.il/Publications/oni_report/Documents/oni2010.pdf). In Hebrew.

Table 9.2 *Poverty rates in Arab and Jewish households in Israel*

Year	Arab households			Jewish households		
	Poverty Rate According to Gross Income (before welfare assistance)	Poverty Rate According to Net Income (after welfare assistance)	Drop (% decrease in poverty rate after welfare assistance)	Poverty Rate According to Gross Income (before welfare assistance)	Poverty Rate According to Net Income (after welfare assistance)	Drop (% decrease in poverty rate after welfare assistance)
1990	47.2	34.5	26.9	33.5	13.2	60.6
1994	51.9	38.5	25.8	33.1	16.8	49.2
1998	52.8	37.6	28.8	31.3	13.5	56.9
2002	55.6	44.7	20.1	30.0	14.8	45.6
2005	58.6	52.1	11.1	29.8	15.9	46.6
2007	58.3	46.8	11.8	28.3	15.0	46.8
2008	57.1	46.2	13.5	28.4	15.0	46.2
2009	60.3	53.5	11.4	28.9	15.2	47.4

Sources: The National Insurance Institute (op. cit fn. 17). Gross poverty rates: before welfare assistance; Net rates: after welfare assistance and taxes payment; Drop: percentage decrease in poverty after welfare assistance and taxes payment.

Table 9.3 Arab labor force in Israel: Participation and unemployment (%)

Year	Participation rates		Unemployment rates	
	Arabs	Jews	Arabs	Jews
1966	46.0		8.2	
1985	40.0		16.2	
1990	40.0	54.0	10.6	9.4
1994	42.0	56.0	9.0	7.6
1996	43.0	62.0	8.0	6.0
2000	42.0	64.0	12.0	8.0
2003	39.1	57.1	11.5	10.6
2006	39.6	58.5	11.5	8.0
2008	42.0	59.2	8.5	7.0
2009	41.0	59.6	8.5	7.0

Source: ICBS (Selected Years). *Labor Force Survey*.

61.5% for Jewish men; as for Arab women, participation has remained around 20%, as compared to 57% among Jewish women.

Growth in Arab participation in the labor force in the 1990s was reversed at the beginning of the current millennium and has only recently begun to recover. This is explained by factors such as the structural transformation in the Israeli economy towards hi-tech and military and communications industries and global financial services, the massive Russian immigration that began in the early 1990s, and the growing reliance on Asian low-skilled labor in construction and agriculture (Shihadeh 2005). These powerful forces left poorly skilled and unorganized Arab labor behind. This was followed by several years of deeper isolation of the Arab region as consumer attitudes among the Jewish population toward their Arab co-citizens hardened after the October 2000 uprising among Palestinian citizens of Israel in solidarity with their compatriots in the occupied territory (*ibid.*).

Unemployment among Arab citizens has remained consistently higher than among the Jewish population, and since 1990 has never been lower than 8%. Barriers to Arab integration into national labor markets and the scarcity of employment opportunities within the Arab economy itself constitute structural impediments that defy resolution even 65 years after the establishment of the state. These are no less significant than underinvestment in education, dilapidated infrastructure, haphazard urban

and industrial zoning, and the lack of interest in building industrial and agricultural productive capacity.

The transformation of the Arab economy is mirrored in the changing sectoral structure of its labor force. Until the 1980s, Arab employment in productive sectors was predominant with 74% and 51% employed in agriculture, manufacturing, and construction in 1966 and 1985, respectively. By 2008, productive sector employment had fallen to 37%, while private and public services absorbed 29% and 24%, respectively.²⁰

The persistent decline in agricultural employment of Arabs and Jews alike, while also reflecting the steady modernization of agriculture, tells a story of the marginalization of Arab rural communities, continuous confiscation of Arab land, and the lack of investment in technological development. Farming has always been slightly more significant for Arab labor than for Jews. But by 2010, only 9% of Arab households in Israel still possessed an agricultural holding, a far cry from a population that largely subsisted from agriculture 50 years ago.²¹ Only 2% of households in the central coastal plain, historically the most productive region of Arab agriculture in Israel, still have agricultural holdings (*ibid.*).

As has been the case since the 1960s, construction still accounts for the largest sectoral share of Arab employment: one-fifth of all employed as compared to less than 4% of Jewish employed.²² Arab employment in the industrial sector has fallen by 30% since 1990.²³ This reflects the upgrading of Israeli industry into high-technology and capital-intensive branches for which unskilled Arab labor is of little use, as well as the failure of the Arab manufacturing base to develop beyond craft and labor-intensive service activities.

Available data on occupational/skill levels also expose an additional trend that follows the sectoral reorientations described earlier: relocation of Arab labor toward trade-related occupations – financial, personal, and other services, as well as an increase in public administration

²⁰ ICBS. 2010. "Table 12 12: Employed Persons and Employees, by Industry Population Group and Sex." In *Statistical Abstract of Israel No. 61, 2010*. Last accessed October 18, 2013 (http://cbs.gov.il/reader/shnaton/templ_shnaton.html?num_tab=st12_12x&CYear=2010).

²¹ Rikaz Databank: The Databank of Palestinian Minority in Israel. 2011. *The Palestinians in Israel: 3rd Socio Economic Survey, 2010*. Shefa Amr, Israel: Rikaz Databank. Last accessed October 18, 2013 (www.rikaz.org/en/publication/SE3/Third%20Socio%20Economic%20Survey.pdf).

²² ICBS. 2010. "Table 12 12: Employed Persons and Employees by Industry, Population Group and Sex." In *Statistical Abstract of Israel No. 61, 2010*. Last accessed October 18, 2013 (http://cbs.gov.il/reader/shnaton/templ_shnaton.html?num_tab=st12_12x&CYear=2010).

²³ *Ibid.*

employment and in medical, legal, accounting, engineering, and academic professions.²⁴ Between 1985 and 2008, Arabs employed in "productive" occupations fell from 49% to 41%, while even today, 12% of Arabs work as unskilled workers compared to half that percentage among the Jewish population.²⁵

State Policy toward the Arab Economy: Old Wine in New Bottles

The state of Israel has announced repeated formal efforts to "integrate," "advance," and "develop" the Arab sector and bridge the yawning socio-economic gap between Arabs and Jews in Israel (Ministry of Trade 2012; Netanyahu 2011; Rekhess and Rudnicki 2009). By today, even official statements recognize the persistent failure to achieve the Arab economic catch-up with the Jewish economy that was promised by successive governments in line with the state's declared allegiance to a liberal-democratic ethos. Above all, state-sponsored programs to improve Arab socioeconomic conditions have been necessary instruments to ensure pacification in the face of equally consistent demands for equal rights by this significant portion of the Israeli population, deployed hand in hand with the carrots and sticks of cooptation, control, and exclusion (Khalidi 1988). While the separateness of state policy toward the Arab sector plays an important role in defining the "regional" distinctiveness of the Arab economy, in the market-based, liberalized Israeli economy of the twenty-first century, the private sector is increasingly being called upon to lead such efforts on behalf of the state. So, while *policies* of discrimination against the Arab economy continue, the *politics* of Israel in the global economy call for a different stance.

For many years especially after the lifting of military rule in 1966, Arab labor was important in sectors like construction, agriculture, and low-skilled occupations. Since globalization reached Israel, the government has espoused more mercantilist methods in dealing with the "non-Jewish" sector (Shihadeh 2006). The privatization of public responsibility for promoting Arab economic revival is the latest approach, which somewhat whimsically views the Arab region as virgin territory for renewed expansion of the Jewish settler-colonial economy and global

²⁴ ICBS. 2010. "Table 12 18: Employed Persons and Employees by occupation, Population Group and Sex." In *Statistical Abstract of Israel No. 61, 2010*. Last accessed October 23, 2013 (<http://cbs.gov.il/reader/shnaton/templ/shnaton.html?num tab=st12 18x&CYear=2010>).

²⁵ Ibid.

capital, especially in the Information and Communications Technology (ICT) sector. But seen from the historical vantage point of the repeated failure of convergence, all such plans have had, at best, a palliative effect on an otherwise adverse path for Palestinian Arab citizens of Israel.

A History of Failed Development Planning

As early as 1962, a first Five Year Plan was announced for the Arab sector, followed by a second in 1967 (Lustick 1980). Both were focused on infrastructure provision for the 120-odd Arab localities (electricity and water networks, access roads, schools, local government budgetary support). Under the first Plan, IL 44 million was spent out of a planned IL 84 million, while in the second plan period, total expenditures more than doubled to IL 114. In 1966, an Israeli economist estimated that achieving the declared government policy of “bridging the gap” in employment and housing alone would require an investment of IL 130 million over the 10 years of the Plans. In the 10-year period covered, the only progress made was that state development expenditure for the Arab sector rose from 0.2% of the total Israeli development budget to around 1.5% (Bäumel 2007).

In subsequent years, these issues fell under the prerogative of the Office of the Advisor to the Prime Minister on Arab Affairs. But the outcomes of government initiatives were partial, poorly monitored and reported, and increasingly hard to identify. With globalization, the narrative of distinct state efforts for the Arab sector had been overtaken by the claim that a liberalized market-based economy would deliver better welfare outcomes for all market “participants” than state-led, market socialism had. By the 2000s, complacency had been overtaken by the enduring reality of Arab poverty in Israel. This signified an implicit acknowledgment that continuous efforts were needed to “bridge the gaps,” or at least appear to be doing so.

The Or Commission to Investigate the Events of October 2000 enumerated the different areas in which Palestinian Arab citizens were discriminated or neglected and the urgent need for improving their economic conditions:²⁶

- On *land*, the Commission dwelt on the history of expropriation and its control by the Jewish National Fund and the Israel Lands

²⁶ Commission to Investigate Events of October 2000. The Or Commission was a panel of inquiry appointed by the Israeli government to investigate the events of October 2000.

Administration, as well as lack of industrial zoning and urban plans and unlicensed construction.

- On *local authority budgets*, the Commission cited numerous examples of refusal by state authorities to award equitable budgets to Arab communities in infrastructure, industrial zoning, education, and local authority management.
- As for *labor participation, unemployment*, and the evidence of *Arab poverty*, recommendations called for greater representation of Arabs in government and corporate positions, as well as greater female labor force participation.

Even before these findings, a series of new government initiatives had been launched, especially concerning Palestinian Bedouin localities in the Naqab (Rekhes and Rudnicki 2009). However, the most ambitious of all state-led plans since the state's establishment was Prime Minister Ehud Barak's *NIS 4 Billion Plan*, announced as an urgent program to "bridge the gaps" in all areas of life following the October 2000 uprising (*ibid.*). It envisaged expenditures on infrastructure development and new housing, road building, industrial zones, tourism development, schoolrooms, and vocational training. Over the four-year period implementation period of the plan, only 69% of planned expenditures were reportedly spent, or some NIS 2.7 billion.²⁷

Behind the total amount spent, a clearer picture forms as to expenditure priorities. Whereas 100% of allocated budgets were actually disbursed on both internal security and transportation networks, in health care, the rate was 85%; in education and tourism, 72%; housing, 54%; and for agriculture, a mere 20%. Shimon Shamir, a member of the Or Commission, claims that only NIS 1 billion was actually spent in the context of the Plan (Shamir 2005). This implies that the rest, or some NIS 2.7 billion, was part of recurrent budgets destined in any case for Arab localities, whose normal development budgets were cut back in the same period (Rekhes and Rudnicki 2009). In the period of Likud/Kadima governments, the highlight of the state's attention to the issue was the organizing of the Prime Minister's Conference for the Arab Sector in 2007, and the now-familiar set of recommendations for greater increased public sector funding of local authorities, improving Arab education curricula and facilities, and promoting Arab-Jewish business partnerships (The Israel Democracy Institute 2008).

²⁷ Shalom, Dichter. 2004. *The Sikkuy Report 2003-2004*. Jerusalem: Sikkuy. The Association for the Advancement of Civic Equality in Israel.

Overall, state policy toward the Arab sector has not reversed de-development or communal impoverishment, notwithstanding the occasional individual entrepreneurial “success stories” of the market economy. Most recently, in attempting to ally the state with a small class of Arab capitalists to empower growth from within, in isolation from any consultation with elected Arab local or national leaders, government policy is effectively divorcing economics from politics. Today it attempts to absolve itself of direct responsibility for “bridging the gaps,” leaving this instead to the markets, with a guiding hand from a supposedly “benevolent” government.

State Aid to Arab Local Authorities

Despite the Or Commission’s findings, the share of the Arab sector in the government budgets since 1999 has not changed, and remains less than one-twentieth of the development budget (Fares 2009). On a simple per capita basis, budgets are only 25% of what they should be were the state to provide equal treatment to all citizens. The items in the 2008 proposed budget that were clearly identifiable as benefiting Arab citizens represented less than 4% of that year’s total budget (*ibid.*). In the 2009–2010 cycle, Arab development budgets reached 5% of the total (Fares 2010).

In a review of Ministry budgets allocated to Arab localities and citizens, it has been shown that Ministry of the Interior grants to Arab local authorities were reduced in 2009–2010, with potentially dire consequences for operating budgets, as follows (Fares 2010). In 2008, the Ministry spent only 21% of what it had allocated for those localities, and in 2009, budget reductions of 25% were proposed in grants to Arab local authorities. Ministry of Housing allocations for Arab localities were also reduced; only 2% of the budgets under the Ministry of Transport went to Arab localities. Even the Ministry of Education, which confirmed a sharp deficit in schoolrooms in Arab localities, spent only 18% of what it had allocated for educational programs in the Arab sector.

Budgets reflect the year-to-year policies of successive governments, and naturally their socioeconomic development priorities for resource allocation to economic sectors and ethnic/religious sectors at once. None of the recent or distant plans or development budgets aimed to eliminate the structural obstacles to Arab development, to develop Arab human capital, or to offer financial, tax, or other incentives to employ Arab skilled labor and professionals. Arab citizens of Israel and

their political, economic, and community leadership remain observers to national decision-making processes, marginalized in the national economy and excluded from its development trajectory, somehow lost in space and time, even as globalization and liberalization proceed apace.

Limited development resources have always been a problem for Arab local authorities, and this was especially so until the 1990s, by which time the socioeconomic gaps between Arab and Jewish localities had become glaring. By the 1990s, however, a distinct Arab parliamentary coalition emerged, wielding greater rhetorical power than previous Arab groups and courted at the time by Labor government policy. By the end of the decade, per capita ordinary budget grants had been equalized between Arab and Jewish localities, though development budgets remained limited by fiscal performance criteria, which most Arab localities could not satisfy, owing to their narrow tax base and limited institutional capacities (Shihadeh and Sabbagh-Khoury 2005).²⁸

Today, Jewish localities are favored by the state over Arab localities through differential allocation of development budgets and government grants. Strict conditionality is applied to local authorities to qualify for development budgets, in particular as regards targets for expanding the local tax base and balancing revenues and expenditures. In any case, government policy applied since 1999 to equalize Arab and Jewish ordinary budgets was always discretionary, not legislatively based, and could be easily reversed. Indeed, since 2001, the Ministry of the Interior began punishing poorly performing local authorities and replacing elected local governments with appointed officials (Shihadeh 2007). Local authorities in fiscal deficit that could not step up local tax collection and cut down on expenditures found themselves under direct rule by the Ministry of the Interior.

Hence, Arab local authorities remain much more dependent on state grants (67% of their revenues) than are Jewish localities (only 36% of revenues), owing to the much lower income levels of their communities and the reliance of a third of their population on state welfare handouts. From 2001 to 2005, the accumulated deficit in Arab local authority budgets grew threefold, from NIS 507 million to NIS 1420 million (Shihadeh 2007).

²⁸ The ordinary budget is used to fund ongoing activities and the provision of public services, government services and to cover the costs of administration of the local authority. The extraordinary budget is used to fund development work and infrastructure, investment, and procurement.

Of greater significance to the low domestic tax base in Arab localities is the critical absence of a sufficient number of potentially lucrative industrial zones. The total area of industrial zones in all 11 Arab cities (i.e., with municipal status) is 2.71 square kilometers; in all other Arab towns (i.e., with local authority status), it is 1.07 square kilometers (Shihadeh 2007). By comparison, the industrial zone of the “new” Israeli (Jewish) city of Karmiel alone, established on expropriated Arab land in 1964, covers 2.279 square kilometers. Upper Nazareth industrial zone, in a Jewish city similarly established in 1966 on expropriated Arab land, covers 2.192 square kilometers. Hence, two Israeli settlements established in the midst of a purely Arab region have 50% more industrial zone land (4.5 square kilometers) than all 150 Arab localities in Israel combined (3.7 square kilometers).

While total domestic tax revenue from 11 Arab cities was around NIS 125 million in 2005, the domestic revenues from only two Jewish cities (Karmiel and Upper Nazareth) reached NIS 159 million (Shihadeh 2007). A solution to the chronic tax revenue deficit in Arab localities can only be found in ambitious development of industrial zoning, not for traditional craft and car-repair workshops, but rather for technologically advanced industrial processes. This would not only increase the property tax revenue of localities but also generate local employment opportunities. This, in turn, would improve the overall economic security of the locality and reduce the burden of unemployment while eventually contributing to increased local authority tax revenue capture.

The Latest Phase: Privatizing State Policy toward the Arab Sector

Whereas the state was expected to shoulder the burden of bridging development gaps with the Arab regional economy in the first 50 years of existence, by the 2010s, a sustained period of neoliberal market governance in Israel had prevailed over state-led development policies. Hence, the most recent stage in Arab–Jewish economic relations has featured new attempts to use markets to “harness” the potential contribution of the Arab population to the strategic development path of the Jewish state. The promise of material reward through “marketizing” the Arab labor force and economy today overrides any enduring need to assuage humanitarian Zionist consciences about the conditions of the disadvantaged Palestinian Arabs living in their midst.

The Last Frontier

Parallel to the public policy measures, governments have been increasingly active in promoting Jewish and Arab civil society and business partnerships to take the lead in modernizing the Arab economy. This is less a new approach as resuscitation in a "privatized" form of efforts witnessed over a generation ago when Israeli cooperative institutions spearheaded efforts to "modernize" twentieth-century Arab agriculture and its supposed *fellah* (*peasant*) mentality of farming (see Khalidi 1988). In the twenty-first century, this drive has focused instead on exploiting job opportunities in the rapidly growing Israeli "hi-tech" and information and telecommunications services sectors.

While the state continues to advocate "integration" of the minority Arab population into the Israeli economy, the needs of the growing Arab labor force cannot be met by a few hundreds or even thousands of jobs secured in Israeli niche sectors. History shows that without parallel investment in Arab regional infrastructure and industrial and agricultural productive sectors, no enduring growth can be expected that would break the path of dependency and divergence. Even within the Zionist settler-colonial paradigm that shapes the prospects for Palestinian Arab development, such needs must be met if only partially in order to tame a burgeoning and increasingly rights-motivated Arab minority population.

On the other hand, there has been growing official policy interest in the untapped consumption potential of a region where low labor-force participation is holding back increased household income and private demand. Israeli officials have stressed this interest in the retarded Arab economic growth in Israel (Armaly, 2008), while Israeli commentators have speculated that the economic future of Israel is to be found in the integration of the Arab citizens in the Israeli economy and in the growth of the Arab economy (Arlosoroff 2010; Benn 2009).

The previous episodes of sustained national economic growth were all powered by the waves, now subsided, of Jewish immigration. From this perspective, the demographic that can most readily be mobilized to spark new growth are the politically underrepresented and potentially compliant Palestinian Arabs (of Israel especially). In some ways, within Israeli society and from policy makers' vantage point, the challenges of poverty eradication and economic integration of the large, poor Orthodox Jewish population are even greater and less amenable to immediate resolution than are those of the also overwhelmingly poor Arab citizens.

From within the Zionist paradigm, such a policy reorientation might imply new opportunities for the Arab economy to reverse a century of adversity. But from that same perspective, Arab development remains a matter of cold economic calculation and ensuring the primacy and continuity of the Jewish economy's development above all. This new awareness has helped to ease Israel's recent accession to the OECD and the need to bring its economic policies and performance into line with the standards upheld by the most advanced economies of the world.

The first inklings of this new policy came under the Olmert government, which in 2007 established an "Authority for the Economic Development of the Arab-Druze-Circassian Sector." It was tasked with "encouraging economic and productive activity of the business community inside the [Arab] settlements and integrating them into the national economy and providing financial mechanisms to allow them to gradually revive and enjoy economic prosperity and to ensure equality between all citizens" (The Israel Democracy Institute 2008). These not especially novel sentiments were followed up in 2008 by a second Prime Ministerial Conference for the Arab Sector, following a study by an Israeli think tank commissioned to prepare the conference, which focused on three axes: economic development, Arab local authorities, and education (*ibid.*).

By 2011, when the Third Prime Ministerial Conference was held, PM Netanyahu had developed a new "vision" very much in line with the market fundamentalist economic policy thinking with which his terms in office have been associated. At once his narrative focused on greater partnership with Arab businessmen and entrepreneurs, alongside an explicit recognition of the strategic importance that the new frontier of the Arab region represented for raising future Israeli economic growth:

We know that there are two population strata, the minorities sector²⁹ and the religious Jewish Haredim, who have immense potentials to achieve growth. I am speaking of development of the economy in a way that benefits all Israeli citizens but that requires first of all the integration of the members of these two strata and investing their potentials and hidden capacities . . . The most important step we can take . . . is to provide an opportunity for those people to leave behind the mentality of depending on others and on handouts, to one of independence and creativity.

(Netanyahu 2011)

²⁹ A traditional Zionist term for the Palestinian Arab population of Israel.

After comparing the potential contribution of these two groups to Asian immigrant communities in the USA, Netanyahu reveals his deepest concern:

We are today at the threshold of \$30,000 per capita income. It is an impressive figure but at the same time quite small (compared to other pioneer economies of the world). Why should we be satisfied with \$30,000 per capita? We are the society that produces the highest amounts . . . of knowledge based products which have the highest economic value added. We should have been much richer and there is no doubt as to the importance of our success in bringing the religious Jews and the Arab/Druze/Circassian sector into this circle. If we are able to make this a reality within the next decade, the State of Israel will become one of the most prosperous and successful in the world.

(ibid.)

This ringing advocacy of Arab integration in Israel as a way to save the day for the liberal Israeli economy while ending the "culture of dependency" of the poor sounds indeed very different than most of the public policies previously advocated. Those called for redressing imbalances and closing gaps for supposedly benevolent (or shrewd political) motivations. However the current policy emphasis could, for Zionist reasons if nothing else, result in a big push by national capital to penetrate and mobilize the Arab economy and rescue it from its "culturally induced" backwardness. Whether there is any evidence that will happen is discussed next.

Recent Private and Civil Society Sector Initiatives

A review of recent private-sector-targeted initiatives to improve Arab economic performance reveals limited implementation and limited results to date, amidst a skeptical evaluation by concerned officials and experts of the likelihood of real transformation in economic conditions as a result of them.³⁰ The Development Authority for the Minorities Sector established in 2007, with an

³⁰ Basel Ghattas, personal interview with Mtanes Shihadeh, September 11, 2011, Haifa, Israel; Helmi Kettaneh, personal interview with Mtanes Shihadeh, September, 11, 2011, Herzliya, Israel; Mohammad Kassum (Manager of Small Business Development Center), personal interview with Mtanes Shihadeh, August 21, 2011, Nazareth, Israel; Sami Saadi, personal interview with Mtanes Shihadeh, September 11, 2011, Nazareth, Israel.

Arab at its head approved by the Cabinet, set an ambitious work-program, including:³¹

- setting up private investment (venture) funds;
- integrating Arab businesses into wider national economic activity;
- merging Arab local authority industrial zones into regional council zones;
- greater government procurement of goods and services from Arab suppliers;
- making government support facilities more widely available; and
- promoting joint Jewish-Arab business ventures.

Three major programs have been launched so far toward these goals (Seif 2010). First, an NIS 180 million private equity capital fund has been established to invest in existing Arab enterprises and assist in new start-ups. The fund (*Bawadir*, or Initiatives) was launched with NIS 90 million in capital allocated by an Israeli corporation that runs the fund, to be matched by government funding. Another program encourages absorption of Arab female and young graduate labor into Israeli enterprises, in partnership with three Israeli NGOs, while a third aims to create new work opportunities for Arab women, through a revolving fund that provides loans for micro business start-ups.

In 2009–2010, the Development Authority reported assisting 1000 women, of whom 40% successfully integrated into the labor market, while it succeeded in finding jobs for 250 academics and also increased the proportion of Arab academics working in civil service positions.³² These are modest results for a labor force featuring low participation and unemployment over 10%, which calls for tens of thousands of new and better jobs annually.

Another major government policy initiative favors 13 Arab local authorities through allocating a development budget of NIS 778 million. The plan aims to achieve increased local sources of income, improved transportation to major employment centers, drastic solutions to housing

³¹ Prime Minister's Office. N.d. "Authority for the Economic Development of the Arab, Druze and Circassian Sectors." Last accessed October 18, 2013 (www.pmo.gov.il/English/PrimeMinistersOffice/DivisionsAndAuthorities/Pages/AuthorityfortheEconomicDevelopment.aspx).

³² Prime Minister's Office. N.d. *Report of the Authority to Develop the Economy of the Arabs, Druze and Circassian Sectors, 2009–2010*. Last accessed October 5, 2013 (www.pmo.gov.il/NR/rdonlyres/8107C58E142843D8A25FF3773B95A00D/0/nispach2.pdf). In Hebrew.

problems, improved internal security and order, and improved living conditions in general.³³ Over a five-year period, each town will be entitled to NIS 12 million annually for projects within that framework. However, around NIS 400 million of the amount was actually already allocated to development budgets of these towns, while state funds are released for projects only if local authorities can provide equivalent matching amounts. In any case, the annual amounts are small compared to existing estimates that the development of all Arab towns in Israel requires at least NIS 3.5 billion annually (Fares 2006). This is all the more evident when compared to the amounts invested in Judaizing nationally strategic regions such as the Naqab and Galilee. In 2009–2011, some NIS 750 million in additional development budgets were allocated to Jewish local authorities in those two regions, for the benefit of much smaller communities.³⁴

Nevertheless, the Director of the state-sponsored Center for Entrepreneurial Economic Development affirms that recent efforts have succeeded in creating a new dynamic. The Development Authority has increased the share and number of Arab companies benefiting from Ministry of Industry, Trade, and Employment budgets, including larger enterprises such as *Galil* Software (which employs 100 graduates in Nazareth), *Babkom* (call centre) telecom services, and *al Shams* Radio. He also notes the success of attracting equity capital funds to provide cheap capital to new enterprises, or women and youth business initiatives. Other successes cited include expansion of industrial zones, which nevertheless are acknowledged to be inadequate to promote local development.

One of the NGOs associated with the Government efforts, *Tsofen* (*Code*), claims it has succeeded to the extent that it cites a growing awareness among Israeli hi-tech companies that Arab graduates are closer, more faithful, and more familiar with Israel than Indian or Asian subcontractors.³⁵ Its directors are successful Israeli businessmen who believe that hi-tech industry can be a bridge between the Arab and Jewish communities, and they point to successful placement of tens of graduates by *Tsofen*, though it finds difficulty in identifying enough appropriately skilled graduates.

³³ Ibid.

³⁴ Ministry of Finance and Ministry for Development of Negev and Galilee. 2010. "Over 200 Million to Strengthening the Negev and the Galilee." July 25. Last accessed July 10, 2013 (www.vpmo.gov.il/Negev/magazines/Pages/200milion.aspx). In Hebrew.

³⁵ Sami Saadi, personal interview with Mtanes Shihadeh, September 11, 2011, Nazareth, Israel.

While concerned Arab businessmen and commentators agree that the existence of the Authority is in itself a positive step forward, many voice skepticism that it can do much within its existing framework and resources. Others point to the discredited approach of training Arab women in traditional occupations that have little job or income generation potential.³⁶ As for the efforts of *Kav Mishneh* and *Tsofen* to place Arab graduates in the job market, some experts consider that this amounts to little more than tools to introduce Arab labor to sectors of the Israeli economy that might require their skills, without a solution to the deep economic problems of the Arab population or any breakthrough in terms of employment or spin-off effects.³⁷ Nor has the *Bawadir* private equity fund announced any major investment since it won a government bid in 2011.

Local experts agree that this policy shift could have several medium-term benefits by putting the issue of regional economic development at the top of the policy agenda. But it is difficult to see how such light-touch efforts will result in creating a virtuous circle of greater investment, raising productivity, greater labor force participation, and overall rising incomes that is required to advance the Arab regional economy into the twenty-first century. Indeed, there is a perceived risk that the new initiatives will simply channel capital into a few companies and establish some partnerships in the Arab sector without any linkage or spread effects.

However bright a spot on a dim landscape that this sort of enclave investment might appear to constitute, linked as it is to the promises of “global value chains” and the international ICT industry, it serves market processes and capital interests well beyond the scope of the Arab regional economy (see Fromer 2013). Long-term positive externalities appear elusive in the light of the overall context of dispossession, dependence, and public neglect. Similar, indeed apparently parallel, initiatives by some of the same Israeli and international ICT capital seeking to tap the occupied territory’s supply of young labor, educated university

³⁶ Basel Ghattas, personal interview with Mtanes Shihadeh, September 11, 2011, Haifa, Israel; Helmi Kettaneh, personal interview with Mtanes Shihadeh, September 11, 2011, Herzliya, Israel; MK Haneen Zoabi, personal interview with Mtanes Shihadeh, August 10, 2011, Nazareth, Israel.

³⁷ Basel Ghattas, personal interview with Mtanes Shihadeh, September 11, 2011, Haifa, Israel; Helmi Kettaneh, personal interview with Mtanes Shihadeh, September 11, 2011, Herzliya, Israel.

graduates, are already under way, with investments valued in many tens of millions (see Behar 2013).

At best, the privatization of Arab development in Israel will create a few thousand graduates in the next years and perhaps result in the establishment of a few Israeli companies in Arab localities. But it is clearly unreasonable to expect the Arab economy to "develop" without sustained public investment in Arab infrastructure, education and industrial zones, return of confiscated land and support for local authority budgets. Indeed, there is no evidence from the preceding 60 years of neglectful state policy, persistent economic divergence, and the failures of neoliberalism in recent years worldwide, that makes these recent initiatives more credible or likely to succeed than those that preceded.

Conclusion

Beyond the lingering questions as to whether in its new, liberal guise, this latest version of Israeli "economic peace" will leave any imprint on the course of Palestinian Arab "development" within Israel, a bigger challenge looms. On the one hand, history has shown that just as in the West Bank and Gaza Strip where there can be no development under prolonged occupation, so in the policy mind-set of the Jewish state of Israel there can be no communal Arab development, even if individual prosperity may be tolerated or even desirable. But such a conclusion need not lead to inaction, awaiting an end to occupation or to Zionist settler colonialism. Instead, collective Arab engagement in a strategy of *economic self-determination*, for want of a better term, can aim to achieve communal gains through resort to legal, civil, and corporate forms of mobilization of the region's economic resources that reinforces (rather than replaces) a broader anti-colonial struggle. While this is primarily a local challenge, it has best chances for success if placed within the context of both the Palestinian struggle for national self-determination and global movements for social justice.

