

# Stateless Citizenship

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Figure 1. Taken in Haifa on October 06, 2012, the cover image is a graffiti in the predominantly Arab district of Wadi Nisnas and says “Haifa is the heart of Palestine” in Arabic. Painted in a city praised in official channels as exemplifying Israeli democracy and peaceful coexistence between Arabs and Jews, the graffiti illustrates the alienation of the Arab citizenry from Israeli society and the strong connection to their Palestinian identity. Interestingly, by the next evening, on October 07, the graffiti was already painted over. This too accounts for Arab marginalization in Israel and reveals the mechanisms of control and surveillance of Arab political and social expression in the country. Photo by Shourideh C. Molavi.

# Stateless Citizenship

The Palestinian-Arab Citizens of Israel

*By*

Shourideh C. Molavi



BRILL

LEIDEN • BOSTON

2013



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*Cover illustration:* "Haifa is the heart of Palestine." Photo by Shourideh C. Molavi, October 06, 2012, Haifa (Wadi Nisnas), Israel.

Library of Congress Cataloging-in-Publication Data

Molavi, Shourideh C.

Stateless citizenship : the Palestinian-Arab citizens of Israel / by Shourideh C. Molavi.

pages cm. -- (Studies in critical social sciences ; 54)

Includes index.

ISBN 978-90-04-25406-0 (hardback : alk. paper) -- ISBN 978-90-04-25407-7 (e-book)

1. Palestinian Arabs--Legal status, laws, etc.--Israel. 2. Citizenship--Israel. I. Title.

JQ1830.A92M85 2013

324.6089'9274--dc23

2013018462

This publication has been typeset in the multilingual "Brill" typeface. With over 5,100 characters covering Latin, IPA, Greek, and Cyrillic, this typeface is especially suitable for use in the humanities. For more information, please see [www.brill.com/brill-typeface](http://www.brill.com/brill-typeface).

ISSN 1573-4234

ISBN 978-90-04-25406-0 (hardback)

ISBN 978-90-04-25407-7 (e-book)

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Only in a world in which the spaces of states have ... perforated and topologically deformed and in which the citizen has been able to recognize the refugee that he or she is – only in such a world is the political survival of humankind today thinkable.

(Giorgio Agamben, *Means Without End: Notes on Politics*, 2000)

The foreigner is first of all foreign to the legal language in which the duty of hospitality is formulated, the right to asylum, its limits, norms, policing, etc. He has to ask for hospitality in a language which by definition is not his own, the one imposed on him by the master of the house, the host, the king, the lord, the authorities, the nation, the State, the father, etc. This personage imposes on him translation into their ... language and that's the first act of violence.

(Jacques Derrida, "Foreigner Question," in *Of Hospitality*, 2000)





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## PREFACE

On November 29, 2012, exactly sixty-five years after passing the Partition Plan for Palestine, the UN General Assembly voted by an overwhelming majority to recognize the State of Palestine within the 1967 borders as a non-member state with observer status.<sup>1</sup> In his speech before the UN General Assembly, Palestinian Authority Chairman Mahmoud Abbas declared: “The moment has arrived for the world to say clearly: Enough of aggression, settlements and occupation.” That this bid for statehood comes on the heels of rising Israeli political and military intransigence and instability in the region served as a significant drive behind its adoption.

I first traveled to Israel-Palestine near the end of the second Intifada. Looking only at the period since the start of my independent research on Palestinian citizens in this country, the military establishment of the State of Israel has initiated wars with intense bombardment of neighbouring populations, violated a range of prohibitions contained in international law including multiple ceasefires, and reinforced an illegal and debilitating land, air and sea blockade of the Palestinians in Gaza. This does not include the daily violations of Palestinian human rights, particularly in the occupied West Bank and Jerusalem, in the form of checkpoints, roadblocks, military raids and shootings, home demolitions, arrests, settlement building, collective punishment, population transfer and more. Throughout this aggression we have also seen the rise of a disturbing and increasingly normalized discourse in Israeli society depicting these offences as a dress rehearsal for a future war with Iran.

Perhaps most troubling is that these devastating military initiatives were conducted without any significant public political uproar from global actors – not to mention from Jewish-Israeli society. Evidently, the world has not yet had enough. Today most observers appear more sympathetic

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<sup>1</sup> The bid for statehood at the United Nations was submitted by PA Chairman Mahmoud Abbas to the organization in September 2011. Though the Palestinian political group Hamas initially rejected the initiative, it later voiced support for the statehood bid, arguing that it backs any political gain Abbas can achieve at the UN that does not cause “harm to the national Palestinian rights.” See Reuters, “Hamas lends support to Abbas’s UN statehood bid,” *The Jerusalem Post*, November 26, 2012, <http://www.jpost.com/MiddleEast/Article.aspx?id=293489>.

to a *Jewish* state than to Israel being a *democratic* state. But we ought not kid ourselves. The devastation in the region signals that the existing expansionism and exclusionary mechanisms of incorporation in Israel as a Jewish state are simply unsustainable in the long run.

Importantly, at all of the above political and military junctures the question of Palestinians inside Israel and their relationship with the state as its citizen-subjects was at the heart of social, legal and political discussions. In Israel, each of these military onslaughts set the stage for debates on *what to do with the Palestinian citizenry, how to instil in them a sense of loyalty to the Jewish state, and how to maintain Jewish dominance and control* in the face of continued Palestinian calls for collective rights and equality. What these discussions reveal is that the Zionist-Palestinian conflict is not only one over land, recognition or rights – it is also a battle at the level of consciousness. Palestinian citizens are situated within an increasingly racialized citizenship regime designed to exclude them. As such, their continued presence as citizen-subjects penetrates the Israeli consciousness by acutely pointing to the contradictions within the state and the unfeasibility of its self-definition and organization as exclusively ‘Jewish’. Put differently, Palestinian placement within a polity that did not anticipate their presence is a constant reminder that Israel’s settler-colonial citizenship regime is sitting on borrowed time.

Though most observers acknowledged that the recognition of Palestinian statehood is largely symbolic, many also called it ‘the last chance to save the two-state settlement’.<sup>2</sup> Of course, the Palestine statehood bid is unlikely to revive the imagined two-state solution – an option that contradicts the spatial arrangements on the ground. But despite this reality, any potential framework for a two-state settlement must also consider the kind of regime of exclusion within which Palestinian citizens are placed in the event that such a resolution is reached. If a two-state settlement means a Palestinian state and a separate Israeli state with entrenched Jewish domination and control over its non-Jewish citizen population, then this

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<sup>2</sup> On this, Noura Erakat nicely summarizes the reasons for the impossibility of a two-state settlement: “Israel has civilian and military control over sixty-two percent of the West Bank; the apartheid wall has further confiscated another thirteen percent of the West Bank; and the Jewish-Israeli settler population now numbers six hundred thousand. East Jerusalem, which is part of the West Bank, has been the site of rapid ethnic cleansing where Israel is explicitly pursuing a Judaization campaign. Meanwhile, Gaza is territorially separated, isolated, and besieged. The World Health Organization says it will be unliveable by 2020.” See “Quick Thoughts on the Significance of the November 2012 Palestine UN Bid,” *Jadaliyya*, November 29, 2012, <http://www.jadaliyya.com/pages/index/8674/quick-thoughts-on-the-significance-of-the-november>.

must be rejected outright. In other words, integral to any political position challenging the modern Zionist project and Israel's contemporary settler-colonial practices is consideration of the Palestinian citizenry. The legitimacy and staying power of any just resolution to the conflict depends on its ability to also incorporate demands for equality, genuine inclusion, recognition and historical rights for Arabs inside Israel. To this end, I hope that this book can outline some of the contradictions of the *stateless citizenship* provided to Palestinians that must be addressed before any future resolution can be considered.

*Haifa – December 2012*



## ACKNOWLEDGMENTS

This book is the culmination of first-hand research I have carried out during the last eight years into the dynamics of Palestinian-Arab citizenship in Israel. Born out of a desire to illuminate and explore the ambiguous situation of this population, this book seeks to analyze the nature of Palestinian-Arab existence within Israel as a *Jewish state*, and deconstruct the particular dynamics of exclusion embedded in its hierarchical citizenship framework. After finally setting out to conduct independent research on this subject, the scale of those who have supported, encouraged and helped me throughout the years has grown past the point where I am able to remember all who have contributed to this project. Simply put, this publication would not have been possible without the generosity and efforts of a large number of people and civil society institutions.

To begin, my political engagements on which this book is based would not have been possible without the support and inspiration of my mother, Parvin, who instilled in me a drive to unapologetically challenge oppression and racism. Nor without Bibimah, my Nane, whose love and care has never ceased. Their strength, as well as the understanding and my father and brother, Masoud and Behzad, form a central force behind this book. This drive was also coupled with encouragement from my best friend and loving partner, Fabian, whose generosity in thought continues to deepen my political and intellectual positions. Close friends and respected allies who have provided particular assistance and helped ensure that this book actually got out include Hazem Jamjoum, Bill Swanson and Donya Ziaee – and my academic supervisors, Gerald Kernerman and Robert Latham – all of whose attention and insight helped shape this project. Others who have also provided good company and discussion on this topic include Uri Davis, John Elmer, Dan Freeman-Maloy, Niloofar Golkar, Amira Hass, Amir Hassanpour, Clare O'Connor, Justin Podur, Shekoufe Sakhi and Mai Taha. I would also like to express gratitude to my editor, David Fasenfest at Brill Academic Publishers, for his assistance and efforts throughout the publication process.

My analysis of the stateless citizenship of Palestinian-Arabs was shaped and nurtured by my various posts and interactions with Haifa-based Palestinian civil society organizations, including Mada al-Carmel: The Arab Center for Applied Social Research, Ittijah: The Union of Arab

Community-Based Associations, and Adalah: The Legal Center for Arab Minority Rights in Israel. The longest and most fruitful of these posts was with Mada al-Carmel, which has served both as an institutional base and a unique intellectual climate whereby I was able to examine the precarious situation of the Palestinian population in Israel. What began as a four-month internship at Mada al-Carmel has over the years developed into long-standing and deeper friendships and political alliances. Here the expertise, warmth and intellectual generosity particularly of my dear friend and mentor Nadera Shalhoub-Kevorkian, but certainly also of Janan Abdo, Einas Odeh-Haj, Nadim Rouhana, Areej Sabbagh-Khoury, Mtanes Shihadeh and Himmat Zu'bi have been indispensable. Others who have given of themselves friendships, insight and daily assistance include Aleen Marshy-Akleh, and Sister Rita and Sister Honourine whose company and affection compelled me to return to Haifa.

Taken together, my continued work with Palestinians inside Israel has taught me that as an exclusionary legal category, the historical link between the included and excluded in citizenship has often been made from the viewpoint of the former. Part of challenging this tendency therefore involves grounding the study of the Israeli incorporation regime within the standpoint and experiences of the *excluded*, namely the Palestinian-Arab citizenry. To this end, my examination of the exclusionary dynamics embedded in the concept of citizenship and its particular realization in the Jewish state makes active reference to academic research, analysis and statistics documented by organized segments of the Palestinian community. Here I would like to thank Hassan Jabareen and Rina Rosenberg at Adalah, and Nadim Rouhana at Mada al-Carmel for permitting the respective re-publication of selections of *The Democratic Constitution* and *The Haifa Declaration*. My analysis of Israeli society and citizenship in this book has also been informed by the expressions of daily experiences, narratives, thoughts, feelings and struggles of Palestinians, which have throughout the years been shared with me by members of the community. If this book is able to capture even part of the political spirit, intention and drive of the above persons and organizations then it will have been worth the effort.



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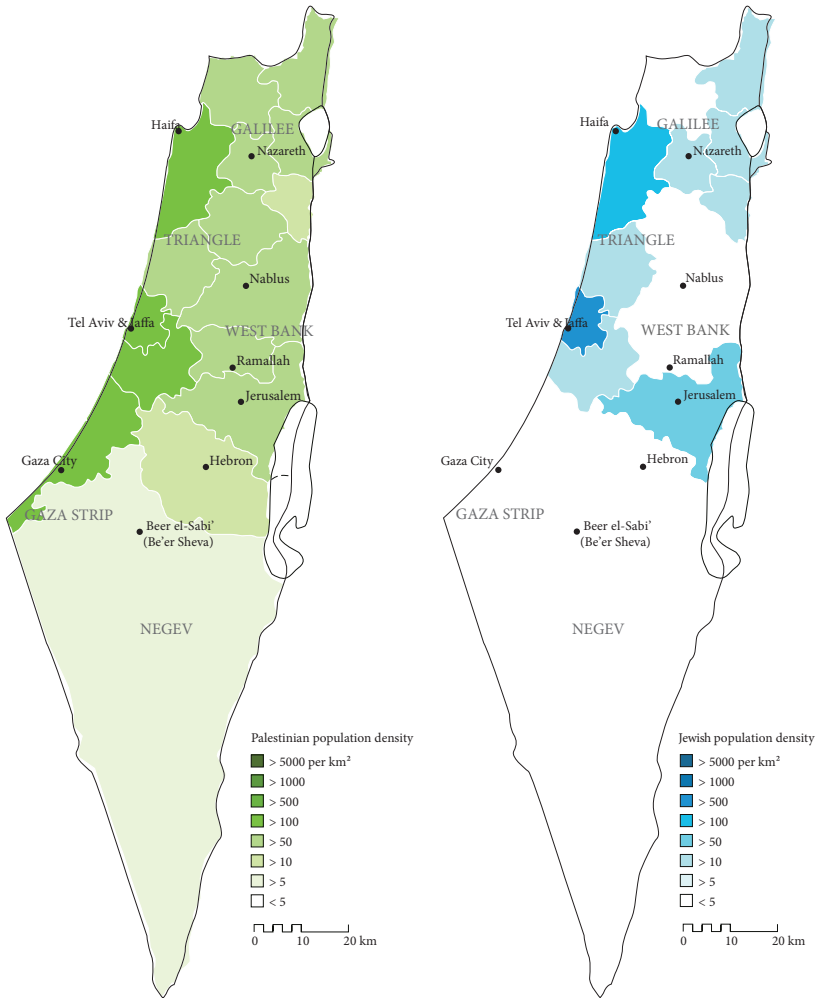


Figure 2. Approximate distributions of Jewish and Palestinian populations in Israel-Palestine in 1945 (Village statistics, PLO Research Center. Courtesy of Ahmad Barclay, 2010, arenaofspeculation.org).

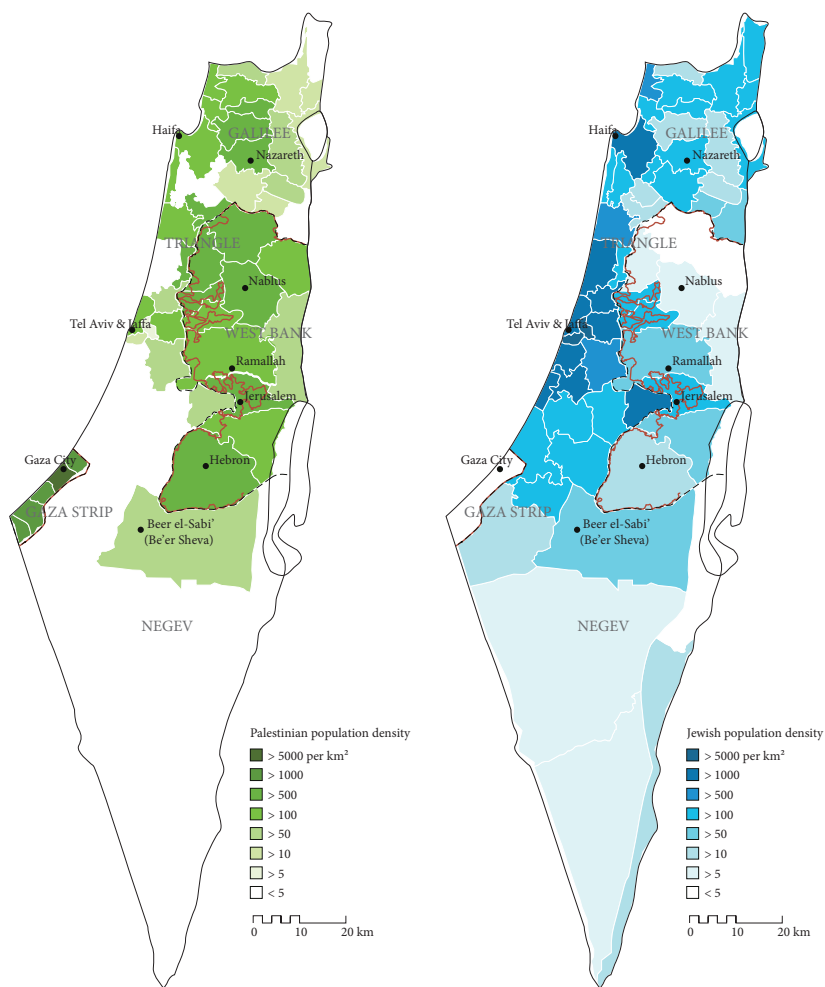


Figure 3. Approximate distributions of Jewish and Palestinian populations in Israel-Palestine in 2009 (Population Estimates by the Israeli Central Bureau of Statistics and the Palestinian Central Bureau of Statistics. Distribution of settlers by West Bank governorates for individual settlements from Peace Now. Courtesy of Ahmad Barclay, 2010, arenaof-speculation.org).

## INTRODUCTION

That the Israeli incorporation regime favours Jews and does not treat its inhabitants equally has been extensively outlined and supported with rich academic scholarship on the subject. Serious scholars and observers will not deny that Jewish privilege and dominance stretches over 'Israel proper' and the Occupied Territories, regardless of actual residency or legal origin.<sup>1</sup> Key to the maintenance of this system of domination and exclusion is the placement of Israel's non-Jewish inhabitants according to various legal classifications. All Palestinian-Arabs living within the Israeli incorporation regime are divided into various categories, each with differing sets of privilege and protection arranged according to a spatial logic. Expectedly, the Palestinian refugees living outside the parameters of the State of Israel are denied any share of its structures and frameworks. Next comes residents of the West Bank and Gaza Strip who live under a military occupation; the latter of whom further endure a debilitating blockade, and all of whom lack formal membership with the state but are nevertheless subject to the laws and spatial arrangements of its settler-colonial regime. Then we have residents of occupied East Jerusalem who have the right of mobility in the country, but who lack formal civic membership with the state. And finally, there are those Palestinian-Arabs within 'Israel proper' who hold Israeli citizenship and maintain civic relations with the state along with some entrenched rights; but again, remain excluded insofar as they do not have a Jewish national identity.<sup>2</sup> It is the Palestinian citizens of Israel, the segment of the divided Palestinian nation who comparatively has the most (though still limited) inclusion in the Israeli civic, social, and political regime that this book will focus on.

Today, one-fifth of Israel's citizen population is Palestinian-Arab.<sup>3</sup> Totalling more than 1.6 million citizens and constituting around

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<sup>1</sup> Though it is beyond the scope of this book, it is important to mention that there is also extensive and multifaceted discrimination among Jews of various national and ethnic backgrounds in Israel (for more, see Shohat 1999, 5–20; Abu 2011, 111–134).

<sup>2</sup> What this spatial arrangement may mean for the importance, implications and applicability of Occupation Law for examining the Israeli occupation regime has been nicely outlined in the online article by Darryl Li, "Occupation Law and the One-State Reality," *Jadaliyya*, August 2, 2011, <http://www.jadaliyya.com/pages/index/2295/occupation-law-and-the-one-state-reality>.

<sup>3</sup> Similar to the work of other scholars, the terms "Palestinian-Arabs," "Palestinians," and "Arabs" will be used interchangeably in this book to refer to the citizen collective within

20.5 percent of Israel's total population, the vast majority of Palestinian citizens are Muslim, though there is also a significant Christian as well as a Druze community.<sup>4</sup> Around 200,000 of this population are Arab Bedouin citizens,<sup>5</sup> members of the indigenous Palestinian community who remained on their lands in the Naqab (Negev) region, and around 360,000 Arab citizens are classified as internally displaced persons<sup>6</sup> referring to those who either fled or were driven from their villages and towns by the Zionist forces before the creation of the State of Israel, or by institutions following its establishment, and who remained within its borders. Despite their respective socio-economic differences, the collective situation of the

---

what is often called 'Israel proper' (the pre-1967 borders of the State of Israel). This terminology is used to highlight that, while the Arab community (including its Bedouin and Druze communities) has Israeli citizenship, it also has a shared history and collective experience with Palestinians in the West Bank, Gaza Strip, refugee camps and those abroad, and a language and culture shared with those in broader Arab societies.

<sup>4</sup> Moti Bassok, "Israel's population stands at 7.8 million with 2012 around the bend," *Haaretz*, December 29, 2011, <http://www.haaretz.com/news/national/israel-s-population-stands-at-7-8-million-with-2012-around-the-bend-1.404388>.

<sup>5</sup> Today the Arab Bedouin citizens are the most disadvantaged citizens in Israel and have, since the establishment of the State of Israel, faced a systematic state policy of home demolitions, displacement and dispossession. In September 2011, the Netanyahu government formally approved the Praver Plan which while officially claiming to 'formalize the status of Bedouin settlements' in the Naqab (Negev), practically calls for the mass expulsion of the Arab Bedouin community in the Naqab (Negev) area. Representing the Bedouin community, Adalah, the Legal Center for Arab Minority Rights in Israel, reports that "[i]f fully implemented this plan will result in the forced displacement of up to 70,000 Arab Bedouin citizens of Israel and the destruction of 35 'unrecognized' villages." Despite intense rejection of the plan by Arab Bedouins along with international condemnation of the initiative, the Praver Plan was placed back on the agenda on January 27, 2013 by the Israeli Cabinet who approved new recommendations put forward by Minister Benny Begin. See Prime Minister's Office [State of Israel], "Cabinet Approves Minister Benny Begin's Recommendations on Formalizing the Status of Bedouin Settlement in the Negev," Press Release, January 27, 2013, <http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokebedu270113.aspx>; Adalah: The Legal Center for Arab Minority Rights in Israel, *The Arab Bedouin of the Naqab: Myths and Misconceptions*, 2012, <http://adalah.org/Public/files/English/Publications/myths%20of%20flyer%20campaign.pdf> and "Demolition and Eviction of Bedouin Citizens of Israel in the Naqab (Negev) – The Praver Plan," <http://adalah.org/eng/?mod=articles&ID=1589>.

<sup>6</sup> Just under half of the Bedouin population live in dozens of villages that remain unrecognized by the Israeli government as well as in several new recognized townships. The internally displaced Palestinians in Israel do not receive international protection, representation or assistance since UNRWA ceased to operate within the borders of Israel in 1952. An Inter-Agency Forced Displacement Working Group led by the Office for the Coordination of Humanitarian Affairs has, since 2008, been assigned with the protection of displaced Palestinian-Arabs, but the Badil Resource Center for Palestinian Residency and Refugee Rights reports that "[t]hese recent efforts have yet to achieve tangible solutions, particularly in the areas of prevention of new forced displacement, medium and long-term protection and durable solutions" (see Badil 2013, xviii).

Palestinian-Arabs in Israel is, at best, paradoxical. On the one hand, they are denied both national-membership, as non-Jews, and state identification, given Israel's legal, political and social self-definition as a state for the Jewish people. On the other hand, this community is also distanced from the rest of the Palestinian population through the same legal, political and social dimensions. As it stands, the State of Israel continues to deny the existence of its Palestinian-Arab citizenry as an indigenous population, a national group, or even a national minority. Far from integration into the Israeli regime, Palestinians are placed in a paradoxical situation where, as Arab citizens of a Jewish state, they are both *inside* and *outside*, *host* and *guest*, *citizen* and *stateless*.

In examining the case of Jewish and Palestinian-Arab citizens, questions of 'who is the guest' and 'who is the host', the interchangeability of these roles and the violent dynamics between them, become particularly relevant to understanding the development of their relationship. Given the subjective nature of collective consciousness, it is immensely difficult to agree not only when but also even *whether* a collective or a host – and therefore a guest – has emerged. The problem that follows from this is not merely how to account for or justify sharp differences in the range of socio-political, economic, cultural, linguistic, or legal rights bestowed to the collective. It is also one of how to discern the type of collective that has developed in relation to its Other. That said, we cannot consider the collective evolution of the Palestinian citizenry of Israel without assessing the kind of citizenship regime within which they are placed. However complex these determinations may be, it is clear that Israeli (ab)uses of citizenship perpetrated in the process of placing Arabs within their multi-faceted system of control have situated these people on the periphery of both Israeli and Palestinian society. It is also clear that, rather than pursuing the absorption or integration of the Arab citizenry, Israeli policy has, since the inception of the state, been shaped by the objective of effective control and exclusion.<sup>7</sup> Equally clearly, this objective has been realized, insofar as it has succeeded, through the active application of the principles, tools and discourse of citizenship.

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<sup>7</sup> See Lustick (1980). Many analysts, this author included, view the ultimate and ongoing objective of the Zionist project (and its policies of exclusion and control) as one of completing the ethnic cleansing of Palestinian-Arabs left unfinished in 1948 in the entire area of Mandate Palestine. This reading is repeatedly confirmed not only through Israeli land laws that dispossess and expel Palestinians from their lands, but also through threats of mass attacks and collective punishment of Palestinians that surface in statements made through news outlets, quasi-official documents and policy- and decision-makers.

The institution of citizenship often represents the intersection of identity and the law, and is the locus of constitutionally based articulations of membership in the state. It is understood as a legal status providing privileges of social membership in a political community and, in the process, producing dynamics of inclusion and exclusion. Broadly conceived as a mechanism of civic incorporation within a political community, citizenship is often a contested space for individual and collective group rights and decision-making. Comprised of different readings of membership and its accompanying rights, the kind of citizenship provided to a collective thus reflects the various group relations that exist within that state. As such, the notion of citizenship is one of the most valuable prisms through which one can analyze conceptions of statehood. Indeed, diverse struggles among individuals and groups shape the content, structures and boundaries of citizenship, which in turn form a definition of the political community and the dynamics of political life. Different types and degrees of rights granted to a citizen population often reflect how states use citizenship to incorporate social groups into their structures while simultaneously (re)drawing or (re)forming social categories. And, as a result of state practices of granting differential citizen-access to rights and responsibilities, various patterns of citizenship are (re)shaped, (re)created and reinforced.

Such social and political struggles over the content, structures and boundaries of citizenship are key to contemporary Israeli political life. In the case of Israel, its citizenship regime is shaped by a Zionist ideology that nurtures sophisticated policies of exclusion with its respective systems of control. These policies of exclusion work in tandem with limited inclusion in all areas of social life. In Israel, the Jewish state is not only a source of identity but it is also the guarantor of rights.<sup>8</sup> This is because Jewish identity in Israel provides an entirely new and much broader scope of rights irrespective of formal citizenship. Put differently, Jewish identity is automatically merged with Israeli citizenship. Understandably, such a conception of social membership impacts and (re)shapes the boundaries of participation, representation and inclusion for its Arab and other non-Jewish citizens. Indeed, access to the home, the city, the state and the land itself in the State of Israel in the form of civic identification, claims, rights and membership, is deliberately designed to exclude the non-Jewish community.

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<sup>8</sup> This point was elaborated upon in Kimmerling (1999, 339–363). For a more detailed account of how the Zionist incorporation regime fuses Jewish and Israeli identity, see Chapter Five.



Yet this is not to suggest that the citizenship regime in Israel is non-inclusive whereas the citizenship regimes of other states are inclusive. As this book argues, there is an intrinsic and categorical Otherizing that lies at the root of the very concept and process of citizenship. This involves the formation and use of an Other, a non-member or outsider who is excepted from but maintained within the social arrangement. Thus, it is far from the case that the citizenship regime in Israel is an anomaly because its citizenship framework is ensconced in a *relation of exception*. Instead, what sets the Israeli citizenship regime apart, what constitutes the particular peripheral placement of Palestinian-Arabs within it, is the specific mechanisms of Israeli citizenship and the exclusive dynamics of its *internal* relations.

Citizenship is, for the most part, a modern notion; major social and revolutionary movements in the West such as the American War of Independence and the French Revolution have shaped its inclusive and exclusive dynamics (Turner 2002, 271). While incorporating some of this intellectual tradition, contemporary Israeli citizenship is a particular amalgamation of the expansionist mentality of late nineteenth century European colonialism, nationalism and Zionism, and twentieth century wars and settlement projects. This book seeks to deconstruct the mechanisms that are particular to the Zionist citizenship regime. It looks at the inherent dynamics of exclusion within the Zionist citizenship framework that not only place it apart from traditional citizenship regimes, but also render any meaningful citizenship by its Arab population an impossibility. Indeed, only until relatively recently has this segment of Palestinian-Arab society, the Arab citizens, received serious scholarly attention. For the most part, the precarious situation of Arab citizens within the Zionist citizenship regime has been treated by mainstream voices as an internal problem, a domestic Israeli concern, and as a case of troubled state-minority relations. But the recent scholarly efforts of prominent critical Arab, Jewish and Western social science researchers to investigate the Palestinian citizens of Israel have begun to drastically challenge these assumptions. By exposing the Zionist fusing of 'Jewish' and 'Israeli' identity, and its practical and theoretical effects on Arab citizenship, these scholars have paved the way for new generations of researchers to build on their impressive sociological research on Palestinians in Israel.

The existing academic literature has, thus far, largely focused on the question of *what* Palestinian citizenship entails. What are the levels of domination in Israel? What kinds of rights and privileges are provided to Arabs by virtue of their citizenship? What is the relationship between Arab citizenship and the modern Zionist project of Judaization and

expansion? These are the kinds of questions that notable scholars have emphasized. By and large, the academic literature has tried to make analytical ‘sense’ of what it is that has led to a deepening internal and disparate disconnect between de jure and de facto citizenship for Arabs in Israel. To this end, critical social scientists will often correctly point to an absence of rights, identification and representation with formal Israeli citizenship. In doing so, scholars have described the Israeli citizenship of the Palestinians in a variety of ways, including: *one-way* citizenship, *hegemonic* citizenship, *illusory* citizenship, *shrinking* citizenship, *ghettoized* citizenship, *hollow* citizenship, *mere* citizenship, *something less than* citizenship, and a citizenship *emptied of real content*.

But on the question of *how* the space for Palestinian citizenship has (d)evolved, (de)generated, or been (re)drawn, the existing literature has mainly focused on the structural, institutional, conceptual, sociological, legal, racialized, historical, economic, and gendered tendencies within the Israeli incorporation regime. Broadly speaking, the existing literature on the exclusionary dynamics of Palestinian citizenship has mainly taken the form of depicting it as *missing something* – as an *incomplete* or *partial* citizenship whose structure cannot be used to sustain a liberal democratic society. Taken together, the question of *how* this deprived Arab citizenship is formed and maintained, and the kinds of relations of exclusion that are created, is often answered by describing the rights, freedoms, resources, benefits, and discourses that are absent, exclusionary or made inaccessible.

This book does not contest these observations. On the contrary, it is upon the impressive and rich critical scholarship on Palestinians in Israel that this book is based. Working from this literature, the purpose here is instead to conceptualize an analytical framework for understanding *how* the dynamics of exclusion in Palestinian citizenship have developed. To this end, it is argued that the means, the actual medium, *through* which, *by* which, and *from* which marginalized Palestinian existence is maintained in Israel is *citizenship itself*. As the chapters outline, it is the provision of citizenship, the very inclusion within the Israeli citizenship regime that creates the inherent contradictions and paradoxes of Arab citizenship in a Jewish state. So, in contrast to other Western nation-states, the Israeli citizenship regime inverts the relation of exception embedded within the classical model of liberal citizenship.<sup>9</sup> It is Palestinian *inclusion* within the

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<sup>9</sup> Importantly, certain features of the relation of exclusive-inclusion (as explained in Chapter Six) integral to Israeli citizenship may appear to readers as also being characteristic of the citizenship regimes to which indigenous populations are faced in the West,

Zionist citizenship regime that produces their multifaceted *exclusion*. Here the concept of *stateless citizenship* becomes a useful analytical framework. Through its various internal paradoxical dynamics, stateless citizenship helps us understand the particular mechanisms and levels of (in-)existence and (non-)representation to which Arabs in Israel are subjected. It is through Israeli citizenship that Arabs are deemed stateless; it is through inclusion within the Israeli citizenship regime that they are excluded. And it is the associated conceptual and political dynamics of this provision of citizenship that the notion of *stateless citizenship* seeks to emphasize and analytically deconstruct.

### A NEW CHAPTER OF PALESTINIAN HISTORY

A brief look at their particular historical development and placement in the Israeli regime is key to understanding the existing political, social, conceptual and identity-based contradictions faced by Palestinian citizens of Israel. Indeed, an overview of their specific historical experiences accounts for the oscillation between the *Palestinian*, *Arab* and *Israeli* parts of their identities. As a Jewish national movement that developed out of the propagation of Jewish immigration to and settlement in historical, or Mandate Palestine, Zionism has largely been a territorial and demographic success. By now, the military campaigns leading up to the 1948 *Nakba*, or catastrophe, have been widely documented.<sup>10</sup> The events of the 1948 war resulted in the forced displacement and devastating rupture of the indigenous Palestinian community.<sup>11</sup> Mass expulsions of Palestinian Arabs began in

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including in Canada, Australia, and the United States. For instance, the exclusion of Palestinians through an inclusion into the Israeli citizenship regime can reasonably be placed alongside campaigns for the incorporation of Aboriginal or indigenous communities in the citizenship systems of the mentioned settler-colonial states. As I reaffirm below, a historical and sociological comparison of the Israeli citizenship regime with those of other settler-colonial societies in the West is beyond the scope of this book. However, as the discussions and analysis in the prospective chapters will show, many dynamics illuminated in the concept of *stateless citizenship* appear particular to the Jewish state. Nevertheless, future scholarly undertakings on this issue could serve as a useful extension of the present discussions.

<sup>10</sup> For instance, these scholars have contributed to the impressive body of knowledge concerning the 1948 war and laid the grounds other critical examinations of the Zionist-Palestinian conflict: Abu Sitta (2001); Finkelstein (2003); Flapan (1987); Khalidi (1988) and (2005a); Lehn and Davis (1988); Masalha (1992); Morris (2004); and Pappé (1992), among others.

<sup>11</sup> It is important to note that the phrase '1948 war' can be misleading. Numerous scholars have documented that the mass expulsions of Palestinian-Arabs by Jewish-Zionist

December 1947 and accelerated in the two months between March 10, 1948 and May 15, when the British authorities left Palestine. Hundreds of thousands of Palestinians, mostly villagers, were uprooted during this time, and severe military offensives by the Zionist forces were reported to have been conducted (Pappé 2006, 40).<sup>12</sup> Although there were around one million Palestinian-Arabs living in Mandate Palestine in early December 1947, the mass displacement and series of systematic exclusions, ethnic cleansing and rampant massacres by the Zionist forces resulted in the creation of around 750,000 Palestinian refugees. And it is the descendants of these Palestinians that are today the largest and oldest refugee population in the world. During these ethnic cleansing campaigns, around 13,000 Palestinians were killed and around 418 villages were destroyed and depopulated, leaving a mere 156,000 Palestinians remaining (Khalidi 1992, xix, xxxi, 581).<sup>13</sup>

Those Arabs who stayed are today located in three main areas: Galilee in the north, the Triangle area (cluster of Arab villages along the Green Line) in the centre, and the Naqab in the south. Of the 156,000 Palestinians who remained in Israel after the 1948 war, approximately 30 percent

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forces already began in late 1947. In addition, as professor Neil Caplan explains, “Although some historians would cite 14 May, 1948 as the start of the war known variously as the Israeli War of Independence, *an-Nakba* (the [Palestinian] Catastrophe), or the first Palestine war, it would be more accurate to consider that war as beginning on 30 November, 1947, with the Arab attacks which followed the passage of the historic United Nations partition resolution of 29 November.” Thus, it is for reasons of practicality, that this book will refer to the civil war and military and ethnic cleansing operations that took place between late 1947 to January 1949 by its popular title, the ‘1948 war’ (see Pappé 2006, 55–60; Caplan 1997, 17).

<sup>12</sup> Here Pappé also explains that “... Arab intervention only materialized on 15 May, 1948, five and a half months after the UN partition resolution had been adopted. During that long period most of the Palestinians – apart from a few enclaves where paramilitary groups were trying to organize some sort of resistance – remained defenceless in the face of Jewish [Zionist] operations already underway” (ibid., 47). Also important to note here is that, though not on the same scale as that of the Palestinian-Arab population, the deaths and targeting of unarmed civilians during the 1948 war also included Jews in Palestine and in neighbouring Arab countries. One major massacre of Jewish civilians in Palestine during this occurred on December 31, 1947 at the Haifa Oil Refinery where 39 Jews were killed by Arab workers after the Zionist paramilitary group *Irgun* had thrown a bomb into a crowd of Arabs, killing 6 and wounding 42; another occurred on May 13, 1948 with a massacre in the Jewish settlement of *Kfar Etzion* where around 130 surrendering individuals were killed by Arab fighters, among others. This second major massacre of unarmed Jewish civilians was a response to the well-publicized brutal massacre of Palestinians in *Dir Yassin* which took place on April 8, 1948, and is further detailed in Chapter Four of this book (see also Morris 1999, 195–205; Benvenisti 2000, 116).

<sup>13</sup> Of the 418 villages reported by Khalidi, 292 villages were totally destroyed, 90 villages were largely destroyed with a small percentage of houses left standing, 8 villages had some houses destroyed, and 7 villages survived but were overrun by Jewish settlers.

(around 46,000) were displaced from their towns and villages to become internal refugees, meaning that they could not go back to their original villages and towns (Wakim 2001, 90–104 quoted in Sabbagh-Khoury 2011, 31). Now there is some disagreement on the particular statistics of the refugees and internally displaced, as well as on the number of villages demolished as a result of the *Nakba*.<sup>14</sup> However, there is no disagreement among serious and honest scholars of the Zionist-Arab conflict that there was an organized and systematic campaign of ethnic cleansing implemented against the indigenous Palestinian population.

As prominent Palestinian historian Walid Khalidi explains, the offensives by the Zionist forces “which entailed the destruction of the Palestinian-Arab community and the expulsion and pauperization of the bulk of the Palestine Arabs, were calculated to achieve the military *fait accompli* upon which the State of Israel was to be based” (Khalidi 1988, 8). Before this fragmentation and collapse of the indigenous population, the Palestinians who remained on their lands and were involuntarily granted Israeli citizenship were part of Palestinian society and its struggle against the British Mandate and the Zionist settler-colonial project. Having just endured a century of British imperialist rule and the violent shattering of their society, the remaining Palestinians were, through the bestowal of Israeli citizenship, thrown into a juridico-political order premised on controlling, excluding and removing them. Immediately after the 1948 Zionist-Arab war, a ‘Military Government’ or ‘Military Administration’ was formed on the basis of the *Emergency Regulations* set up during British rule. Used by the newly established state to control, isolate and dispel the remaining Arab population, the Military Administration enforced a rigid array of restrictions on the mobility of Palestinians living in the Galilee, the Triangle, and the Naqab, maintained careful surveillance, supervised the flow of Arab labour to Jewish cities, derailed attempts at organized political activity, and pre-empted efforts by internally displaced Palestinians to return to their homes and lands (Mattar 2005, 377). Yet none of these efforts compared to the devastation incurred by Palestinians in the form of land confiscation. Systematic state-led initiatives were implemented through an assortment of juridico-political and military measures that transferred large sections of Palestinian-owned land and resources to the

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<sup>14</sup> For instance, unlike Walid Khalidi, Ilan Pappé and Salman Abu Sitta estimate that 531 villages were destroyed while Israeli historian Benny Morris holds that 369 villages were demolished (see Khalidi 1992; Pappé 2006; Abu Sitta 2000; Morris 1988).

control of the newly immigrated Jewish population.<sup>15</sup> This expropriation of large amounts of Palestinian land continued into the 1970's, and beyond, long after the official end of the Military Administration in 1966. All in all, the period of military rule reinforced both social and geographical fragmentation within the Palestinian-Arab population, as well as between the Arab and Jewish sectors of Israeli society.

Though a multifaceted system of control and surveillance of Arab citizens remained in place well after the end of the Military Government, it began to function more discreetly by the end of the 1960s. Accordingly, arenas of activity and engagement within Israeli society that were previously closed off to Palestinian citizens gradually began to emerge. Having effectively contained, isolated, and subordinated the Arab community to a hegemonic Zionist consensus of Jewish dominance, Israeli institutions began to include spaces for Arab participation. And so, by the early 1970s, a new and bolder Arab leadership began to develop in Israel. The massive land confiscations in the 1950s, 1960s and 1970s became a sharp symbol of the violations of Palestinian rights by the Israeli state, and, on March 30, 1976, Palestinians united to participate in the first-ever national general strike since 1948. This mass action was in response to a new wave of government-approved expropriation of Palestinian-owned land in Galilee; including a plan of expropriation that would affect around 20,000 dunums of land (or 5,000 acres) between the Arab towns of Sakhnin and Arrabah.<sup>16</sup>

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<sup>15</sup> Chapter Four elaborates on the importance of demographics in daily Israeli policy and decision-making, but here it is important to point out that preferential treatment of the Jewish population was controversial for Arab and even some Western observers even before the inception of the State of Israel, given that the Jews were a minority as compared to the indigenous Palestinian population. A report on November 11, 1947 prepared by Sub-Committee Two, an Ad Hoc Collective set up by the United Nations General Assembly and tasked with studying alternative proposals to partition, explains that by December 31, 1946, Jews comprised only one-third of the population of Palestine, which held some 608,000 Jews and 1,237,000 Arabs. The report also goes on to show that even within the area designated for a Jewish state under the Partition Plan of the United Nations Special Committee on Palestine, the population consisted of around 500,000 Jews and 509,700 Arabs. When examining the demographic reality of the area of Beer el-Sabi' (Be'er Sheva) proposed for a future Jewish state, the authors of the report comment that "It is surprising that the majority of an international committee such as the [UN] Special Committee [on Palestine] should have recommended the transfer of a completely Arab territory and population to the control of the Jews, who form less than 1 percent of the population, against the wishes and interests of the Arabs, who form 99 percent of the population" (see United Nations General Assembly Ad Hoc Committee 2005a, 675–677). For a demographic and geographical breakdown of the whereabouts of the Palestinian population, from the period until 1918 to June 1967, see also Hagopian and Zahlan (1974, 32–73).

<sup>16</sup> A dunum (or, alternatively, *donum* or *dunam*) is unit of land area commonly used in the Middle East, mainly in countries that were formerly part of the Ottoman Empire. One (metric) dunum equals 0.247 acres.

With efforts to stop the general strike and the ongoing protests through pressure and the offering of financial and political incentives proving fruitless, the Israeli government began deploying army units, police officers and border guards inside and around Arab localities and social centres.<sup>17</sup> The result of this severe police repression was the death of six Palestinian citizens, along with around one hundred injured and many more arrested. Serving as a stark reminder of the continued confiscation of their land and collective struggles against ongoing Judaization campaigns,<sup>18</sup> March 30 has since been commemorated as *Land Day* by Palestinians everywhere – citizens, refugees, those living under occupation and those living as refugees abroad.

In the early 1980s, and especially with the wave of demonstrations that erupted in October 1982 in response to the massacres conducted in the Palestinian Sabra and Shatila refugee camps in Lebanon, political organizing and awareness increased among Arab citizens. Developing out of the National Committee of Arab Mayors in Israel, the High Follow-Up Committee was formed by Arab Members of Knesset (MKs), local government figures, union heads, and leaders from civil society organizations. This Committee organized political actions including protests against the Israeli invasion, and called for a series of general strikes on national

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<sup>17</sup> Notably, none of the official documents of the Israeli Ministry of Defence deemed the general strike and associated events as ‘actions of warfare’ that would have otherwise officially merited the extreme reaction by the Israeli security forces. For more on the events and significance of *Land Day*, see Beinín (1989, 205–216).

<sup>18</sup> The Zionist policy of Judaization (or *tahweed* in Arabic) refers to the systematic domination of Jewish populations and the formation of clear Jewish demographic majorities in Mandate Palestine, through the process of ethnic cleansing and dispossession of the indigenous Arab population. A secret 1976 memorandum submitted to Israeli Prime Minister Yitzhak Rabin and other government officials recommended changes in Israeli policy toward Palestinian-Arabs in Israel and outlined a detailed plan for the Judaization of the Galilee. Written by Israel Koenig, the Northern District (Galilee) Commissioner of the Ministry of Interior at the time, the Koenig Report aimed to meet “long-term Jewish national interests” with measures of demographic engineering and control. Among other suggestions, the Koenig Report recommended the restriction of Arab employment and education, reduction of their access to social services, and asserted the need for an expansion of Jewish settlements in the interest of “diluting existing Arab population concentrations.” In a joint publication, the Center on Housing Rights and Evictions (COHRE) and Badil Resource Center for Palestinian Residency and Refugee Rights observe that “[a]lthough the Government has never acknowledged that its official policies were guided by this plan, many of the recommendations of the Koenig Plan were in fact implemented, especially those to expand land expropriations from Arab owners and establish new Jewish settlements in the area in order to fragment and contain the Palestinian population. Successive plans for the ‘development’ of the Galilee clearly reflected Koenig’s recommendations ....” See *Ruling Palestine: A History of the Legally Sanctioned Jewish-Israeli Seizure of Land and Housing in Palestine*, May 2005, <http://www.badil.org/en/documents/category/35-publications?download=102%3Aruling-palestine>. For a reprint of the original report, see Koenig (1976, 190–200).

occasions and during political gatherings. Supporting the Palestinian struggle against the Zionist colonial project in general, but itself a response to Israel's policies of exclusion and discrimination against its Arab citizens, the Committee quickly brought a new sense of national unity to Palestinian political activism. And this feeling of solidarity across the dividing borders was reinforced during the first Palestinian Intifada in 1987. During this politically dynamic and tumultuous time, numerous initiatives, marches, and campaigns were held by Arab citizens and their representatives supporting both demands for equality within Israeli society and expressions of support for the struggles of Palestinians in the West Bank and Gaza Strip.

The end of the first Intifada and the formal launch of the 'peace process' in 1991 with the Madrid Peace Conference opened yet another chapter in the history of Palestinian citizens. Having reached a peak in 1993 with the Oslo Declaration of Principles, the 'peace process' completely excluded Palestinians inside Israel from any direct role in the negotiations. The (anti)climactic results of the Oslo Accords targeted the Palestinians in Israel from two angles. First, the intensification of the 'broader' conflict triggered an enhanced feeling of existential threat among Israeli Jews, which firmly placed the Arabs in Israel under a marginalizing and repressive security discourse. But perhaps more disconcerting for the community was that the 'peace process' had completely ignored the status and political future of the Palestinians in Israel. They were not participants in the building of Palestinian national and political organizations, nor were their concerns as a community subjected to unequal laws and repressive policies ever considered a main issue for the Palestinian national movement (Rouhana and Ghanem 1998, 333). Almost completely ignored in the domestic Israeli arena, and excluded from the Palestinian national movement, Arab citizens were left without representation from all sides. In fact, little has changed since. As the *Palestine Papers* released in January 2011 revealed, the Palestinian negotiators had agreed to consider absorbing Arab villages (and their residents who are currently Israeli citizens) within a future Palestinian state. Indeed, far from any romantic reasons related to Palestinian national unity, we now know that the Palestinian negotiators agreed to consider the population transfer as a concession to Israel. In other words, the Arab citizens were, at an official diplomatic level, treated as a bargaining chip.<sup>19</sup>

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<sup>19</sup> Gregg Carlstrom, "Expelling Israel's Arab population?" *AlJazeera English*, January 24, 2011, <http://english.aljazeera.net/palestinepapers/2011/01/201124105622779946.html>. The *Palestine Papers* were released in January 2011 and contained a collection of nearly 1700 files



The period of the Oslo Accords was critical in that it shifted the political direction and energy of the Palestinians in Israel. Demanding recognition as a homeland minority community, equal legal rights and political representation, Arab citizens redirected their organizing efforts to a non-state alternative: civil society. Through their civil society, Palestinian citizens sought to redefine the boundaries of political discourse in Israel to bring the needs and demands of their community to the forefront of the political agenda. Their challenge to the exclusionary structural and institutional terms of the Israeli regime culminated in October 2000 with the start of the second or Al-Aqsa Intifada. During this period, mass demonstrations and initiatives were organized by Arab citizens to both call for equal citizenship and to show solidarity with the mobilizations in the Occupied Palestinian Territories (OPT). But faced with violent suppression by the Israeli security apparatus, these and other initiatives from October 1 to October 9 resulted in the deaths of thirteen Palestinian citizens and the injury of hundreds. Over the course of the next few months, human rights organizations reported trends of arbitrary arrest and detention, as well as inhumane treatment by the Israeli security forces of Palestinian citizens in custody.

Responding to these and other allegations, then Prime Minister Ehud Barak called for the establishment of a 'committee of clarification'. Formed on November 8, 2000, the Or Commission investigated the October clashes and collected testimonies by Israeli police officers and commanders, as well as Palestinian citizens and community leaders. Throughout these accounts, witnesses repeatedly confirmed that Palestinian demonstrators were unarmed, that use of physical beatings and live ammunition by the security forces was widespread and indiscriminate, and that Israeli police provided insufficient protection for Arab citizens under attack from Jewish provocateurs and violent mobs (see Chapter Two). Despite these findings, the October 2000 protests nevertheless fuelled the increased securitization and isolation of Arabs citizens in what had become a heavily polarized Israeli society. The psychological and political effect of these events on Palestinians in Israel was a further reorientation towards civil society as an avenue for resistance. Indeed, this period allowed for a more substantial exchange on Arab civil and social presence in Israel. With civil society

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including maps, documents, meeting minutes and more. These documents covered the official diplomatic correspondence between the Israeli negotiators and Palestinian Authority from 1999 to 2010, and outlined the internal exchanges and workings of the Zionist-Palestinian peace process.

as an institutional and intellectual base, Palestinian citizens began working more with academics, union leaders and political representatives in their communities to strengthen their demands for equality, genuine representation and democratic citizenship. Today, Palestinian civil society in Israel continues to be one of the most (if not *the* most) important tools for challenging Israel's discriminatory policies and hierarchical citizenship regime. As we will see in Chapter Two, during periods of intense political, social and legal instability since the second Intifada, Palestinian civil society in Israel has remained a key avenue for political discussion and organizing. Taken together, the various chapters in the history of the remaining Palestinian-Arabs, and their interactions with the State of Israel, reflect an oscillation between the *Palestinian, Arab* and *Israeli* parts of their identities. They constitute the ongoing transformation of this community in Israel as a collective formed by political and ideological circumstances that are different, though not separate, from those of the broader Palestinian nation.

#### A WORD ON ZIONISM

My interest in Zionism as an ideological and political movement intensified as my examination of the situation of Palestinian-Arab citizens of Israel progressed. As Israeli historian Shabtai Teveth, also one of the few official biographers of Israel's first Prime Minister and founding father, David Ben-Gurion, explains:

Zionists called the complex issues surrounding relations between Arabs and Jews in Palestine 'the Arab question'. [But] Ben-Gurion noted that this was an 'imprecise definition'. He recognized that this 'tragic question of fate arose only as a consequence of Zionism, and so was a 'question of Zionist fulfillment in the light of Arab reality'. In other words, *this was a Zionist rather than an Arab question*, posed to Zionists who were perplexed about how they could fulfill their aspirations in a land inhabited by an Arab majority (Teveth 1985, vii, emphasis added).

The paradoxes at the base of Arab membership in the Jewish state become increasingly apparent the more one grows to understand the intrinsic conceptual, ideological and political non-existence and invisibility of Palestinian-Arabs in the Zionist mindset. And so, any examination of Palestinian presence in the Israeli citizenship regime must include an account of the development of modern political Zionism. As the forthcoming chapters will show, it is the conceptual, political and ideological tenets of modern Zionism that underpin Israel's citizenship regime today.

Since its inception in the late nineteenth century, Zionism has evolved into a plethora of ideologies, assuming religious, labour, spiritual, revisionist, humanist, cultural and other ideological forms. Many of these forms of Zionism, notably its variations as epitomized by prominent thinkers, activists and religious scholars such as Ahad Ha'am, Martin Buber, Ernst Simon, and Judah Magnes, among others, have critiqued the nationalistic, state-centric, militaristic and xenophobic elements which political Zionism was injecting into its reading of Judaism. However, its modern adherents mainly understand Zionism as a movement for Jewish national self-determination in the form of a Jewish nation-state in what is called *Eretz Israel*, or 'Greater Israel'; which includes the area of Mandate Palestine, along with parts of southern Lebanon and Jordan. As such, when referring to 'modern Zionism' or 'political Zionism' in this book, I am pointing to Zionism as a political project of settlement, colonialism and statehood based on an ideological understanding of the exclusiveness of the Jewish people. Importantly, this is not to undermine or ignore the ways in which early self-identified and active Zionist thinkers, such as those listed above, initially sought to reinvigorate Jewish awareness, organization and identity as a response to the violent and widespread persecution and anti-Semitism faced by Jews throughout Europe. Nor is it to question the fact that, for many Jewish immigrants, Mandate Palestine served as a place of refuge from such persecution.