Leaving development efforts to the mercy of private actors or promoting "private-public partnerships," which are widely encouraged by neoliberal advocates as an acceptable way to place limits on state responsibility to citizens, is insufficient to ensure wider community development. So a different sort of collaboration between Arab private and public sector leaderships is needed. Some local opinion contends that an Arab development authority/council run by the community's elected representatives and informed by local expertise and an institutionalized

Arab private sector is warranted. Arab Members of Knesset have recognized the necessity of building collective Arab economic institutions linked to existing representative bodies such as the Higher Follow-Up Committee for Arab Citizens of Israel and entrusted with negotiating regional development policy with the state.³⁸ From the vantage point of Palestinian Arab policy leaders in Israel, recent state policies only aim to further separate the economic from the political, while ignoring the deep social needs of the population.

However, autonomous institutional mobilization will not be enough to empower the Arab economy if it is not informed by the sort of economic policy thought that is appropriate to the context (of a struggle against settler colonialism) and informed by the realities on the ground (of Arab “de-development”). In this respect, the challenge is not only specific to the Arab region in Israel. In rejecting Netanyahu’s “outreach” to the inner neoliberal of every Arab citizen of Israel, an alternative strategy needs to be non-Zionist, pro-development, cross-border, and, in some ways, post-nationalist. In particular, less reliance on the market or the Jewish state to resolve poverty and unemployment and greater resort to Arab public and community resources and mechanisms should guide efforts, at least by Arab community leaders.

Furthermore, a reorientation of Arab consumer culture in Israel toward the wider Palestinian market and productive economy in the occupied territory and beyond could serve the Arab economy in Israel well in establishing its distinct niche in the balance of economic power and resources in Palestine and the region. Recent research has confirmed the significant potential of “north–north” Arab trade and investment between the West Bank and the Galilee (Khalidi and Alsattari 2014). By disengaging from the false (and failed) policies of economic integration with a Jewish economy that is powered by its own imperatives and priorities, the Arab population of Israel can stake a claim in building their future. By embracing a development policy that stresses public welfare, equity and common Arab national and cultural identity and that de-emphasizes individual prosperity and market fundamentalism, they can also find their place in space and time in tune with the evolving social movements in the region and globally, and with their own national history and destiny.

³⁸ Hana Sweid, personal interview with Mtanes Shihadeh, August 10, 2011, Nazareth, Israel; Muhammad Zeidan, personal interview with Mtanes Shihadeh, August 10, 2011, Nazareth, Israel; MK Haneen Zoabi, personal interview with Mtanes Shihadeh, August 10, 2011, Nazareth, Israel.

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The New Face of Control

Arab Education under Neoliberal Policy

AYMAN K. AGBARIA

The literature is full of research accounts aimed at demonstrating how the Arab-Palestinian education system in Israel (hereinafter Arab education) has been controlled through policies and practices that result in unequal allocation of state resources,¹ lack of recognition of the Palestinian minority's cultural needs,² and marginalization of the influence of Arab leadership on education policy³ (e.g., Abu-Asbe 2007; Abu-Saad 2004, 2006; Agbaria 2013; al-Haj 1995; Amara and Mar'i 2002; Arar and Abu-Asbe 2013; Jabareen and Agbaria 2010; Makkawi 2002; Mazawi 1994; Rouhana and Ghanem 1999).

A common thread in this literature is the long-standing argument according to which Arab education in Israel is found in a constant

¹ Sorel Khan (2009) demonstrated the discrimination between Arab and Jewish education in the budgets (enrichment hours) that the Ministry of Education allocates to middle schools in order to aid pupils from a lower socioeconomic background. According to Khan, a Jewish pupil receives five times as many enrichment hours as an Arab pupil. Further, a research report by the All Education Movement confirms that "the current method of allocating resources creates clear discrimination between the different populations and clearly discriminates against the Arab sector" (All Education 2009:7). According to the report, the average number of pupils per class in primary education in the Jewish sector stands at 25.97. The average hours per class is 43.16, and the average hours per pupil is 1.72. In Arab education, by contrast, the average number of pupils per class in primary education is 30.88; the average hours per class is 47.77; and the average hours per pupil is 1.57. "The average Jewish pupil," asserts the report, "will study in a class with a smaller number of pupils and the average hours at his disposal is larger compared to his Arab counterparts" (ibid.:14).

² For example, both citizenship education and Islamic education in Arab schools have been stripped of any national Palestinian content. See detailed accounts in Agbaria (2010, 2012).

³ The report of the Israeli Civil Service Commission of 2011 (Hroti Sover 2012) reveals that the percentage of "Arab and Druze" workers in all the government ministries is only 6.1%. Even in the Education Ministry, where more than 26% are Palestinian students (Muslims, Christians, and Druze) according to a recent Taub Center report (Blass 2012) only 8% of the employees are Arabs.

struggle between control and mobility. On the one hand, Palestinian society in Israel seeks to use the education system for empowerment and socioeconomic mobility; on the other, the state of Israel employs various mechanisms to use it as an effective means of discipline and control. This includes close surveillance of the system, eliminating any national content from the curriculum, and co-opting Arab academics and turning them into technocratic and apolitical teachers (Mazawi 1994).

However, this literature lags behind the new realities created by the power of identity politics and the forces of globalization and economic liberalization in Israel. As the Palestinian minority's capacities to resist Israeli direct and gross methods of control have expanded dramatically, and as the state's need to accommodate its control technologies to the market-driven and highly ethnically politicized education system, the notion of control can no longer be solely perceived as the embodiment of state-centered, top-down, and unidirectional strategies of power, as traditionally presented in the literature on Arab education in Israel.

In particular, the literature on Arab education has rarely addressed the neoliberal policies that have dominated education in Israel since the early 1980s with a growing emphasis on privatization, school performance, standards, and testing (Dahan and Yonah 2006a, 2006b; Yogev 2007). How these policies have influenced the Arab education system, or how this system is now controlled through these policies, has not been adequately studied.

For our purposes, David Harvey's definition of neoliberalism explicates a set of emphases that would be most helpful in understanding how control has been transformed in the context of Arab education in Israel. His words are worth quoting at some length:

Neoliberalism is in the first instance a theory of political economic practices that proposes that human well being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices. The state has to guarantee, for example, the quality and integrity of money. It must also set up those military, defense, police and legal structures and functions required to secure private property rights and to guarantee, by force if need be, the proper functioning of markets. Furthermore, if markets do not exist (in areas such as land, water, education, health care, social security, or environmental pollution) then they must be created, by state action if necessary. But beyond these tasks the state should not venture.

State interventions in markets (once created) must be kept to a bare minimum because, according to the theory, the state cannot possibly possess enough information to second guess market signals (prices) and because powerful interest groups will inevitably distort and bias state interventions (particularly in democracies) for their own benefit.

(Harvey 2005:2)

Similar to other national contexts, with the withdrawal of welfare state policies, Israel too has witnessed the emergence of neoliberal policies that moved national education systems from the public good-based rationale and services model to a quasi-market economic model (Dahan and Yonah 2006a, 2006b; Yogev 2007). Pauline Lipman (2009) describes the neoliberal agenda in the education field in Israel thus: “The hegemonic project has succeeded in redefining education as job preparation, learning standardized skills and information, educational quality measurable by test scores, and teaching technical delivery which is centrally mandated and tested” (Lipman 2009:373).

However, this agenda is more sophisticated than it appears, as it contains a concept of the state playing two dialectic roles: the “weak state” and the “strong state” (Yonah, Dahahn, and Markovich 2008), or, as Chana Katz and Erez Tzfidia (2010) put it, the “abandoning state” and the “surveillancing state.” In education, the *weak state* reveals itself through policies and practices of decentralization and privatization. The *strong state* role is exercised by imposing practices, such as standardization, core curriculum, and accountability measures. Arab education suffers from the manifestations of the two state roles: The weak state’s strategy removes responsibility and liability for achieving substantial improvement for Arab education; at the same time, the strong state’s strategies strengthen the long-standing practices of control against it. Yet, the “weak” or “abandoning” state strategy does not mean that the state is absent; rather, it signifies the state playing a different role. This role, which the literature on Arab education has often overlooked in its treatment of the control argument, cannot be reduced to a simple explanation of discrimination, or be narrowed to practices of deprivation and marginalization, as it also concerns issues of agency and governmentality, as I will explain later.

Drawing on John Ogbu and Herbert Simons (1998), two sets of factors influence minority education: the system and the community forces. The former refers to the ways in which the state treats minorities; the latter signifies the ways through which the minority responds to the system’s treatment. Under neoliberalism, the analysis of these factors is

not an easy task to accomplish, as the state exercises its control through visible and invisible paths, and as community forces are often fragmented and constantly shift between positions of – on the one hand, resistance to, and, on the other, accommodation of – the system’s agenda.

In particular, it is difficult to trace both resistance and control, when both the system and major community forces – such as teachers, principals, municipal education departments, school boards, parents’ committees, and local press – have adopted the same neoliberal agenda in education. In this regard, within this context, probably the most powerful impact of the political right worldwide has been its ability to reshape the public agenda – substituting the vocabulary of individual self-interest for that of the public good; individual responsibility for collective responsibility and social welfare; and standards and choice in the market for equity (Apple 2001). As the vision for a “good life” is defined in terms of individual success, social, class-specific, ethnic, and racial injustices are devalued, and the state’s responsibility, as well as the minority’s role, to tackle them is undermined.

From the little research available on neoliberal policies in the context of the Arab education system in Israel, we learn that these policies are rendered through various expressions of privatization. These expressions include: deep cuts in public education budgets; constant growth of private financing in public schools; the adoption of quasi-market models in managing schools while emphasizing their competitiveness and marketability; the use of corporate language and tools in educational evaluation and assessment; increasing numbers of networks and associations becoming involved as private entrepreneurs in founding and branding new schools and outsourcing tasks that in the past were performed directly by the Ministry of Education, including development of curricula; increased presence of corporations and civil society organizations within the schools; and growth of different paths for teacher training and “flexible” employment of teachers (Dagan-Buzaglo 2010:4–5).

The continuous failure of the state-controlled Arab education system to achieve high academic performance has caused different groups in Arab society to search for alternative high-quality education through private schooling (Kedar 2010). Unsurprisingly, Nir Michaeli (2008) argues that privatization is no longer embryonic in Arab education, as he reports that Arab high school principals claim that more and more good pupils are leaving their schools to join highly selective schools that often belong to branded exclusive school networks. In a similar vein,

Ayman Agbaria and Abraham Mahajnah (2009) argue that under the influence of neoliberal policy, Arab education has become more competitive, selective, and stratified, at the expense of absorbing students with weaker socioeconomic background and academic performance. Thus, they assert, low-achieving pupils are increasingly being “pushed out” of schools and channeled to vocational schools,⁴ which, in the Arab education system, have a lower status due to their reduced resources, lesser-quality facilities, and failure to demonstrate student achievement.⁵ For the most part, these schools operate through privatized school networks, which, to ensure profitability, keep these schools’ facilities and staff under minimalist budgets.

It is noteworthy that as these networks target both the strong and the weaker pupils alike, they channel them to different schools: The strong pupils are drawn to selective magnet schools, in which parents are asked to pay high enrollment fees and cover additional costs. Conversely, the weaker pupils are directed to vocational schools with poor infrastructures and poor, low-technology education. In both cases, the privatized school networks generate high profits from charging high overhead administrative expenses.

Michaeli (2008) insightfully draws attention to the political aspect of sought-after private alternatives to the state education system, as these are perceived to be potentially less controlled and supervised by the state. Nonetheless, state control is maintained under the new neoliberal policies, but it has not been analyzed. In this regard, this chapter argues that under these policies, the repertoire of control strategies has become more versatile and sophisticated, operating through visible and invisible pathways, and the empowerment strategies that Arabs use within the education system have become more resourceful and manipulative, operating through more individualized channels. The neoliberal

⁴ Unsurprisingly, for example, Arabs comprise 48% of the student population in *Amal 1*, the major network of educational institutions that focus on technological education (Natanzon, Kretzer, and Lahav 2009:7). On a wider scale, in 2008, the Israeli Knesset’s research center reported that in the last decade, the percentage of Arab students in vocational and technological tracks and schools has increased from 25.3% in 1995 to 43.4% in 2007 (Vargin and Natan 2008).

⁵ According to a study conducted by the Bank of Israel, teens who graduated from vocational schools are less likely to get college degrees and more likely to work in less prestigious jobs and earn less than their peers with similar cognitive abilities and backgrounds who graduated from standard high schools. The study shows that standard high schools gave students a significant advantage: Only 42% of vocational school graduates obtained a matriculation certificate, as opposed to 64% of their peers (Kashti 2010a).

hegemonic discourse reshapes the formation of both control and mobility, while molding new strategies and paths. Specifically, this chapter points to the role of the disciplinary power of the neoliberal governmentality imposed on Arab education in intensifying the tension between mobility and control, and in indoctrinating identities for the Palestinian pupils devoted to individualistic success and survival, under the persistent conditions of scarce governmental resources for improving Arab education and the limited opportunities for socioeconomic mobility available to the Palestinians in Israel.

With this governmentality (Fisher 2003), state control is secured not so much by the volume of direct authoritarian production of incentive and sanctions, but rather through shaping the behavior of a self-regulating, choice-making, self-reliant individual or citizen. Increasingly, governments use the techniques of steering from a distance – systems of regulation in which autonomous individuals and quasi-governmental institutions are provoked into behaving in ways consistent with government objectives (Harvey 2005; Marginson 1999). As states have abdicated their traditional welfare state responsibilities, two twin strategies have emerged: a greater individualization of society and the deflection of responsibility from governments on to individuals and families (Duggan 2003; Peters 2001), a trend which in the literature has been termed “responsibilization.”⁶ Consequently, the individual’s success or failure in education is seen more as a function of the “character” of students and their families, and less as an outcome of social structures and government provision through the education system (Marginson 1999). This movement toward greater control under the theme of “responsibilization of self” has had the end result that the individual “becomes the waste basket of society’s unsolved problems” (Beck 1992:74).

What is at stake, this chapter argues, is that this form of governmentality renders neoliberal policies and practices such as competition, selection, tracking, ability grouping, standardizing, testing, and

⁶ The *Sage Dictionary of Policing* defines **responsibilization** thus: “. . . a term developed in the governmentality literature to refer to the process whereby subjects are rendered individually responsible for a task which previously would have been the duty of another – usually a state agency – or would not have been recognized as a responsibility at all. The process is strongly associated with neoliberal political discourses, where it takes on the implication that the subject being responsibilized has avoided this duty or the responsibility has been taken away from them in the welfare state era and managed by an expert or government agency” (Wakefield and Fleming 2009:276)

accountability as apolitical regulations, professional measures, neutral mechanisms, pragmatic bureaucracy, and practical steps to improve education. As such, it conceals the moral, political, and social dimensions of education and makes them hard to track and thus hard to negotiate and critique. In the name of efficiency and practicality, new liberal policies and practices produce a new discourse of control that is exempt from the politics of equality of opportunity, implications of cultural difference, and egalitarian ethics. With this discourse, it is now also possible to control Arab education more readily from within, as it allows new coalitions of local Palestinian stakeholders and Israeli authoritative forces to join together to control Arab education in the name of “professionalism” and “progress.”

Under the neoliberal discourse of control, the de-politicization of Arab education is deepened, the sociopolitical role of Arab schools is diminished, and the collective voice of Arab teachers and pupils is subdued. As it cultivates aggressive individualism and social Darwinism, this discourse has the potential to weaken the Palestinian pupils’ and educators’ sense of solidarity and collectivity and to produce a privatized Arab public sphere that is emptied of its own collective content and transformed into an agglomeration of private troubles and worries (Bauman 1999). In such a reality, as Israeli segregation, discrimination, and surveillance remain in place, the tension between control and mobility intensifies as follows: The more pupils believe in the neoliberal ethics of individual success at the expense of collective solidarity, the more they will be frustrated and alienated, as upon graduation they will soon find that their opportunities in the Israeli higher education system and the labor market are still scarce, to say the least.

While neoliberal policies affect identity-making processes in both Arab and Jewish education, it seems that they have a greater impact on Arab education. The reason for this differential impact is that, for Jewish pupils and educators, the public sphere is still dominated by the Jewish hegemonic group’s ideals and interests, and sources of collective identity formation are more powerful and more available. In parallel to the education system, Jewish identity is nourished and augmented with extracurricular programs offered by the Israeli army, various highly politicized youth movements, and numerous civil society organizations.

It is worth noting that neoliberal policies are inherently intertwined with the recent ethno-national turn in the evolution of Palestinian political activism in Israel to end Jewish ethnic hegemony (Haklai

2011). This new political discourse among the Palestinians in Israel, according to Amal Jamal (2008), is characterized by a growing emphasis on the indigenoussness of the Palestinian minority as a platform to demand national recognition and collective rights, including in the field of education. For Oded Haklai (2011), this new ethno-national discourse is a result of the political fragmentation and state retreat from key areas in public life. He argues that as politics have become more divided, the economy more privatized, and civil society more diverse, the capacity of central government to constrain minority organizations and set narrow boundaries for contention has diminished appreciably, and ethno-nationalist minority political activism has proliferated and become more outspoken.

Yet, the Achilles heel of Haklai's analysis is that it renders Arab politics as expressing limited agency and autonomy, while ignoring the anti-colonial nature of this politics, which is often constructed as a resistance, as an attempt to restore local control; its goal would be to constitute the Palestinians in Israel as an independent political actor that is capable of carving spaces for political mobilization that interact with both Israeli politics and the general Palestinian national movement politics (Agbaria and Mustafa 2012; Jamal 2007).

At the same time, the ruling elites in Israel have become more persistent in seeking ways to restore the power of Israel's ethno-nationalist republican ethos and to postulate the Jewish character of the state to keep the boundaries of exclusion impermeable. More specifically, the Israeli political center is becoming increasingly more nationalistic and more engaged in redefining the Israeli consensus on the exclusive ethnocentric nature of the state in line with the right-wing perception that subordinates democracy not only to the Jewish nature of the state, but also to the settlers' political interest in advancing the Judaizing of historic Palestine and expanding further the colonialization process in the West Bank region.⁷ (For more on different conceptions of Zionism, see Gans 2013.) In this regard, Udi Lebel (2007), for example, points to

⁷ In education, in recent years, several examples have been indicative of the recent ultra-nationalistic trend that has been taking hold of Israeli politics and education. For example, the Ministry of Education strategic plan, entitled *The Government of Israel Believes in Education*, stated as a major goal "to strengthen education for Zionist, Jewish, democratic and social values" (Ministry of Education 2009:7). Specifically, the policy statement stipulated obligatory tours to Jerusalem, "the capital of Israel and the Jewish people," and learning programs intended to strengthen the sense of belonging for the Jewish people and the Land of Israel (ibid.:8).

the reformation of Israeli politics of national memory to emphasize the nationalist ethos of Revisionist Zionism and to include representations of extremist underground groups, such as the *Irgun Tzvai Leumi* (or Etzel, for short) and the *Lohamei Herut Yisrael* (Lehi), who were responsible for some of the most infamous massacres of Palestinians during the Nakba, in the national pantheon of the official Israeli national narrative, including in the education field. The zealous emphasis on the exclusive Jewish nature of the state, especially after the second Intifada, signifies what Nadim Rouhana and Nimer Sultany (2003) have identified as “the New Zionist Hegemony,” which seeks to keep the state in the service of the Zionist movement’s colonizing agenda and to redraw “the boundaries of citizenship in Israel in such a way that meaningful citizenship is available to Jewish citizens only” (Rouhana and Sultany 2003:19).

Therefore, this chapter argues that while the deliberative technologies of control have now become more diverse, and at times more indirect, the normative goal of control is now, in fact, more fundamentalist and more nationalistic. In education, Palestinian educators and pupils are now expected not only to accept their inferior status as citizens as inevitable and beneficial for them, but also to justify the colonial roots of Israel and to rationalize the Jewish nature of the state as permanent and irreversible. In this sense, the neoliberal policies and practices in education serve well the new Zionist hegemony. They provide more “soft” technologies of control and surveillance, such as constantly standardizing and testing educational content and instruction to ensure that it remains void both of national and political content. They also promote aggressive individualization in the Palestinian society in Israel – which is still governed by traditional norms and forms of belonging – that eventually enhances fragmentation, incoherence, and disruption in the modernization process of this society and its fractured political discourse (Bishara 1993, 1996).

Unsurprisingly, in light of the normative inclination to the hard-line Zionist ethos and practices, in 2009, the Ministry of Education regulations removed the term “Nakba” from the curricula and textbooks used in Arab schools (Reuters 2009) and took the unusual step of collecting all copies of an eleventh- and twelfth-grade history textbook, *Nationalism: Building a State in the Middle East*, which presented the Palestinian claim that there had been ethnic cleansing in 1948 (Kashti 2009). In another example, in 2010, the Ministry of Education banned a textbook entitled *Learning the Historical Narrative of the Other*, which presented both the Israeli and the Palestinian narratives (Kashti 2010c). Moreover, in 2010,

Dr. Zvi Zameret, chairman of the Pedagogical Secretariat of the Ministry of Education, mandated the revising, indeed rewriting, of the widely used civics textbook *To Be a Citizen in Israel*. He objected to the text as “too critical of the state”; ironically, he was particularly disturbed by a sentence that read: “Since its establishment, the State of Israel has engaged in a policy of discrimination against its Arab citizens” (Kashti 2010b).

To conclude, as the normative goal of control is becoming more faithful to its colonial nature and aspirations, the Palestinians in Israel are increasingly being viewed as either enemies or de-Palestinized “Israeli Arab” subjects with no equal worthiness or rights to identity, memory, and opportunity. Consequently, the need for more disciplinary technologies of control that could be both more cost-effective and less visible is becoming more urgent. For the state, in a globalized world, neoliberal policies, especially in education, offer a good solution to this need, as they employ control through low-cost practices of privatization and ostensibly “neutral” and “transparent” standardizations, assessments, and pedagogies.

That said, the rest of this chapter is organized into three parts. The first presents the literature on Arab education, focusing on the control argument. The second introduces neoliberal policies and practices in the context of Arab education. Finally, the third part presents concluding thoughts.

Arab Education under Control

When it comes to Arab education in Israel, reality has superseded theory. Specifically, while the control argument is still valid, it seems that it has been over-cleansed and over-consumed, as it has repeatedly been reworked in the literature on Arab education in Israel with minor changes, if any, since the late 1970s. Unequivocally, since the early seminal works of Mar'i (1978),⁸ Zureik (1979), Lustick (1980), and

⁸ Mar'i (1978:18) describes the impact of the 1948 war and its aftermath on the Palestinians in Israel as leaving them “emotionally wounded, socially rural, politically lost, economically poverty stricken and nationally hurt.” Against this fragile and traumatized community, the state of Israel has been utilizing strategies of control. According to Ian Lustick (1980), these include segmentation (the isolation of the Arabs from the Jewish population and the internal fragmentation of the Arab community), dependence (the forced reliance of the Arab population upon the Jewish sector for economic and political resources), and co optation (the use of material, social, and political enticements to elicit the elites' cooperation).

Nakhleh (1980), the advancement in theorizing the status and role of the Arab education system in Israel is negligible. Admittedly, al-Haj (1995), almost a decade and a half later, and Abu-Asbe (2007) and Abu-Saad (2004, 2006), almost three decades later, all reaffirmed the theoretical observations made in that earlier period, with little change. Most importantly, this recent literature seems indeed outdated, as it has not engaged seriously with recent neoliberal policies in education or with the current Palestinian ethno-national politics in Israel. Because of space limitations, this chapter considers, for the most part, only the former development.

Specifically, the theorization on how Arab education is controlled has achieved little progress since Mar'i (1978) provided the first systematic account of Arab education. Mar'i's book *Arab Education in Israel* vividly exposed the stratification of mobility in Israel, pointing to the limited access allowed to Palestinians in the higher education system and the workforce market. Furthermore, the book demonstrated that the ethnocentric education system in Israel is used to control the Palestinian minority. In this regard, Mar'i argued that the Arab education system in Israel is set "to instill feelings of self-disparagement and inferiority in Arab youth; to denationalize them, and particularly to de-Palestinize them; and to teach them to glorify the history, culture, and achievements of the Jewish majority" (Mar'i 1978:37).

Almost at the same time, Zureik (1979) pointed to the "implementation of an effective system of co-optation, and control which segments an already sectionalized Arab society" (p. 200). For him, the "asymmetrical relationship between the Arab and the Jewish population is magnified by maintaining complete closure in the educational, cultural and residential facilities of the settler group vis-à-vis the indigenous population" (ibid.:29). Among the features of settlers' societies that he viewed as applying to the study of the Arab minority in Israel, he pointed to "the creating of a justificatory ideology based on the dehumanization of the culture and way of life of the indigenous population" (ibid.:29), including the manipulation of cultural and national symbols that characterize Arabs and their history. He convincingly argued that educational attainment and access to higher education in Israel are differentially structured to privilege the Jewish majority over the Palestinian minority, and to espouse an ideology of Jewish superiority that suppresses the legitimate claims of the indigenous Palestinian population.

In his widely cited book, *Education, Empowerment and Control: The Case of the Arabs in Israel*, al-Haj (1995) provides a historical

description of the evolution of the Arab educational system since the last part of the Ottoman rule of Palestine. In this context, he asks whether education is a source of empowerment for a minority, or rather, a mechanism of social and political control used by the dominant group. He replies that it is both. In his view, Arab education, especially in Israel, has always been subject to contradictory expectations. On the one hand, the dominant groups, be they Ottoman, British (under the Mandate), or Israeli, “have attempted to de-legitimize Arab and Palestinian nationalism and use the education system as an instrument for legitimizing the official ideology alongside the transmission of vague universal values” (ibid.:216). On the other hand, the Arab society in Israel expects its education system to contribute to the development of the collective identity of its students and to the attainment of upward social mobility for the community. Al-Haj perceives control and empowerment as two sides of the same coin (ibid.:221) in the sense that the same education system is used for two rival purposes. Thus, as the education system is used by the Israeli authorities to control the minority, it is also used by the minority community to achieve mobility and empowerment. Under neoliberalism, I will argue, this coin, the education system, is not the same “public good” that it used to be, and it is not as totalizing and comprehensive as it was before either in exercising control or in advancing mobility. This system is now used in a more complex way by both the state and the Palestinian community. The coin of education, therefore, is now more tailor-made, more individualized. As it is (metaphorically) tossed up in the air, it constantly flips. Thus, it is increasingly difficult to tell on which side of the coin control or mobility lies, as both are interchangeable and constitutive to each other.

To cut a long story short, it is safe to argue that the main leverage of control over the Arab education system has been the elimination of the autonomy of the Palestinian education system, which existed before the Nakba. The State Education Law (1953), which defines the structural components and goals of state education in Israel, established separate and independent educational systems for Jewish secular and religious state schools, accommodating the varied cultural needs of the Jewish communities. However, the law does not officially recognize the existence of an Arab education system, let alone its autonomy. By contrast, for example, the law grants the state religious education system independent decision-making capacities that obligate the minister of education to

consult with the Pedagogic Council of this system in a variety of curricular and administrative issues (Jabareen 2006; for more on the legal status of Arab education, see Saban 2002).

Noticeably, the literature on Arab education was especially attentive to the removal of Palestinian content from the curriculum and textbooks on the subjects known as sources of recognition of national identity at the school level, such as the study of languages, history, and citizenship. For example, the school subject of civics, or *medaniyyat* (a word in Arabic that means civilities) as it is called in Arab schools – a name that signals an emphasis on the disciplining civility and conforming civic virtues required to be a loyal and cooperative citizen – has developed as a main carrier of the Zionist historiography, placing a heavy emphasis on the Zionist ethos and Jewish identity of the state (Pedatzur and Perliger 2004). Halleli Pinson (2007) affirms that the civics curriculum is an ethnocentric program that glorifies the concept of a Jewish state and marginalizes the ideal of Israel as a state for all its citizens. As if this is not enough, according to Ricky Tessler (2005), Israeli students, generally speaking, are more exposed to content intended to strengthen the Jewish character of the state rather than to a common civic education that would cultivate a shared civic culture for all citizens, whether Arab, Jewish, or otherwise.

Another example is the study of Islamic religious education in Arab schools. While in the majority of Jewish schools, regardless of their religious orientation, Judaic texts, such as the Old Testament, as well as Jewish history and Jewish holidays, are taught in a variety of levels and subjects (Maoz 2007), students in Arab schools not only receive very little educational attention to Palestinian history, literature, and culture, but they spend more time learning the Old Testament and other Jewish texts than they do on studying the Qur'an, Islamic texts, or the New Testament (Hesketh and Zaher 2009). Specifically, at the high school level, neither the study of the religion of Islam nor Christianity is included as a mandatory subject in the matriculation exams (*bagrut*) taken at the end of high school. Conversely, in Hebrew language class, Palestinian Arab students are required to study Jewish religious texts, including the Jewish bible and Jewish Talmudic scholars. Moreover, the study of the Jewish bible is obligatory for Arab students, and they cannot be accepted to university without being tested in it (Agbaria 2013).

Elsewhere (Agbaria 2013), I have discussed at length how Islam is presented in the textbooks used in Arab high schools: It is rendered as a version of character education, focusing on the religious norms, civic

virtues, and personal qualities needed to function as a loyal and conforming citizen. To this end, Islam is presented as an individualized, decontextualized, and ahistorical faith, while de-politicizing Islam and denying it any particular relevance to the history of the Palestinians and their holy sites. To illustrate, one cannot but notice that the curriculum and the textbooks do not include any Quranic verses or *Hadith* that relate to Jerusalem. Furthermore, the curriculum and the textbooks not only ignore the political relevancies of Islam, but also completely overlook the concept of *Ummah* (Islamic community), and thus avoid discussing the communal nature of Islam.

Control Revisited under Neoliberalism

From the outset, the neoliberal agenda is connected at its hub to the issue of the education of minorities. Among the reasons for the spread of neoliberal policies in education in democratic states is the continued frustration in many countries over the low academic achievement of children of minorities, immigrants, and the poor despite the increasing resources invested to advance their education (Friedman and Philosofof 2001). But, in the states with minorities under a majority ethnic hegemony, it seems that the connection between neoliberal policies and education of minorities is inherent in the need of these states to continue tightly supervising minority education systems for the political purpose of ensuring the state's stability and legitimacy, especially at times when the country's role has been weakened in the governance of education and its financing. The curriculum and the textbooks, as well as the standards and the tasks of evaluating them, are all seen and used as an effective means to direct the teachers to educate their pupils in accordance with the national goals and interests of the country, including catalyzing a tangible and quick improvement in the achievements of the education system (Frankel 2009; Friedman and Philosofof 2001).

In Israel, even if we doubt that the authorities indeed feel real frustration, we cannot ignore the continued failure of the different programs to achieve tangible and sustainable impact in "reducing gaps" between Arab and Jewish education, despite the seemingly large amount of investment in them by the Ministry of Education.⁹ The rationale of these ministerial

⁹ Admittedly, the Government did implement several programs, such as the "Five Years Program" (*Tochnit Ha'humesh*), in order to narrow the gap in resource allocation and achievement between Arab and Jewish schools in Israel. However, none of these policy plans created long term sustainable change. See, for example, the presentation of the

programs presumes that there is a gap between Arab and Jewish children that is reflected in low academic achievement,¹⁰ and that gap can be reduced, not necessarily closed, through investment in providing extra teaching hours and help by experts in Arab education schools, focusing on improving methods of instruction and the study of Arabic.

Important as they might be, these short-term actions do not equate to a coherent policy to close the gaps between Arab and Jewish education, especially as these actions remain underfunded, isolated, sporadic, and shortsighted relative to the actual cultural needs of the Palestinian society in Israel. Most importantly, the emphasis on reducing gaps in academic achievement creates an instrumental discourse that focuses the educational objectives of Arab education on improving academic outputs and the quality of Arab teachers and their pedagogies. The focus on the quality of teaching and achievement is, indeed, a much-needed mission to advance Arab education; yet, it should be approached cautiously and with much care, because it is often used by the Ministry of Education as a smoke screen to continue ignoring the strategic interests of the Arab education system for substantial equality in the state's resource allocation and utilization; meaningful recognition of the Palestinian collective identity, historical narrative, and indigenous rights; and significant representation and power sharing in education policy and decision-making, including maintaining autonomous and self-administrated educational and cultural institutions.

It is noteworthy that the focus on quality of education, and especially quality of instruction, in Arab education is a direct result of the general preoccupation of the Israeli education system in the last two decades with

activities planned by the Ministry of Education in the "Five Years Program" for the Arab, Bedouin, and Druze sectors (Dekalo N.d.)

¹⁰ Plenty of evidence from official records illustrates the disparities between Arab and Jewish education (see more in Jabareen and Agbaria 2010). More recently, in October 2012, *Haaretz*, a prominent Israeli daily, revealed an internal Council for Higher Education report with updated data. According to this report, Arabs constitute 11.3% of under graduate students, 7% of master's degree students, and 3% of doctoral students. Arabs, moreover, comprise only 2% of the academic faculty. The report indicates that only 57% of Arab teens take the matriculation (*bagrut*) exams, compared with 75% of Jewish teens. Also, only half of the Arabs who take the exams obtain a matriculation certificate (28% of all Arab pupils), while around two thirds of the Jews (51% of all Jewish pupils) earn one. Moreover, while 44% of Jewish students meet the minimum requirements for university acceptance, only 22% of Arabs do. A wide gap exists also in the results of the psychometric test, a primary entrance requirement for university acceptance, on which Arabs, on average, score about 100 points lower than Jews (the maximum score in this test is 800; Neshet 2012).

improving its ranking and performance on international tests such as The Program for International Student Assessment (PISA) and The Trends in International Mathematics and Science Study (TIMSS; Yogevev 2007). Israel's modest performance on these international tests has resulted in focusing the attention of the Ministry of Education on the failing Arab public education system in Israel.¹¹

While there has been certain progress in the outcomes of education among the Palestinians in Israel (Rouhana and Ghanem 1999), especially in school attendance and attainment, Arab educational performance continues to fall short, behind that of the Jewish education system. Therefore, the Arab education system seems to be identified as the soft belly of the Israeli education system and, thus, as one of the main targets of the "raising achievement" agenda¹² of the Ministry of Education for all education systems in Israel, including Arab education. For example, this agenda is lucidly reflected in the long-term program *Arab Education Looking Ahead*, published in 2005 by the Department for Arab Education in the Ministry of Education, which reveals a strong emphasis on the need to raise achievement levels in Arab schools (Ministry of Education 2005).

In Arab education, neoliberal practices and ethics are ubiquitous. As Arab schools have become more selective, competitive, and stratified, maximizing the grades of the pupils is becoming their main mission.

¹¹ Note that the Arab education system's low results in international tests pull down the Israeli national average and lower the rank of Israel in international comparisons, as these results are not calculated separately by the international agencies who administer the international tests.

¹² In this regard, suffice it to quote Dan Ben David (2010), who examined the educational achievement level of Israeli pupils in the 2009 PISA (the Program for International Student Assessment): "The achievement levels of Arab Israelis were below those of Third World countries like Jordan, Tunisia, Indonesia, Kazakhstan, Brazil and Colombia" (Ben David 2010:9). To be more specific, in the last international assessment of the TIMSS (the Trends in International Mathematics and Science Study), in a list ranking a total of 49 countries, Israel was rated 24th in mathematics. However, Israeli Jewish students separately would have ranked 19th, while Israeli Arabs would have come in 34th. Meanwhile, students in neighboring Arab countries—for example, Lebanon, Jordan, and Syria—scored higher than Israel's Arabs in math. Similar gaps also exist in science. The 2009 results from PISA (the Program for International Student Assessment) are also instructive. For example, in a list of approximately 64 participating countries, while Israeli Jewish students alone would have ranked 17th in language literacy, Israeli Arabs would have come in 57th. See more details on the results of the Arab education system in national and international tests on the website of the National Authority for Measurement and Evaluation in Education—RAMA (Last accessed June 22, 2013 [<http://cms.education.gov.il/educationcms/units/rama/>]). In Hebrew).

The pursuit of grades to “raise achievement” has created within Arab education high selectivity which is expressed, for example, in publishing various stories in the Arab local media that advance the marketability of the schools (Agbaria and Mahajnah 2009). For example, many schools issue press releases and pay for advertisements to celebrate newly admitted pupils, graduates who have been accepted to competitive university majors, and pupils with outstanding results in the psychometric examination and the matriculation examination (*ibid.*). The competitiveness that is increasing between schools and within them finds a variety of expressions. For example, Arab high schools compete to attract outstanding pupils, offering special tracks for the excellent students and placing them in advanced specializations (e.g., robotics and biotechnology).

In this regard, selective Arab high schools have become gatekeepers and quality safeguards to the middle schools, as they now shape content and pedagogy in the middle schools through the admission tests. The more successful the middle school is in sending pupils to elite high schools; the more successful it is considered. In their quest for marketability and for attracting pupils of higher socioeconomic status, a growing number of middle schools modify their curricula in line with the elite high schools’ admission requirements and selection tests, including preparing students specifically for the tests and teaching advanced psychometric classes.

Arab education has also become more stratified. For instance, there is a significant rigid tracking to study in specializations on the basis of the pupil’s academic ability, as measured in the admission tests that many high schools administer for screening and placement purposes. The ability grouping of low-achieving pupils – who are perceived as a burden on the agenda of raising the academic achievement defined in terms of testing results – in special streams and even redirecting them to vocational schools¹³ result in a highly stratified Arab education system.

The meritocratic rationale of this stratification rests in the idea that opportunity (e.g., acceptance to an elite school or to a competitive

¹³ A report released by Adva center, based on official data for those youths who graduated high school in 2003 and entered a university or academic college within eight years of completing high school (i.e., by 2011) reveals that only 17% were graduates from the technological tracks in the Arab education schools (28.8% from Jewish education). The percentages of graduates of academic tracks from the general high schools were 20.8% in Arab education and 44.5% in Jewish education (Swirski and Konor Attias 2012).

specialization) is indeed a conditioned reward or a return for personal investment in previous studies. This investment is measured only by admission tests. The assumption is that admission tests are an objective measurement of academic merit and that all the pupils were given equal opportunity in their schools, in their families, and in their communities to compete and develop their abilities before enrolling in the select high schools. Therefore, following the disappointment in the performance of Arab education, Arab pupils increasingly use “shadow education” services (Bray 1999), especially remedial lessons in private tutoring centers.¹⁴

Yet, neoliberalism’s most threatening feature in the context of minority education seems to be its course of action toward destroying any collective structures and institutions that attempt to resist the “invisible hand” of the market or obstruct its neoliberal logic (Bourdieu and Wacquant 2001). As it promotes personal responsibility at the expense of responsibilities toward wider public concerns (Duggan 2003), neoliberalism produces an aggressive and competitive form of individualism indifferent to the virtues and responsibilities of citizenship and to group belonging and solidarity. As such, neoliberal policy in education not only fashions resource allocation and curricular policies, but also has a profound impact on the identity and subjectivity of both the educators and the pupils, and on social cohesion and solidarity policies and practices. For Henry Giroux (2005:12), neoliberalism in education is an “ideology, politics, and at times a fanaticism that subordinates the art of democratic politics to the rapacious laws of a market economy that expands its reach to include all aspects of social life within the dictates and values of a market-driven society.” In other words, it is both an economic and implicitly cultural theory that gives “greater scope to the single-minded pursuit of profit and demonstrates significantly less

¹⁴ The National Authority for Measurement and Evaluation in Education data on the scope of private tutoring, as reported in the Meitzav tests (The National Assessments and School Climate Surveys), provide telling information, on the one hand, on the scope of failure of the Arab education system in the core school subjects (mathematics, science, English, and Arabic) and, on the other, about the enormous scope of the industry of private tutoring. In “Arab speaking schools,” a recent report on school climate indicates the rate of pupils using private lessons (i.e., tutoring) in the grades 7–9 grew from 29% in 2008 to 38% in 2010; in grades 5–6, from 39% to 41% in the same period. By comparison, in Hebrew speaking schools, it was reduced from 45% to 44% in grades 7–9 and from 38% to 37% in grades 5–6, in the same period (The National Authority for Measurement and Evaluation in Education 2010).

regard for the need to limit social costs or for redistribution based on nonmarket criteria” (Tabb 2002:7).

Neoliberalism in education is a pedagogy under which the individual is socialized to invest in his or her own education and to view oneself as the sole person responsible for one’s own well-being (Peters 2001). Michael W. Apple (2000) outlines the social goals of this moral regulation: “the drastic reduction of government responsibility for social needs; the reinforcement of intensely competitive structures of mobility both inside and outside the school; the lowering of peoples’ expectations for economic security; the ‘disciplining’ of culture and the body; and the popularization of what is clearly Social Darwinist thinking” (Peters 2001:229).

In Arab education, the neoliberal discourse has gained strong proponents, as it promises alternative, and potentially lucrative, paths for mobility and success. For example, as argued by Nabil Khattab (2002), the belief in the power of meritocratic discourse in education is expressed in the high expectations of the Palestinian students in Israel for socio-economic mobility through higher education. A study that focused on the adjustment difficulties of the undergraduate Arab students in the Hebrew University, and on their perceptions of successful integration, found that all participants considered their acceptance to the university as a fulfilment of parental expectations, whether because they understood it was “essential for social survival” or because it was a “realization of the parents’ dream through their children” (Handean 2009).

Education is expected to enhance socioeconomic mobility and is believed to be a survival strategy for the students and their families. This strong belief in meritocracy is also evident in the strong pro-education attitudes and high educational aspirations Arab students hold compared to other minority groups in Israel (Yair, Khattab, and Benavot 2004), despite their relatively lower achievement at all grade levels compared with Jewish students. While there might be more than one explanation for this attitude – such as an achievement paradox (Khattab 2003), wherein a high percentage of expressed pro-school attitudes and aspirations coexist alongside low actual achievement levels – this paradox demonstrates more than anything else the dominance of neoliberal meritocracy in the Palestinian society in Israel.

Using Ogbu and Simons’ (1998) vocabulary, the Palestinian minority behaves in this regard as a *voluntary minority* group of immigrants that seeks upward mobility and success through improving its educational attainment, rather than as an *involuntary minority* group of an

indigenous people who often develop an oppositional attitude toward education and schooling expressed, for example, in low levels of academic attainment and achievement, as well as high dropout and grade repetition rates). According to Yariv Feniger (2012), it seems that a long history of discrimination has not caused the Palestinians to adopt a mistrusting oppositional attitude toward schools, but rather they have developed a proactive approach through which they view their education system in terms of opportunity. In this sense, and as many scholars (e.g., Gillborn and Youdell 2000; Whitty 2002) have observed, it seems that neoliberalism in education is most embraced by those whom it most disadvantages – namely, the working class and ethnic minorities.

It seems that when neoliberal policies and practices are adopted in a segregated national context in which minority students study in substantial numbers and are separated from the majority of students in their own homogeneous and community-based schools, as in the case of the Arab education system, not only the pro-school attitudes and academic aspirations are higher, as argued by Feniger (2012), but also the impact of these policies and practices is stronger. Marginalized groups, such as the Palestinian minority in Israel, tend to believe in meritocracy as being capable of overcoming discriminatory structural barriers. According to meritocratic neoliberal logic, mobility is conditional upon self-investment. This logic creates an illusion of possible social mobility based on academic merit, as sociopolitical structural discrimination is assumed to be breakable and surmountable through personal will, by investing in one's own human capital and education. In other words, this perception encourages individuals to seek "biographical solutions to systemic contradictions" (Beck 1992:137), namely to find private solutions to systemic problems of marginalization and discrimination.

The neoliberal discourse, while it has presumably enabled some Arab elites more mobility within the margins of the Israeli center, has been fashioning a new subjectivity that seems more individualistic and less committed to collective action and shared community concerns. Here, I argue that it is possible that the dominance of neoliberal ethics that cherish individualization, competition, excellence, and entrepreneurship in Arab education has resulted in the construction of some new elites in the Arab minority that tend to perceive their national affiliation as an obstacle to their economic progress. Generally speaking, they believe that were they to labor harder and better, it would then be possible for them to

join the Israeli hegemonic elites and to beat their collective discrimination by their individual excellence and accomplishment.

This attitude resonates with Majid al-Haj's empowerment approach, as he advocates that "distinction breaks the barrier of discrimination."¹⁵ For him, collective discrimination could be surmountable at will, merely by virtue of the individual's voluntary investment in achieving excellence. All in all, according to him, more resources should be invested to produce high-quality and well-educated elites whose reference and comparison groups are the Jewish majority and other advanced groups in the global world, rather than only within the Palestinian society in Israel. Therefore, al-Haj opposes affirmative action for the Arab citizens (if it were to be offered), and instead prefers actions that would invest in identifying and training higher-quality Arab candidates who would be capable and qualified to breach the barriers of discrimination and enter arenas of competition where opportunities are (ostensibly) equal. On the one hand, al-Haj's declarations carry a clear neoliberal essence; on the other, they carry a collective message for social mobility and change through pedagogies that emphasize creativity, research, and educational empowerment. Al-Haj's approach, problematic though it might be, indeed reflects the centrality of the neoliberal discourse that values and prioritizes academic excellence, achievement, and aspirations in Arab education above all.

The fashioning and casting of a new subjectivity that values individualization, competition, and the market logic has the potential to produce a new Palestinian citizen of Israel, indeed a new subjectivity for this group. This embryonic subjectivity is disciplined through meritocracy rather than direct control. As such, the attitude-achievement paradox described earlier is constantly kept unresolved to serve the tension between control and mobility. Both sides of the paradox, high expectations and low achievement, are indeed related to one another. The less achievement there is, the higher the expectations. The more they are aware of how difficult it is to achieve higher grades on tests, especially in high-stakes tests, the more they believe in education as the key to a better future. Under these conditions, neoliberalism as a form of aggressive individualism and as a social Darwinism state of mind thrives, suggesting the lucrative free meritocratic identity based on the promise of individual success and mobility as a replacement for, or at least

¹⁵ See various press releases and declarations on this issue by Majid al Haj in Arabic (2010a, 2010b, 2013).

competing with, the still-controlled and under-surveillance collective identity that is based on national belonging and cultural bonds, which will eventually lead the individual to an inevitable collision with the state's disciplinary mechanisms, as these are still in place and at work.

Lipman (2009:373) asserts that "defining the problem of education as standards and accountability [as neoliberal education programs do] have made simply irrelevant any talk about humanity, difference, democracy, culture, thinking, personal meaning, ethical deliberation, intellectual rigor, social responsibility, and joy in education." Hence, when a school defines its role as being more responsible for its pupils' academic achievements and less responsible for their values, it thus reduces its social role in the political socialization of its pupils. When the school's priority is concern for the individual's success, the school starts to reduce by its own initiative the responsibility for cultivating the collective identity of its pupils and their social and civic awareness and involvement. As teachers have become "knowledge workers" who focus on teaching standardized material, they are less concerned with the sociopolitical role of their profession and school and find in the increasing emphasis on grades and assessments a convincing justification to avoid dealing with sociopolitical controversies regarding the civic and national identity of Palestinians in Israel. Not to mention that the system is rigorously constructed in such a way that they are constrained to engage with these types of issues in the first place.

The rush for achievement, excellence, and compliance with standards creates a situation whereby (as it were) there is not enough time and room in the school and in its programs for discussions on questions of identity, community development, or social responsibility. This situation ensures and magnifies the de-politicization of Arab education, which, in turn, serves the ends of the state in maintaining a compliant and subservient second-class Arab minority in an ethnically Jewish state. This "soft" and indirect de-politicization, compared to the more harsh and direct de-politicization imposed by the Ministry of Education through practices of surveillance and interference by the Israel Security Agency (*Shabak* in Hebrew; Golan-Agnon 2004:79–80), is indeed no less effective.¹⁶ Additionally, this deep de-politicization illustrates the

¹⁶ See a petition to the Israeli Supreme Court against the interference of the Israel Security Agency (*Shabak*) in the staff appointments in Arab schools (see H.C. 8193/04 *Union of Parents of Arab Students in Israel, et. al. v. The Ministry of Education, et. al.* [petition withdrawn]. Last accessed June 22, 2013 (www.adalah.org/admin/Downloads/SPics/8016370.pdf).

disciplinary power of the neoliberal discourse, as it reflects the perspective, knowledge, and standards of the dominating culture and its stakeholders (Friedman and Philosof 2001). As such, it reflects indeed the dominating Jewish elites' position of relative superiority and advantage of controlling the channels of power. In this regard, de-politicized schools, through apolitical content and standards, serve to weaken even further their communities, as they retreat from significant education for democracy, human rights, and community development.

Neoliberal ethics and practices in the Jewish education system seem to have less penetrating power, as there are still substantial numbers of Jewish teens who are enrolled in the state-religious and Ultra-orthodox Jewish schools and institutions. These, in different capacities and orientations, perceive the cultivation of the collective Jewish identity as their *raison d'être* and, thus, devote many teaching hours to the instruction of Jewish history, religion, and the like. Additionally, Jewish teens are more exposed to extracurricular and after-school activities, as well as military, youth organizations, and non-formal educational programs that focus on instilling Jewish values and inculcating the Zionist ethos. As argued by Yuval Dror (2007), "national education" in Israel (i.e., ideological education for national awareness and social integration) is accomplished not only via the curricula being taught, but also by the great variety of means employed in the various non-formal education frameworks and organizations.

Conclusions

In the introduction to the Hebrew translation of Zygmunt Bauman's book *Liquid Modernity*, Yehouda Shenhav (2005) compares two of Franz Kafka's books, *The Trial* and *The Castle*. In the first, the authorities persecute Citizen K and make his life miserable. In the second, Citizen K bangs on the authorities' doors, but does not succeed in finding an entry point. In the case of the Palestinian pupil or teacher in Israel, the authorities both persecute and abandon them. On the one hand, the state seeks to tighten control over them; on the other, it offloads the responsibility for the deteriorating quality of their education.

As Yair Bäuml (2010) affirmed, the state of Israel still operates on policy principles that were designed early in its history to control the Palestinian minority, such as defining it as a security risk, expropriating its land, denying Palestinian collective identity, exercising

discrimination, and excluding Palestinians from public spheres such as culture, education, law, communication, and national symbols. In particular, it seems that the field of education has been subjected to a double-edged policy of “supervised abandonment,” in Bäuml’s words. At the same time as the abandoning state discriminates against Arab education by differential allocation of resources and creates persistent disparities between Arab and Jewish education across every possible indicator, the surveillance state closely supervises and controls this education to ensure that its discriminatory policies do not generate a collective consciousness or resistance or capacity that would offer anti-colonial educational alternatives and challenge the construction of the Palestinian subject in the education system as the “Israeli Arab” who is placidly at peace with his or her inferior civic and national status, and as being reconciled with the Zionist and Jewish nature of the state that by definition completely excludes him from any meaningful share in its political and economic power for the foreseeable future.

Nonetheless, in order to improve our understanding of which types of control strategies Arab educators, activists, and leaders accept as neutral, irresistible, and inevitable, and which they rework into strategies of empowerment, more scholarly attention should be paid to the mutual constitutive power of control and mobility, while allowing for more room for agency in the theorization of the Arab education role and status.

According to Frankel (2009), the neoliberal policy in education pressures principals and teachers, because it requires them to raise the achievements of heterogeneous populations of pupils, including the weak among them, within a constrained time framework and with limited resources. Therefore, they tend to overlook the cultural and social needs and deficits of the pupils and their communities. In this regard, Arab teachers are expected to shoulder the double burden of value education and education for academic achievements, as they are expected to contribute to the development of the collective identity of their students and to the attainment of upward social mobility. In other words, they are expected to be responsible almost exclusively for the academic progress of their pupils under pervasive conditions of permanent poverty, unemployment, and limited government resources for schools. Moreover, Arab educators are expected to accomplish this task without additional substantial resources and without drastically altering – or even having any significant input into – the existing education policies and practices. Under such pressures, failure is inevitable; it is only a question of time.

Neoliberal policies have transformed both control and mobility in this context. On the one hand, the general objective now is not only to legitimize the Zionist narrative and manufacture a de-Palestinized identity with a weak agency; not only to normalize the “Jewish and democratic” state as an inevitable, irreversible, beneficial, and moral solution for the Palestinians in Israel; but also to confer a new hard-line Zionist consensus and hegemony that is more nationalistic, more colonial, and more repressive toward the Palestinian people, including the Palestinians in Israel. Therefore, the main normative goal of the overall control strategy has indeed changed. Yet, on the other hand, mobility also now has new individualized and privatized destinations. Now, control and mobility are not “different tools” in “others’ hands.” As used both for social engineering in the hands of the state and of the minority itself, they are mutually constitutive. In this regard, neoliberal practices, which are introduced as being strictly professional and “educational,” have in fact produced contact zones of collaboration in which new coalitions of control have emerged, and joint forces for mobility are at work. Specifically, the emphasis on school achievement creates allegedly “neutral” common ground upon which cooperation takes place, by default, between the minority’s educational leadership and the state. Therefore, Arab education is now controlled not only top-down, but also bottom-up, from *within*, and without much opposition, because control is achieved through practices that are perceived as strictly professional and apolitical in the eyes of Arab educators and leaders.

Nonetheless, as the Arab education system confines pupils and teachers into repressive subject positions and thus limits their expressions of identity, control is never finalized; resistance certainly remains a viable option. Although the purpose of this chapter is not to discuss how control has been resisted by the Palestinians in Israel (see more in Jamal 2007; Rouhana 1989), it is imperative to recognize the various attempts by Palestinian civil society organizations in the education field to counter the Zionist hegemony (but not necessarily the neoliberal market-driven logic – see more in Agbaria 2013). Since the events of October 2000, in which 13 Palestinian protestors were killed by Israeli police forces, these efforts have undoubtedly become increasingly more significant, varied, independent, and proactive in their campaign against the ethnically exclusive nature of Israel as a Jewish state (Jamal 2008).

Upon concluding that the relationship between allocation of resources and political recognition is categorically interdependent, Arab civil society organizations became more involved in Arab education (Chorev 2008). The overarching goal of this involvement is to provide an alternative anti-colonial education that, using Edward Said's (1993:218) vocabulary on resistance, aims at the "restoration of community, [the] assertion of identity, [and the] emergence of new cultural practices." For example, in response to the *100 Concepts of Heritage, Zionism, and Democracy* curriculum (Ministry of Education 2003), several Arab civil society organizations¹⁷ developed an alternative curriculum entitled *Identity and Belonging: Basic Concepts for Arab Pupils* to advance the Palestinian narrative. Asa'd Ghanem (2006), one of the program's founders, described the rationale of the project as follows:

The project's main objectives are to increase knowledge of the Palestinian people's symbols and institutions; to strengthen and deepen the bond between the members of our people and its history and struggle; generate a discussion with the Israeli establishment about the importance of our cultural distinctiveness and collective identity; and lay bare the approach of the Ministry of Education, which attempts to emphasize the Jewish identity of the state while excluding 20% of its citizens.

(Ghanem 2006:3)

On a wider scale, in 2006–2007, four founding documents were released by leading Arab civil society organizations in Israel¹⁸ that proposed to end the ethnocratic political regime in Israel (Yiftachel 2006). Generally speaking, these documents advocated conceding more power sharing, recognition, and equality to the Palestinian minority, while demanding that the state recognize the Palestinian Arabs as an indigenous national group that is entitled to collective rights, such as the right to administer their own cultural, educational, and religious affairs

¹⁷ These are: Ibn Khaldun The Arab Association for Research and Development, The Center to Combat Racism, and the National Committee for the Heads of the Arab Local Authorities in Israel.

¹⁸ These include *The Future Vision for the Palestinian Arabs in Israel*, published in December 2006 by the National Committee for the Heads of Arab Local Authorities in Israel; *An Equal Constitution for All*, published in November, 2006 by Mossawa The Advocacy Center for Arab Citizens in Israel; *The Democratic Constitution*, published in March, 2007 by Adalah The Legal Center for Arab Minority Rights in Israel; and *The Haifa Declaration*, published in May, 2007 by Mada al Carmel The Arab Center for Applied Social Research in Haifa.

(e.g., *The National Heads of the Arab Local Authorities in Israel* 2006:14; *Mada al-Carmel* 2007:15–16).

Arab education in Israel demonstrates the double face of neoliberal discourse as serving the purposes of both control and mobility. The first is achieved by exercising ongoing pressure for academic achievement through a refined system of apparent hidden practices of selection, tracking, and completion, which leads to a persistent erosion in the social role of the school as an agency for community development and collective social change and advancement. Mobility achieved through these hidden practices is construed as a reward for one's self-investment, dedication, and hard work. This tracking and "cooling down" system creates a belief system according to which individuals' successes and failures are due to their innate ability and hence are inevitable and a natural outcome of the system. In other words, the responsibility for success and failure in education is increasingly perceived not as a public matter of shared collective responsibility, but as a private issue that is solely the responsibility of individuals, their families, and a single school (Gillborn and Youdell 2000; Whitty 2002).

As such, the system works as a "cooling down" system to appropriate students' future aspirations, regulating some to accept their inferiority and embrace their low-achieving status, while leading others to believe that the sky is the limit so long as they seek individual, even egoistic, advancement. Therefore, given the context of the comprehensive systematic marginalization within which the Palestinian minority currently finds itself, the disciplinary power of the neoliberal discourse seems to intensify the constant tension between mobility and control. For their part, the Palestinian educators and pupils maintain an illusory perception that mobility will derive from individual investment in, and application to, education and excellence. This illusion is maintained by various managerial practices and pedagogies of competition, selection, ability grouping, and tracking in the Arab education system, within a context where the state's aim to control its minority remains firmly in place, along with the structural discrimination that supports that aim.

It seems that the meritocratic logic of neoliberal policies that makes reward (e.g., mobility, empowerment, progress, modernization) conditional upon investment in human capital (e.g., instrumental knowledge, egalitarian values, job-market skills) encourages the perception that success is an outcome of personal strategies, including investing in education as human capital. Seemingly, this logic nourishes a voluntarist and individualistic perspective, according to which the

individual student can *beat the system*, if he or she will invest more in his own potential success. However, this is an illusion that will fade, as each student will realize after leaving the education system that the opportunities to join the higher education system and the labor market are scarce under the discriminatory sociopolitical conditions of the Israeli economy.¹⁹

In this regard, Palestinian students and educators are facing neoliberalism's most threatening feature: its threat to diminish the Palestinian collective identity through the disintegration of their social networks and the dissolution of their common public sphere and collectively shared institutions. Encouraging contingent and fragmented egoisms, the neoliberal agenda in the case of Arab education might further weaken their capacity to build a sense of shared public sphere within the Palestinian community and a sense of joint civic culture with the Jewish majority.

However, neoliberal practices are also a way to empower those who are capable of mobility. Many of these are potentially the elite who will eventually lead the Palestinian minority. Therefore, it is imperative to make visible the ethics and values that they are implicitly embracing through their neoliberal education. What is at stake is the ability to engage critically and politically with the elite's education for a "better future," namely to problematize the perception that this future is not only about being professional or virtuous, but also and necessarily about being social and political. As tracking, selection, and competition create stratified paths for mobility, leading on the one hand to higher education, with the ostensible possibility of better earning power and leadership, and on the other to vocational and service low-earning jobs in the workforce market, the question of how the Palestinian elite should be educated becomes more critical than ever. As selective schools and tracks seem to be here to stay, Palestinian elite education becomes of utmost importance for its potential to generate the future sociopolitical and economic leadership of the Palestinians in Israel and influence this leadership's political orientation and commitment to Palestinian identity and solidarity.

¹⁹ A report published by Sikkuy, the Association for the Advancement of Civic Equality in Israel (Awad and Hidar 2008), indicated, based on official statistics, that the rate of Arab citizens entering state civil service is a mere 5.9% of all Israelis. Another report from Sikkuy points that Arab employees comprise only 3% of the high technology industry (Greenbaum 2006). These numbers are indeed illustrative of the limited economic opportunities for integration into the Israeli workforce and the structural barriers faced by Arab academics in finding work commensurate with their qualifications in both the private and public sector (see more in Gharah 2005).

A separate, but related, issue that demands further theorization is the widening gap within the Palestinian society along the overlapping lines of religion (e.g., Christians versus Muslims), region (e.g., Palestinian Bedouin pupils in the Naqab region in the south versus pupils in the Triangle area in the center and Galilee area in the North), and class (e.g., pupils from high socioeconomic backgrounds versus pupils with low socioeconomic status). It seems that the neoliberal discourse has also had an effect on the inner stratification of the Arab minority, as it stratifies mobility in Arab education along the lines of the elite population's religion, residence, and class, not only those of their ethnicity as Palestinians in a Jewish state. Undoubtedly, the neoliberal meritocracy and parentocracy (Brown 1990) has widened and intensified *both* the external inequality between Arab and Jews and the internal inequality in Palestinian society.

Finally, I argue that the weak-strong state dialectic, in the case of Israel, is more complex as it should also be understood in terms of the tension between the marketization of education and the strong ethno-national discourse derived from the definition of Israel as a Jewish state. "A state that is defined as belonging to only one people, when its population is composed of two, cannot offer equal opportunity to all its citizens" (Rouhana 1989:40–41); furthermore, a state so-defined will eventually entrust its educational system to promulgate its hegemonic narrative and justify the unbalanced power relations between the two peoples. In other words, the strong hand of the state of Israel operates not merely through its core curriculum and the standardization and evaluation practices, but also through the commitment of the educational system to uphold the Jewishness of the state and its national ethos. Markman and Yonah (2009), for example, demonstrate how recent discussions regarding the core curriculum in the Israeli education system have designed the aims of such a curriculum to serve the "desirable character" of the state as a Jewish state, thus ignoring the need for cultural recognition of the non-Jewish student population.