The notion of race, racialized representation, and racism is part and parcel to any discussion of modern political Zionism and cannot be satisfied with consideration of the function of ethnicity and religion in Israel alone. Far from an accidental or passing feature of Israeli society and politics, racism and racial discrimination is inherent in the ideological construct of modern political Zionism and its basic motivation for Jewish settlement, colonization and statehood. Believing in the national oneness of all Jewish people regardless of any political, social, legal, religious, or linguistic ties, Zionist literature and discourse make repeated reference to a certain 'common ancestry', 'national fulfillment' and a 'national oneness' of Jewish people everywhere.<sup>20</sup> Importantly, since taking shape as a national movement, "a dominant order of Zionism articulated 'the Jewish

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<sup>20</sup> As stated by Ben-Gurion, "The State of Israel is a part of the Middle East only in geography, which is, in the main, a static element. From the decisive aspects of dynamism, creation and growth, Israel is a part of world Jewry. From that Jewry it will draw all the strength and the means for the forging of the nation in Israel and the development of the Land; through the might of world Jewry it will be built and built again" (Ben-Gurion 1954, 489).

race' as creating coherence, artficing initially discursive homogeneity of and for 'the Jewish people' in the face of a scattered and diffuse 'nation'" (Goldberg 2008, 31). Within such a framework, the Zionist project of settlement, colonization and statehood renders the continued existence of an indigenous non-Jewish population in the coveted territory essentially contradictory. For instance, the incompatibility of non-Jewish persons with the Zionist state project is made explicit in the discriminatory land policies of the Jewish National Fund – a Zionist organization that, by May 1948, was the largest landowner in Mandate Palestine (Lehn 1974, 74–75). Proposed in August 1897 at the First Zionist Congress in Basel, Switzerland and amended in subsequent years, the title to the lands held by the Jewish National Fund was "to be held in perpetuity, 'as the inalienable property of the Jewish people'."<sup>21</sup> These lands "could not be leased to a non-Jew, nor could the lease be sub-leased, or sold, or mortgaged, or given, or bequeathed to any but a Jew," and "non-Jews could not be employed on the land or even in any work connected with the cultivation of the land."<sup>22</sup>

The racial configuration of modern Zionism and its principal progeny, the State of Israel, is nicely elucidated through South African scholar David Theo Goldberg's concept of "racial palestinianization." Refraining from defining Israel as an apartheid state, Goldberg employs critical race theory to describe Israel, as a modern nation-state, to be a *racial state*: "a state racially characterizing itself in its founding self-representation" (Goldberg 2008, 27). As a "racially configured" and "racially representative" nation-state, Israel has been "caught up in the race-making web of modernizing statehood."<sup>23</sup> The importance of examining Zionism as a racially, and not merely ethnically or religiously, configured ideology and movement becomes evident when we look at the racialized structures of power within Israel, and its placement within the racial hierarchy of the region. Goldberg explains:

Israel is taken as an outpost of European civilization, a frontier of sorts, in an altogether hostile and alien environment. Brothers to Christians, keepers of the faith and holy sites, a flourishing democracy in the land of Christ and

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<sup>21</sup> Article 3 of the *Constitution of the Jewish Agency for Palestine* (adopted August 1929, reprinted 1945); see Lehn 1974, 92–93.

<sup>22</sup> *Ibid.*

<sup>23</sup> Goldberg continues: "Israel represents modernization, progress, industry and industriousness, looking to the bright future, the civilizing mission of the best that has been thought and could be thought. [And] Palestine represents the past, failed effort if effort at all, antique land still tilled by hand and the perennial failure of governance, a place constantly in the grip of its time past and passed" (*ibid.*).

region of alien autocratic regimes, a defender against irrationality and irreverence of life surrounded by infidels, a tower of strength and stability fueling American industry, readers of the same book(s) and lovers of the same culture. .... In this scheme of things, it seems, Israel must be European, presumably white. But in keeping with contemporary racial americanization, with born again racism, Israel's whiteness is transparent, virtual, invisible. *Israelis occupy the structural positions of whiteness in the racial hierarchy of the Middle East.* Arabs, accordingly – most notably in the person of Palestinians – are the antithesis...(Goldberg 2008, 32–33, emphasis added).

Within this arrangement, what makes the process of palestinianization explicitly racial – and, by extension, what reveals the racial configuration of Zionism – is, argues Goldberg, the reality that

Palestinians are treated not *as if* a racial group, not simply *in the manner* of a racial group, but *as* a despised and demonic racial group. .... Palestinians in particular, and Arabs more generally, are treated directly as a subjugated race. Beaten in the name of devaluating stereotypes, concentrated in camps in the name of generalized security, displaced in the name of biblical right ..., killed in the name of retributive justice, Palestinians are ordered in the name of race rendered see-through, of a category in denial, of a conception unmarked because of a history cutting too close to the bone (Goldberg 2008, 42–43).

As such, although my book does not itself undertake a critical analysis of race, it is premised on the above understanding of modern political Zionism (hereafter 'Zionism') as a racial ideological construct for the State of Israel. However, to be clear, this approach is not meant to reproduce race-based readings of social and political conflicts, but rather, it aims to use the lens of critical race theory to highlight the racialized structures of exclusion that delimit Zionism – and by extension, Israeli citizenship. Though, when looking inward, Zionism is often more likely to mobilize the ethno-national and religious identity of the Jewish people, its treatment and placement of non-Jews outside of this arrangement functions more like a racialized structure of exclusion. Hence, my reference to the racialized configuration of the Israeli incorporation regime throughout this book seeks to point to this central feature of Zionism. With this, I also hope to complicate politically softer and less divisive concepts such as 'discriminatory' and 'differential' to explain what are basically racist conceptual and practical frameworks of Zionist ideology. As the founding ideology of Israel (and a continuous source of inspiration for its contemporary legal, political and social realizations), Zionism is read and treated here as an ideological construct that seeks an exclusivist identity for its Jewish constituents through the promotion of suspicion and marginalization of its racialized Palestinian-Arab Other.

## ORGANIZATION OF THE BOOK

This book has a modest objective. It is neither a historical nor a legal study, though it certainly draws on other such publications, nor does it merely seek to point to the deficiencies in the rights of citizenship provided to non-Jews in Israel. In addition, this book does not historically or sociologically compare exclusionary dynamics in the Israeli citizenship regime to those of other settler-colonial societies in the West; though future scholarly undertakings of this kind could serve as a natural extension of the present research.<sup>24</sup> Working from the above, my interest lies instead in outlining the relation of non-identification and rejection between Palestinian-Arab identity and modern political Zionism so as to examine its constituent effects on the kind of citizenship regime that emerges. Simply put, the objective of this book is to examine *how* the historical relation of exclusion embedded in the traditional model of citizenship is realized and transformed in Israel's racialized citizenship regime. To this end, this book is divided into six chapters.

Chapter One begins the discussion by examining the relations of inclusion and exclusion embedded in the institution of citizenship. I outline the development of citizenship and point to the kinds of relations that can be formed between the subject and political society through various citizenship regimes. Looking at a range of definitions, I explain in this chapter that the notion of citizenship was not always deemed to be politically tied to a (city-)state framework. The concept of the 'citizen' and the evolution of a universalizable political subject are understood to be dissolving pre-existing and exclusive social, cultural and tribal affinities. Initially occurring within the context of ancient and pre-modern cities, and later expanding into state-based forms of political organization, social collectives struggled over the use of, and access to, resources. As such, our modern understanding of social rights in the form of *citizenship rights* is a product of a series of conflicts and competitions between different social groups with different access to and investment in the juridico-political order. All in all, what surfaces from ancient, pre-modern and modern readings of citizenship is the necessary Otherizing that lies at the root of the concept and process of citizenship. Influenced by Giorgio Agamben's seminal analysis of the *state of exception* (a concept explained in Chapter Six of this book), the Otherizing effects of citizenship are here

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<sup>24</sup> See footnote 9 above.

deconstructed. In doing so, it is shown in this chapter that the creation and maintenance of an Other, a non-member or outsider *excepted* from the social arrangement, lies at the base of the traditional model of citizenship. Particular attention is paid here to recent scholarly literature that problematizes both the boundaries of legal categorizations and readings of contemporary citizenship as being anchored in a territorialized nation-state. Moreover, the concept of an *incorporation regime* as outlined by Yasemin Soysal is examined to show how self-conceptions of nationhood and statehood are inscribed in the citizenship regime of a state. With this, Chapter One begins my discussion of the Israeli incorporation regime.

Chapter Two contains most of the empirical background to support the arguments in this book. It begins with an extensive account of the numerous ways in which the colonial logic of pre-1948 Zionism was amended, yet remained a major inspiration in its post-1967 realization. The complex manifestations of the language and logic of colonialism in Zionist literature, campaigns, settlement plans, policies, and mechanisms of inclusion and exclusion are all outlined in this chapter. From this, I delineate the multifaceted discrimination of Arab citizens of Israel at the legislative, formal and declarative, structural and institutional, and operative and budgetary levels to illustrate the ways in which the colonial logic of pre-1948 Zionism continues to resurface in contemporary Israeli democracy. In other words, the historical matrix of colonialism within which the Jewish national movement burgeoned is explained as a main source of the Israeli incorporation regime and the multifaceted discrimination faced by Arab citizens today.

In Chapter Three I employ Jacques Derrida's concept of *hospitality* to describe the hostile dynamic that is requisite to hospitality. Derrida argues that hospitality simultaneously combines the assertion of a home whose host both welcomes the Other and imposes conditions of a certain hostility towards the Other. He reveals elements of mastery that condition hospitality, arguing that recognition of the hospitality of the host is an acknowledgement of her/his authority. Derrida's concept is used to show that questions of 'who is the guest' and 'who is the host', the interchangeability of these roles, and the violent dynamics between them are key to understanding the development of Arab and Jewish relations as citizens of the same state. From here, I embark on a two-part examination of Israeli *hospitality*. First, I outline how the Zionist account of the hospitable Jewish state, as a home into which the Arab minority citizen population can be welcomed, is more accurately conceptualized as an exercise of Derridean *hospitality*. And second, I explain that engagement with the

hospitality of the Jewish state through the use of its provided social, political and legal formulations of 'Israeli-Arab' or 'Arab-Israeli' implies an acknowledgement that the Jewish population remains the patron with the right to give asylum to the Arab population. Put differently, as a tool of Israeli *hospitality*, the category of 'Israeli-Arab' becomes a self-contradictory concept. As a result, Palestinian-Arabs are only welcomed in a state where they are categorized as a socio-politically inferior and legally unrecognized collective.

Chapter Four works from the above account of Israeli *hospitality* and focuses on a detailed examination of the liberal variant of Zionist thought, or *liberal-Zionism*. The contentions of Alexander Yakobson and Amnon Rubinstein in *Israel and the Family of Nations: The Jewish Nation-State and Human Rights* (2009) – one of the most robust liberal-Zionist readings of Israeli history, politics and contemporary practices – are the main subject of this chapter. Hardly representative of a hawkish Israeli political attitude, the authors present a liberal account of the Zionist project through systematic academic argumentation designed to counter voices of criticism against the Zionist national project. Citing various European and North American constitutions, norms, and laws, their book works its way along numerous discussions aimed at rendering the Zionist movement immune from critique regarding its (ongoing) violations against the Palestinian people. Yet, the logical and political coherence of the liberal-Zionist positions put forth by Yakobson and Rubinstein is only maintained through selective readings of international legal resolutions, historical experiences and current political events. In my examination of the book in this chapter, I point out that even some of the most liberal of Zionists have considered exclusive Jewish demographic ascendancy and territorial control as vital for the existence of a Jewish national home. With these two factors as priorities, the liberal-Zionist ideology proves incapable of implementing even the most basic principles of liberalism, including equality, inclusion and a state for all its citizens. The chapter also addresses the deep inadequacies of liberal-Zionism in its reading of state-minority relations within Israel, and its lack of an analysis around the element of control. It concludes that the liberal-Zionist discourse fulfills the exclusionary mandate of the Jewish state by diluting and cloaking the Zionist record of multifaceted violations against its Arab population and the broader Palestinian nation.

Building on the above examination of liberal-Zionism, Chapter Five goes on to outline the effects of the basic and inherent contradictions in the Israeli incorporation regime. I explain that, even at the level of



nomenclature, there is no possibility in a Jewish state for an Israeli nationality. Israel is a *Jewish state*, and the Jewish state becomes a state of the *Jewish people*. Citizenship in a Jewish state becomes *Jewish citizenship*. And nationalism in a Jewish state becomes *Jewish nationalism*. Taken together, this dynamic is shown to have three profound effects on Arab development, inclusion and identity. First, the development of a contradictory and deficient Palestinian social and political identity in Israel results in a situation where both Arabs and Jews have an incomplete and deficient Israeli collective identity, albeit in different ways. Second, contradictions in the Israeli incorporation regime make it conceptually, politically, and legally impossible to define the Israeli nation, or Israeli nationality. This prevents Arab citizens from developing any genuine identification with Israeli society. Here I outline several legal petitions, repeatedly rejected by the Israeli Supreme Court, which requested the legal and political definition and formation of an 'Israeli' nation separate from a 'Jewish' nation. As I explain, the Court's consistent refusal to legally define an 'Israeli' nation is fuelled by the understanding that any conceptual separation between 'Israeli' and 'Jewish' would have juridico-political repercussions for the entrenchment of Jewish control within the state. And third, contradictions in the country's incorporation regime make it impossible for Arabs in Israel to have and practice citizenship in any meaningful way. The chapter outlines a sample of the notable social science research conducted on Arabs in Israel, and compares their respective and various formulations of Arab citizenship and its dynamics and relations of exception. This body of critical scholarship is shown to deconstruct the internal contradictions and paradoxes that emerge, both conceptually and in practice, with the state's provision of Israeli citizenship to Palestinians on the one hand, and with its unabridged fusing of 'Israeli' and 'Jewish' identity and nationhood on the other. The chapter ends by pointing out that the above academic literature has largely focused on the question of *what* Palestinian citizenship entails or lacks, rather than asking *how* the space for Palestinian citizenship has been (re)shaped. The concept of *stateless citizenship* is therefore introduced as part of an answer to the question of *how* Palestinian citizenship came to embody its existing exclusionary dynamics.

Together, the first five chapters of the book show that the mechanisms of control and exclusion developing out of the Zionist incorporation regime shape both the changing settler-colonial boundaries of the Israeli polity and, by extension, its hierarchical citizenship framework. At a fundamental level, and despite their citizenship status, the Palestinian

citizens of Israel remain stateless in the Jewish state. The design of Israel's incorporation regime demarcates Palestinian-Arab access to citizenship rights and representation while its character repudiates their status within the state as citizens of that state, rendering this community *stateless citizens*.

In Chapter Six, the final section of this book, I examine the anatomy of the concept of *stateless citizenship*. I begin by clarifying that the anomaly of Israeli citizenship is not rooted in its non-inclusive underpinnings. Indeed, the citizenship regimes of other states are also non-inclusive insofar as they are based on a necessary Otherizing. Instead, what sets the Israeli citizenship regime (along with the particular peripheral placement of Palestinian-Arabs within it) apart is the specific mechanisms of Israeli citizenship and the exclusionary dynamics of its *internal* relations. In other words, the movement or transition into a relation of exclusion in the Israeli incorporation regime is conducted through, done by and generated from the bestowal of citizenship itself. In the greater part of this chapter I explain that the conceptual, political, ideological and even legal implications of stateless citizenship can be understood through an examination of three separate yet related ambiguities and dynamics that emerge from this form of citizenship. The stateless citizenship of the Arabs in Israel generates an *exclusive inclusion* whereby the bodies of this community become the borders of the state, is a condition of and conditional to Israel's *stable and perpetual state of emergency*, and forms a situation where the Palestinian-Arab population *coexist* as citizens *without actually existing*. These three-pronged paradoxical elements of an exclusive inclusion, a stable and perpetual state of emergency, and coexistence without existence are here delineated. With this, the concept of *stateless citizenship* illuminates the specific mechanisms that are particular to Israeli citizenship. In other words, it centres our analytical gaze on the extraordinary circumstance that it is actually through the inclusion within a citizenship regime that Arabs in Israel are deemed stateless.

## CHAPTER ONE

### LIBERAL CITIZENSHIP: AMBIGUITIES AND INCONSISTENCIES

To set the stage for an analysis of the mode of incorporation in Israel and the exclusionary dynamics of its citizenship regime, the concept of citizenship is examined in this chapter with a particular focus on the kinds of relations that can be formed among political subjects within a liberal citizenship regime. The interrelated tensions and themes of citizenship, including, among others, individual and group identities, representation, legal categorization, political subjectivity, rights and responsibilities, inclusion-exclusion, Otherizing, deterritorialization, resistance and emancipation, are here extracted. As we will see in the prospective chapters, these elements and notions integral to the concept and practice of citizenship resurface in various problematized forms when applied to the Israeli citizenship regime. Taken together, the dynamics of the classical liberal model of citizenship discussed in this chapter will inform my forthcoming excursus into the stateless citizenship of Palestinians in Israel.

#### FRAMING CITIZENSHIP

Nation-states use the citizenship framework as the primary organizing relation between the state and its constituents, or citizens. Traditional readings of citizenship depict it as the intersection of identity and law, where both a national belonging and a constitutionally recognized membership in a state are articulated. It is conventionally conceived of as a mechanism of civic incorporation within a state; a form of social membership used as a basis for claim-making with which comes access to rights, privileges, and freedoms allocated and protected by state institutions. As an institution, citizenship is comprised of the social community and implies that access to public goods and services, as well as participation in state institutions, exhibit the political, civil and social rights of this collective. Indeed, citizenship has emerged as an issue which is central, not only to practical political notions concerning access to health-care systems, educational institutions, public programs, and the welfare state, but also to concepts of legal jurisdiction and social membership.

For the most part, the duties and obligations of citizenship are shaped by the parameters of membership, rights and participation. In *Citizenship and Social Class, and Other Essays* (1950), English sociologist T. H. Marshall outlines his classical theory of citizenship where its associated rights are divided into three components: the *civil* in the eighteenth-, the *political* in the nineteenth-, and the *social* broadly assigned to the twentieth-century. The civil element involves the rights and liberties necessary for individual freedom (such as freedom of speech, opinion and thought, the right to own property, to have valid contracts, and the right to justice); the political element involves the right to participate in the exercise of political power; and the social element involves economic welfare, security and a right to a share in the social heritage of the community (Marshall 1950, 10–11). Though he holds that each of these components or parts of citizenship rights evolved in different directions and in various degrees since the seventeenth century, the trajectory of Marshall's theory of citizenship goes in the direction of the principles of the equality of all citizens as full members of society, common possession, rule of law, majority rule, democracy and parliamentary representation, and so forth. Seen in this manner, the institution of citizenship constitutes an overarching identity cloaking all other identities to produce 'equal' citizen-subjects.

Of course, absent from this classical model of liberal citizenship is an account of ethnicity, culture, gender and sexuality, class and religion as major sources of identity, claims and participation – all of which have complicated the existing problems of identity in increasingly globalized societies.<sup>1</sup> That said, and for the most part, citizenship in its contemporary realization in liberal-democratic countries in North America and Europe is universalistic in that it does not recognize or accept familial, tribal and kinship ties as legitimate sources of authority, claim-making, and participation in the public sphere. Broadly speaking, citizens in most Western liberal-democratic societies are at least formally conceived as rights-bearing subjects who exercise their rights equally with other citizens, so that no individual or collective is legally privileged insofar as they are citizens. Though modern citizenship in Western liberal-democratic societies is certainly not always realized and practiced in this manner; and for such a study each model of citizenship ought to be contextualized because it differs heavily from state to state, the subjects of citizenship do have direct affiliation with the state and direct access to its privileges and protection

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<sup>1</sup> For more, see Turner (2009, 65–73).

in a manner that is largely unmediated and uninhibited by other identities, ties or affiliations. Now, most definitions of citizenship will outline a legal relation between a subject and a political society, the attributes of which reflect the self-definition of the particular state order. We are often told that for the Greek democrats living in Athens under Pericles, the city-state was the only appropriate space for the fullest human development and flourishing. In what is considered by many to be one of the first treatises on citizenship, Aristotle stated:

Hence it is evident that the state is a creation of nature, and that man is by nature a political animal. And he who by nature and not by mere accident is without a state, is either above humanity or below it; he is the ‘Tribeless, lawless, hearthless one’, whom Homer denounces—the outcast who is a lover of war; he may be compared to an unprotected piece in the game of draughts (Aristotle 2008, 1253a, 1–10).

Here there is no citizen-subject that exists prior to the city-state, and “anyone who cannot form a community with others, or who does not need to because he is self-sufficient, is no part of a city-state – he is either a beast or a god” (Aristotle 2008, 1253a, 14–15). But the dynamic at play is not one-sided. The city-state does not simply create viable subjects. Instead, and especially as recent constructivist literature has revealed, the citizen-subject and the city-state have a mutual relationship of creation, and “each is a coterminous *effect* of the other” (McAfee 2000, 3).

As a set of processes for the provision of privileges, protection and responsibilities, citizenship rights are typically the result of struggles between the citizen-subjects and identity-specific collectives and the state at the social and political level. For the most part, such demands for recognition and inclusion are often linked to the contributions of the claimant(s) to the social good and the welfare of the state. Thus, cultural, ethnic, religious and racial divisions within a society are key ingredients in moulding its model of citizenship and its particular set of practices. And given that citizenship does not necessarily evolve to include all individuals and collectives, the achievement and provision of group-based rights of citizenship can thereby fuel existing social, political and cultural fragmentation (Ben-Porat and Turner 2011, 7). With this, citizenship often becomes divided and hierarchical. Guy Ben-Porat and Bryan S. Turner explain that:

Where existing hierarchies and divisions are challenged, citizenship becomes a site of negotiation, contest and contention where, on the one hand, duties and obligations are defined and, on the other hand, demands

for rights and entitlements are presented. .... Citizenship, therefore, often delineates a hierarchy between and within social groups in society and consequently structures the opportunities afforded by the state to different people who are included, excluded or marginalized by the very definition of citizenship (Ben-Porat and Turner 2011, 7-8).

Indeed, contemporary nation-states have had to address the realities of their increasingly multicultural, multinational and multireligious constituents. Far from their oft advertised culturally homogenous makeup, nation-states have had to face and accept new calls for recognition, rights and representation, often resulting in demands for a re-definition of state institutions and discourses surrounding citizenship (Ben-Porat and Turner 2011, 8–9). The multicultural aftermath of increased and multifaceted globalization (and the resulting rise of demands by new immigrant minority groups) therefore questions not only the “foundational assumptions of ‘ethnic states’ that provide a national home for a dominant ethnic group,” but it also (re)shapes the contours of liberal-democratic institutions and discourse (Ben-Porat and Turner 2011, 9).

#### THEORIZING CITIZENSHIP

Grounded in a guarantee of legal, social and political protections from other members of the commonwealth and arbitrary actions from a sovereign power, classical liberal citizenship is often understood as a passive and active membership of individuals in a nation-state with accompanying universalistic rights and responsibilities at a formally defined level of equality.<sup>2</sup> Some of these characterizations of citizenship deserve attention. First, as *membership* in a nation-state, citizenship requires the identification of a certain *personhood* placed apart and in opposition to non-citizens, strangers and foreigners. Further, the distinction between *passive* rights of citizenship and *active* abilities to contribute to and influence political and economic realities is important as both elements are necessary for genuine citizenship participation in a nation-state. Third, the *universalistic* character of citizenship rights is understood as formally enacted in law and equally applicable and accessible to all citizens.

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<sup>2</sup> Janoski and Gran 2002, 13–14. This definition is what the authors call ‘political citizenship’, but though they are focusing on the theoretical range of citizenship rights and obligations (legal, political, social, and participation rights) the discourse and theoretical premises of their depiction and definition of citizenship are very much in tune with a liberal theory of citizenship.

And this brings us to the fourth feature of such a reading of citizenship, namely, that it is a statement of *equality* among its members in a manner where rights and responsibilities are balanced within the social order. The final and most important feature of a liberal theory of citizenship is the emphasis on *individualism*. Indeed, the emphasis on the individual is a bedrock of liberal theory, and is present in its approach to all other social arrangements. The primacy of the individual and her/his liberty is mainly realized as “freedom from state interference with one’s personal development and projects ... [along with] a deep suspicion of state power over individuals” (Schuck 2002, 134). With this caveat, liberal models of citizenship often reveal a certain tension when group or collective rights and obligations are introduced into social aggregations in a manner that trumps or challenges individual rights.

As subjects of citizenship, collectives marked by religious, cultural, ethnic and national identities can influence the process, practices and other aspects of a liberal state, thereby also affecting the citizens and non-citizen Others in the social order (Schuck 2002, 135). Now despite this, classical liberal theory depicts a state that remains disinterested vis-à-vis these different groups, does not take sides, and maintains a certain neutrality. Of course, such normative neutrality has proved impossible for liberal states in the face of increasing identity-specific collectivities, resulting in the “entangl[ing of] the state, groups and individuals in ways that may threaten the autonomy and integrity of individuals and groups and hence endanger the liberal project itself” (Schuck 2002, 141). In the end, discourses and debates around the function of the state with regards to individual and group claims and obligations continue to (re)draw the boundaries of liberal citizenship.

Manifestations of liberal citizenship also posit a certain connection between a distinct geographical and territorial entity, or a sovereign nation-state, and the practice, rights and obligations of citizenship. Here the ownership of a passport serves as the main feature of citizenship, allowing individuals the right of mobility in and out of the geographical space with the formal sanction of the state (Ben-Porat and Turner 2011, 5). But increasing globalization and post-modernist approaches to state-citizen relations have both redefined and reshaped the key axes of citizenship (Isin and Turner 2002, 2). Isin and Turner explain that

... various struggles based upon identity and difference ... have found new ways of articulating their claims as claims to citizenship understood not simply as a legal status but as political and social recognition and economic redistribution (Isin and Turner 2002, 2).

As a result, modern political theories about citizenship, its processes, practices and consequences, in the form of liberal, republican and ethno-national citizenships are growing increasingly inadequate. Despite their respective differences, such typologies of citizenship – as those outlined by Gershon Shafir and Yoav Peled and further explained in Chapter Five – mostly remain state-centric and dependent on that ground as the main source of legitimacy and authority. But while these models of citizenship may help us understand the nature and characteristics of various forms of rights, representation and responsibilities that exist across liberal-democratic states, they are unable to capture the inherent changes in the processes and practices of citizenship in the twenty-first century (Isin and Turner 2002, 4). In other words, the dislodging of a geographically defined territory as the sole source and benefactor of the acts and practices of citizenship through forces of globalization and post-modernist forms of organization has expanded the way in which citizenship is discussed and realized, in a manner that has yet to be sufficiently captured by liberal, republican and ethno-national models of citizenship.

#### CITIZENSHIP BEYOND THE STATE

In a powerful introduction to the study of citizenship, social science scholar Engin F. Isin provides insight on how it is that citizenship is usually approached by academics. He points out that

... routinized academic practices, where the origins of ‘city’, ‘democracy’ and ‘citizenship’ are etymologically traced to the ‘Greek’, ‘Roman’ and ‘medieval’ cities, and affinities between ‘their’ and ‘our’ practices [in contemporary Western liberal societies] are established, not only orient toward but also reproduce such images. After being ‘reminded’ that *polis*, politics and polity; *civitas*, citizenship and civility; and *demos* and democracy have ‘common roots’, we are provided with images of virtuous Greek citizens debating in the *agora* or the *psyx*, austere Roman citizens deliberating in the republican senate, and ‘European’ citizens receiving their charters in front of the guild-hall (Isin 2002, 305).

This recurring tendency among citizenship scholars and political theorists ought to be acknowledged, and the imagined political and conceptual links provoked by etymological references between ancient forms of citizenship and that which exists in contemporary liberal societies under conditions of modern capitalism and globalization ought also to be made explicit and challenged. Otherwise our approach to the study of citizenship would not only continue to fail to capture the specific textures and



dynamics unique to its modern realization in the twenty-first century; but as Isin explains, it would also continue to

... mobilize and provoke an invented tradition: that we are somehow *inheritors* of an occidental tradition that is different from and superior to an oriental one. These images then invent not one, but two traditions (Isin 2002, 305).

As such, while pointing to the historical and etymological roots of citizenship, the city-state and liberal-democratic social orders, my discussion will aim to refrain from (re)producing such orientalist and occidentalist images and characterizations. However, and without seeking to reinforce the invented tradition pointed to by Isin where contemporary Western societies are direct inheritors of a superior and unchanged occidental mode of thought, references to ancient societies in the West are useful for understanding the historical, social and political changes in the territorialization of citizenship. For instance, looking at how citizenship is arranged, British-Australian sociologist Bryan S. Turner refers to ancient Rome to remind us that the concept of citizenship was not always deemed as politically committed to a city-state framework. He writes that:

The Cynics and the Epicureans tended to give greater importance to the idea of individual autonomy and moral development rather than to the more collective virtues of Aristotelian philosophy. It was the Stoics who reformulated a notion of civic obligation. ... Eventually the Stoical values of discipline, frugality and industry reflected the changing political reality of the Roman Empire, whose size, social differentiation and bureaucratic complexity no longer corresponded to the moral idea of the *polis* as an ethical association (Turner 1990, 202).

From the above depiction we can observe that though it was the territorial expansion of the Roman Empire which began to blur the link between citizenship and the city-state, the transformation of citizenship today along with major trends of contemporary denationalization and deterritorialization of modern citizenship can be ascribed to numerous processes *both inside and outside* of the state. Indeed, contemporary citizenship is composed of multiple elements many of which can be associated with the state, but the increasing development of locations of citizenship outside of the state framework is due to two main sets of transformations. The first set refers to changes inside the nation-state such as “deregulation, economic privatization, ...changes in the law of nationality entailing a shift from purely formal to effective nationality, and legislation allowing national courts to use international instruments” (Sassen 2002, 277–278). The second set of transformations refers to developments outside of the

nation-state resulting mainly from globalization. This includes “the emergence of multiple actors, groups and communities partly strengthened by these transformations in the state and increasingly unwilling to automatically identify with a nation as represented by the state,” along with the “organization of formal [citizenship] status, the protection of rights, citizenship practices ... [and] the experience of collective identities and solidarities” which remove the nation-state as the “exclusive site for the enactment of citizenship” (Sassen 2002, 278).

One’s reading of citizenship as a tool for delimitation or suppression, and/or as a tool for self-protection, resistance and emancipation of the political subject depends partly on whether citizenship is understood as a territorialized and rigid legal status, or as a multifaceted practice. Isin explains that a politically dynamic and historically relevant conception of citizenship requires a reformulation of the question ‘what is citizenship?’ to an inquiry into ‘what is called citizenship?’ (Isin 2009, 368–372)? Such a refocus would provoke a consideration of the various interests and elements that serve as a catalyst for the interpretation of citizenship as either primarily a *de jure* or *de facto* relation. Now, the two interpretations of citizenship as a legal status and as a practice are different, yet related. Scholarly readings of citizenship as formal status concentrate on the inclusive exclusive dynamics and legally inscribed circumstances of residence, naturalization, deportation, (im)migration, detention, statelessness, and visa and passport acquirement.<sup>3</sup> This reading is premised on the acquisition of citizenship through one of the three means of *jus sanguinis* (inherited citizenship through a parent), *jus soli* (inherited citizenship through birth separately from parentage) or *jus domicili* (citizenship through naturalization in a host-society) (Isin 2009, 369). In contrast, interpretations of citizenship as a practice often posit social and political transitions such as integration, multiculturalism, coexistence, recognition, nationalism and trans-nationalism as a focus. Treating these as socially reproduced, politically driven and legally inscribed processes that develop slowly over time, readings of citizenship as a practice stress the diverse sites and acts of citizenship that permeate states undergoing such transitions. That said, and regardless of the particular interpretation of citizenship, most of the scholarship on citizenship: first, agrees that its *de jure* and *de facto* elements necessarily imply and dispute each other as

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<sup>3</sup> Isin cites a range of scholarship interpreting citizenship as *status*. I would also add the writings of Soysal (1994) and Somers (1998) to both lists as they stress the dual importance and interrelatedness of citizenship as status and as practice.

important elements, and second, goes on to posit an essential connection to a national state (Isin 2009, 369).

The rise of state-based forms of political organization rendered nationality a central ingredient in the formulation of an institutionalized citizenship. As a result, while the terms 'citizenship' and 'nationality' extend to different legal jurisdictions, as the former reflects a national sphere and the latter an international legal realm, both nevertheless denote a nation-state framework and bestow the individual with some form of state membership (Sassen 2005, 81–83). However, scholars increasingly question the inherent connection between citizenship and the nation-state framework, or the territorialization of citizenship. Yasemin Soysal's important contribution on the codification and expansion of rights beyond the national framework of citizenship has since generated new models and understandings of (state) membership.<sup>4</sup> Soysal writes:

Historically, as the state has expanded and permeated new domains of social action, its responsibility has extended to different strata of society – workers, women, and children. The state has incorporated a larger and larger proportion of the population into its jurisdiction and into the public realm .... In this process, incorporation has affected the national citizenry through the establishment of citizenship rights and national institutions. However, in the postwar era, even foreign populations are incorporated into the institutions of the polity. In accordance with expanding notions of universalistic personhood, non-citizens, as much as citizens, are entitled (and authorized) as productive individuals wherever they reside (Soysal 1994, 31).

What surfaces is a kind of dilution of the model of citizenship as a form of elite social membership used as a basis for claim-making. In outlining the conceptual and practical contradictions surrounding readings of citizenship as anchored in a territorialized nation-state, Soysal shows that the bestowing of universalistic rights of personhood moves beyond these boundaries, rendering "national citizenship particularly less important" (Soysal 1994, 7–31). All in all, Soysal's discourse is based on an observation of shifts in the social, political, legal, cultural and economic conditions that interrogate territorial readings of the concept of citizenship. As further explained below, such a non-territorialized reading also has implications for the kinds of actors included in the mechanisms and processes of claim-making.

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<sup>4</sup> See Soysal (1994). Further, Isin (2009) explains that while these new forms include post-national, transnational, global or cosmopolitan models of citizenship, the literature on citizenship nevertheless is, for the most part, outlined within a state framework.

A similar analysis challenging the exclusionary model of citizenship as rooted in national sovereignty is provided by Dutch-American sociologist Saskia Sassen:

[T]he destabilizing of national state-centered hierarchies of legitimate power and allegiance has enabled a multiplication of non-formalized or only partly formalized political dynamics and actors. These signal a deterritorializing of citizenship practices and identities, and of discourses about loyalty and allegiance (Sassen 2005, 80).

Rather than a static and detached institution, citizenship instead involves a range of related interactions, dynamics, and tensions between the individual and the state order at the legal, political, cultural, and psychological level. In her analysis of the denationalizing and post-national developments in modern citizenship, Sassen also points to the events leading to the nationalizing of citizenship. Here, Sassen highlights the “formation and development of the national state as the key political community and [as] crucial to the socialization of individuals into national citizenship” (Sassen 2002, 279). The evolution of political subjecthood and participation in conjunction with state formation generated a citizenship regime in Western societies where nationality served as a fundamental element of citizenship at a political, cultural and psychological level. Indeed, this development of the national character along with the formation of the institution of citizenship accounts for differences between the various incorporation and citizenship regimes of nation-states in Europe and North America. Having explained the nationalizing features of citizenship, Sassen goes on to distinguish between denationalizing and post-national trajectories of citizenship. Though “not necessarily mutually exclusive,” the former is concerned with the “transformation of the national” while the latter involves “new forms that we have not even considered and might emerge out of the changed conditions in the world located outside the national” (Sassen 2002, 286). Sassen’s distinction between denationalization and post-nationalist tendencies in citizenship brings the discussion to the question of how these transformations in the conception of the “national” and their direct and indirect amendment of the particular features of the institution of citizenship affect the kinds of actors of citizenship, or the citizen-subjects that arise.

New actors in the arena of citizenship, including refugees, asylum seekers, courts, international courts, multinational organizations and other non-status and/or non-citizen agents surface as political subjects. And as political subjects they carry demands and claims for inclusion,

representation and justice into new fields that include a multifaceted range of rights, privileges and responsibilities. Reflecting on this development, Isin contends:

The rights (civil, political, social, sexual, ecological, cultural), sites (bodies, courts, streets, media, networks, borders), scales (urban, regional, national, transnational, international) and acts (voting, volunteering, blogging, protesting, resisting and organizing) through which subjects enact themselves (and others) as citizens need to be interpreted anew. ... We need a new vocabulary of citizenship (Isin 2009, 368).

This new vocabulary of citizenship requires an examination of the “acts of citizenship” to sketch both “those deeds by which actors constitute themselves (and others) as subjects of rights,” and the manner in which new and non-traditional political subjects are formed (Isin 2009, 371). Here, as in his other works, Isin notes: first, that actors in the arena of citizenship are not defined by their status as citizens and can include a range of legal or quasi-legal individuals or collectives; second, that acts which produce political subjects generate new areas of allegiance and struggle that are separate from conventional sites of citizenship (i.e., voting, jury duty, military service, and more); and finally, that the acts of citizenship move beyond political, legal and state jurisdictions, sometimes along urban, regional and international lines.<sup>5</sup> Thus, the status of the citizen can no longer be limited to state membership, and the practice of citizenship can no longer be circumscribed within the borders of the nation-state. What the focus on acts of citizenship reveals is that our understanding of the concept of citizenship must be able to account for its malleable and dynamic foundations and character. Such an understanding allows for a new discussion of the manner in which citizenship, as an institution, status or practice, can act as a repressive and/or emancipatory force.

The interaction among the agents, sites and acts of citizenship provides access to rights depending on the medium through which citizenship rights are determined. This can include some combination of birth, wealth, ethno-national identity, language, religious affiliation, and political or legal status among other traits, and serve to illuminate the mechanisms through which the rights of citizenship are (at least formally) allocated. Here, the rights accompanying citizenship determine the actors in the arena of citizenship, and the inclusive exclusive relations that emerge as a result of their exercise. As a result, different rights of

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<sup>5</sup> See, for example, Isin (2008). Here Sassen’s claim that “citizenship is partly produced by the practices of the excluded” is also relevant (2005, 84).

citizenship produce different political subjects. On the question of citizenship rights, sociologist Margaret R. Somers has gone so far as to assert that the rights of legal citizens in a nation-state (de jure citizens) are irrelevant in the absence of de facto citizenship rights.<sup>6</sup> In many cases, Somers argues, de jure citizenship in its current form of official citizenship status no longer determines rights within a nation-state. This account is more in conjunction with Hannah Arendt's political philosophy insofar as it highlights the importance of de facto rights and legal recognition. Somers illuminates a key feature of Arendt's understanding of citizenship, namely, that the de jure and de facto elements of citizenship, or the status and practice of citizenship, are deeply intertwined. And to determine the actual substance of citizenship, Somers employs the language of rights. In theorizing about the constellation of rights that are foundational to an inclusive citizenship regime, including civil and political freedoms, access to justice, equality and political participation, Somers adopts an Arendtian reading of citizenship as "the right to have rights" (Somers 2006). Two factors are fundamental to this formulation of citizenship: the first is the presence of both de jure and de facto rights of political membership and subjectivity; and the second element is a range of juridico-political rights that encompass social, political, economic welfare, and security rights which, by extension, can include cultural, social heritage, indigenous, and same-sex rights, among others (Somers 2008, 5–9). Central to Somers's formulation of citizenship is that these rights are to be widely recognized, accepted by a sovereign power and socio-politically and legally enshrined. Thus, while political membership and subjectivity act as a foundation for citizenship, and make de jure and de facto inclusion, identification and recognition possible, the two features of citizenship are inherently intertwined, and complete each other.

#### PROBLEMATIZING LEGAL CATEGORIZATIONS

The term *citizen* is, for the most part, a modern socio-legal category. First employed in the fourteenth century, the notion of citizenship only referred to an inhabitant of a polity, and it was later in the sixteenth century when the concept was seriously affiliated with the notion of a right of membership in a city (McAfee 2000, 13). Moreover, it was not until the eighteenth century when it expressed a set of responsibilities and obligations, and it

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<sup>6</sup> See Somers (2006).

was here where the *citizen* was first rooted in modern readings of an autonomous and individual subject: “a being unto himself, separable from any community, the author of his own will and intentions” (McAfee 2000, 13). The modern conception of the citizen outlines a political subject capable of developing an understanding of itself as a political subject through the exercise of decisive political actions and interventions. As Nöelle McAfee explains, “[t]o this day, our notions of citizenship rest upon our notions of subjectivity.”<sup>7</sup>

A historical reading of the development of the concept of citizenship requires an understanding of a universalizable political subject through which particular social, cultural and tribal affinities begin to collapse. Such a transformation initially occurred within the context of ancient and pre-modern cities, and later developed into state-based forms of political organization where social collectives struggled over the use of, and access to, social resources. Not an inevitable development within city-states, social rights in the form of *citizenship rights* are a product of a series of conflicts and competitions between different social groups, with different access to and investment in the state order. By the same token, previously acquired sets of social rights can also be renounced as a result of these social struggles. Therefore, with the development of citizenship within the city-state context evolved notions of freedom, autonomy, civility, and at a broader level, civilization (Turner 1990, 203). Migration from the township, village or countryside to the city became associated with the processes of civilization, acculturation and enlightenment, thus distinguishing the *citizenized* individual from her/his non-advanced non-citizen counterparts. Hence, what surfaces from ancient, pre-modern and modern readings of citizenship is the necessary Otherizing that lies at the root of the concept and process of citizenship: the creation and maintenance of an Other, a non-member or outsider excepted from the social arrangement.

The modern concept of citizenship remains rooted in a *relation of exception*. While depicted in the language of universalism and inclusion, it has simultaneously and systematically excluded, and sometimes even criminalized, certain individuals and collectives.<sup>8</sup> Citizenship lives,

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<sup>7</sup> This definition of the political subject is very similar to one posited by Alain Badiou. For a critical reading of Badiou’s concept of the political subject, see Calcagno (2008). In this article, Calcagno points out the “de-politicizing, de-subjectivating [and] dehumanizing” effects of political actions. He also expands traditional readings of political actions to include “failed or non-interventions” within the realm of the political.

<sup>8</sup> As Ben-Porat and Turner note, “What determines the composition of citizens, strangers and outsiders and their respective rights and obligations in a given nation-state depends on its historical trajectory” (2011, 3).

breathes, develops, acts, formulates, establishes, grows, is reproduced by, and bestows praise, punishment, rights and representation against an Other, or through the process of Otherizing. The relation of exclusion foundational to the concept of citizenship continues to shape its vertical and horizontal peripheries where stateless persons, asylum seekers, refugees, foreigners, temporary workers, guests and aliens are located. It is in the margins of citizenship, in the gaps of the juridico-political order, where the vulnerable and unwanted non-members of the nation-state reside. Yet, while the citizen and non-citizen, or the member and non-member, are characterized here as juridico-political categories, they are not to be considered as assemblages or groups. As Jacques Rancière writes:

Man and citizen do not designate collections of individuals. Man and citizen are political subjects. Political subjects are not definite collectivities. They are surplus names, names that set out a question or a dispute (*litige*) about who is included in their count (Rancière 2004, 303).

Where the line separating one life from another is drawn is key. To Rancière, “politics is about that border.” What is present, and nominally representable, is structurally shaped by what is absent. These gaps, breaches and cracks in the juridico-political continuum of state-membership simultaneously serve as a blueprint for and affect citizenship, as both a status and a practice. For instance, citizenship rights belonging to the citizen may be similar to (or, in some cases even identical to) those provided to the non-citizen, but they are not shared. Here we can imagine that the citizen and its Other are travelling on separate but attached roads. And although these roads may intersect and merge into a single road at times, placing the citizen and its Other exactly side-by-side, their relation to that road is not the same. *In other words, the sphere of inclusion for the citizen is separate and autonomous but not detached from that of the non-citizen.* Both figures are political subjects, within institutionalized parameters, and are co-created and Otherized by virtue of their political, legal, linguistic, social, economic and even psychological frameworks. It is this Otherizing effect of citizenship that this book attempts to deconstruct in the case of Israel. But rather than focusing on the Other that resides outside, or on the margins of, the citizenship regime, the aim here is to examine the dynamic of Otherizing that occurs within and *through inclusion* in the citizenship regime. So, while we can understand that the separate and autonomous sphere of inclusion for the citizen nevertheless remains connected with the non-citizen, we must also consider the relations of exclusion residing within citizenship itself. With this, the broader question of



whether citizenship is, or can be, genuinely inclusive – even of its own subjects – begins to surface.

Now, looking at the broader context of multi-ethnic state systems, practices arise that appear to accommodate the political and social dominance of one group with the concept of democratic citizenship. A major trend within Western nation-states has been the development of new calls for inclusion, representation and protection. But, as explained by Isin and Turner, “what is new is the economic, social and cultural conditions that make possible the articulation of new claims and the content and form of these claims as citizenship rights” (Isin and Turner 2002, 1). Hence, depictions of these new frameworks for rights and obligations as “minority rights” are limited and misleading because these calls for rights and representation are not put forward by distinct collectives and cultures merely because of their statistical minority; rather, such claims for inclusion and recognition are the result of a series of changes in economic, social, political and cultural processes and structures.

An analysis of these processes also reveals the (often devastating) dynamics of the citizenship available to minority or marginalized communities within the state system. This illustrates the importance of the specific social and political milieu in determining the practice and relation of citizenship rights. With an examination of the kind of model of state-minority relations that is adopted by a society, certain complexities, inconsistencies, and ambiguities emerge around the formulation of the types of rights, for which groups, and in which contexts (Kymlicka 2008). These models often depend heavily on the distinction between indigenous and minority communities and their associated rights, argues Canadian political theorist Will Kymlicka, pointing to the official international legal position “that indigenous peoples have a right to accommodation, whereas minorities have a right to integration” (Kymlicka 2008, 3). An accommodationist approach involves questions of self-government, self-determination and institutional pluralism, whereas an integrationist approach focuses on questions of non-discrimination and socio-civil rights. Kymlicka explains the use of these approaches to understanding the differing rationales behind indigenous rights and minority rights in the development and interpretation of key international legal texts by the United Nations Working Group on Minorities and the United Nations Working Group on Indigenous Populations (Kymlicka 2008, 4). Three basic differences between minorities and indigenous peoples takes shape as a result of these initiatives: (i) minorities seek institutional integration while indigenous peoples seek a degree of institutional separateness,

(ii) minorities seek to exercise individual rights while indigenous peoples seek to exercise collective rights, and (iii) minorities seek non-discrimination while indigenous peoples seek self-government. Kymlicka points out, however, that these interpretations are not only stipulations in international legal texts but they also make claims about the aspirations of the two types of groups. For “if international norms accord different rights to minorities than to indigenous peoples, [then] this is because the two groups are presumed to want different kinds of rights” (Kymlicka 2008, 5). He argues that while these groups appear to differ very little in ‘objective’ characteristics, the distinction to be made between indigenous peoples and minorities is that of the nature of their political demands, rooted in their mode of organization and political aims.

With this contention, the question of the types of ‘minority’ categorizations, their applicability and shortcomings arises. Important to keep in mind is that an analysis of power and the notion of oppression is hardly present in Kymlicka’s account of minority categorizations. Indeed, throughout most of his scholarly work, he is more interested in outlining the logics and structures of claims, obligations and inclusions provided to collectives placed in different legal categories; and in examining the possibility of whether liberal citizenship can coexist with or complement distinct rights and protections provided to ‘minority’ communities. With this intention, one of Kymlicka’s key scholarly contributions to the study of citizenship and its relation to the individual and collectives has been “the liberal mainstreaming of minority rights” so that such claims can be sourced in the “liberal principles on which existing institutions are built” (Joppke 2002, 247).

Now, Kymlicka makes a distinction between *old* or *homeland* minorities and *new* minorities. The former were settled on their territory prior to it becoming part of a larger, independent country, have been settled within a particular part of that country for a long period of time, and, as a result of that historical settlement, have come to see that part of the country as their historical homeland. Conversely, the latter were admitted to a country as immigrants after it achieved legal sovereignty, and accorded a different legal status depending on the host society such as asylum seekers, temporary guest workers, illegal immigrants, and permanent immigrants (Kymlicka 2008, 7–9). For Kymlicka, an important distinction ought to be made within the category of old minorities between indigenous peoples and other historically settled homeland minorities, called *national* minorities. Yet, while it is of importance for many legal purposes, the distinction between indigenous peoples and national minorities is nevertheless

rendered irrelevant in relation to issues of minority rights as both types of old minorities are bestowed the right to accommodation (Kymlicka 2008, 10–12). He points out that both are granted various rights to self-government over traditional territory, along with linguistic and cultural rights in their respective public spaces. Therefore, international legal arguments for the recognition of the rights of indigenous peoples similarly apply to other vulnerable populations recognized as old minorities.

As the proceeding chapters will show, the category of national minorities is of particular relevance to our discussion. Originating mainly from Europe, the term ‘national minorities’ refers to the populations in this region who, during socially and politically disruptive periods of European state formation, had their homelands merged in whole or in part within larger state entities neighboured by a predominantly European population (Kymlicka 2008, 8).<sup>9</sup> Kymlicka explains that, as a starting point, an unpolished way of differentiating ‘national minorities’ from ‘indigenous peoples’ is that the latter population was instead subjected to the colonialism and settlement of a distant colonial European power. Despite this distinction, such a legal and conceptual framework would nevertheless classify both populations as old or homeland minorities given their “historic presence on their traditional territory that predates the formation of the current state” (Kymlicka 2008, 9). As such, an accommodationist approach towards these communities is remedied by international legal texts, involving a variant of territorial autonomy, land claims, legal exemptions and linguistic and cultural rights. Both collectives are therefore distinguished from new minorities who, as a product of migration after the establishment of the state, compel a more integrationist approach by liberal-democratic states based on the aforementioned principles of non-discrimination, social and civil rights, and amendments to common institutions so as to make it more accessible to and inclusive of the new minorities. Taken together, we see that the rights bestowed and the approaches of the governing establishment toward a population are deeply dependent on and formulated by the state-categorization and self-categorization of that respective population.

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<sup>9</sup> Working from Kymlicka’s point here, the Conclusion of this book will employ the terms ‘core’ and ‘periphery’ to refer to European societies and those nation-states – such as Israel – that later developed out of their colonial and imperial historical matrix. Far from the propagation of a Eurocentric analytical framework, my use of the terms ‘core’ and ‘periphery’ are instead meant to source the historical origins of concepts of ‘citizenship’, ‘minority rights’ and the rise of the nation-state in Europe.

The potentially destructive capacity of minority categorizations and the problematic elements in the attempt to draw a sharp distinction between the categories of indigenous peoples and national minorities produce various difficulties. Discursive categories in international legal texts have the power to mould the historical and political understanding of the population in the consciousness of both the ruling establishment and the community itself. In doing so, minority categorizations create moral inconsistencies, conceptual ambiguities, and fragile political frameworks (Kymlicka 2008, 10). For Kymlicka, the real difficulty is not whether the subject is autonomy-seeking indigenous peoples or integration-seeking minorities, but rather the moral and political inconsistencies following from a sharp distinction in rights between the two types of groups. He argues that “whatever arguments exist for recognizing the rights of indigenous peoples to self-government also apply to the claims for self-government by other vulnerable and historically disadvantaged homeland groups” (Kymlicka 2008, 10). Kymlicka contends that outside the core cases of European immigrant or colonial-settler states, the very distinction between indigenous peoples and other homeland minorities is problematic. “In a familiar sense,” he argues, “no groups in Africa, Asia, or the Middle East fit the traditional profile of indigenous peoples,” as all of the homeland minorities in these regions were merged into larger states dominated by neighbouring populations rather than into European settler-states (Kymlicka 2008, 12). As such, for Kymlicka, these groups are more in conjunction with the profile of European national minorities than with indigenous peoples in occupied lands. Alternatively, using a more critical conceptual lens that views group categorizations in the context of colonial rule, all homeland groups including the dominating majority group can be classified as indigenous in relation to the colonial rulers. From this perspective, the homeland groups and the dominant groups in post-colonial states are “indigenous” in a historical and political capacity. That said, in the case of Israel, and important to my prospective examination of Israeli citizenship, Kymlicka makes reference to the work of Arab political scientist Amal Jamal who argues that the Israeli national project should be considered and included as a European settler-colonial state.<sup>10</sup> Thus, with this inclusion, the Palestinians both inside and outside of Israel’s imagined borders would meet the traditional definition of an indigenous people. Taken together, and despite the distinctions made between different

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<sup>10</sup> See Amal Jamal, “On the Morality of Arab Collective Rights in Israel,” *Adalah’s Newsletter* 12 (April 2005), [www.old-adalah.org/newsletter/eng/apro5/ar2.pdf](http://www.old-adalah.org/newsletter/eng/apro5/ar2.pdf).

profiles of indigenous and minority groups, though these various legal categorizations are important, they may not always be so distinct so as to imply greater or lesser legitimacy in their claims to specific rights and obligations.

#### RACIAL STATE, RACIALIZED CITIZENSHIP

The mode of incorporation, combining both formally written or legal principles and informal political practices, is defined by Yasemin Soysal as an *incorporation regime* (Soysal 1994, 36). One of the most important studies of contemporary migration, Soysal's *Limits of Citizenship, Migration and Post-National Citizenship in Europe* (1994) examines the substitution of national civic personhood with universalized human rights and the formation of a new incorporation regime. A defining feature of this regime is the displacement and unfastening of the nation-state and nationhood as a defining element of citizenship. The incorporation regime, Soysal asserts, refers to "patterns of institutional practices and more or less explicit cultural norms that define the membership of individuals and/or groups in the society and differentially allocate entitlements, obligations and domination" (Soysal 1994, 36). In other words, an incorporation regime is a regime of social, political, economic, and cultural institutions that stratify the assumed equal or universalist citizenship of the state through a differential dispensing of rights, benefits, and obligations to various communities. Here the dynamic of incorporation is neither limited to the actual interaction of civic subjects with the policies and practices of the nation-state nor to the extent of their integration. Instead, incorporation refers to the actual organizational arrangement of membership and its institutional modes within which the civic subject is placed. Thus, Soysal contends that every host nation-state maintains specific juridico-political policy regulations according to which the condition and status of the civic subject is defined. Taken together, the degree of incorporation into a society therefore depends not only on the socio-cultural attributes of an ethno-national community, a minority group, or an immigrant collective, but certainly also on the ideological foundations, and complex norms and practices (i.e. the incorporation regime) of the host society. It is the interaction between these two forces that constitutes the particular kind of incorporation that is realized.