Unsurprisingly, in the case of Israel, the old victims of the colonial regime remain as the new victims of the neoliberal regime. In this sense, Zureik's (1979) framework of interior colonization, which maintains that in settler-colonial societies, economic dominance ensures political dominance, seems more relevant than ever. This chapter broadens Zureik's analysis as it confirms that under neoliberal policies, the long-standing ethnic stratification of the different groups in Israel, which mirrors socioeconomic stratification, again leaves the

Palestinian group at the bottom. Yet, now the ideology that justifies this hierarchical stratification is more invisible, more latent, and more convincing, as neoliberal policies and practices are designed as a “self-colonizing” regime of doxas and measures that attract the colonized to join the colonizer in rationalizing and executing the oppressing imbalanced power relationship between the two. It is not merely political, exclusively ideological, or utterly methodological; it is now all-encompassing: It is even arguably convincingly “ethical.” Neoliberal ethics grant legitimacy for Jewish superiority as they explain lack of mobility, and thus ethnic stratification, in terms of the individual failure to achieve competence and success, rather than in terms of structural barriers and state policies that make it harder, if not impossible, for the disadvantaged Palestinian group to obtain socioeconomic equality and national recognition.

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Settler Colonialism, Surveillance, and Fear

NADERA SHALHOUB-KEVORKIAN

This chapter examines the juxtaposition between the politics of fear and surveillance in the context of Israel, particularly surveillance of Israel's Palestinian citizens. Surveillance refers to "an activity undertaken by all kinds of organizations, not only governmental ones, in order to keep track of populations and ensure that benefits, entitlements, and indeed rights, as well as debts or obligations, are appropriately distributed" (Lyon 2010:50), and involves "the collection and analysis of information about population in order to govern their activities" (Haggerty and Ericson 2006:3).

I examine surveillance and fear through geopolitical policies (i.e., the policies of land control), biopolitical policies (i.e., demographic control), and necropolitical policies (i.e., control over who should live, who should die, and how). Through this analysis, I hope to show how Israel has managed to foment and use "fear" of the Palestinians as a tool both to intensify power over them and to justify its surveillance regime (Zureik, Lyon, and Abu-Laban 2010). The chapter discusses the use of fear as a tool to monitor and control the daily lives of Palestinians, and how fear of the "Arabs" or "Palestinians" serves the regime by producing desired behaviors among that population.

The chapter relies on three main types of analyses for examining surveillance and fear. First, the geopolitical analysis looks at the control of the land as a tool of surveillance. This can be found in Israeli settler colonial policies aimed at the Judaization of large areas (Forman and Kedar 2004): land confiscations, housing demolitions, the destruction and erasure of entire villages, and the creation of new categories of control such as "unrecognized villages" (Kedar 2001; Yiftachel 2010). The chapter posits that in Israel, the creation of a geopolitical apparatus of unrecognized villages, land grabbing, and spatial fragmentation has segregated and separated Palestinian communities for the sake of

controlling them, and created geographical zones populated by the “unwanted” and the “feared” (Bystrov and Soffer 2008; Shalhoub-Kevorkian 2012). The geography of surveillance and fear is produced and proliferated through laws and policies that affect the psychology and actions of the Israeli Jewish public and result in the construction of Palestinians as defamed and feared entities. Second, the biopolitical analysis considers population and demographic control – the management of population size, movement, and its economies – and includes the production of laws and regulations that result in “legal” displacement, uprooting, and erasure of entire communities (Leibler 2010; Zureik et al. 2010). Third, the necropolitical analysis examines the way that geopolitics and biopolitics work together to achieve what Castelle calls “conquering the mind” – instigating horror and fear through laws and regulations (some of which are hidden and not apparent such as security and emergency regulations), culture, and societal behaviors that results in the creation of *necropolitics*, an economy of life and death, based on control over who is psychologically identified as existing, being alive, or being dead (Mbembe 2003).¹ The construction of a necropolitical order in Israel/Palestine necessarily increases the demand for surveillance and exacerbates the racialized industry and machineries that produce fear of the colonized (Goldberg 2009; Lentin 2008). The shattering effect of such surveillance politics and the fear it produces have been found to endanger and intimidate the native population, exacerbate human suffering, affect individual and communal survival skills and coping mechanisms, and threaten the day-to-day existential condition of the colonized (for examples of this surveillance politics and fear industry, see Sa’di 2003; Shalhoub-Kevorkian 2010; Yacobi 2004; Zureik 1979, 1980; Zureik et al. 2010). Finally, the interconnectedness between settler colonialism and the surveillance regime produced various methods to resist control among the colonized (Zureik et al. 2010, Shalhoub-Kevorkian, 2015).

Settler Colonialism and Surveillance

My understanding of surveillance over Palestinians in general rests on a well-established legacy of Zionist and Israeli settler colonial practice.

¹ During the offensive attack on Gaza in 2008, Israeli governmental officials and military commanders used the concept of “searing or burning public consciousness” to justify the collective punishment. “Searing the consciousness” was aimed at preventing the Gazans from resisting and at convincing them to reject Hamas’s policies. For more details, see Fatmeh El A’jou (2009).

Fayez Sayegh (1965) explains that the “political embodiment of Zionist Colonialism (namely, the settler-state of Israel) is characterized chiefly by three features: (1) its racial complexion and racist conduct pattern; (2) its addiction to violence; and (3) its expansionist stance” (Sayegh 1965:21). In examining the issue at hand, Wolfe (1994:96) argues that the general trend of settler colonialism is based on “a sustained institutional tendency to supplant the indigenous population” and a cultural logic of elimination that “reconciles a range of historical practices that might otherwise seem distinct.” He argues that settler colonialism is located in programs of control, removal, and termination, and that the invasion of the world of the colonized people is a structure, not an event (see Wolfe 2006).

To understand surveillance in the context of settler colonialism, one should keep in mind that “colonialism played a leading role in the development and adoption of surveillance and control technologies that are essential tools of governance to this day” (Zureik 2010:3). Surveillance over the land, lives, and bodies of the colonized (Wolfe 2012) is thus based on a logic of dispossession, displacement, and elimination embedded in Zionist praxis with its three corollaries: racial segregation, racial exclusiveness, and racial supremacy (Sayegh 1965). Although the implementation of Zionist settler colonialism revolves around land and labor, surveillance over the indigenous population was manifested principally in demographic control, ethnic cleansing, and the separation of Palestinians in 1948, followed by the preventing of the Palestinian refugees from returning to their homes. Furthermore, and as Gil Eyal (1996) explains, Zionism carried diverse attitudes toward the Arab population of Palestine, including attitudes that stressed the need of Zionists to distance themselves from the native population with its “primitive” culture, and additionally to establish a separate identity. This call to build a unique separate identity (Piterberg 2008:62) can also be noticed in what Vladimir Jabotinsky, an early Zionist leader, called an “iron wall” for the separation of Jews from the Arab neighbors (Lustick 2008; Shlaim 2001:12–16).

The settler colonial logic of fear and dispossession otherized Palestinians and held them in what Andrea Smith calls a state of “must disappear” (see also Razack 2012:927; Smith 2006:68). Othering nurtured by the illusion of the inferiority of the ones otherized creates states of exception in which law is suspended in order to manage the native population, administer their lives, rule their territory, and keep it under a constant state of surveillance, all with the aim to “stifle Palestinian life

from attaining any sense of normalcy” (Zureik 2010:5). The elimination of the colonized is thus an organizing principle of the settler colonial society, and settler colonialism destroys so as to replace (see Wolfe 2006:388).

Understanding surveillance in the context of settler colonialism requires that we understand surveillance as embedded in the development of disciplinary power, political subjectivity, and technological governance, for it involves the collection and analyses of information about groups and populations for the control of their activities and to keep track of their movements, take over their lands, and erase their native identity. I further argue that surveillance in the settler colonial context requires, as Harris pointed out, that we “identify the assumptions and representations inherent in colonial culture – in the binary of civilization/savagery, in the erasures of Aboriginal knowledge of time and space, in assumptions about race and gender, in the concept of land as empty, as belonging to no one (*terra nullius*)” and so open to be claimed (Harris 2004:165). Surveillance, I argue, carries political meanings reflected in social sorting, demographic control, and spatial management; sorting people into categories assigns worth or risk, affects people’s life chances, and becomes not only a matter of personal privacy, but also of social justice (Lyon 2003:1). Surveillance disturbs, appropriates, and disciplines populations to obtain and then sustain its “obedience,” to slowly eliminate its claim to indigeneity, while maintaining it under control.

Surveillance, Demography, and Spatial Management

Scholars have demonstrated that by 1948 the Zionist community in historic Palestine was experienced in controlling two key features of life, namely, land and people (Fischbach 2010; Masalha 1992; Zureik 1978). Its surveillance strategies, however, went beyond controlling the land and people to constructing a system of management, social sorting, and justificatory legitimations – religious, historical, and political – that enhanced its ability to control, evacuate, displace, and uproot entire Palestinian communities while and when seizing their lands, homes, and villages (for example, Cohen 2003; Zureik 1978; Zureik 2010).

As for population control, the Israeli state built a system and a well-articulated machinery for social sorting and demographic management – what Zureik (2001) has defined as a “system of bio-power” – to assist Zionist leaders in managing the non-Jews. Surveillance through the

system of social sorting, as Lyon (2003) argues, is a non-neutral act that aims at categorizing people and treating them differently based on their race, ethnicity, gender, religion, age, and/or class. Historiographers and ethnographers have elaborated on the violence of such social sorting and have shown just how the Israeli state promoted surveillance through racialized forms of sorting while constructing and depicting the indigenous Palestinians as the “enemy other” and as an existential threat to the Jewish state (Abu-Lughod and Sa’di 2007; Khalidi 1992; Pappé 2006; Said 1992).

One of the prominent systems of surveillance of the people was Israel’s Central Statistics Bureau (CBS), which designed censuses that aimed at maintaining the Jewish majority following the displacement of Palestinians during the Nakba (or Catastrophe, i.e., of 1948). As Fischbach (2010) shows, the census is not neutral, but rather is an essential political means that shapes, categorizes, enumerates, and dictates people’s lives. He explains how the leaders of the Zionist movement managed records of land registrations, taxation, survey maps, and used the censuses to exercise power and impose a regime of surveillance and transformation. As Brinkley Messick explains, “Where the sword served to threaten or coerce, the authority of the pen concerned the conveyance of ‘ruling ideas’” (Messick 1993:251). Hence, CBS’s role in mapping and managing population formalized Israel’s citizenship politics and formed the definition of whom and what is Israel’s citizenry. An additional surveillance body was the creation of the temporary Committee Alongside the Military Government to prevent Palestinians who had been displaced and subsequently tried to return to their homes – the so-called illegal returnees – from returning or receiving citizenship (Leibler 2010; Robinson 2005). Within these records, the use of words and language that reflected the ideological underpinning of the state (i.e., that Israel should be an exclusively Jewish state) indicated that, far beyond normal administrative recordkeeping, the state was wielding population data as an instrument to rule and establish “power over.” Recordkeeping not only created new categories of the unrecognized, unwanted, and “otherized” Palestinians, but further helped the state keep track of its growing population. As Michael Fischbach has explained:

Data such as population censuses, tax lists, land records, survey maps, and so forth do not merely dispassionately represent a world in this case, a population that the state governs that is “out there” in a pristine,

positivistic sense. The processes of sorting, categorizing, and describing help create the very population that is being observed and recorded.

(Fischbach 2010:298)

As to land control, surveillance scholars in other colonial settings have also indicated that survey maps, taxations, and records of land registrations were tools of surveillance and redistribution of power (Smith 1996), and Israel was no exception. In the Zionist state, such recording was a tool that deepened the pre-state's and then the state's land-confiscation regimes, and changed the conceptualization of land ownership, land rights, and the transformation of power (Gavish 2005; Gavish and Kark 1993). Similar trends have been discussed by scholars who studied British land registration in Imperial India, as Smith has noted:

And I think that everywhere the business of mapping and measuring of registering holdings as discrete, separately negotiated parcels of land, and fitting agrarian relations into a new mold must be considered fundamentally disruptive of an older order.

(quoted in Fischbach 2003)

In Mandatory Palestine, "rule by records," as Fischbach puts it, was marked by contestations, negotiations, and impositions on landholders (Bunton 2007; Fischbach 2010).

Surveillance in Mandatory Palestine and Israel

As David Lyon (2007:14) explains, surveillance is "the focused, systematic, and routine attention to personal details for purposes of influence, management, protection or direction." Zureik discusses two modes of surveillance used against the Palestinians in Israel. The first is non-technical surveillance, which includes gathering information and constructing what he calls "old-fashioned spy networks" embedded in the local community. This is a surveillance that relied heavily on Palestinian collaborators and informants (see also Cohen 2008). The second is a technical surveillance that requires no direct contact between agent and target and can be conducted through information and computing technology (ICT), such as tape recording, phone tapping, electronic messaging eavesdropping, closed-circuit television, video monitoring, fingerprinting, genetic testing, DNA analyses, retinal and racial biometric identification, and so on. Surveillance over the land and the people, when conducted through various means, whether technological or not (Zureik et al. 2010), with its systematic and routine tracking of community details

and collective actions, exerts control over the mind, which in turn affects people's behaviors. Surveillance eventually impacts individuals and communities, and physically, socially, politically, and economically modifies and reshapes their action, speech, and choices.

To understand surveillance in Mandatory Palestine and later in Israel, in what follows, I trace the trajectory of the Zionist and later Israeli surveillance, discipline, and control tactics over the course of the state's evolution and show: (1) how colonial surveillance continues well after 1948; and (2) how tactics for monitoring and controlling the Palestinians have shifted and changed over time.

Pre-1948: British Support for "A Land without a People for a People without a Land"

As scholars have explained, the great sympathy for Zionism among Western countries and policy makers provided the Zionist movement with the space and social and moral capital to assert its claims over its "chosen" territory in complete disregard of that territory's indigenous population (for details, see Sa'di and Abu-Lughod 2007:296–297). This is perhaps most succinctly expressed in the movement's iconic slogan, "A land without a people for a people without a land." As Lord Balfour said of British intentions for Palestine:

In Palestine we do not propose even to go through the form of consulting the wishes of the present inhabitants of the country . . . Zionism, be it right or wrong, good or bad, is rooted in an age old traditions, in present needs, in future hopes, of far profounder import than the desire and prejudices of the 700,000 Arabs who inhabit that ancient land.

(quoted in Effarah 2007:167)

The preconditions that had assisted the Zionist's settler colonial power even before they set foot in Palestine were combined with both the latter's "biblical" theology and "economic, technological, military, cultural and moral attributes that were the cumulative outcome of centuries of Eurocolonial history" (Wolfe 2012:133). This complex historic endowment allowed settlers to import with them ethnically exclusive resources that enabled the construction of specific relationships to domination, an unconditional funding for building up a Jewish-only land, for fashioning a Jewish state-in-waiting in Mandate Palestine.

By 1947, and by the time the United Nation's General Assembly voted to partition Palestine, the British had already produced much knowledge

on land holdings in Palestine. Furthermore, the British had also produced knowledge and gathered information about Arab life and lifestyles in Palestine. For example, the Naval Intelligence sub-center at Oxford produced a study published in 1942 entitled *Palestine and the TransJordan* (1942/2006), which produced “scientific” knowledge to further the understanding of political, military, and naval problems in addition to the knowledge gathered and produced by administrators and local bureaucrats. From 1920 to 1948, the British colonialists in Palestine conducted studies and thorough social sorting, surveys, and censuses, and produced much knowledge that involved Zionist scholars and served the Zionist agencies (Cohen 2008). The most meticulous Zionist data-gathering initiative, which collected information about Arab villages – their structure, roads, numbers, weapons, presence of fighters, land, water, wealth (to learn how to attack it), attitudes toward Zionism, families, family disputes, and internal conflicts – was entitled “Operation Arab Village.” This effort later produced the “Village Files,” an effort obviously similar to military-intelligence activities (Black and Morris 1991; Pappé 2006). Pappé (2006) explains how, in 1948 and afterward, the Israeli authorities used such data – including maps, social sorting, taxation papers, and land ownership – to change the political, social, and spatial reality in a manner which imposed a surveillance regime that brought about the mass arrest, detention, execution, and displacement of Palestinians. The files were used to plan raids on villages and assist the regime in the villages’ demographic and spatial reorganization (Black and Morris 1991; Fischbach 2003, 2006). As Gil Eyal (1996) explains, the Zionist surveillance regime used such data to carry out sweeping changes and reorganizations following the establishment of the Israeli state.

The importance of stressing the pre-1948 period as an analytical imperative aims to show how the Zionist conquest of Palestine was able to impose surveillance and expedite its techniques of dispossession, mostly with the assistance and cooperation of the British Mandate authorities. Britain not only gained a mandate over Palestine, it further managed to issue the Balfour Declaration (1917), a kind of policy statement that was in favor of establishing a “National Home” for the Jewish people in Palestine. In 1922 the Mandate law, article 6, charged the British to “facilitate Jewish immigration under suitable conditions and [to] encourage, in co-operation with the Jewish Agency . . . close settlement by Jews on the land, including State lands and waste lands not required for public purposes.” The conquest of Palestine as portrayed

legally in Article 6 emphasized “close settlement,” and, as Wolfe (2012:144) explains, this “left no doubts as to which population was scheduled to increase as a result of its progressive (read ‘European’) development of the land.” Furthermore, enhancement of the Zionist power in Palestine was demonstrated through the purchase of land by the Jewish National Fund (JNF) and the resources that Zionism was able to marshal by transmitting capital to Palestine without reciprocal commitment from general investors, and this allowed not only transnational network support for the settler colonial project, but also the social sorting and disciplining that dictated who should enjoy “the development of the land” and which population should be controlled, disciplined, and erased.

Since 1930, Palestinians have suffered from imperial policing and a complex military-legal apparatus of control, including collective punishments, mass incarcerations, watchtowers, security checkpoints, emergency laws, and administrative detentions. It is now well documented that under British rule biopolitical surveillance or population management became essential tools of governance. The British Mandate and its corresponding biopolitics in part involved recording of census data; it allowed the grouping and the sorting of population, and labeled it in ways that reflected the disciplinary interests of those in power. It not only “ruled by records,” as Smith (1996) has explained, but also aimed at transforming the nature of Palestinian life and politics. British support, which included training and arming Zionist forces, resulting in the establishment of the underground military force the Haganah, which wrought terror and devastation on the Palestinian inhabitants, all the while that the British monitored Palestinian cities, villages, and homes. The British colonial regime supported the military tactics of the Haganah, which came to include night raids against Palestinian villages (Morris 2001), while also assisting the Zionist settler movement in establishing the Palmach (the Hebrew acronym for *Plugot Mahatz*, or “strike force”), the JNF, the Jewish National Council (JNC), and the intelligence service, among others. The British colonial policies promoted the growth of the Jewish population more than tenfold, enabled organizations such as Shai, the intelligence arm of the Haganah, to compile maps of Palestine, and to make comprehensive lists of land holdings and villagers to assist their settler colonial goals. Such biopolitical policies assisted the Zionists in expelling and transferring the native population, leading to a *de facto* ethnic cleansing (Pappé 2006).

The above support, combined with the well-funded international embrace of the Zionist movement, enabled Zionism to apply its step-by-step, stage-by-stage policy in order to gain full control – physical, psychological, and administrative, among others – over the land of historic Palestine and its people. It also facilitated the eviction of Palestine’s indigenous inhabitants physically, symbolically, and consciously by utterly denying their collective identity and existential territorial rights (Sa’di and Abu-Lughod 2007:293).

During the period of British colonial control, Palestinians were exposed to everyday surveillance conducted by the same systems that claimed to serve, “modernize,” and protect them. Policing communities and surveillance in colonial settings was and is a disciplinary mechanism, embedded in the colonial logic that acts against anti-colonial insurgencies, a disciplinary mechanism aimed at maintaining and serving the colonial power order – all incorporated in both a routine and an emergency manner (Khalili 2010).

Post-1948: Military Rule and Collaboration

Biopolitical strategies were evident in the history of political thinking of Zionist leaders and the Israeli practices during the 1948 war and immediately after it (Masalha 1992; Shahak 1989). Following the establishment of the Jewish state in 1948, and at the end of the war that ensued, there remained in Palestine a small minority of 160,000 of the original 900,000 Palestinians who had lived in the country prior to that war (Abu Lughod 1971). The immense and pervasive trauma of the 1948 Nakba and the amount of insecurity and human suffering it caused challenged the very existence of the Palestinian people. After the establishment of the state of Israel, Palestinians “inside” – that is, those Palestinians who managed to stay within the borders of the state – were ruled by a well-orchestrated military regime that not only expropriated their land, displaced their families and communities, frequently raided their houses, and trapped them in a small enclave of surveillance but also structured and dictated their daily lives (Jiryis 1976; Lustick 1982). Such systems of surveillance worked both in the manner of the old-fashioned spy network and in a technologically advanced manner to create new systems of insecurities and control (Cohen 2006; Korn 2000; Sa’di 2005; Zureik 2001).

Israel therefore developed a surveillance regime that consisted of military, physical, administrative, and psychological controls following

some aspects of British military tradition of counterinsurgency and colonial domination (see Zureik et al. 2010). The Israeli regime had produced and constructed fear while using Palestinian collaborators. As Sa'di (2003:75) explains:

While before 1948 organizations of the *Yeshuv* – the Jewish community in Palestine – had been successful in attaining the collaboration of individual Palestinians through bribery, since the establishment of Israel in 1948, collaboration has become the official system of the minority's incorporation.

Elaborating on this surveillance regime, Sa'di explains that although some Palestinian collaborators were assigned positions within the colonial system, the overwhelming majority of Palestinians were living under a heavy machinery of surveillance. Palestinian collective needs, such as access to medical facilities, secure employment, and education, were also manipulated by the state to gain control. Thus, in the aftermath of the Nakba, many Palestinians who had managed to survive and remain on their land sought minor benefits from the state such as telephone lines, travel permits, licenses to open their businesses, and so on. Israel deliberately exploited these needs to extract concessions such as various forms of information and requests to spy on families and neighbors in order to attain the most basic services (Cohen 2006; Korn 2000). Although the outcome of the collaboration process largely violated the rights of the indigenous majority, Israel used the chaotic situation to gather information and increase surveillance over the Palestinians. Hence, in addition to controlling the land and the people, Israel introduced military rule and other new methods of divide and rule, including favoritism and cooptation (Korn 2000).

Segev (1998) has detailed how, following the establishment of the state of Israel and in the state's official policies formulated in 1949, the state followed three main strategies: decreasing the number of Palestinians in the land; rearranging their use of land and the spatial distribution of holdings; and subjecting them to a surveillance regime that prevented Palestinian refugees from returning, expelling those who managed to return to their homes, and relocating and transferring entire villages and communities. Ethnic cleansing was part of the regime's strategies of surveillance and control (evident in the fact that only about 160,000 Palestinians were able to remain following the establishment of the Jewish state, as mentioned earlier). These strategies resulted in the production of new policies to handle the population while

simultaneously fragmenting it and separating it from the land (Pappé 2006). According to Zureik's (1979) leading work on surveillance, Israel employed an internal model of colonialism that resulted in segmentation, cooptation, and dependency. Leibler and Breslau (2005) explain that Israel used the census to create a new social reality, one that created a distinction between Jews and Arabs; we noted some of the early work of the CBS and the Committee Alongside the Military Government, earlier. The taking of a census, of course, was conducted at different points in time with a partial aim of constructing a coherent legal definition that denies refugees the right of return.

Pappé (2006) has explained that the ethnic cleansing and demographic transformation of Palestinians launched by the Jewish forces and the mode of dealing with the 160,000 remaining Palestinians who were able to elude such ethnic cleansing created much apprehension and concerns among the newly established state. Segev (1998) showed how the Israeli political leadership following the establishment of the state noted that there are "too many Arabs." To deal with such fear concerning the number of the remaining Palestinians, the so called "too many Arabs," the Jewish forces expedited their expropriation of land to evict Palestinians from their properties, and control their spaces. At a later stage of the development of the Jewish state, the state adopted the policy of Judaization, whereby, as Peretz (1958) has explained, 350 of the newly established 370 Jewish settlements between 1948 and 1953 were established on Palestinian absentees' property for the benefit of Jewish migrants, a policy that remains active to this day. The expropriation of land, the constant violence and violation of Palestinian's daily life, and the eviction of the local population from their homes and homeland created an atmosphere of fear and insecurity. This atmosphere was imperative in lessening the number of Arabs, and in precipitating ethnic cleansing.

Post-1948, the *denial* of the existence of a Palestinian collective identity continued to be an integral component of Zionist rhetoric. Sa'di (2010) identifies Israeli efforts to deny and delegitimize Palestinian collective identity by (1) making "nationalist" a negative term to describe a potentially "dangerous" Palestinian; and (2) describing the indigenous inhabitants of Palestine as a disparate collection of minorities (and therefore not as members of a wider collective group with a shared identity).

Regardless of the categories that the Israeli regime used to refer to its indigenous homeland minority that remained in the newly established state, the very act of marking, naming, and categorizing signals the

Palestinians' status as the "Other" and demonstrates that, in the Israeli mindset, Palestinians and Jewish citizens occupy separate worlds. This strategy effectively provides the space in which the colonizer can enforce administrative, geopolitical, biopolitical, and necropolitical order to maintain such separation. The impact of the long-standing separation between colonizers and colonized during the military rule that lasted until 1966 can be seen to this day (Yacobi 2004). The history of displacement and dispossession and the traumatic collective experience of the Palestinians in Israel, coupled with the ongoing colonialism of the Jewish state, continue to feed into the everyday lives, mind, and experiences of Palestinians, structuring their encounters with the state so they come to be viewed as an unwanted presence.

After the surveillance of the British colonial regime and the establishment of Israel, the routine nature of supervision, as reflected in monitoring Palestinians' mobility and accessibility to work, education, or family through the use of the "pass permits" during the military rule period, created a constant and pervasive fear of being watched. Furthermore, the co-optation of internal local collaborators, spies, and other informants compounded this state of fear and added to it fear of one another. Surveillance entailed not only the use of technological tools, but also an innate state-controlled and orchestrated surveillance regime (Cohen 2006; Zureik et al. 2010). This has created a situation wherein for Palestinians, normalcy became impossible.

The newly established Israeli state ruled over the Palestinian citizens first through military rule and by instilling fear in people through a portrayal of the government as an "all seeing, all-knowing" (Korn 2000). Through a network of paid agents and informers, the state invoked a heavy sense of fear when and while rewarding those who cooperated and punishing those who did not. The surveillance of the military government imposed restrictions on movements and criminalized some Palestinians, resulting in the increase of conviction rates against them (*ibid.*). This machinery of surveillance also resulted in the creation of different segments of Palestinians and different categories of residents. They were, for example: "evacuees" – those who were evicted by the Israeli state from their homes, villages, and cities; "infiltrators" – those who "illegally" returned to within the newly established state's borders in an effort to return to their homes; and "present absentees" – those who had the misfortune to be absent from their homes and lands during the population census carried out in 1948, and thus were banned from returning to their homes, but nonetheless remained in the country.

The psychological effect of the machinery of surveillance resulted in Palestinians fearing to speak out against the state, as portrayed in Emil Habibi's the *Pessoptimist* and as reflected in Areej Sabbagh-Khoury's (2011) research on the military government's role in Palestinians' life.

Knowing that the transfer of Palestinian citizens in Israel is not possible in normal circumstances (although it is not excluded in times of war or crises), surveillance analysts developed a clear political plan based on a system of favoritism toward some groups and areas while deciding whether, when, and how to provide water, electricity, and other related services (Zureik 1979, 2001). In addition, the state mobilized local groups of collaborators to create internal rivalries and conflicts and banned the establishment of Arab political entities that challenged and threatened the state's fundamental goals. To this was added the geopolitical plan that not only confiscated land and Judaized it, but also built a system that disrupted geographically the territorial continuity and integrity of the Arab population, causing social fragmentation and isolation. While discussing the way electricity became another tool of control and surveillance, Sa'di (2010:91) quotes Barkat, an Israeli planner of Israel's surveillance through official bureaucracies such as the provision of water, electricity, and health, stating:

The electrification of the Arab village has an immense value not only in economic cultural terms; it has also a significant security value. When you pass by Wadi 'Ara street [which crosses the Triangle area, inhabited by Palestinians] at night you see a hostile darkness . . . if we glow this darkness, we take them out of the darkness and place them under our supervision.

Surveillance policies developed and took additional forms during the late 1960s and 1970s and were reflected in the comprehensive tactics of various Israeli officials such as Shmuel Toledano, the long-standing advisor of the prime minister for Arab affairs (Sa'di 2003). A comprehensively clear biopolitical and necropolitical plan was apparent in Toledano's list of tactics, which included intervention in family planning, assisting Palestinians who wanted to immigrate (defined by Sa'di as "soft transfer"), and intervening in gender-related issues, such as claiming to "save" Palestinian women from Palestinian men by raising their educational level, opening new employment possibilities for them, and, in turn, reducing the natural growth rate of the Palestinian population (by proposing family planning as a mode of "women's liberation").

The surveillance regime in Israel incorporated the British Mandate laws into its legal corpus and British colonial military practice into its

doctrine (Khalili 2010). The Israeli legal apparatus upholds and deploys various techniques to learn about and control the natives and the land while transforming the gathered data into military knowledge and power, positioning “security” issues within the global matrix of counterinsurgency strategies (*ibid.*). The incorporation of such military practices/laws into the Jewish state improved the ability to control Palestinians, as one can see in the emergency laws invoked by the Jewish state (for details see Kretzmer 1990; Neocleous 2008).

Monitoring and controlling through the use of threatening policies and fear tactics has long been an integral part of the Zionist movement and continued following upon the establishment of the Jewish state. Historians such as Pappé (2004), Morris (2004), and Khalidi (1992) have detailed these policies, which have included mass expulsions and massacres (Morris 2004). With the establishment of the state, fear tactics and intimidation became integral to the military rule imposed on the Palestinian citizens until 1966.

When Palestinians resisted Israel’s settler colonial policy and so were aware of and therefore acted against the state’s geopolitics, primarily its land-grabbing politics and military surveillance, the state’s security apparatus, including the domestic intelligence service (Shabak) become involved in order to further entrap Palestinians through a heavy machinery of surveillance (Cohen 2006). Furthermore, and with time, the state assigned and developed a structural, intimate, and also bureaucratic surveillance over Palestinians’ education and local elections to frustrate and weaken the Palestinian collective identity and sense of togetherness. Surveillance over the educational system has been apparent in the appointment of teachers (in that a condition of their appointment was the approval of the security agencies), the disciplining of those who were active in political parties or were believed to have political orientations, and the planting of informants in the education system itself (Cohen 2006; Korn 2000; Zureik et al. 2010).