Soysal's study supports the position that, for the most part, the concept of citizenship is comprised of various articulations of membership and its

accompanying rights, each of which reflect an analysis of the various relations within that state. Indeed, citizenship reveals how self-conceptions of nationhood and statehood are culturally and historically inscribed, and reflects the ways in which they are intertwined with institutional and structural realities and political changes. And it is here where my examination of the Israeli incorporation regime commences. Similar to other nation-states, the nature of the State of Israel translates into the character of its citizenship. As we will see, the ideological, conceptual and symbolic emphasis on its *Jewish* and *Zionist* character shapes the kind of citizenship it provides to its Palestinian-Arab community, along with how this citizenship is formulated, structured, and arranged. Importantly, this produces intense juridico-political, socio-cultural and economic mechanisms of exclusion within the Israeli citizenship regime. These multifaceted racialized frameworks of exclusion embedded within what I will examine as the *Zionist incorporation regime* work in conjunction, intersect, and fuel one another. As such, their treatment in isolation from one another is ineffective as the various relations of exclusion within Arab citizenship in Israel is not solely the result of a single feature of state-citizen relations, but the product of all of these elements. The examination of Israel's formal and informal practices in the following chapter exposes the dynamics and structure of the Zionist incorporation regime. And with this, the sophisticated policies of exclusion and their respective systems of control that underpin Arab citizenship within this incorporation regime will begin to emerge.

## CHAPTER TWO

### THE ISRAELI INCORPORATION REGIME

#### COLONIZING THE LAND OF MILK AND HONEY

The four great powers are committed to Zionism. And Zionism, be it right or wrong, good or bad, is rooted in age-long traditions, in present needs, in future hopes, of far profounder import than the desires and prejudices of the 700,000 Arabs who now inhabit that ancient land ...

Memorandum by Mr. Arthur J. Balfour, August 11, 1919 (Woodward and Butler 2005a, 208).

Modern political Zionism is, in both thought and practice, a product of a colonial world order. The depiction of the Zionist movement as a settler colonial project is neither new, nor was it a characterization that Zionist ideologues shied away from.<sup>1</sup> Even *Altneuland* (“Old-New Land”), a novel written by the father of political Zionism, Theodor Herzl, which aimed at propagating his utopian vision of a Jewish Palestine, openly adopts the language and logic of colonialism. While not a direct blueprint for Herzl’s Jewish state, nor a manuscript that can be brought to the level of reality, *Altneuland* is one of the first and most comprehensive literary accounts of a Jewish society in Palestine. Unlike Herzl’s more famous publication, *Der Judenstaat* (“The State of the Jews”), which served as the ideological bedrock and outlined the organizational structure of Zionism, *Altneuland* does depict an existing Arab population in Palestine. However, in its representation of Arabs in Palestine, it too places them within a hegemonic colonial order. Indeed, there is a connection between the bedrock of modern Zionism (including its liberal-Zionist variant) and that of the colonial

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<sup>1</sup> One of the most lucid and thorough readings of the Zionist movement as a colonial project was written by Maxime Rodinson. Arguing that the Zionist movement to create the State of Israel effectively corresponds into the European-American project of colonialism, Rodinson concludes: “Wanting to create a purely Jewish, or predominantly Jewish, state in an Arab Palestine in the twentieth century could not help but lead to a colonial-type situation and to the development (completely normal, sociologically speaking) of a racist state of mind, and in the final analysis to a military confrontation between the two ethnic groups” (2004, 74). Important insights into studies of the Zionist colonization of Palestine can also be found in Piterberg (2008).

logic of the fictional text. Not only do they share Herzlian thought as a central tenet in their formation and development but also, more importantly, they both conjure the dream of integration, emancipation and coexistence.

Intended for a non-Zionist audience and aimed at securing non-Jewish support for the Zionist movement, Herzl uses the fictional structure of *Altneuland* to express “his own visions of Zionism in its purest, most uncompromising form” (Herzl 1987, vi). Beginning in 1902, the novel follows the main character, Friedrich Löwenberg, a twenty-three year old Jewish Viennese lawyer, who, alienated by the decadence of Jewish-European bourgeoisie, decides to join an Americanized Prussian philanthropist named Kingscourt with a distaste for humankind to withdraw to a remote island. “Disgusted with life,” Löwenberg agrees to a “life-long obligation” to Kingscourt, and decides to dissolve all of his existing social, cultural and financial ties to the Jewish bourgeois circles in which he had long sought inclusion (Herzl 1987, 32). The novel details their brief visit to Palestine during their journey to the island in 1902 and their observations of the land two decades later during what they had anticipated would be a brief return to civilization. Their second visit to the land reveals that during their twenty year absence: the “empty and deserted” town of Acre had undergone a “miracle;” Haifa had become a “magnificent city” with “cosmopolitan traffic in the streets” that “seemed thoroughly European;” Tiberias had become the “Garden of Eden ... a new gem ... [with] verdure and bloom everywhere;” Mount Hermon overlooked “the smaller ranges and the rejuvenated land;” Jericho and the Jordan Valley worked with “the newest and best agricultural machinery available” and produced “abundant crops ... which brought rich profits;” the Dead Sea had been stirred to life; and Jerusalem, once a “picture of desolation” now had its sacred hills endowed with “new, vigorous, joyous life [and] many splendid new structures,” which transformed the ancient city into a “twentieth century metropolis” (Herzl 1987, 58–59, 61, 161, 241, 247). All in all, Palestine had ascended from a “forsaken” land, “a state of extreme decay [with] poor Turks, dirty Arabs, [and] timid Jews ... indolent, beggarly and hopeless,” into a technologically advanced, agriculturally cultivated, intellectually progressive, economically prosperous “Promised Land” (Herzl 1987, 42). A “truly modern commonwealth,” the Palestine built by the Zionist colonialists had been “fructified into a garden and a home for people who had once been poor, weak, hopeless and homeless” (Herzl 1987, 223, 244).

The utopian vision of a Jewish commonwealth depicted in *Altneuland* develops according to a clear colonial logic: through the immigration of a



population of superior human intellect and capacity, a settler-colonial state is established according to rational plans that effectively exclude a wretched and underdeveloped indigenous population from the discourse of historical, cultural, political and legal rights. A hegemonic strategy is thereby played out so as to detach the native population from the historical record of the space, while simultaneously entrenching the identity and legitimate claim of the settler population over the colonized land. As outlined in *Altneuland*, immigrating “in the full light of day,” the “Jewish settlers who streamed into the country had brought with them the experience of the whole civilized world” (Herzl 1987, 100, 127). Here surfaces one of the defining characteristics of the Zionist brand of colonialism: instead of claiming to apply full or partial control over the territory of *another* population, settlement of the land is presented as a process of *reclamation* by, or *return* to, its rightful custodians. The settlers are posited as indigenous to the land. “We led our people back to the beloved soil of Palestine,” says David Littwak, Löwenberg’s travel guide, “[and] milk and honey once more flowed in the ancient home of the Jews” (Herzl 1987, 151, 241).

Using the language of colonialism, *Altneuland* also expands on a familiar universal humanitarian argument posited by the European colonialists of the time: settling the land will result in the progress of humankind as a whole. Throughout the text, the founders of the Old-New-Land remark that its foundations were laid in Europe. Littwak notes, colonized Palestine “punish[es] only those crimes and misdemeanours which were penalized in enlightened European states” (Herzl 1987, 98). Created in the image of Europe, the value of the achievements of the Jewish commonwealth in the areas of “education ... land reform, charity organization, social welfare ... the role of women ... the progress of applied science,” literature, and technology are strictly measured in comparison (Herzl 1987, 223). That the “Jewish peddler ... [can carry] herself so modestly and yet with such dignity beside the great English lady” is proof that “Jews have risen to their ‘proper place’ among the ‘great nations’ and ‘noble races.’”<sup>2</sup> In Herzl’s novel, and within the Zionist framework, the logic of colonialism propagates the Jew as a liberal cosmopolitan “colonizer for progress” and Palestine is reduced to an “experimental land for humanity.”<sup>3</sup> Overall, what is revealed in the fictional structure of *Altneuland* is the extent to which the Jewish national movement and its pundits employed the

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<sup>2</sup> See Herzl 1987, 258; Stolow 1997, 60.

<sup>3</sup> See Stolow 1997, 60–61; Herzl 1987, 50.

ideological and conceptual model of colonialism, and cooperated with the forces of European imperialism, in their justification of Jewish statehood.

Israeli sociologist Baruch Kimmerling points out that, since its inception, Zionism was adept at distancing itself from the colonial milieu within which it developed:

Zionism emphasized the uniqueness of the 'Jewish problem': anti-Semitism, persecution, and, later, the Holocaust. It presented itself as the sole realistic and moral solution. Thus, the Jewish immigration movement was able to successfully present itself as a 'return to Zion', the correction of a cosmic injustice that had gone on for thousands of years, and as totally disconnected from other European immigration movements to other continents (Kimmerling 2002a, 1122).

Granted, the historical record shows that prior to the advent of Zionism as a national movement, Jewish migration to Palestine spanned a number of centuries and was mainly driven either by religious motivations, or as a result of the socio-political circumstances for Jews becoming unbearable in other places (Van Der Hoeven Leonhard 2005a, 115–116). During these periods, however, and for almost thirteen centuries, the mainly peasant indigenous Arab population had remained on their native soil, and managed to survive the range of “natural catastrophes, epidemics, famines, devastating armies, foreign occupiers and tax collectors” that befell the land. The discourse of Jewish immigration to Palestine radically transformed after World War I, whereby Zionism became intensively reformulated around European notions of statehood, colonialism and imperialism.<sup>4</sup> Spearheading the political Zionist discourse, Herzl sought both Jewish and European support for his national project through “extortion, and stimulation of anti-Semitism” (Van Der Hoeven Leonhard 2005a, 118). As outlined by Walid Khalidi, Herzl's framework of analysis can be summarized as follows:

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<sup>4</sup> Maxime Rodinson outlines the ideological and conceptual influences and parameters of Zionism, analyzing it in terms of its colonial character. In this text he explains that “the dominant outlook of European chauvinism” along with the “ethnocentric and racially exclusive ideology ... [of] European bourgeois nationalist doctrines” were the main sources of influence and main spaces of organizing and support the Zionist colonists in Palestine. Rodinson writes, “Although very few Zionists had come from Great Britain, this country, in regard to Palestine, played the role of mother country for a colony that was being settled” (2004, 10, 11, 62–71). As such, what is called the Zionist ‘rebellion’ or ‘insurgency’ against British rule in Palestine during the 1940s was essentially a dispute between the colonizers and the colonial centre fuelled by their political and material interests.

[A]nti-Semitism, which was the root of the Jewish problem, was ineradicable, the Jews constituted a people in the sense of a nation, and the Jewish problem was consequently a national problem which could only be solved by the gathering into one state of all Jews who wished to retain their Jewish identity, and by the complete assimilation and effacement as Jews of the remnant still scattered among the nations (Van Der Hoeven Leonhard 2005a, 118).

In other words, Herzl's arguments go as follows: the Jewish problem exists because anti-Semitism is both real and ingrained in Christian Europe, and because the Jews constitute a nation, the Jewish problem is therefore a national problem. Through the effective merging of *Jewish identity* with *Zionist identity*, not just as collectivities but also as a general mechanism of incorporation, Zionism has provided Israel's settler-colonial framework with a certain social and historical validity. As alluded to in Chapter Four, this is also the case for various Western liberal-democratic academic circles. Despite this, the current scholarship from critical Arab and Jewish historians, social scientists and political scientists – particularly those in Israel – indicates that at a socio-political and ideological level the Zionist project has had to constantly defend the legitimate existence of Israel as a Jewish state. At the same time, at a legal-judicial level, the Zionist movement has also repeatedly had to explain its choice of Palestine as its territory for settlement to the international community.<sup>5</sup>

On this, the theoretical framework of analysis adopted by Israeli sociologist Gershon Shafir in his account of Israeli colonialism is particularly radical, and crucial.<sup>6</sup> Shafir draws direct conceptual and historical links between post-1967 Israeli colonization in the West Bank and Gaza and pre-1948 Zionism.<sup>7</sup> While acknowledging that the mode of Jewish colonization and settlement in Mandate Palestine differed and tailored itself according to the political, legal and economic realities of its time, he contends that the essence and nature of the Zionist project stayed colonialist. Shafir writes:

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<sup>5</sup> Kimmerling 2008, 182. Zionist arguments justifying Mandate Palestine as its target territory for settlement are also explained in Morris (1995).

<sup>6</sup> American-Israeli historian Gabriel Piterberg writes that “Shafir’s work on the initial stage of Zionist colonization is one of the most fundamentally radical critiques of Zionism I am aware of, a fact masked by the work’s arid register. .... It is also the most self-conscious attempt to reinterpret Israeli history within the framework of the comparative study of settler societies .... Shafir regards colonization not as a fleeting moment of formation but as a continually present and underlying structure” (2008, 62–63).

<sup>7</sup> See Shafir (1996) and (1999). The latter text is a synopsis of the major contentions of the former text, with additional insights included by the author.

Where others see historical bastards, I find a streak of historical ancestry. I offer, therefore, a theoretical and conceptual perspective that highlights the continuous centrality of colonization in Zionism and at the same time gives appropriate weight to the changes that have taken place, under new circumstances, within the framework of settlement. European colonialism, after all, did not create just one model of overseas society, and it seems to me that we can understand the transformation of Israeli society since 1967 most fruitfully as a transition from one method of European colonization to another one (Shafir 1999, 83).

Shafir begins his comparative analysis by outlining the specific attributes of the Zionist means of colonization: unlike European hegemonic powers, the Jews had no organized polity until the beginning of the British Mandate; areas earmarked for settlement were selected ideologically by Zionists and not based on their economic potential; only a minor segment of the indigenous Palestinian population were nomadic when Zionist settlement was underway and most were in the process of expanding their areas of residence to coastal and inland areas; purchase was considered a means of territorial accumulation by Zionist settlers unlike their European counterparts who considered colonized land as *free*; Jewish farmers employed seasonal unskilled wage labour unlike the contract-based or slave workers in European colonies; and many of the Jewish colonizers were refugees and lacked independent resources (Shafir 1999, 84–85). These differences between the Zionist ‘pure settlement’ project and other frontiers of settlement do not indicate a non-colonial character of the Jewish national movement, explains Shafir. Instead, these differences existed to ensure the smooth colonization of Palestine given the particularly difficult state of the land and circumstances of the incoming settlers. To Shafir, colonialism is not a cursory or transient effect of Zionism, but instead serves as its congenital backbone.<sup>8</sup>

Shafir distinguishes between two phases of Zionist settlement in Palestine, what is called the *First Aliyah* from 1882–1903 with about 20,000–30,000 Jewish immigrants and the *Second Aliyah* from 1904–1914 with about 35,000–40,000 Jewish immigrants, the latter during a time where approximately 425,000 Palestinian-Arabs lived in Palestine (Shafir 1999, 86–88). The former period developed into what he calls an ‘ethnic

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<sup>8</sup> This point is deepened and expanded upon in the recent work of Gabriel Piterberg whose intricate and insightful account of the Zionist ideology and ethic explains how the Zionist movement was an unexceptional colonial project compared to those initiated by European hegemonic powers (see Piterberg 2008).

plantation colony' fuelled mainly by a large low-paid and seasonal Arab labour force and a smaller better-paid Jewish labour force. The contradiction between market-based colonialism and Jewish national aims resulting from the considerable use of Arab labour stimulated a change in the colonial direction during the second major phase of immigration. The arrival of Jewish immigrants during the *Second Aliyah* whose organized workers formed the ranks of the Labour Movement generated a change in the colonial struggle from the 'conquest of land' to the 'conquest of labour' as a central concern. However, despite this shift, Shafir contends that the ultimate aim of furthering Jewish colonialism and establishing a pure settlement colony has remained unchanged.

This analysis is significant given the ripples it creates within some of the most critical Israeli political circles. Any depiction of Zionism as a colonial project is considered a provocation by the vast majority of Israeli society, and translated to self-hatred and disloyalty to the state. That said, as Israeli historian Ilan Pappé notes, the comparative colonial discourse does appear among a few critical Israeli scholars who tend to self-identify as the Zionist Left. But this too is a limited analysis. Pappé explains:

Critical Israeli academicians ... tend to see the year 1967 as a watershed between a pre-1967 moral, contained and basically united Israel and a post-1967 occupying, expansionist and divided Jewish state. Hence, they are willing to point to colonialist features in the Israeli conduct in the occupied territories and trace all the present social and political predicaments to the making of Greater Israel in 1967 (Pappé's commentary in Shafir 1999, 81).

Shafir's reformulation of Israeli history within the parameters of a colonial-settler scheme, and one that simultaneously acknowledges the "particular cast" of Zionist colonialism along with its "fundamental similarity with other pure settlement colonies," refuses the above demarcation. The colonial logic of pre-1948 Zionism was amended in its post-1967 realization, yet remained central to the Zionist project of nation-building. It is upon this understanding that this book seeks to examine the inclusive and exclusive dynamics faced by Palestinian-Arab citizens in contemporary Israel. The colonial logic of pre-1948 Zionism will be shown to resurface in contemporary Israeli democracy, at the legislative, declarative, structural, and operational levels. In other words, the historical matrix of colonialism within which the Jewish national movement burgeoned is the main source of the multifaceted racial discrimination faced by Palestinian-Arab citizens today.

## A MULTIFACETED DISCRIMINATION

Discrimination against non-Jewish citizens penetrates to every corner of Israeli society, from the private to the public sphere, and at social, civil, legal and political levels. According to Arab political scientist As'ad Ghanem, the channelling of rights through Israel's policy of Jewish dominance can be analyzed at three different levels: the declarative level, the structural level, and the operational level (Ghanem 1998). What becomes evident in the proceeding analysis is that while legal and operational policies do exist in Israel that aim at alleviating the depraved circumstances of marginalized groups and collectives within its society, these measures have largely been fruitless. At best, policies aimed at reducing marginalization are both insufficient and ineffective and, at worst, they are rendered inapplicable to the case of Palestinian-Arab citizens. Instead, such measures are often employed by their liberal-Zionist adherents as a distraction from any genuine conversation about the ensconced inequality of Israel's Arab citizenry.

Before I begin to outline the extent of the entrenched discrimination against Arab citizens at the declarative level, the structural level, and the operational level, I would like to examine recent devastating developments taking place in Israel at the legislative level. Here, the legislative level is treated as a distinct area of analysis because of its particular function in the reproduction of the Jewish nation-state.

*Legislative Level*

Questions of representation and democracy are not new to the Arab population in Israel. They emerged with the establishment of the Jewish state and have grown increasingly acute since the Al-Aqsa Intifada. This period of Arab existence in Israel witnessed the development of an additional mechanism of disenfranchisement to the existing inferior political, social, and legal status of Arabs in Israel, and came in the form of a strong attack on Arab citizenship rights and status. Following the outbreak of the second Intifada, the state began to propose legislation aimed at diluting, both formally and informally, the civil status of Palestinian citizens and further impeding their existing limited sphere of political action. Through legislative and constitutional amendments, governmental policies, and the radicalization of the public discourse on Arabs in Israel, previously dormant political beliefs and biases were enabled, thereby generating new forms of discrimination. Having identified more than thirty key laws

that directly discriminate against Palestinian citizens of Israel, Adalah: The Legal Center for Arab Minority Rights in Israel (hereafter 'Adalah') writes:

The current constitutional situation has allowed the State of Israel to enact laws that are either discriminatory on their face, in that they relate only to the rights of Jews in Israel or abridge the rights of Arab citizens of the state, or use neutral language and general terminology but have a discriminatory effect on Arab citizens.<sup>9</sup>

Indeed, Arab citizens of Israel were a major topic in the 2009 election campaigns that brought in the previous eighteenth Knesset and saw one of the most right-wing government coalitions in the history of Israel come to power. That administration has since been topped by the recently elected nineteenth Knesset featuring an even more right-wing government coalition that includes religious and ultra-orthodox Jews, along with a disproportionately high representation of Jewish settlers of the West Bank in the parliament.<sup>10</sup> The rise of right-wing representation in the Knesset has, since 2009, introduced numerous discriminatory laws that target Palestinian-Arab citizens of Israel, along with Palestinians in Jerusalem, the West Bank and the Gaza Strip, and the Palestinian refugee population. These new refugee land laws and bills – which continue to surface on a regular basis<sup>11</sup> – are too many to mention here, but there are a few that deserve special attention:

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<sup>9</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *The Inequality Report: The Palestinian-Arab Minority in Israel*, March 2011: 14, [http://www.adalah.org/upfiles/2011/Adalah\\_The\\_Inequality\\_Report\\_March\\_2011.pdf](http://www.adalah.org/upfiles/2011/Adalah_The_Inequality_Report_March_2011.pdf).

<sup>10</sup> Though beyond the scope of this book, it is worthwhile to mention that racist policies targeting the Palestinian citizenry are not only limited to Israeli right-wing, ultra-nationalist or orthodox political parties. For instance, widely conceived as a centrist political party, Yesh Atid (The Future Party) is nevertheless in agreement with the parties on the extreme right on most of the major political and social issues in the country. This includes, among others, support for demographic engineering to maintain a Jewish majority, legally sanctioned Jewish domination in all spheres of society, vehement opposition to the proposed paradigm of Israel as a 'state for all its people', as well as support for illegal Jewish settlements in the West Bank. In fact, during the 2013 Knesset elections, Yesh Atid even launched its election campaign in the illegal Ariel settlement, the fourth largest of its kind in the West Bank. For more, see Neve Gordon, "Yair Lapid: The southern man and his cosmopolitan ghetto," *Al Jazeera English*, February 12, 2013, <http://www.aljazeera.com/indepth/opinion/2013/02/201321112856254494.html>.

<sup>11</sup> An updated list of the existing legislation which specifically targets Palestinian citizens and affects the community disproportionately is provided by Adalah: The Legal Center for Arab Minority Rights in Israel, *New Discriminatory Laws and Bills in Israel*, June 2012 (the source of much of what follows), [http://www.adalah.org/Public/files/English/International\\_Advocacy/New\\_Discriminatory\\_Laws\\_June\\_2012\\_Update.pdf](http://www.adalah.org/Public/files/English/International_Advocacy/New_Discriminatory_Laws_June_2012_Update.pdf).

i. *Amendment to The Israel Lands Administration Law (1960)*

Approved by the Knesset on August 3, 2009, this law implements broad-based land privatization measures. It stipulates that most of the land currently classified by the state as “absentees property” and owned by the Palestinian refugees and internally displaced persons, along with some of the lands of demolished and evacuated Arab villages, and land otherwise seized from Palestinian citizens, can be sold to private investors and is rendered inapplicable to any future restitution claims. Further, this law bestows upon representatives of the Jewish National Fund (*Keren Kayemeth Le-Israel*, hereafter ‘JNF’) the decisive authority over the land in a new Land Authority Council, set to replace the Israel Lands Administration (hereafter ‘ILA’) which currently oversees the use of 93 percent of the total land in Israel. Totalling about 800,000 dunums, these areas include the property of refugees currently located in mixed Arab-Jewish cities, along with land that has been zoned or planned for development.

ii. *Amendment to The Land (Acquisition for Public Purposes) Ordinance Law (1943)*

Approved on February 10, 2010, this new amendment, asserts state ownership of land confiscated under this law even including cases where the land has not been used for its original confiscation purpose. In other words, this law enables the state to put off using the confiscated land for its original confiscation purpose for seventeen years, and prohibits land-owners from demanding the return of the land that is not used for the original confiscation purpose if it has been turned over to a third party, or if more than twenty-five years have passed since the confiscation. Originally a British Mandate-era law, this legislation has, since its inception, continuously been used by the state to enable the Minister of Finance to confiscate land for *public purposes*. Applied in conjunction with other laws such as *The Land Acquisition Law (1953)* and *The Absentees’ Property Law (1950)*, this law serves as the fuel that drives state-led initiatives to confiscate Palestinian-owned land in Israel. It broadens the decisive powers of the Finance Minister to seize land, even permitting the Minister to announce new purposes. Evidently, this new amendment aims to preempt future potential lawsuits initiated by Palestinians to reclaim confiscated land. Not only has there been more than 25 years since the majority of Palestinian land was seized, but large sections of this land has been transferred to third party Zionist organizations, such as the JNF.



iii. *The Admissions Committees Law*

Passed on March 24, 2011, this law calls for “admission committees” to operate in almost 700 agricultural and community townships, accounting for 68.5 percent of all towns in Israel and around 85 percent of all villages built on state land in all of the Naqab and Galilee. Serving as decisive bodies that select applicants for housing units and plots of land, these committees are given full discretion to approve or deny individuals the right to live in these towns. Composed of “a representative from the Jewish Agency or the World Zionist Organization,” the ambiguous and subjective criterion of “social suitability” adopted by these communities stands to reproduce and entrench racially segregated towns, communities and villages throughout Israel. Though legal provisions for adhering to the right to equality and preventing discrimination are included in this law, it nevertheless allows these committees to refuse applicants considered “unsuitable to the social life of the community... or the social and cultural fabric of the town.” As a result, entire ethnic communities are filtered out as applicants. In fact, this law also allows admissions committees to include criteria selected by the individual communities themselves according to their particular characteristics, and encompass even those townships that are self-defined as maintaining a “Zionist vision.”

iv. *The ‘Nakba Law’*

Passed on March 22, 2011, the amendment to *The Budget Foundations Law* (1985) is popularly called the ‘*Nakba Law*’. This law enables the Minister of Finance to reduce or remove state-funding to an organization or institution if it sponsors or advocates an initiative that challenges the existence of Israel as a “Jewish and democratic state,” or if it recognizes “Israel’s Independence Day or the day on which the state was established as a day of mourning.”<sup>12</sup> Outlawing the traditional marking of Israel’s official Independence Day, May 14, 1948, as a national day of mourning for the loss of their homeland and the displacement of their people, this law specifically targets the right of the Palestinian citizens of Israel. Although its original draft prohibited any and all commemoration of the *Nakba*, the approved draft of the ‘*Nakba Law*’ targets state-funded institutions, including schools, research centres, civil society organizations and political groups with the threat of a fine of up to ten times the funds used for the commemoration.

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<sup>12</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *The Inequality Report*, 40.

An integral part of the Palestinian narrative, not to mention a documented historical fact, memorialization of the experience of the *Nakba* is vital for the preservation of their cultural and national ties. This law infringes on the rights and freedom of opinion and expression of Palestinian citizens, causing immense damage to any communal, cultural, educational and political initiatives aimed at mutual understanding. Interestingly, in commenting on this law, former Foreign Minister Avigdor Lieberman, a member of the right wing *Yisrael Beiteinu* party that sponsored the bill, said “there is no other normal country that funds events comparing its establishment to a catastrophe.”<sup>13</sup> What surfaces here is that, for Lieberman, the *Nakba* is merely being *compared* to Israel’s Independence Day, and is not understood as a direct and simultaneous effect of the establishment of the state.

v. *The NGO Foreign Government Funding Law*

Passed in February 2011, *The Duty of Disclosure for Recipients of Support from a Foreign Political Entity Law* (2011) inflicts extensive reporting stipulations on NGOs. It compels them to submit and publish quarterly reports on all financial support obtained from “foreign governments or foreign publicly-funded donors, including detailed information on any oral or written undertakings made to the funders” – all of which ought also to be publicized on the websites of that NGO, the Ministry of Justice and Registry of Associations. These reports must include details of the amount and purpose of the funds, the identity of the donor organization, and details of all correspondence between the donor and NGO. The drafters of this law claim that it aims to achieve increased transparency among NGOs, but as stated by Adalah, “these provisions are superfluous since every non-profit organization in Israel is already required under Israeli law to list its donors and other financial information on its website and to report annually to the government, specifying whether foreign governments have donated money.”<sup>14</sup> Nevertheless, this law impedes the ability of NGOs to

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<sup>13</sup> Jonathan Lis, “Human rights groups petition High Court to overthrow ‘Nakba Law,’” *Haaretz*, May 4, 2011, <http://www.haaretz.com/news/national/human-rights-groups-petition-high-court-to-overthrow-nakba-law-1.359802>. In a comment on this law, Arab MK Haneen Zoabi said: “This is a kind of law to control our memory, to control our collective memory. It’s a very stupid law which punishes our feelings. It seems that the history of the victim is threatening the Zionist state.” See Jillian Kestler-D’Amours, “Israel criminalizes commemoration of the Nakba,” *The Electronic Intifada*, March 29, 2011, <http://electronicintifada.net/content/israel-criminalizes-commemoration-nakba/9289>.

<sup>14</sup> In an article in *Haaretz*, Gerald Steinberg, president of the right-wing and pro-Zionist NGO Monitor writes: “All governments have interests and use power to pursue those goals.

acquire and maintain financial support as foreign governments are disinclined from providing funding, particularly to human rights groups, given such immense restrictions. In fact, this law explicitly exempts the World Zionist Organization, the Jewish Agency, the United Israel Appeal, the Jewish National Fund and their subsidiary institutions from its stipulations. Hence, it disproportionately affects Palestinian civil society groups in Israel and those NGOs advocating for Palestinian rights as they do not usually receive Israeli governmental funding and depend on foreign financial support. Instead, and despite directly contravening principles of international law, Jewish-Israeli settler organizations are privately funded, and state-sponsored, thus remaining unaffected by the new regulations.

vi. *The Ban on Boycotts Law*

Passed on July 11, 2011, *The Bill to Prohibit Imposing a Boycott Law (2010)* prevents any initiatives by Israeli citizens and residents encouraging or enabling any form of boycott against Israeli institutions, organizations, citizens or goods. Taking the wind out of the sails of any possible discussion, the law enables “any injured party” with the power to sue any individual or institution that advocate a boycott against them, without even having to supply evidence for the damage sustained.<sup>15</sup> Should the Israeli

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When officials from Sweden, Switzerland, Denmark, Norway, and another dozen nations use their ‘soft power’ to fund dozens of Israeli groups, such as Breaking the Silence, Yesh Din, and the Public Committee Against Torture in Israel, whose officials travel the world declaring that Israel is a nation of war criminals, these groups are also promoting the interests of their sponsors. .... In election after election, the governments chosen by Israeli voters have differed with European positions. However, by massively funding opposition NGOs, many of which claim to promote human rights (although they do this selectively), Europe tries to interfere with and manipulate the legitimate outcome of Israeli elections.” Here Mr. Steinberg seems to imply that by using foreign funding to inform the Israeli public of the human rights and legal violations committed by their government, Israeli NGOs are actually allowing European governments to interfere in internal Israeli politics. The logic adopted by Steinberg, similar to the logic of the law itself, is that any criticism against devastating Israeli government policies is not pursued by the Israeli NGOs out of their own agency, but is the result of manipulation from foreign forces. Ironically, instead of actually challenging the legitimacy of the criticisms and information compiled by Israeli NGOs, Steinberg appears more concerned that informing the Israeli public of the human rights and legal violations committed by their government does have an effect on their willingness to support such policies. See Gerald M. Steinberg, “Transparency for NGOs is not anti-democratic,” *Haaretz*, February 23, 2011, <http://www.haaretz.com/print-edition/opinion/transparency-for-ngos-is-not-anti-democratic-1.345164>.

<sup>15</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *New Discriminatory Laws*. For an analysis of the global movement (launched by Palestinian civil-society organizations in 2005) for boycott, divestment and sanctions against Israel from various perspectives of the campaign, see Wiles (2013).

courts conclude that a civil wrong was perpetrated, it can order payments in sums of up to 30,000 New Israeli Shekels (NIS) to the ‘injured’ party in damages. Foreign citizens violating the law could be denied entry into Israel for 10 years.<sup>16</sup> Important to note is that *any boycott* against products manufactured in illegal West Bank settlements is also considered an attack on Israeli goods and therefore criminalized under this law. In other words, the illegally occupied lands in the West Bank are here considered part of the state and economic regime of Israel.<sup>17</sup> Rendering the support or propagation of boycotts an actionable civil wrong, this law effectively prevents many civil society and advocacy groups from engaging in non-violent political actions of this form. Further, it denies both Arab and Jewish citizens and residents of Israel the right to actively and openly refuse to support criminal and other problematic Israeli groups, corporations and institutions fuelling the occupation of Palestinian-owned lands.

#### vii. *Loyalty Oath Bill*

Seeking to extort from Palestinian citizens acceptance of the principle that Israel is a Jewish state, the amendment to *The Citizenship Law (1952)*

<sup>16</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *New Discriminatory Laws*.

<sup>17</sup> Integration of the Jewish settlements in the West Bank into the Israeli social, legal and territorial corpus was further deepened with two major developments in December 2012. First, after various legal battles, the majority vote of the Council for Higher Education in Judea and Samaria to grant full university status to the Ariel University Center took full effect. This move renders Ariel University Center Israel's eighth accredited university and includes a gradual increase of the institution's annual government funding. As the fourth largest illegal Jewish settlement in the West Bank, Ariel interrupts the territorial integrity of any future Palestinian State based on the pre-1967 borders, as it blocks access between major Palestinian towns in the south and those villages to the north of the settlement. Yet, despite this territorial reality, Prime Minister Netanyahu stated that “Ariel is an inseparable part of Israel and it will remain that way under any future agreement.” Moreover, in what most observers identified as a response to the United Nations approval of the Palestinian bid for non-member observer state status, the Israeli government officially agreed to the building of 3,000 housing units in the contentious area known as E1; an area of the West Bank that runs between and connects the easternmost edge of annexed east Jerusalem to the mega-settlement of Ma’aleh Adumim. Building in this area would create a large block of contiguous Israeli settlements effectively slicing the West Bank into a northern and southern part, and would limit travel to Ramallah and Bethlehem to only narrow corridors around Ma’ale Adumim – far from the Old City and Jerusalem. See Barak Ravid, “Israel’s cabinet votes to recognize Ariel college as accredited university,” *Haaretz*, September 9, 2012, <http://www.haaretz.com/news/national/israel-s-cabinet-votes-to-recognize-ariel-college-as-accredited-university-1.463690>; *AlJazeera English*, “Israel rejects outcry over settlement plan,” December 04, 2012, <http://www.aljazeera.com/news/middle-east/2012/12/2012123101816967394.html>; *Jerusalem Post*, “Israel okays building of 3,000 units in Jerusalem, W. Bank,” November 30, 2012, <http://www.jpost.com/DiplomacyAndPolitics/Article.aspx?id=294118>.

imposes a loyalty oath for non-Jewish persons seeking naturalization in Israel and for Israeli citizens seeking first ID cards (obligatory at the age of sixteen). Having received government approval on October 10, 2010 (but not a Knesset majority as of yet) the proposed amendment to *The Citizenship Law (1952)* requires the declaration of a loyalty oath to Israel as a “Jewish, Zionist, and democratic state, to its symbols and values, and to serve the state in any way demanded, through military service or alternative service, as defined by law.”<sup>18</sup> This wording is a substantial change from the phrasing of the current declaration: “I declare that I will be a loyal citizen of the State of Israel.”<sup>19</sup> As evident, the legal imposition of a declaration identifying Israel as a state for Jews only, not only targets the historical ties of Arab citizens to the land, but it also reinforces existing sentiments of alienation within the community. Moreover, the bill also targets the non-Jewish spouses of Israeli citizens who, as non-Jews, will be obliged to swear the oath in order to live with their partners.

All in all, three important observations surface from these laws. The first point is that these laws are pervasive. They target all areas of Arab life in Israel: land rights, economic, land and budgetary allocations, freedom of association and expression, the right to protest and challenge Zionist policies, and even the right to ask for equality in the law, among other areas. Important to note is that these legal amendments are not made in isolation but against the background of a hegemonic Zionist discourse. The aim here is to force concession to a dominant Zionist consensus on the Arab citizenry (Rouhana and Sultany 2003). The second point about these legal amendments is that, if we pay attention, we will notice that some of the most controversial initiatives are amendments to existing legislation that was created in the first few years of (or prior to) the establishment of the state. For instance, from the limited selection of laws

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<sup>18</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *New Discriminatory Laws*. Israeli Labour Ministers submitted a draft of an alternative loyalty oath based on “the liberal and open spirit of Israel’s declaration of independence.” According to this draft, prospective citizens would be required to swear an oath to be “a citizen loyal to the State of Israel as a Jewish and democratic state, in the spirit of the declaration of independence, and ... committed to honouring the laws of the state.” Here, the word ‘Zionist’ is left out. See *Haaretz*, “Barak drafts alternative loyalty oath, based on ‘liberal spirit’ of Israel,” October 17, 2010, <http://www.haaretz.com/news/national/barak-drafts-alternative-loyalty-oath-based-on-liberal-spirit-of-israel-1.317701>. The fact that Prime Minister Benjamin Netanyahu also supported the draft citizenship loyalty oath quickly indicated to Labour coalition members that the passing of the law would result in a payoff in the form of a settlement building freeze. This did not happen.

<sup>19</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *New Discriminatory Laws*, 18.

mentioned above, there is a British Mandate-era law from 1943, *The Independence Day Law* of 1949, and *The Citizenship Law* of 1952 that are being amended. So, these are some of Israel's oldest laws. These laws serve as a foundation of the State of Israel and have been part and parcel of the shaping of its identity, dynamics, and attitudes. In fact, as mentioned, *The Citizenship Law (1952)* is one of the most important laws in Israel because as an extension *The Law of Return (1950)*, it is a key tool for ensuring a Jewish demographic majority. As such, the kind of obtrusive, discriminatory, and aggressive legislation passed by today's Knesset does not only depict an intensified right-wing trend in Israeli society and politics. It also depicts a change in the identity and disposition of the state itself. What this shows is that, for its self-preservation, the Israeli regime requires a constant and ongoing (re)creation of itself in opposition and response to its Palestinian-Arab citizenry. In effect, every moment of preservation of Israel's exclusionary regime requires as much energy as its establishment.<sup>20</sup> Finally, the third (and rather obvious) point that arises from an examination of this legislation is that the strengthening of the Jewish character of the State of Israel inevitably generates a feeble and tenuous democratic character. The political regime in Israel did not amend the discriminatory *Law of Return (1950)* for Jews. Seeking Jewish political and demographic dominance, it instead amended *The Citizenship Law (1952)* for Palestinians.<sup>21</sup> As a result, this wave of new legislation shows that Jewish ascendancy is antithetical to principles of democratic citizenship and equality.

#### *Formal and Declarative Levels*

Jewish dominance is both concrete and irrefutable. Established in 1948, Israel was declared to be a Jewish state. The legally entrenched definition of Israel as 'the state of the Jewish people' or a Jewish state provokes and fuels the multiple forms of discrimination that pervade every sphere of Palestinian existence. Visible symbols such as official state holidays, the flag and other state symbols, the national anthem, the imposition of religious observances, street and road signs depicting the names of villages and towns and regulated dietary laws are all built upon the premise of the social and political hegemony of the Jewish people, and completely dismissive of the Palestinian citizenry (Ghanem 1998, 432). When it comes to

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<sup>20</sup> See Voegeli (2009). This author keeps a copy of this paper in her personal records.

<sup>21</sup> For a good discussion on these laws, see Cook (2006, Chs. 1 and 3).

language rights, although Arabic is also an officially recognized language, the Hebrew language is dominant in all spheres of Israeli society. This was intensified in 2009 where the Transportation Minister announced the *Hebraization* of all major road signs in Israel whereby the Arabic names of cities, towns and villages would be replaced with its Hebrew name but in Arabic script.<sup>22</sup> Here, to the non-Arabic speaker viewing the Arabic letters, Jewish ascendancy and the political project of the *Hebraization* of Israeli society is painted as an apparent symbol of tolerance, inclusion and co-existence. Other than private-sphere events and immediate community surroundings, Arabic speakers have limited state-affiliated means for the development and exercise of their language. Indeed, the status of Arabic is so inferior to that of Hebrew that government institutions and even entire Ministries often turn down official documents in Arabic and request a notarized Hebrew translator. In fact, in a recent publication titled *The Inequality Report* (2011), Adalah states:

[M]ore than 200 major principle decisions issued by the Supreme Court have been translated into English and have been published on the court's website along with the original Hebrew decisions. Although the majority of these decisions are relevant to Palestinians in the OPT, none of them has been translated into Arabic.<sup>23</sup>

Further, while several laws are implemented to promote and preserve Jewish culture and create Jewish cultural institutions, such as *The High Institution for Hebrew Language Law* (1973) among others, no such law exists which refers to Palestinian-Arab culture, history, or heritage.<sup>24</sup> As a result, Jews are provided legally enshrined rights both as a collective and as individual citizens, whereas Arab citizens of Israel lack a clear and official legal and formal status in Israel as a collective, and fail to identify with the intrinsically Jewish and Zionist symbols of the state at an individual level.

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<sup>22</sup> For instance, "Al Quds" – the Arabic name for Jerusalem – would become "Yerushalaim," but written out in Arabic letters. In *The Inequality Report*, Adalah: The Legal Center for Arab Minority Rights in Israel draws the readers attention to the Supreme Court's decision in HCJ 4112/99, *Adalah, et al. v. The Municipality of Tel Aviv-Jaffa, et al.*, rendered on July 25, 2002, by Justice Dalia Dorner. Submitted by Adalah together with the Association for Civil Rights in Israel, this case referred to the lack of Arabic text on traffic, warning, road and other informational signs in the mixed Arab-Jewish cities of Tel Aviv-Jaffa, Ramla, Lydd, Acre, and Nazareth Illit (Upper Nazareth), and requested its modification.

<sup>23</sup> *Ibid.*, 46.

<sup>24</sup> See Adalah: The Legal Center for Arab Minority Rights in Israel, "Additional Information to the UN CERD Committee in Response to the List of Issues Presented to Israel," February 2007, <http://www.old-adalah.org/eng/intlo7/adalah-cerd-feb07.pdf>.

Inequality in Israel is manifested in various concrete ways. Social rifts in Israel exist among women and men, Mizrahi, or Eastern Jews, and the dominant Ashkenazi, or Western Jews, Orthodox versus secular Jews, Israel-born Jews (*Sabar*) and new Jewish immigrants (*Olim*), along with other dividing lines that are based on class, political expression, physical handicap, sexual orientation and gender, and area of residence.<sup>25</sup> Granted, Israel has instituted some of the most progressive and tangible legislation and policies targeting these forms of disenfranchisement and division. Yet, as Adalah points out:

Israel's Knesset, for example, has legislated strong anti-discrimination legislation and legal protections for women and disabled persons. However, the same has not been done for the Palestinian minority in Israel. As a result, Palestinians who are also members of other marginalized groups do not receive the full benefit of such protections.<sup>26</sup>

Despite forming over 20 percent of the total population of Israel, Palestinian-Arabs are not recognized as a national group or minority in *The Basic Laws* of Israel. For the most part, the Arab citizenry is viewed as a threat, and often explicitly referred to as a 'fifth column', 'security concern', or 'demographic time bomb' by Israeli politicians and public figures. As a national non-immigrant collective forming a demographic minority on its historical lands, Palestinian-Arabs are not treated as an underdeveloped or marginalized community by the state. Instead, Palestinian citizens are confronted with intricate racialized policies of exclusion which, allied with partial inclusion in all spheres of life, only further the existing gaps between the Jewish majority and the Arab minority. These policies fuel and are fuelled by the absence of a provision in Israeli law for the concept of constitutional equality. Now, a promise of full equality for all citizens is made in the *Declaration of the Establishment of the State of Israel*, its *Declaration of Independence*, yet it is thoroughly absent in the form of actual legislation. Equality is not an enshrined constitutional right, and is absent from *The Basic Law: Human Dignity and Freedom* which has, in the absence of a written constitution, served as Israel's constitutional bill of rights since 1992. Hence, while the law protects the equal rights of

<sup>25</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *The Inequality Report*, 4.

<sup>26</sup> *The Women's Equal Right's Law (1951)* and *The Equal Rights for People with Disabilities Law (1998)* are examples of such legislation. Further, on March 30, 2011, the Knesset approved *The Expansion of Adequate Representation of Women (Amendments) Law, 5771-2011* which requires adequate representation of women in posts of commissions of inquiry according to *The Commissions of Inquiry Law, 5729-1968* and *The Government Law, 5761-2001* (*ibid.*, 5, 59).



disadvantaged groups, no general statute relates to the right to equality or freedom from discrimination for all citizens.<sup>27</sup> As noted by Adalah:

While Supreme Court Justices have interpreted *The Basic Law: Human Dignity and Liberty* as comprising the principle of equality, this fundamental right is currently protected by judicial interpretation alone. .... The absence of an explicit guarantee of the right to equality in *the Basic Laws* or ordinary statute diminishes the power of this right and leaves the Palestinian minority in Israel vulnerable to direct and indirect discrimination.<sup>28</sup>

On this point, recent observations on Israeli civic rights submitted by the United Nations Human Rights Committee in July 2010 stressed that “the State party’s *Basic Law: Human Dignity and Liberty* (1992), which serves as Israel’s bill of rights *does not* contain a general provision for equality and non-discrimination.”<sup>29</sup> And they move on to argue that Israel “should amend its *Basic Laws* and other legislation to include the principle of non-discrimination and ensure that allegations of discrimination brought before its domestic courts are promptly addressed and implemented.”<sup>30</sup>

The lack of an explicit guarantee and protection of the right to equality is rooted in the declared Jewish character of the state. In fact, although the definition of the Israeli state is continually contested, movements within Israel to amend the wording of *The Basic Laws* since 1985 so that the State of Israel is “the state of its citizens” or “the state of the Jewish people and its Arab citizens” have consistently been voted down by Israeli Knesset members.<sup>31</sup> The self-definition of Israel as a Jewish state is most tangibly and indisputably revealed in and maintained through the two key

<sup>27</sup> For more on the absence of legal assurances of equality, see Masalha (1993).

<sup>28</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *Inequality Report*, 14. Emphasis added.

<sup>29</sup> See United Nations Human Rights Committee, Ninety-ninth session, *Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding observations of the Human Rights Committee—Israel*, (CCPR/C/ISR/CO/3), July 29, 2010, Section C, Point 6, <http://www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.ISR.CO.3.doc>, retrieved from Adalah: The Legal Center for Arab Minority Rights in Israel, *The Inequality Report*, 14. Emphasis added.

<sup>30</sup> *Ibid.* Emphasis added.

<sup>31</sup> For years, Knesset members have rejected, again and again, bills proposed by Arab MKs and political representatives that are aimed at meeting the needs and improving the socio-legal conditions of the Arab community. Whether explicitly asking for universal equality for all citizens or addressing inequalities in the allocation of funds in the areas of education, culture and art, or the inclusion of Arabs in sporting organizations, societies and unions, such bills are consistently voted down. For a detailed account of this ordeal since 2002, see Sultany (2003), (2004) and (2005). See also Mtanes Shihadeh, *Israel and the Palestinian Minority: Political Monitoring Reports* (Haifa, Israel: Mada al-Carmel: Arab

nationality and immigration laws mentioned above: *The Law of Return (1950)* and *The Citizenship Law (1952)*. As a settler movement seeking out a territory for immigration and colonization, Zionist bodies aimed at creating a relatively homogenous Jewish settler-immigrant population in Palestine. Resulting from this Judaization project were socio-political and legal policies that foster pervasive discrimination against non-Jewish citizens, and which challenge the tenets of democratic citizenship. One such law, and perhaps the most important legal expression of Israel's self-definition as a Jewish state, *The Law of Return (1950)*, guarantees the right of immigration to every Jewish person. Instead of a general civic immigration law, *The Law of Return (1950)* only applies to any Jew looking to immigrate to Israel, to her/his spouse, children, grandchildren, and their respective spouses. And it applies to Jewish immigrants after the establishment of Israel and retroactively to Jews, without major preconditions, who had immigrated to Palestine or had been born there before the creation of the State. However, Palestinian refugees who were expelled from their land and homes in 1948 are not granted the 'right of return' and not even entitled to residency or citizenship status. An extension of *The Law of Return (1950)* is *The Citizenship Law (1952)* which grants automatic Israeli citizenship to any Jew upon immigration "according to the *Law of Return*" without any length of residency, economic or language requirement. In essence, a nation-state with a hierarchical citizenship regime is established through this legal tenet encompassing all Jews, and only Jews, by virtue of their ethno-national or religious descent. This law solidifies the secondary citizenship status of Palestinian-Arabs, as there is no chance for a non-Jew to acquire automatic citizenship through the Ministry of Interior. Indeed, even partners of Palestinian-Arab citizens of Israel can only gain citizenship or residency status through extensive legal procedures. Evidently, these same two laws, each of which is both ideologically and historically foundational to the State of Israel, privilege Jews by systematically excluding Palestinian-Arabs who were compelled to flee their villages and homes between 1947–1952, deny them their indigenous status, strip them of their right to their land and directly contradict the internationally-recognized Palestinian right of return as affirmed in UN Resolution 194. Together, *The Law of Return (1950)* and *The Citizenship Law (1952)* form the substructure upon which a whole arrangement of formal policies,

informal practices and new legislation ensuring Jewish dominance within the State of Israel, are based.<sup>32</sup>

### *Structural and Institutional Levels*

Arab citizens of Israel are involuntarily excluded from a wide range of Israeli institutions, public decision-making and civil power centres, including all areas of the legislative, executive, judiciary and government administration. To begin with, Arabs are excluded from the political-decision making centres. The Arab parties that are anti-Zionist or non-Zionist have historically played the role of a 'permanent opposition'. As it stands, no Arab political party has been part of a ruling government coalition.<sup>33</sup> This exclusion is fuelled both by the refusal of other coalition members to include Arab political parties and by opposition of Arab parties to the political mandate of these coalitions. Moreover, Arab political representatives have systematically been excluded from the important Knesset committees, such as the Department of Finance, Foreign Affairs, and Defence. In fact, since its inception, Israel has only had a few ministerial positions appointed to its Arab citizenry: Nawaf Massalha was chosen as Deputy Minister of Foreign Affairs in 1999, Salah Tarif was 'Minister without portfolio' in 2001, and Raleb Majadele was Minister for Science and Technology in 2007. In Israel, the legislative branch is represented by the Knesset and has sole authority to enact laws. In the absence of a constitution, the Knesset acts as both the legislature and constituent assembly and enacts a series of *Basic Laws* to fill the constitutional void in the state.<sup>34</sup> As per the

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<sup>32</sup> In addition, on July 1, 2008, the Knesset voted to extend the validity of *The Citizenship and Entry into Israel Law (2003)* for another year to July 31, 2009. Although the law is defined as a "temporary order" it has been extended nine times to date. First enacted in July 2003, the law denies Palestinian citizens the right to acquire residency or citizenship status in Israel for their Palestinian spouses from the OPT entirely on the basis of their nationality. Since its inception, changes have been made to this legislation that add to its racialized structure. Amendments were introduced to the law in July 2005 which allowed family unification in very restricted and limited conditions, thus inflicting immense violations of rights protected by international law, mainly the rights to family life, privacy, dignity, marriage, and equality. In May 2006, the Israeli Supreme Court once again displayed its complicity in legitimating Israel's racialized and discriminatory legal system by upholding the constitutionality of a law that denies a person's basic rights to humanitarian connections (e.g. the right to family ties) on the grounds of her/his national belonging. See Adalah: The Legal Center for Arab Minority Rights in Israel, *The Inequality Report* for more.

<sup>33</sup> *Ibid.*, 52.

<sup>34</sup> In *Citizens without Citizenship*, Nimer Sultany explains: "In addition to functioning as the legislature and constituent assembly, the Knesset fills a quasi-judicial role. An example of this function is the immunity granted to MKs and the power granted to the Knesset to remove the president of the state and the state comptroller from their positions" (2003, 17).

recent 2013 elections, the United Arab List and the Arab Movement for Change (Ra'am-Ta'al), the National Democratic Assembly (NDA-Balad), and the Democratic Front for Peace and Equality (Al-Jabha/Hadash) are the main Arab political parties (or parties with a majority of Arab members) in the Knesset, holding 11 of the available 120 seats. In the previous eighteenth Knesset, only one of the members, Haneen Zoabi, was an Arab woman representative, and though not the first Arab woman to enter the Knesset, Zoabi is the first to be elected for an Arab political party.<sup>35</sup>

When it comes to the judiciary, the Israeli Supreme Court is the highest-level of the court system. Often celebrated as a force of liberal-democracy and rule of law that, in the context of the 'war on terror', fights terrorism within the parameters of the law, the rulings of the Supreme Court are binding on every court in Israel. However, this perception of the Supreme Court is rather distanced from the political realities of the multifaceted system of control and expulsion established by the state. In fact, whether it is the depiction of the State of Israel as a democratic system struggling for recognition, survival and coexistence within the framework of the law, the defence of the Israeli military as a governmental force that recognizes and respects the laws of warfare, or the portrayal of the iron-fisted Israeli occupation regime in the Gaza Strip as continuing to provide necessary amounts of fuel, electricity and goods required to satisfy the vital humanitarian needs of the besieged civilian population,<sup>36</sup> the Supreme Court has – to a great degree – assumed the official position of the state.<sup>37</sup> In other words, the rulings of the Supreme Court espouse the liberal-Zionist belief that Israel is able to maintain a genuine democratic order within its 1948-boundaries while simultaneously (re)producing an oppressive and

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<sup>35</sup> During the 2013 elections, Zoabi was joined in the election race for the nineteenth Knesset by three other Arab women, Nabila Espanioly of the Hadash party, Asma Aghbarieh-Zahalka of the joint Jewish-Arab Da'am Workers Party, and Nadia Hilou of the Labour Party. The Knesset has lists of its members according to their parliamentary party readily available in English, see [http://www.knesset.gov.il/mk/eng/mkindex\\_current\\_eng.asp?view=1](http://www.knesset.gov.il/mk/eng/mkindex_current_eng.asp?view=1).