The eruption of the second intifada (2000–2005), the killing of the 13 Palestinian citizens of Israel during the October events of 2000, and the attacks of September 11, 2001, in the United States furthered Israel’s justification to develop stricter surveillance policies and laws and also increased its obsession with security. Such events enhanced the enactment and use of laws for further surveillance and control. Examples of recent laws reveal new forms of state surveillance. Among these is the law on Criminal Procedures (Enforcement Powers – Communication Data 2007), which empowers the Israeli police to secretly obtain data about

citizens' phone use, outgoing and incoming calls, data on their personal computers (including e-mail and Facebook accounts), and more from telecommunications companies. Another is the Nationality and Entry into Israel Law (temporary order 2003) approved by the Knesset in March 2007, and the Nakba Law (The Budget Principals Law) ratified March 2011 (discussed later).

Israeli control over its Palestinian citizens therefore has included and still includes remote surveillance, which involves legal, bureaucratic, and technical codifications, storage of data and statistics, and cross-referencing with a multiplicity of sources (for more details, see Zureik et al. 2010). Israel's surveillance data comprises a variety of technologies, with collaborators reporting and spying on mundane activities (Cohen 2006; Zureik 2010) in order to monitor, record, sort, count, categorize, and identify citizens as Others. This is also reflected in Israel's national identification cards (Zureik 2001); in Israel's airport surveillance and "risk management" against terrorism (Hasisi and Weisburd 2011); in Israel's silencing of memory (Sorek 2010); in Israel's destruction of urban spaces (Yacobi 2004); and more.

Israel's surveillance policy allowed the deployment of surveillance technologies, advanced Israel's claims to have special capabilities in "risk management," and created what Neve Gordon calls a political economy of the defense industry (Gordon in Zureik et al. 2010). Undoubtedly, the Zionist project did not "end" with the establishment of the state of Israel in 1948; rather, colonization is ongoing, and the regime continues to enact such routine, stage-by-stage monitoring and surveillance policies today. For example, the state continues to perpetuate policies of erasure and continues to create spaces of unrecognizability, as in the case of the Bedouin communities in the "unrecognized villages" in the Naqab, an administrative and geopolitical tactic for erasing rights to the land (Yiftachel 2006).

In spite of the heavy surveillance used in different times, locations, and contexts, Palestinians developed various modes of resisting surveillance by their everyday acts of steadfastness (*sumud*) by being there for each other in harsh moments and during loss, imprisonment, and displacement; by telling stories about the Nakba, about lost places, keeping their cultural practices and cultural productions (e.g., novels, poetry), language, schools, religious rituals, and preservation and transformation of songs, photos, documents, films, and more as much as possible (Sa'di and Abu-Lughod 2007; Zureik 2010). Resistance to surveillance was also apparent in attempts to produce counter-knowledge to the Israeli hegemonic narrative. Knowledge

produced by, for example, intellectuals, historians, social scientists, legal activists, political analysts, and leaders, became another language to resist the structural violence of Israel's surveillance regime (e.g., Beshara 2008; Rouhana 1998; Rouhana and Sultany 2003; Sayegh 1965).

Surveillance and the Politics of Fear

Historian Simha Flapan (1979) explains how Zionists produced myths that became instrumental not only in producing internal Israeli cohesion and gaining international sympathy and support, but also in asserting their "fear" of the native Palestinian (see also Shlaim 2001). Internal Israeli cohesion was also supported by the biblical geopolitical argument that claimed that the Jewish people are entitled to the historic land of Palestine/Eretz Israel. Using religion and religious texts to support such claims enabled the construction of the Palestinian as a "dangerous other," further advancing the Zionist ideology while attaching it to the symbolism and religious significance of the Jewish people as the chosen people who are entitled to the land of Palestine (Masalha 1992; Sand 2012). The religious symbolism/ideology was further advanced following the 1967 war and presented in the Zionist narrative. The religious narrative supported the argument for a Jewish right and further justified Israel's geopolitical, biopolitical, and necropolitical colonial logic.

The Zionist narrative promoted the disappearance of the non-Jews from the land while using legal and political techniques to remove/displace Palestinians from their land. Controlling the native Palestinian population through laws, military rules, and spatial confinement and restrictions on movements during the military rule strikingly resembles the manner in which the colonized world is divided into separate halves, as Fanon (1967:38–40) argued. The frontiers of these two separate worlds are delineated by barracks and police stations that have their own laws and circumstances. These separate worlds operate according to their own principles and enact forms of discipline that reify the superior position of the colonizer over the colonized while simultaneously feeding into the industry of fear justifying the separation between the two. As Fanon elaborates:

The settlers' town is a strongly built town; the streets are covered with asphalt, and the garbage cans swallow all the leavings, unseen, unknown, and hardly thought about . . . The town belonging to the colonized people,

or at least the native town, the Negro village, the medina, the reservation, is a place of ill fame, peopled by men of evil repute. They are born there, it matters little where or how; they die there, it matters not where nor how.

(ibid.:39)

The separateness, confinement, and binding of the colonized perpetuate the arrangement: “The cause is the consequence; you are rich because you are white, you are white because you are rich” (ibid.:40). Additionally, the separation between colonizer and colonized is a source of tension and anxiety:

The look that the native turns on the settler’s town is a look of lust, a look of envy; it expresses his dreams of possession – all manner of possession: to sit at the settler’s table, to sleep in the settler’s bed, with his wife if possible. The colonized man is an envious man. And this the settler knows very well; when their glances meet he ascertains bitterly, always on the defensive, “They want to take our place.”

(ibid.:39)

It is through these perspectives – a product of colonized history – that Israel formulates its fear-centric surveillance security policy. It is already evident that in all colonial contexts, a conflict is inevitable between those with great power and those having little power. The tensions in the settler colonial context are exasperated by the implementation of laws that further seek to enforce and maintain distinctions between colonizer and colonized, between those who are encouraged to flourish and those who are deemed undesirable.

Zionism, as the driving power behind surveillance over the native’s body, lives, and lands, has placed Palestinians under constant watch by counting, social sorting, and compartmentalization while confiscating their land and impeding their mobility and access to their own communities and places. Such living conditions and everyday surveillance against the people and the land, the society, the educational systems, and the use of laws have created a deep sense of living under a panoptic gaze, and has resulted in the creation of a deep sense of constant fear among Palestinians (Korn 2000; Zureik 2010). It also suggests to Israeli citizens and to others that Palestinians should be feared. In addressing the constitution of subjectivities and fear, Zureik (2010) states: “As a feature of power, surveillance in everyday life is involved in the constitution of subjectivities at the level of desire, fear, security, trust, and risk – all of which ultimately impact upon human dignity and individual autonomy” (Zureik 2010:10).

The Nakba Law

I wish to suggest that surveillance scholarship, as important and useful as it is, is perhaps insufficient for analyzing the mode in which constructing Palestinian citizens as feared Others can become a tool to silence the native's history and further control and discipline Palestinians living in Israel. In order to advance this argument, in the following section, I bring my analysis to the newly enacted Nakba Law.

On March 22, 2011, the Knesset ratified into law Amendment 40 of the Budget Principals Law (Reducing Budgetary Support for Activities Contrary to the Principals of the State), a measure commonly known as the Nakba Law (Shihadeh 2011). The Nakba Law was proposed by the right-wing coalition government that came to power in Israel in February 2009. It was passed with 37 Knesset members voting in favor and 25 opposed. The proposed law from July 22, 2009, initiated by Alex Miller from *Yisrael Beiteinu*, states:

Anybody who is funded by the state, or a public institute that is supported by the state, will be barred from allocating money to activity that involves the negation of the existence of the State of Israel as the state of the Jewish people; the negation of the state's democratic character; support for armed struggle, or terror acts by an enemy or a terror organization against the state of Israel; incitement to racism, violence and terror and dishonoring the national flag or the national symbol.

Legalizing the banning of the commemoration of the Nakba, Knesset Member Miller's original proposal suggested that participation in Nakba Day events should be punishable by three years' imprisonment. His proposal was criticized by some due to the difficulty of enforcing it, while others pointed out that it is an anti-democratic, unconstitutional proposal that would clearly violate citizens' freedom of speech (Kremnitzer and Konfino 2009).

Alex Miller (quoted in Hartman 2011) explained that it was "an important proposal that was written in the spirit of the Israeli declaration of independence and presents an important national answer to the varying threats that try to exploit the principles of our state's democracy in order to fight against it and refute its foundations." The proposed law was later relabeled a "soft law," a bureaucratic economic sanction, and approved in March 2011. The Nakba Law grants the minister of finance the discretionary power to deprive state-funded bodies (including the already financially anemic Arab schools and public services) of their allocated budgets if they commemorate the Palestinian Nakba.

According to the law, after receiving a ruling from his ministry's legal counsel as well as a team of professionals in the justice and finance ministries, imposing the fines on violators is the decision of the finance minister, giving discretionary power to a minister rather than the court. The law penalizes the use of rhetoric that labels the day of Israel's establishment as a "day of mourning" for the Palestinian civilians massacred by Israeli forces and the more than 700,000 Palestinians forced into exile by the 1948 Nakba. Such commemoration is considered a challenge to the democratic and Jewish nature of the state. It should be noted that the Knesset legal advisor Eyal Yinon ruled that the law was constitutional. But the law, as Adalah – Legal Center for Arab and Minority Rights in Israel explains, is one of a chain of laws that aims at violating Arab citizens' rights of freedom of expression. Adalah's statement argues that the law "will seriously harm cultural and educational institutions and deepen the inequality and discrimination suffered by Israel's Arab minority" (quoted in Hartman 2011).

In discussing Israeli control over Palestinian collective memory focusing on the commemoration of the Nakba, some have argued that the Nakba Law is hard to implement, and therefore its effect is limited to intimidation. Sorek, for example, states:

The level of anxiety is manifest in the description of the current processes in Arab society in Israel as the "real strategic danger in the long term" . . . Nevertheless, the post 2000 modes of disciplining the memory are not necessarily part of an organized and coordinated plan. Their main characteristic is their public visibility. Politicians, whether in office or aspiring to office, make public declarations, which have the potential to deter Palestinian citizens from organizing or participating in commemorative events. Sometimes, these declarations are explicit threats, but the intimidator cannot always follow through, so their main effect is to create an intimidating public environment.

(Sorek 2010:121)

I beg to disagree with Sorek's analysis. In *Orientalism*, Edward Said (1978) argues that colonialism requires a justificatory system in order to be carried out successfully. Said spoke of colonialism as requiring images of the Other as primitive and in need of civilizing, such that colonialism's trajectory could be more strongly propelled and justified. Here, the settler colonial regime uses the Nakba Law to legally portray the colonized as the Other that endangers and threatens the "democratic nature" of the Israeli state. Furthermore, when examining the Nakba Law from the theorization offered by Patrick Wolfe (2006), I could argue that the Nakba Law

functions as a tool not only to paint the colonized as an enemy, and therefore justify and impose surveillance over them, but further to eliminate traumatic memories of loss and suffering. My analysis is based on two main factors embedded in the Israeli settler colonial regime. The first is that settlers are here to stay. The second is that settler colonialism is a structure, not an event, and is based on a logic of elimination that coordinates a comprehensive range of agencies (Wolfe 2006). The colonized's different collective memories, particularly if threatening to the colonizer, place them for the colonizer as the enemy and render the differences a political problem that need to be contained. Strakocsh and Macoun (2012:45) explain:

we identify another aspect of aboriginal existence regularly targeted for elimination, at once more limited and more expansive: Indigenous political difference. Indigenous people continue to be framed as a political problem, even in instances when they are permanently dispossessed of their traditional lands.

Framing the Palestinians in Israel as a political problem is accomplished when and while trying to dispossess them of the memory of their Nakba. Such framing and naming of Palestinians as different than the "normal Israeli" is, as I wish to argue, another form of elimination. For, elimination of the indigenous can be practiced in various ways, as Strakocsh and Macoun (2012:45) explain:

There are a number of ways to eliminate Indigenous political difference: by physically eliminating Indigenous people; by severing their physical connections to lands that lie at the heart of their political system; by breaking down families and communities; by drawing Indigenous polities into the state and reforming them; and by entering into explicit, contractual exchanges (such as treaties) which publicly erase the political distinctions between the colonizer and the colonized.

The Nakba Law aims at separating the indigenous community's history of trauma and loss from the indigenous political existence, while using the legal system to complete and complement the settler colonial project. But, since settler colonialism is a structure not an event, and colonialism was accomplished legally, identifying the commemoration of the Nakba as the target of the logic of elimination allows us to trace it to the ideology behind the Zionist project, while positioning the Palestinians in Israel as feared Others who should be situated outside the body of the Israeli state. As such, the Nakba Law constructs new narratives of time that delete the suffering of Palestinians, discipline and punish those who

commemorate it, create and transform the relationship with the Palestinians in Israel, in the present. This new relationship persecutes those who commemorate the Nakba and inscribes surveillance and control over the memory, the narrative and framing of the past, and the political future of the colonized.

Living under the panoptic gaze and knowing that one is watched all the time create not only an intimidating atmosphere, but also a disciplining and oppressing context that affects the Palestinian individual – their choices, jobs, education, movements, and more. As Fanon (1967) argues, colonialism is more than intimidation: Intrinsic to it is the act of marking behaviors as something to be feared, as threatening, triggering majority anxieties and mobilizing predatory identities, which in turn transform acts of remembering, of identifying, as something to be feared.

In Israel, the continuation of the colonial project and the monitoring of Palestinians are justified by the so-called danger they pose to the state. Palestinians are to be feared. They are threatening, and thus must be controlled, monitored, managed, and, when necessary, disciplined. Such justifications reinforce Jewish Israeli superiority. As Fanon (1967) would argue, this exposes the symbiotic, circular nature of colonial practices. Colonialism then produces the fear to serve, affirm, and legitimize the superior position of the colonizer vis-à-vis the colonized. Therefore, I argue, challenging the Palestinians' rights to commemorate memory is not simply a tactic of "intimidation"; rather, it is embedded in, and an expression of, the state's justifications, rationalizations, and institutionalized structure of the settler colonial regime, implemented through the mechanisms of the industry of fear.

A closer examination of the Nakba Law allows us to uncover the way in which the politico-legal system operates in modes that try to erase the Palestinian experience and deny collective traumas and atrocities. Locating Palestinian collective memory and trauma in the realm of something to be banned by law, to be feared (and therefore monitored and disciplined) operates as an impetus for Israeli necropolitics. Although Israel has long denied that it perpetrated violations and massacres during the Nakba, the proposed law takes this effort much further by openly repressing the commemoration of such atrocities while imposing surveillance not only over acts, but also over the mere memory of that event.

The Nakba Law is one example of colonial surveillance that is representative of the Israeli settler colonial structure, its law and culture,

because in essence, it legitimizes the reality that in Israel, one group's collective memory is superior to another, and the superior group has the right not only to contest and reject the others' memory, but to *criminalize* it. Such a law transparently translates Israel's coloniality into actual legislation and community life.

Surveillance, as in the use of thought and memory disciplining, aims at enslaving both the surveyor and the one surveilled. As Fanon (1967:60) tells us: "The Negro enslaved by his inferiority, the white man enslaved by his superiority alike behave in accordance with a neurotic orientation." Like the distinction between "the letter and spirit" of laws, the Nakba Law and its spirit, namely, its surveillance of memory/thought, creates a gray area between law and society, justice and judicial procedure. Imposing surveillance over Palestinian memory might create fear and horror, but it also holds the potential to produce new modes of resisting such surveillance.

Conclusion

If surveillance is "an activity undertaken by all kinds of organizations, not only governmental ones, in order to keep track of populations and ensure that benefits, entitlements, and indeed rights, as well as debts or obligations, are appropriately distributed" (Lyon 2010:50), and if surveillance "involves the collection and analysis of information about population in order to govern their activities" (Haggerty and Ericson 2006:3), then, as I argued in this chapter, an analysis sensitive to the Palestinian context requires that we look beyond "keeping track of populations" and "governing their activities." It requires that we look beyond numbers, statistics, and data collection, and analyze the way in which surveillance politics creates and recreates fear, produces mistrust, and results not only in the disciplining of behaviors, acts, and political activism, but also in creating the justification for further disciplining and punishing the feared other. For more details, see also Shalhoub-Kevorkian, 2015.

Surveillance within Israel may be apparent, hidden, and/or rendered invisible, but its power is routinely and daily reconfirmed, remotivated, and reactivated. A surveillance regime was planned before the establishment of the state of Israel, has evolved over time, and continues to use mechanisms of fear to monitor, control, oppress, and/or discipline individuals and communities. It actively attempts to shape lives and memories to threaten, intimidate, and control the Palestinians in Israel. Using technological and non-technological surveillance mechanisms and

supporting the latter through a legal system that imposes regulations to manipulate, transfer, displace, and outlaw people and their existence as their memory has been orchestrated by the ideologies of those in power. The power of such surveillance does not only carry a psychological and economic dimension, for it is embedded in a geopolitical, biopolitical, and necropolitical colonial regime that leaves its marks on colonial bodies, families, culture, and politics.

Israel developed technologies of surveillance and industries of fear as an essential tool to govern and manage Palestinians while privileging the rights, security, and welfare of Jews and Jewishness. In the Israel/Palestine context, the colonial experience is related to both control over land and population management (Zureik et al. 2010). I argue that the need to control the Other by deploying routine surveillance and preventing the native population from even the mere commemoration of their losses and history does not deny commemoration per se, but rather disciplines it institutionally by law and physically and psychologically by control. Commemorating in psychosocial analysis means putting back together a dismembered past in order to make sense of the trauma. At bottom, commemorating the Nakba means to be aware of one's traumatic past. It opens spaces of coping and/as survival for the Palestinians' narratives of life and death. Prohibiting the commemoration of the Nakba can effectively produce the opposite outcome.

Palestinians' resistance to surveillance during the British mandate and following the establishment of the Jewish state shows that surveillance failed to transform the nature of Palestinian life. Surveillance over Palestinians' everyday life, the fears, lack of trust, and sense of constant danger had a profound impact on Palestinians' sense of dignity and autonomy, as well as their ability and willingness to express themselves. At the same time, it has engaged Palestinians in acts of resilience that situate surveillance in a complex political context. Such acts have required building inner resistance rooted in daily tactics, counter-knowledge, commemorations, and education to develop the community's agency (Beshara 2008; Zureik 2010).

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PART III

Palestinian Social Movement and Protest within the Green Line

1949–2001

AHMAD H. SA'DI

Deprived of access to the two main means of political influence, the governing coalitions and the revolutionary path, the Palestinians in Israel had to confine the bulk of their activism to middle-level politics, in attempting to alter state policies that affected their lives adversely (Sa'di 1996). As non-Jews, they were relegated to the status of second-class citizens, and the bundle of rights they were accorded neither guaranteed their basic rights, nor provided them with the basis to wage struggle through the formal political channels to achieve some of their collective goals (*ibid.*). This inferior status has been coupled with the pursuit of state policies that in similar cases prompted fierce resistance by subordinate citizens. Israel has acted as an expropriating state toward the Palestinians, particularly during its first three decades. It confiscated the bulk of their communal and private lands in addition to other resources such as water springs (Abu-Kishk 1981; Cohen 2009; Jiryis 1976; Lustick 1980; Zureik 1979). Moreover, Israel has been a racializing state; it has pursued a policy of religious/racial categorization of the citizens and the awarding of differential rights and treatment to the various groups in the country (Sa'di 2011).

Some of these policies, which prevailed in early modern Europe and in settler colonial states, led to fierce resistance by disenfranchised citizens. According to Tilly (1978), these types of policies constituted, in such settings, the main causes of contention. Successful struggles of the emerging classes and excluded groups resulted in the evolution of what T.H. Marshall (1964) has called "civil citizenship." Through this form of citizenship, citizens' basic human rights were guaranteed, including freedom of speech, belief,

and movement, in addition to state assurances against arbitrary confiscation of property. Moreover, the rule of law was maintained through an autonomous legal system and universal laws, which ensued the abolition of privileges that some groups enjoyed.

After 1948, not only did the Palestinians not enjoy civil citizenship, but their existence in their homeland and in their actual homes and lands was directly challenged. In addition to various plans to transfer some or all of them (summarized in Sa'di 2011), Israel rejected many Palestinians' applications for identity cards, a refusal which prefaced their expulsion. Raids of villages, sweeping operations, the expulsion of those who were not in possession of papers by the Israeli army, and fierce resistance by citizens were common scenes during the state's first four years (Robinson 2013).

Moreover, between 1948 and 1966, on the basis of the Mandatory Emergency (Defense) Regulation, Israel imposed a military government on the Palestinian populated areas. While these areas were divided into three administrative regions, each one was subdivided into tiny units. Movement in or out of these units without a permit was prohibited. Furthermore, the Emergency Regulations gave the military commanders sweeping powers, which curtailed the role of law and rendered ordinary Palestinians dependent on the whims of these commanders, and vulnerable to state manipulation and political control. Under these conditions, civil rights, which form the foundation for citizens' demands or contestations against injustices, did not exist. Although Israel's use of the Emergency Regulations has declined over time, the threat of their potential use remains in place, as the state still uses them when the need arises, i.e., when its abuses overstep the normative law. Aside from legal tools and formal procedures to contain them, the state has extensively relied on an elaborate system of surveillance and political control to disempower the Palestinians and render them fragmented and docile non-Jewish collectives (Sa'di 2011; see Shalhoub-Kevorkian in this volume).

In this chapter, I shall critically probe, in chronological order, one form of Palestinian resistance – social protest. This form of expression is widely accepted as a civil right that citizens in the modern state are supposed to enjoy. Israel, however, has consistently attempted to undermine any such Palestinian collective endeavor (Jiryis 1976; Sa'di 2011). Yet, a study of the means used by Israel to create a state of affairs wherein Palestinians would give up all efforts to advance their collective goals is beyond the scope of this text.

The First Two Decades

Very little information is available on Arab protest during the first two decades after the Nakba. It is widely believed that given state oppression, Palestinians' acts of contestation were few and far between (e.g., Lehman-Wilzig 1993; Lowrance 2006). Even the large demonstrations of 1958 and 1961 have received little scholarly attention and faded from public memory. Yet a recent set of data gathered by Nader Zu'bi (N.d) on the basis of news items published in *al-Ittihad* Arabic newspaper has revealed a different reality. Next, I detail the Palestinians' protest activities on the basis of this set of data. During these 18 years, there were 1,723 acts of protest that took place in the Galilee, as shown in Table 12.1.

The data reveal that during the period 1949–1966, a considerable number of protest actions took place, reaching 1,723, with an annual average of almost 96 events. The majority of these actions – 60% – occurred during a period of eight years, from 1955 to 1962.

The most widely used protest method was leaflet dissemination and letter writing to state officials. These two methods alone comprised more than one-half of all protest activity. The second most frequent method was the convening of public assemblies. These two methods (leafletting/letter writing and public assembly) accounted for 82% of all protest activities, suggesting that the bulk of Palestinian protest was symbolic in nature. As for more confrontational methods, they were, as expected, modest. On average, less than four peaceful demonstrations and 1.7 violent ones took place annually. The violent demonstrations, which were more prevalent during the early years, should not be attributed solely to the boldness of the demonstrators, but mainly to aggressive tactics of the police and the army (e.g., Dalal 2003; Hasisi and Weitzer 2007; Sa'di 2004a).

This table might give an erroneous impression of the extent to which Palestinians protested. Yet, one should bear in mind that many of these activities overlapped. That is, various protest methods were used concurrently. For example, a protest over a specific issue could take various forms: a public meeting, a letter writing, and delegations to meet with military administration officials.

Although this method of data collection – namely the use of news items which were reported in the press – is currently fashionable in socio-historical research of social movements and contestation, Zu'bi's set of data is not without limitations. *Al-Ittihad*, the sole source of the data compiled by Zu'bi, was the Israeli Communist Party's mouthpiece and, as

Table 12.1 *Protest activities of Palestinian citizens in Israel by year and method, 1949–1966*

Year	Protest activity								Total
	Demonstrations		Public meeting	Leaflet/Letter	Committee formation	Delegation	Strike		
	Peaceful	Violent					General	Partial	
1949	2	1	9	36	4	5	3	1	61
1950	5	2	16	32	0	9	1	1	66
1951	8	2	31	38	0	11	1	1	92
1952	4	5	15	26	0	1	6	0	57
1953	8	3	27	23	3	6	4	0	74
1954	5	2	18	30	0	3	1	1	60
1955	2	1	39	67	1	12	2	1	125
1956	2	3	56	93	2	17	15	0	188
1957	5	0	39	69	0	8	6	0	127
1958	2	2	41	67	1	8	7	1	129
1959	3	4	44	51	0	5	0	0	107
1960	1	0	25	39	0	7	2	0	74
1961	8	0	48	64	1	12	6	1	140
1962	6	2	50	61	1	9	4	0	133
1963	1	0	8	23	0	2	0	0	34
1964	1	1	10	39	0	4	5	0	60
1965	5	1	27	55	0	0	0	0	88
1966	2	1	16	62	2	2	3	0	88
Total	70	30	519	895	15	121	65	8	1723
Yearly average	3.9	1.7	28.8	49.7	0.8	6.7	3.6	0.4	95.7
% of total	4.1	1.7	30.1	51.9	0.9	7.0	3.7	0.4	100

such, had a partisan agenda. Moreover, because it was modeled on the Soviet press, its credibility is potentially questionable. Unfortunately, Zu'bi's data cannot be verified by other sources at present. Only when the military government's archive becomes accessible to researchers will it be possible to corroborate it. This is so because of the underreporting of Palestinians' affairs in the Hebrew press and the absence of independent Arabic newspapers at the time. The other Arabic newspaper, *al-Yom* – a semiofficial publication – propagated the official line and was interested in publishing stories about Palestinians who were happily modernizing under Israel's tutelage rather than about their dissent and discontent (see Jamal in this volume). Therefore, Zu'bi's data should be approached with caution and considered as a rough estimate. Moreover, similar to data gathered on later periods (e.g., Yiftachel 1997), it is limited to the Galilee region; thus, it excludes contentious activities of one-half of the Palestinians in Israel – those who reside in the Triangle, the Naqab, and the mixed cities. Despite these methodological reservations, these data remain the most comprehensive set available to researchers on Palestinian protest under the military rule from 1948 to 1966.

Geography of Protest

Given Israel's fragmentation of the Galilee to small administrative units whose number had changed over time and the restrictions imposed on the movement in and out of these areas, it was essential to look at sub-regional units. The available data refer to protest activities at the locality level. I have chosen to include in Table 12.2 localities with more than 30 acts of protest.

These data show that more than one-quarter of all protest activities (27.8%) took place in Nazareth, the sole large Arab city that remained intact and in existence after 1948. The locality where actions were second most common was Kafr Yasif, which, although it was only a middle-sized village, was engaged in 9% of all Palestinian protest. Combined together, these two localities were responsible for more than one-third of Palestinians' acts of protest in the Galilee.

Three tentative conclusions could be drawn on the basis of this table. First, large communities tended to wage protest more than small ones. Second, multi-faith communities (Nazareth, Kafr Yasif, Ba'neh, Yafet al Nasira, Shafa'Amr, Rama, I'billin, and Deir Hanna) were more likely to engage in public protest than mono-faith communities (such as Mi'ilia, Yirka, and Iksal, which are not included in the table). Third, protest

Table 12.2 *Protests of Palestinian citizens of Israel by locality, 1949–1966*

Locality	No. of protest acts	% of overall Arab protest	Accumulative
Nazareth	478	27.8	27.8
Kafr Yasif	155	9.0	36.8
Bi'neh	137	7.97	44.77
'Araba	93	5.41	50.18
Yafit Al Nasirah	92	5.35	55.53
'Ailaboun	79	4.59	60.12
Shafa'Amr	76	4.42	64.54
Rama	60	3.49	68.03
I'bileen	47	2.73	70.76
Tur'an	39	2.27	73.03
Deir Hanna	39	2.27	75.3
Sakhnin	36	2.09	77.39
Kafr Kana	32	1.86	79.25
Tamra	31	1.80	81.05
Total	1394	81%	
Total Arab protest:	1719		

Source: Zu'bi (N.d)

was often associated with a legacy of uneasy relations with the state. Nazareth was viewed as a demographic and political problem for Israeli leaders. And many attempts were made by Israeli politicians and bureaucrats to co-opt the local “dignitaries.” They principally worked with Saif ad-Din al-Zu'bi, a long-standing collaborator, who received for his collaboration with the pre-1948 Jewish community (the Yishuv) the Fighter of the State Decoration,¹ to tame the city. At one stage, a Jewish bureaucrat associated with Mapai and the Shin Beit was even sent to live in the city (Baüml 2007; Forman 2006). As to Kafr Yasif and Shefa'Amr, they were headed by the nationalist leaders, Yani Yani and Jabour Jabour respectively (Stendel 1973). Kafr Yasif in particular was an object of state oppression; there, the state tried to stir up rivalries among the various faith communities (see Sa'di 2001; Shihade 2011).

¹ See his Knesset webpage: (www.knesset.gov.il/mk/eng/mk_eng.asp?mk_individual_id_t=251).

Table 12.3 *Cause of protest among Palestinian citizens of Israel by frequency, 1949–1966*

Cause of contention	Number of times cited	Percentage (%)
Military Government	587	33.1
Movement restrictions	136	7.7
Land expropriation	296	16.7
Right to citizenship	16	0.9
Unemployment and welfare	281	15.9
Underdevelopment and lack of services	263	14.8
Education related problem	138	7.8
Absence or insufficient health services	40	2.3
Interference in religious affairs or mishandling of property	15	0.8
Total:	1772	100

Source: Zu'bi (N.d)

Causes of Protest

The grievances of Palestinians are obvious and undeniable. They included the imposition of the military government from 1948 to 1966, massive land confiscation, movement restrictions, high unemployment, widespread poverty, state interference in Muslim and Druze religious affairs, and the imposition of an ideology and a historical narrative that were at odds with Palestinians' collective memory and identity (see Rouhana and Sabbagh-Khoury 2011). Indeed, these grievances were cited by Palestinians as the main causes of their protest, as Table 12.3 shows.

It is hard to distinguish between the different causes mentioned in the list, as they all reflected different aspects of the official policy, which has been described as internal colonialism (Zureik 1979) and political control (Lustick 1980). The Military Government, which was cited as the main cause of discontent, was the tool for the implementation of these policies. Moreover, these causes were not mutually exclusive. Quite often, Palestinians cited more than one cause for the same protest. However, the relative infrequency of protests over Israel's denial of citizenship to Palestinians living within its borders and the mishandling of religious affairs is quite surprising, because they stirred up strong emotions at the

time (these were among the main demands of the nationalist al-Ard movement). This might have resulted from the ways these grievances were handled. After the first four years, sweep operations and mass expulsion of Palestinians decreased, and the state began to tackle the presence of Palestinians who were not in possession of papers on an individual basis and through bureaucratic channels. Thus, by individualizing the problem, its collective nature was weakened. As to the mishandling of Islamic religious affairs, the state nominated Muslim clergymen who were ready to transfer Muslim endowment property to the state through secret deals (Cohen 2009; Jiryis 1976; Yazbak 2010). Moreover, these clergymen legitimized various abuses, such as the destruction of cemeteries and the confiscation of endowments, by giving sanctioning religious verdicts.

Theorists of social movements do not consider such motives as immediate causes for protest, since substantial grievances tend to be ubiquitous and stable. As such, they cannot explain why protest activity erupted at a certain point in time. Moreover, some theorists (e.g., McCarthy and Zald 1977) argue that general discontent is mostly vague, and that it could only lead to social protest if it is translated to specifically defined grievances by activists or social entrepreneurs. In addition to the articulation of the dissatisfaction in a well-defined manner, the pinpointing of those responsible and the offering of a solution to the sources of discontent, theorists argue that for a protest to take place, a substantial change has to take shape: it might occur either within the disenfranchised group, in its political milieu, or in both. Internal change might encompass the mobilization of resources by a social movement organization (or organizations; McCarthy and Zald 1977, 2002) or by a dramatic change of consciousness, identity, and/or emotions among its members (e.g., McAdam 1999). Meanwhile, external change might take the form of support from strong allies (among the liberal sections of a ruling elite or foreign country), the weakening of the ruling elite, or the reconfiguration of the power structures (e.g., Jenkins and Perrow 1977; McAdam 1999).

What is the relevance of this set of explanations to Palestinian protest under the Israeli military government? Internally, the Palestinians were barred from establishing organizations that would mobilize resources and mass protests. Through the military government, the state endeavored to prevent the establishment of Arab organizations in any form; a policy principle that was successfully implemented until the early 1970s. Moreover, given the movement restrictions that were imposed on

them, Palestinians could not create a nationwide or even a regional movement (Sa'di 2011).

As to the external factors, the political process model (e.g., McAdam 1999) identified various elements that occasionally create a structure of opportunities for the disenfranchised group, such as the support of liberal sections of the ruling elite. On the face of it, some sections of the Israeli "liberal" elite were mindful of Palestinians' grievances. Indeed Palestinians' complaints had frequently been debated in the Knesset. According to Zu'bi's statistics, which were based on the Knesset's minutes, between 1950 and 1966, they were raised on 417 occasions. In 229 events (54.9%), Palestinians' causes of discontent were raised by the Communist Party and in 130 (31.2%) events, they were prompted by the left-Zionist Mapam party. Meanwhile, the remaining 58 (13.9%) debates were raised by different parties, including Mapai's affiliated Arab lists. On average, Palestinians' grievances were debated in the Knesset between 1950 and 1966 on 26.1 occasions annually. Nevertheless, it is erroneous to view these debates as reflecting support for Palestinian causes by some sections of the elite that typically undergird the Israeli state, namely, Mapam and other left-wing Zionist groups (including many Communist Jews). These Mapam and Communist Members of Knesset (MKs) held firm belief in Zionist ideology and practices, which underline Palestinians' discontent. This includes, for example, the policies of "the redemption of the land," "the ingathering of Jews," and the fetishizing of the Jewish state and its security. Moreover, these debates were initiated by politicians who had little, if any, influence on the decision-making processes. On the whole, their intention was to embarrass and weaken the ruling Mapai party. For example, the Jewish parties that fought against the continuation of the Military Government during the 1950s and 1960s did so not out of concern for Palestinians' suffering, but to stop Mapai from using the Military Government to grab Palestinian votes (Baüml 2007). The futility and the hypocritical nature of these debates have bolstered the lack of faith among many Palestinians of the formal Israeli politics (see, e.g., Baüml 2007:254–259). Only on one occasion during the period in question did a discussion in the Knesset yield a meaningful result for Palestinians. This was the entering of Kufr Qassem after the massacre that the Israeli army conducted there on October 29, 1956, by Mapam and Communist MKs, and the airing of the news during a debate in the Knesset (Rosenthal 2000).

Main Acts of Protest

In the period under study, two main acts of protest took place and left their mark on Palestinian history: the 1958 demonstrations in Nazareth and Umm el-Fahem, a large village in the Triangle area, and the 1961 mass demonstrations in Haifa, Umm el-Fahem, and Sakhnin. The 1958 demonstration erupted unexpectedly as the result of a window of opportunity for protest that was opened. The tenth anniversary of Israel's independence, which occurred then, was seen by state leaders as an opportunity to project an image of Israel as a young, egalitarian, and democratic state. Palestinians' participation was essential for the credibility of the planned spectacles. Palestinian mayors, chairpersons of local authorities, and dignitaries received orders to put on shows and conduct celebrations according to a comprehensive plan (Robinson 2013; Sa'di 2001). Along with that, various preventive measures, such as the detention of "potential troublemakers," were taken (Baüml 2007: 274–276). However, during the march of May 1, in Nazareth, Palestinians began to demonstrate and chant slogans, which portrayed a reality poles apart from the one the state desired to exhibit. Two days later, a similar protest took place in Umm el-Fahem. The state reacted by wide-scale suppression, including wholesale arrests and excessive use of force. Some 400 Palestinians were arrested and put on trial before military courts. This event led Palestinian leaders, nationalists, and communists to establish the first nationwide social movement organization, "The Popular Front." Its initial aim was to defend the detainees (Jiryis 1976). However, this organization, which intended to lead the protest movement, was short-lived. It split after less than a year following disagreements among nationalist and communist leaders regarding their vision of the local struggle as well as divergence around the Soviet regional role.

The mass demonstration in Haifa (and several other localities, principally Umm el-Fahem and Sakhnin) ensued the killing and apparently the mutilation of the bodies of five young Palestinian men who attempted to flee the country on September 17, 1961 (Linn 1999; Sa'di 2001). These two mass demonstrations illustrate that different or even divergent causes were behind Palestinians' protest. While the 1958 protest resulted from a temporary easing of state oppression, the 1961 demonstrations were triggered by what Jasper and others (e.g., Jasper 1997; Jasper and Poulsen 1995; Polletta and Jasper 2001) have called "moral shock."

Beyond these two landmark events, the continuous protest by Palestinians in various forms despite state repression points to the strength of their communal solidarity and the prominence of their collective identity. Referring to such situations, Tilly (1984:51–52) argued:

solidarity, rather than insufficient integration, provides the necessary conditions of collective action, and rebellions, protest, collective violence, and related forms of action result from rational pursuit of shared interests.

One illustrative example of this communal solidarity occurred in Kafr Yasif, in 1951, during one of the many raids and sweeping operations of Palestinian villages that the Israeli army conducted to apprehend and expel Palestinians who were not in possession of papers. During that incident, the mayor Yani Yani, accompanied by council members and a large number of village residents, prevented army vehicles from entering the village by laying themselves down on the street and blocking their way in a non-violent act. They handed the Military Governor a letter saying that the army convoy could enter the village only over their prostrate bodies. This act, which was publicized in Europe, brought some European liberals, including Jean-Paul Sartre and Simone de Beauvoir – although supporters of Israel – to visit the village (Shihade 2011:63).

From the Termination of the Military Government to Land Day: 1966–1975

Very little is available on Palestinian protest during the decade that followed the termination of the military government and preceded the Land Day protest in 1976. Yet various substantial developments did take place. Most significant was the 1967 June war and Israel's occupation of the West Bank and Gaza Strip, a development which sharpened the identification of the Palestinians in Israel. While considerable literature is available on the identity of the Palestinians in Israel, and its "Palestinization," "Israelization," or "politicization" following 1967 (for a review see Sa'di 2004a), identity will not be treated here as an aggregate of individuals' self-categorization, but rather as social, cultural, and psychological characteristics that connect the individual to a group of people and finds expression in the inter-subjective realm. This definition follows Polletta and Jasper's conceptualization of collective identity:

[C]ollective identity as an individual's cognitive, moral, and emotional connection with a broader community, category, practice, or institution. It is a perception of a shared status or relation, which may be imagined rather than experienced directly, and it is distinct from personal identities, although it may form part of a personal identity . . . Collective identities are expressed in cultural materials — names, narratives, symbols, verbal styles, rituals, clothing, and so on — but not all cultural materials express collective identities. Collective identity does not imply the rational calculus for evaluating choices that “interest” does. And unlike ideology, collective identity carries with it positive feelings for other members of the group.

(2001:285)

This change of identity would affect in later stages the structure of grievances of Palestinians and the causes for the acts that they would carry out.

The second significant development was the abolishment of the military government in 1966 and the lifting of movement restrictions that had prevented Palestinians from establishing social movement organizations (SMOs). Although the state endeavored to prevent Palestinians from establishing nationwide political or social organizations after 1966 (Sa'di 2011), it was not able to enforce its policy in this regard. Thus, despite state surveillance, the Palestinians succeeded before and after Land Day in 1976 in forming a considerable number of SMOs. This includes, among others, the establishment of the nationalist movement Abna' al-Balad, 1971; The National Druze Initiative Committee, 1972; The Arab Students' Committee at Haifa University, 1973; The Arab Students' Committee at the Technion, 1973; the National Committee of Chairmen of Arab local Authorities, 1974; The Arab Students' Committee at Bar-Ilan University, 1974; The National Union of Secondary School Arab Students, 1975; The Committee for the Defense of Arab Lands, 1975; The Arab Students' Committee at Ben-Gurion University of the Negev, 1975; The Democratic Front of Nazareth, 1975; The Democratic Front for Peace and Equality, 1977; the Progressive National Movement — Abna' al-Balad's branches at the universities in Jerusalem, Haifa, Tel-Aviv, and Bir Sab'a; and The Follow-Up Committee on Arab Affairs, 1982 (Bashir 2006:40). Moreover, by 1990, the Palestinians had established an impressive network of non-governmental organizations (NGOs). Although not all of the 186 NGOs that were founded between the early 1970s and 1990 were associated with the social movement sector, for the first time a shade of an autonomous Palestinian civil society emerged.

Beside these local developments, this period was marked by wide-ranging and volatile acts of protest worldwide, including the 1968 students' protest in France, England, Italy, Germany, and Japan, among other countries; an assortment of several social movements in the United States, including the anti-Vietnam war movement, the civil rights movement, and the feminist movement. Other significant movements were the Prague Spring in Czechoslovakia and the Cultural Revolution in China. This "spirit of the period" did not escape the notice of the post-Nakba generation of Palestinians in Israel, particularly that modern means of communications, including TV sets, were prevalent in Arab localities.

Notwithstanding all these influences, Lehman-Wilzig (1993), in an article that later became canonical in Israeli social research, attributed the change of condition among the Palestinians in the period that led to Land Day on March 30, 1976, to developments that took place in Israel. These were the appearance of the Black Panthers Movement and the modernization that the Israeli state had supposedly undertaken since 1948. While, according to Lehman-Wilzig, the Black Panthers provided the model for protest, the Israeli-guided modernization enabled Palestinians to learn and emulate this readily available model.

Between Land Day 1976 and the October Events of 2000

The Land Day national strike and demonstrations, which took place on March 30, 1976, represent a watershed in the Palestinian protest, as it constituted a qualitative change. For the first time in their history, the Palestinians in Israel were able to establish SMOs, to mobilize considerable segments of their constituents, and to present a serious challenge to the state. Moreover, this event demonstrated the failure of the state's traditional tactics of cooption and control. It has also had considerable impact on the collective identity of the Palestinians and their participation in the national Palestinian struggle. Therefore, it became an iconic event and a commemorative day: a symbol of the state's oppression and the Palestinians' resolve.

Additionally, Land Day constituted a stormy opening of a long wave of Palestinian protest, which shall be discussed hereafter. Fortunately a set of data prepared by Yiftachel (1997; 1999) sheds light on the protest activities of Palestinians between 1975 and 1991. Methodologically, Yiftachel's set of data is more credible and reliable than Zu'bi's, as it relies on news that appeared in four newspapers: *al-Ittihad*, and three

Hebrew publications: *Haaretz*, *Kol ha-Tzafon*, and *Hed ha-Tzafon*, in addition to various leaflets and documents issued by Palestinian SMOs that were obtained by the Jewish-Arab center at Haifa University and the Institute for Arab Studies at Giva'at Haviva (Yiftachel 1997:99, 107).

According to Yiftachel, this wave, which extended between 1975 and 1996, brought forth 156 acts of protest in the Galilee, which were underscored by 11 nationwide protest activities. Describing it, Yiftachel (1997:99) pointed to a:

steady (if fluctuating) rise in the number of protest events: while in the late 1970s, after the sudden burst of protest due to the first 1976 Land Day, the annual average was around two to three events, during the late 1980s and early 1990s, this figure increased to between fourteen and twenty, with some decline in 1991. Beyond the research period, it may be of interest to note that the 1991 level was broadly maintained in 1992 and 1993, but a rise in the number of protest events was registered again in 1994.

Beside frequencies, Yiftachel (1999) also explored the causes of Palestinian protests and their intensity. As to the causes, he reported that 33% of protest events were about land control and urban planning (such as boundaries, house demolitions, and zoning), 42% were on socioeconomic grievances (such as budgets of Arab local governments, services, and infrastructure), while the remaining 25% were on Palestinian national issues (mainly responding to events in the occupied territories and Lebanon, such as the Sabra and Shatila massacres). Yet the intensity of the protest took a divergent trajectory. Using an index of protest intensity composed of three variables – duration, number of participants, and level of violence – Yiftachel reported that protest on national issues was the most intense, scoring 38% followed by protest on land and planning, 33% and the least intense protests were on socioeconomic grievances scoring 28% (Yiftachel 1999:297). These results demonstrate that national motives (land and Palestinian national issues) were the main rallying causes for Palestinians' protest. Moreover, given the level of violence which surrounded them, protest on national grounds had often encountered state suppression.

Indeed, this period saw several protest activities on national grounds, including: the strike and protest over the Sabra and Shatila massacre, 1982; the demonstrations and strikes on the 13th, 14th, and 15th anniversaries of Land Day; and protest over Israel's treatment of the Palestinians during the Intifada in 1988, 1989, and 1990; the killing of seven Palestinians by an Israeli reserve soldier (Ami Popper),

in May 1990; and the killing of 21 Palestinian worshippers and the injury of 150 more in al-Aqsa mosque in October 1990 by the Israeli army (known as the al-Aqsa massacre); the protest on the killing of 29 Palestinian worshippers and wounding of 125 in the Ibrahimi mosque in al-Khalil (Hebron) in 1994 by Baruch Goldstein.

Yet, by the end of the twentieth century, the cognition of liberation – to use McAdam's (1999) concept – that had galvanized Palestinians during the Land Day era was waning. Along the way, various endeavors were made to emphasize civil demands and to downplay national ones. This shift was manifested in the establishment of professional High Follow-Up sub-committees that were entrusted to document the "gaps" that existed between the Jewish and the Arab sectors and list the demands that Palestinian leaders would raise in order to achieve parity between these two groups of citizens. Thus, three follow-up sub-committees on education, social, and health services were established, and the study days they held commonly ended with the publication of the proceedings. The bulk of the papers in these volumes followed a simple structure: a description of the gaps that existed between the Jewish and the Arab sectors, followed by quantification of the resources needed for their narrowing or bridging.

This shift in the trajectory of the Palestinian social movement reflected above all a failure of vision, particularly by the leaders of the integrationist approach, which shall be discussed later. It seems that the Arab leadership of the SMOs failed to understand that the readiness of the left-wing Zionist elite to discuss their demands (rather than accept them or carry out a rectifying policy) did not reflect a genuine change of heart or ideology, but rather a contingent political convenience regarding the significance of the Arab vote at that time (see Lustick 1988). The Arab leadership failed to see the long-term radicalization of Israeli society and viewed the parity between left and right Zionist political alignments, which had prevailed during the last two decades of the twentieth century, as permanent. When this parity was brought to an end by the Russian immigration of the early 1990s and long-term demographic trends that gave the right-wing bloc a considerable edge, a positive approach to Arab demands became in Israeli political discourse a liability, thus leading to a decline of the integrationist approach in the Arab social movement. The change of attitude toward Palestinian grievances became blatant during and following the October 2000 events, which will be discussed in the next section (Sa'di 2004b).

Indeed, in a recently published article, "Learning from Failures: Why and How 'Scale Shift' Failed to Launch – Evidence from the

Case of the Israeli-Arab Land Day,” Alimi and Norwich (2011) explored the reasons behind Palestinians’ failure to move the success of their mobilization and protest during the Land Day era to new levels and domains. They pointed to two reasons relating to the SMOs that had led the mobilization of Palestinians, principally the National Committee of Chairmen of Arab local authorities. First, the defection from the protest movement, during the period leading up to Land Day, of Arab mayors such as Ibrahim Nimer Hussein and other Labor Party affiliates who opposed the strike (Alimi and Norwich 2011:50) and even did their best to thwart it (Bashir 2006). Second, the Communist Party, which dominated the Democratic Front for Peace and Equality and spearheaded various SMOs, was based on inherently contradictory institutional logic. It “simultaneously encouraged the Arab collective to ‘accept the status of an Arab minority in Israel with Israeli identity,’ [i.e., promoting an integrationist approach similar to Labor affiliates] while also providing an outlet for nationalist sentiment” (Alimi and Norwich 2011:50; see also Bashir 2006:23).

The Turns of the Century

For the Palestinian protest movement to take an integrationist approach, which had been promoted by Communist Party politicians, mayors, and dignitaries affiliated with the Labor Party as well as by Abd al-Wahab Darawsheh’s Arab Democratic Party, was pragmatically defensible as long as the Oslo “peace” process had at least the appearance of being formally on track. However, with the collapse of the Oslo process in 2000, and in the absence of any credible effort by the Israeli state to “bridge” the socioeconomic gaps between Jews and Palestinians, those advocating it could not offer much beyond moralizing. The bankruptcy of the integrationist approach was accentuated by two international developments: the collapse of the socialist bloc, which was a main source of support for the Israeli Communist Party, a leading integrationist force, and the advent of political Islam, which strived to introduce reconfiguration of collective identities and redefinition of grievances, thus leading to new divisions within the Palestinian protest movement. Hence alongside the two long-standing approaches, the integrationist and the nationalist, a political Islamist one was added. These divisions significantly weakened some SMOs, principally the High Follow-Up Committee, and created confusion and added new divisions to long-enduring rivalries. The decline of the established SMOs, which coincided with the growing

dominance of right-wing and extreme right-wing parties in Israeli politics, led to the surfacing of a new reality that largely resembled the 1950s: state oppression is not encountered by well-established, widely recognized, and all-inclusive Palestinian SMOs. Consequently, various small-scale or single-issue SMOs have emerged. Most notably among these is Baladna, a youth SMO that led the campaign against the state's scheme of conscripting Palestinian youth into the "civil service" program. Additionally, various voluntary organizations have been established to commemorate Palestinian villages that were destroyed in 1948. Most notably is the Association for Defending the Rights of the Internally Displaced Persons, which has engaged in organizing marches of symbolic return – *'Awda* – to destroyed villages as part of the events commemorating the Nakba.

Main Protest Activities

The main protest activity that took place after 1999 is undoubtedly the October 2000 events – the most confrontational and long-lasting protest that the Palestinians had in Israel since Land Day in 1976. It was prompted by a provocative visit of Ariel Sharon, then the leader of the main opposition Likud party, to al-Haram al-Sharif in East Jerusalem on September 28, 2000. This provocation triggered mass demonstrations in the occupied Palestinian territories. The visit and the repression used by the Israeli army against the demonstrators spurred spontaneous protests by the Palestinians in Israel. Although it took the shape of protest activities that civilians in many countries have used and that are internationally recognized as legitimate forms of expression, such as the occupation of public spaces, the Israeli security forces responded with lethal force. By the time this short wave of protest ended on October 10, 2000, 13 Palestinians citizens had been killed and hundreds more injured from police fire, particularly by snipers who were extensively deployed in the Triangle and Nazareth (Sa'di 2004b). Reports by two internationally acclaimed human rights bodies, Amnesty International and Human Rights Watch, show that the state used suppressive measures that are used against enemies rather than against citizens. For example, an Amnesty International report indicates that:

In some cases, especially in northern Israel, at Nazareth, Umm al Fahem, Sakhnin and Arrabah, the military policing methods of Gaza and the West Bank were used: i.e., meeting demonstrators in force, rapid escalation to

firing of rubber coated metal bullets and live ammunition without attempting to use non lethal methods of dispersal.

(quoted in Dalal 2003:25)

Furthermore, in some cases, the police used methods and weapons that are more appropriate to the battlefield than for the dispersal of unarmed civilians. For example, the 2003 official report of the Or Commission, established to investigate the underlying causes for these demonstrations, found that in some cases the police snipers, who were widely employed in quelling the protest, used a particularly wide caliber ammunition of 7.6 millimeters, which is not usually used against individuals, instead of the usual – but still lethal – bullets of 0.22 millimeters (Or 2003:464–500).

The Or Commission, established to investigate the causes for this protest, drew several conclusions. First, it concluded that economic grievances comprised the underlying causes of Palestinians' discontent. Thus, it recommended the allocation of extra funding for local Arab governments. Second, the Commission accused Palestinian leaders of the nationalist and the religious camps, principally Azmi Bishara and Ra'ed Salah, of instigating Palestinians to become agitated and demonstrate. Third, the Commission concluded that the Jews were victims of an unruly Arab mob. Fourth, although the report acknowledged the pervasiveness of racism in the police force, the shooting of protestors who did not pose a threat to the security forces was attributed to lack of equipment, training, or inappropriate assessment. Therefore, no criminal investigation regarding policemen or commanders who were involved in the killing of the protestors ensued.

Yet, even the modest recommendation regarding budget increases for local governments was not implemented. Another committee headed by the hawkish deputy prime minister and minister of justice Tommy Lapid was established later to explore ways for implementing the Or Commission's report. Yet nothing substantial came out of it. Thus in effect, the Or Commission constituted an effective tool of vindication, and one could conclude that its report was in fact meant to establish a narrative upon which the state could rely to justify its actions (Sa'di 2004b). These events took place during the premiership of Ehud Barak, who came to power with an overwhelming support from Palestinians. Moreover, historian Shlomo Ben-Ami, who as the minister of internal security was in charge of the police, had been regarded as a leading figure of the left-wing Zionist pro-peace elite. These catastrophic results for the Palestinians underscored two features of the protest movement: the

absence of an effective overarching SMO, and the fallacy of the integrationist vision, which had guided many Palestinian leaders and organizations for some time.

However, despite the failure to reconstitute an effective overarching body that represents the protest movement, various small SMOs in addition to a few politicians have succeeded in mobilizing considerable support and engaged in successful protest activities, such as the “Hungry for Freedom Campaign” in support of the hunger strike that Palestinian prisoners staged in October of 2011. With this continuing trend it is highly likely to witness the appearance of coalitions of decentralized and loosely organized one topic or small-scale SMOs, which will be guided neither by a single ideology nor by recognized and unified leadership. In other words, the Palestinian SMOs will follow the changes which have taken place in Europe since the 1980s and resulted in what political sociologists have called New Social Movements. The current digital age encourages such changes, and the legacy of the old leadership does inspire neither hope nor ingenuity.

Conclusion

Two straightforward conclusions can be drawn from this review. First, throughout their existence under Israeli rule, in only two short periods did the Palestinians succeed in establishing effective SMOs. These were the Popular Committee, which was established after the 1958 demonstrations, and the various SMOs, especially the Defense of the Land Committee and the National Committee of Chairmen of Arab local Authorities that preceded the Land Day. Second, various sections of Palestinian leadership – particularly those advocating an integrationist approach – are driven by ideology and occasionally more by wishful thinking than by hard realities. For example, despite the negative content of the Or Commission’s report, it was hailed by these leaders and presented to the Arab population as a “victory” for the protest movement. For example Shawki Khatib, representing the High Follow-Up Committee, stated in the Knesset Committee for Internal Affairs on June 28, 2005, that the report “serves as an important historic turning point in the relationship of the State of Israel with its Arab citizens [...] with a view toward a future [...] based on mutual respect, collaboration, equality and genuine democracy” (quoted in Shamir 2005:6). Needless to say, a critical analysis regarding the sacrifices, the achievements, the tactics, and the strategy of the October events by the overarching

Palestinian SMOs have not even been thought of. It is hard to imagine that a representative of the High Follow-Up committee would give such a reckless statement in the Knesset had a reasonable discussion been held.

A third conclusion has to do with the notion of how Israeli scholars and politicians have repeatedly presented the Palestinian social movement, which points to the existence of a chasm between the “radical leadership” of the movements and the supposedly largely moderate followers. This assumption constituted a focal principle in the Or Commission’s report. Notwithstanding this depiction, the history of the Palestinian protest movement as well as a wealth of data regarding Palestinians’ attitudes shows an overwhelming willingness of Palestinians to engage in protest activities. For example, according to one survey which was carried out in 2001, almost one-third of the Palestinians expressed their readiness to participate in non-violent protest. About the same proportion said that they had already taken part in such activities. Moreover, about 6% said that they would participate in violent protest (see Appendix 12.1). Smootha’s surveys also revealed a growing support among the Palestinians for non-formal political protest. Thus, the support for illegal demonstrations increased from less than 10% in 2003 to more than 26% in 2009. More significantly, the rate of those who took part in a protest activity jumped during this period from less than 9% to almost 42% (see Appendix 12.2). This readiness is understandable, given the absence of other forms of politically motivated activities that would enable the Palestinians to achieve some of their collective goals.

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Appendix 12.1 *Intentions and behaviors of Palestinians in Israel with regard to protest activities in 2001*

Legal protest intent(Great or considerable chances)	29%
Illegal protest intent(Great or considerable chances)	6%
Legal protest action (Took part)	31%
Illegal protest action (Took part)	6%
Land Day(Participated every year or every few years)	25%
Nakba Day(Participation in 2001)	16%

Source: Lowrance 2004:82.

Appendix 12.2 *Palestinians' attitudes and behaviors with regard to protest activities*

Year	2003 (%)	2004 (%)	2006 (%)	2007 (%)	2008 (%)	2009 (%)
Support illegal demonstrations	9.9	12.0	16.7	18.0	19.0	26.2
Have participated in protest actions such as legal demonstrations and processions	8.7	26.5	34.8	33.6	41.4	41.9
Have participated in protest actions such as illegal demonstrations and violent processions	5.6	4.1	9.2	Not asked	12.1	11.2
Have participated in Land Day events	17.9	25.5	28.6	Not asked	31.8	41.3
Have participated in Al Naqba commemoration events	12.9	16.0	21.6	Not asked	36.4	32.3

Memory and the Return of History in a Settler-Colonial Context

The Case of the Palestinians in Israel

NADIM N. ROUHANA AND AREEJ SABBAGH-KHOURY

On May 15, 2012, the day Palestinians commemorate the anniversary of the Nakba, Palestinians in Israel declared a general strike. Although Palestinians in Israel have used national strikes before to protest various Israeli policies against them,¹ this was the first national strike to commemorate the Nakba. This event symbolized, more than any other, the “return of history” – the return of the Nakba as an emergent defining force of the current national, political, and cultural consciousness of the Palestinians in Israel.

In this chapter, we trace the return of history as a process that has become integrated into the transformation of Palestinian political consciousness. We examine how Palestinian history, particularly the history of the dismantlement of Palestine and the ethnic cleansing of the majority of Palestinians from their homeland – known in Palestinian historiography as the Nakba² – has gradually started to occupy the center of the present political and cultural experience and discourse of the Palestinians in Israel. The chapter examines why the Nakba, the defining experience in modern Palestinian history and politics, was, until the mid-1990s, silenced in the

A shorter and modified version of this chapter will appear in *Interventions: International Journal of Postcolonial Studies*.

¹ The first national strike was held on March 30, 1976, to protest land expropriation policies. For a discussion of Land Day, see Bashir (2006) and Nakhleh (2011). Since then, numerous national strikes were held to protest Israeli policies toward the Palestinian citizens and Palestinians in general.

² The term “Nakba” was first used by Constantine Zurayk (1948/1994). We use “Nakba” to refer to an event and a process. The event refers to the dismantlement of Palestine and Palestinian society in 1948 as a result of the establishment of Israel and the ethnic cleansing of Palestinians from the part of Palestine on which Israel was established. The process refers to the continuation of what started in 1948 until today in the forms of dispossession, exile, colonization, and occupation.

“official political sphere” of the Palestinians in Israel (Sabbagh-Khoury, 2010). The chapter will also try to explain when and why history returned to take an active and conscious central place in Palestinian political discourse, and, more recently, political behavior and cultural activities.³

We argue that there has been a discernible progression from a silenced collective memory around the Nakba to its gradual return as a salient force in the modern political consciousness of this community. We trace this progression and examine the various manifestations of this return, which, we argue, reflects a dramatic transformation in their present collective consciousness. We then briefly address the political implications of this transformation.

The Return of History and Collective Memory

We define the “return of history,” for an identity group, as *the process in which a dormant past is reconstituted and becomes a constitutive force in present collective consciousness and in envisioning the political future*. The return of history can become a collective force for political and cultural change, particularly in cases of dominated groups whose domination is rooted in a history incompatible with that of the dominating group(s). In our case, the return of history is not merely the revival of the memory of the past. It is not just the increased frequency of commemoration of past events or the emphasis on the Palestinian narrative and its expression – although it includes these dimensions. Rather, it is the dawning of a *political* consciousness drawn from a collective political experience of a national group shaped by canonical historical events that were largely silenced in the official political sphere. This return of history is the collective open recovery and revival of these silenced canonical events that now emerge as the defining force of Palestinian collective consciousness.

In examining the return of history in the case of the Palestinian citizens in Israel, we make use of Halbwachs’s conception of collective memory (Halbwachs 1992). Like him, we employ the term to mean individuals’ acts of remembering in a defined group context. As Coser (1992) notes, commenting on Halbwachs’s work, it is individuals who remember, “but these individuals, being located in the specific group context, draw on that context to remember or recreate the past” (Coser 1992: 22).

³ In cultural activities we include various forms of fine arts, museums of memory, producing songs, film making, organizing public lectures and seminars, and organized tours to displaced Palestinians towns.

Collective memory thus requires a social context of a particular time and space. Certain social forces must be in place to facilitate its articulation. It is the interaction among the group members that produces and transmits the social representations of the past defined as collective memory (Jedlowski 2001). This construction of the past is a continuous interaction between the personal and the national. In this process, commemorative collective rituals play a central role, because these sites allow groups to articulate their shared memories of particular events (Zerubavel 1995). In this sense, collective memory is not an alternative to historical memory, but is formed by history and its related rituals and commemorations (Olick and Robbins 1998)⁴.