<sup>36</sup> Disturbingly, Israel has even gone so far as to consider at an official level to monitor the food consumption of the Gazan population by calculating a minimum number of 2,279 calories required to keep Gazans from starvation. See United Nations News Centre, "UN agencies join in shared call for end to Israeli blockade of Gaza," June 14, 2012, <http://www.un.org/apps/news/story.asp?NewsID=42227#.ULN5QU-er-k>; Amira Hass, "2,279 calories per person: How Israel made sure Gaza didn't starve," *Haaretz*, October 17, 2012, <http://www.haaretz.com/news/diplomacy-defense/2-279-calories-per-person-how-israel-made-sure-gaza-didn-t-starve.premium-1.470419?localLinksEnabled=false>.

<sup>37</sup> For example, see High Court of Justice Lawsuit 9132/07, *Jaber al-Bassiouni Ahmed and Others v. The Prime Minister*, decision delivered January 30, 2008, Paragraph 21–22, [http://elyon1.court.gov.il/files\\_eng/07/320/091/n25/07091320.n25.htm](http://elyon1.court.gov.il/files_eng/07/320/091/n25/07091320.n25.htm).

multifaceted system of control and expulsion outside this area.<sup>38</sup> For the most part, as in the other arenas of Israeli public and civic life, the presence of Arab citizens on the Supreme Court has been extremely minimal. Only two Arab male justices have served in the Court, Abd-er-Rahman Zoabi in 1999, and Justice Salim Joubran who has been serving since 2003 and today remains the only Arab justice out of a total of 15 Supreme Court justices. All in all, Arabs are systematically denied employment in senior positions in Israeli society and government, and are excluded from the centres of public, social, economic and military power.<sup>39</sup> At the same time, special Israeli institutions have been created and assigned the specific task of dealing with Arab affairs and policy-making.<sup>40</sup> And, for the most part, these committees view Arab citizens through a security lens and highlight the potential security risks allegedly associated with the ethnic, national and religious identities of the Arab community. Indeed, explicit expression of distaste and contempt for Palestinian-Arabs in Israel is not uncommon among academic, journalistic, political and religious figures in Israeli society. Too many to list here, it is suffice to say that contrary to common

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<sup>38</sup> On this point, see Sultany (2007).

<sup>39</sup> In August 2012, the Netanyahu-Lieberman administration discussed reforming Israel's draft law, *The Tal Law*, which deals with the special exemption from mandatory service in the Israeli military given to ultra-Orthodox Jews and Arab citizens. In the past, Arab citizens could volunteer for different forms of national service. In fact, the number of Arab youth choosing to perform national service increased by 60 percent from 2011 to 2012, reaching 2,400 Arab volunteers. Under the new law, national service would be compulsory in a range of social service and health-care institutions, including schools, cultural and community centres and hospitals. Theoretically, such national service could then also qualify Arab citizens to the benefits provided to those Jewish-Israelis performing military service, such as access to scholarships, reduced mortgages, financial aid and accommodation at Israeli universities, among others. However, as it stands, major Arab parties and most Arab civil society leaders oppose compulsory civilian national service for Arab youths, viewing it as a stepping stone for future legislation imposing compulsory military service on the population. Many argue that until Israel becomes 'a state for all its citizens' and begins to seriously implement policies and practices placing Arab citizens on equal footing with their Jewish counterparts, compulsory national service further violates and infringes upon the rights and legitimate demands of the Arab citizenry. See Meirav Arlosoroff, "National Service official: Israeli Arabs are more pragmatic than their leaders," *Haaretz*, June 27, 2012, <http://www.haaretz.com/business/national-service-official-israeli-arabs-are-more-pragmatic-than-their-leaders-1.444263>.

<sup>40</sup> For instance, the General Security Services (GSS; *Sherut haBitachon haKlali*), known outside the country as the Israeli Security Agency or Shin Bet is believed to have three operational wings divided into Arab Affairs, Non-Arab Affairs and Protective Security Department. Monitoring and repression of Israel's Arab citizenry is often incorporated in the mandate of the Arab Affairs Department of the GSS. See *BBC News*, "Profile: Israel's Shin Bet agency," January 30, 2002, [http://news.bbc.co.uk/2/hi/middle\\_east/1791564.stm](http://news.bbc.co.uk/2/hi/middle_east/1791564.stm); Sultany (2004, 76–77).

perception, such pronouncements are not limited to the extreme right-wing elements of Israeli society but are deeply entrenched in the mainstream consciousness.<sup>41</sup>

From the period of the Al-Aqsa Intifada there has been a marked intensification of state-led attempts to delegitimize its Arab citizenry. Here, the campaign of delegitimization of Palestinian-Arab political representatives and, more recently, of Arab civil society organizations in Israel has been particularly fierce. Since the *Nakba*, Palestinians have become a strategic obstacle to the goals of the Zionist movement and its ongoing Judaization project, thus rendering it impossible for this population to form a genuine and active part of Israeli society. As a result, the Palestinians in Israel find themselves on the double periphery of both Palestinian and Israeli political institutions and their respective (and intertwined) national movements. Yet, despite their marginality, this community is playing an increasingly important political role in the development of the Zionist-Palestinian conflict. They continue to point to the social and political transformations within Palestinian society in Israel since the forceful dispersion of their national group, and expose the inherent racial discrimination and contradictions in Israeli practices and policies.

Overall, consecutive Israeli governments have adopted one main strategy for the suppression of Arab political participation, expression and association: relocating political initiatives by Arab citizens to the realm of prohibited action. The criminalization of Arab political action and expression concerning the topics of national identity, belonging, rights and membership was done by Israel during the period of the first and second Intifadas, and reappears on commemorations held on *Nakba Day* (May 15) and *Land Day* (March 30), as well as at political gatherings and activities held opposing the demolition of homes, discriminatory legislation, and military attacks against Palestinians in the West Bank, Gaza Strip, and the neighbouring Arab states. As shown below, the suppression of political activity is particularly heightened in times of military conflict and political and national turmoil when the perspectives of much of the Arab citizenry run counter to the hegemonic Zionist discourse of security, self-defence and Jewish domination. And here common tactics such as the use of arrests, detention, interrogation and surveillance are employed by the Israeli security apparatus to silence dissent.

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<sup>41</sup> For detailed accounts of racist and discriminatory remarks against Arabs in Israel see Sultany (2004, 60–61) and (2005, 77–89, 137–139, 143–163), along with Mada al-Carmel's online quarterly *Political Monitoring Reports*.

*Mass Protests of October 2000*

The Al-Aqsa Intifada began on September 28, 2000 after Ariel Sharon's provocative visit to *Haram al-Sharif*, the site of Al-Aqsa mosque, sparked mass demonstrations in the OPT. The violent suppression by the entirety of the Israeli security apparatus resulted in many Palestinian deaths and injuries, and led to a set of demonstrations inside Israel by Palestinians, which were severely repressed in early October 2000. Mass demonstrations among Palestinian citizens throughout Northern Israel were immediately met with violence by the Israeli police in the form of live ammunition, rubber-coated steel bullets and tear gas, resulting in the death of ten Palestinians in the course of three days. By the end of ten days of violence, thirteen Palestinian citizens of Israel had been killed, hundreds injured, and more than one-thousand arrested by Israeli police.<sup>42</sup> Over the course of the next few months, human rights organizations reported trends of arbitrary arrest and detention, as well as inhumane treatment by Israel of Palestinians in custody. For months after the demonstrations had ended, the police continued to arrest Arab citizens, many of whom were held without bail, denied legal counsel, and forced into making false confessions. Israel's response to the deaths of thirteen of its Palestinian citizens in October 2000 was immensely hesitant, and led to the Or Commission of Inquiry on September 29, 2000 to investigate the October clashes.<sup>43</sup> In the end, testimonies given before the Commission by police officers and commanders, as well as Palestinian citizens and community leaders consistently confirmed that the Palestinian demonstrators were unarmed and posed no threat to the lives of the Israeli security forces present; that Israeli police provided inadequate protection for Palestinian citizens under attack from Jewish vigilantes and mobs; and that the use of physical force, beatings and live ammunition by the police was widespread and indiscriminate.<sup>44</sup> Yet, and as Adalah explains:

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<sup>42</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *Inequality Report*, 55.

<sup>43</sup> The official title was the "State Commission of Inquiry into the Clashes between Security Forces and Israeli Citizens in October 2000."

<sup>44</sup> There are, however, numerous criticisms to be made against this Commission including its problematic depiction of Arab protesters, implication of Arab culpability and failure to reprimand and even absolving Israeli security officials and political leaders, failure to include Ariel Sharon's provocative visit to the Al-Aqsa Mosque as part of the investigation, and the language it has adopted throughout the report, among others. All of this places the objectivity and intention of the inquiry into question. For a detailed account of the criticisms posed against the Commission, see Sultany (2004, 85-90).

Contrary to the recommendations of the official Or Commission of Inquiry [presented] in 2003, in January 2008, the Attorney General decided to close the files and not to issue a single indictment against anyone responsible for the killings. Until today, ten years after the killings, no police officer, commander or political leader has been held accountable for the deaths.<sup>45</sup>

As a result of the October 2000 protests, Palestinian citizens paid a high economic cost. Businesses suffered tremendously during September and October when many Palestinian shop owners participated in a general strike to protest Israeli aggression. In addition to the economic costs, there was an immeasurable psychological toll living in an increasingly polarized and tense society. Surfacing with the events of October 2000 and the Or Commission, and confirmed by the political encounters that followed and are explained below, Palestinians inside Israel continue to be defined as a 'security threat' and an 'internal enemy' by the state.

#### *Acre Riots of 2008*

On the night of Yom Kippur, the Jewish *Halacha* (body of religious laws) instructs religious Jews to fast and abstain from most activity, including driving. While driving is not legally prohibited on this day, and instead only shops and recreational institutions are required to be closed, secular Jews and Palestinian-Arabs are nevertheless unable to act otherwise. As a result, residents of so-called 'mixed cities' like Acre undergo a type of curfew on Yom Kippur. On October 8, 2008, Tawfiq al-Jamel, an Arab resident of Acre drove with his teenage son and family friend to pick up his daughter from one of the mixed areas in the city. Upon entering the mixed area, a group of Jewish youth pelted their car with stones claiming he had violated the religious laws for that day. Al-Jamel and his son sought sanctuary in the home of a relative as a mob of Jews gathered outside threatening the family and chanting "death to the Arabs." Once news spread of the family's besiegement, hundreds of Arab youths gathered to come to their assistance in the Old City and marched to the city centre, smashing shop windows along the way in a display of anger. In subsequent days, Jewish gangs roamed Acre's streets, torched several Arab homes, and forced dozens of Palestinian-Arab families living in Jewish-dominated areas around Acre to flee.

The Acre riots lasted for just under a week and were yet another in a line of incidents that showed the state's policy of systematic discrimination

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<sup>45</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *The Inequality Report*, 55.



against Palestinian citizens. While Israeli leaders tried to calm the tensions by appealing to the idea of coexistence, rather than denouncing the Jewish culprits, they argued that Acre's Arab residents provoked the attacks. Moreover, Israeli border guards were pulled from the Ramallah area of the West Bank and sent to Acre to quell the riots, and the residents of the mixed cities of Haifa, Jaffa, Ramla, Lydd and Wadi Ara also experienced increased police presence.<sup>46</sup> Taken together, the aftermath of the Acre riots and the State's reaction was testimony to the security lens through which the Israeli government views Palestinian citizens. In the end, after three days of rioting and clashes, the Israeli police arrested fifty-four residents, about half of them Jews and half Arabs. Yet, despite an acknowledgment by the Northern District Police commander stationed in the area during the riots that "Jews were the dominant factor in the breach of the peace in Acre," most of the arrested Jewish youth were released while the reprimand of many Arab youths was extended.<sup>47</sup> Further, on October 13, 2009 the Israeli daily newspaper *Haaretz* reported that the Minister of Public Security and the Police Commissioner had decided to create a special secret unit to monitor the Arab population. Called the *mistaravim* unit, Jewish officers in this unit go "deep undercover" in Arab areas including East Jerusalem and the adjacent Arab villages.<sup>48</sup> Though the official statement holds that the main purpose of the undercover unit is to monitor criminal activities, it is evident that its placement in predominantly Arab areas not only places the community within a security lens, but also enables the monitoring of their political activity.

### *The 2008–2009 War on Gaza*

On 27 December 2008, Israel initiated "Operation Cast Lead," an extensive military offensive in the Gaza Strip consisting of around twenty-three days

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<sup>46</sup> Ahiya Raved, "Akko Riots: Police ordered on heightened alert," *Ynet News*, October 10, 2008, <http://www.ynet.co.il/english/articles/0,7340,L-3607159,00.html>; *Ma'an News Agency*, "Israeli border guards pulled from West Bank, sent to quell Acre riots," October 12, 2008, <http://www.maannews.net/eng/ViewDetails.aspx?ID=205596>.

<sup>47</sup> See Mtanes Shihadeh, "Israel and the Palestinian Minority: Bi-monthly Monitoring Report of Mada al-Carmel," *Jadal*, no. 1 (January 2009), <http://mada-research.org/en/2009/01/08/jadal-issue-1-january-2009/>.

<sup>48</sup> "Mistaravim" is a Hebrew term, referring to Jewish police officers who go undercover among the Arab population. See Tomer Zarchin, "Secret police unit monitoring Israeli citizens," *Haaretz*, October 13, 2009, <http://www.haaretz.com/print-edition/news/secret-police-unit-monitoring-israeli-citizens-1.6196>; Jack Khoury, "Israeli Arab MK: Undercover unit proves police see us as threat," *Haaretz*, October 13, 2009, <http://www.haaretz.com/news/israeli-arab-mk-undercover-unit-proves-police-see-us-as-threat-1.6177>.

of bombings and shelling from the land, air and sea causing unprecedented damage and injury to the Palestinian civilian population.<sup>49</sup> Israel's onslaught in Gaza raised the international profile of the plight of the Palestinian people and inspired a massive outburst of global solidarity. Millions of people around the world expressed their outrage through mass demonstrations, sit-ins, occupations, writing campaigns, media statements, and various other actions. Similar to the countless voices on the streets of cities around the world, hundreds of Palestinian citizens of Israel came out into the streets to demonstrate against the Israeli military operation and demand its cessation. Responding to these protests, the police and the General Security Services (GSS), deemed them a threat to the security of the state and collaborated with the judiciary and some Israeli academic institutions to systematically suppress political expression via arrest and detention. Hundreds of protesters were arrested for their mere presence at these gatherings and were sanctioned *en masse* by the judiciary. Indictments made by the State prosecutor's office were on the grounds of "participating in prohibited gatherings, disturbing the peace and attacking a police officer," and even argued that "the protests are detrimental to the public morale." Similar to the treatment of demonstrators during the October 2000 protests, the judicial courts ignored the fundamental principle of individual examination in criminal cases and resorted to the mass arrest of suspects. At the same time, dozens of police units were invited to academic institutions such as Haifa University to violently disperse political initiatives and vigils organized by Arab students on university campuses. In the end, over 830 demonstrators were arrested

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<sup>49</sup> Israel violated its ceasefire with the Palestinian political organization Hamas on November 4, 2008 and launched 'Operation Cast Lead' between December 27, 2008 to January 28, 2009. Its intense bombardment of Gaza resulted in around 1,400 Palestinian deaths (over one-fifth of whom were children) and thirteen Israeli deaths – all along with intense destruction of homes and other infrastructure in Gaza as well as brutal violations of Palestinian human rights. Four of the 13 Israeli casualties were a result of friendly fire. As recently as November 4, 2012, Israel was once again the party to break the ceasefire with Hamas and went on to launch 'Operation Pillar of Defence' in the Gaza Strip. Between November 14 to 21, 2012, bombardment of Gaza resulted in over 150 Palestinian deaths (again, over one-fifth of these deaths were children), with 1000 Palestinian injuries, and with three Israeli casualties. See United Nations General Assembly Human Rights Council, Twelfth Session, *Human Rights in Palestine and other Occupied Arab Territories: Report of the United Nations Fact Finding Mission on the Gaza Conflict*, (A/HRC/12/48), September 25, 2009, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf>; Palestinian Center for Human Rights, "Israeli Offensive on Gaza Stopped Following 8 Days of Attacks," Press Release, November 22, 2012, [http://www.pchrgaza.org/portal/en/index.php?option=com\\_content&view=article&id=9044:israeli-offensive-on-gaza-stopped-following-8-days-of-attacks-&catid=36:pchrpressreleases&Itemid=194](http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=9044:israeli-offensive-on-gaza-stopped-following-8-days-of-attacks-&catid=36:pchrpressreleases&Itemid=194).

during the attacks on Gaza, 34 percent of whom were minors. On the systematic targeting of Palestinian protesters during this violent crackdown, Adalah notes:

Significantly, not one detainee from the Tel Aviv District, where the majority of Jewish protestors against the war were detained, was remanded until the end of proceedings against them. By contrast, all detainees in the Northern District were detained until the end of proceedings against them, and 94% in the Jerusalem District, where almost all protestors were Arabs.<sup>50</sup>

### *Criminalizing Arab Political Participation and Discourse*

A further curtailment of the political rights of Palestinian citizens comes in the form of reducing the rights of their political leadership. To stifle the political legitimacy of the Arab representatives and MKs and bring it in line with the dominant Zionist consensus, consecutive Israeli governments have employed a variety of legal tools, including criminal investigations and proceedings as an instrument for political suppression. The political activity of Arab public figures, civil society, and political representatives has been targeted through three main measures:

i. On May 15, 2002, the Knesset passed Amendment No. 35 to *The Basic Law: The Knesset* to prevent any candidates list and any person from participating as a candidate in elections to the Knesset if their aims or actions either “explicitly or implicitly” deny or challenge the Jewish and democratic nature of the State of Israel. The defined character of Israel as a Jewish state has three inter-related components, derived from a prominent Supreme Court ruling on a case further discussed below, called *Ben-Shalom v. Central Elections Committee for the 12th Knesset* (1988). As Sultany points out,

[i]n the leading Supreme Court decision of Ben Shalom, the majority held that the minimal definition of Israel as the state of the Jewish people is based on three elements: a Jewish majority in the state, preferential treatment of Jews over other groups in returning to their state, and preferential reciprocal treatment between the state and Jews in the Diaspora. A candidates’ list that rejects these elements is prevented from participating in elections.<sup>51</sup>

<sup>50</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *The Inequality Report*, 56.

<sup>51</sup> Sultany also explains that the majority in the *Ben Shalom* decision also held that a list that supports a repeal of *The Law of Return* must be disqualified, and that a list calling for total equality between Arabs and Jews “not only on a personal basis, but also on a national basis” also does not recognize the nature of the State of Israel as a state of the Jewish people (2003, 25–26).

This means that efforts to secure equal legal and political status for Arabs by highlighting the discriminatory legal and political outcomes of Israel's total bias in favour of its Jewish citizens are outlawed and rendered susceptible to a prison sentence. Importantly, the 2002 amendment includes new grounds for disqualification, namely, "support for an armed struggle of an enemy state or of a terrorist organization against the State of Israel" (Sultany 2003, 25–26). Here, the ambiguity of terms such as "armed struggle" and "terrorist organization," coupled with the characterization of neighbouring Arab and Muslim countries (Afghanistan, Iran, Iraq, Lebanon, Libya, Pakistan, Sudan, Syria and Yemen) and the Gaza Strip as "enemy states" are ambiguous and target the Palestinian citizenry. Indeed, in practice, this legislation is almost exclusively applied to Arab MKs.

ii. On June 30, 2008, the Knesset plenum passed Amendment No. 39 to *The Basic Law: The Knesset (Candidate who Unlawfully Stayed in an Enemy State)*. This amendment restricts the freedom of movement of Arab MKs to neighbouring Arab or Muslim states defined by Israel as 'enemy states'. This prohibition was applied retroactively to Arab MKs and was explicitly developed in the context of visits by Arab MKs, namely former MK Dr. Azmi Bishara, to neighbouring Arab states. Following the approval of the amendment, Knesset member Zevulun Orlev (National Union-National Religious Party) said: "From today, Arab MKs will have to decide: either the Syrian parliament or the Israeli parliament."<sup>52</sup> Incidentally, as noted by Attorney Haneen Na'amnih of Adalah:

The new amendment to the *Basic Law* constitutes a flagrant violation of the constitutional right to be elected. It also circumvents prior judicial rulings, including the Supreme Court's decision that overturned the decision of the Central Election Committee to disqualify the candidacy of MK Azmi Bishara because of his visits in Syria, his political speeches, and other claims. The Supreme Court's decision emphasized the importance of the constitutional right to run and be elected.<sup>53</sup>

iii. Finally, on April 1, 2009, another amendment was proposed to *The Basic Law: The Government Loyalty Oath* which posits that upon taking up a ministerial office, all Ministers must make a loyalty oath to the state as a "Jewish, Zionist and democratic state" and to the values and symbols of

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<sup>52</sup> Amnon Meranda, "Bill banning those who visit enemy states from Knesset duty approved," *YnetNews*, June 30, 2008, <http://www.ynetnews.com/articles/0,7340,L-3562284,00.html>.

<sup>53</sup> Shihadeh, "Israel and the Palestinian Minority: Mada's Bi-monthly Report," 5.

the state. Previous to this amendment, Ministers were only required to pledge an oath to the state.<sup>54</sup>

Taken together, the above legislative amendments alter the parliamentary dynamic in Israel and wholeheartedly deny Arab political representatives the means of addressing the needs and demands of their displaced and marginalized community. But this is not a novel development in the Israeli political scene. In 1985, the *The Basic Law: The Knesset* was amended by adding Section 7(A) which held that an MK or political party can be prohibited from running in the elections if they demonstrate, through their “aims or actions, expressly or by implication, ... denial of the existence of the State of Israel as the state of the Jewish people; denial of the democratic nature of the Jewish state; [or an] incitement to racism” (Schmidt 2001, 280). As evident, the first clause hinges political participation on the explicit recognition of Israel as a ‘state of the Jewish people’, thereby providing legal status to the notion that Israel is *not* a state of all of its citizens, including both Arabs and Jews. During debates held in the Knesset at the time with regards to the first clause of Section 7(A), former Arab MK Tawfik Toubi stated,

To say today in the law that the State of Israel is the state of the Jewish people, means saying to 16%<sup>55</sup> of the citizens of the State of Israel that they have no state and they are stateless, that the State of Israel is the state only of its Jewish inhabitants, and that Palestinian Arab citizens ... reside and live in it on sufferance and without rights equal to those of Jewish citizens ... (Schmidt 2001, 280).

Indeed, the exclusion of Arabs from political participation that resulted from this amendment became evident in 1988, when the Supreme Court was faced with the issue of how to interpret the first clause of Section 7(A). The case of *Ben-Shalom v. Central Elections Committee for the 12th Knesset* (1988) elucidates the particular circularity of the Israeli regime at political, structural and discursive levels that obstruct and delimit Palestinian participation and development. On the eve of the 1988 Knesset elections, members of the Israeli right-wing Likud and ultra-nationalist Techiya (Renaissance) Party unsuccessfully petitioned the Central Elections Committee (CEC) of Israel to disqualify the joint Jewish-Arab Progressive List for Peace (PLP). According to the petitioners, the PLP did not satisfy

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<sup>54</sup> Legislative Bill no. 5/18, proposed on April 1, 2009. See Adalah: The Legal Center for Arab Minority Rights in Israel, *The Inequality Report*, 54.

<sup>55</sup> As mentioned in the Introduction of this book, today the Palestinian citizen population totals around 20.5% of the total population of Israel.

the conditions for political participation as outlined in Section 7A as its party platform stated that it “will struggle for another Israel, an Israel that is for all of its citizens” (Schmidt 2001, 282). The position of the PLP was that a state defined as Jewish is unable not to treat its non-Jewish citizens as equals, and that a democratic state (by any acceptable reading of the term) could not give preference to a specific social group (Peled 1992, 437). For the petitioners and some of the judges on the Supreme Court, this argument is tantamount to negating the character of Israel as the state of the Jewish people.<sup>56</sup> In the end, though the Court decided by a reluctant majority of 3-2 to support the decision of the CEC and allow the PLP to participate in the Knesset elections, there was a general consensus among the judges that the rejection of a political party is justified if it rejects the Zionist notion that Israel is a state of the Jewish people. With such an interpretation of Section 7(A), the Court effectively sets a precedent whereby other democratic considerations in a case are rendered secondary to the primary aim of maintaining the exclusive Jewish character of Israel. In the words of Israeli scholar David Kretzmer, the Court’s decision implied that,

... on the decidedly fundamental level of identification and belonging there cannot be total equality between Arab and Jew in Israel. The State is the state of the Jews, both those presently resident in the country as well as those resident abroad. Even if the Arabs have equal rights on all other levels the implication is abundantly clear: Israel is not *their* state (Schmidt 2001, 284; also quoted in Peled 1992, 439).

For the PLP and the Arab political parties today, demanding complete equality between Jews and Arabs in Israel and extending this demand to the national character of the state renders them vulnerable to exclusion from the political process. For our purposes, what is of significance here is that despite the willingness of Arab politicians to pursue constitutional amendments through the parliamentary process, their rejection of the particularistic definition of Israel as ‘the state of the Jewish people’ necessarily leads to their legal exclusion from the process as a whole. The Israeli regime is legally, politically and conceptually designed and organized in a *circular* manner so as to make it *literally impossible* to challenge its particularistic definition as a Jewish state. This circularity cogently surfaces in

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<sup>56</sup> As Peled explains, it is important to note that the PLP did not demand that *The Law of Return* be annulled but, rather, that the right of return be extended to also include the Palestinian refugees (ibid., 441).

the above legal amendments, because they illustrate that access to the Israeli civil and political sphere to challenge this particularistic definition rests upon its necessary, and prior, acceptance. One must affirm, adopt and agree with the definition of Israel as a Jewish, Zionist and democratic state before one can even begin to question it through civil institutions. *Before the challenge is considered, it automatically renders itself void.* Thus, as significant challenge to the particularistic legal, institutional, and procedural arrangement of the state through formal avenues is rendered impossible, so too is genuine representation of the Palestinian-Arab citizenry within the Israeli regime.

*Targeting Arab MKs: From Bishara to Zoabi*

In November 2001, prior to a series of indictments, historically unprecedented parliamentary initiatives were launched to revoke the immunity of former head of the NDA-Balad party, Arab MK Dr. Azmi Bishara. The launch of these indictments in 2003 served as the first instance where an MK was prosecuted for political expression and speech. Having examined the circumstances leading to the end of the Israeli occupation of Southern Lebanon and outlined the daily effects of the Israeli occupation on Palestinian life in a speech in Syria, Bishara was charged under *The Prevention of Terrorism Ordinance Law (1948)* for allegedly aiding a terrorist organization (namely Hezbollah) and under the *Emergency Regulations – Foreign Travel Law (1948)* for coordinating a series of visits for elderly Arab citizens of Israel seeking to travel to Syria to visit relatives living in refugee camps.<sup>57</sup> While, in April 2003, the Nazareth Illit District Court unanimously ruled to dismiss the criminal charges against Bishara for his visits to Syria, it nevertheless upheld the indictments against Bishara in November 2003 for his political speeches.

With the partial lifting of a gag order on the investigation against the former MK, it was later revealed in April 2007 that Bishara was specifically accused of aiding the enemy during wartime, passing information on to the enemy and contacts with a foreign agent, including during the 2006 Israeli invasion of Lebanon – all of which he has denied.<sup>58</sup> On April 22,

<sup>57</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *The Inequality Report*, 58.

<sup>58</sup> Between July 12 to August 14, 2006, Israel attacked southern Lebanon during which Israel's Air Force flew more than 12,000 combat missions, its Navy fired 2,500 shells, and its Army fired over 100,000 shells resulting in over 1,190 Lebanese and 43 Israeli civilian deaths. See United Nations General Assembly Human Rights Council, Third Session, *Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled 'Human*

2007, during a visit abroad, Bishara resigned from the Knesset through the Israeli embassy in Cairo and announced his decision to remain abroad due to fears of a “long jail sentence and damage to his public image.”<sup>59</sup> In February 2011, the Israeli Knesset made into law what has been dubbed the ‘Bishara bill’, enabling the parliament to revoke benefits to MKs who do not report to the Israeli police for questioning, a trial, or to serve a prison sentence.<sup>60</sup> And in March of the same year, the Knesset plenum voted to formally revoke the parliamentary pension received by a former Knesset member.

On June 7, 2010, almost a decade after the first initiatives by the Knesset to strip Arab MKs of their parliamentary immunity, the Knesset House Committee voted to strip the parliamentary privileges of MK Haneen Zoabi, also from the NDA-Balad party. On May 31, 2010, Zoabi participated in the Gaza Freedom Flotilla as passenger on the MV Mavi Marmara, the Turkish-flagged boat carrying humanitarian aid and other supplies to the besieged Gaza Strip. At 2:00 a.m. the ship was commandeered by Israeli Defence Forces (IDF) in international waters, leaving nine activists dead, along with dozens of other activists and ten IDF soldiers injured. A report released by the United Nations Human Rights Council on September 23, 2010 on the incident confirmed that the Israeli military used “live ammunition, soft baton charges (beanbags) and plastic bullets,” and explained that the IDF opened fire with live ammunition “from the helicopter ... prior to the descent of the soldiers.” The report concluded that “lethal force was employed by the Israeli soldiers in a widespread and arbitrary manner which caused an unnecessarily large number of persons to be killed or seriously injured.”<sup>61</sup> While Zoabi’s parliamentary immunity prevented her

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*Rights Council: Report of the Commission of Inquiry on Lebanon pursuant to Human Rights Council resolution S-2/1, (A/HRC/3/2), November 23, 2006, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/specialsession/A.HRC.3.2.pdf>; Jonathan Lis, Yoav Stern and Shahar Ilan, “Balad Chairman Bishara: I cannot receive a fair trial in Israel,” *Haaretz*, April 26, 2007, <http://www.haaretz.com/news/balad-chairman-bishara-i-cannot-receive-a-fair-trial-in-israel-1.219014>.*

<sup>59</sup> *The Jerusalem Post*, “Report: MK Bishara leaves Egypt,” April 22, 2007, <http://fr.jpost.com/servlet/Satellite?cid=1176152849116&pagename=JPost/JPostArticle/ShowFull>.

<sup>60</sup> Rebecca Anna Stoil, “Knesset passes law revoking citizenship for treason,” *The Jerusalem Post*, March 28, 2011, <http://www.jpost.com/DiplomacyAndPolitics/Article.aspx?id=214202>.

<sup>61</sup> United Nations General Assembly Human Rights Council, Fifteenth Session, *Report of the international fact-finding mission to investigate violations of international law, including international humanitarian and human rights law, resulting from the Israeli attacks on the flotilla of ships carrying humanitarian assistance, (A/HRC/15/21)*, September 27, 2010, [http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.15.21\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.15.21_en.pdf).



detention, she was nevertheless extensively interrogated after the raid and, upon release, called for a transparent and independent international investigation into the incident. To penalize Zoabi for her participation in the Gaza-bound ship, the Knesset vote was passed on July 13, 2010 and included revoking her right to have a diplomatic passport, entitlement to financial support should she require legal representation, and her right to visit countries without ties to Israel. Moreover, Zoabi was also denied the right to contribute to Knesset discussions and vote in parliamentary committees.<sup>62</sup> This vote was the result of numerous confrontational sessions in the Knesset where Zoabi was verbally assaulted by fellow parliamentarians and confronted with a range of racist and sexist statements, attacks and threats. Zoabi has also been targeted by various Knesset members who have called for her to be criminally prosecuted, stripped of her post and, as part of a new legislation mentioned below, even called for the revocation of her Israeli citizenship.<sup>63</sup> On December 19, 2012, during the course of the 2013 Israeli elections, the Central Elections Committee (CEC) voted narrowly against disqualifying the entire NDA-Balad and the United Arab List parties from participating, but went on to approve by a majority of 19-9 a motion to only bar Zoabi from running for the nineteenth Knesset on the grounds of her participation in the Gaza Freedom Flotilla in 2010.<sup>64</sup>

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<sup>62</sup> Jonathan Lis, "Arab MK stripped of further parliamentary privileges for role in Gaza flotilla," *Haaretz*, July 18, 2011, <http://www.haaretz.com/news/national/arab-mk-stripped-of-further-parliamentary-privileges-for-role-in-gaza-flotilla-1.373859>.

<sup>63</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *The Inequality Report*, 58. In May 2011, Zoabi was banned from the Haifa University campus from speaking with the Balad party student campus group. Citing the visit as providing "an excuse for exhibiting violent behaviour" the university banned her participation in the student political activity on campus. As an MK, and under *The Knesset Members (Immunity, Rights and Duties) Law*, Zoabi has the right to enter a university campus without restrictions. Despite the ban, Zoabi attended the scheduled event, accused the university of "using the same tactics as the Shin Bet security service to keep Arab political activity to a minimum" and encouraged students to bring the matter to the attention to university donors. See Jack Khoury, "Haifa University Students protest ban on Israeli Arab MK who sailed on Gaza flotilla," November 15, 2011, <http://www.haaretz.com/print-edition/news/haifa-u-students-protest-ban-on-israeli-arab-mk-who-sailed-on-gaza-flotilla-1.324701>; Fadi Eyadat, "Arab MK Zuabi visits Haifa University despite campus ban," *Haaretz*, November 15, 2010, <http://www.haaretz.com/news/national/arab-mk-zuabi-visits-haifa-university-despite-campus-ban-1.324825>.

<sup>64</sup> In a statement after the CEC decision on Article 7A of *The Basic Law: The Knesset* (explained above), Adalah, the legal centre representing NDA-Balad, the United Arab List and MK Haneen Zoabi, explains: "Over the past ten years this article has been used repeatedly against Arab candidates and political parties before every round of Knesset elections for calling for 'a state for all its citizens', for example, or for expressing any criticism of Israel's Occupation or support for the Palestinian national struggle for independence. Therefore, the elected representatives of the Arab national minority in Israel find themselves having to justify their struggle for full equality and defend their demands for the

Most observers in Arab political parties and civil society viewed this vote as an extension of the racist and discriminatory laws targeting Arab citizens which were introduced by the right-wing Netanyahu-Lieberman administration, and various Jewish-Israeli litigators, scholars and newspapers also spoke against disqualification.<sup>65</sup> By December 30, the vote of the CEC was unanimously overturned by the Israeli Supreme Court to allow Zoabi to run in the January 2013 elections.

*Arab Civil Society: A Non-State Alternative*

Contradictions in the self-designation of the State of Israel as 'Jewish and democratic' render genuine representation of the Arab citizenry an impossible venture. Questions of representation were particularly heightened among the Palestinians in Israel after the 1993 Oslo Accords. The failed results of the Oslo process targeted the Palestinian-Arabs in Israel from two angles. On the one hand, the violent intensification of the broader conflict fuelled a heightened sense of existential threat among Israeli Jews, placing the Arabs in Israel under a marginalizing and repressive security discourse. For a variety of political and ideological reasons, Palestinian-Arabs in Israel were directly associated with the actions and reactions of Palestinian-Arabs in Jerusalem, the West Bank and Gaza Strip – prompting the state to exert a similar crushing system of control over its Arab citizenry.<sup>66</sup> At the same time, the historic peace talks that began between Israel and the Palestine Liberation Organization (PLO) in 1993 completely ignored the status of the Arabs in Israel (Rouhana and Ghanem 1998, 330). The Palestinians in Israel were not allies in building Palestinian national

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right to dignity, in case their positions are deliberately misconstrued as a negation of the state or as support for terrorism." See Hassan Jabareen, "Commentary on the Central Elections Committee Session," *Adalah Newsletter* 99 (December 2012), <http://adalah.org/Public/files/English/Newsletter/99-December2012/Commentary-Central-Elections-Committee-Jabareen-December2012.pdf>.

<sup>65</sup> Responding to the CEC ruling, Attorney Hassan Jabareen remarked that "Israel is the only country in the world in which members of the minority must justify their struggle for full equality" (ibid.). Further, even prior to the Israeli Supreme Court ruling, Attorney-General Yehuda Weinstein voiced his opposition to the CEC ban on MK Zoabi, as well as the barring of any other political parties. Also see Sammy Smoocha, "Expert Opinion: Repercussions of disqualifying an Arab political party or one of its candidates in the elections for the 19th Knesset," [December 16, 2012] *Adalah Newsletter* 99 (December 2012), <http://adalah.org/Public/files/English/Newsletter/99-December2012/Expert-Opinion-Smoocha-2012-Elections-Disqualifications.pdf> and *Haaretz*, "An unacceptable disqualification," December 21, 2012, <http://www.haaretz.com/opinion/an-unacceptable-disqualification-1.486242>.

<sup>66</sup> For more on this, see Rouhana (1997) and Zureik (1979).

and political agencies, nor were their demands ever considered an important issue on the agenda of the Palestinian national movement (Rouhana and Ghanem 1998, 333). Objections and demands made by the Arab citizenry are always viewed by Israel as an internal Israeli affair, and the PLO has never brought issues of concern for the Arabs in Israel to the fore in political negotiations and discussions. Thus, as Arab needs were almost completely ignored in the domestic Israeli arena, this community was left without representation from all parties. Indeed, an implicit agreement by both the PLO and Israel made this community a forgotten part of the Palestinian people, denying them genuine representation on all sides.

Consequently, Palestinian-Arabs in Israel began the process of building a national democratic movement via a third, non-state alternative: civil society. Formally recognized with the Registry of Associations in the Ministry of the Interior, Palestinian NGOs in Israel are run by Palestinian citizens and aim mainly to serve Palestinian society within the Israeli regime (Payes 2003, 60). Given the disappointment and disillusionment prompted by the oscillating political situation, the Palestinian-Arab community has employed its civil society to struggle for a re-conceptualization, re-definition and re-arrangement of the issues and contentions included in the dominant political discourse. For instance, seeking to depoliticize certain actions otherwise considered prejudicial to Palestinian interests, the Israeli regime often invokes the need for development. Expropriation of Arab land is commonly presented as a necessary sacrifice for the facilitation of economic development projects that mainly benefit the Jewish population (Payes 2003, 82). In protesting against such measures, Arab NGOs in Israel have often reduced their consequences and, in the process, sparked a debate on topics in Israeli society previously considered non-political. Through such measures, Palestinian civil society has been able to propose alternatives to political relations in Israel, recently culminating in three major declarations, popularly called 'vision documents'.

Published in 2006 and 2007, these so-called vision documents include: *The Future Vision of the Palestinian-Arabs in Israel* formed under the auspices of the High Follow-Up Committee for the Arabs in Israel; *The Democratic Constitution* by Adalah; and *The Haifa Declaration* by Mada al-Carmel: The Arab Center for Applied Social Research (hereafter 'Mada al-Carmel'). These documents were prepared in conjunction with one another, and drafted by a range of Arab political activists, public figures and intellectuals – many of whom participated in the drafting of more than one document thereby allowing for collaboration. They constitute

the first formal statements by collectives from the Palestinian community in Israel on their placement within Israeli society and politics. Together, these statements touch upon similar themes, and articulate the community's intricate understanding and criticisms of the principles of democracy, representation, citizenship and minority rights in Israel. Further, by deconstructing notions of 'the Jewish and democratic state', illuminating the lack of space for a Palestinian identity in a Zionist state, and pointing to the failures of Israel's project of coexistence, these documents indicate the development of a new consciousness among the Arab community. While they each possess their own distinguishing features and approach the question of Palestinian presence in Israel from a different angle, they are more or less in agreement that Israel must accept responsibility for injustices against the Palestinian people, including recognition of the *Nakba*, the right of return of Palestinian refugees as per UN Resolution 194, and the Palestinian right to national self-determination within the pre-1967 borders.

Of these documents, *The Democratic Constitution* and *The Haifa Declaration* deserve particular attention.<sup>67</sup> Responding to the range of draft constitutions proposed by Israeli groups, none of which posit the right to complete equality among citizens and residents nor recognize the Arab community as indigenous to the land, *The Democratic Constitution* (hereafter 'DC') aims to provide the Israeli Knesset with an alternative vision. The DC is essentially a draft constitution whose conception of liberties and rights is based upon the legal experiences of established democratic states along with a broad range of international human rights covenants and declarations.<sup>68</sup> This document addresses a range of logistical legal questions of governmental and judicial powers, citizen and minority participation in political decision-making and operative issues pertaining to the right to sustainable development, due process, privacy, health and housing, and freedoms including, among others, political expression and association, mobility, and conscience. Throughout its address, the DC makes references to international legal covenants to which Israel is already party. Perhaps its most important contribution is the provision of an account of citizenship based upon the principle and right of non-discrimination. Stressing the historical significance of the

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<sup>67</sup> See Appendices I and II for selections of both documents.

<sup>68</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *The Democratic Constitution*, March 2007: 5, [http://www.adalah.org/Public/files/democratic\\_constitution-english.pdf](http://www.adalah.org/Public/files/democratic_constitution-english.pdf).

synthesis between territory and citizenship for issues of civil rights, the first clause in this document states that “[t]he borders of the State of Israel are the borders of the territory which was subject to the Israeli law until 5 June 1967.”<sup>69</sup> The authors of the DC explain:

The test of belonging to ‘a clear territory’ facilitated the definition of ‘Who the citizen is’ that stands as an equal before the state without intermediary agents. This is particularly true with regard to the State of Israel, where the lack of a defined border contributed to the fact that tribal and ethnic affiliation became the essence of citizenship. This also explains why Israeli law deals with ‘Who a Jew is’ and not ‘Who a citizen is’; and it is no coincidence that the citizenship of Jews living outside the Green Line, for example, is stronger than that of the Arab citizens who live within the Green Line. .... Indeed, the public perception that the citizenship of some of the citizenry is temporary due to a lack of defined borders will continually harm the everyday status of these citizens, thereby affirming the truth of the statement: Empires have frontiers, but democracies have borders.<sup>70</sup>

With this clause, the DC challenges the fusing of Jewish identity and Israeli citizenship. In doing so, it also sets the ground for the abrogation of the current dynamic where the Jewish people are the sovereign power in Israel, regardless of their actual citizenship.<sup>71</sup>

In conjunction with many of the claims made in the DC, *The Haifa Declaration* (hereafter ‘HD’) aims to clearly articulate the collective vision of the Palestinian community within Israel, “in their effort to assert their national identity, national rights, and their right to democracy and equal citizenship.”<sup>72</sup> Published on *Nakba Day*, May 15, 2007, and steeped in the discourse of democratic citizenship, equal representation and historical justice, the HD also aspires to generate dialogue both within the Arab community and with the Jewish-Israeli society. The document begins by positing a reading of the Palestinian experience in Israel and its multileveled relationship with the rest of the Palestinian people, the Arab states, and the Israeli regime, and goes on to elaborate on the effect of these attachments on the national identity of the community.

<sup>69</sup> Ibid., 6.

<sup>70</sup> Ibid.

<sup>71</sup> That said, the aims of the DC are relatively humble. Its drafters hold that if it manages to capture the enormous difference between the DC and proposals put forward by other Israeli groups, and to fuel an objective public engagement on the question of rights and freedoms in Israel, “then we will have taken an important step forward in the issues of racial equality, freedoms and social justice” (ibid., 3).

<sup>72</sup> Mada al-Carmel: Arab Center for Applied Social Research, *The Haifa Declaration*, May 2007: 5, <http://www.mada-research.org/en/files/2007/09/haifaenglish.pdf>.

Described as sustained by their “uninterrupted relationship” to the land and “continued connection” to the Palestinian people, the national identity of the Arabs in Israel is explained as having withstood efforts by the Zionist project to truncate their identity into an “Israeli Arab” affiliation.<sup>73</sup> From this, the HD outlines racially discriminatory land, economic, immigration, and citizenship laws, among others, enacted by the State of Israel, arguing that the principle of equality is a key constituent of Israeli citizenship, without which genuine Arab affiliation with the state is impossible. Significantly the HD also addresses the Jewish narrative. Of all of the published ‘vision documents’, the HD is the only statement which seriously acknowledges the Jewish narrative of persecution. Having outlined the Palestinian narrative of the *Nakba* and the process of the Zionist settler-colonial project in Mandate Palestine, the HD states:

We are aware of the tragic history of the Jews in Europe, which reached its peak in one of the most horrific human crimes in the Holocaust perpetrated by the Nazis against the Jews, and we are fully cognizant of the tragedies that the survivors have lived through. We sympathize with the victims of the Holocaust, those who perished and those who survived. We believe that exploiting this tragedy and its consequences in order to legitimize the right of the Jews to establish a state at the expense of the Palestinian people serves to belittle universal, human, and moral lessons to be learned from this catastrophic event, which concerns the whole of humanity.<sup>74</sup>

Despite heated discussions among its drafters as to whether to include the Jewish narrative in a document meant to communicate the Palestinian social and historical experience, the HD is able to accept the Jewish narrative, but outside of a Zionist framework. In doing so, the HD illustrates that the two narratives are not antithetical to one another, providing an important preliminary framework for mutual recognition and genuine coexistence.

*Response to the Rise of Arab Civil Society: The Case of Ameer Makhoul*

The political initiatives of the Arab citizenry are shaped by the particular dynamics of their citizenship. The patterns or degrees of inclusion (whether full, partial, differential or exclusionary) are central to understanding how individuals and social collectives respond to the practices of the regime. In other words, patterns of inclusion and exclusion are

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<sup>73</sup> Ibid., 8.

<sup>74</sup> Ibid., 15.

important for understanding the social actions and identity that is mobilized by the citizen community. The recent case of Ameer Makhoul, the former director of Ittijah: The Union of Arab Community-Based Associations, illuminates this question. Ittijah is an umbrella organization, or coalition, that serves as a medium of communication between various Palestinian civil society groups in Israel, encouraging them to meet regularly and network to develop communal and political ties. Central to Ittijah's mandate is advocacy around the socio-cultural, political and economic needs of Palestinian-Arabs at the local Palestinian, regional Arab and international levels.<sup>75</sup> As the director, and in addition to facilitating cooperation among Palestinian NGOs, a lot of Makhoul's work was primarily centred around monitoring the restrictions on the social and political freedoms of the Arab citizenry, including its political representatives, denouncing these restrictions and openly voicing sharp criticism – both in Israel and abroad.

On April 22, 2010, Makhoul, an Israeli citizen, arrives at the Sheikh Hussein Bridge terminal at the Jordan River, intending to exit Israel. During the passport control, he is informed that the Interior Ministry issued an order on April 21 prohibiting him from exiting the country for a period of two months. The order banning Makhoul from traveling abroad is based on Regulation 6 of the *Emergency Regulations – Foreign Travel Law* (1948) and was issued without “any prior suitable, transparent and fair hearing.”<sup>76</sup> As a result, this order violates even Israeli laws around the freedom of movement and due process. At 3:10 am on May 6, around sixteen members of the GSS and the Israeli police entered the Makhoul family home and arrested Ameer Makhoul. On the same night, the security services also raided the Ittijah office in Haifa. The GSS confiscated personal items belonging to Makhoul, his wife and two daughters, including office equipment, documents, computer databases, maps, the family's mobile phones, laptops, a camera and a tape recorder, among other things.<sup>77</sup> Despite the ambiguity of the security reasons cited for Makhoul's arrest,

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<sup>75</sup> In August 2004, Ittijah was granted Special Consultative status from the United Nations Economic and Social Council making it the first Palestinian civil society organization in Israel to achieve consultative status with a United Nations body.

<sup>76</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, “Following Adalah's motion on behalf of Arab journalists, the I'lam Center and Human Rights Organizations, Magistrates' Court lifts gag order on detention of Arab political activists Ameer Makhoul and Dr. Omar Saeed,” Press Release, May 10, 2010, [http://www.adalah.org/eng/press\\_releases/pr.php?file=10\\_05\\_10](http://www.adalah.org/eng/press_releases/pr.php?file=10_05_10).

<sup>77</sup> Ibid.

the Israeli security services acquired the approval of the Petakh Tikva Magistrates' Court to prevent Makhoul from meeting a lawyer. In addition, a gag order was issued on Makhoul's case prohibiting coverage relating to the arrest by the Israeli media.

For twelve days, Makhoul was held in incommunicado detention and was prevented from meeting a lawyer as the court continuously rejected appeals made by his legal defence team against the prohibition on meeting a lawyer.<sup>78</sup> During this time and as a result of his classification as a "security detainee," hearings would be held in Makhoul's absence and though he was brought to the courtroom he was prohibited from appearing at his own hearings.<sup>79</sup> Adalah reports that, throughout these hearings, "secret information" was traded between the court and the GSS along with questions asked and notes passed between the two.<sup>80</sup> Further, all information pertaining the investigation and to Makhoul's medical and physical condition while in detention was declared classified. In effect, the view of the defence was virtually absent in the courtroom.

As to the category of "security prisoners," it is important to note that regardless of the nature of the violation, Israeli prison authorities generally consider Arab political detainees as security prisoners. This was stressed by attorney Abeer Baker who explained that this classification determines a person's treatment by the Israeli Prison Services including the prison to which she/he is assigned, the prison wing where she/he will serve the sentence, the provision of a leave, guarded home visits, and access to telephone calls from prison.<sup>81</sup> The distinction between 'criminal' and 'security' prisoners was sanctioned by the Israeli Supreme Court, and while it is claimed that it is applied to both Arab and Jewish prisoners, Baker argues that in practice it is only Palestinian prisoners who suffer the devastating ramifications of being declared a security prisoner.

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<sup>78</sup> Makhoul's legal team was comprised of Attorney Hussein Abu Hussein and Adalah Attorneys Orna Kohn and Hassan Jabareen. Attorney Avigdor Feldman was later added.

<sup>79</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, "Court rejected appeal against prohibition on meeting with lawyers for Ameer Makhoul and extended the detention of Makhoul and Dr. Omar Saeed," Press Release, May 12, 2010, [http://www.adalah.org/eng/pressreleases/pr.php?file=12\\_05\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=12_05_10).

<sup>80</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, "Ameer Makhoul's legal defence team declares they would not participate in detention hearing tomorrow, 17 May, if he is prohibited from meeting his lawyers," Press Release, May 16, 2010, [http://www.adalah.org/eng/pressreleases/pr.php?file=16\\_05\\_10\\_1](http://www.adalah.org/eng/pressreleases/pr.php?file=16_05_10_1).

<sup>81</sup> Abeer Baker, "The definition of Palestinian prisoners in Israeli prisons as 'Security Prisoners' – Security semantics for camouflaging political practice," *Adalah's Review*, 5 (Spring 2009): 65–78. [www.adalah.org/upfiles/2012/AR\\_5\\_ENG\\_MAS\\_NEW%20final.pdf](http://www.adalah.org/upfiles/2012/AR_5_ENG_MAS_NEW%20final.pdf).



Jews imprisoned or detained due to attacks on Arabs for ideological reasons continue to benefit from the rights provided to criminal prisoners, even if they are officially classified as security prisoners. Consequently, prisoners who are Palestinian citizens of Israel continue to find themselves on a double periphery. On the one hand, Palestinian political prisoners who are Israeli citizens are discriminated against as compared to Jewish prisoners in the harsher sentences they receive and in the difficult prison conditions they are subjected to.<sup>82</sup> At the same time, Palestinian citizens who are incarcerated are excluded from Israeli-Palestinian prisoner-release agreements and from candidacy for early release as their situation is considered an internal Israeli issue – a product of the Oslo Accords.<sup>83</sup>

On May 16, and given the conditions imposed on him as a security detainee, Makhoul's legal defence team announced that they would not participate in the detention hearing in the Petakh Tikva Court if he was not permitted to meet his lawyers. Adalah stated:

The legal defence team is convinced that under these circumstances, due to the total lack of respect for due process, the representation of Ameer Makhoul in the detention hearings has become meaningless. In this instance, the legal system is simply a rubber stamp for the Shabak.<sup>84</sup>

This was the first time in Israel's history that a defence team had threatened to boycott the legal proceedings after being denied access to their

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<sup>82</sup> Further, in March 2011, the Knesset approved a law to enable the Israeli Supreme Court to revoke the citizenship of anyone convicted of the security charges of espionage, treason or aiding the enemy during war. According to this law, only individuals with dual citizenship can have their Israeli citizenship entirely revoked. Those without dual citizenship could still have their Israeli citizenship stripped, but would be given status equivalent to what Israel grants foreign workers. See Jonathan Lis, "Knesset passes law to strip terrorists of Israeli citizenship," *Haaretz*, March 28, 2011, <http://www.haaretz.com/news/national/knesset-passes-law-to-strip-terrorists-of-israeli-citizenship-1.352412>.

<sup>83</sup> Moreover, a recent bill proposed by the Knesset's Interior Committee to amend the Prisons Ordinance to increase the severe restrictions on meetings between *security prisoners* and detainees and their legal representatives. The bill expands the grounds on which a prisoner may be restricted from meeting an attorney and increases the current periods in which a ban on such meetings may be imposed. Under the bill, the Israel Prison Services authority can prevent a prisoner from meeting with his or her lawyers is extended for up to 96 hours, and the courts can extend a ban for a total period of one year, as opposed to the three months under the existing law. See Adalah: The Legal Center for Arab Minority Rights in Israel, "Proposed bill allowing for one-year ban on meetings between prisoners and their attorneys is unconstitutional," Press Release, June 28, 2010, [http://www.adalah.org/eng/pressreleases/pr.php?file=28\\_06\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=28_06_11).

<sup>84</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, "Ameer Makhoul's legal defence team."

client.<sup>85</sup> In response, on May 18, the order prohibiting his meeting with a lawyer was lifted by the Petakh Tikva Magistrates' Court and Makhoul was able to consult with his defence team.<sup>86</sup> At this point, the defence realized that during the time they were prohibited from meeting Makhoul, his interrogators had employed "prohibited methods of interrogation in violation of the absolute prohibition on torture under international law and Israeli Supreme Court decisions."<sup>87</sup> The refusal of the GSS to release his medical records supported this realization.

Three weeks after beginning his detention, on May 27, Makhoul was charged with "assistance to the enemy in a time of war, conspiracy to assist an enemy [and here they mainly mean Hezbollah], aggravated espionage, and contact with a foreign agent."<sup>88</sup> When he finally appeared in open court, Makhoul categorically denied the relevance of all charges against him. On June 14, state prosecutors announced they have 'secret evidence' against Makhoul, and that this evidence could not be revealed to his legal defence team due to security reasons.<sup>89</sup> Moreover, the prosecutors

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<sup>85</sup> Adalah points out that it was not only meetings with lawyers which were denied to Makhoul: "In addition to being barred from meeting with his lawyers, he is also unable to meet his family (his wife Janan and their two daughters), and has no right to make a telephone call or send a letter. In addition there is no video or audio recording or full written record of the investigations to which he has been subjected over the last eleven days. These conditions, his almost complete isolation for the outside world and the violation of his right to due process are all conducive to torture and/or cruel, inhuman and degrading treatment" (ibid.).

<sup>86</sup> On July 1, 2010 Makhoul's defence team announced that their discussions with Makhoul were being wiretapped. Correspondence between the defence team and Makhoul at the Gilboa Prison and Kishon detention center was permitted only either via telephone, separated by a glass screen, or with prison guards standing next to the lawyers with Makhoul, listening to the conversation. Makhoul's lawyers were denied a separate room usually provided for meetings between lawyers and detainees, on the basis that these facilities were only for the use of 'criminal' detainees, and not 'security' detainees. Not aware that their discussions with him over the telephone were being recorded, Makhoul's lawyers only discovered the recording from a notice in one of the rooms, stating that all conversations were recorded. See Adalah: The Legal Center for Arab Minority Rights in Israel, "Illegal wiretap on Ameer Makhoul's discussions with his legal defence team, lawyers demand prompt criminal investigation," Press Release, July 1, 2010, [http://www.adalah.org/eng/pressreleases/pr.php?file=01\\_07\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=01_07_10).

<sup>87</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, "Serious suspicion of Shabak (GSS) use of illegal methods of interrogation against human rights defender Ameer Makhoul," Press Release, May 18, 2010, [http://www.adalah.org/eng/pressreleases/pr.php?file=18\\_05\\_10\\_1](http://www.adalah.org/eng/pressreleases/pr.php?file=18_05_10_1).

<sup>88</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, "Ameer Makhoul and Omar Saeed vehemently deny charges against them," Press Release, May 27, 2010, [http://www.adalah.org/eng/pressreleases/pr.php?file=27\\_05\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=27_05_10).

<sup>89</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, "District Court sets next hearing in Ameer Makhoul's case on 27 June 2010; State prosecutor announces 'secret

announced evidence in the form of a videotaped admission to the said charges. Responding to the announcement of a taped confession, the defence team pointed out that admission to acts he “did not commit” was made under duress from the extensive “illegal methods employed” against Makhoul during the initial days of his arrest.<sup>90</sup> In the end, and despite all of the travesties associated with this case, on January 30, 2011, Ameer Makhoul was sentenced to nine years in prison with one of these years as a suspended sentence.

### *Operative and Budgetary Level*

Palestinian citizens of Israel are denied proportional representation and access in the realms of budgets, resources and land allocations. As equality among citizens is not legally entrenched, the Israeli legal system is able to emphasize the Jewish and Zionist character of the state. Major Jewish and Zionist organizations are granted special status as quasi-governmental bodies. These organizations manage land, housing and service provision, almost exclusively serving the Jewish population. For instance, *The World Zionist Organization – Jewish Agency in Israel (Status) Law (1952)* authorizes the two organizations to function as quasi-governmental institutions in order to advance the goals of the Zionist Movement, including the maintenance and support of cultural, housing, educational, scientific, religious, and social and health service institutions. The internal regulations of these organizations explicitly seek to benefit Jews only, and as no non-Jewish organizations are granted similar status, this produces a remarkably lower quality of life for Palestinian-Arabs.<sup>91</sup>

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evidence’ that will not be disclosed to legal defence team,” Press Release, June 14, 2010, [http://www.adalah.org/eng/pressreleases/pr.php?file=14\\_06\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=14_06_10).

<sup>90</sup> On this, Adalah writes that the duress included “protracted sleep deprivation and continuous interrogation, while being shackled tightly to an under-sized chair that was bolted to the floor to prevent it from moving. His hands were cuffed to the back of the chair in a way that stretched his arms and shoulders sharply backward. His legs were folded backwards flanking the chair, with his knees turned toward the floor. When, after hours of being bound in this stress position while under intense interrogation, Makhoul complained of being in excruciating pain, the GSS interrogators proceeded to cuff his legs to the chair. They also threatened that he would be permanently crippled from the interrogation.” See Adalah: The Legal Center for Arab Minority Rights in Israel, “Ameer Makhoul and Omar Saeed vehemently deny charges against them.”

<sup>91</sup> In fact, the Constitution of the Jewish Agency states that “land is to be acquired as Jewish property and ... the title of the lands acquired is to be taken in the name of the JNF to the end that the same shall be held the inalienable property of the Jewish people. The Agency shall promote agricultural colonization based on Jewish labour, and in all works or undertakings carried out or furthered by the Agency, it shall be deemed to be a matter of

American academic Ian Lustick outlines how, after 1948, the Zionist agencies that worked to colonize Palestine in the pre-state period were bestowed a central role and statutory status after the establishment of the new state. With the emergence of Israel as a sovereign state, a kind of 'division of labour' was arranged: the Jewish Agency remained the principal organization responsible for encouraging Jewish immigration and integrating new immigrants into Israeli society; the JNF continued to obtain land and lease it to Jewish settlements in cooperation with institutions of the Israeli government, including the ILA and the Ministry of Agriculture; as the the second largest employer after the Israeli government and the official representative of all Israeli workers in the country, the *Histadrut*, a Jewish trade union, continued its attempts to improve the circumstances of the Jewish working class; and the *Haganah*, a Jewish paramilitary organization formed and sustained by the Histadrut, became the foundation of the IDF which today is the armed forces and the largest and principal institution in the Israeli government (Lustick 1980, 95).<sup>92</sup>

The broad ideological objective of maintaining Israel's Jewish character continues to manifest in these institutions that actively advocate Jewish domination in Mandate Palestine, mass Jewish immigration, growth of Jewish land ownership, and other Zionist goals (Lustick 1980, 89). It is important to appreciate the devastating effect of the autonomous existence of these national Zionist institutions on the Arab population. Palestinian NGOs do not have access to the organizational, financial and administrative resources of these public and national institutions. Thus they have limited abilities to impose significant changes on the racially hierarchical Israeli system. Moreover, despite being quasi-governmental organizations, the constituency of these Zionist agencies is not the entirety of Israel's citizenry, but rather a transnational collective: the Jewish people. As a result, the officially recognized organizations, institutions, state holidays, symbols, and figures are exclusively Zionist and Jewish (Ghanem 1998, 432). In addition, as mentioned above, while Arabic is also an officially recognized language, the Hebrew language is dominant in all official

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principle that Jewish labour shall be employed." That the World Zionist Organization and Jewish Agency are key participants in the Admissions Committees mentioned above also illustrates the level to which Palestinian citizens and residents will be denied access to the land (see Halabi 2004, 3-4).

<sup>92</sup> Lustick's contribution to the study of Arabs in Israel is more closely examined in Chapter Five where it is placed alongside other scholarly contributions on this subject, and again in Chapter Six.

spheres of Israeli society.<sup>93</sup> This severely discriminates against Palestinian-Arabs as it impedes their ability to participate in political, social and cultural activities on an equal basis with Israeli Jews.

Budgetary discrimination against the Arab community fuels the unequal distribution of resources to Arab and Jewish localities, thus furthering the limited economic development of the Arabs in Israel (Ghanem 1998, 429, 435). In the education sector, Palestinian-Arabs are denied participation in setting educational directions, subjected to discriminatory allocation of state funding and educational resources, and are severely underrepresented in policy-making positions in the Israeli Ministry of Education. Systematic, structural, and institutionalized discrimination hampers the ability of Palestinian students in Israeli state-run schools to participate and contribute politically, socially, culturally, and economically. An analysis of illiteracy rates in Israel according to ethnicity and gender indicates that the Palestinian-Arab population has higher percentage of illiteracy than the national average on both counts.<sup>94</sup> In fact, in 2008, around 13.4 percent of Arab women were considered illiterate, relative to 3.4 percent of Jewish women, and 5.5 percent of Arab men were illiterate compared to only 1.9 percent of Jewish men.<sup>95</sup>

Further, the Israeli education system is based on *The State Education Law (1953)*. Amended in February 2000, this law sets educational objectives for state schools that emphasize Jewish history and culture. Stated in Article 2 of the law, the education system seeks primarily to advance the understanding of Zionist ideology and preserve the Jewish nature of the state by teaching its history, culture and language.<sup>96</sup> This deficient educational focus is also framed by a deficient educational structure. While Arab schools have a separate curriculum, it is designed and overseen by the Israeli Minister of Education. Within this ministry, Arabs account for only 6.2 percent of the total number of employees and, consequently, there are

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<sup>93</sup> In fact, the previous eighteenth Knesset, was looking at a draft bill which proposes the removal of Arabic as an official language in Israel. This initiative requires a rescission of a British-Mandate era law in Palestine from 1922 that which adopted Arabic, Hebrew and English as official languages.

<sup>94</sup> For a thorough account and up-to-date statistics on the state of Arab education in Israel, see Katie Hesketh and Sawsan Zaher, "New Data on Educational Access/Attainment of Arab Students in Israel," *Adalah's Newsletter* 63 (August 2009), [http://www.adalah.org/features/education/New\\_Data\\_on\\_Education\\_August\\_2009.pdf](http://www.adalah.org/features/education/New_Data_on_Education_August_2009.pdf).

<sup>95</sup> *Ibid.*

<sup>96</sup> Khaled Abu-Asbeh, "Arab Education in Israel: Between the Discourse of Struggling Identity and Low Achievement," *Adalah's Newsletter* 63 (August 2009), [http://www.adalah.org/features/education/Arab\\_Education\\_in\\_Israel\\_English\\_for\\_Khaled\\_FINAL.pdf](http://www.adalah.org/features/education/Arab_Education_in_Israel_English_for_Khaled_FINAL.pdf).

almost no Arab instructors or administrators with decision and policy-making powers in the Israeli education system. As a result, Arab state-run schools are faced with a discriminatory curriculum which allots more time to learning the Torah along with other Jewish and Zionist texts than to studying the Qur'an, the New Testament or literature produced by Arab scholars.<sup>97</sup> Conversely, Jewish state-funded religious schools maintain autonomous control over the design and implementation of their curriculum. In addition, in July 2009, the Ministry of Education launched a program seeking to entrench Zionist thought in the minds of Arab youth in Israel. It distributed 'national anthem kits' to schools throughout the country in an attempt to arouse Arab commitment to and empathy for the Israeli national anthem, and its associated values of a Jewish-Zionist state.<sup>98</sup> Moreover, in August of the same year, the Education Minister imposed a ban on the teaching of the *Nakba*, the result of which was a stern rejection and widespread condemnation of this discriminatory ban by the Follow-Up Committee on Higher Education, a public committee established in 1984 to represent the Arab public in Israel with regard to Arab education.

Regarding budgetary allocation for religious cultivation, after the 1967 war and the Israeli military occupation of East Jerusalem, the West Bank and Gaza Strip, the Israeli government implemented *The Protection of Holy Sites Law* (1967). This law aimed to safeguard and preserve sacred spaces from desecration, and from anything that could obstruct access to these places by followers of religious traditions or could offend their religious sensitivities.<sup>99</sup> The Minister of Religious Affairs is responsible for the

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<sup>97</sup> Ibid. University matriculation exams include questions on Judaism, but not on the Muslim, Christian, or Druze faiths, and in addition to such direct discrimination in the classrooms, numerous studies have found that Israeli textbooks contain persistent negative and racialized references to Arabs and Palestinians. For an excellent account of the representation of the Palestinian people in the Israeli education system, see Peled-Elhanan (2012). Further, a source at the Israeli Ministry of Education recently noted an escalation in racism among Israeli students. Citing the racist political discourse as fuelling anti-Arab racism among Jewish-Israeli students in schools, the source states "We're not talking about a minority, or children from families that have extreme political views, but about normal children who are afflicted with ignorance .... The political discourse in recent years has given them the legitimacy to be prejudiced." In response to the rise of anti-Arab racism in Israeli schools, a group of teachers signed a petition calling on Education Minister Gideon Sa'ar to take action. See Tomer Velmer, "Student's answer on civics test: Minister to Arabs," *Ynet News*, January 19, 2011, <http://www.ynetnews.com/articles/0,7340,L-4015645,00.html>.

<sup>98</sup> Jonathan Cook, "Palestinians in Israel forced to study Zionist anthem," *The Electronic Intifada*, July 28, 2009, <http://electronicintifada.net/content/palestinians-israel-forced-study-zionist-anthem/8364>.

<sup>99</sup> Report by European Center for Law and Justice and American Center for Law and Justice, *Religious Freedom and Religious Persecution Issues in Israel and the Palestinian Territories*, January, 2008, [http://www.eclj.org/PDF/080123\\_ISRAEL\\_MEMO.pdf](http://www.eclj.org/PDF/080123_ISRAEL_MEMO.pdf).

implementation of this law, and is required to regulate holy sites in general and not selectively on the basis of their religious affiliation. However, while *The Protection of Holy Sites Law (1967)* applies to holy sites of all religious groups within Israeli controlled lands, including Jerusalem, the Israeli government only implements regulations for Jewish sites.<sup>100</sup> Non-Jewish holy sites are not identified, safeguarded or preserved to the same extent under this law because the government does not recognize them as official holy sites. Indeed, in early 2007, there were 135 officially recognized holy sites – all of them Jewish. Though prominent and familiar sites do receive protection due to their international importance, many Christian and Muslim sites are neglected, inaccessible or at risk of exploitation by real estate entrepreneurs, corporations, and local authorities. For instance, in the 2009 International Religious Freedom Report, the United States Department of State writes that “Christian pilgrimage sites around the Sea of Galilee face periodic threats of encroachment from district planners who want to use parts of their properties for recreation.”<sup>101</sup> The Report also states that the State of Israel will even sometimes allow private individuals or local authorities to transform old mosques into galleries, recreation centres, restaurants and museums, and often restricts entry into non-Jewish holy sites. Moreover, it notes that, in the past, only diplomatic initiatives have prevented Israeli government initiatives of this kind. Taken together, the lack of recognition of Christian and Muslim places of worship results in discrimination in the designation of the state budgets for holy sites and unjustifiably disregards the religious and historical significance of the sites. Restrictions placed on access to non-Jewish holy sites, along with limits to funding, protection, and service provision for those sites, significantly contribute to religious tensions in Israeli controlled lands.<sup>102</sup> In Israel proper, many Palestinian localities do not have Christian or Muslim places of worship available given the inability of the municipalities to build or legally maintain a church or mosque. For instance, while there is one synagogue for every 700 Jews living in Beer el-Sabi’ (Be’er Sheva), there does not exist a single functioning mosque for the city’s 5,000 Muslims.<sup>103</sup>

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<sup>100</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, “*Additional Information to the UN CERD.*”

<sup>101</sup> United States Department of State, *Israel and the Occupied Territories: International Religious Freedom Report 2009*, Annual Report, October 26, 2009, <http://www.state.gov/j/drl/rls/irf/2009/127349.htm>.

<sup>102</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, “Legal Advocacy, Supreme Court Petitions: Religious Rights,” <http://www.old-adalah.org/eng/legaladvocacy/religious.php>.

<sup>103</sup> The only existing place of worship for Muslims in the city, the Big Mosque, was used as a mosque from 1906–1948, yet after the establishment of the State of Israel it was used as

Multi-level discrimination against Palestinians through laws, access to rights and resources, and government policies has particularly devastating consequences for the lives of Palestinian women.<sup>104</sup> Overall, and faced with patriarchal rules and customs reflecting a gender hierarchy in their societies, Palestinian women citizens of Israel face discrimination on three distinct yet connected levels: as members of an underdeveloped minority population, as women living in Israel, and as women in Palestinian society. These simultaneous and interrelated dynamics severely compromise the social and economic welfare of Palestinian women. This is principally the case in the area of health care. Generally speaking, women in Israel are a vulnerable group in matters of health, but obtaining access to adequate health care is particularly difficult for many Palestinian women. Surveys repeatedly show that Arab women score worse than all other social groups in many health indicators, including, among others, life expectancy, incidence of chronic illness, obesity and breast cancer (Khatib 2012, 31). There are no major public hospitals in the Arab sector and in many Palestinian villages and towns no gynaecological services are available. Women must therefore travel long distances to major cities to receive women's health services; a lack of safe roads and societal taboos against traveling alone make these long distances prohibitive for many. Having reached a hospital, women are faced with unaffordable costs and language barriers. In areas of Israel where the economic and social situation is particularly trying for Palestinian citizens, such as the Naqab and the 'unrecognized' villages, women often bear the brunt of the difficulties. Overall, government budget and resource provisions are consistently greater for Jewish citizens and communities than they are for Palestinian-Arabs. Discriminatory standards and criteria are applied by governmental and state-sponsored institutions and effectively exclude Arabs and disadvantage this population as a whole – with particularly devastating effects on marginalized segments within the community.

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a court and prison, and later as a museum. Since 1991, the Big Mosque has stood empty and neglected and when the city's Muslims sought to use it as a mosque, the municipality sought instead to transform the structure into a museum or an Islamic Cultural Center (ibid.).

<sup>104</sup> While I am not examining the particular situation of Palestinian women in Israel in this book, an account of the multifaceted discrimination faced by women in Israel is a source of immense insight for understanding the Israeli incorporation regime. For strong feminist analysis of gendered citizenship in Israel see Shalhoub-Kevorkian (2004, 2007, 2009). See also Kanaaneh (2002); Kanaaneh and Nusair (2010); and Herzog (2004). Another analysis read through an anti-colonialist and feminist lens and informed by a Marxist critique, is Abdo (2011), a contribution that is examined in Chapter Five below.



Further, racial and gendered discrepancy also exists in the area of employment. According to the Industry, Trade and Labour Ministry and the Israeli Central Bureau of Statistics, in 2008 Arab men earned less than their Jewish counterparts for the same work and, by the same token, Arab women had significantly lower employment rates.<sup>105</sup> In fact, while 66.6 percent of Jewish women were employed that year only 22 percent of Arab women were employed, whereas the employment figures for Arab and Jewish men were almost the same, at 67 percent and 68.8 percent respectively. Moreover, the data shows that in 2008, the average gross salary per household was also much lower for Arab citizens, standing at 8,818 NIS compared to 14,242 NIS for Jewish-Israeli households. All in all, the data indicated that the more education Arab workers have, the greater the gap is between their average monthly income and that of their Jewish counterparts.

Key to the operational level of discrimination is the configuration of land.<sup>106</sup> When it comes to land allocation, Arabs face widespread discrimination in national and regional zoning plans – the wide extent of which cannot be covered here. Suffice to say, there exists in Israel a multi-faceted framework of laws and military regulations, which have granted the state the legal authority to confiscate Palestinian land and property.<sup>107</sup> First codified by the British Mandatory government, and later adopted by Israel, *The Land Ordinance Law (1943)* sanctioned the confiscation of private lands for “public purposes,” which was most often defined by Israel as serving the needs of the Jewish population. Further, Israel also adopted the *Emergency Regulations* left behind by the British Mandate.

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<sup>105</sup> Haim Bior, “Israeli Arabs earn less than Jews despite working longer hours, data shows,” *Haaretz*, February 19, 2011, <http://www.haaretz.com/themarker/israeli-arabs-earn-less-than-jews-despite-working-longer-hours-data-shows-1.337866>.

<sup>106</sup> Two political notions are essential to any understanding that claims to reflect the historical and current realities of the Zionist-Palestinian conflict. The first is the acknowledgment that the struggle for Palestine has always been a struggle over land, both as a space for the fruition of culture, and as a resource for communal development. Even the most liberal Zionist thinkers in the early twentieth century asserted that the colonization of Palestine has to go in two different directions: Jewish settlement in *Eretz Israel* and the resettlement of the Arabs in this to neighbouring Arab states. The second notion crucial to the understanding of this conflict is the realization that this struggle over territory continues today, and is not limited to Jerusalem, the West Bank and Gaza Strip. Rather, areas with a significant Arab population within the pre-1967 borders of Israel (most significantly the Galilee and the Naqab) continue to serve as sites for what Israeli geographers and urban planners have named spatial “policies of Judaization” – which historical revisionists are now correctly starting to label ethnic cleansing (see Pappé 2006; Yiftachel 1999).

<sup>107</sup> See COHRE and Badil, *Ruling Palestine*, for a more detailed account of legal land confiscation measures by the State of Israel since its inception.

These regulations allowed military commanders to forcibly declare areas “closed” and to deny access of residents to their homes. Interestingly, these laws were first introduced in 1936 by the British as emergency policies to quell the Arab Revolt between 1936–1939 against Anglo-Zionist colonialism, sentencing many Arab insurgents to death in the process. They were only later modified to their present form as the *British Mandatory Defence (Emergency) Regulations* in 1945, and mainly done so they could be employed against Zionist military organizations, including *Lehi* (*Lohamei Herut Israel*, “Fighters for the Freedom of Israel”) and *Irgun* (*Irgun Zvai Leumi*, the “National Military Organization”) (Jiryis 1976, 9–11). Palestinian lawyer and Israeli citizen, Sabri Jiryis, outlines Jewish voices of opposition to these laws before the establishment of the State of Israel at a Lawyers Association Conference in Tel Aviv in 1946. Dr. Moshe Dunkelblum, a future Israeli Supreme Court Judge, held that “as lawyers, we are especially concerned because they violate the basic principles of law, justice and jurisprudence” (Jiryis 1976, 11). Dr. Bernard Joseph of the Jewish Agency depicted these laws as having “deprived [the country] of the elementary protection which the laws of any civilized country afford its inhabitants.”<sup>108</sup> And future legal advisor to the new Israeli government, Yaacov Shimshon Shapira, held that “[e]ven in Nazi Germany there were no such laws” and that “[o]nly in an occupied country do you find a system resembling ours” (Jiryis 1976, 12). Jiryis explains:

With the establishment of the State of Israel, one might have expected one of its first steps to have been the repeal of these oppressive imperialist laws. Not only did they remain in effect (with the exception of one part relating to illegal immigration to Palestine), but the new regime employed them as extensively as the old – as if nothing had happened (Jiryis 1976, 13).

Indeed, many Palestinian-Arab citizens of Israel today find that they are still denied access to their homes because they sit on land in a “closed area.” Additionally, in 1950, the newly established state passed *The Absentee Property Law*, defining all those who were expelled, fled, or left the country between 1948 and 1952 as “absentees” and their property as “absentee property.” The first of a masterly sequence of laws aimed at the expropriation of Arab land, *The Absentee Property Law (1950)* re-defined the legal status of the property and lands of Palestinians outside of Israel.

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<sup>108</sup> Jiryis continues that “... the regulations expressly reintroduce provisions such as were known in Europe before the era of liberty and, in recent times, in totalitarian states” (ibid., 11–12).

The property and lands of refugees and internally displaced persons were confiscated, transferred to an *ad hoc* “Custodian” of Absentee Property, and eventually used for the purposes of Jewish settlement. Without being openly racially discriminatory, provisions in this law ensured that the ‘absent’ persons were understood not to include Jews. For instance, this law was also applied to the Palestinians who involuntarily became citizens of the State of Israel and, at the time, about half of the population (an estimated 40,000 to 75,000 people) were not at their usual place of residence as defined by the law. These individuals who remained inside Israel but were not at their place of residence were defined as “present absentees” and prevented from reclaiming their lands. As outlined by American professor Don Peretz, in *Israel and the Palestine Arabs* (1958):

Every Arab in Palestine who ... left his town or village after November 29, 1947, was liable to be classified as an absentee under the regulations. All Arabs who held property in the New City of Acre, regardless of the fact that they may never have traveled farther than a few meters to the Old City, were classified as absentees. The thirty thousand<sup>109</sup> Arabs who fled from one place to another within Israel, but who never left the country, were also liable to have their property declared absentee. Any individual who may have gone to Beirut or Bethlehem for a one-day visit, during the latter days of the [British] Mandate, was automatically an absentee (Peretz 1958, 152; also quoted in Jiryis 1976, 84).

Assessments of the total amount of lands Israel defines as “abandoned” and claims ownership over range between 4.2 and 5.8 million dunums, and in the first years of its establishment (between 1948 to 1952 alone) it is estimated that Israel built 350 of the 370 new Jewish-only settlements on

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<sup>109</sup> As it stands, there is no single authoritative academic source for determining the population of Palestinian refugees and IDPs. However, recent scholarly research and publications have revealed that the number of internally displaced Palestinians during the years of 1947–1950 were higher than the number Peretz quotes. One of the foremost academic data and statistical resource centres in the world on Palestinian refugees and IDPs, the *Survey on Palestinian Refugees and Internally Displaced Persons 2008–2009*, published by the Badil Resource Center for Palestinian Residency and Refugee Rights, explains that by the year 1950, the number of registered IDPs in the pre-1967 Israeli territories was 47,610 persons. In this report Badil explains that: “Internally displaced Palestinians can be divided into two groups. The first is composed of persons displaced in the area that became the State of Israel in 1948. This group includes those who were displaced in the 1948 *Nakba* (approximately 335,000 persons) as well as those subsequently displaced by the State of Israel. No authoritative data exists for this second category. .... The second group (approximately 129,000 persons) is composed of Palestinians internally displaced in the OPT since 1967 as a result of Israel’s occupation, apartheid and colonization of the area. This figure includes Palestinian refugees who suffered subsequent secondary forced displacement inside the OPT, and whose numbers are estimated to be 37,000 persons at the end of 2008” (Badil 2009, 57–59).

lands appropriated under *The Absentee Property Law (1950)*.<sup>110</sup> Severely criticized by both Arab and Jewish voices and Members of Knesset, the law was seen to grant broad executive powers to the Custodian without effective monitoring. As Tawfik Toubi, then Communist Party Member of Israel's first Knesset and one of the first to propose the formula for Israel as 'a state of all its citizens', states:

This law is a symbol, it is an expression of the discrimination practiced against the Arabs of this country .... By virtue of the provisions of this law, thousands of the Arab inhabitants of Israel are regarded as 'absentees' although they are citizens of the country. They are deprived of their rights to the use of their property. The custodian, with the help of the [*Absentee Property Law*] ... of course, is stripping them of their rights as citizens. This law does not allow them to enjoy their rights to their land and their homes and they are quite unjustifiably regarded as 'absentees' .... The real assignment of the honourable custodian is to steal more and more [land] (Jiryis 1976, 87).

All in all, land and property laws work in conjunction with a series of other Israeli laws that favour the Jewish population over the Arab citizens of the state. By now it is well documented that one of the methods employed by the state to deprive Palestinians of their land is to turn it into state land that is maintained by Jewish national and regional planning groups.<sup>111</sup> In 1960–1961, *The Basic Law: Israel Lands*, *The Israel Lands Law* and *The Israel Lands Administration Law* was formulated on behalf of the government of Israel to formalize its land regime so that the land controlled by the JNF would now be administered by a single authority, the ILA. Here it was agreed that "the lands controlled by the ILA shall be administered according to the principles of the JNF," and the objective of purchasing and developing land as a national resource of the Jewish people, by the Jewish people, and for the Jewish people.<sup>112</sup> As such, the ILA is forbidden from selling or leasing the land to non-Jews. This extra-territorialization of the land places it beyond the control of the government, rendering it inaccessible to all Arab citizens. Thus, while, prior to 1948, members of the Palestinian-Arab community owned and/or cultivated some 93–94 percent of the land in geographical Palestine, today, 93 percent of the territory of Israel is under direct control of the state. This land is administered

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<sup>110</sup> COHRE and Badil, *Ruling Palestine*, 41.

<sup>111</sup> See Lustick (1980); COHRE and Badil, *Ruling Palestine*; Stein (1984); Zayyad (1976); and Kimmerling (1983), among others.

<sup>112</sup> Lehn and Davis 1988, 116. See also COHRE and Badil, *Ruling Palestine*.

under a tenure system that continues to deny Palestinians access in the form of leasing and cultivation.

The effects of Israel's racialized land laws are most acutely embodied in the realities faced by multiple hundreds of villages inside Israel deemed 'unrecognized' or 'illegally constructed' villages. The existence of these villages and their tens of thousands of Bedouin inhabitants is not witnessed by any official map. Rather, they are systematically subjected to state policies aimed at solidifying their absence. Despite their Israeli citizenship, Palestinian Bedouin residents of unrecognized villages constitute the most disadvantaged segment of the indigenous population remaining within the 1948–1949 borders of Israel.<sup>113</sup> The Palestinian Bedouin of the Naqab have inhabited this land since the fifth century and were traditionally organized according semi-nomadic social systems and self-sufficient tribes that lived by grazing cattle and through seasonal agriculture.<sup>114</sup> These inhabitants of unrecognized villages are citizens of Israel, numbering approximately 75,000 to 90,000 Arab Bedouin in the Naqab alone.<sup>115</sup> Mainly in the southern Naqab region, Palestinian Bedouin communities residing in unrecognized villages have no local council or government representation, are not recognized by any official state-affiliated institutions, receive no government services and are ignored by all government planning projects. The denial of government services to the unrecognized villages affects nearly every area of daily life. Some of the challenges faced by residents include a lack of running water, connection to a sewage network, health services, garbage collection services, connection to the electricity network, postal services, connection to the telephone network, protection or emergency services and kindergartens and welfare services (Abu-Saad 2011, 125). Instead, the Palestinian Bedouin are subjected to an exclusionary land and planning regime making it almost impossible for them to legally build where they live. Consecutive Israeli governments have disproportionately imposed forced evictions, repeated home demolitions, and numerous other punitive initiatives against these communities.

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<sup>113</sup> Human Rights Watch, *Off the Map: Land and Housing Rights Violations in Israel's Unrecognized Bedouin Villages*, March 31, 2008, <http://www.hrw.org/en/node/62284/section/>; Also see Masalha (2005).

<sup>114</sup> I characterize the Bedouin Arab population as 'semi-nomadic' because while their pastoral lifestyle requires seasonal travel, their movement is mainly concentrated around major historic villages with land that is privately owned and collectively held. See Adalah: The Legal Center for Arab Minority Rights in Israel, *The Arab Bedouin of the Naqab: Myths and Misconceptions*.

<sup>115</sup> Adalah: The Legal Center for Arab Minority Rights in Israel, *The Inequality Report*, 10.

Because the Israeli government prohibits any permanent physical or structural development in unrecognized villages, residents are unable to legally (re)build or repair existing homes, roads, educational and health facilities, community centres, or sewage systems. Developing any of these elements on one's own property is accompanied by a constant threat of eviction and demolition, which prevents many inhabitants of unrecognized villages from building new homes or developing existing ones. As a result, unrecognized villages are usually very congested with high population densities as more than one family usually resides in a single house.

#### ISRAELI APARTHEID: BEYOND SOUTH AFRICA

Citizenship in Israel is funnelled through comprehensive policies of exclusion and their respective systems of control, paired with limited inclusion in all socio-political spheres.<sup>116</sup> This incorporation regime, maintained through an uneven allocation of resources, rights and representation in Israeli society, is legitimated through the way in which social membership is conceived and granted within the state. As pointed to in this book, in the case of Israel, the Jewish state is not only a source of identity but it is also a particular guarantor of rights (Kimmerling 1999).<sup>117</sup> This is because Jewish identity in Israel provides *an entirely new assemblage of rights* irrespective of formal citizenship. Put differently, Jewish identity is automatically merged with Israeli citizenship.

Like other incorporation regimes, Israeli citizenship is composed of "concentric circles" within which the boundaries of civic status for the Palestinian community are distinctly rigid given their peripheral location (Shafir and Peled 1998, 412). And so, this community is limited to a rigidly defined citizenship located in the periphery, as any possibility for movement toward the centre requires a social mobility that is systematically denied to it by virtue of the self-definition of the state as 'Jewish'. In other words, the fruition of social mobility requires more rights and greater access to resources which, when denied, reduces Arab citizenship. An examination of Israel's formal and informal practices reveals that its incorporation regime is structured in the form of an apartheid state system: legally enshrined systematic discrimination maintaining the dominance

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<sup>116</sup> A similar formulation is made by Ghanem (1998, 431).

<sup>117</sup> For an in-depth account of how the Zionist incorporation regime fuses Jewish and Israeli identity, see Chapter Five.

of one “ethnic” or “racial” group over another. Resulting from the apartheid structure of the Israeli legal and political regime is a dynamic where, in principle, Israel enables its Palestinian citizens to engage in public economic, political, cultural and social life, but it does not offer equality. Instead, through apartheid policies and practices the state ensures Jewish ascendancy in all areas, actively elevating their symbolic, structural, and political presence. Israel permits its Palestinian-Arab citizens to exercise basic rights, however limited, yet these rights are funnelled through apartheid policies of domination and control that guarantee continued Arab marginality in all social, political and legal spheres (Ghanem 2001).

The discourse of Israeli crimes of apartheid is far from novel. Surfacing most acutely in the 1980s and 1990s, a range of academic and activist publications put forth the argument that the political regime both inside Israel and the occupied Palestinian areas of the West Bank and Gaza Strip is one of apartheid.<sup>118</sup> Heavily popularized since the 1940s, the Afrikaans word “apartheid” means to “separate,” “detach” or “keep apart,” and is historically and politically associated with the practices and policies of the South African Apartheid regime from 1948–1994.<sup>119</sup> Now, it is important to note that both conceptually and practically, apartheid functions differently from racism. In a sequel to his seminal book *Israel: An Apartheid State* (1987), Palestinian-Hebrew scholar Uri Davis’s *Apartheid Israel: Possibilities for the Struggle Within* (2003) effectively outlines this distinction:

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<sup>118</sup> Pre-Oslo comparisons include, but are not limited to: Benvenisti (1984) who states that the Gaza Strip “was quickly becoming the Soweto of the State of Israel”; and prominently, Davis (1987). In 1961, South African Prime Minister Henrik Verwoerd said that the Zionists “... took Israel from the Arabs after the Arabs had lived there for a thousand years. In that, I agree with them. Israel, like South Africa, is an apartheid state” (see Kovel, 2007, 211); and finally, Goodman writes that in an interview on Israeli radio after the 1967 war, David Ben-Gurion acknowledged that Israel would develop into an apartheid state should it fail to “rid itself of the territories and their Arab population as soon as possible” (see 2005, 77–79). After the 1990s when Israel introduced a multifaceted regime of control through permits, checkpoints, ID cards, military orders, closures and road blocks, the literature on Israel and the apartheid analogy has increased. This comparison has since intensified with the building of the apartheid wall in the West Bank in 2002. See, among others, Carey (2001); Bishara (2002); Farsakh (2005); Tilley (2005); Abunimah (2006); Carter (2006); and Lentin (2008).

<sup>119</sup> Throughout this book, and in tune with other scholarly contributions on this topic, the term *apartheid* as legally enshrined policies and practices of racial discrimination will be written with a lower-case ‘a’, whereas the historical experience of the Apartheid regime in South Africa will be written with a capital ‘A’. This will allow us to distinguish between apartheid as an international crime that can be committed by any state, and its historical realization in South Africa between the years 1948–1994.

Racism is not apartheid and apartheid is not racism. Apartheid is a political system where racism is regulated in law through acts of parliament. Racism is prevalent in all states, including liberal democratic states such as the current western liberal democracies. But in liberal democratic states, those victimized by racism have legal recourse to seek the protection of the law under a democratic constitution, namely a constitution that embodies the values of the Universal Declaration of Human Rights. In an apartheid state, on the other hand, the state enforces racism through the legal system, criminalizes expressions of humanitarian concern and obligates the citizenry through acts of parliament to make racist choices and perform racist behaviour.<sup>120</sup>

The intellectual and political awareness that Israel is an apartheid state and challenges to projections of the Jewish state as ‘the only democracy in the Middle East’ have existed for many years among most post- and anti-Zionists in Israel and abroad. However, though numerous legal, political and historical comparisons between the State of Israel and Apartheid South Africa have been published, few have provided a systematic legal account of the apartheid regime in Israel that includes the whole of Palestinian society, including Palestinian citizens of Israel, Palestinians in Jerusalem, the West Bank and Gaza Strip, and the Palestinian refugee population. This point was raised by Karine Mac Allister in “The Applicability of the Crime of Apartheid to Israel,” where she attempts to provide a legal framework that considers the apartheid policies and practices of the Israeli regime against the whole of the Palestinian nation on both sides of the ‘Green Line’.

Mac Allister writes that “wherever they are and whatever their legal status ... Palestinian citizens of Israel, refugees, and those in the OPT are victims, albeit in different ways, of Israel’s regime of apartheid.”<sup>121</sup> That said, and Mac Allister and others have pointed to this, when discussing Israeli crimes of apartheid we are not negating the fact that Israel’s

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<sup>120</sup> Davis 2003, 37. An important source for students of the Zionist-Palestinian conflict, Davis’s 2003 follow-up to his outline of Israeli apartheid, written over a decade prior, laid out, in great detail, Israel’s blatant violations of international law and most United Nations General Assembly and Security Council resolutions, and goes on to challenge Israel’s popular and mainstream characterizations in Western academic and political spaces as the ‘only democracy in the Middle East’. Indeed, Davis’s contribution here is key for any challenge to liberal-Zionist defences of the Zionist incorporation regime. Also, as an extension of his anti-Zionist politics, Davis identifies himself as a ‘Palestinian-Hebrew’ national of Jewish origin.

<sup>121</sup> Karine Mac Allister, “Applicability of the Crime of Apartheid to Israel,” Badil Resource Center for Palestinian Residency and Refugee Rights, *al-Majdal*, no. 38 (Summer 2008), <http://www.badil.org/en/al-majdal/item/72-applicability-of-the-crime-of-apartheid-to-israel>.



multifaceted system of control and expulsion of the Palestinian nation is also one of intense settler colonialism and occupation. This point was made by United Nations Special Rapporteur, John Dugard, in a 2007 Report on the situation of human rights in the Palestinian territories occupied by Israel since 1967:

The international community has identified three regimes as inimical to human rights— colonialism, apartheid and foreign occupation. Israel is clearly in military occupation of the OPT. At the same time elements of the occupation constitute forms of colonialism and of apartheid, which are contrary to international law. What are the legal consequences of a regime of prolonged occupation with features of colonialism and apartheid for the occupied people, the occupying Power and third States? It is suggested that this question might appropriately be put to the International Court of Justice for a further advisory opinion.<sup>122</sup>

The objective of military occupation differs from that of apartheid. In principle, military occupation is not arranged in the form of a long-term oppressive regime of control; rather it is understood as a temporary post-conflict mechanism for ensuring law, stability and security in a certain territory. Of course, this account does not apply to the Israeli military occupation of the West Bank and Gaza Strip – one of the longest occupations in modern history. In other words, Israel's ongoing military presence is not a 'normal' type of occupation. In a separate article, Dugard writes:

Since 1967 Israel has imposed its control over the Palestinian territories in the manner of a colonizing power, under the guise of occupation. It has permanently seized the territories' most desirable parts – the holy sites in East Jerusalem, Hebron and Bethlehem and the fertile agricultural lands along the Western border and in the Jordan Valley – and settled its own Jewish 'colonists' throughout the land.<sup>123</sup>

And, as we saw above, an analysis of colonialism is part and parcel to any account the Zionist national project in Palestine. The Judaization project that lies at the root of Zionism is, by definition, a project of exclusion: seeking to create a Jewish state for the Jewish people and simultaneously

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<sup>122</sup> United Nations General Assembly Human Rights Council, Fourth Session, *Implementation of General Assembly Resolution 60/251 of 15 March 2005 Entitled 'Human Rights Council': Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, John Dugard, (A/HRC/4/17)*, January 29, 2007, [http://ap.ohchr.org/documents/dpage\\_e.aspx?m=91](http://ap.ohchr.org/documents/dpage_e.aspx?m=91).

<sup>123</sup> John Dugard, "Apartheid: Israelis adopt what South Africa dropped," *The Electronic Intifada*, November 29, 2006, <http://electronicintifada.net/content/apartheid-israelis-adopt-what-south-africa-dropped/6568>.

rejecting the rights, presence and history of the non-Jewish Other. Thus, the measures of apartheid applied by the Israeli establishment are endemic to the settler-colonial enterprise that fuels the political Zionist project. Here Israel's settler-colonial project, mechanisms of occupation and apartheid function in conjunction with, and are amplified by, one another. In essence, when determining what kind of citizenship regime or system of control exists in all Israeli-administered territories, we must include an account of settler colonialism, occupation and apartheid, and examine ways in which their respective policies and practices are merged. On this merging of the three regimes of oppression, Dugard asks an important – and still unanswered – question:

What are the legal consequences of a regime of occupation that has continued for nearly 40 years? Clearly none of the obligations imposed on the occupying power are reduced as a result of such a prolonged occupation. But what are the legal consequences when such a regime has acquired some of the characteristics of colonialism and apartheid? Does it continue to be a lawful regime? Or does it cease to be a lawful regime, particularly in respect of 'measures aimed at the occupants' own interests'? And if this is the position, what are the legal consequences for the occupied people, the occupying Power and third States?<sup>124</sup>

Now, when identifying the Israeli incorporation regime as structured in the form of an apartheid state system, Mac Allister begins by pointing out that in order to determine whether the policies and practices of consecutive Israeli governments can be defined as apartheid in nature, one must first identify the racial groups that are placed in a relation of legally entrenched domination with one another. Regarding ascription of the crime of apartheid to the State of Israel, the two relevant racial or ethnic groups are Palestinian nationals and Zionist Jewish-Israelis.<sup>125</sup> Mac Allister contends:

The victims of apartheid, in the Israeli case, are the Palestinian people, namely persons belonging to the Palestinian nation. For Palestinians, the test is whether they identify themselves as Palestinian nationals. If they do, and regardless of their geographic location or legal status, they constitute one 'racial' or 'ethnic' group because of their shared identity, which for instance includes a common culture, history and origin. .... In the case of the dominant group and perpetrators of apartheid, the test is based on

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<sup>124</sup> United Nations General Assembly Human Rights Council, *Report of the Special Rapporteur ... John Dugard*.

<sup>125</sup> Mac Allister, "Applicability of the Crime of Apartheid to Israel," *al-Majdal*.

whether people identify themselves as Jewish citizens of Israel and Zionists.<sup>126</sup>

And continues to qualify her observation by stating that:

Not all Jews, however, have exercised their privilege and acquired Israeli citizenship. Hence, not all people of Jewish faith can be considered part of one racial or ethnic group in the context of the Israeli-Palestinian conflict ... [O]nly those who have voluntarily become Israeli citizens and adhere to Israel's political ideology, Zionism, constitute the relevant 'racial' or 'ethnic' group in this context.<sup>127</sup>

Having identified the two racial or ethnic groups, Mac Allister points to the definition of apartheid in the *International Convention on the Suppression and Punishment of the Crime of Apartheid* (hereafter 'Convention on Apartheid'), adopted by the United Nations General Assembly in 1973. She explains that, in the Convention on Apartheid, an apartheid regime refers to "similar policies and practices of racial segregation and discrimination as practiced in southern Africa ... [with] the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them."<sup>128</sup> While historically and politically associated with and based on the South African experience with apartheid, the definition of the crime of apartheid is not limited to the case of South Africa. Indeed, the Committee on the Elimination of Racial Discrimination further explained that while "the reference to apartheid may have been directed exclusively to South Africa ... the article as adopted [condemning racial segregation and apartheid] prohibits all forms of racial segregation in all countries."<sup>129</sup> Drawing on Mac Allister's argument, others point out that the fact that

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<sup>126</sup> Ibid.

<sup>127</sup> Mac Allister notes, however, that: "While Jewish Israeli society can be considered complicit in the commission of the crime of apartheid through funding the state apparatus with their tax moneys, service in the Israeli military and other institutions involved in the commission of the crime, and otherwise, Jewish Israelis who have opposed Zionism and recognize Palestinian rights cannot be held to the same level of accountability." She continues, writing that "A framework incorporating supporters of Zionism as guilty parties in the crime of apartheid also enables us to hold international actors who have supported the Zionist project, such as Christian Zionist groups, accountable for encouraging and cooperating with the racial group that has implemented the policies and practices constituting the crime of apartheid" (ibid.).

<sup>128</sup> Ibid.

<sup>129</sup> United Nations High Commissioner for Human Rights, Forty-seventh session. *CERD General Recommendation No. 19: Racial segregation and apartheid (Article 3)*, (A/50/18), August 18, 1995, <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/18c9e92601301fbc12563ee004c45b6>; Ibid.

apartheid is defined as a crime under the 2002 Rome Statute of the International Criminal Court, and enforced long after the apartheid regime was defeated in South Africa, attests to the fact that apartheid is a system that can be practised by any state.<sup>130</sup> Hence, while we can emphasize historical similarities between South African Apartheid and the Israeli model of apartheid, it is nevertheless important to adopt an account that reads apartheid as a political system and a crime that can be practiced by any state. Like the crimes of genocide, torture and slavery, crimes against of humanity and war crimes, apartheid is a crime that can be committed by any state, its members, representatives, institutions, structures and organizations. As outlined in Article II of the Convention on Apartheid, this involves:

Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association.<sup>131</sup>

Which includes:

Any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof.<sup>132</sup>

Of course, along with persecutions of “organizations and persons, by depriving them of fundamental rights and freedoms because they oppose apartheid.”<sup>133</sup>

Denunciations of Israeli apartheid should therefore not be limited to a comparative framework or analogy. As we pointed out, unlike the South

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<sup>130</sup> Hazem Jamjoum, “Not an analogy: Israel and the crime of apartheid,” *The Electronic Intifada*, April 03, 2009, <http://electronicintifada.net/v2/article10440.shtml>.

<sup>131</sup> United Nations General Assembly, 2185th Plenary Meeting, *International Convention on the Suppression and Punishment of the Crime of Apartheid*, (A/RES/3068-XXVIII), November 30, 1973, Article II(c), <http://www.unhcr.org/refworld/docid/3ae6b3coo.html>.

<sup>132</sup> *Ibid.*, Article II(d).

<sup>133</sup> *Ibid.*, Article II(f).

African experience, the racism of modern Israel is a particular and simultaneous outcome of all three mechanisms of settler colonialism, occupation and apartheid. Apartheid is a criminal political and legal system that can be replicated by any political agent and structure, and our condemnations of such structures should not be limited to their realization in the South African experience. Consequently, “the resulting descriptions of Israel as being ‘apartheid-like’ and characterizations of an apartheid analysis of Israel as an ‘apartheid analogy’” are incorrect and problematic.<sup>134</sup>

Another important assertion by Mac Allister, crucial for any political position against Israeli apartheid, is that the oppressive regime of segregation is applied across the imagined borders of the country. Despite differences in the legal categorization of ‘Israel proper’, Jerusalem, the West Bank and Gaza Strip, and the refugee camps in the Arab world, the laws and policies of the Israeli incorporation regime maintains a geographic continuity and affects all Palestinian nationals. Granted, certain apartheid laws, policies and practices will have varied effects on different parts of the Palestinian nation.<sup>135</sup> Nevertheless, as Mac Allister states:

A central point to keep in mind ... is that regardless of the variation in the ways in which Israeli apartheid affects different segments of the Palestinian population, since it is the same state operating on behalf of the Zionist Jewish Israeli group that is implementing these laws, policies and practices with the clear goal of establishing and maintaining the domination of that group in Israel and the OPT, then it is inaccurate to consider the violations as limited to one area; a mistake made by many in limiting their analysis of Israeli apartheid to a particular geographic area or a particular segment of Palestinian society.<sup>136</sup>

This point echoes that of Israeli Professor of political geography and urban planning, Oren Yiftachel. Defining the changing political geography of Israel-Palestine as “creeping apartheid,” Yiftachel explains that it is best understood as a process where a hierarchy of rights based on ethnic affiliation has evolved to an established discriminatory legal system.

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<sup>134</sup> Jamjoun, “Not an analogy,” *The Electronic Intifada*.

<sup>135</sup> On this point Mac Allister gives the example of the denial of the right of return, included in Article II(c) of the Convention on Apartheid, as disproportionately targeting Palestinian refugees and internally displaced persons, inside Israel, in the West Bank and Gaza Strip, in neighbouring Arab states and overseas. Here we can also include Israeli land laws which deny Palestinian citizens access to around 93 percent of the land, along with the recent amendments to the land laws preventing the return of confiscated land to its original owners, included in Article II (d) of the Convention on Apartheid, as disproportionately targeting Palestinian citizens.

<sup>136</sup> Mac Allister, “Applicability of the Crime of Apartheid to Israel,” *al-Majdal*.

For Yiftachel, the apartheid in Israel is “creeping” because it has yet to be openly acknowledged and sanctioned by a political movement (Yiftachel 2005, 128). Similar to Mac Allister, Yiftachel points out that the Israeli incorporation regime is geographically continuous in its treatments and containment of all Palestinian nationals. Having defined “creeping apartheid,” as a stratified incorporation system, he explains that

[t]his undeclared system of control stretches over Israel proper and the occupied territories, and sees groups such as Palestinians in East Jerusalem, the West Bank and Gaza; the Druze and Bedouin within the Green Line; Orthodox and Ultra Orthodox Jews; Jewish settlers; new Jewish immigrants (termed *Olim* in the Israeli Zionist lexicon); and migrant workers all enjoying different *de jure* and *de facto* “packages” of rights and capabilities. The civil status of these groups is determined by their ethnicity, religiosity, and location. .... The shaping of Arabs’ citizenship within the Green Line can only be understood as part of this system (Yiftachel 2011, 129–130).

My analysis of the structure of the particular Israeli incorporation regime for Palestinian citizens and its exclusive inclusive dynamics supports this contention. The Zionist settler-colonial regime and its policies and practices of exclusion are seen as belonging to the same ideological continuum, despite the various historical periods of occupation and malleable geographic borders. In spite of the varying relations of exception faced by different segments of the Palestinian population at large, of which this book will deconstruct the relation of exception embedded in Palestinian citizenship, my analysis in the coming chapters will nevertheless treat the racialized, oppressive and exclusive mechanisms of the Zionist regime as existing over a single political-geographic unit, namely, Mandate Palestine.

CHAPTER THREE

ISRAELI *HOSPITALITY*

Write down !  
I am an Arab  
And my identity card number is fifty thousand  
I have eight children  
And the ninth will come after a summer  
Does this anger you?

Write down!  
I am an Arab  
Employed with fellow workers at a quarry  
I have eight children  
I get them bread  
Garments and books  
from the rocks...  
I do not supplicate charity at your doors  
Nor do I belittle myself at the footsteps of your chamber  
Does this anger you?

...

(Mahmoud Darwish, *Identity Card*, 1964)

The liberal concept of hospitality is formed by an undecidability argues Jacques Derrida, which simultaneously combines the assertion of a home whose host both welcomes the Other and imposes conditions of a certain hostility towards the Other. Derrida reveals elements of mastery that condition hospitality, asserting that “it gives, it offers, it holds out, but what it gives, offers, holds out, is the greeting which comprehends and makes or lets come into one’s home, folding the foreign Other into the internal law of the host” (Derrida 2000, 7). In other words, the greeting of the host (or one who receives the Other) is only bestowed on the condition of an affirmation, and therefore maintenance, of her/his authority and the law of her/his household.

That such an arrangement is requisite to the concept of hospitality is of particular importance when applied to the way state–minority relations and models of accommodation and integration are arranged. Further, as ambiguities and inconsistencies accompany minority categorizations, the recognition and application of these designations are of immense

importance when it comes to the framing of state–minority relations. In examining the case of Jews and Palestinian-Arabs, questions of ‘who is the guest’ and ‘who is the host’, the interchangeability of these roles, and the violent dynamics between them, become particularly interesting and relevant to understanding the development of their relationship. Given the subjective nature of collective consciousness, it is not only enormously difficult to agree *when*, but sometimes even *whether* a collective or a host – and therefore a guest – has emerged. From this, the problem is not merely how to account for or justify sharp differences in the range of socio-political, economic, cultural, linguistic, or legal rights bestowed to the collective, but how to identify the *type* of collective which has developed in relation to its Other.

#### FROM HOSPITALITY TO DERRIDEAN ‘HOSTIPITALITY’

Derrida’s inquiry into the aporia of hospitality starts with Immanuel Kant. In *Toward a Perpetual Peace: A Philosophic Sketch*, Kant provides a set of articles for preventing conflict through a pacific federation of liberal republics. In arguing that the right of world citizens shall be “limited to the conditions of universal hospitality,” Kant shows that part and parcel of his account of the state, sovereignty, citizenship, and residency is the relation of hospitality (Kant 2002, 441). Treated as an indispensable and urgent practice for the maintenance of peace rather than a recommended or prescribed conduct toward the Other, hospitality is expounded as

*... the right of a stranger not to be treated with hostility when he arrives on someone else’s territory. He can indeed be turned away, if this is done without causing his death, but he must not be treated with hostility, so long as he behaves in a peaceable manner in the place he happens to be in. The stranger cannot claim the right of a guest to be entertained, for this would require a special friendly agreement whereby he might become a member of the native household for a certain time. He may only claim a right of resort, for all men are entitled to present themselves in the society of others by virtue of their right to communal possession of the earth’s surface (Kant 2002, 441, emphasis added).*

The language of rights employed by Kant becomes immediately apparent. Hospitality is limited to the right of a visitor, a figure that is contrasted with that of a citizen or resident on whose sovereign political territory the *right of hospitality* – of a temporary occupation of the space – is extended. Derrida writes, “...we are thus in the space of right, not of morality and politics or anything else but of a right determined in its relation to



citizenship, the state, [and] the subject of the state, even if it is a world state" (Derrida 2000, 3). With the language of rights arises the "question of conditionality." The non-permanent right of resort and association (or, "the cosmopolitan right") granted to the visitor is contingent upon her/his acceptance of the code of conduct and accepted rules of interaction of the space, *so long as he peacefully occupies his place*. In effect, the conditions of hospitality render it a constant negotiation. Of course, there is always a certain risk that accompanies the extension of the right of entrance and temporary resort in the native household, city, state or sovereign territory to the visiting stranger. Yet, as a conditional injunction, the extension of hospitality is essentially legal, both in formulation and practice. So while it is possible that the foreign Other may possibly destroy the space, challenge the established codes of conduct, or refuse to later accept the non-assimilative conditions of their stay, their temporary entrance is nevertheless warranted as it is subjected to legal parameters of protection. No longer an absolute and unequivocal directive based on magnanimity, hospitality becomes a gamble posited in the form of a constantly negotiated (and, if necessary, arbitrated) legal formulation.