Given that the historical memory in our particular case of the Palestinians in Israel was never erased but was either silenced by the Israeli state and its institutional agents or self-censored and repressed in the official and political spheres by the carriers of this history themselves (for reasons discussed in this chapter), we use the term “return of history” and not “collective memory.” The return of history is not a process in which people simply “re/discover” historical “truths,” facts, or evidence and reconstruct them within the present context, as they do with collective memory. Rather, it is a process in which historical memories – those that were silenced but never forgotten, and certainly not erased – are transformed into political assets. These memories become a formative force in the construction of a framework of meaning in which present realities are interpreted with the awareness of the past. The past itself is perceived within the political formation of an unfolding present (of continued domination and persistent resistance, in our case). In this sense, the return of history acquires the force of framing present realities, forming collective

⁴ The following “memory report” by Mamdouh Nofal illustrates the points about the group context of personal memory and of the interaction between the personal and the national. A Palestinian leader born in 1944 described in 1998 his childhood memory in the first years after 1948 in Qalqilya, a Palestinian town that fell under Jordanian rule and on the Israeli border after 1948: “It is difficult, after the passage of 50 years, to sort out my own memories from those of my family, neighbors, friends, and schoolmates, from the collective memory of my hometown” (Nofal et al. 1988:3). He then describes his memories from the days of sitting with families of martyrs (those killed in cross border clashes with Israelis) thus: “We children would hear the stories of infiltration into the colonies and skirmishes with the Jews, of courage and cowardice, of life and death, of paradise and hell, of the special status of the martyrs before God, and of the behavior of the Jordanian secret police. They were exciting and terrifying stories, almost like mystery tales, imprinted in our memories” (p. 8).

identities, and envisioning a desirable future. While Nora (1989) has argued for a distinction between history and memory, we argue that the return of history of dominated groups is so intertwined with their collective memory that such a distinction does not necessarily apply. A similar distinction between history and collective memory is made by Zerubavel (1995), who claims that “[h]istory, the product of a scholarly scrutiny of the records of the past, is essentially a ‘superorganic’ science detached from the pressures of the immediate sociopolitical reality. Collective memory, on the other hand, is an organic part of social life that is continuously transformed in response to society’s changing needs” (p. 4). We claim that Zerubavel’s distinction, while plausible in many cases, is not applicable in the instance of denied histories such as the history of colonized groups whose very “superorganic” history is the subject matter of their collective memory.

For the dominated, in our case for the colonized,⁵ whose colonization is often accompanied by the extraction of their resources (including the necessary resources to document and express their story), memory is a fundamental source of history – as they lack the means to archive and undertake formal historical documentation.⁶ We argue that the dominant group, on the other hand, uses formal documentative history to validate what Nora (1989:8) describes as the “successive deformations . . . manipulation and appropriation” of memory. In contrast, the dominated use memory, often using oral history methodologies, as one of the foremost means they have to validate their history.

The return of history in this case is a classical instance not only of providing an alternative view of the past, but of subverting, indeed undermining, the colonizer’s framework of meaning, legitimized through power and domination. In this regard, the return of history is a form of “counter memory,” to use Foucault’s concept (Foucault 1977; see also Bouchard 1980), because it indeed resists the disciplinary power of the official state historiography and openly challenges the dominant discourse and its very legitimation. In our case, it is important to notice

⁵ See Rouhana and Sabbagh Khoury (2014) for the argument that the citizenship of the Palestinians in Israel is best defined as a settler colonial citizenship.

⁶ Palestinians in Israel have no local or national archives. Even on the larger Palestinian scale, there are no official national archives yet. There is a current effort to establish a Palestinian museum, which might include an archive. In general, Palestinian archives were confiscated during and after the 1948 war by Jewish forces. Many of the Palestinians’ cultural sources – books, family memoirs, and documents and other archival materials reside in Israeli archives and libraries (Amit 2014; Banko 2012).

that this is an ongoing process – rather than a single act – of “return” that, in our view, will continue in various forms as long as resistance to the disciplinary power is needed.

The analytical framework we apply here is based on the understanding that we are dealing with an ongoing settler-colonial project (Rouhana and Sabbagh-Khoury 2014), which has its own unique characteristics.⁷ Our argument, however, is that distinct parameters of the Israeli case – the combination of Zionist nationalism with the process of settler colonialism – modifies some classical settler-colonial manifestations, while not necessarily changing its colonial essence. Thus our framework is based on examining the collective memories of the colonized while bearing in mind the collective memories of the colonizer, as well as the continuous interaction between them within a settler-colonial project.

The descriptor “settler colonialism” has been applied intermittently over the past several decades in analyses of the Israeli–Palestinian conflict; especially when scholars have examined how the Zionist movement (and later the Israeli state) sought to control and accumulate land before the 1948 Nakba (see, for example, Hilal 1976; Rodinson 1973; Shafir 1989). Many accept the application of the term “settler colonialism” to the occupation of the West Bank and Gaza (for example, Reuveny, 2008; Veracini, 2013). Palestinian historians and intellectuals in general conceived the Zionist project as a settler-colonial project (see, for example, Khalidi 1992, 2009; Said 1980). But, interestingly, there is a burgeoning tendency among Palestinian and other scholars to return to the colonial framework to analyze the Israeli–Palestinian history and present (Nasasra 2012; Rouhana 2014; Rouhana and Sabbagh-Khoury 2014; Sabbagh-Khoury 2015a; Shalhoub-Kevorkian 2015; Shihade 2011; Wolfe 2006).⁸ In this chapter, we examine how the return of history is becoming a lens with which this community recognizes and conceptualizes Israeli state

⁷ For a discussion about the unique characteristics of this settler colonial case, see Rouhana (2014). For example, being a settler colonial state with no motherland and a national movement at the same time, Zionism can show mitigated colonial effects vis à vis the Palestinian citizens in Israel, as when Israel’s claim to be a democratic nation state allows for a margin of democracy for the colonized. At the same time, the colonial effects are intensified, as when the Palestinians in Israel are denied the right to the very relationship with their homeland (which mainstream Zionism considers as the exclusive homeland of the Jewish people).

⁸ See, for example, the special issue of *Settler Colonial Studies* dedicated to Palestine in 2012, entitled “Past Is Present: Settler Colonialism in Palestine.” Last accessed June 10, 2015 (www.tandfonline.com/toc/rset20/2/1#.VNupnOaUf4w).

practices within a settler colonialism frame of reference. Furthermore, we argue that the return of history is a process the colonized use to challenge the hegemonic framework of meaning produced as an integral component of the settler-colonial project itself, and as a tool of gaining power while resisting the colonizer.

In a settler-colonial context, “counter memory” becomes even more important as a form of contestation, indeed resistance, to the colonialists’ framework of meaning and system of legitimation, even if not articulated as such by the colonized or recognized as such by the colonizers. In this sense, the term “return of history” is not a moment but an active process or, to use Bourdieu’s (1990) terminology, a “practice.” While we do not dispute that collective memory is shaped through the lenses of the present – “presentism,” as Halbwachs (1992) offers us – we argue that in a colonial context, the return of a silenced history has an additional but reversed effect – that of the past on the present. That is to say, the history itself – not only the constructed narrative of the colonized – comes back (returns) to engulf the present experience with new meanings that seek to undermine the settler-colonial system of power. The “history” of the colonized could have always been claimed to be the group’s constructed narrative; yet recently, numerous historians from the colonizing group – within and outside the Zionist framework of reference – have corroborated the canonical “historical facts” (including recognizing the expulsion of the Palestinians in 1948) that Palestinian historians had attempted for generations to communicate. That these historians have come to acknowledge and address these same narratives supports our distinction between the return of history for the colonized and the return of memory in other cases.

For Palestinians in Israel, the return of history means expressing their canonical historical facts in the public sphere, not only as their “constructed narrative,” but as a device that can shape how they view their present relationship with the colonizer and the future of that relationship.

Considering this layered definition of the return of history, this chapter will address the following issues: (a) Were the expressions of the historical experience of the Nakba indeed silenced for the Palestinians in Israel or, perhaps, were they repressed? And, what particular expressions were most silenced or repressed in the public sphere? (b) Why was such a monumental historical catastrophe silenced and/or repressed, and why is this history returning now? (c) In what ways is history returning, and what forms is the return of history taking in

political consciousness and public discourse? And finally, (d) What are the political implications of this return?

Silenced History

The year 1948 is the year of rupture in Palestinian modern history. The Palestinian national being was shattered. Scholars have chronicled how the Palestinian national movement has been defeated (and later how it re-emerged), how the Palestinians were scattered, and how Palestine as a political and physical entity disappeared from the map. But the national and personal traumatic experiences and their impact on political memory and political consciousness have, in general, received much less attention and usually, but with major exceptions (see, for example, Abu-Lughod and Sa'di 2007; Kassem 2011; Sayigh 2015), have neither been articulated nor theorized. Nor have the Palestinians had the proper space or the political orientation to articulate their experience of ongoing trauma, except for in cultural spheres such as literary productions (particularly poetry), some forms of fine arts, and more recently in theater and cinema (Masalha 2008; see also Gertz and Khleifi 2008). The decades-long struggle for self-determination led to an emphasis on the political and national dimensions of their experience. At the same time, the traumatic human experiences of 1948, the loss of homeland, uprooting and exile, national dismemberment, massive incarcerations, massacres, family separation, defeat, and disorientation were marginalized in public discourse. Until recently these experiences have not been sufficiently woven into a national or collective writing of history, as has the history of other groups such as the Jews in Europe or African Americans in the United States. Palestinian agency has been narrated in terms of resistance and nationalist narratives. Thus a striking feature of the Palestinian narrative over the history of their protracted and multifaceted dispossession and uprooting has been the emphasis on enumerating and documenting – with different degrees of success – what the Israelis *did* to them in the physical and political sense. These narratives fall short of articulating the human experience, psychological impact, and social consequences of Israeli policies and actions *on* them.⁹ This feature applies to all segments of the Palestinian nation in various forms and for reasons that differ in relation to their positionality vis-à-vis the colonizers in the post-Nakba period. But it is most prominent for the Palestinians in Israel. Other

⁹ See Doumani (2007) for the need to emphasize the Palestinians versus Palestine.

Palestinians, for example the refugees, stressed the enormity of the historical events that precipitated their dispersion, which led them to revive and ignite a resistance movement – the Palestinian national movement, which sought “liberation and return.” Yet the history so central to their colonized reality was, until recently, silenced in the official public and political discourse among the Palestinians in Israel. In contrast, it always found avenues of expression in the private sphere of oral history and the public sphere of cultural production.

The history was transmitted orally, from one generation to the next, in the safe space of family conversations and small social gatherings. Families shared the stories of their communities, neighbors, relatives, and friends, how they managed to stay in their homes, and speculated as to why they were spared the events of the *tahjeer*¹⁰ (the process of expulsion). The internally displaced persons (IDPs), scattered in towns and villages usually adjacent to their original towns, were particularly diligent about relaying their stories within the community and passing them down to new generations. The small number of Palestinians who remained in Palestinian cities whose inhabitants were almost completely forced out – Jaffa, Akka, Lydda, and Ramle – also narrated their traumatic experiences.¹¹ The landscape defied silence, as it provided a powerful context for transmitting the stories of *tahjeer*, through the hundreds of evacuated and destroyed towns all over the country, the deserted Arab neighborhoods in the Palestinian cities that became known as mixed cities (such as Haifa and Akka),¹² and other Palestinian cities that became Jewish cities (such as Safad and Tiberias). The Arab houses (recognized by the identifiable Arab architectural style) remained as a silent yet articulate testimony to the *tahjeer*. New generations of Palestinians could not avoid these reminders. While most of the

¹⁰ We use the Arabic term *tahjeer*, which means the process of the Palestinian expulsion from Palestine in the circumstances of war. In our view, the importance of the debate over whether the Palestinians were ethnically cleansed or left under the duress of war, or whether the ethnic cleansing was preplanned or evolved in the context of war, is overblown and has been used to overshadow more fundamental questions regarding the takeover of a homeland and the right of the refugees to return to their homeland. Indeed, the Arabic term often used in the popular culture is *hajej*, which literally means collective, unorganized departure, and which dramatically encompasses the “voluntary” and involuntary departures of masses of people under the pressure to survive.

¹¹ See Munayer (1998) for a detailed description of how and why few Palestinians remained in Lydda after its population was expelled by the Jewish forces in 1948.

¹² While Palestinians were completely expelled from some Palestinian cities such as Safad, Tiberias, and Bisan, some managed to stay in other cities such as Jaffa, Haifa, and Akka, which became known as Mixed Cities (see Sabbagh Khoury 2015b).

displaced villages were demolished (some as late as the 1960s, Shai 2006), many Arab houses and neighborhoods in the originally Palestinian cities still stand witness to what once was there (Golan 2001).

The silenced history was also reflected in a fragmented narrative of traumatic historic events of the Palestinian experience, but the grand narrative that could have provided the missing links among the various fragments stayed dormant. For example, the second generation of the Nakba knew about the existence of displaced villages and the IDPs, but this truncated historical awareness was often not articulated to the younger generation as interrelated components of one unified story.¹³ This dormant history awakened later within the particular political and historical circumstances that made it possible for history to return. The process of return of history provided the framework of meaning within which the shattered pieces of the story have been reintegrated into a whole.

The silencing of the 1948 story was remarkable if one considers the importance of Palestine for the Arab world after 1948, particularly during the era of pan-Arabism of the 1950s and 1960s. After the dismantlement and the ethnic cleansing of its people, Palestine became the main Arab cause, occupying a unique political and moral place among Arab nations.¹⁴ In sharp contrast, Palestine and the story of *tahjeer* became a taboo in the official space for the Palestinians in Israel. Israel's political erasure of Palestine and its physical dismantlement was matched by an equally powerful and deliberate project to erase Palestine from the consciousness of the Palestinians in Israel (Rouhana and Sabbagh-Khoury 2014) and to repress their story of *tahjeer*. This project intended to impose a new narrative not only on Palestinians in Israel but on Jewish Israelis and in global discourse. After all, justifying the enormity of the settler-colonial project required an equally formidable psycho-epistemological system of denial (in addition to other

¹³ One of the authors grew up with her neighbors and IDP relatives re-telling the story of the displaced Palestinian town of Al Bassa. Yet these community members and relatives never explained the full extent of the 1948 story during her childhood.

¹⁴ It also turned into a central cause for what became known as the Third World in the context of the struggle for decolonization. Arab peoples shared the Palestinian narrative in full, and the political goals of "liberation and return" as they were articulated early on by the Palestine Liberation Organization in the 1960s were fully endorsed by the Arab peoples. Arab culture gave the Palestinian cause a main place in its various means of expression—political rhetoric, public support, culture, and art. For Arab regimes, the appearance of support for the Palestinians was a main source of gaining legitimacy (Hudson 1977).

mechanisms of justification). It is hard to overestimate the centrality of Nakba denial in Israel and the threat of the Palestinian narrative to Israel's righteous self-image. Israel's concern about its own legitimacy was a major factor in creating a foundational narrative in which denial of the Palestinian uprooting by the Zionist forces was fundamental. In the official Israeli state memory, Palestine was eliminated from the geography and history of the land. Israel imposed new time and space coordinates across the land. This spatial reordering replaced Palestinian names of geographical areas, towns, and places with Zionist ones.¹⁵ The media, educational system, academia, and cultural institutions played a fundamental role – particularly in the early stages of nation-building – in absencing Palestine, or even in an attempt to eliminate it and replace it with reinvented Zionist vision.¹⁶ The coordinates of history were radically re-allocated to underscore biblical Jewish history and de-emphasize Arab history, in effect drawing a continuous connection between ancient biblical history and modern Zionist history (Masalha 1997a).

The attempt to erase Palestine culminated through the combined elimination of traces of Palestinians from the physical space, the epistemological elimination of Palestine and Palestinians from the history and geography of the place, and the psychological denial of the mere existence of Palestinians, as described by Rouhana and Sabbagh-Khoury (2014), had a dual purpose: eliminating Palestinian history and replacing it with Jewish history. These processes were implemented using powerful state institutions such as media, education, and carefully designed military service. For example, the state determined the educational curriculum for both Arabs and Jews, placing the Arab educational system under the control of the security apparatus (Al-Haj 1995). The word "Palestine" was eliminated from the Israeli educational system altogether, both in Arabic and Hebrew. During a period of military rule that lasted until 1968, the word "Palestine" itself became a taboo and Palestinian identity a security threat. The Zionist narrative has prevailed ever since, silencing the pre-1948 history and the expulsion and displacements that the Palestinians endured from both the Arab and Jewish curricula.

Like Palestinian history, cultural expressions reflecting Palestinian identity and narrative came close to being a taboo in the public sphere.

¹⁵ See Meron Benvenisti (2000) for how elaborate, systematic, and carefully planned this process was.

¹⁶ See for example Kadman (2008) and Benvenisti (1997, 2000) for efforts to erase Palestinian names and traces of destroyed Palestinian villages.

Thus cultural production relying on institutional support, like theater and cultural associations, especially suffered (see Bäuml, this volume). The name “Palestine” was erased not only from maps, the media, and educational material, but also from public discourse. The “Palestinian people” as a whole were made invisible by the Israeli establishment from the eyes of the Jewish public, and the term was replaced euphemistically with “Arab refugees,” “Arabs of the Land of Israel,” “locals,” and other similar names. Palestinian citizens themselves were called the “Arabs” or “Arabs of Israel,” so as to eliminate their historical roots and connection to their homeland, to deny their national identity, and to avoid the word “Palestine.”

Cultural production was promoted outside the state’s official spaces, and thus it more easily escaped the Israeli military government’s censorship. For example, Ghanim (2009) illustrates the degree to which the Nakba was a fundamental event in their private and collective lives. Similarly when Kassem (2011) interviewed women from Lydda and Ramle on their life stories, the starting point for many of these stories was the Nakba.

Palestinians in the Israeli Communist Party (ICP) promoted Palestinian culture in the party’s literary periodicals, publications, and public meetings as long as the cultural content avoided the explicit political sphere (Rouhana and Sabbagh-Khoury 2014). This is how cultural modes became a main vehicle for expressing the Palestinian narrative and a central medium in nourishing a Palestinian identity that re-emerged among the Arab citizens only in the early 1970s (Rouhana 1997).

Poetry, in particular, was the arena for the expressions of the Palestinian experiences as well as the aspirations. These themes included love for and attachment to the homeland, the experience of *tahjeer*, yearning for the return of refugees, the experience of dispossession, and sadness about the Palestinian experience. After 1967, resistance emerged as a central theme (Furani 2012).¹⁷

¹⁷ It was the production of a group of poets from the Palestinians in Israel that acquired the name “poetry of resistance” within the Palestinian political and cultural spheres (Kanafani 1968). The poets included Mahmoud Darwish, Tawfiq Zayyad, Salem Jubran, and Samih Al Qassem. These poets were affiliated with the Israeli Communist Party (the only Arab dominated party to be allowed to run for the Knesset until 1984), which advocated “two states for two peoples” and sought a full equal integration of the Palestinian citizens in the Israeli state. Yet, the poetry expressed themes that are not necessarily compatible with such political views.

These cultural expressions, which addressed silenced themes, found an outlet outside the political discourse, even if sometimes voiced by the same persons. In many cases, this bifurcation of sites was done knowingly in order to avoid military censorship, state surveillance, and, in some cases, a political party's ideological commitments. For example, Salman Natour¹⁸ documented the early personal accounts of the *tahjeer* of IDPs. Natour published a series of stories describing the 1948 *tahjeer* of some of the displaced Palestinians from towns that were transformed into Jewish towns – such as al-Mujaydil and Saffuriyya – or that were destroyed, such as Ma'lul. He interviewed displaced individuals who lived within the country and narrated their personal stories. He did not publish these stories in *al-Ittihad*, the official newspaper of the ICP where he was a writer, but rather in *al-Jadid*, the cultural journal that was published by the same party. This was a deliberate decision by *al-Ittihad* in order to avoid the military censorship that was imposed on it and also as means to circumvent possible internal censorship within the party.

The process of erasure was inflicted in its full force upon the Palestinians in Israel under a military regime, which ended in 1968 (Robinson 2013). It is no surprise, therefore, that the counter memory of regaining the repressed Palestinian identity did not enter the public domain until the 1970s. Many Israelis thought that the attempt at erasure was successful; therefore it is not surprising that leading political sociologists in Israeli academia claimed that Palestinians have been “Israelized.”¹⁹

For Palestinians outside Palestine, the emphasis on the national and political, in their various forms – the demand for self-determination, the liberation and return motto, or the statehood program that appeared at different stages of the Palestinian exilic journey – and the de-emphasis of the human personal experiences consigned the meaning of the Nakba to the Palestinian refugees and sidelined the Palestinians in Israel, as if the Nakba was only the catastrophe of those who were ethnically cleansed. The core of the Palestinian question, until the early 1970s, was defined in terms of the return of the refugees. Since the mid-1970s, this narrative gradually transformed to focus on the struggle for Palestinian statehood

¹⁸ Salman Natour, personal interview by the authors, July 5, 2012, Haifa, Israel (transcript available with authors).

¹⁹ See, in this regard, Smooha 1990, 1997; Smooha's work has been widely followed among Israeli sociologists. However, Smooha failed to recognize the power of history and its impact on identity, until it became futile to deny it (see Bishara 2000; Rouhana 1997).

in the West Bank and Gaza (Rouhana 2014). Yet both of these paradigms have marginalized the historical experiences of the Palestinians in Israel. The consequences of the Nakba for the Palestinians in Israel and their role and place in the question of Palestine were, until the late 1990s, marginalized. Until recently, when Palestinians living under occupation and in exile discussed the Nakba, they excluded the Palestinians in Israel (including the IDPs). In contrast, while the Palestinians in exile placed the national dimension of the Nakba at the center of the Palestinian national movement's revival in the late 1950s, the national and political aspirations of Palestinians in Israel were forcefully repressed by state measures under the conditions of strict control of military rule (see Bäuml, this volume). Until today, Israel refuses to recognize its nearly 1.5 million Palestinian citizens as a national group. This recognition of Palestinian collectivity and presence would undermine the concept of an exclusively Jewish state. Moreover, this acknowledgment of their collective national status contradicts the essence of the settler-colonial project's denial of the indigenous people's national rights on their homeland.

Given the enormity of the Palestinian catastrophe that has been continuing for close to seven decades, one wonders why their human experience has been largely absent from their official political discourse. First, Palestinians in exile became involved in a resistance project that elevated their cause from that of a question of refugees to a national liberation project that was situated in the context of anti-colonial movements in the Third World. It drew from the popular rhetoric of "liberation," "national rights," and "self-determination," but particularly emphasized return to their homeland. Within a liberation discourse, emphasis was placed on the psychological resources that are compatible with commitment, sacrifice, and heroism. Traumatic experiences – recognizing them and highlighting their collective psychological and psychiatric manifestations – were not among these resources. Trauma was actually downplayed in the service of the "national cause" and its requirements of resistance, courage, sacrifice, and victory. Second, the project of national resistance that encompassed many Palestinian communities in exile and in the West Bank and Gaza since their occupation by Israel in 1967 with the national goals of "liberation and return" or "statehood" have partially empowered Palestinians and counterbalanced the traumatic effects. While the effects of military and other forms of resistance added, in many cases, to the human suffering of Palestinians, the act of resistance provided, in our view, some psychological means for avoiding or

mitigating the effects of trauma – such as hope, purpose, and social solidarity. Third, it is possible that within the context of ongoing struggle, these effects are “suspended” by the preoccupation with that struggle. It is evident that this preoccupation, while it serves the goals of liberation and helps sustain resistance, also sidelines the psychological and traumatic effects as non-masculine and non-heroic. Finally, Palestinians were engaged in another major project – that of affirming what Israel and other powers sought to eliminate from consciousness – that of their very existence as a nation.

But the Palestinians in Israel were not part of that national resistance project, nor were they part of the Palestinian national movement.²⁰ Thus, the foundations for their engagement with the human experience are different. It is to these different foundations that we turn in the next section.

Absenting the Voice: Between Self-Censorship and Thought Surveillance

While we notice that the Palestinians in Israel also experienced a historical trauma and have suffered its lasting and ongoing effects, we also notice, as we argued earlier, that this experience has not been voiced. In this section, we advance possible explanations for why this narrative was not openly and publicly expressed or articulated in the official public space among Palestinians in Israel.

The Fear Factor

Given the importance of the group context on the individuals’ act of remembering, through which collective memory is formed (Halbwachs 1992), we argue that the group context is equally important in the process of silencing. Thus during that particular period of silence, the past that should have been publicly reproduced in order for collective memory to be active, to use Coser’s (1992) formulation, was silenced in the official public sphere instead of reproduced.

In the face of a massively oppressive clampdown on history and memory, basic personal fear played a major role in silencing the public conversation about the traumatic history. This was in large part because

²⁰ Until today, Palestinians in Israel are not represented in all Palestinian bodies such as the Palestine National Council, nor are they considered a constituency for the PLO.

such a conversation would have made the colonizers themselves apprehensive. This existential fear is tied to a sense of uprooting from one's own natural world, the tearing apart of the family and social fabric, and the fear of having to face life in exile against one's will as a refugee or an unwanted foreigner. It must be emphasized here that the threat of the loss of one's home in a context in which the majority of one's nation has been exiled carries profound meanings that go beyond the material loss of property.

Under military rule, Palestinians lived in the shadow of the continuous fear of traumatic expulsion that befell the vast majority of their people, including families and friends, and in many cases themselves – as some of them sneaked back across the borders.²¹ They became aware of stories of those expelled and of those Palestinians who tried to “sneak” back to their homes and towns from across the borders, and the thousands who were shot and killed to stop their return.²² Indeed, Israel continued the ethnic cleansing well into the early 1950s (Masalha 1997b) and criminalized and securitized the return of refugees to their towns from across the borders. The Israeli authorities have coined a special term for this category of Palestinian refugees who tried to “sneak” back to their own homes: “infiltrators” (*mistaninim* in Hebrew, *mutasallileen* in Arabic), a term carrying criminal and security connotations. This criminalization helped legitimize the immediate killing of “infiltrators” when Israeli soldiers discovered them at the borders. Sometimes these returnees were put on trucks and forced back across the borders. This criminalization was supposed to serve a triple purpose for the newly created Israeli state: deterring those who considered returning to their homes from across the borders; warning the Arab population against assisting their community members by hiding them in their houses;²³ and increasing the fear of Palestinians among the Jewish population, thus justifying the extreme measures of simply killing these refugees. No wonder that the term *baqa'a*, which literally means “staying” (in this context “staying in the homeland”), is a central political motto in Arab Palestinian cultural and

²¹ For example, Emile Habibi, one of the prominent leaders of the Communist party and a previous Knesset member, returned to Haifa after he had left during the war to Lebanon (see Assi 2013 and Manna 2006).

²² Morris (1999) puts the number of Palestinians killed in their attempt to return at about 5,000.

²³ It should be noted here that despite the state system of criminalizing and securitizing return, many Palestinians assisted these returnees to stay.

political discourse until today.²⁴ This rootedness is natural to societies under settler colonialism, as Veracini (2015) points out. And this survival is at the heart of what persistently threatens the settler-colonial project.²⁵

This emphasis on *baqa'a* is the other side of the fear of expulsion. Some Palestinian leaders in Israel repeatedly expressed concern about their community facing a fate similar to that experienced by the expelled Palestinians. This was particularly true of leaders who themselves experienced being exiled but somehow managed to return in the first two years when the borders were not yet hermetically sealed (see, for example, Assi 2013). In these years, the fight to “stay” was reflected, ironically, in the struggle to acquire Israeli identity cards (IDs) (Nakkara 2011); these IDs protected their carriers against expulsion. Israeli leaders over the years have continued to use explicit threats, referring back to this time and reminding Arabs of the fate of their forefathers, which has only ignited these fears.

The Palestinians who stayed in their homeland witnessed and lived no less than a human catastrophe – their communities, next-door neighbors, relatives, and friends left on foot, on trucks provided by the Israeli forces and the British Mandate, or by sea in boats from the coastal cities of Jaffa, Haifa, and Akka. These exiled Palestinians became refugees in the neighboring countries and became the enemy of the state in which the remaining Palestinians became citizens. They witnessed neighboring villages, Palestinian cities, and hundreds of other vibrant towns overtaken in their entirety by new Jewish citizens. They literally saw homes and their next-door neighbors' property and belongings, stores, schools, orchards, factories, and farms expropriated immediately and taken by or given to Jewish citizens and organizations. Many of them experienced this loss themselves as IDPs, who found refuge in nearby Arab towns. The landscapes that were part of their familiar everyday lives were transformed. This loss was best articulated in the literary productions of Palestinians in Israel, mainly after the end of the military rule in 1966.²⁶

²⁴ In particular, the Democratic Front for Peace and Equality, the oldest and, at the time, the largest organized Arab dominated party in Israel, emphasized the importance of *baqa'a*. This serves as an indication that the concern for survival has remained with the Palestinians in Israel since the start of the Nakba.

²⁵ Indeed the Arab citizens are referred to as a “demographic threat” by many in Israel. See Bäuml in this volume.

²⁶ For studies of how these experiences were reflected in Palestinian literature at the time, see Furani (2012); Makhoul (2013).

Thus the Palestinians in Israel were a traumatized community, living in fear and under military rule, which isolated them and separated them from their community in neighboring towns (see Bäuml in this volume).²⁷ In addition, recent research reveals that large numbers of Arab males were taken by the Jewish forces during the years 1948–1949 and placed in special prison camps, unaware of their fate – whether they will be expelled – or the fate of their families (Kabha and Awawdi 2013). This uncertainty, accompanied by the news about the killings of those who tried to return, engraved a fundamental fear within the community’s collective consciousness.

The state established and operated an elaborate surveillance system to instill fear in the Palestinian population and guarantee control. Israel employed a system of spying on its Arab citizens and offered incentives for collaboration (Cohen 2010). Expressions of dissent were punished, which encouraged the vast majority of Palestinian citizens to remain silent (Bäuml 2007). Israel made sure to make the power and pervasiveness of the system known to the community, seeking to destroy communal trust and impose a sense of a panopticon in the Bentham sense (Sabbagh-Khoury 2010). The saying “The walls have ears” became part of the colonized people’s popular discourse and was often used, particularly by traditional elders, to warn against speaking freely. Perhaps the most notorious case of employment requiring security clearance was in the education field, where teachers and supervisors in government-run or private schools needed such clearance (Robinson 2013). This panopticon-like surveillance continued well after the end of the military rule. Although the fear might have become less evident, it still exists under the surface today, including in political discourse.

The Dominant Leadership’s Hegemonic Paradigm

Israel’s creation, and the ethnic cleansing it entailed, vacated Palestine, or more precisely, the part of it on which Israel was established, of the vast majority of its cultural and educational elites. The political class and cultural leadership in Palestine were expelled, along with the majority of the middle class and the urban stratum. The cities and hundreds of towns, by and large, were evacuated of their inhabitants; most cultural, educational, and political institutions destroyed; and their physical space was expropriated. The main organized political leadership that remained was

²⁷ For details of life under the military rule, see Shira Robinson (2013).

the Communist party, which was the outcome of the 1948 merger between the ICP and the National Liberation League (Muhareb 1989).