Working from Kant's notion of hospitality, Derrida points his readers to the "historical, ethical, juridical, political, and economic questions of hospitality" (Derrida 2000, 3). Defined as "the right of a stranger not to be treated with hostility when he arrives on someone else's territory," hospitality ensures that a stranger is dealt with as a friend or colleague rather than an enemy (Derrida 2000, 4). However, the word hospitality, says Derrida, "allows itself to be parasitized by its opposite, 'hostility', the undesirable guest ... which it harbours as the self-contradiction in its own body." With this, the concept of *hostipitality* – the hostile underpinnings of hospitality – is born. Starting from the home, Derrida's investigation of the relationship between the host and its perennial Other makes use of the experiences of the historical, Biblical, and literary personas of Oedipus, Socrates, Lot and Abraham. As foreigners, outlaws and hosts, these figures are leaving the city, crossing the border, offering hospitality, and raising the laws of hospitality above all other codes. In their experiences, hospitality emerges as an *always already* juridical concept, understood through its often violent limitations. "Universal hospitality arises," writes Derrida, "from an obligation, a right, and a duty all regulated by law" (Derrida 2000, 4; 2005, 6). As such, the desire of the host to "welcome without reserve and without calculation, [and provide] an exposure without limit to whoever arrives" is eclipsed with requirements and preconditions which change the gift of hospitality into a contractual relation, "opening into a policed

pact; whence the rights and the duties, the borders, passports and doors” are controlled (Derrida 2000, 4). From here, Derrida makes the repeated claim that “[w]e do not know what hospitality is,” and goes on to outline the condition of hospitality:

[I]n the formalization of a law of hospitality which violently imposes a contradiction on the very concept of hospitality in fixing a limit to it, in determining it: hospitality is certainly, necessarily, a right, a duty, an obligation, the *greeting* of the foreign Other ... as a friend but on the condition that the host ... the one who receives, lodges or *gives asylum* remains the *patron*, the master of the household, on the condition that he maintains his own authority *in his own home*, that he looks after himself and sees to and considers all that concerns him ... and thereby affirms the law of hospitality as the law of the household, *oikonomia*, the law of his household, the law of a place (house, hotel, hospital, hospice, family, city, nation, language, etc.), the law of identity which de-limits the *very* place of proffered hospitality and maintains authority over it, maintains the truth of authority, remains the place of this maintaining, which is to say, of truth, thus limiting the gift proffered and making of this limitation, namely, the *being-oneself in one's own home*, the condition of the gift and of hospitality (Derrida 2000, 4).

To illustrate this simultaneous constitution and implosion of the concept of hospitality, Derrida invokes the image of the door:

To take up the figure of the door, for there to be hospitality, there must be a door. But if there is a door, there is no longer hospitality. There is no hospitable house. There is no house without doors and windows. But as soon as there are a door and windows, it means that someone has the key to them and consequently controls the conditions of hospitality. There must be a threshold. But if there is a threshold, there is no longer hospitality (Derrida 2000, 14).

As a result, hospitality becomes

... a self-contradictory concept, an experience which can only self-destruct (put otherwise, produce itself as impossible, only be possible on the condition of its impossibility) or protect itself from itself, auto-immunize itself in some way, which is to say, deconstruct itself – precisely in being put into practice (Derrida 2000, 5).

To fulfill its promise, hospitality must not be structured according to the economy of duty, debt, order and closure, for the unconditionality of the welcome commits it to being an exchange without urgency, without obligation, and without symmetry; or, “a law without law” (Derrida and Dufourmantelle 2000, 83). However, the power relations embedded in the practice of hospitality all surface in the dynamics of the call, invitation, integration, coming, welcoming and greeting of the Other (Derrida 2000, 11).

The embedded Otherizing in the welcome of the host makes hospitality a “passage across the threshold or the frontier,” so that recognition of the hospitality of the Other is immediately moulded into an acknowledgment that the Other is “the *patron*, the master of the household” (Derrida 2000, 4, 13). And this welcome or greeting of the host is conditional upon the maintenance of the authority of the host *in her/his own home* (Derrida 2000, 13). Prior to the offer of welcome, an offer that is always already conditional, the sovereignty of the host over the space and its bounty must be confirmed. Derrida asserts:

There is almost an axiom of self-limitation or self-contradiction in the law of hospitality. As a reaffirmation of mastery and being oneself in one’s own home, from the outset hospitality limits itself at its very beginning, it remains forever on the threshold of itself (Derrida 2000, 14).

This notion of mastery gives shape to hospitality so that the host now becomes the acceptor of the presence (and even existence) and behaviour of the Other. In other words, hospitality “gives, it offers, it holds out, but what it gives, offers, holds out, is the greeting which comprehends and makes or lets come into one’s home, folding the foreign Other into the internal law of the host” (Derrida 2000, 17). *We do not know what hospitality is* because the reification of the role of the host as a sovereign is requisite to its practice. “It is always about answering for a dwelling place, for one’s identity, one’s space, one’s limits, for the ethos as abode, habitation, house hearth, family, home,” explains Derrida, and the extension of knowledge toward the Other as an unknown, as a foreigner or stranger, already motions “the circles of conditionality that are family, nation, state, and citizenship” (Derrida and Dufourmantelle 2000, 149–151; Derrida 2000, 8).

So there is an element of not-knowing that is key in genuine hospitality, in a welcome that does not reproduce the notion of mastery. Derrida plays with the roles of the host and its perennial Other, the guest: he switches them, dilutes their solid framework, shakes the cores of their categorical constructs, and renders their ideological peripheries malleable. He contends that

... the master of this house, the master in his own home, the host ... can only accomplish his task as host, that is, hospitality, in becoming invited by the other into his home, in being welcomed by him whom he welcomes, in receiving the hospitality he gives (Derrida 2000, 9).

Here the relationship between the inviting and the invited is deepened and the dependent dynamics between the two surface. Hospitality confines the role of the host for he “becomes almost the hostage of the one

invited, ... the hostage of the one he receives, the one who keeps him at home,” and to dislodge the power relation between the host and his Other, he must

... enter from the inside: the master of the house is at home, but nonetheless he comes to enter his home through the guest-who comes from outside. The master thus enters from the inside as if he came from the outside. He enters his home thanks to the visitor, by the grace of the visitor (Derrida and Dufourmantelle 2000, 125).

The grace of the visitor carries with it a liberationist potential for the master of the house: he who “waits for anyone, anyone who arrives,” is able to rid himself of the hostage situation within which he is placed by diminishing his authority as a host (Derrida 2000, 10). I will return to this need for a liberator below in relation to the case of Palestinian citizens of Israel, but it is important to understand that the formula that I have been developing concludes that, for genuine hospitality without the embedded violence of a sovereign relation, it is the invited guest who must become “the one who invites the one who invites” and develop into “the host’s host” (Derrida and Dufourmantelle 2000, 125). Put differently, and as pointed to in Chapter Six, part of a genuinely hospitable arrangement between Arabs and Jews in the Israeli regime is the dissolution of its mechanisms and practices of ensconced Jewish ascendancy and control. Despite the juridical formulation of hospitality, its genuine practice permits the corruption of the notion of mastery so that no entity such as a sovereign state or master of a household can exercise authority or impose laws over another subject. The conditional and juridico-political dynamics embedded in the host-guest relationship that seeks to ensure the maintenance of a governing state or master is not immune to transgression. Thus, an unconditional injunction forcing the host to open his doors, his home, his culture, his language, his nation, his state, and his *self* ensures that there is no obligation or exchange involved. Derrida notes:

Let us say yes to who or what turns up, before any determination, before any anticipation, before any identification, whether or not it has to do with a foreigner, an immigrant, an invited guest, or an unexpected visitor, whether or not the new arrival is the citizen of another country, a human, animal, or divine creature, a living or dead thing, male or female (Derrida 2000, 77).

Welcomed without any qualifications or invitations that would suggest a kind of exchange (and therefore ownership over what is being exchanged) between the two, the arrival of the guest demands absolute surprise and lack of preparation. Again, genuine hospitality involves risk. The unexpected

arrival of the Other pushes beyond the liberal-democratic (and Kantian) notion of restricted hospitality, which instructs us to welcome the guest insofar as we are citizens and residents of a country and can claim ownership over the space. Derrida's thoughts on hospitality require us to rethink the laws and protocols of the common, of the public, of the Other – and thus – of the self.

#### OSCILLATING BETWEEN HOST AND GUEST

Embedded ambiguities in the concept and nature of collective consciousness complicate our ability to determine when a collective – a host and thus its perennial Other – has manifested. And with our identification of a host subject, whether individual or collective, arises another, and perhaps more difficult, two-pronged task of, first, determining the kind of host that has emerged, and, second, giving reasons for stark variations in rights and benefits granted to this host subject in relation to the guest at the socio-political, budgetary and economic, cultural, linguistic, religious and/or legal levels.

In the case of Palestinians and Jewish-Israelis, both lay claim to a certain *indigeneity*, or host-status, in defining their relationship with the space. Putting questions of the justifiability of the respective claims aside here, and without claiming the legitimacy or equal validity of both claims, I would like to examine the kinds of host-guest categories that are projected by both collectives. To begin, Palestinians assert their indigeneity on the basis of their historical and political ties and continued centuries-long majority status on the land prior to the establishment of the State of Israel in 1948. The continued presence of Arabs in the area of Mandate Palestine is a historical fact well-documented by Palestinian, Israeli and international scholars, the rejection of which can only be symptomatic of a case of historical denial. With the creation of Israel, the remaining 10 percent of the Arab population were distinguished from other Palestinians by the fact that they stayed on their lands. And these were lands that had, in a short period of diplomacy at the newly established United Nations, been legally re-categorized as belonging to a Jewish state. Despite the violent expulsions and mass flight caused by the organized Zionist military forces, the Palestinian collective remaining in their historical homeland were immediately, and involuntarily, granted Israeli citizenship. It is the children and grandchildren of this indigenous Arab population who found themselves living in a Jewish state that constitute today's Palestinian

citizens of Israel. As for the indigenous status of the Jewish-Israeli population, this position is asserted through one of two common arguments. The first, held by most political Zionists, argues that Jewish indigeneity is a product of the Jewish people's "eternal, historic right to the Land of Israel [as an] inalienable inheritance of its forefathers" (Lustick 1980, 92). The second common contention holds that Jewish indigeneity is affirmed based on their continued historical presence on the land – even extending to Biblical times. Consequently, both Palestinian-Arabs and Jews have historical ties to the land, each laying claim to their indigenous *host* status by identifying the Other as the *guest*.

Arguments for equal merit in the claims of both groups to the land are often contentious and emphasize the particular variables at hand based on the author's own ideological preference and political affinities. That said, even a superficial study of the relationship between Palestinian-Arabs and Jews will find that at a historical, cultural, political and legal level both parties have strong, rooted and existential ties to the land. Thus, as each has a claim to the status of a *homeland group*, both self-designate as 'native' or 'indigenous' to the land. In other words, Palestinian-Arabs and what could be called 'Palestinian-Jews' *are* both indigenous to the land. However, with the creation of the State of Israel, this indigeneity of the Jewish population in Palestine was inherited by the Zionist movement in a manner that founded itself on the rejection of the indigeneity of the Palestinian-Arab population.

From the perspective of an outside observer there is a paradoxical effect whereby claims to indigeneity by both collectives make it difficult to determine who ought to assume the position of *host* and who that of *guest*. But internal to each collective, the self-designation as host establishes the Other as a perennial guest. It is for this reason that engagement with, acceptance of, and indulgence in the practice of hospitality, along with its juridical parameters and assumptions, becomes problematic. Acceptance of the hospitable invitation of one collective, with the premise that this group is the master of the household, is necessarily a fundamental *existential question* for the other collective.

Understanding that hospitality is, in the end, an existential question is key. Derrida tells us that the party offering hospitality must be assured of her/his own sovereignty and control over the space and resources offered or opened to the Other as stranger (Derrida 2000, 14). And we know that an effect of the condition of assurance is a limitation of the gift of hospitality. But, more importantly, it also generates a condition where the roles of *host* and *guest* are reversed: where "the one inviting becomes almost the

hostage of the one invited, of the guest” (Derrida 2000, 9). The host can only remain a host so long as she/he is recognized as such by the guest. And, upon engaging with the conditional hospitality, or ‘hostipitality’, of the host, the guest simultaneously acknowledges her/him as master of the household, the city, the state, and – as in the case of Palestinian-Arabs and Jews – the land. The hold of the host on this space is intimately connected to and directly fuelled by the acknowledgment and participation of the guest in maintaining their status as host. So, there would be no host if there were no guest, and vice versa.

The destructive capacity of the welcome of the sovereign of the household carries with it a dynamic that is similarly present in other minority categorizations. The political-historical understanding of a population in the consciousness of both the ruling establishment and the community itself is shaped through engagement with the act of hospitality. The guest adopts a descriptive self-categorization whose parameters is laid out by the host and is forced to struggle with socio-cultural inconsistencies and conceptual ambiguities as side effects. Palestinian-Arab recognition of, and engagement with, the hospitality of the *Jewish state* implies an acknowledgment that this population “remains the *patron*” and has “a right, a duty, [and] an obligation” to receive, lodge, or give asylum to the Palestinian-Arab community (Derrida 2000, 4). The extension of the welcome of the Jewish state is therefore contingent on the preservation and reproduction of its authority. As Derrida explains:

It does not seem to me that I am able to open up or offer hospitality, however generous, even in order to be generous, without reaffirming: *this is mine, I am at home, you are welcome in my home*, without any implication of ‘make yourself at home’ but on condition that you observe the rules of hospitality by respecting the being-at-home of my house, the being-itself of what I am (Derrida 2000, 14, emphasis added).

This dynamic also holds for the Jewish-Israeli assumption of *guest*-status on the land. Again, in both cases recognition of and compliance with the hospitality of the Other is a renunciation of their understanding of their own status as *host*, or their indigeneity. This results in a notable oscillation from a hospitable to a hostile interaction between the host and the guest.

#### ISRAELI ‘HOSTIPITALITY’

Liberal-Zionist arguments rooted in the contention that Jews are the masters of the land, categorize Palestinian-Arabs as *minorities* or, at best,

*national minorities*. In this sense, the liberal-Zionist account of the hospitable Jewish state as “a home into which the Other [in this case, the Palestinian-Arab citizen] can be welcomed,” is more accurately conceptualized as an exercise of *hostipitality*. Here, Israeli *hostipitality* combines hospitality towards and welcoming of the Other and, simultaneously, hostility towards the Other. As such, Palestinian-Arabs are only *welcomed*, in a state where Jews are the *masters of the land*, as a socio-politically inferior and legally unrecognized collective. The institutional and structural makeup of the Israeli regime keeps the Arab community in the periphery of the workings of the regime, effectively preventing the equal integration of the two populations into a single society.

The questions of ‘who is the guest’ and ‘who is the host’ remain unanswered. As it stands, Jewish-Israelis assume the role of the host or the master of the house (a house which has, particularly since 1967, continued to grow exponentially) through economic control, legal manipulation, political blockade, and military force and occupation. This Jewish-Israeli status of ‘host’ is maintained and reinforced in a hostile fashion quite appropriate to Derrida’s analysis, helping to account for the intensifying socio-political instability between the two collectives. In the case of the Palestinian-Arab citizenry, the community of Arabs within the State of Israel, the question of ‘who is the guest’ and ‘who is the host’, is an interesting and effective tool for conceptualizing the broader conflicting relationship between Palestinian-Arabs and Jews. As Derrida’s analysis indicates, that both populations lay claim to indigenous status – deeming themselves as host and the Other as guest – renders them both historically and politically tied to one another. Acceptance of Jewish-Israeli dominance in the land is necessary for its continued reproduction, because prior to the extension of the welcome lies an assurance of the sovereignty of the host over the space opened up to the guest. But in a situation where this reassurance is not provided by the ‘Palestinian guest’ (or not expressed in the manner preferred by the ‘Jewish host’), it must be extracted through other mechanisms. In the case of Israel, such mechanisms can include legally enforced obligations and limitations, all of which aim at some form of collective ideological, socio-cultural, and behavioural adjustment and redirection.

Here one can argue that the imagined Israeli civic identity in the form of ‘Israeli-Arabness’ or ‘Arab-Israeliness’ is part and parcel of the Zionist drive to extract acceptance of the parameters of the Jewish state by its Palestinian citizenry. Derrida writes:



Pure hospitality consists in welcoming whoever arrives before imposing any conditions on him, before knowing and asking anything at all, be it a name or an identity 'paper'. .... Hospitality consists in doing everything to address the other, to accord him, even to ask him his name, while keeping this question from becoming a 'condition', a police inquisition, a blacklist or a simple border control (Derrida 2005, 7).

As mentioned, the goals of the Zionist movement are centred on the development and solidification of Jewish control and do not include the equal integration or absorption of the Arab population into its framework. Rather, since its inception, Zionism has struggled for exclusive Jewish immigration, Jewish land ownership, Jewish labour, and Jewish political supremacy, expression and rights. In effect, every level of existence for the Arab citizen in the Jewish state is *conditional* and perennially placed in an inferior correlation with the Jewish-Israeli. Situating this in terms of the discussion of hospitality, the identity of the 'Israeli-Arab' is an attempt by the Zionist state to narrowly incorporate this non-Jewish collective in the Israeli social fabric. The particular kind of Arab citizen that is invited by liberal Zionists to act as a constituent of its democracy, the 'Israeli-Arab', is a *de-Palestinianized* Arab who is named 'Arab' so as not to be Palestinian but is, at the same time and through multifaceted systems of control and exclusion, prevented from becoming a full Israeli as an Arab. Part of the accomplishment of the category of 'Israeli-Arab' is that it distracts its observers from the racially configured framework through which rights, privileges, benefits, and representation are bestowed in Israel. As a collective category, 'Israeli Arab' clouds the fact that the foundation of the Zionist state is the rigid binary classification of peoples into *Jewish* and *non-Jewish*, and in doing so, it fits into the liberal discourse of the national integration of minority populations. In other words, despite opting for inclusion under the civic identity of 'Israeli Arab', premised on the condition of accepting Jewish domination in all spheres of the state, Palestinian-Arabs in Israel nevertheless continue to exist under the category of *non-Jew* at a social and legal level. A tool of Israeli *hostipitality*, the category of 'Israeli-Arab' becomes "a self-contradictory concept" (Derrida 2005, 5).

This said, the importance of the adoption of this civic identity for the solidification of the Jewish state also deserves attention. Underlying the binary logic of Zionist discourse and ideology is a fierce political intent of maintaining Jewish ascendancy and, as such, the hospitality expressed by the Jewish masters of the house directed towards the Palestinian-Arab guests is always rendered conditional to the renunciation of components

of their Palestinian-Arabness. However, it is only insofar as 'Arab' and 'Palestinian' is defined as the Other or as peripheral to the Israeli social fabric that 'Jew' or 'Jewish' can embody its *centre*. Useful here is the dynamic explicated by feminist scholar Chandra Talpade Mohanty, who writes: "It is not the centre that determines the periphery, but the periphery that, in its boundlessness, determines the centre" (Mohanty 1988, 73–74).

Put differently, the identity and existence of the Arab Palestinian Other delimits, shapes and locates the identity and existence of the Jewish-Israeli, so that the latter needs the former as an indicator of periphery in order to determine the location of the centre. Though writing about the latent Eurocentrism of certain feminist writings in their treatment of women in the Global South, Mohanty's formulation illuminates Derrida's notion that the grace of the visitor carries with it a liberationist potential for the master of the house:

The master of the house 'waits anxiously on the threshold of his home' for the stranger he will see arising into view on the horizon as a liberator. And from the furthest distance that he sees him coming, the master will hasten to call out to him: 'Enter quickly, as I am afraid of my happiness' (Derrida and Dufourmantelle 2000, 121–123).

Far from diminishing the authority of Jewish-Israelis as a host, the Zionist use of the liberal logic of integration through the identity of 'Israeli-Arab' reverses this liberating move to reinforce the two categories. With this, the Zionist project is able to meet its political objective of multifaceted Jewish dominance. Acceptance of an 'Israeli-Arab' civic identity by the Palestinian population therefore only liberates the Jewish-Israeli from the temporariness of their status as host, master of the household, and custodian of the land, and further entrenches their self-conceived *indigeneity*. Having posited itself as the centre, the identity of 'Jewish-Israeli' remains perpetually dependent on the strength, presence and trajectory of its periphery, formed by the 'Israeli-Arab' Other. It is only through the widespread conceptual and practical adoption of an 'Israeli-Arab' identity, through the embedding of a hierarchical power relation between the host and her/his Other, that the Zionist state is liberated from the temporariness and conditionality of its own existence.

In the end, the auto-immunizing and self-contradictory components of 'Israeli-Arabness' render its realization nonviable. Palestinian-Arab confirmation of the liberal-Zionist invitation locks their status as a guest whose presence on the land is dependent on permission, interrogation and compliance. This makes genuine Palestinian-Arab participation in the

hospitality of the state *possible on the condition of its impossibility* or, alternatively, *it makes Israeli hospitality possible on the condition of hostility*. Whereas the language of Derridean hospitality calls to the Other without condition, Israeli hostipitality formulates a perpetual need for classification (Jewish and non-Jewish) and hierarchy (through a multifaceted Jewish supremacy). Here the need for Mahmoud Darwish's identity card – and the need for a similar defiance – resurfaces in every interaction with the state. That Palestinian participation in the hospitality of the state reflects this inherent inequality of social, civic and legal status indicates that the challenge to Israel's consolidation as an equal democracy is the fact that access to the home, the city, the state and the land *itself*, in the form of identification, claims, rights and membership, is deliberately designed to exclude the non-Jewish community. Both conceptually and practically, these dynamics doubly marginalize and exclude the Arab citizenry of Israel from both the Israeli and Palestinian political societies and national projects. In essence, Palestinian-Arabs in Israel are placed in a paradoxical condition: they become *stateless-citizens*.



## CHAPTER FOUR

### LIBERAL PRETENCE OF A JEWISH STATE

Unless one counts the centuries-long, largely unrecorded, and dispersed resistance of the vanished native people against white settler colonialism in the Americas, no liberation movement in modern times has encountered an adversary like the one the Palestinians have faced. Israel obviously shares many similarities with South Africa and may in time come to resemble the apartheid state more than most liberal Zionists suspect. .... A colonialism committed to replacing the native people, it is racist and extremist by nature. Yet, a product of the Western metropolis, constituted mostly of the dispossessed, of dissidents and the persecuted, it is often liberal in ideology and humane in rhetoric (Ahmad 2006, 302–303).<sup>1</sup>

Of the three common and generally state-centric conceptions of citizenship – namely, liberal, republican and ethno-nationalist – it is the liberal-individualist version which, when applied to Israel, gives the impression of being most inclusive. It appears to protect and prioritize the rights of all members of Israeli society, even in the absence of any active engagement with the state, such as in the form of military service.<sup>2</sup> The liberal variant of Zionist thought, or *liberal-Zionism*, was initially a principal trend within the Zionist movement. Not affiliated with any single political group in Israel, liberal-Zionism (in its various forms) maintains a key presence in contemporary Israeli politics, particularly in the face of its Western adherents, and translates into an acknowledgment of greater rights for Palestinian citizens of Israel and the need for Palestinian statehood, among other points. However, constant reference to dreamy liberal-democratic concepts of representation, participation, universal equality, non-discrimination, accountability, transparency, rule of law and human rights, along with a barrage of freedoms including opinion, belief, debate and association, is nevertheless paired with practices and policies of ethnic homogeneity, brutal occupation, military invasions, socio-economic

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<sup>1</sup> This quote is also pointed to in Dan Freeman-Maloy's (2011) critical reading of liberal-Zionist politics.

<sup>2</sup> See Chapter Two, footnote 39 on recently proposed changes regarding the drafting of Arab citizens in the Israeli army.

disenfranchisement, legally entrenched discrimination, and a range of other violations. Even the most liberal Zionists consider exclusive Jewish demographic domination and territorial control as vital for the existence of a Jewish national home, regardless of its legal, political and human costs. And with these two factors as priorities, the liberal-Zionist ideology proves incapable of implementing even the most basic principles of liberalism.

In *Israel and the Family of Nations: The Jewish Nation-State and Human Rights* (2009), Alexander Yakobson and Amnon Rubinstein delineate one of the most robust liberal-Zionist readings of Israeli politics and history. Though hardly representative of the increasingly hawkish mainstream Israeli political attitude, the authors put forward a liberal account of the Zionist project through systematic academic argumentation designed to counter both Israeli and non-Israeli voices of criticism against the Zionist regime. Citing various European and North American constitutions, norms, and laws, the book oscillates between pragmatic, principled and impassioned lines of argumentation aimed at rendering the Zionist movement – and its realization in the form of a Jewish state – immune from critique regarding its continued violations against the Palestinian people. Yet, heavily lacking in any analysis of power, the logical and political coherence of the liberal-Zionist positions presented in this book are only sustained through selective readings of international legal texts, historical experiences and current political realities.

#### THE UN PARTITION PLAN OF 1947

Simply put, Yakobson and Rubinstein's main argument is that

... it is the denial of the legitimacy of the concept of a Jewish state that undermines the principles of universal equality, since it denies the right of the Jewish people to self-determination and national independence. .... Whatever, in the country's day-to-day reality, contradicts democratic principles does not follow from Israel's definition as a Jewish state (Yakobson and Rubinstein 2009, 2).

The authors provide an account of debates held among members of the United Nations (UN) General Assembly leading up to their adoption of Resolution 181 on November 29, 1947 which called for the partition of Palestine into two independent states, one Arab and one Jewish, with Jerusalem and Bethlehem under special protection by the international

community.<sup>3</sup> Here they argue that the rationale of the parties proposing the partition of Palestine, the members of the UN Special Committee on Palestine (UNSCOP), was three-pronged. It was held that an independent state was to be established for the Jewish people and not for the Jewish population of Mandatory Palestine alone; that the “historic connection” of the Jewish people and the “need to reconstitute their national home” in Palestine was recognized; and that the international community actually decided to create a Jewish state (Yakobson and Rubinstein 2009, 12–15).<sup>4</sup> With this, the authors argue that questioning whether Israel (the name chosen by the Zionist movement) can exist as a Jewish state is paradoxical. The Committee also acknowledged that “the opening of the gates of the country to massive Jewish immigration will be a major goal of the Jewish state after its establishment” (Yakobson and Rubinstein 2009, 18). And, to this end, the 1947 Partition Plan allotted the proposed Jewish state

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<sup>3</sup> Implemented on November 29, 1947, the UN General Assembly Resolution 181 called for the partition of Mandate Palestine into two separate bodies: a separate state for the Jewish minority at the time on around 57 percent of the land, and a state for the large Palestinian-Arab majority on around 43 percent of the land with Jerusalem and Bethlehem marked as a separate area managed by a ‘special international regime’. As was to be expected, this resolution, considered fundamentally illegitimate and unjust both in practice and in principle, was rejected by the Palestinian leadership and vast segments of the population, with a hesitant adoption by the leadership of the Zionist movement as a first step in their continued project of settler-colonial expansion. Soon after it was adopted, however, organized Zionist forces commenced their intense military interventions and campaign to seize territory far exceeding that which was mandated by the UN sponsored Partition Plan. Indeed, Resolution 181 was never actually implemented and the lands considered today to be part of the State of Israel, part of ‘Israel Proper,’ were, at its inception, never actually endorsed by the UN Resolution. Signed first with Egypt on February 24, 1949, and later with Lebanon, Jordan and Syria, the Rhodes-Armistice Agreements officially ended the military hostilities of the 1948 Arab-Israeli War, and formed Armistice Demarcation Lines between Israeli military forces and those forces in the Jordanian-controlled West Bank. These demarcation lines became known as the ‘Green Line’. United Nations General Assembly, *Resolution 181 (II) Future government of Palestine*, (A/RES/181/II), November 29, 1947, <http://unispal.un.org/unispal.nsf/0/7foafzbd897689b785256c33061d253>. For more on Resolution 181, see Kamrava (2005, 79–81).

<sup>4</sup> For the last point, the authors cite acceptance by Iran, India and Yugoslavia of the term ‘Jewish state’ in a 1947 report of the UN Special Committee on Palestine (UNSCOP) to illustrate the legitimacy of the term given it was upheld even by these states. This is rather peculiar. Students of the histories of the three states will point out the limitations of Yakobson and Rubinstein’s argument as each of these cited states were either undergoing intensive internal political transformations in the form of major territorial upheavals, were struggling to overcome colonialism or were dominated by British imperialist forces in and around 1947. As a result, it is not only extremely doubtful that these states were politically established enough to be able to reflect the wishes of their own populations during this time, but also that particularly Iran and India were able to convey a position independent from intense British political interference.

“a territory larger than would have been justified if taking into account only the existing numerical ratios between Jews and Arabs in the country ... [which] naturally increased the number of Arabs who would be included in its borders” (Yakobson and Rubinstein 2009, 18). The creation of a state for the Jews was, the authors contend, aimed at transferring the question of immigration into an internal issue of the Jewish state. From this rationale, Yakobson and Rubinstein conclude that the pan-Jewish right to Palestine was deemed to be in harmony with both the interests of the international community and democratic principles:

[T]he committee saw no contradiction between providing full civil rights to the large Arab minority in the future Jewish state while allowing it to maintain its cultural particularity, on the one hand, and the Jewish character of the state by means of which the Jewish people would ‘take its place as an independent nation in the international community and in the United Nations’ ... (Yakobson and Rubinstein 2009, 21).

Of course, the story is a bit more complicated. The authors use the rationale of the proponents of the Partition Plan in 1947 to challenge contemporary criticisms of the inconsistency between the Jewish and democratic character of the State of Israel. However, the report of the UNSCOP, which included the Partition Plan eventually adopted by the UN General Assembly, also included explicit caveats for a range of rights and freedoms, including

... full protection for the rights and interests of minorities, including the protection of the linguistic, religious and ethnic rights of the peoples and respect for their cultures, and *full equality for all citizens with regard to political, civil and religious matters* (Yakobson and Rubinstein 2009, 20, emphasis added).

Placing the above protections, and others listed in the Partition Plan, alongside decades long state-imposed policies and practices of population transfer, displacement, home demolition, land confiscation, criminalization of family unity and more, speaks volumes. That, in 1947, the UN Committee did not see (or could not anticipate) any contradictions between providing full civil rights to Arabs and the Jewish character of the future Jewish state is, to say the least, an inadequate and irrelevant response to contemporary condemnations of the active use of Israel’s self-definition as a Jewish state as a tool of repression of Palestinian citizens and non-citizens.

Moreover, the authors leave out the fact that the Israeli political and legal establishment itself also points to tensions between the



two identities. Whether in the form of the aforementioned legislation (see Chapter Two) severely limiting Arab political, social, cultural, mobility, family, and legal rights with the explicit intention of 'preserving the Jewish character of the state', or in the recently proposed and currently debated new *Basic Law* asserting that the identity of the state as Jewish ought to be preserved "in situations in which the Jewish character of the state clashes with its democratic character;" it is evident that the Knesset itself sees a tension.<sup>5</sup> Proposed in August 2011, this legislation, supported by Kadima, Labour and Likud MKs, would amend the basic consensus regarding the character of the state, and make democratic rule *inferior* in principle to the state's self-definition as the "national home for the Jewish people."<sup>6</sup> Now, Yakobson and Rubinstein hold that there is "no justification for seeing the shortcomings of Israeli democracy as proof that a Jewish state is by definition contrary to democratic principles" (Yakobson and Rubinstein 2009, 118). But the above political discourse and legislation indicates that, in actuality, the failures of Israeli democracy are directly attributable to the hierarchical incorporation regime resulting from the Jewish character of the state. Hence, it is not the case that "the only way to deny legitimacy to the concept of the Jewish state is to deny the Jewish people the right to statehood" (Yakobson and Rubinstein 2009, 97, repeated on 140). While this political line was adopted in 1947 by some of the states opposed to the Partition Plan, denial of Jewish entitlement to statehood is certainly not the basis of the majority of the criticisms Israel faces today. The notion of a Jewish state is rejected and criticized because the devastating practices mentioned above are necessitated to ensure Jewish domination. Put differently, it is the ideological, structural and institutional connection between the definition of Israel as a Jewish state, and policies and practices of oppression and discrimination that are legitimately discredited and held to be in violation of international legal norms.

In the end, Yakobson and Rubinstein contend that "[t]he UN Partition Plan was doomed to failure by the Arab-Palestinian leadership and the countries of the Arab league, who rejected it and went to war" (Yakobson and Rubinstein 2009, 59). Here the Arab rejection is posited by the authors as a lack of compromise and cooperation that is contrasted with a Zionist desire for recognition and peaceful dialogue. In fact, and as numerous

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<sup>5</sup> Jonathan Lis, "Lawmakers seek to drop Arabic as one of Israel's official languages," *Haaretz*, August 4, 2011, <http://www.haaretz.com/print-edition/news/lawmakers-seek-to-drop-arabic-as-one-of-israel-s-official-languages-1.376829>.

<sup>6</sup> *Ibid.*

scholars have pointed out, the parameters of the UN Partition Plan itself are what doomed it to failure. It gave the Jews, who numbered around one-third of the inhabitants and legally owned between 6–7 percent of the land of Palestine, a total of 57 percent of some of the most fertile land containing about 45 percent of the Palestinian population. The plan also bestowed upon the Arab state a mere 43 percent of their homeland (most of it unfit for agriculture), with the town of Jaffa as an isolated part of the state with a small Jewish community.<sup>7</sup> This is what served as the first nail in the coffin of the Partition Plan. As we shall see, the inability (or unwillingness) of Yakobson and Rubinstein to view the proposal from the perspective of the Arab indigenous population who, at the time, were a majority in their homeland is a recurrent tendency in the book. Further, the political, strategic and tactical elements of the UN Partition Plan were also left out of the analytical picture of the authors. As argued by Israeli academic and popularly called “new historian” Simha Flapan,

[t]he acceptance of the UN Partition resolution was an example of Zionist pragmatism par excellence. It was a tactical acceptance, a vital step in the right direction—a springboard for expansion when circumstances proved more judicious. And, indeed, in the period between the UN vote on November 29, 1947, and the declaration of the state of Israel on May 14, 1948, a number of developments helped to produce the judicious circumstances that would enable the embryonic Jewish state to expand its border (Flapan 1987, 33; also quoted in Kamrava 2005, 81).

With the acceptance of the Partition Plan, the existing conflict between Arab and Jewish forces was intensified and, in April 1948, a large scale Zionist military attack was launched. In this political climate – and in the context of major military atrocities such as the *Dir Yassin* Massacre which left over 200 Arabs killed, their bodies mutilated and later dumped in wells – a colossal Palestinian exodus of around 750,000 people who were either forced from their land, or fled under the duress of the ethnic cleansing campaigns of the Zionist forces to neighbouring Arab countries commenced.<sup>8</sup> As the sections below will show, key elements of the Palestinian

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<sup>7</sup> See footnote 3 in this Chapter for more on Resolution 181.

<sup>8</sup> See Kamrava (2005); Pappé (2006); and Morris (1988). Though one of the bloodiest and most publicized massacres, the *Dir Yassin* Massacre of April 1948 was preceded and followed by a string of other massacres and other violent outrages in Arab townships and villages by the Zionist military forces. These include, but are not limited to the villages and townships of: Iqrit (December, 1951), Al-Tireh (July, 1953), Abu Ghosh (September, 1953), Kufr Qassem (October, 1956) discussed again in Chapter Five below, and Acre (June, 1965). For a thorough and well-sourced list and description of Zionist massacres of Palestinians in towns and villages, see Abu Sitta (2000).

narrative along with the ramifications of Zionist military actions are both also disregarded in Yakobson and Rubinstein's analysis.

#### THE PRINCIPLE OF 'TWO STATES FOR TWO PEOPLES'

In their vindication of the Jewish state, Yakobson and Rubinstein point to the principle of 'two states for two peoples' and argue that criticisms of the former challenge the viability of the latter:

The voices heard in recent years which disparage the concept of the 'Jewish state' claiming that it contradicts the principle of equality, are in fact denying the principle of two states for two peoples .... No Jewish state means no state for one of the two peoples (Yakobson and Rubinstein 2009, 14).

They contend that,

[i]n reality, it is perfectly clear that a country with an Arab-Muslim majority (as such a bi-national state is bound to be, sooner rather than later) located in the heart of the Arab-Muslim world, cannot be anything but an Arab-Muslim state in all respects, regardless of any formal definitions. .... So, the true alternative to a Jewish nation-state in part of the country (alongside a Palestinian nation-state) is an Arab nation-state in all of it – one state for one people (Yakobson and Rubinstein 2009, 10,11).

Yet at the same time,

[t]he fact that the state [of Israel] is the expression of the right of the Jewish people to national independence does not mean that it is not also the state of its citizens that belong to the Arab national minority – that is, a democratic state or, in other words, a state of all its citizens (Yakobson and Rubinstein 2009, 14).

Two points of consideration arise from this line of argumentation. The first, and rather obvious, question is why the authors believe that Israel as a *Jewish state* is capable of functioning in a socially, politically and legally non-discriminatory manner whereas a bi-national *Arab and Jewish state* (or even an Arab state for that matter) simply does not maintain the same potential. Of course, the irony is that Israel has, since its inception, been thoroughly unable to balance its self-defined Jewish and democratic character in a manner that does not severely infringe on the social, cultural, economic, educational and political rights of its Arab citizen and non-citizen population. This is evident in the aforementioned political and legal mechanisms of discrimination embedded in the Israeli incorporation regime. Despite the historical record, however, Yakobson and

Rubinstein hold that unlike the bi-national alternative, the Jewish state can implement protections for its minority populations. The authors praise the “formal definitions” and declarations of contemporary Israel, despite their devastating effects on its Arab citizen population, but vehemently refuse to place any value in similar political and legal arrangements in a bi-national framework. And second, with this argument, these liberal-Zionist scholars actually employ the very same rationalization they deride the non-democratic and authoritarian Arab states for using in 1947 – that a Jewish state in an Arab-Muslim region is socially and politically problematic. Here Jakobson and Rubinstein’s position, despite being seeped in liberal discourse, is in tune with the contentions of the authoritarian Arab leadership as they too consider the region’s Arab-Muslim makeup to be inherently unfavourable to the existence of a Jewish state. Indeed, similar to the so-called “Arab unwillingness to accept the existence of a non-Arab entity in the region,” Jakobson and Rubinstein also refuse to imagine an alternative to a legally inscribed racial state framework that identifies itself both in response and opposition to its minority populations (Jakobson and Rubinstein 2009, 44). More than this, the authors construct an edifice defending discriminatory Israeli policies and practices by asserting:

It is generally recognized that a minority feels a stronger need than a majority to express its identity; the efforts of the minority to maintain its identity and avoid being assimilated into the ‘homogeneity’ of the majority are generally viewed with sympathy.<sup>9</sup>

Here the authors want to have their cake and eat it too. What this liberal-Zionist framework creates is a dynamic where Jewish-Israelis receive the privileges of both a majority and a minority population, both of which are effectively used to evade criticism of Israeli state power. In the face of the Arab majority populations in the region, Jewish-Israelis are a minority and thus, the authors argue, extensive political and legal measures to entrench the Jewish character of the state ought to be “viewed with sympathy” – irrespective of its negative effects on the rights of the Arab citizenry and broader Palestinian nation. And in the face of the Arab minority within

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<sup>9</sup> The authors hold that “[i]t must always be borne in mind that the Jewish people of Israel face not just the Palestinian-Arab people. While constituting a majority in Israel, Israeli Jews are but a tiny minority in the Arab-Muslim Middle East...” and they go on to argue that “the Arab world is, legally as well as in fact, an Arab-Muslim world; in this world, the Israeli Jews represent a small minority striving to preserve its own identity” (ibid., 45, 46).

the Israeli juridico-political order, Jewish-Israelis are a majority population and to criticize state-led initiatives that embed a Jewish character in all spheres of life in Israel would be to reject the “democratically expressed will of the majority of Israel’s citizens” (Yakobson and Rubinstein 2009, 125). For all intents and purposes, the liberal-Zionist framework created by Yakobson and Rubinstein deprives Arab citizens and non-citizens under Israeli control of any means of challenging the racialized legislation and practices of the Jewish state. As a result, Israel is bestowed the advantages and exemptions given to both a minority and a majority collective oscillating between a strong and a vulnerable disposition depending on the preferred political discussion.

#### ISRAEL AS A ‘STATE FOR ALL OF ITS CITIZENS’

A similar dynamic emerges with Yakobson and Rubinstein’s account of Israel as a ‘state for all of its citizens’. On the one hand, the authors assert that “[i]n principle, an Arab citizen of Israel can call him—or herself ‘Israeli’ without giving up their own national identity or adopting that of the Jewish majority.” But on the other hand, they also assert that the name Israel is “anything but neutral” (Yakobson and Rubinstein 2009, 7, 142). Here, the identity of ‘Israel-Arab’ is meant to solve the paradoxical existence of Palestinian citizens of a Jewish state. Asserting that “neither Herzl nor the first Zionist leaders ... saw the future Jewish state as a country without Arabs,” the authors make reference to Theodor Herzl’s utopian novel, *Altneuland*, and point to ways in which the treatment of minorities had a prominent place in the political development of the future Jewish state (Yakobson and Rubinstein 2009, 89–90).<sup>10</sup> Now, opinions held by Israeli political leaders on indigenious Palestinians have changed since the inception of the state. In an article written in 1976, Middle East historian Janice J. Terry outlines the development of the treatment and attitudes by Israeli leaders of the Arab population:

The first generation of Israeli leaders, such as Ben-Gurion and Golda Meir, persisted in maintaining that the Palestinians did not exist, long after at least

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<sup>10</sup> On this point, they are joined by Israeli scholar Shlomo Avineri, who also praises the “critical dimension” of *Altneuland* as a utopian work that not only depicts “the problems and tensions faced by the new society,” but also which deems “the primary difficulty” as “the status of Arabs in that society.” See for instance, Shlomo Avineri, “Herzl’s vision of racism,” *Haaretz*, February 9, 2009, <http://www.haaretz.com/print-edition/opinion/herzl-s-vision-of-racism-1.269714>.

some Israelis had publicly recognized the Palestinian entity. This refusal to recognize the existence of an entire people is often closely related to the Israeli refusal to accept any responsibility for the Palestinian refugees. From 1948 until after the 1967 war, the refugees were either totally ignored or were treated as components of the larger Arab world. .... As late as 1969, Golda Meir, in a much publicized interview, denied the existence of the Palestinians, saying: 'There was no such thing as Palestinians'. Zionist publications are also full of cursory references to Jewish settlement in 'abandoned Arab villages', with no further mention regarding the people who had once inhabited these areas. If noted at all, the Palestinians are referred to in such terms as 'migrant Arab communities in ruined villages' (Terry 1976, 71-72).

Terry goes on to explain that the post-1967 period witnessed strides in the Palestinian liberation movement, thereby compelling the Israelis to address the existence of the Palestinians. Here,

[a]gain, Zionist reactions took several different forms in their attempts to counter Palestinian national demands. There was some persistence, especially among the older Zionists, to continue as if the Palestinians still did not exist; however, as the Palestinians became more effective in presenting their case and in forcing their grievances before the world, the 'Palestinians do not exist' rationale largely ceased to be a functional, useful Zionist response. Consequently, Zionist publications began to face the Arab and Palestinian entity more directly, but, here again, several negative attitudinal approaches were clear. Most Zionist publications sought to avoid directly mentioning the word 'Palestinians', but preferred terms like 'the refugees' or 'the Arab refugees' (Terry 1976, 72).

Thus, Yakobson and Rubinstein are correct to point out that some of the first Zionist thinkers acknowledged the presence of non-Jewish populations in Palestine. That said, they certainly do not adequately weigh the colonial framework through which both the image of the indigenous Arab is formed, and political attempts to involve Arab citizens and residents in the Jewish state since its inception are realized. However, putting aside this historical record for a moment, it is important to illuminate the ways in which the authors's reference to *Altneuland* as an example of the Zionist acceptance of an Arab presence and participation in the Jewish state is problematic and misleading. To this end, let us seriously examine the treatment of Arabs and the question of their representation in Herzl's *Altneuland*.

While the image of the indigenous Arab does reappear at various points of the novel, this is done primarily through vague and momentary indicators of Arab presence that are mentioned in passing by mainly Jewish voices. Remnants of Arab existence in their post-colonized native soil appear throughout the novel with a certain uneasiness and ambiguity.

Reference is made by the protagonists in the text to an “Arab fantasy,” “the place with the crazy Arab name,” and the “solemn puzzlement of the Orientals ... at the sudden appearance of Occidental goods in the country” (Herzl 1987, 48, 234, 208). This uneasiness points to both an uncomfortable silence on the presence of an indigenous population on land earmarked for a Jewish society, and an unsettled ambiguity on the circumstances of their coexistence with their Jewish colonizers in the newly established commonwealth.

Where the indigenous Arabs are not completely removed from the consciousness of the colonial protagonists of the story, they are demoted to the peripheries of the Jewish landscape. Indeed, during their first moments in colonized Palestine, the protagonists Löwenberg and Kingscourt remarked:

Some of the riders wore picturesque Arab costume, others the conventional European clothing. Occasionally, too, camels filed past, singly and in cavalcades – picturesque and primitive relics of an obsolete era (Herzl 1987, 119).

Fragments of an active and traditional Arab life that is yet to be eradicated from the colonial landscape surface in such disoriented moments of the text. These pieces act as a brief reminder of the colonial record of displacement before they are again relegated to the mental void of the protagonists. That said, despite the ambiguities and inconsistencies surfacing at various points of *Altneuland* and hinting at a present yet inconsequential indigenous population, the official (and familiar) colonial narrative is consistently maintained: “We [the Jews] did not have to ruin anyone in order to ease the lot of our masses” (Herzl 1987, 87). This sentiment also frequently reappears in Jakobson and Rubinstein.<sup>11</sup>

The colonial logic embedded in contemporary attempts by the Jewish state to involve and represent Arabs in the new society is also revealed in the novel. Indeed, *Altneuland* does depict a certain fraternization with Arabs, through which the liberal-Zionist conception of ‘coexistence’

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<sup>11</sup> There are many instances of this throughout *Israel and the Family of Nations*, but to give an example, on the question of the exodus of Palestinian refugees the authors state that “[w]hen the state [of Israel] was established and independence declared, hostilities were already ranging and many of those who would become Palestinian refugees had already left the territory of the Jewish state” (2009, 95). There is no mention here by the authors of the campaigns of coercion, demoralization and violence launched by the Zionist military forces to cause this exodus, so as to secure territorial domination for a future Jewish state. In effect, Jakobson and Rubinstein absolve Zionist military groups of responsibility for their part in the *Nakba*. For a historical account of the multifaceted Zionist offensive which resulted in the Arab exodus, described by Walid Khalidi as “a mixture of psychological and terroristic warfare,” see (2005b, 49).

makes its appearance. Those who wish to work are welcomed, given the right to vote and (in the novel) provided equal rights (Herzl 1987, 152, 220, 281). As a result, the native Arab does indeed live alongside the Jewish settler. That said, the social, cultural and ideological circumstances of this utopian association deserve closer attention. The commonwealth is explicitly a “Jewish society,” with “Jewish settlements” built by “Jewish pioneers,” funded by “Jewish philanthropic associations,” and with the objective of fostering “Jewish mass migration” (Herzl 1987, 46, 85, 177, 176).<sup>12</sup> “Jewland” – as Herzl calls it in the novel – organizes itself according to the Hebrew calendar, actively seeks to preserve the Hebrew language and the Jewish faith, and attaches itself to Jewish symbols such as the “ancient Hebrew coinage” (Herzl 1987, 122, 177). Where identity-based elements of the indigenous Arab, including ethno-religious identity, historical ties to the land, cultural practices, native tongue and other such deep-rooted and emotive features of human organization are placed on the priority list of the Jewish commonwealth is left unexamined and remains unaddressed throughout the text. However, *Altneuland* does indicate various cosmopolitan elements of the new society as existing harmoniously alongside its Jewish character. For instance, business people from around the (colonized) world actively take part in the enterprise of the society, cultural performances are made available in major European languages, and the religious spaces of the three monotheistic faiths, Judaism, Christianity, and Islam are protected by the Zionist technocrats according to the “fundamental principles of humanitarianism,” to name a few (Herzl 1987, 61, 66, 67, 101). Evidently, there is an element of cosmopolitanism in the Jewish commonwealth that, while serving an inclusive function with respect to non-Jewish populations, nonetheless points to an existing tension between the ethno-religiously exclusive Zionist and cosmopolitan character of the new society.

Yet, in neither of these juxtaposed representations of the land is there appropriate space for the indigenous Arab population to posit their own historical claims and cultural ties to their native soil. Here, as in contemporary Israel, the sole categories of coexistence are: Jewish and non-Jewish. Modern Israel’s constitutional self-definition as a Jewish state entails an understanding of citizenship that is “not an expression of individual rights but of membership in a homogenous ethnic group,” denying access to a range of social resources to those who by virtue of their status as gentiles remain outside the homogenous collective (Turner 1990, 204).

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<sup>12</sup> For Joseph Levy’s “story of colonization” see *ibid.*, 192–199.



As a result, Israeli democracy invites Arab citizens to coexist with Jewish citizens as ‘non-Jews’, but not as ‘Arabs’ – and certainly not as indigenous Arabs. While Jews are provided legally enshrined rights both as a collective and as individual citizens, Arab citizens not only lack a clear and official legal and formal status in Israel as a collective (and specifically as an indigenous population), but also fail to identify with the intrinsically Jewish and Zionist symbols of the state at an individual level. In short, Arabs are invited to coexist, without actually existing as Palestinian-Arabs.<sup>13</sup> In today’s Israel, the indigenous Arab is subjected to a type of inclusion that is (e.g. through legally enforced loyalty oaths and other practices) premised upon Arab consent to Jewish domination in all spheres of the state, and which functions within a framework of institutionalized inequality. *As apparent, elements of the colonial framework within which Zionism developed have been appropriated by liberal-Zionism in its configuration of Arab integration in contemporary Israeli society. In other words, their apparatus of coexistence is the same.* With this, *Altneuland* falls far short of Jakobson and Rubinstein’s claim that Herzl’s novel provided a rubric for genuine inclusion of the Arab population and minority participation in the Jewish state.

#### RASHID BEY: THE DE-PALESTINIANIZED ARAB

Jakobson and Rubinstein also make reference to the character Rashid Bey in *Altneuland*. Introduced to the protagonists as a “prominent Moslem” wearing “dark European clothing with a red fez,” the German-educated engineer from Haifa, named Rashid Bey, is the only central Arab character in the novel (Herzl 1987, 68). Fluent in German, Hebrew and Arabic, and an active member of the newly established Jewish commonwealth, this educated and financially established Arab character represents and recounts the Zionist view of the Arab experience of colonization. Pointing to a field of “luxurious orange and lemon groves” that “used to be [his] father’s plantation,” Bey reiterates to the protagonists that Arab “profits have grown considerably” since Jewish immigration (Herzl 1987, 121). When asked by Kingscourt if the “older inhabitants of Palestine [were] ruined by the Jewish immigration,” and whether the Arabs were compelled to “leave the country,” Bey argues that it was instead a “great blessing.”

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<sup>13</sup> This point is further expanded upon in Chapter Six below, under the rubric of ‘Coexistence without Existence,’ which serves as one of the three main paradoxical dynamics of the concept of *stateless citizenship*.

He explains that “land-owners gained most because they were able to sell to the Jewish society at high prices, or to wait for still higher ones” (Herzl 1987, 121, 122). And when Kingscourt inquires about the “former inhabitants ... who had nothing, the numerous Moslem Arabs” who were without land, Bey responds:

Your question answers itself .... Those who had nothing stood to lose nothing, and could only gain. And they did gain: Opportunities to work, means of livelihood, prosperity. Nothing could have been more wretched than an Arab village at the end of the nineteenth century. The peasants' clay hovels were unfit for stables. The children lay naked and neglected in the streets, and grew up like dumb beasts. Now everything is different (Herzl 1987, 122–123).

Pointing to a Moslem village and explaining that its inhabitants have become more prosperous, Bey adds: “Would you call a man a robber who takes nothing from you, but brings you something instead? The Jews have enriched us. Why should we be angry with them” (Herzl 1987, 124)? As evident, the colonial logic of Zionism is echoed in Bey’s account of Arab displacement: *the immigration of a population of superior human intellect and capacity established a settler-colonial state that civilized the previously undeveloped indigenous population*. Indigenous Arabs are removed from the discourse of political and legal rights, and refused any sense of historical ties, cultural links, and emotional connection with the land. Indeed, there is no discussion of an indigenous choice in the matter. The establishment of a settler-colonial state according to rational plans is, according to Bey’s colonial logic, an obvious improvement to the previously wretched existence of the indigenous population. Therefore, there is no real reason why any Arab inhabitant would refuse to cooperate with the colonial project. Though he acknowledges the presence of the former inhabitants and their role in cultivating the land, Bey does not have an indigenous consciousness, nor does he exhibit cultural connections or historical ties with the land. More than this, his character is almost superhuman, lacking emotional depth and sensibility and instead thinking strictly in terms of cost-benefit analyses and rational plans for development. With this mindset, Arab claims to indigeneity and desires to maintain their lands, identity and culture in the face of the growing Zionist settler-colonial movement are rendered irrational.<sup>14</sup> For these reasons, the Arab

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<sup>14</sup> Indeed, the historical record of Zionism is not far from this outlook of Arab claims to their land and opposition to the Zionist settler-colonial project as depicted by the

protagonist is vividly content in actively seeking linguistic, cultural and social integration into what is explicitly a Jewish society. *In today's context, Bey is a de-Palestinianized Arab, and represents the liberal-Zionist understanding of the ideal Arab citizen in Israeli society.*

Rashid Bey's character corresponds to the kind of 'new Arab' identity and consciousness demanded by contemporary Israel from its Arab citizens: a minority community that has to deny its own indigenous existence for any meaningful kind of civic participation, however limited. In fact, the Palestinian-Arabs who remained within the borders of the established state and came to be its citizens are referred to by state authorities as 'Israeli-Arabs'. These names are not incidental but meant to accomplish political objectives, construct specific identities, and regulate certain social and political behaviour. Practically, these names doubly marginalize the community as they are named *Arabs* so as not to be *Palestinians* but, at the same time, they cannot be full *Israelis* as *Arabs*. Such positions illustrate the particular kind of Arab citizen that is invited by liberal Zionists such as Yakobson and Rubinstein to coexist with Jewish citizens. In the end, the liberal-Zionist invitation for coexistence is provided to figures such as Rashid Bey, the *de-Palestinianized Arab*, or modern Arab-Israeli. As the only constituent of a liberal-Zionist democracy, this individual is, in the best-case scenario, only narrowly included in the Israeli social fabric under the category of 'non-Jew'. And as outlined in Chapter Two above, this narrow inclusion is also only provided after having accepted Jewish domination in all spheres of the state.<sup>15</sup>

#### ZIONIST DEMOCRACY IN A COMPARATIVE CONTEXT

Throughout their text, Yakobson and Rubinstein examine Israeli state institutions and power, particularly the relation with its Arab minority

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fictional character of Rashid Bey. Janice J. Terry explains that when it comes to depictions of Arab resistance to the Jewish state: "Zionist writers stress the violent aspects of Arabs, drawing a picture of a bloodthirsty people lusting for revenge. Again, the adjective 'barbaric' is often used. Various psychological weaknesses are also attributed to Arabs who are described as 'terribly inhibited and handicapped by neurotic impediments and overstrained susceptibilities'. Arab leaders and governments are characterized as having 'maniacal' notions, or of fostering a 'wild intoxication'. Continued Arab opposition to Israel is portrayed as irrational" (Terry 1976, 73).

<sup>15</sup> For more on the ways in which Israeli state efforts to create the new identity of "Israeli-Arab" has failed, see Jamal (2011).

population, within a comparative perspective. But in doing so, the authors fall short of accounting for a central feature of Palestinian presence in modern Israel, namely, their *indigeneity*. They assert:

Generally speaking, in the constitution of a democratic nation-state, the standard provisions regarding the name of a state and its official (or 'national') language represent the definition of the national identity of that state; and it should be borne in mind that national language is widely regarded as a fundamental distinctive feature of modern national identity. By definition, a national minority is a community that defines its national identity by means of a different name from that which defines the identity of the state, and in most cases, its language also differs from the state language. It is the 'national majority' which gives the state its name and its identity (Yakobson and Rubinstein 2009, 6).

As a result, the authors contend,

Israeli Arabs are citizens whose national identity is different from that of the majority people in the state. They are therefore a national minority. .... [And] the Arab-Palestinian people, to which most of them regard themselves as belonging, has a right to a state of its own alongside Israel according to the principle of 'two states for two peoples' (Yakobson and Rubinstein 2009, 8, 118).

Here, the liberal-Zionist account of the Palestinian-Arab population within Israel as a 'minority' community is completely lacking in both historicity and an analysis of power. The authors abruptly transition Palestinian-Arabs in Israel from a national non-immigrant collective who, while constituting a demographic minority in contemporary Israel, are nevertheless living in their historical homeland, to that of a national minority similar to other national collectives living in Israel. Defining Arabs as a national minority is a deliberate attempt to revise their historical presence on the land, thereby justifying state amendments to their political and legal claims. This redefinition and reconceptualization of Arabs in Israel is done without asking *why* Palestinian-Arabs in Israel are a minority or *how* they came to be a minority. Legally embedded and multifaceted mechanisms of population management along with a historical record of forceful displacement and ethnic cleansing campaigns which ensure the maintenance of a Jewish majority population in pre-1967 Israel and the Jerusalem area are not discussed. Indeed, this approach is particularly problematic in a context where Palestinian refugees constitute the world's largest refugee population and where statistics of the registered Palestinian refugee population in the West Bank alone estimate a growth

rate of 2.4 percent per annum.<sup>16</sup> Further, this liberal-Zionist position also lacks an analysis around the element of control. The intricate and intense manifestation of state control limiting a range of social, political, demographic, legal, and cultural developments of the Arab community within Israel is left unaddressed. It is not simply the case that the identity of Palestinians in Israel is *different* from that of the majority in the state. As mentioned, the Israeli regime requires a constant and ongoing re-creation of itself in opposition and response to its Palestinian-Arab citizenry. Reference is made to a Jewish majority in the state, ignoring elements of control and exclusion that are designed to maintain the dominant hold of this group within all spheres of the Israeli regime. The mandate of the Jewish state – and by extension Israeli citizenship – ensures that Arab status is always relative and inferior to that of the Jewish population. As a result, liberal-Zionist readings of Israel's relation with its Arab *minority* prove incapable of meeting the political needs, and accounting for the historical development, of the Arab community inside Israel.

These factors, along with the authors' neglect of the historical record, also deconstruct the comparisons made in the book. Throughout the text, Israeli democracy is compared to the state systems, symbols and modes of representation present in other established European democracies. According to Jakobson and Rubinstein, comparisons with European democracies seek to “disprove the fashionable arguments that the Jewish state is quintessentially an exception to the norms of the democratic world,” to show that when critics of Israel “think of Europe, it is usually the Europe of ‘post-national’ rhetoric rather than contemporary Europe as it actually exists” (Jakobson and Rubinstein 2009, 198). The authors elaborate:

By way of comparison, it should be noted that the gap between the immigrant Muslim minority and majority society in Western European countries is greater, in many respects ... than its equivalent in Israel (Jakobson and Rubinstein 2009, 114).

Of course, the authors are correct about this point. Established European democracies (too many to list here, but the examples of Britain, France,

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<sup>16</sup> United Nations Relief and Works Agency for Palestinian Refugees, “Palestine refugees in the West Bank: Socio-economic trends and long-term opportunities,” April 2011, [www.unrwa.org/userfiles/201110145541.pdf](http://www.unrwa.org/userfiles/201110145541.pdf). Important to re-emphasize here is the fact that this is the 2007 annual growth rate for registered Palestinian refugees in the West Bank alone. These statistics also do not include refugees in occupied East Jerusalem.

and Switzerland come to mind) have a long and devastating record of anti-immigrant, and particularly anti-Muslim (or Islamophobic) racism, realized through socio-cultural vilification, state policies and legislation. They are right to point out that the international reality is not in conjunction with the concept which considers a modern, liberal democracy as a 'culturally neutral and a nationally colourless entity'. But despite this reality – one that still does not excuse exclusionary Zionist policies and practices – their comparison does not hold in the case of Israel. The Arab minority population in the Jewish state is placed beside minority populations in European states in a manner that blurs the historical record of the respective countries. Arab existence in Israel is a different set of affairs, because preservation of the Jewish state, its symbols and values, is contingent on the denial of their indigenous status and presence of Arabs in their historical homeland. In this sense, Arab presence in modern Israel is not the result of the same socio-political, economic, legal and historical dynamics that, for example, may have resulted in an immigrant Muslim population in France, Germany and other European states. Mechanisms of population control, displacement, land confiscation, ethnic cleansing and transfer do not operate in the European case studies cited by these liberal-Zionist scholars in the same multifaceted manner as they do in Israel. And while the increasingly repressive treatment of immigrant minority communities in European democratic societies is certainly worthy of condemnation, the target of the said mechanisms in Israel differs in that that target is an *indigenous non-migrant* population. Such comparisons serve the two-pronged purpose of simultaneously demoting Palestinians in Israel from an indigenous population to a 'tolerated' minority group without the same historical and cultural ties to the space, and vindicating Israel's colonial incorporation regime and ethnic cleansing practices by placing Zionist democracy on par with European democracies.

#### ISRAELI DEMOGRAPHOBIA

In addition to control over the land, demographic control is also a cornerstone to the Zionist project. The Zionist settler-colonial paradigm dictates that the 'right' people – namely Jews – must settle the land and that this population must constitute a majority of the total population of the state to maintain its Jewish character. A recurring concern for Israeli national security officials, and a stimulant of periodic geographic and topographic changes to the state, *demographobia*, or the pathological fear of and

concern around non-Jewish (i.e. Palestinian-Arab) births, has shaped Israel's public debate.<sup>17</sup> Indeed, Israeli economic, political, social and military considerations have historically been sacrificed on the altar of Jewish demographic dominance. The politics of a 'demographic competition' between Arabs and Jews is embedded in the cultural code of Israeli society, fuelling a national narrative of an outnumbered Jewish collective in a hostile environment. With this narrative, Jewish demographic majority is reinforced, not merely as a tool of political survival, but also as a moral and civic necessity. In fact, even in the 1940s, Israel's first Prime Minister David Ben-Gurion began stressing a 'demographic duty' – through which the popular phrase, 'making children for Ben-Gurion' surfaced among Israeli Jews (Shalev and Gooldin 2006, 166). Later, in 1948, when Chaim Weizmann learned of the Palestinian exodus and mass evacuations of Israeli territory, the senior representative of the Zionist movement and first President of the State of Israel deemed it "a miraculous simplification of Israel's tasks" (Lustick 1980, 28). This Israeli *demophobia* was further entrenched in an institutional capacity after the 1967 war with a government resolution to establish a Center for Demography, as it found it "necessary to act systematically to realize a demographic policy that is directed to creating an atmosphere which encourages birth, taking into consideration that it is vital to the future of the Jewish people" (Shalev and Gooldin 2006, 167).

The notion that the future of the Jewish people is dependent on Jewish demographic supremacy was also adopted in December 2000 when the Institute of Policy and Strategy at the Herzliya Interdisciplinary Center in Israel hosted the first of a proposed series of annual conferences addressing the strength and future security of Israel. Part and parcel of the

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<sup>17</sup> For instance, Israeli professor and geo-strategist Arnon Soffer is one of the architects of former Prime Minister Ariel Sharon's wall in the West Bank and often labeled the 'intellectual father' of the 2005 Gaza disengagement plan. In a May 2004 interview with *The Jerusalem Post* on the disengagement plan, Soffer, explained that the move "doesn't guarantee 'peace,' [but that] it guarantees a Jewish- Zionist state with an overwhelming majority of Jews." Later, in a November 2007 interview with *Al Jazeera English* on his considerations in designing the West Bank apartheid (or what he calls the 'annexation') wall, Soffer states "If you ask me how I did the map I would say 90 percent I took in my consideration demography, two or three percent holy sites and maybe seven or eight percent only security." So, claims by Israeli pundits that the wall is mainly motivated by security concerns are misleading and ignore the widespread demographic motivations of Israeli political decision- and policy-makers. See Ruthie Blum, "It's the demography, stupid," *The Jerusalem Post*, May 20, 2004, <http://www.jpost.com/servlet/Satellite?pagename=JPost/JPArticle/ShowFull&cid=1085023337456&p=1074657885918>; *Al Jazeera English*, "West Bank wall divides neighbours," November 27, 2007, <http://aljazeera.com/news/middleeast/2007/11/2008525183816999165.html>.

question of security was the notion of Jewish demographic majority, and one that was repeatedly outlined in the 52-page conference report:

The high birthrate [of Israeli Arabs] brings into question the future of Israel as a Jewish state .... The present demographic trends, should they continue, challenge the future of Israel as a Jewish state. Israel has two alternative strategies: adaptation or containment. The latter requires a long-term energetic Zionist demographic policy whose political, economic, and educational effects would guarantee the Jewish character of Israel.<sup>18</sup>

Indeed, since the inception of the State, Israeli planning policy has been aimed at achieving Jewish ownership of land, through the racialized two-pronged strategy of both forcefully controlling and annexing the land and maintaining a Jewish demographic majority in every area of the state.<sup>19</sup> This two-pronged strategy was also thoroughly evident in a recent report published by the right-wing Jerusalem Center for Public Affairs in 2010, titled *Demography, Geopolitics, and the Future of Israel's Capital: Jerusalem's Proposed Master Plan*.<sup>20</sup> Focusing on the municipality of Jerusalem, this report stresses that the Jewish majority in Jerusalem is on a decline so that the preferred demographic divide of 70 percent Jews versus 30 percent Arabs by the year 2020 that was projected by Israeli governments between 1970 to 1985, will have to be adjusted to reflect a more realistic number of 60 percent Jews and 40 percent Arabs. The report even goes on to apprehensively explain that for the year 2030, "some predictions forecast equality between the Jewish and Arab populations in

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<sup>18</sup> Quoted in Massad (2003, 442–443). In these pages, Massad goes on to explain that the "report adds affirmatively that 'those who support the preservation of Israel's character as ... a Jewish state for the Jewish nation ... constitute a majority among the Jewish population in Israel'. The conference was not a lonely effort. None other than Israel's President Moshe Katsav welcomed the attendees ... [and] the conference was co-sponsored by the American Jewish Committee, the Israel Center for Social and Economic Progress, the Israeli Defence Ministry, the Jewish Agency, the World Zionist Organization, the National Security Center at Haifa University, and the Israeli National Security Council of the Prime Minister's Office. The conference featured fifty speakers: senior government and military officials – including ex- and future prime ministers – university professors, business and media personalities, as well as American Jewish academics and operatives of the US Zionist lobby."

<sup>19</sup> Moreover, as recently as July 2011, Mayor of Jerusalem Nir Barkat openly admitted in an interview with the BBC's *Hardtalk* that he seeks to preserve and maintain a Jewish majority population in the city. See Nir Barkat, *Hardtalk*, interview by Tim Franks, BBC World Service, July 16, 2011, <http://www.bbc.co.uk/programmes/p0ohshw4>.

<sup>20</sup> Nadav Shragai, *Demography, Geopolitics, and the Future of Israel's Capital: Jerusalem's Proposed Master Plan*, Jerusalem Center for Public Affairs, 2010, <http://jcpa.org/text/Jerusalem-Master-Plan.pdf>. I would like to thank Nadera Shalhoub-Kevorkian for bringing this report to my attention.



the city.”<sup>21</sup> An extension of this racialized *demophobia*, which recommends “staunching the emigration of Jews from the city, with an emphasis on attracting socio-economically strong populations,” is an added impetus for the appropriation and further development of already expropriated land. Working from the contention that the projected Jewish demographic majority for 2020 will be heavily pursued through Israeli government policies and practices, the report then argues that this projected Jewish majority would likely face a severe housing shortage. In other words, a natural extension of these racialized practices of population management is the perceived need to acquire more Palestinian-owned land for the purposes of exclusive Jewish housing. To this end – and acknowledging that “in the current political and diplomatic reality, it is not plausible that the state will expropriate land as it did in the past” – the report recommends the implementations of “land registration arrangements in eastern Jerusalem.”<sup>22</sup> Purporting to amend the existing “legal and planning chaos,” this recommendation is justified through and framed within settler-colonial language and discourse explaining that

... rational land registration arrangements that will be responsibly managed by the legally authorized individuals will prove beneficial both to the local population, that can legally build and give expression to the land under its ownership, as well as to the interests of the State of Israel, which can benefit in terms of control and right of possession of additional land.<sup>23</sup>

What ‘rational arrangements’ that are ‘responsibly managed’ by ‘legally authorized’ persons actually means for the continued maintenance and ownership of Arabs over their historical lands becomes evident with the statement that this recommendation will allow Israel to control and possess additional land. That said, even if one were to put aside this admission of broader expansionist interests within the report, it is clear that any land distribution arrangements framed according to objectives of demographic control cannot but fail to equally, proportionally and justly incorporate and meet the needs, rights and interests of Palestinian-Arabs.

The account of the Zionist project posited by Jakobson and Rubinstein is rooted in a racialized *demophobia* similar to the above reports. However, Jakobson and Rubinstein’s important contribution to the above discussions is a liberal seal of approval for the multifaceted mechanisms of demographic engineering adopted by the state. Interestingly, the

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<sup>21</sup> Ibid., 12.

<sup>22</sup> Ibid., 7.

<sup>23</sup> Ibid.

authors do not adopt a comparative approach in their address of Jewish demographic supremacy, and fail to provide an example of a contemporary liberal-democratic country whose intricate legal, political and militaristic practices of demographic control are comparable to those of Israel. The authors begin their argument with the assertion that

... all the strands of the Zionist movement consistently held that the Jewish state, which they conceived as a democracy, could only be established on the basis of a Jewish majority, either in the country as a whole or at least in a part of it ... (Yakobson and Rubinstein 2009, 71).

Having adopted the Zionist framework rendering demographic supremacy a prerequisite for Jewish statehood, the authors argue that *The Law of Return* (1950) is therefore necessary to ensure a Jewish majority and maintain the self-definition of the state. It is not that the law is problematic in itself by providing this right to Jews, say the authors, rather the problem is that no such law exists for Palestinians in another state:

[A]nyone who agrees to the establishment of an independent state for the Palestinian people agrees to the Palestinian 'right of return' to this state (not to Israel) (Yakobson and Rubinstein 2009, 133).<sup>24</sup>

What this means for Palestinian citizens of Israel is clear. Echoed in the statement of then Prime Minister Tzipi Livni in February 2009, only days after the 22-day Gaza onslaught, the two-state settlement is to be pursued so that "[a]mong other things [, she] will also be able to approach the Palestinian residents of Israel ... and tell them: 'Your national aspirations lie elsewhere'."<sup>25</sup> If Arabs wish to identify as Palestinians, as indigenous to the land, and adopt a category that is outside of the Zionist framework for Israeli citizenship, then they can return to their own state, through their own 'law of return', once the Palestinian state is established. The Knesset

<sup>24</sup> also see 157.

<sup>25</sup> *BBC News*, "Livni sparks Arab 'transfer' row," December 12, 2008, [http://news.bbc.co.uk/2/hi/middle\\_east/7779087.stm](http://news.bbc.co.uk/2/hi/middle_east/7779087.stm). Moreover, on November 16, 2012, in response to protests in Nazareth against Israel's bombardment of Gaza in 'Operation Pillar of Defence', the Mayor of Nazareth Illit (Upper Nazareth), Shimon Gapso, wrote a letter to the Minister of the Interior, Eli Yishai, asking him to "to freeze the state funding to Nazareth" to show that "Zionism still is alive and exists." In this letter, Gapso calls Arab MK Haneen Zoabi a "terrorist" and even goes so far as to declare: "If it was in my hands, I would evacuate from this city its residents the haters of Israel whose rightful place is in Gaza and not here ...." See Ali Abunimah, "Israeli mayor: expel Palestinian citizens of 'hostile' Nazareth to Gaza for opposing war," *The Electronic Intifada*, November 21, 2012, <http://electronicintifada.net/blogs/ali-abunimah/israeli-mayor-expel-palestinian-citizens-hostile-nazareth-gaza-opposing-war>.

upheld this position in the recently passed *Ensuring Rejection of the Right of Return Law* (2001). This law states that Palestinian refugees, including those displaced from the West Bank and Gaza Strip in 1967, will not be able to return without an explicit approval from an absolute majority of government ministers. According to MK Yisrael Katz, the purpose of the bill during its preliminary readings in May 2000 was to reflect

... a Zionist consensus not to allow the refugees of 1948 and 1967 to return to the sovereign areas of the State of Israel ... whoever wishes to live in a democracy and in equality – will find a place with us. Whoever seeks another national identity – let him go elsewhere. The right of return, a state for all its citizens – are expressions synonymous to the wish to destroy Israel.<sup>26</sup>

As shown in Chapter Two and alluded to in Chapter Five below, Arab calls for equal citizenship have been vehemently rejected by consecutive Israeli governments. Instead, claims made by Arab citizens for equality and freedom from discrimination to be explicitly entrenched as a constitutional right in Israeli law are rendered an act of hostility against the state; and its preference for Jewish dominance in all spheres of life. Far from opposing this political, social and legal arrangement, this position is in tune with the liberal defence of Zionism provided by Yakobson and Rubinstein. They too believe that the problem is not that Jews exclusively have a right to return to the land and travel freely, but that Palestinians do not have a state to provide them with this right. Evidently, this line of argumentation is completely deficient with respect to an analysis of power. The rights, benefits and freedoms of one collective do not exist in a vacuum and are intimately tied in a relation of exception to those outside of this collective. As a result, it is the political and legal context of *The Law of Return* (1950) that makes it problematic. In other words, the right of return becomes prejudicial in a context where Jews have the right of immigration but Palestinians do not simply because of their non-Jewish ethnic identity.<sup>27</sup> Under these circumstances, where, for instance, there has never been a parallel attempt to allow for the possible integration of Palestinians in Israel; where refugees from around the world cannot return to their cities and towns of birth; and where Palestinian citizens cannot unite with their spouses or family members in the West Bank, Gaza Strip, and neighbouring Arab countries because of their non-Jewish status, the Jewish access

<sup>26</sup> Quoted in Sultany (2003, 19–20).

<sup>27</sup> Though beyond the present scope, it is important to mention that the existing critique of this law is more far reaching than presented here. See, for example, Cook (2008) and Badil (2007), among other sources.

to and exercise of the right of migration to Israel is racially configured, prejudicial, and worthy of condemnation.

In the end, the liberal-Zionist authors posit a numbingly circular argument; and one that deserves careful attention and deconstruction. *We need a Jewish majority so as to have a Jewish state. But at the same time, we need a Jewish state because the Jewish majority wants this and “[t]hose who reject the Jewish state do a disservice to democratic principles by failing to respect the democratically expressed will of the majority of Israel’s citizens.”* (Yakobson and Rubinstein 2009, 25, emphasis added) Taken together, the Jewish state begets practices of demographic engineering to ensure a Jewish majority, and simultaneously, the Jewish majority is then made a prerequisite for the consummation of the Jewish state. One brings about the other, and any proposal for a re-conception of Jewish statehood in a manner that is reconcilable with Palestinian access and return to their homeland is rendered a denunciation of both. Such a liberal-Zionist mandate for population management shies away from the obvious question: What happens if the non-Jewish population grows within Israel? What tools and mechanisms, compatible with principles of human rights and dignity, are available to the Zionist state in its efforts to maintain Jewish demographic supremacy? If the population of an unwanted or undesired ethno-national group is increasing, particularly if this legally translates into a security concern and an existential threat to the state as it does in Zionist discourse, a state has a number of possible options for action. It can prevent the growth and repress, displace, expel, refuse to recognize, deprive basic services, and/or transfer the population elsewhere. Obviously, none of these are compatible with liberal notions of human rights and dignity. Nevertheless, they are a daily reality for the Arabs in Israel through chauvinistic state-led practices of transfer, home demolitions, unrecognized villages, systematic socio-economic depravity, forced exile and more. Indeed, the legislation and practices mentioned in Chapter Two supporting these racist and exclusionary mechanisms show that active practices of demographic engineering are antithetical to principles of democratic citizenship, equality and human dignity.

#### LIBERAL RUBBER STAMP FOR ISRAELI CRIMES

Throughout the text, the rationalizations promoted by Yakobson and Rubinstein seeks to affirm the chimera of Israeli liberalism. To this end, word choice is a key tool for diluting and blurring the Zionist record

of multifaceted violations against its Arab population, and the broader Palestinian nation. Insupportable Israeli policies and practices are reframed according to a steadfast narrative of Israeli political and regional vulnerability, so that the Zionist project is not left without political excuses for even its most destructive record as it either *meant well* or *was compelled to violate* Palestinian rights.<sup>28</sup> With the assertion that “for all of the justified criticism that can be directed at it, the state [of Israel] has had to face serious objective difficulties,” the logical line of argumentation apparent to the reader is that Israeli violations against Palestinian human rights are merely a necessary response to various existential challenges to its incorporation regime, rather than part of a systematic political project (Yakobson and Rubinstein 2009, 105).

Mostly limiting their already jaded criticism of Israeli state power to its post-1967 record, the authors point only to the “violence and terror ... resorted to by Palestinians” in their mention of “the grave events that occurred in the wake of the failure of the Camp David talks” (Yakobson and Rubinstein 2009, 64). Israel’s post-Oslo record of intense Palestinian infrastructural and institutional destruction, land confiscation, military checkpoints, road-blocks, closure policies, curfews, systematic assault on Palestinian activists and intellectuals, and the disablement of the Palestinian economy is thoroughly ignored by the authors. From this, they move on to provide a packaged defence of a range of Israeli infringements. For instance, the actions of the Israeli Military Administration from 1948–1969 were justified because “it was felt necessary;” and Arab citizens of Israel were targeted out of sheer misfortune because “Israel’s geography,

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<sup>28</sup> A report by Israeli journalist Amira Hass in *Haaretz* points to this dynamic in the case of Jewish settlement building. Hass points out how Palestinian inclusion in UNESCO, the United Nations cultural organization, and its broader application for statehood, is equated with Jewish settlement building. She writes: “The extent to which the term ‘peace negotiations’ has been prostituted can be gleaned from a remark by the EU’s envoy to the Quartet, Helga Schmid. On October 26, in a last-ditch attempt by the Quartet to stop the Palestinians from applying to UNESCO, she said – according to sources in Ramallah – that the application for membership is like construction in the settlements: a provocation. It is not enough that the EU countries are not punishing Israel for building the settlements (Ma’aleh Adumim or Givat Assaf, all are equally felonious); now the EU envoy is creating symmetry between years of violence by the occupying overlord and legitimate defence of the occupied.” Here liberal-Zionist discourse has transformed and reframed the non-violent claims to statehood through official legal channels by Palestinians into a justification for the devastation and violence of the Zionist project and continued illegal settlement building. See Amira Hass, “Palestinians must say no to negotiations with Israel,” *Haaretz*, November 02, 2011, <http://www.haaretz.com/print-edition/opinion/palestinians-must-say-no-to-negotiations-with-israel-1.393255>.

its compactness and its snaking borders, resulted in most of the Arab population having to live under these restrictions [in the periphery]" (Yakobson and Rubinstein 2009, 106, 107).<sup>29</sup> Moreover, the authors also posit that the extensive land confiscation from Arabs were "inevitable" due to "the absorption of the massive influx of Jewish immigration ..., in numbers which far exceeded the entire Jewish population in Mandatory Palestine" (Yakobson and Rubinstein 2009, 107). Israeli violations and mechanisms of disenfranchisement targeting its non-Jewish population are, according to the authors, "not necessarily the result of deliberate decisions..." (Yakobson and Rubinstein 2009, 113).<sup>30</sup> Here discrimination against Arabs in Israel is generously depicted as often being a "consequence of neglect, a lack of sensitivity to the minority's specific needs ..., [as well as] the absence of adequate representation in decision making settings ..." (Yakobson and Rubinstein 2009, 113). So the authors hold that it is not the case that Israel is actively politically and legally targeting its Arab community; rather, it is simply passively overlooking the population. Despite the extensive record of declarations by the Zionist leadership, racialized coverage of Arab activity and population growth in Israeli public discourse, and the explicitly stated intent of legislation targeting Israel's Arab citizenry, Yakobson and Rubinstein posit a reading of Zionism as a national project that basically *means well*. Taken together, the above melange of liberal posturing moves from one criticism of Israeli state power to another, with the effect of cloaking the violent implications of the Israeli incorporation regime. Soaked in liberal terms of tolerance, representation, and self-defence, and deprived of any analysis of power and control, the adopted line of argumentation employs logical connectors to transition the attention of the reader from the devastating historical record to the myth of a basically virtuous colonial-settler project.

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<sup>29</sup> At best, scathing criticism provided by the authors comes in the following desensitized form: "All in all, there is no denying that Israeli governments failed in their duty to look after the interests of all of the state's citizens equally ..." (ibid., 108). Describing almost two decades of state-imposed policies during the Military Administration with steeply disproportionate and heavily adverse effects on the Arab population only as *not equal* effectively dilutes the historical record.

<sup>30</sup> The authors do, however, recognize that there have been cases in the past where such deliberate or intended decisions have been made.

## CHAPTER FIVE

### FROM CITIZENSHIP TO *STATELESS CITIZENSHIP*

When we say 'Jewish independence' or 'Jewish state' we mean Jewish country, Jewish soil, we mean Jewish labour, we mean Jewish economy, Jewish agriculture, Jewish industry, Jewish sea. We mean Jewish safety, security, independence, complete independence, as for any other free people.

David Ben-Gurion, 1947, before the Anglo-American Committee of Inquiry on Palestine (quoted in Lustick 1980, 88).

Negotiations and bargaining over citizenship, or patterns of inclusiveness and exclusiveness, are, as Israeli political scientist Baruch Kimmerling says, "not only related to *who gets what* but also to *who is what* and *who can decide who is what*" (Kimmerling 2002b, 181–195). The complex dynamic of citizenship and its ability to contribute to the formation of socio-civic and political identities resurfaced in an important debate covered by Kimmerling. This debate took place in 1985 between writer and Arab citizen of Israel, Anton Shammas, and Jewish-Israeli writer A.B. Yehoshua, and was later revisited by the two in 1992. Addressing the question of the *Jewishness* of Israeli identity and citizenship, and in a response to Shammas's accusation against Israel that it marginalized the Arab population's collective identity, along with its social, cultural and political spheres, Yehoshua asserted:

I am suggesting to you ... that if you want to exercise your full identity, if you want to live in a state that has a Palestinian character with a genuine Palestinian culture, arise, take your chattels, and move yourself one hundred yards eastward, into the independent Palestinian state, that will be established alongside Israel (Kimmerling 2002b, 181–182).

To this, Shammas responds "I have no intention to leave my motherland and my father's home, for the country Yehoshua will show me," and goes on to describe his political (and indeed, personal) project:

What I'm trying to do – mulishly, it seems – is to un-Jew the Hebrew language, to make it more Israeli and less Jewish, thus bringing it back to its Semitic origins, to its place. This is a parallel to what I think the state should be (Kimmerling 2002b, 182).

Kimmerling explains that this project continues six years later in a second debate, as Shammas, once again faced with Yehoshua, states:

You see Israeliness as total Jewishness, and I don't see where you fit me, the Arab, into that Israeliness. Under the rug? In some corner of the kitchen? ... France and Frenchness come from the same root. But Judaism and Israeliness are a different matter. That's why I advocate the de-Judaization and de-Zionization of Israel .... I am asking you for a new definition of the term 'Israeli', so that it will include me as well, a definition in territorial terms that you distort, because you're looking at it from the Jewish point of view ... (Kimmerling 2002b, 183).

With this we learn that rather than demolishing the State of Israel, Shammas's project, as outlined above, is instead to provoke and confront ensconced Jewish control in Israel. In doing so, Shammas intends to formulate the parameters of an identity, accessible to both Palestinian-Arabs and Jews in Israel, grounded upon state representation, shared territory and genuine citizenship. Important for our purposes is the familiar structure of Shammas's critique of Israeli national homogeneity. Similar to other prominent Arab and Jewish intellectuals, the argument contends that as a result of the regime's multifaceted manifestation of Jewish dominance, Palestinian-Arabs in Israel are denied equal citizenship. And, as we will see below, for the most part, this is where the existing scholarly literature stops. This chapter begins with an outline of the effects of the basic and inherent contradictions in the Israeli incorporation regime through a comparative sample of the notable social science research conducted on Arabs in Israel and their respective and various formulations of *what* Palestinian citizenship entails or lacks. From here, the paradigm of *stateless citizenship* is introduced alongside the existing scholarship as part of a response to the yet unanswered question of *how* Palestinian citizenship came to embody its existing exclusionary dynamics.

#### 'ISRAELI' AND 'PALESTINIAN' AS INCOMPLETE IDENTITIES

Basic and inherent contradictions of Israeli citizenship are by no means a new issue within Israeli political and social discourse. Often a comparative approach that places Israeli citizenship alongside its European and North American variants of state-citizen relations is adopted to critique and address these contradictions. Kimmerling makes use of such a comparative analysis when discussing the structure of identity in the Jewish state and writes:



At first glance, nothing is wrong or contradictory in this definition. After all, it sounds precisely like 'French and democratic' or 'German and democratic'. After all, a Jew who was entitled to French or German citizenship, but needed to keep his or her ethnic or religious identity became a 'French-Jew' or 'Jewish-French', etc. .... Nevertheless, taking into account that Israel is a 'Jewish state', can we even consider a fusion of 'Jewish-Christian', or 'Jewish-Muslim', or 'Jewish-Buddhist'? These 'impossible combinations' are almost inconceivable to the 'Jewish-Israeli' ear – and by the way why not a 'Jewish-Jew'? .... It is not accidental that the inscription on the rubric of my official ID card is 'nationality (*leom*): Jewish' and not 'citizenship: Jewish' or even 'Israeli'. This is simply because neither Jewish nationalism in its Zionist incarnation nor the Israeli state were able to invent or construct a purely secular or a civil national identity (Kimmerling 2002b, 187–188).

Echoing the notion that Israel has been thoroughly unable to form a more liberal and identity-indifferent civic entity Shammas states:

My nationality, according to the Israeli Ministry of the Interior, is 'Arab'; and my Israeli passport doesn't specify my nationality at all. Instead, it states on the front page that I am an Israeli citizen .... If I wrote 'Arab' under *Nationalité* in the French form, I would be telling the truth according to the state that had issued my identity card and my passport, but then it might complicate things with the French authorities. On the other hand, writing 'Israeli' under *Nationalite* is worse still, because in that case I would be telling a lie; my passport doesn't say that at all, and neither does my ID (Kimmerling 2002b, 193).

Here he continues to explain that the problem may be internal to the language of ethno-national identity itself:

I do not know many people in the Middle East who can differentiate between 'citizenship', 'nation' (*leom*), 'nationalism' (*leumit*), 'nationalism' (*lemanut*), people (*Am*) and nation (*umah*). In Arabic as in Hebrew, there is no equivalent for the English word 'nationality' (Kimmerling 2002b, 193).

To Shammas, even at the level of nomenclature, in a Jewish state there is no possibility for an Israeli nationality. Israel is a *Jewish state*, and the Jewish state becomes a state of the *Jewish people*; citizenship in a Jewish state becomes *Jewish citizenship*; and nationalism in a Jewish state becomes *Jewish nationalism*. Indeed, this was affirmed in a 2002 report by Miloon Kothari, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. Kothari explained that:

Nationality status in Israel is not linked to origin from, or residence in a territory, as is the norm in international law. Rather, the basic theocratic character of the Israeli legal system establishes ethnic criteria as the grounds for the enjoyment of full rights. The Israeli *Citizenship Law* (*ezrahut*), officially

mistranslated as ‘*Nationality Law*’, establishes a civil status distinct from ‘Jewish nationality’.<sup>1</sup>

In effect, a relation of non-identification and rejection between Palestinian-Arab identity and Zionism (even in its most liberal form) emerges with constituent effects on the system of naming used to characterize Israeli identity. On this question of the development of a contradictory and deficient Palestinian social and political identity in Israel, two impressive publications deserve notice. These are Nadim Rouhana’s *Palestinian Citizens in an Ethnic Jewish State: Identities in Conflict* (1997) and As’ad Ghanem’s *The Palestinian-Arab Minority in Israel: 1948–2000* (2001).

As evident in the title of his book, Rouhana pays particular attention to the labels that people combine to describe their collective identity. Using a combination of survey research, archival material, first-hand interviews and news and policy reports, Rouhana, a social and political psychologist and Palestinian citizen of Israel, goes on to deconstruct the self-labelling of Palestinians in Israel. He writes:

The way in which people combine the various available labels should reflect all layers of their collective identity. People who use different combinations of available labels might hold different political and social views and might have different levels of psychological connection with the political system. Therefore, even apparently slight differences in the way labels are combined might be of extreme importance to the individuals who choose the label (Rouhana 1997, 21).<sup>2</sup>

In other words, the labels of *Arabs of Israel* and *Israeli-Arabs* bestowed to the community by Israeli media, social scientists, and public figures and outside observers indicate a specific socio-cultural, legal, and political relationship with the Israeli state and society. And one that is immensely different from the kind of relationship implied when this community is defined as *Arabs (or Palestinians) of 1948*, the *Arabs inside* (Mandate Palestine, or modern Israel), or *Palestinian-Israelis* used by many Palestinians in the West Bank and Gaza Strip (Rouhana 1997, 111–112).

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<sup>1</sup> United Nations Commission on Human Rights, Fifty-ninth session, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Mr. Miloon Kothari, on his visit to the occupied Palestinian territories*, (E/CN.4/2003/5/Add.1), June 12, 2002, [http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/36351ea8a4425f1cc1256c84003e0c84/\\$FILE/Go214506.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/36351ea8a4425f1cc1256c84003e0c84/$FILE/Go214506.pdf). It is worth adding here that Israeli civil status is not only “distinct from” but it is also *inferior to* that of Jewish nationality. The mechanisms of control and discrimination to which those Israeli citizens who do not have Jewish nationality are exposed and outlined in Chapter Two of this book.

<sup>2</sup> For more on social identity and minority status see also Suleiman (2002).

Rouhana deconstructs the three-pronged construction of Israeli policy and law through an analysis of the internal contradictions of Israel as a Jewish state, as a democratic state, and as a state with security needs, to illustrate the practical and conceptual mechanisms through which Palestinian-Arabs are excluded from the national identity of the state (Rouhana 1997, 44–64). From this, the forces internal and external to the state – including Israel’s ethnically exclusionary policies and laws against its Arab citizens and the broader Palestinian-Zionist conflict – are used to outline the confusing and contradictory dynamics of Arab collective identity in Israel. Rouhana explains that

... their Israeli identity was devoid of the essence that holds collective identity together – the affective axes, which include belonging and connect all layers to the self-definition core. Thus the Arabs in Israel were left with an identity that could be neither fully Israeli nor fully Palestinian (Rouhana 1997, 202).

And reasserts:

[T]he identity of the Arabs in Israel is doubly incomplete. Although it is true that they are both Israelis and Palestinians, neither of these identities is complete. ... [Yet] their Israeli identity is incomplete in a different way – *it lacks the exact same components that engulf their Palestinian identity* (Rouhana 1997, 219, emphasis added).

Rouhana points out that the multifaceted separation between Arabs and Jews at the level of national symbols, narratives, institutions, structures and discourses generates two distinct and unrelated collective identities. This situation is reinforced with the legal and political absence of an ‘Israeli’ nation – a point I will revisit below – and results in a situation where *both* Arabs and Jews have an incomplete and deficient Israeli collective identity. Of course, both are deficient in different ways. Considering seriously the possibility of a “multilaterally accepted identity” negotiated among opposing groups, Rouhana dedicates the latter part of his book to various structural political options for the development of a genuine collective Israeli identity (Rouhana 1997, 23, see also chapters 11 and 12). Here he posits a bi-national state and concludes that Israel must dispose of its ethnic exclusivity as a Jewish state in order to be both a democratic state accessible to all of its citizens and residents, and to construct a meaningful and united collective *Israeli national identity*.

Working from Rouhana’s assessment that the Arab citizens of Israel are “partial Israelis and partial Palestinians” and that both identities are “incomplete,” As’ad Ghanem’s book examines what he calls the “distressed

development” – as opposed to the “normal development” – of Arab political and social activity (Ghanem 2001, 9, 175). The political evolution of Arabs in Israel is divided into four ideological and political streams: an *Israeli-Arab stream* promoting Arab integration in an Israeli political environment dominated by Jews; a *communist stream* encouraging a secular bi-national state formation with an Israeli-Palestinian or Palestinian-Israeli identity; a *national stream* that emphasizes the Arab and Palestinian identities of the community but does not reject Arab-Jewish cooperation; and an *Islamic stream* that promotes the political organization of Arabs in Israel on an Islamic religious basis (Ghanem 2001, 37–38).<sup>3</sup> Ghanem thoroughly examines the historical evolution, along with the values, aims and models of organizing adopted by each of these major streams of political activity, and points to their stunted development given the “iron wall erected by the Jewish-Zionist character of Israel” (Ghanem 2001, 157). Limitations to Arab political development stems from the reality that they “cannot be Israelis in the full sense of the word as defined as a stream,” leaving them only as “partial Israelis” (Ghanem 2001, 176). As such, Arabs are faced with a dilemma and an uncertainty causing them “a sense of distress that goes beyond the level of emotions and belonging” (Ghanem 2001, 158). Ghanem contends:

The Arabs’ quandary is not a contradiction between two full identities, the Israeli and the Palestinian, but the incompleteness, in different ways, of each of these identities. This constitutes the most important evidence that the model of normal development ... is fundamentally flawed with regard to the Arabs in Israel. .... The Arabs will continue to suffer distress and crisis as long as there is no change in the ethnic system [of the State of Israel] (Ghanem 2001, 176, 182).

Again, it is not that the Israeli and Palestinian identities are necessarily contradictory, or that one has to be premised on the rejection of the other. But the dilemma here is that they are both incomplete and deficient in different ways, thereby preventing either from fully solidifying as a meaningful and accessible identity. Juxtaposing a bi-national alternative – similar to Rouhana’s – to the existing ethnically exclusive national identity in Israel, Ghanem promotes the idea of an accessible and meaningful Israeli nationality. Based on the equal arrangement of Arab and Jewish ethnic collectivities, along with equality for all citizens through their membership in the state, the bi-national model is, for Ghanem, the only channel

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<sup>3</sup> Each of these political streams is explained in-depth in Ghanem (2001, Chs. 3–6).

for the civil and national fulfillment and “normal development” of the Arab citizens of Israel (Ghanem 2001, 200).

#### DEFINING THE ‘ISRAELI’ NATION

Scholars such as Kimmerling (2002), Rouhana (1997) and Ghanem (2001) point to the central, and deeply controversial, feature of Israeli national identity, or Israeli nationality: its internal social contradictions and chasms. The dominance of Jewish-Israeli citizens and others granted the status of ‘Jewish nationality’ under Israeli law makes ‘Israeli nationality’ an impossibility. And this impossibility has, on numerous occasions, been upheld through Israeli court decisions. For instance, in 1970 when the registration of the children of a Jewish naval officer and his non-Jewish wife as ‘Jews’ was accepted by the Supreme Court – along with the recommendation that the classification of ‘nationality’ be completely withdrawn from the Israeli identity card – a Knesset law fuelled mainly by religious parties was passed stipulating that both parents need to be Jewish in order to register the child as a Jew (Keren 2002, 105). On April 18 of the same year, and in response to the limitations and controls this law imposes on personal status, Jewish-Israeli psychologist George Tamarin sought to challenge the official designation of his nationality from ‘Jewish’ to ‘Israeli’. The process for a change of registration requires public notice and, as such, Tamarin even filed a petition at the District Court asking it “to affirm that he had appeared before it and alleged in good faith his commitment to the Israeli nationality.”<sup>4</sup> In considering Tamarin’s petition, the District Court Judge, Yitzhak Shilo, acknowledged the oppressive character of laws that impose an unwanted designation and even agreed that nationality ought to be determined by the individual. Yet, Justice Shilo concluded that the existence of an Israeli nation as distinct from a Jewish nation seemed to be an impossibility on account of his “living amongst [his] people,” and stated that “a person cannot create a new nationality just by saying it exists, and then say he belongs to it” (Keren 2002, 106–107).<sup>5</sup> The impossibility of a

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<sup>4</sup> See *Tamarin v. State of Israel* (1970) Israeli Supreme Court, 26 P.D. 1 197, quoted from United Nations Commission on Human Rights, Fifty-ninth session, *Report of the Special Rapporteur ... Miloon Kothari*.

<sup>5</sup> Moshe Gorali, “So this Jew, Arab, Georgian and Samaritan go to court... The state denies there is any such nationality as ‘Israeli,’” *Haaretz*, December 28, 2003, <http://www.haaretz.com/print-edition/features/so-this-jew-arab-georgian-and-samaritan-go-to-court-1.109982>.

separation between the Israeli state and the Jewish nation was also affirmed in Tamarin's appeal to the Supreme Court whose participation in the same national consensus was revealed in the opinion of Justice Shimon Agranat, then President of the Court. Ruling that "there is no Israeli nation separate from the Jewish nation ... composed not only of those residing in Israel but also of Diaspora Jewry," Justice Agranat went on to stress that recognizing a uniform Israeli nationality "would negate the very foundation upon which the State of Israel was formed."<sup>6</sup> In his denunciation of the petition, he continued:

If a handful of people or more wish to separate themselves from the Jewish people – only twenty-three years after the establishment of the state – and acquire the status of a separate Israeli nation, this *separatist trend* should not be regarded as legitimate and should not be recognized.<sup>7</sup>

At first glance, the accusation of separatism appears to be extreme and unfounded. Tamarin is an Israeli citizen who merely asks to be officially recognized as bearing the nationality of his state. Nationality expresses the legal relationship of an individual to her/his state, and given that Tamarin is not detracting from nor formulating an exclusive identity within and apart from an Israeli identity, the accusation of separatism appears to be misplaced. But if we take a closer look, we see that Tamarin's petition does advocate a certain separation from the Zionist framework of identity and inclusion that serves as the basis for the State of Israel. And here the Jewish ethnocentric and primordial foundations of Israeli nationhood and citizenship begin to emerge. The Israeli government and its Supreme Court cannot recognize an 'Israeli' nation separate from a 'Jewish' nation because, from their ideological perspective, Israel *is* the state of the Jewish nation. To officially recognize an Israeli nationality, and even to adopt the language of an 'Israeli' nation as a category distinct from a 'Jewish' nation, would imply that, at some conceptual level, the two are distinct. That one category includes a collective identity that the other does not. However small, this conceptual separation between 'Israeli' and 'Jewish' would have juridico-political repercussions for the entrenchment of Jewish ascendancy within the state. Of course, this is because, in doing so, it could open a window of inclusion within the Israeli nation for non-Jewish citizens. It is the conceptual separation between 'Jewish' and 'Israeli' along with the potential practical implications of having to

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<sup>6</sup> *Tamarin v. State of Israel* (1970) Israeli Supreme Court, 26 P.D. I 197.

<sup>7</sup> Goral, "So this Jew, Arab, Georgian and Samaritan go to court." Emphasis added.

formally – and even equally – incorporate a non-Jewish collective within the self-definition and self-understanding of the state that renders Tamarin's petition a danger to the existing Zionist consensus. Though put forth by a Jewish citizen concerned with the state's hegemony over personal status, the petition simultaneously and acutely points to the absence of any meaningful Israeli citizenship for the non-Jewish Arab community within the state. Understanding this, we come to learn that the accusation of separatism by Justice Agranat is not inconsistent with the Zionist foundations of the State of Israel. This is because its language, conceptual framework and practices eternally fuse Israel with the Jewish people; both within and outside of its 'formal' borders.

As it stands, Israel remains the only recognized state in the world whose citizens do not constitute its nationals. In fact, although the Interior Ministry includes 137 nationalities in its list of recognized designations for Israeli citizens, including Assyrian, Albanian, Burmese, Hong Konger, Samaritan, and even Hebrew, it denies its citizens an 'Israeli' nationality.<sup>8</sup> The Israeli government has even gone so far as to create nationalities that are not recognized outside of Israel including 'Arab', 'Druze' and 'Unknown' to evade the formation of an 'Israeli' nationality.<sup>9</sup> Tamarin's initiative has been reawakened in recent years. In December 2003, thirty-eight signatories mainly composed of Jewish-Israelis but also including some Arab citizens submitted a petition to the High Court of Justice asking it to "order the Ministry of the Interior to inscribe their nationality as Israeli in the population registry" (Avishai 2008, 54). Though unsuccessful, the petition put forth by this group of academics, and social, cultural and political figures urged the formation of a more inclusive nationality that does not simply privilege Jewish members of Israeli society over their non-Jewish counterparts. This request again resurfaced in 2008 when a similar group of Arab and Jewish citizens, including former Members of Knesset, submitted a petition challenging the state's refusal to recognize an 'Israeli' nationality. Here they argued that an 'Israeli' nation was simultaneously created with the establishment of the Israeli state. Headed by retired professor Uzi Ornan, the petition argued that the *Declaration of the Establishment of the State of Israel*, its *Declaration of Independence*, also distinguished between the 'Jewish nation' within Israel and the 'Jewish nation' abroad. The former collective was to "establish the state and

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<sup>8</sup> Jonathan Cook, "Why There Are No 'Israelis' in the Jewish State," *Dissident Voice*, April 6, 2010, <http://dissidentvoice.org/2010/04/why-there-are-no-israelis-in-the-jewish-state/>.

<sup>9</sup> Cook 2006, 15–17.

become like all other nations standing in its own right in its sovereign state,” while the latter were to first migrate to Israel to then contribute to building the state.<sup>10</sup> As a result, the petition held, the designation of “Jewish” is not merely limited to Jewish-Israeli citizens and therefore another national classification is necessary. This petition was predictably rejected by the Jerusalem District Court Judge Noam Sohlberg on the grounds that the matter was “not justiciable.” Significantly, for Justice Sohlberg, the fact that the appeal included Jews, Arabs and Druze citizens, among others, rendered it un-justiciable. Unlike the Tamarin petition, which the Supreme Court had agreed to consider, the implications of Sohlberg’s verdict would be to include non-Jews in the ‘Israeli’ nation. He writes:

I don’t think we can treat the two cases similarly .... In the present case, people of many different religions, cultures and nationalities, Jews, Arabs, Druze and others, have joined together. This was not true in the previous case, which involved only a Jew. It is not at all the same to recognize Israeli nationality for a Jew as it is for members of other nations.<sup>11</sup>

Though this implies that Justice Sohlberg may have reached a different conclusion had all of the applicants been Jewish, it is evident that the Zionist national consensus to which he subscribes prevents him from considering non-Jews as belonging to an ‘Israeli’ nation, even prior to the acknowledgment that such a nation exists. The ‘Jewish’ and ‘Israeli’ are synthesized to such a degree in the Zionist framework that the acknowledgment of the latter by the court would be equivalent to it “creat[ing] something out of nothing.”<sup>12</sup> In hearing the appeal of the petition in 2010, the Supreme Court fiercely rejected Justice Sohlberg’s argument that the petition was “not justiciable,” but it also strongly indicated that it was likely to refuse the appeal. The degree to which the Israeli Knesset and courts can exercise their authority on the question of the relationship between a ‘Jewish’ and an ‘Israeli’ nationality was also pointed to by former President of the Supreme Court, Justice Aharon Barak. In *The Hebrew Republic* (2008), Israeli academic Bernard Avishai explains:

In May 2006, Barak’s court in effect answered the petition, with a ruling in an entirely different case. The suit in question challenged army deferrals for

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<sup>10</sup> Dan Izenberg, “Supreme Court to decide if there is an ‘Israeli nation’,” *The Jerusalem Post*, March 07, 2010, <http://www.jpost.com/Israel/Article.aspx?id=170360>.

<sup>11</sup> Sohlberg quoted in *ibid.*

<sup>12</sup> *Ibid.*



ultra-Orthodox students – a clear case of inequality. Barak declared, rather clumsily, that ‘there is room for the idea that a law or Basic Law that denies Israel’s character as Jewish or democratic state is unconstitutional’. Many experts interpreted this to mean that the High Court could abolish a law, or even a Basic Law, if it impairs Israel’s Jewish character, even if equality is at stake. .... Indeed, to protect the Jewishness of Israel, the Knesset could do pretty much what it wanted (Avishai 2008, 56–57).

Similarly, and as previously mentioned, in August 2011 the subservience of Israel’s democratic character and the equality of its citizens to the state’s self-definition as a ‘national home for the Jewish people’ was proposed as a new *Basic Law*. Backed by Members of Israel’s eighteenth Knesset, representing a range of political parties from both the opposition and the ruling coalition, this new proposed legislation would change the existing definition of Israel as a “Jewish and democratic state” to its definition as “the national home for the Jewish people.” Should the two identities conflict, this new *Basic Law* instructs the courts to trump the Jewish character of the state over its democratic principles, and can only be amended through the passing of another *Basic Law* in its place.<sup>13</sup>

The refocus of the Israeli political and legal establishment on preserving the *Jewishness* of the state has recently been met with a similar international refocus on the same. Journalist and writer Jonathan Cook explains that in May 2011, American President Barak Obama became the first US president to formally affirm Israel’s self-definition as ‘a Jewish state and the homeland for the Jewish people’.<sup>14</sup> In July of the same year the *New York Times* reported that the Obama Administration is “currently working behind the scenes to press key allies to adopt a formula that would call on Israel and the Palestinians to resume negotiations on the basis of the 1967-lines and—for the first time in Mideast peacemaking—spell out international expectations that the Palestinians recognize Israel as a Jewish state.”<sup>15</sup> What comes to the fore here is that an issue absent from both the 1993 Oslo Accords that set into motion the diplomatic process for a two-state settlement and the failed 2000 Camp David Summit, and which was first introduced only at the 2007 Annapolis Conference, has now risen to the level of other long-standing and internationally

<sup>13</sup> Lis, “Lawmakers seek to drop Arabic as one of Israel’s official languages.”

<sup>14</sup> Jonathan Cook, “Israel’s Jewishness: Precondition for Palestinian statehood,” *Al-Akhbar English*, October 07, 2011, <http://english.al-akhbar.com/content/israel%E2%80%99s-jewishness-precondition-palestinian-statehood>.

<sup>15</sup> Yonatan Touval, “Israel’s identity crisis,” *New York Times*, July 29, 2011, <http://www.nytimes.com/2011/07/30/opinion/30iht-edtouval30.html>.

recognized final-status issues including illegal Jewish settlements, the return of refugees, recognized borders and the status of Jerusalem.<sup>16</sup> As Cook points out, rather unlike other nation-states, Israel is not asking its Palestinian counterparts to recognize its territorial borders, sovereignty or even its democratic identity. Instead, it is strictly asking for formal recognition of its 'Jewish' character.