The political frame of reference for the ICP was the Soviet Union's acceptance of the United Nations General Assembly's Resolution 181 partition plan, and accordingly Israel's legitimacy became fundamental to their political operation within it. Indeed, the ICP's general secretary was a signatory on Israel's declaration of independence. The Arabs within the Arab-Jewish party represented a defeated community, and the party's line was primarily set by its Jewish leadership (Muhareb 1989). The Arab members who joined the ICP after 1948 witnessed the split in the party in 1943, which prior to Israel's establishment was known as the Palestinian Communist Party (PCP), into an Arab faction – The National Liberation League – and a Jewish faction – the PCP. The split occurred over the question of Jewish national formation in Palestine, including the issue of a Jewish state and related issues (Budeiri 1979). Some of the Arab members were among the Arab masses who were ethnically cleansed in 1948 but a few managed to return. Those who joined the ICP shifted away from earlier rejection of a Jewish state. From that time and until the split of the ICP in 1965, the Arabs in the party remained under Jewish hegemony (Muhareb 1989).²⁸

Considering that the Arabs who stayed in their homeland lost their organized leadership, the ICP was burdened with an enormous agenda. Operating within a framework that advocated equal citizenship, resisting the massive violations of the rights of the Arab citizens posed an almost insurmountable task (Robinson 2013). This included defending the rights of the “infiltrators” to stay and challenging continued displacements and land expropriation. The party played a major role in unveiling the facts of the Kufr Qassem Massacre in October 1956, which was arguably perpetrated to encourage Arabs to leave as they had in 1948 (see Bäuml 2011). The ICP's leadership and activists were targeted by the state security apparatus and subjected to various kinds of state harassment, further exacerbating the fear of Palestinian involvement in the political sphere as discussed earlier. Abolishing military rule became the center of their political work during that period. The party's hegemony continued until the middle of the 1980s, when competitive nationalist voices got organized in another party, the Progressive List for Peace, which was elected to the Knesset in 1984.

²⁸ Tawfiq Toubi, the highest ranking Arab in the party, became the first Arab to represent the party in the Knesset at the age of 27.

The hegemonic leadership of the ICP operated within a paradigm that we have called the “Equality Paradigm” (Rouhana and Sabbagh-Khoury 2014). In their emphasis on equality, ending the 1967 occupation, and establishing a Palestinian state in the Palestinian occupied territories, the ICP gave priority to equal citizenship and political rights in the official discourse and sidelined the foundational historical issues. Within this political paradigm, there was not much place for the Nakba and its historical memories. It was not until after the Oslo agreements in 1993 that the equality paradigm lost its hegemonic status and the process of the return of history, which we describe in this chapter, began.

*Limited Capacity to Produce and Disseminate Culture
and Knowledge*

Cultivating collective memory, narratives, and political thought is usually nurtured by state institutions that can facilitate the production of knowledge and culture, including media and education. In our case, neither state nor society provided such nurturing support for the Palestinians who remained, but for different reasons. The Israeli state worked to assault the memory of the colonized and established a surveillance apparatus to hinder collective cultural cultivation. Under these circumstances, the Palestinian family unit and the community became the main bearers of memory.

At the same time, immediately following the 1948 rupture, Palestinian society did not have the necessary resources to nurture and consolidate their collective memories. The articulation of the monumental loss experienced in academic, media, and cultural productions required human resources and appropriate institutions that were beyond the capacity of those who remained. The newly created Jewish state destroyed and appropriated Palestinian urban centers and their cultural, social, and political institutions. Thus, the Palestinians who remained were left without these institutions and the necessary human resources to rebuild them and without the vast majority of the urban cultural elites or the urban centers that could have provided the appropriate context for them to re-emerge and develop.

In this vacuum, the small but very important institutions that operated were those of the ICP, mainly the party’s Arabic publications. These included *al-Ittihad*, the political mouthpiece of the party that was published only once a week until 1983; *al-Jadid*, a literary monthly first published in 1953; and *al-Ghad*, a youth magazine first published in

1974. These publications provided the space to represent history and memory and encouraged its articulation, but only to the extent that these expressions remained constrained to the cultural sphere without being articulated in political terms. Perhaps it is this bifurcation of culture and politics that enabled and enhanced the cultural expressions of collective memory, contributing enormously to its preservation.

This paucity of cultural institutions characterized the critical period during the military rule for this “quarantined” group, particularly of the generation born into this reality. Then, and until now, there were no Arab universities and major research centers. It is not only that the state did not promote or support the development of such institutions; it implemented policies to hinder their development. Yet there has been a gradual re-emergence of institutions and of human resources including institutions of culture production and Arab-controlled media.²⁹ This re-emergence reflects a slow collective recovery from the great rupture experienced by Palestinian society and culture while at the same time preparing the ground for challenging Israeli settler colonialism’s strict grip over history.³⁰

The gradual re-emergence of cultural and knowledge production institutions and the re-appearance of cultural leaders were paralleled by the rise of a new and powerful political leadership that challenged the very essence of the state ideology and brought history back to the political discourse, and promoted the production of culture that is integrated into, rather than split off from, politics.

The Overwhelming Everyday Struggle

After the 1948 ethnic cleansing, the Palestinians in Israel, although receiving citizenship, became the target of the settler-colonial project and its policies of erasure and replacement. Resistance to Israel’s settler-colonial policies became the center of everyday life, because these policies penetrated every sphere of life. The everyday struggle against these policies imposed its own political agenda on the community and its leadership. Given the nature of Israeli settler-colonial politics (for enumeration of these policies see Rouhana and Sabbagh-Khoury 2014),

²⁹ Consider the media, for an example; Jaffa alone was the home of three large newspapers already in 1932 (Bracy 2010). The total number of newspapers in Jaffa reached 14 by 1939. Thirty eight newspapers were published between 1929 and 1939 (Kabha 2004:328–331).

³⁰ Thus, these institutions cannot be seen as emerging out of the natural development of pre 1948 institutions and civil organizations.

the issues of everyday life became intertwined with national issues. The community has been continuously fighting issues such as land expropriation, home demolitions, the right to establish political parties and cultural institutions, persecution of political leaders, discriminatory legislation, police brutality, and attempts to disqualify political parties. Being consumed with combatting this agenda has left little space for considering the core issues that constituted their experience as settler-colonial citizens (ibid.).

Yet in the past decade, the community has transformed itself into a strong national group that can now shift its agenda from struggling against the everyday challenges of settler-colonial policies to attending to larger political and existential questions. Within this broader framework, it has become possible for them to start considering the nature of their collective experience and bringing back history and memory to the public sphere.

Trauma

The immediate post-1948 national experience for the Palestinians in Israel was an integral part of the all Palestinian experience of losing their homeland. Even though these Palestinians physically remained in their homeland, they experienced loss in an similarly traumatic but different manner from those who were expelled. Israel dispossessed Palestinians within its borders from their collectivity, and thus discursively expelled them from belonging to their homeland. Instead, the land they had lived on was turned into the exclusive homeland of the Jewish people, enacted through the self-definition of the state as Jewish. For the Palestinians in Israel, this social, historical, and cultural rupture manifests in myriad expressions of trauma. They had witnessed their homeland conquered and claimed by foreign colonizers, as well as the mass dispersal of their nation. Those who stayed saw the destruction and Judaization (i.e., erasure of Palestinian traces and in many cases their replacement with Hebraicized traces) of their local cities and towns, accompanied by the looting of houses, stores, and farms. The state claimed Palestinian property as spoils of war, redistributing it to Jewish citizens and recent immigrants. Palestinian citizens now found themselves under a foreign sovereignty that cast them as enemies. The social and psychological impact of this traumatic shock, while no doubt experienced individually, has yet to be articulated on the collective level. Shammas (1991) has described this circumstance of isolation

from the Arab world and its social and sociological impact as a “cultural quarantine.”

However, the impact of the trauma could have been mitigated by several factors. Two main factors, in particular, softened its potentially devastating effects. First, after the Nakba, Palestinians dealt with their new situation as if it were temporary (Bishara 1993). This sense of temporariness made it easier to cope with or dull the disastrous dimensions of the loss.³¹ There was a sense, at least until the Oslo agreements in 1993, that the “Palestinian Problem” would at last be resolved, and the status of Palestinians in Israel would be addressed within the final settlement’s terms. Second, similar to the ways the Palestinian resistance and the Palestinian national movement played a role in easing some of the traumatic effects of the Nakba for Palestinians in exile, the struggle of many segments of the Palestinian community in Israel against colonialist policies, inequality, and discrimination has helped them face the traumatic effects of the Nakba. It should be noted that since the Palestinians in Israel were positioned outside the Palestinian national movement, they have not engaged in the same modes of resistance as other Palestinian communities (in exile or the West Bank and Gaza). Yet, even within the framework of Israeli citizenship, which obfuscated the essence of the settler-colonial relationship with the state, Palestinian citizens developed strategies of everyday resistance and managed to engage in collective civil protest (see Sa’di, this volume). Their resistance took different forms, perhaps most importantly, as we see it, the maintenance of the Palestinian memory and narrative, despite its earlier silence in the official public sphere.

From Silent Resistance to the Return of History

After decades of state silencing, the Palestinians in Israel have begun to reconstitute a dormant past that has become a constitutive force in present national politics and in envisioning the future. This return is rooted in the fundamental historic experience of the dismemberment of Palestine, the loss of the Palestinian homeland, and the establishment of a foreign sovereignty on it, in which they became citizens subordinated to a settler-colonial system. Therefore, it is not surprising that the return

³¹ This temporality has especially distinguished the lives of IDPs as they waited to return to their villages. Their lives were characterized by uncertainty and instability as they looked for a safe place of refuge (Al Haj 1988; Sabbagh Khoury 2011).

of history stems from this constitutive experience of dispossession, which is intertwined with and intensified by the denial of their indigeneity.

Perhaps the most revealing and powerful indication of this return of history is the dramatic shift in the mode of public celebration of Israel's Day of Independence from the state's early years to its last two decades.

"Your Day of Independence Is Our Day of Nakba"

For many years, especially during the years of military rule, Palestinian citizens publicly participated in Israel's Independence Day celebrations. Elaborate festivities were held in Arab schools, because the educational system was under settler-colonial control and heavy surveillance. Often, schoolteachers were obligated to observe Israeli national ceremonies or risk losing their jobs that depended on approval from Israeli authorities. Even local Arab municipalities, which were similarly controlled by the state, held Independence celebrations.

Anton Shammas, a Palestinian novelist who grew up under military rule, describes his experience at a primary school in the Arab town of Fassuta, in the Galilee, during a visit from a Department of Education inspector. His description reflects the colonized experience and the public image many Palestinians in Israel sought to convey to the colonizers during these critical years after the Nakba:

The same year, during the ceremony marking both the completion of my first year of primary schooling and the first anniversary of the founding of the public school in my village . . . we were sent to bring laurel branches from the tree shading the village spring, to decorate an enormous star of David that one of the teachers had built from six planks. Our Arab principal wished to make a good impression on the Jewish Inspector of Schools whom he had invited to observe the achievements of the new school . . . I sometimes wonder whether we were not seared by that star, whether it isn't a branding iron after all. A branding iron to all Arabs who were left, for some reason or another, inside the borders of Israel, in the years of our Lord Balfour 1948.

(Shammas 1991:219)

During the military rule period, at Independence Day celebrations in Arab schools, Arab children performed songs and poems praising the new state and its independence. The songs and poetry spoke of Israel as a shining star that emerged in the skies of the East and described how children were full of joy on the independence day of "their country."

Arab schools, decorated with Israeli flags, held major celebrations in which the local communities participated.³² In the hometown of one of the authors, the village school was decorated with state flags, and the community celebrated Independence Day with festivities including sports events, poetry about independence, songs, and student theater productions.³³ Ironically, the principal who gave the key celebratory speech year after year was an internal refugee whose town had been destroyed by the Israeli air force on Christmas Eve, after the Israeli Supreme Court ruled in 1951 that its residents, who had become IDPs in adjacent towns, should be allowed to return to their homes.³⁴

In eerie contrast to the orchestrated and coerced public ceremonies of Independence Day, there was another manifestation of Palestinian experience in Israel: public silence. We argue that the silence represented a multilayered way of coping with the memories associated with the Independence Day. On one level, it represented the silencing of memory and perhaps the repression of the traumatic historical experience altogether. On another level, at least during the first few decades, it reflected the system of fear that was instilled under the period of military rule, but persisted following its end. Public silence offered a method of coping while feelings and actions were confined to the private sphere.

For many, the silence was itself a form of resistance, albeit not depicted as such publicly. In other cases, the public silence was accompanied by private expressions that took the form of sharing the history and

³² It would be inaccurate to claim that Arab celebrations on Israel's Independence Day were all coerced. While this might have been true during the years of the military rule, one cannot make such a claim when Arabs raised Israeli flags as late as the mid 1990s in the heart of the Arab community in Israel in Nazareth. The process that some Israeli sociologists referred to as the Israelization of the Arabs in Israel included what they considered as the acceptance of the state and its identity (Smootha 1989) and was a subject of intense debate in literature (Rouhana 1993, 1997). There was also voluntary public participation. The system of control, which involved many elaborate mechanisms, including cooptation (Cohen 2006; Lustick 1980) and the tight surveillance in all walks of life (Sa'di 2013; Shalhoub Kevorkian, this volume), produced a sector who collaborated with the new system and for whom this collaboration was justified and perhaps became internalized as voluntary. This includes the Palestinians working within Zionist parties.

³³ In his documentary film, *Isteqlall* (Hassan 1997) or *Independence*, Nizar Hassan depicts Palestinians' experience of "the independence day" asking different people including his mother, a schoolteacher during the military government about Arab teachers' experiences on this day.

³⁴ Residents of the villages of Iqrith and Kufr Bir'im were evacuated in 1948 at the order of the military and were promised they would be allowed to return to their villages after the war. However, although the Supreme Court ruled in favor of their return in 1951, the Israeli government has not allowed them to return.

experience of the Nakba with their children and to the younger generations within the private sphere of the family. Another form of commemorating the history of their personally experienced Nakba was family visits to the sites of destroyed villages – a spontaneous but purposeful way of reliving the memory of the Nakba and perhaps a way to cope with the pain. During the period of military rule, travel permit restrictions on Arabs were lifted for Israel's Independence Day, so Palestinians could travel freely. Many of the IDPs chose to visit their destroyed towns. But these visits remained a private space of grief expressed by those who lost their homes, communities, and villages. The return of history has made possible the collective expressions of loss of homeland that transcended the loss of particular homes and local communities.

The Palestinian journalist Najwan Simri-Diab (2014) has reflected on her experience during military rule. She writes that on Israel's Day of Independence, her family would secretly go to Birwi, their village whose inhabitants were all expelled. Some fled outside the borders of the state, while others, like her father, became IDPs in adjacent towns. Remembering these childhood visits, she describes the heavy silence and the unexplained imposed stillness. She recalls how her father would sit on a distant rock and return with red eyes, and her mother's body language imposed silence. After collecting some plants, they returned home, but Simri-Diab never understood why this holiday was "sad, silent, gloomy, [we did not receive] new clothes, and with a hidden smell of death . . ." (ibid.).

Yet, through a gradual process of historical regeneration, Israel's Independence Day has become a day to publicly articulate and commemorate the collective memory of the Nakba and the return of Palestinian history. There has been a complete transformation of the public's manifestations of this day from "celebrating" Israel's independence (even in the distorted, forced, and repressed ways described earlier) to the collective expression of repressed historical experiences. The IDPs have played a significant role in reviving this history, which was accelerated by internal political transformations within the Palestinian community and changes in the political context of the conflict. History has become a source of strength for the colonized and a significant manifestation of resistance. The Israeli state and society have responded to the Palestinian citizens' return of history, in particular the commemoration of the Nakba, with concern and opposition. Perhaps the most illuminating example of

this perceived threat is the Nakba Law,³⁵ described in depth by Shalhoub-Kevorkian (in this volume).

The Creeping Discussion of the Nakba in Public and Academic Discourse

In recent years, Palestinian-organized public events commemorating the Nakba, including the “Nakba March,” have begun to appear in Israel from the end of April through the end of May. Various cultural and political institutions and organizations sponsor and organize these commemorations.³⁶ These manifestations of memory have endured despite the Knesset passing the Nakba Law in 2011, which punishes organizations for commemorating Israeli Independence Day as a day of mourning (see Shalhoub-Kevorkian, this volume).

Commemorating the Nakba is increasingly occupying the political consciousness of the Palestinian citizens in Israel. In our view, literature on commemoration and its importance for reviving memory is not sufficient to explain the meaning of this transformation of consciousness. For example, Yael Zerubavel (1995:7) talks about a “master commemorative narrative,” a narrative that “focuses on the event that marks the group emergence as an independent social entity.” In this perspective, it is a commemoration that is “essential for demarcating the group’s distinct identity vis-à-vis others” (ibid.:7). This analysis might best apply to contexts in which ethnic and cultural groups use commemoration as part of a process of remembering their past in order to gain acknowledgment and recognition of their identity and increase their political power in an existing political order. Yet in a settler-colonial context, such a process has the potential of shaking the foundations of the system itself. As such, it could become a practice of decolonization. Thus the slogan “Your day of independence is our day of Nakba” is not just a project of constructing difference or a contrast in identity with Jewish Israelis, but a slogan that undermines the historical foundation of the Zionist state.

Furthermore, the commemoration of the Nakba inside Israel reinforces the constitution of a common history with other Palestinian communities. In this way, Palestinians in Israel commemorating the

³⁵ The Nakba Law, legislated in 2011, “calls on the government to deny funding to any organization, institution, or municipality that commemorates the founding of the Israeli state as a day of mourning” (see Kestler D’Amous 2011).

³⁶ See, for example, a survey of such activities conducted for the year 2011 by Eli Rekhess (Rekhess 2011).

Nakba as an act of decolonizing memory heralds a larger movement to decolonize the political system.

A review of newspaper articles that addressed the Nakba, its impact, or its commemoration from the months of March until May from 1990 to 2013 for *al-Ittihad* and *Kul al-Arab*, and from 1997 to 2013 for *Fasl al-Maqal*, demonstrates the powerful political implications of the commemoration. The articles surveyed reveal how different political parties express the need for commemorating the Nakba, perhaps in different ways. Some employ the commemoration to emphasize the need to reach the Jewish Israeli consciousness in order to gain their support in fighting discriminatory laws or to achieve equal rights (*al-Ittihad* 2012). Others see it as expressing the transformational potential of history. For example, one approach emphasizes that “[t]he real value for commemorating the Nakba is a political value, which means not only that we will not forget, but mainly that we did not and will not accept all its political consequences . . . foremost among those the ‘Jewish state’” (Zoabi 2009). Another writer argues that repressing the past is a crime not only for past generations but also for a future generation that seeks justice and national dignity (Zriek 1998). However, common to all views is the emphasis on bringing a silenced history into the present in order to achieve justice.

Literature as a site of maintaining and acknowledging Palestinian history preceded the vocal, public demonstrations commemorating the Nakba. Arab poetry has always functioned as a reservoir of the Palestinian experience rooted in the history and ramifications of the Nakba (Ghanayim 2009). Likewise, national sentiments and the grief of expulsion and loss of homeland were expressed in novels, but novels developed as a literary genre at a later stage. Makhoul (2013), for example, notes what we call the return of history to the literary sphere after the second intifada. Literature was the sphere in which the Nakba experiences were voiced. This was so, partly in order to evade military censorship of the Arabic newspapers that were open to such voices.³⁷ The relationship between the Nakba and the current conditions of Palestinians has become an integral theme in their modern literature.

In the academic sphere, after decades of negation, the return of history is reflected in efforts to write and re-write Palestinian history, particularly focusing on Palestinians in Israel. This is represented in recent works on

³⁷ The 1980s and 1990s have witnessed a rise in the number of memorial books about displaced villages (Davis 2007). The oral history projects as the return of collective memory or return of history, a process that started in the end of the 1970s but intensified from the mid 1990s (Salman Natour, personal interview by author, July 5, 2012).

revised readings of the history of the Nakba (Kabha 2006) and examinations of the Nakba and claims of memory (Abu-Lughod and Sa'di 2007, Sa'di 2007). Kassem (2011), for example, considers the *tahjeer* stories of the Palestinian population of Lydda through women's voices in order to shed light on the gendered aspects of the Nakba. Palestinians in Israel are not only publishing these revised accounts within Israeli academia, but are also contributing to an emergent academic project, in which Palestinians and other academics attempt to bring this history back.³⁸

The long absence of research on the Nakba within Arab and Jewish scholarly work in Israel is not unrelated to the power and practice of Israeli settler colonialism. Israeli academia rarely considered the Palestinians in Israel in the historical context of Palestine or the impact of the Nakba on them. The zero point for this scholarship was usually the establishment of Israel. Post-Zionists and critical sociologists who have paid some attention to the question of the culpability of Jewish forces in the displacement of the Palestinian people, and who have worked to challenge some Israeli national myths (Flapan 1987; Morris 1988, 1994, 2001; Pappé 2006; Ram 2005; Shlaim 1995), have focused mostly on Jewish Israeli actions and narratives, albeit critically, and not on the Palestinians.

The Return of History in Political Consciousness and Public Discourse

From the moment the Zionist movement successfully established the state of Israel, Palestinians in Israel were under attack and put on the defensive. As a native community in a colonizing state, Palestinians had to face, cope with, and inevitably resist daily practices of settler colonialism. These local communities were hardly prepared for such a massive attack on their resources and place in their homeland after the defeat of their nation and the exile of the majority of their society. This inevitably put the Palestinians in a defensive mode of existence, and their political activism was characterized by everyday resistance and reactions to state policies and by developing collective and individual strategies for dealing with their new situation. The return of history has signified a major shift in the dynamics between the Palestinians in Israel and the state. In this regard history's return to the public discourse – particularly the Nakba

³⁸ See, for example, studies based on PhD research: Abu Hanna Nahhas (2012); Aburabia (2012); Kassem (2011); Makhoul (2012); and Nusair (2010).

political consciousness – has reversed the dynamic of state action and Palestinian reaction, such that the Palestinian citizens of Israel have now become the instigators of political change, putting the state on the defensive (Sabbagh-Khoury 2012). As such, the importance of a historical recounting exceeds its immediate utility of serving as a form of collective assertion. It reflects the gradual emergence of a new consciousness led by popular movements that the local committees of the internally displaced refugees have spearheaded and guided.³⁹ It cuts across all political parties and it challenges, in its essence, the colonial situation created and hegemonically imposed by Zionism. This emerging consciousness fundamentally embodies a political statement that the historical outcome of expelling the Palestinians is not irrelevant or past. Thus, even if not always articulated epistemologically, the return of history roots itself within an anti-colonial consciousness⁴⁰ which rejects the system manifest in the structure and policies of the Jewish state. It further points to a need, not fully articulated within any of the existing political programs of the current Arab political parties, to take this history into account when thinking about a new political order.⁴¹

*The Renewed meanings of the Nakba in Palestinian
Society in Israel*

The return of history is characterized by a new collective awareness expressed through various channels of representation and discourse. Four main manifestations of this revived history indicate that it is gaining broad popular support in the national consciousness of the Palestinians in Israel, and that it is becoming increasingly articulated both in the cultural sphere and the discourse of some political elites. However, this discourse is not yet reflected in the political agendas and rhetoric of

³⁹ These committees became unified in the “Association for the Defense of the Internally Displaced Rights” that was established in 1995 (Sabbagh Khoury 2011).

⁴⁰ Although we are witnessing a change in the political discourse, it did not, by and large, use anti colonial grammar. Yet, the text, or substance is founded in anti colonial consciousness. Furthermore, the anti colonial grammar is increasingly being used, in parallel to the return of the settler colonial framing of the conflict between Zionism and the Palestinian national movement (see Rouhana 2014).

⁴¹ The only political program that takes this history into consideration expressly is a movement not represented in the Israeli Knesset – the *Abna’ al Balad* Movement. Political parties that run for the Knesset are requested to abide by the Israeli law, which makes it clear that denying Israel as a Jewish state (or by extension – stating that Israel is a settler colonial state) is a ground for a party to be banned.

the Arab political parties because of restrictions imposed by Israeli constitutional law (see, for example, Masri 2015).

Of the four manifestations of the return of history, the first is an increasing awareness that the Nakba befell not only those Palestinians who were expelled in 1948 but that it also affected the Palestinians in Israel too. Originally the term “Nakba” was used by Palestinians and other Arabs to refer to the dismantlement of Palestinian society and the loss of the Palestinian homeland, and the refugees were conceived as the central victims of this disaster. The Palestinians in Israel are gradually changing the geographic and demographic limits of the Nakba, thus expanding its meaning to include their own traumatic human experience in addition to the political and national experiences.

Second, there is increasing awareness that the Nakba forms a structural component in the relation between the Palestinian citizens and Israel. The return of history has not only transformed the geography and demography of the Nakba’s map, but its temporal contours have been expanded from the beginning of dispersion and exile up through the present (see, for example, Al-Qasim 1998). Even the linguistic reference to the Nakba has changed to reflect its perception as an ongoing process rather than just as an event.⁴²

This emerging differentiation between the Nakba as a traumatic and rapturous event and the Nakba as an ongoing process is of utmost importance. Admittedly, the consciousness that what Palestinians currently face in all their communities is the direct extension of the Nakba and part of it is relatively new. It is concurrent to the gradual but deep sense that Palestinians do not have a clear way out of their state of collective exile, statelessness, constitutional inequality, occupation, and continued sense of loss and deadlock.

Support for the increasing awareness of the Nakba as an ongoing structural process rather than a memory of a discrete historical event with a beginning and an end, and support for the realization that the Nakba also includes the Palestinians in Israel, can be found in the gradual emergence of certain sentiments. These sentiments have always been expressed in the literary sphere, particularly poetry (Ghanim 2009), but now Palestinians express them in public discourse and political rhetoric (Rouhana 2014). The various Arabic newspapers from 1990 to 2013 show

⁴² This is reflected in how the Nakba is marked as a historical event, such as when many writers now say “since the start of the Nakba” to emphasize that it is a process rather than “since the Nakba” which refers to it as an event (Khoury 2012).

a strong presence of the Nakba as an ongoing social and political structure in news items, opinion pieces, and editorials. *Kul Al-Arab* published an editorial on April 16, 1998, explaining how “we live a Nakba that has not ended yet” (al-Qassem 1998). The editorial connects the political experience of the Palestinians in Israel with current Israeli policies toward them – such as racism, limitations on building permits, the status of the Arabic language, settlements, and occupation of Arab lands. Similarly, Zionist opinion pieces call for the continuation of Nakba policies toward the Arab citizens: policies that seek to empty the land of Arabs and replace them with Jewish settlers (*Kul al-Arab* 2009). In response to the Nakba Law, *Kul al-Arab* editorialized that “the Nakba is not a curricular subject of study that can be cancelled; it is rather a reality that people in Palestine and in exile live” (*Kul al-Arab* 2011).

Third, there is the beginning of realization among the political elites that the continued Nakba is the other side of the colonial project of the Jewish state. This is perhaps the political dimension of the return of history. While the political consciousness about this colonial context and its dimensions will likely be further developed, translating this awareness and critique into a political program within the framework of the current Israeli legal and political system will be a challenge. The connection between the project of the Jewish state and its establishment and the destruction of the Palestinian nation and society has always been present in Palestinian consciousness, but there was also a project – indeed the dominant Palestinian national political project since the mid-1970s – to resolve the Palestinian predicament by reaching an agreement with Israel in the form of a two-state solution. The new element in this consciousness is that even within a two-state solution, the Palestinian citizens’ share of the Nakba will continue within a Jewish state.

Fourth, there is growing emphasis and investigation of the human and personal dimensions of the Nakba for the Palestinians in Israel, and Palestinians in general. The human experiences of exile, occupation, or settler-colonial citizenship within the Jewish state have not been, until recently, adequately expressed and publicly articulated within the Palestinian official sphere.⁴³ The cultural life of the Palestinians, which was disrupted with the shattering of their collective existence, re-emerged as an exilic project that was most attentive to resistance,

⁴³ See for example Hoffman’s (2010) work on the poet Taha Muhammad Ali and Antoon’s work on and translation of the poet Mahmoud Darwish (2011).

endurance, struggle, and liberation. The sense of temporariness of Palestinian experiences – as an aberration in their national existence that should end with liberation – contributed to the emphasis of resistance; although the unending occupation (the longest in modern history), the prolonged exile, and the continued colonization ended this sense of temporariness. At the same time, the protracted negotiation process somewhat submerged the dominant theme of resistance and enabled Palestinians to voice their human experiences.

In recent years, we are witnessing a surge in public cultural activities among all Palestinians, including the Palestinians in Israel. These activities and projects are attentive to the rich shades of human and personal experiences and are expressed in multiple venues. Palestinian cinema and theater address themes such as the human experience of being Palestinian under occupation, in exile, or as foreigners in their own homeland. Cultural institutions are being established that examine the human themes of the collective and historical experiences: for example, the first Palestinian museum is currently under construction. The modest literary scene also recognizes and examines a more nuanced human experience. In general, the media revolution created more avenues for Palestinians to voice and explore their human experiences. In this sense, the human experiences themselves become a manifestation of the return of history – the profound realization that the continued Nakba is part of their present existence.

Conclusion

In this chapter, we named the challenge Palestinians in Israel put to the hegemonic framework of meaning produced by the settler colonial project “a return of history.” This process, we claimed, has become a tool of gaining power, as well as a medium of resisting the colonization practices. We differentiated between collective memory and return of history by emphasizing that the latter is a process of breaking the coerced silence about historical memories – not simply in order to reconstruct them within the present context, as in the case of collective memory – but rather to use them as a transformational force that provides a new framework of meaning that elucidates for the colonized group, their history and present, and provides visions for the future. As such, it has the potential to guide political forces and political actions. In this context of a colonized group, we see that history and memory are intertwined and not separated; similarly, we do not find the distinction

between history and collective memory applicable (Zerubavel 1995). For the colonized, memory is present as they still live the history in the present; in this sense and in this context, memory is the history of the present.

The return of history as a transformational process is manifested in a new framework of meaning in which it became increasingly clear that the Nakba befell the Palestinians in Israel as it did those Palestinians who were expelled in 1948 and as such, it is the constitutive component of their collective experience. The Nakba is now considered as an evolving, unfolding process, as the other side of the ongoing colonial situation.

The return of history is becoming the driving force behind new visions of the future, and therefore of new political programs. The essence of the Palestinian citizens' relationship with Israel is gradually being reconceived (see in this regard Rouhana and Sabbagh-Khoury 2014), their relationship with the Palestinians across the green line is being reconsidered, and the forms of future relationships between Palestinians and Israelis in historic Palestine are being re-envisioned and re-assessed (Khader 2012). This is not a process that engulfs society, but it is, we argue, a significant process that has the potential to redefine the central political consciousness of this Palestinian community.

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