#### RESEARCH ON PALESTINIANS IN ISRAEL: AN OVERVIEW

The relationship between *Palestinian-Arabness* and Zionism, founded on an interaction of political rejection and non-identification, has produced a range of critical scholarship. This research, from Arab, Jewish and Western sources, has sought to conceptualize the particular features, uses and dynamics of the citizenship bestowed to Palestinian-Arabs in Israel. Put together, these scholars are attempting to deconstruct the internal contradictions and paradoxes that arise, both conceptually and in practice, with the state's provision of Israeli citizenship to Palestinian-Arabs on the one hand, and with its unabridged fusing of 'Israeli' and 'Jewish' identity and nationhood on the other. The scholarly literature largely agrees that the most important factor in delineating the contours of the relationship between Israel and Palestinian-Arab citizens is the constitutional and practical ethnic exclusivity of the state. Viewing this self-definition as a significant determinant of the relationship between the State of Israel and the Palestinian-Arab community, most critical scholars agree that Israel's institutional and structural components leave them with mere citizenship status, or *citizenship in the law*. As a result, most scholars point to a paradox that emerges with the simplistic designation of this community as citizens with a citizenship. They argue that the self-identification of the state as an essentially *Jewish state*, with a *Jewish identity*, and a demographic caveat requiring a *Jewish majority* within the territories of Israeli control complicates, but does not cut, political, national, identity and membership ties between the state and the Palestinian-Arab citizenry. From this, many continue to posit that, in the case of the Palestinian-Arabs in Israel, the constitutional self-definition of the state as Jewish, and its repeated need for the adoption of structural and institutional policies of dominance and control, essentially repudiates the citizenship of this community. As such, to say that Arabs in Israel

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<sup>16</sup> Cook, "Israel's Jewishness."

have citizenship in any meaningful way is not only misleading, but in many ways even inaccurate.

In one of the first impressive publications by an Arab citizen of Israel, Sabri Jiryis's *The Arabs in Israel* (1976) provides important material on the subordinate socio-economic, educational and political development of Palestinians in Israel from the British Mandate to Zionist rule until the 1970s.<sup>17</sup> Thoroughly documenting the legal and political foundations of the Israeli Military Government (1948–1969) as borne from security laws during the British Mandate, Jiryis's book points to a systematic policy of neglect and targeted formal and informal mechanisms of disenfranchisement that arose after the establishment of the State of Israel. The book also rather meticulously examines the colonial vocabulary of the Zionist movement, and points to the ethnically exclusivist practices and policies that accompanied the “redemption” and “liberation” of the land (Jiryis 1976, Chs. 4 and 5). Indeed, the expropriation of Arab land through an exclusivist security discourse and oppressive “strong-arm” policy figures prominently in Jiryis's detailed account of the Arab experience inside Israel, pointing to commonalities in the Palestinian encounter with the Zionist colonial project. Perhaps most important for our purposes is that Jiryis concludes the book with a bold reading of Arab citizenship in Israel that remains remarkably relevant to contemporary discussions. He states:

A basic fact that emerges from a study of the history of the last quarter of a century is that the Arab in Israel has been, and continues to be, a ‘different’ citizen, ‘non-Jewish’, belonging to the goyim and excluded from the rights enjoyed by Jewish citizens. This distinction, which affects every aspect of Arab life, has been officially implemented from the establishment of Israel to the present. ... [And where] necessary, additional provisions have been drafted to protect the Zionist character of the state (Jiryis 1976, 235).

Though not theoretically based, in connecting well documented statements and facts about the aims of the Zionist colonial project that place it alongside earlier European colonial schemes, Jiryis's book served as a tool for other critical social scientists to examine theoretically the internal colonization of the Arabs in Israel.

Published in 1979, and referring to the important contributions made by Jiryis, one of the first notable theoretical accounts of Arabs in Israel from Western academia was *The Palestinians in Israel: A Study of Internal Colonialism* by sociologist Elia Zureik. Written in an intellectual and

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<sup>17</sup> In his foreword to Jiryis (1976), Noam Chomsky also pointed to the significance of the publication for the study of Arabs in Israel.

political milieu where any criticism of Israeli policies was vociferously labelled anti-Semitic, Zureik's book was a daring theoretical challenge rich in its account of the social condition of the Palestinians inside Israel through the lens of race, ethnic relations and colonialism. Unlike his contemporaries and the Israeli writings available on Arabs in Israel at the time, Zureik's analysis of the Arab and Jewish historical relationship is the first impressive attempt at examining Jewish colonization at the turn of the twentieth century rather than from the establishment of the State of Israel in 1948. Zureik begins by outlining the features of a settler-society that apply to Israel with a keen eye on the primacy of Israeli political economy, its class structure and Jewish-Arab class relations. The transformations in the traditional peasant social order and the socio-economic structure of the indigenous Arab community "in the context of a superimposing capitalist economy;" the acquisition of land by Jewish settlers and the formation of a subordinate and occupied native labour force "creating identified pockets of hinterland in the midst of areas with native concentration" with metropolitan centres in regions occupied by Jewish settlers and their agents; and the political domination fuelled by an economic one which reproduces a "justificatory ideology" rooted in the dehumanization of the indigenous society, are all explained by Zureik as working in tandem to establish a value-system that is in-tune with the hegemonic structure of the Zionist colonial project (Zureik 1979, 28–29). He explains that the Arab and Jewish sectors of Israeli society, "did not develop separately and independently under similar conditions," but were "interconnected in an asymmetrical relationship mediated by the British [colonial] presence" (Zureik 1979, 5). Working from this important framework, Zureik goes on to relate the system of domination in pre-1948 Palestine, first during the Ottoman, then the mixed Anglo-Zionist colonial rules, and on to the post-1948 Zionist colonial social order in contemporary Israel to which its Arab population is exposed. Delineating the mechanisms of Israel's oppressive socio-political system, and its effects on Arab education, social services, health care, employment, and 'criminal' behaviour, Zureik concludes that the situation of Palestinian citizens in Israel define it as an *internal colony*. Taken together, the state of Arabs in Israel therefore renders inapplicable characterizations of the community as simply members of a multicultural Israeli society (Zureik 1979, 140). He writes:

The situation in pre-1948 Palestine was more like a *dual society*, with one society, mainly the Zionist, deriving benefits from the sponsoring imperial power at the expense of the other, namely the indigenous Palestinian society. .... [But] the post-1948 period ushered in a *third cycle of colonialism*. ....

The model of *internal colonialism*, when applied to the Arabs in Israel, differs from the dual society model applicable to pre-1948 Palestine. .... However, the internal colonialism model also differs significantly from the fashionable models of cultural and social pluralism which are the favourite of most Israeli and Western social scientists. .... Unlike the cultural model of pluralism, and other variants of it [e.g. multiculturalism], the internal colonialism model accounts for possible politicization and reaction against forms of domination (Zureik 1979, 6, 195, 197–198, emphasis added).

Though popular among liberal Western and Zionist scholars at the time, formulations of Arab citizens as simply part of the multicultural mosaic of Israeli citizenry were here exposed and demystified. Zureik unveils such accounts as both historically inaccurate, given the *indigeneity* of Palestinian-Arabs, and as politically misleading through the model of ‘internal colonialism’; a model that more effectively reflects the multifaceted mechanisms in Israel that ensure Jewish ascendancy. As such, in meticulously outlining the ideological and institutional frameworks that dominate and marginalize Palestinian existence within the Zionist regime, Zureik was able to deconstruct the widely held image of Israel as a progressive and multicultural society alongside other Western democratic nations.

Now, Zureik was born in Acre, Palestine, almost a decade before the establishment of Israel, but is, according to Israeli law, an Israeli citizen. Worth reading is a short personal account Zureik wrote in September 2004 of his travel to Israel and experience of interrogation at Ben-Gurion Airport.<sup>18</sup> In this account, Zureik explains the bizarre questioning he is faced with, and outlines the depth of the Orientalist logic of the Israeli security officials who repeatedly ask him for his *hamula* (clan) name. Interesting here is that Zureik is willing to enter the country as a Palestinian-Canadian with Canadian citizenship, and he admits to have given up his Israeli citizenship around forty years prior, leaving him with only a voided Israeli identity card. But he is nonetheless instructed by the Israeli official that he remains an Israeli citizen and that he must enter and exit on an Israeli passport. Zureik recounts his confusion at the eagerness of the Israeli official to ‘include’ him (and other Palestinians outside of Israel) in the Israeli body politic. Building on American sociologist John Torpey’s *Invention of the Passport: Surveillance, Citizenship and the State* (2000), Zureik concludes:

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<sup>18</sup> Elia Zureik, “Nowhere Man,” *New Humanist* 119, no. 5 (September/October 2004), <http://newhumanist.org.uk/796/nowhere-man>.

Modern nation-states are obsessed with exhibiting signs of sovereignty, authority, and territoriality. Among the essential requirements of a state are [sic] the ability to control entry and exit, define belonging and exclusion, and patrol the territorial boundaries. The passport becomes a certification tool for authorizing the construction of citizenship. .... What makes the Israeli case intriguing is that none of these elements of statehood – borders, population composition, and sovereignty – have yet been finalized and legitimated. What to do with the Palestinians, both inside Israel and in the Occupied Territories, remains a contested issue.<sup>19</sup>

The intricacies and dynamics of the Zionist system of control and expulsion to which Zureik points above were outlined in the second major scholarly publication in the West, this time from the American academia, on Arabs in Israel. A revised version of the author's doctoral thesis at the Department of Political Science at Berkeley, and published one year after Zureik's book, Ian Lustick's *Arabs in the Jewish State: Israel's Control of a National Minority* (1980) is a penetrating study of the mechanisms of control to which Arabs in Israel are exposed. Defining Arabs as a "national minority" and focusing on the question of control – both of which were previously largely unexplored terrains of study – Lustick begins his examination with a focused question: "How, indeed, is the striking political quiescence of Israel's Arab minority to be explained" (Lustick 1980, 5)? With this, he quickly clarifies that his purpose is specifically to analyze the control system within which Arabs are located, how it has operated and why it has been so successful (Lustick 1980, 27). He argues:

[T]he failure of Israel's Arab minority to 'organize itself' and the minimal significance, to date, of the communal segmentation of Israeli society for the operation and stability of the Israeli political system are due to the presence of a highly effective system of control which, since 1948, has operated over Israeli Arabs (Lustick 1980, 25).

Though rejecting the apartheid characterization of the Zionist regime, Lustick holds that Israel's sophisticated system of control was able to effectively "manipulate the Arab minority, to prevent it from organizing on an independent basis, and to extract from it resources required for the development of the Jewish sector" (Lustick 1980, 26). Supporting Lustick's thoughtful examination are numerous first-hand narratives provided by Arab lawyers, students, communal leaders, farmers, villagers and workers, among others, of their marginalized situation, interspersed with statements and perceptions of the community by founding fathers, government

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<sup>19</sup> Ibid.

officials, military advisers, and other social and cultural centres of authority within Israel.

Part and parcel of his critical approach to Palestinian sociology in this book is a meticulous outline of major theoretical frameworks and techniques of control in deeply divided societies. Reading the Zionist project through a pragmatic lens, Lustick appears to take as genuine the expressions and declarations of intent made by leading Zionist figures regarding the Arab minority. He holds that, though the Zionist leadership aimed otherwise, the “irrelevance of ... factors and policy objectives for the actual ordering of relations between Arabs and Jews” made it so that Arabs were “dealt with purely on the basis of what was expedient for the specific objectives of the regime in the early years of statehood” (Lustick 1980, 39–40). That said, Lustick continues to unapologetically explain:

The regime did not want, nor did it strive to achieve, the integration or absorption of the Arab population into the Jewish community. Neither did it entertain seriously the possibility of wholesale expulsion, though various schemes of population transfer were discussed. Rather it set out to maintain the social segregation of Arabs and Jews, to extract certain important resources from the Arab population, and to regulate and direct the behaviour of the Arab minority to serve the interests of the Jewish majority. This Israeli policy toward the Arab minority was determined by an overriding objective – to control the Arab community in Israel rather than to eliminate, integrate, absorb, or develop it (Lustick 1980, 63–64).

This system of control within which Arabs in Israel are placed is, Lustick holds, composed of three separate components, namely segmentation, dependence and co-optation, each with interrelated networks of relationships:

Segmentation refers to the isolation of the Arab minority from the Jewish population and the Arab minority's internal fragmentation. Dependence refers to the enforced reliance of Arabs on the Jewish majority for important economic and political resources. Co-optation refers to the use of side payments to Arab elites or potential elites for the purposes of surveillance and resource extraction (Lustick 1980, 77).

These components of control are then individually looked at through three analytical levels: the *structural level* which includes social, cultural, historical and economic factors, the *institutional level* which examines the exclusion of Arabs at an institutional level, and the *programmatic level* which points to Zionist policies and laws that maintain the above structural conditions and institutional arrangements. Throughout this analysis Lustick provides extensive data outlining the extent of land expropriated

from Arabs by Jewish settlers, the distorted socio-economic development of Palestinians, their dependence on the Jewish economic sector and the general irrelevance of Arab needs in the mindset of Zionist policy-makers. Rather disappointingly, however, Lustick concludes that any fundamental change in the existing relationship between Arabs and Jews will come from a Jewish leadership committed to its development. Though recognizing an inherent tension and imbalance between Israel's "liberal and Zionist ideological commitments;" and having spent the majority of the book laying out the racial exclusivity of the Zionist policy-making that guides the structural, institutional and programmatic developments within the state and the multifaceted system of control of Arabs it creates, Lustick nevertheless concludes that a dedicated Jewish leadership can guide the "transformation of Israel toward a consociational or pluralist society" (Lustick 1980, 271). In the words of Zureik, whose review of Lustick's book was nevertheless overall positive,

... it is not clear ... what makes Lustick believe that a pluralist framework which has had little success in resolving the basic problems of other racially and socio-economically bound societies will succeed in a more ideologically rigid settler regime, such as Israel (Zureik 1981, 91).

Taken together, the work of Jiryis (1976), Zureik (1979) and Lustick (1980) inspired and paved an academic space for numerous important, useful and critical conceptualizations of the features, dynamics and constraints of Arab citizenship in a Jewish state. Today, this scholarship has been developed and compiled mainly by Arab academics, intellectuals, political representatives, urban planners, researchers, social justice community activists and civil society organizations in Israel, but also by Jewish-Israeli and Western sources.

In a recent publication, *The Forgotten Palestinians: A History of the Palestinians in Israel* (2011), Ilan Pappé works from the publications of Rouhana and Ghanem to outline the changing historical realities of the Palestinians in Israel from 1947 to 2010.<sup>20</sup> Along the way, Pappé also points

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<sup>20</sup> In fact in 2011 alone there have been three major critical publications on the situation of Palestinian citizens in Israel. The first, published in March 2011, is the aforementioned *Arab Minority Nationalism in Israel: The Politics of Indigeneity* by Amal Jamal. This book looks at the changing social, political and legal status of the Palestinian citizens of Israel from the establishment of Israel in 1948 to present time. Jamal places Arabs in Israel alongside indigenous communities in other countries and points to shared mechanisms of marginalization and tools of exploitation and disenfranchisement employed by consecutive Israeli governments. From this, and with extensive use of the discourse on civil society organizing, social movements and indigenous collective action, Jamal attempts to



to developments in critical social science research on this community.<sup>21</sup> Importantly, he does not take a solutions-based approach to the question of Palestinians in Israel. More interested in “the lessons of history than the perils of the future,” Pappé’s treatment of the historical development of the Palestinians who remained in their homeland after the newly established Jewish state constantly points to their complex relationship with the dispersed Palestinian nation, the Zionist movement and its institutions, and the broader Arab society (Pappé 2011, 11). For instance, Pappé details the 1956 Kufr Qassem Massacre where forty-eight Palestinian villagers were killed and thirteen wounded by Israeli soldiers for unknowingly violating an amended curfew whose time had been changed from 9 p.m. to 5 p.m. only hours before. He explains that this massacre, whose public coverage was largely censored by the military and state institutions at the time and whose known perpetrators escaped serious punishment, was committed on the eve of the Israeli, French and British military invasion of the Egyptian Sinai Peninsula and Gaza Strip, which launched the 1956 Suez War. But significantly, this massacre was also later officially justified by the Israeli government as a response to the Palestinian *Fida’i*, a volunteer-based guerrilla group composed of expelled Palestinian refugees (Pappé 2011, 55–57). The ways in which Palestinian citizens are viewed as an extension of the broader Palestinian and Arab nation, as opposed to part of the Israeli social fabric, in the Zionist mindset becomes apparent here. What is revealed is that a massacre of the Palestinian-Arab villagers of Kufr Qassem, living in Israel and part of its citizenry, was not actually a product of the actions of those villagers. Instead, it was prompted by Israel’s attack with its European allies on a neighbouring Arab state and

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illuminate the problematic dynamics of state-minority relations in Israel and the forms of Arab minority nationalism that surface as a result. The second book, published in June 2011 is Ilan Pappé’s *The Forgotten Palestinians: A History of the Palestinians in Israel* and is discussed here. The third, published in July 2011 is *Women in Israel: Race Gender and Citizenship* by Nahla Abdo. This book focuses specifically on the question of Israeli citizenship from a Marxist-feminist perspective and analyses the structural, institutional and operational dynamics of the state as part of a settler-colonial regime. Through critical comparisons of the social, cultural, political and economic realities of female Israeli citizens, including Palestinian, Mizrahi and Ashkenazi, Abdo articulates the processes of exclusion, racialization and exploitation that simultaneously disenfranchise women in Israel. It is briefly discussed below.

<sup>21</sup> Pappé’s previous research on Israel and Palestine also produced *The Ethnic Cleansing of Palestine* (2006), a key resource for students and observers of the conflict. It meticulously outlines the historical events of 1948 through first-hand statements and documentation of the Zionist movement’s systematic destruction and ethnic cleansing of the Palestinian population in their homeland.

justified due to actions of resistance by members of the exiled Palestinian nation.

Perhaps most significant in Pappé's history of the Palestinians in Israel is a 16-page Appendix at the end of the book that chronologically outlines the notable research conducted on this community. Pointing out that a large part of this research treats the community as "a test case ... for a plethora of theories," Pappé briefly documents the existing critical scholarly contributions to the sociology of the Palestinians in Israel. Throughout this work, he places these texts within the historical and political context of their publication. Beginning after the 1967 war and immersed in a discourse of *modernization* common to other settler-colonial states, the scholarly research during this time promoted the *de-Palestinianization* and *de-Arabization* of the community. In sum, scholarship after the 1967 war

... saw the acceptance of Israel as a Jewish state as a positive outcome of the [modernization] process, and regarded modernization as questionable if it produced an impulse among the Palestinians in Israel to continue their struggle in the name of Palestinian nationalism and against the Zionization of the country (Pappé 2011, 277–279).

With the diminishing credibility of modernization theories, explains Pappé, critical research examining Israeli policies and mechanisms of control through a lens of ethnic exclusivity and colonialism began to surface (Pappé 2011, 282–283).<sup>22</sup> By the 1980s, critical theoretical accounts of the community and their intricate relationship with the Jewish state, the Palestinian national movement and the Arab world developed among a new generation of Palestinian academics in Israel.<sup>23</sup> Working from many of the theoretical and structural frameworks set in place by Zureik, Palestinian intellectuals – many of whom also incorporated a feminist analysis examining the marginalizing effects of patriarchal social and political practices on Palestinian women – began collaborating with critical Jewish voices in the Israeli academia to form "a more systematic view of Israel as a settler colonialist society" (Pappé 2011, 284–285). Theoretical studies from the mid-1980s to around the mid-1990s on the effects of Israeli

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<sup>22</sup> Along with the mentioned contributions by Zureik (1979) and Lustick (1980), the writings of Khalil Nakhleh challenging the dominant Zionist anthropology of Palestinians in Israel and abroad and those of Sami Khalil Mar'i on the use of the Arab education system as a structural and conceptual tool of control by the Zionist regime are mentioned.

<sup>23</sup> Here Pappé mentions Nadim Rouhana, Majid al-Haj, As'ad Ghanem, Ramzi Suleiman, Adel Manna and Ahmad Sa'di as some of the Palestinian scholars aiming to elaborate the levels of marginalization with which Arabs in Israel were faced (*ibid.*, 284). We can also include the writings of Bishara (1997); Touma (1985); and Halabi (1993), among others.

spatial policies, urban planning, resource distribution and demographic policies against indigenous Palestinians from this perspective worked in tandem with this wave of critical sociology to deepen the analysis of the Zionist regime.<sup>24</sup> During the final period of innovative thinking in the 1990s, which Pappé calls “post-Zionist research,” Jewish scholars challenged prevailing historical and sociological readings of the Zionist movement and its core beliefs around Jewish statehood. Also at this time, Palestinian intellectuals in Israel began to more actively enhance their work into research centres, independent academic organizations and policy institutes. These spaces served as intellectual and institutional bases for conducting critical and applied research free of the disciplinary and ideological trappings of a hegemonic Zionist discourse imposed in university spaces. Pappé writes:

Through analysis of the education system, the official language, spatial policies, legal practices, media treatment and other aspects of life, the discrimination has become more evident, even if at times subtle. All this essential research has been done by Palestinian scholars teaching and working in Israel (Pappé 2011, 288).

Important to note here too is that in addition to critical and applied research on marginalized issues pertaining to the Arab community in Israel, much effort from Palestinian scholars in these autonomous academic institutions was made to make this research available in Arabic, Hebrew and English. Though often difficult to finance and incredibly time-consuming, the intended audience of the research, encompassing Israeli Jews, Arabs in Israel, Palestinians abroad and Western academics, is evident in these efforts. An example of this essential research is the *Political Monitoring Reports*, first published on a monthly basis and later reworked into quarterly reports by Mada al-Carmel, a Palestinian academic organization located in Haifa.<sup>25</sup> In reviewing and monitoring the effects of developments in the Israeli political, social, legal and economic scene on Palestinian life in Israel, these important and publicly available publications look extensively at first-hand Knesset documentation, statements by public representatives, public opinion polls and policy advancements made in parliamentary bodies, academic institutions, and local and national organizations. Even a brief examination of the issues addressed

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<sup>24</sup> Here Pappé includes the research of Nira Yuval-Davis and Oren Yiftachel (ibid., 285). We can also include Kimmerling (1983); Falah (1985, 1993); Haidar (1995); Rabinowitz (1997); and Shafir and Peled (2002), among others.

<sup>25</sup> See Mada al-Carmel’s quarterly *Political Monitoring Reports* for more.

and sources used in the *Political Monitoring Reports*, reveals the broad-based readership for which they are intended.

#### FORMULATING PALESTINIAN CITIZENSHIP

Over the years, critical social science research on Palestinians in Israel, some of which has been outlined above, has produced various formulations of Arab citizenship, its dynamics and relations of exception. The formulations of Arab citizenship I will examine below work from the premise that, in tune with the mentioned Israeli court decisions and legislations passed by the Knesset, the state's professed democratic principles are merely auxiliary to its Jewish self-definition. The conceptualizations constructed in the existing scholarship seek to outline how, for the Palestinian citizens of Israel, the Zionist hegemonic project of Judaization defines and delimits *Israeliness* as a Jewish-Zionist state of being. A state of being which, by definition and political practice, rejects constituent elements of Palestinian-Arab existence. As formulated by Dr. Azmi Bishara:

Israeliness does not distinguish the Arabs in Israel from the rest of the Arabs in the same way that it distinguishes the Jews in Israel from the rest of the Jews, because from the very onset, Israeliness has been Jewish-Zionist and rejected the Arab and even perceives itself as such. In order to be Arab-Israeli, the Israeli-Arab has to be part of his rejection.<sup>26</sup>

Paradoxically, the constituents included in the Zionist national project are not limited to those within or even legally tied to Israel itself; whereas those who are actually within the state and legally bound to it are not actually viewed as its constituents. Given this reality, Bishara considers the citizenship given to Arabs in Israel to be *incidental citizenship* and the citizenship given to Jews to be *substantive* or *essential citizenship*.<sup>27</sup> This is because Israeli citizenship was not designed for Arabs: it did not intend to include Arabs, and only granted citizenship status to certain members of this community who happened, by chance or circumstance, to remain on their land during and after the *Nakba*. Recounting Israel's self-definition, Bishara states:

<sup>26</sup> Quoted in Jabareen (2002, 202).

<sup>27</sup> Azmi Bishara, "Israel, Palestine, and the Question of Citizenship," Lecture at St. Anthony's College, University of Oxford, Oxford, February 6, 2004) Revised PDF e-publication. <http://www.sant.ox.ac.uk/events/lecturesarchive/Bishara.pdf>.

Israel does not express the Jewish majority in Israel. Israel expresses the existence of the trans-historical, trans-geographical Jewish people around the world. This notion has nothing to do with modern citizenship. It is a medieval idea. It has also nothing to do with the fact that the majority of citizens are Jews. This reality according to this view is totally unimportant, actually accidental, or if you want, it is man made; a majority is produced to meet the needs of the principle that this country is the country of the Jewish people, including those who do not live in the country. Israel does not express the Jewish majority in the country. It expresses the Jewish people, *en genera*, and the Jewish people are not all in Israel. .... *You cannot separate a Jew from his right to become an Israeli citizen.*<sup>28</sup>

With this Bishara unmasks a key element of the Zionist use of the principles of classical liberalism. As we saw in the argumentation put forward by Yakobson and Rubinstein in the previous chapter, reference to the *principle of majority rule* was repeatedly made so as to justify a decision-making process privileging the Jewish-Israeli population, given their demographic majority. Yet, what Bishara points to is that within this liberal-Zionist framework the democratic principle of majority rule is only secondary to a more primary objective of maintaining the exclusive ethno-national character of Israel. Put differently, practices of population management to (re)produce Jewish demographic domination are exercised so that the principle of majority rule can be applied to meet the greater interest of maintaining a state with a 'Jewish' character. What this implies is that the principle of majority rule would most probably no longer be applied by the Israeli government should the non-Jewish population become the majority. Again, the aim here is not to ensure that the liberal-democratic principle of majority rule is genuinely applied, but it is instead referred to because it dovetails nicely with the discriminatory aim of maintaining Jewish dominance in the state.

Arab academic Raef Zreik, paints a similar picture of the civil status of Palestinians through a discussion of Israel's borders. Pointing out that the institutions and bodies that actually created Israel are Jewish national bodies which represent not only Jewish citizens of Israel, but Jews worldwide, Zreik goes on to explain:

The emerging picture is as follows: the borders of the state are almost meaningless in that being a Palestinian citizen *inside* Israel does not mean that you are part of the collective [national] project, while being a Jew living *outside* the state does not mean that you are *not* part of this project since,

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<sup>28</sup> Ibid. Emphasis added.

according to the ethos of the state (and the Law of Return), every Jew can become a citizen at any point in time. All of this renders the difference between the actual and potential (Jewish) citizen marginal and blurs the concept of borders (Zreik 2008, 140).

The blurring of the distinction between the *actual* and *potential* citizen, and by association the actual and potential member of Israeli society, points directly to the Zionist project of Judaization that delineates and restricts Arab citizenship. In his examination of the structural constraints on any meaningful Israeli citizenship for the Arab community, Oren Yiftachel also points to Israel's ethnocratic structure to account for the inability of Palestinian citizens to convert their de facto citizenship, their formal inclusion as Israeli citizens, into a substantive and equal inclusion. In a 2002 article, Yiftachel points to the "shrinking space of citizenship," linking it to legally and politically entrenched ethnic separatism in Israel. He writes:

Like most ethnocratic states, whose main project is the ethnicization of contested lands, institutions and resources, Israel is now facing an increasing challenge from an alienated and frustrated Arab public, fuelled by the illusions of 'democracy' and 'equal citizenship'. .... Indeed, given the ongoing occupation of the West Bank and Gaza, and the strengthening of Jewish settlement in these regions, *the actual existence of an Israeli state (and hence citizenship) can be viewed as an illusion*. Israel has ruptured, by its own actions, the geography of statehood, and maintained a caste-like system of ethnic-religious-class stratification. Without an inclusive geography and universal citizenship, Israel has created a colonial setting, held through violent control and a softening illusion of a nation-state and democratic citizenship (Yiftachel 2002, 44, emphasis added).

For Yiftachel, democratic citizenship for Arabs is an *illusion* that reproduces (and is reproduced through) intensifying policies of oppression. On the one hand, it is generated from the wavering, undetermined and ambiguous parameters of the state itself, its geography, borders, jurisdiction, inhabitants, and represented citizenry. On the other hand, this chimera of democratic citizenship simultaneously provides internal and international legitimacy to expansionist and exclusionary Zionist policies and practices, thereby maintaining a complex system of unequal citizenship. In a more recent article, published in 2009, Yiftachel continues to point to ways in which the increasing oppression and exclusion of Palestinians, with or without Israeli citizenship, contributes to the political instability of the state and, by extension, its citizenship regime. The *de-Arabization* policies of the Zionist hegemonic project, he explains, outweigh Israel's official allegiance to democratic principles and determine the aims,

resources and practices of its state and quasi-state institutions (Yiftachel 2011, 132). This Judaization project is, Yiftachel asserts, supported by the security establishment, capital accumulation and social development policies, the legal system, state symbols, urban planning, and settlement and demography plans (Yiftachel 2011, 132–134). And, taken together, these forces structurally marginalize Israel's Palestinian citizenry. Having “framed the meaning of Israeli citizenship,” this Judaization project renders the status of Arab citizenship “precarious,” with a “‘separate and unequal’ citizenship structure” that leaves Arab citizens both “exclude[d] and marginalize[d]” (Yiftachel 2011, 130, 134, 135). In effect, argues Yiftachel, Israel's stratified and ethnocratic incorporation regime has created a kind of “ghettoized citizenship” for the Arab community. He writes:

Palestinian Arab citizenship in Israel can be characterized as existing in a ghetto. This ghetto is multifaceted—political, cultural, economic, and administrative. Consequently, it is also spatial. The Palestinian Arabs in Israel are officially part of [the] society, yet structurally they are isolated into enclaves and weakened by domination, exclusion, and disempowerment, the end of which does not appear to be in sight (Yiftachel 2011, 135).

This point is reasserted by Amal Jamal, examining what he terms “the dialectics of state-minority relations in Israel” (Jamal 2007, 473). Jamal treats Israel as a “nationalizing state,” explaining that its mechanisms to structurally, politically, economically and culturally deepen and reinforce its ethno-national character have, over the decades, effectively “hollowed out” Arab citizenship. He writes:

Nationalizing states ... have special characteristics that make multidimensional analytical frameworks necessary in explaining state-minority relations. These states, conceived as complex institutional entities composed of legal, economic and cultural components, design and render the citizenship of indigenous national minorities into a ‘hollow citizenship’ that is devoid of substantive cultural, economic and political meaning, since these minorities, *often by their mere existence*, tend to challenge the basic vision of the state (Jamal 2007, 473, emphasis added).

In other words, apart from any real claims for equality or genuine citizenship, it is mere Palestinian-Arab existence that constitutes the challenge to the state's vision of Jewish exclusivity. And this exclusionary vision of Israel's nationalizing project impedes genuine Arab participation and representation in state institutions and rids – or “hollows out” – their citizenship of any concrete meaning. Having examined three scholarly traditions that have studied state-minority relations in Israel, including the state-centric, the political economy and the ethno-nationalist readings, Jamal

posits a multidimensional analytic framework to show ways in which the three spheres intersect one another to generate structural inequality. What is revealed in this multifaceted framework is that the “hollow citizenship” of Arabs is not solely the product of a single element of state-minority relations, whether it is socio-political, economic, or ethno-cultural, but must instead be understood as the product of a combination of all of these factors. Indeed, Jamal explains that these frameworks of exclusion “feed off and promote one another in such a way that makes the treatment of any one of them in isolation ineffectual in comprehensively explaining majority-minority relations in Israel” (Jamal 2007, 489).

Israeli political scientist Yoav Peled posits a similar relationship between the character of the state and the nature of its citizenship. Unlike Rouhana, Ghanem and Yiftachel, Peled rejects definitions of the Israeli political system as an *ethnocracy*, preferring to describe its as an *ethnic democracy* in that it combines the domination of a particular ethnic group over another with democratic structures and processes, including the extension of rights and privileges to individuals and collectives (Peled 1992, 432). Specifically, Peled considers Israel as “one successful example of a democratic yet deeply divided society” and actually goes on to read the citizenship status of Arabs citizens as “one of the key features of Israeli democracy.” Already, we see here that the historical, political and ideological reading of the Zionist settler-colonial project provided by Peled is deeply divergent from the above authors. This includes both Peled’s reading of Israel as a divided yet ‘democratic’ society, and his account of Arab citizenship as one of its validating features which indicate a more mitigated and softened understanding of the exclusionary dynamics of Israeli citizenship than the ones posited by the above scholars.<sup>29</sup>

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<sup>29</sup> Nira Yuval-Davis and Nahla Abdo have recently written on the problematics of ethno-centric readings of the Israeli political regime. Yuval-Davis explains that the notion of an ‘ethnic democracy’ creates a normalization of Jewish ethno-national domination in Israel by depicting its democratic structures as reconcilable with the construction of Israel as a Jewish state. She points to Yiftachel’s warning of the “softening illusion of a ‘nation-state’ and ‘democratic citizenship’” of Israel and argues against a “certain complacency that sometimes appears when analyzing Israel as a post-Zionist, liberal, multiculturalist society and/or even as an ethnic democracy.” Such complacency, or “blindness,” explains Yuval-Davis, maintains the illusion of a Jewish and democratic Israel and “prevents most Israelis [and we may add most Western observers and scholars], both emotionally and analytically, from understanding some epistemological and ontological aspects of the Israeli-Palestinian conflict” (see Yuval-Davis 2003, 193). Further, in a recent publication examined more closely later in this chapter, Nahla Abdo takes this argument further and argues that “[e]thnocentric approaches ... are problematic on all counts: at the levels of gender, race/ethnicity, and class. .... Ethnic-centered approaches, whether they describe the Israeli state as ‘ethnic



Peled holds that the “tension” within the Israeli political system is not merely accounted for by distinguishing Israel’s Jewish character from its democratic form of government. He contends that “it would be more useful to understand Israeli political culture as comprised not of two constitutional principles – liberalism and ethno-nationalism – but of three – republicanism, liberalism and ethnicity” (Peled 1992, 432). The liberal reading of citizenship stresses the individual, universal, autonomous and equal character of the subject, whose status and access to rights and privileges do not require an active or hands-on engagement with their citizenship and where the state exists on behalf of all of its citizens. In contrast, explains Peled, the republican conception of citizenship involves direct participation in and active engagement with citizenship in the form of a political and moral purpose, shared among all members, in reproducing, protecting and developing the common good of the society. And it is exactly this kind of civic engagement that Peled argues is denied to Arab citizens of Israel:

The only solution ... for people who cannot acquire full republican citizenship is to grant them *a residual, truncated status, similar to the liberal notion of citizenship as a bundle of rights*. Bearers of this citizenship as status do not share in attending to the common good but are secure in their possession of what we consider essential human and civil rights. Precisely this type of citizenship is possessed by Israel’s Arab citizens (Peled 1992, 434, emphasis added).

But it is not full liberal citizenship that is bestowed to Palestinians in Israel. As we know, the State of Israel does not, nor does it claim to, represent all of its citizens – Arab and Jew alike. Using statements by Zionist representatives just before the state’s establishment and reviewing the political and conceptual logic of David Ben-Gurion, Peled argues that though national discrimination was not *officially* on the agenda, there nevertheless remained a “gap between the Arabs’ formal citizenship status and their actual treatment (in this early period) as an occupied enemy population” (Peled 1992, 432). As a result, Israeli citizenship comes in two distinct

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democracy’ ... or ‘ethnocracy’ ... or even singularist ethnocracy ... all tend to dismiss the central feature of the Israeli state, namely, its settler-colonial character. .... After all, ethno-centric approaches provide softer, less politically charged concepts to describe what are basically racist policies and practices embedded in the Zionist ideology on which Israel has been – and continues to be – founded.” For this reason, Abdo pushes forward the need to adopt “more apt descriptions and characterizations of the Israeli state” so as to remind scholars of their responsibility to “dig deeper into the racist nature of their own upbringing – Zionism” (see 2011, 16–17, 19).

forms: a partial *liberal citizenship* for Palestinian-Arabs, and a *republican citizenship* for Jews. Both have formal citizenship rights, but only Jews can actively engage with and practice their citizenship by ministering to the common good. Thus, in considering republican, liberal as well as ethno-national discourses of citizenship, Peled holds that the extension of Arab citizenship into the realm of ethnic power relations shows that the determining feature of Israeli political culture is thereby best termed *ethnorepublicanism*. Because active participation in ‘reclaiming’ and ‘redeeming’ the land is constantly stressed in the Zionist project and because Jewish ethnicity is a fundamental prerequisite for any genuine participation in the Israeli political community along these lines, as non-Jews, Arabs in Israel are necessarily excluded from republican and full liberal citizenship. In other words, “they cannot belong to the ethnically defined community ... [and] they cannot partake of Zionist civic virtue” (Peled 1992, 436). Here Arab citizenship is seen as governed by a principle of ethnorepublicanism, effectively limiting its development:

[A] protective wall (so to speak) has been placed around Israel’s Arab citizens – a wall that separates them from both the Jewish citizens, who can attend to the common good, and the non-citizen Arabs of the occupied territories, who are Israel’s metics. Within the area confined by this wall, Arab citizens can securely enjoy (formally at least) the rights of liberal citizenship. They must not, however, challenge the existence of the wall itself (Peled 1992, 436).

Israeli liberal-Zionism, therefore, provides a diluted and nominal membership to its Palestinian citizenry, that is effectively walled-in through a range of what Peled calls *ethnorepublican* policies and practices.

Another version of this thesis was co-written by Peled a decade later, with Israeli sociologist Gershon Shafir. In this text, formal Arab-Jewish relations are used to similarly depict the State of Israel as an “ethnic democracy” or a “third rate democracy,” set apart from consociational (where groups have guaranteed representation) and majoritarian (where the majority decides on behalf of society as a whole) models of state representation (Shafir and Peled 2002, 31). With extensive reference to Soysal’s concept of incorporation regime, outlined in Chapter One of this book, the authors argue that citizenship cannot be limited to “a bundle of formal rights.” Rather, it ought to be conceived as an entire mechanism or regime of incorporation of individuals and collectives into state and social membership (Shafir and Peled 2002, 11). An account of key allocative structures and the associated discourse(s) of citizenship is, according to Shafir and Peled, part and parcel of any reading of an incorporation regime.

And adjustments in the particular incorporation regime of a nation-state usually reflect changes in inter-group attitudes, interactions and relations of power – all of which affect the dominant reading(s) of citizenship. Similar to Peled's argument in 1992, the authors again reassert that, as a constitutionally ethnic state, the practice of Israeli citizenship is constituted by liberal, republican, and ethno-national elements superimposed on each other. Together, these discourses of citizenship function to legally, socially, and politically limit Palestinian-Arab access to citizenship as non-Jewish citizens – each expanding and retracting in stages thereby resulting in waves of differential allotment of obligations, privileges and domination. The hierarchical citizenship framework of today's Israel is rooted in this interaction (and, as the authors would contend, even cooperation) between the discourses, explain Shafir and Peled:

First, the liberal discourse of citizenship functioned to separate the citizen Jews and Palestinians from non-citizen Palestinians in the occupied territories and abroad, whether these Palestinians were conceived of as refugees or as stateless, non-citizen subjects of Israel's military occupation. Then the ethno-nationalist discourse of inclusion and exclusion was invoked (often under the guise of the republican discourse), in order to discriminate between Jewish and Palestinian citizens within the area of the sovereign State of Israel. Lastly, the republican discourse was used to legitimate the different positions occupied by the major Jewish groupings: Ashkenazim versus Mizrachim, men versus women, secular versus religiously orthodox (Shafir and Peled 2002, 22).

We should note that the inclusion of Soysal's analytical schema is particularly useful here. Its various parameters allow the authors to consider Israel's "multiple and hierarchical citizenship" framework from social, political, economic, cultural and institutional lenses to show how such fragmented citizenship legitimates (and is legitimated by) its "complex incorporation regime." However, the sophisticated analysis of Shafir and Peled is made problematic in their deficient reading of the aims and objectives of the political Zionist project, and its claims to liberal principles. Despite stating that citizenship ought to be understood as the 'entire mechanism or regime of incorporation of subjects', the authors seem to neglect the existential and epistemological exclusions embedded in even the liberal-Zionist framework of the state and its social membership. Indeed, this is a tendency that also surfaces in their argument that Israel's citizenship regime is genuinely composed of the varying – and one can even say conflicting – discourses of democratic liberalism, Jewish ethno-nationalism, and civic republicanism.

The authors locate the objective of a multicultural and democratic incorporation regime within the tension between varying elements of Israeli political culture and citizenship. It is this belief in the possibility of a democratic and multicultural incorporation regime within an exclusivist settler-colonial Zionist state framework that allows the authors to conclude by proposing “a non-hegemonic citizenship discourse” of “democratic multiculturalism” as “the most worthy incorporation regime achievable under present conditions” (Shafir and Peled 2002, 343). Holding that a non-hegemonic discourse of citizenship can be achieved under Israel’s existing social, political and conceptual structure neglects the real objectives of Zionism. As outlined in Chapter Two of this book, the Judaization project that lies at the root of the Zionist national project is, by definition, one of exclusion. It cannot genuinely coexist with the classical principles of equality, common possession, democratic participation, representation, inclusion, and multiculturalism. It seeks to create an exclusive state for the Jewish people, while simultaneously rejecting the rights, presence and history of the non-Jewish Other. If one considers the political Zionism, as we do here, through the lens of settler colonialism, where mechanisms of occupation and apartheid function in conjunction with (and are intensified by) one another, Shafir and Peled’s promise of a democratic multiculturalism surfacing under present conditions, present practices and present policies, most certainly must remain unfulfilled.

We can conclude that the notions of a *shrinking* citizenship, a *ghettoized* citizenship, or a *hollow* citizenship, along with formulations such as *substantive* versus *incidental* citizenship, *actual* versus *potential* citizens, and *republican* versus *liberal* citizenship all point to an internal and irreconcilable disconnect between *de jure* and *de facto* citizenship status in Israel, including their own inherent contradictions. Despite their differing readings of the dynamics of the Israeli incorporation regime, all of these scholars distinguish, in one form or the other, between what can be deemed *citizens* and *citizens without citizenship* – the latter of which holds that citizenship can only be said to genuinely exist when it generates rights along with a profession of formal status. Absence of benefits and representation accompanying formal citizenship in the face of the Other contradicts its objective. For this reason, a person holding citizenship of this kind is a *citizen without citizenship*. Such a status is what one may call *one-way citizenship*, where the motion of interaction and exchange is not reciprocated or mutual. Here the common good and interests of the regime not only fail to include Palestinian-Arab citizens, but are instead achieved at their expense. Important to point out, however, is the specific

reading of citizenship, its features and dynamics that is projected by the above formulations of Arab citizenship in Israel. Each of these scholarly accounts depict the citizenship provided to Arabs in Israel as lacking a symbolic feature, deficient in a range of provisions, or bereft of any genuine substance. In other words, there is *something missing* in the membership provided to Arab citizens so that characterizations of it as a complete or real citizenship cannot be sustained. The focus, therefore, is often on the rights, freedoms, resources, benefits, discourses and symbolisms that are lacking, absent, exclusionary or made inaccessible.

The *citizens without citizenship* paradigm is most impressively and extensively applied by Nadim Rouhana, and attorney and Palestinian citizen of Israel, Nimer Sultany. Their reading of Arabs as citizens without citizenship distinguishes between the dynamics of de jure and de facto membership in Israeli society and links the precarious situation of Arab citizenship to the rise of a 'new Zionist hegemony'. For the authors, what is specifically 'new' about this discourse is that this hegemony involves an intensification of rooted ideological and political components of Zionism. This includes a reasserted emphasis on Israel's exclusively Jewish foundations, an aggressive rejection of any contradiction between its simultaneous Jewish and democratic character, and an intensified security discourse, among other elements.<sup>30</sup> Here formerly right-wing extremist politics have entered into more mainstream Israeli political spaces which have thereby adopted more antagonistic readings on the above topics. This new Zionist consensus, prevalent across the Israeli political spectrum, effectively reshapes the dynamics of Israeli citizenship so that any "meaningful citizenship" is denied to Arab citizens through government policies, public discourse, official symbols and legislation. Rouhana and Sultany explain that

... the goals of the policy shift are clear: to bolster the Jewish character of the state while reducing the status of the Arab citizens to *something less than citizenship*, but in ways not dramatic or abrupt enough to disrupt Israel's democratic image abroad or its own comforting illusions about itself as 'Jewish and democratic' (Rouhana and Sultany, 2003, 19–20, emphasis added).

In other words, the intensification of the rooted ideological and political elements of Zionism – even in its most liberal form – shrinks and repeatedly reconfigures the margins and parameters of Palestinian existence, thereby rendering Israeli citizenship "a conditional privilege to be

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<sup>30</sup> See Rouhana and Sultany (2003) and also Sultany (2003).

conferred by the state” (Rouhana and Sultany, 2003, 14). The development of this ‘new Zionist hegemony’ has therefore formed an understanding shared by both Palestinian-Arab and Jewish-Israelis that the citizenship of Arab citizens is “not real,” that it is a “citizenship emptied of real substance;” or alternatively “that the Arabs are in effect citizens without citizenship” (Rouhana and Sultany, 2003, 10, 19).

The *citizens without citizenship* paradigm has also been applied to feminist, gendered and critical race theorizing of Israeli citizenship to illuminate the particular levels of marginalization and exclusion affecting Palestinian women citizens of Israel. A recent scholarly contribution with such a reading is *Women in Israel: Race, Gender and Citizenship* (2011) by Arab feminist Nahla Abdo. As mentioned in Chapter Two, Palestinian women face discrimination on three distinct yet connected levels: as members of an underdeveloped minority, as women living in Israel, and as women in Palestinian society. Each of these dynamics works to compromise the social, political and economic welfare of Palestinian women, and in turn, reflects the kind of citizenship made available to this community. From an incisive anti-racist and anti-colonial feminist perspective, Abdo analyzes the disproportionate effects of Zionist mechanisms of economic disenfranchisement, legal and constitutional exclusion, geographic confinement, social inferiority, and political and civic under-representation on marginalized women citizens of Israel. From this, she develops a theory of gendered exclusion that is applicable to the situation of Palestinian women at large. Abdo writes:

What actually differentiates the status of Palestinian women in Israel from their counterparts in other parts of the Middle East is the ambiguous relationship they have with the type of state imposed on them as their own. Palestinian women citizens find themselves in a unique position where the self-defined Jewish state became the only force which accorded them partial and inferior citizenship status while simultaneously removing them from the nation-state (Abdo 2011, 39).

Again, and key to the *citizens without citizenship* paradigm, the notion that there is something lacking in the kind of citizenship offered to Palestinian women in Israel resurfaces. Abdo looks closely at the structural, institutional and operational dynamics of the state as part of a settler-colonial regime that grants partial and inferior citizenship to marginalized women both in the Palestinian community and within the Jewish, especially the Mizrahi, community. Abdo points out that

[t]he hierarchical state of citizenship that is expressed in the differential distribution of rights allocates more power, access and resources to Ashkenazi

men and women, enabling them to control and monopolize epistemological production, whereas the marginalized Other such as Palestinians and Mizrahi Jews tend to be relegated to an inferior position with much less access to power and resources, negatively affecting their production of knowledge and human capital development (Abdo 2011, 8–9).

Perhaps most important for our purposes here is that Abdo focuses her examination of the processes of exclusion, racialization and exploitation that simultaneously disenfranchise women in Israel through a critical feminist reading of citizenship. The relations of exclusion that produce and reproduce the inferior status and development of women in Israel, mainly Palestinian and Mizrahi Jewish, but to some extent also Ashkenazi Jewish women, are made possible and reinforced by the structure of Israeli citizenship. As such, an examination of the gendered and racialized boundaries of citizenship in Israel is, for Abdo, part and parcel of any genuine challenge to Israel's state system and its policies and practices of exclusion.

#### STATELESS CITIZENSHIP

Of course, we have not exhaustively examined all of the kinds of social science research on the Palestinians in Israel, nor have we covered all of the formulations of Palestinian citizenship put forward by scholars and theorists. Yet, from the above small sampling of the scholarship on Arab citizens, and specifically on the dynamics of their citizenship, we already have a range of impressive analytical and conceptual paradigms at hand that seek to outline the practical and theoretical effects of the Zionist fusing of 'Jewish' and 'Israeli' identity on Arab citizenship.

As shown above, the academic literature has largely focused on the question of *what* Palestinian citizenship entails: What are the levels and sub-levels of citizenship in Israel? What kinds of rights and privileges are provided to Arabs by virtue of their citizenship? What is the relationship between Arab citizenship and the project of Judaization? Between Israeli citizenship and Jewish ethno-nationalism? Between a systematically stratified citizenship and Arab political, cultural, economic and social (under) development? By and large, the academic literature has tried to make analytical sense of what has led – through a multifaceted range of exclusionary legal, social and political developments since Israel's founding – to a deepening internal and disparate disconnect between *de jure* and *de facto* citizenship for the Arabs in Israel. In doing so, it has described the Israeli citizenship of its Palestinian population as a *one-way* citizenship, *hegemonic* citizenship, *illusory* citizenship, *shrinking* citizenship, *ghettoized*

citizenship, *hollow* citizenship, *mere* citizenship, *something less than* citizenship, and a citizenship *emptied of real content*. Whether it is Bishara's comparison between *incidental* and *substantive* citizenship, Zreik's attention to *potential* and *actual* citizenship, Peled's distinction between *liberal democratic* versus Jewish *ethnorepublican* citizenship, or Rouhana and Sultany's concept of *citizens without citizenship*, scholarly developments in the research on Palestinians have largely tried to answer the question of *what* Arab citizenship means by pointing to an absence of benefits, protection, identification and representation accompanying formal Israeli citizenship.

On the question of *how* the space for Palestinian citizenship has (d)evolved, (de)generated, and been (re)drawn, the above literature has mainly focused, as most impressive social science research of recent vintage does, on structural, institutional, conceptual, ideological, sociological, legal, racial, historical, economic, and gendered tendencies within the Israeli incorporation regime. In other words, it is through these and other disciplinary lenses that the academic literature has approached the question of *how* this Palestinian citizenship came to embody its existing exclusive dynamics. As a result, these formulations of Arab citizenship, of its features and dynamics, depict it as *missing something*, as an *incomplete* or *partial* citizenship whose structure cannot be used to sustain a liberal democratic society. For Arabs, Israeli citizenship lacks a symbolic element, is deficient in a range of rights and privileges, and is wanting of any genuine content. Thus, in answering the question of *how* this deprived citizenship is generated and maintained, along with the way in which its relations of exclusion are created, the focus of these scholars has often been limited to the rights, freedoms, resources, benefits, and discourses that are lacking, exclusionary or made inaccessible.

This book does not contest these conclusions. On the contrary, it is upon the impressive and rich critical sociological scholarship on Palestinians in Israel that this book is based, and from which it seeks conceptualize an analytical framework for understanding *how* the dynamics of Palestinian citizenship have developed. However, the above scholarship has left out an important and elemental part of the answer to *how* Palestinian citizenship is maintained: the means, the actual medium, *through* which, *by* which, and *from* which marginalized Palestinian existence is maintained in Israel is citizenship itself. Key to the project revolving around the paradigm of *stateless citizenship* is both to build on and move beyond the discourse of *citizens without citizenship*. Arabs living in 'Israel proper' have citizen status with citizenship rights, however limited. This is not a controversial point to make, nor does it describe anything



outside of the realities on the ground to which all of the above scholars point. To call it *without citizenship* is to blur the reality that the Arab lack of a genuine interaction with the Jewish state is a condition brought about precisely via their bestowal of citizenship. It is the very bestowal of citizenship, the *actual inclusion* within the Israeli incorporation regime, that produces the internal contradictions and paradoxes embedded in any Arab membership in the Israeli political and social system. Had the Arabs in Israel – the forgotten Palestinians of 1948 who remained in their homeland upon which the Jewish state was subsequently formed – not been granted Israeli citizenship, the discussion about and approach to the question of Israeli citizenship would have been very different. In such a situation, the relation of the Palestinian-Arab with the Israeli citizen regime would perhaps have been characterized as a strict exclusion, as something *outside and forever peripheral to the Israel regime*.

But as we already know, this is not the case. However truncated, the forgotten Palestinians have been granted Israeli citizenship and are, at least formally, part of the Israeli civic body. This is where the concept of *stateless citizenship* becomes a useful conceptual and analytical framework for understanding the various dynamics and levels of (in-)existence and (non-)representation to which Palestinians in Israel are subjected. Though the above scholars disagree on the particular kind of incorporation regime Israel has, differ in their analysis of mechanisms of power and control, and have contrasting understandings of the true aims of the Zionist project, they nevertheless agree that the movement of interaction between the State of Israel and its Palestinian citizenry is one of exclusion and non-reciprocation. This interaction results in a situation where the empowerment, expansion and common good of the Zionist regime not only fails to encompass Palestinian-Arab subjects, but is inevitably structurally and conceptually achieved to their disadvantage. However, what is left out of the discussion of *how* Palestinians are excluded from the Israeli political regime is that this movement or transition into a relation of exclusion is conducted through and generated from citizenship. Again, it is the provision of citizenship itself, the actual inclusion within the exclusionary Israeli citizenship regime that creates the inherent contradictions and paradoxes of Arab citizenship in a Jewish state. *In other words, it is through the granting of Israeli citizenship that Arabs are deemed stateless; it is through inclusion within the Israeli citizenship regime that they are excluded.* As such, it is the associated conceptual and political dynamics of this provision of citizenship that the paradigm of *stateless citizenship* seeks to emphasize and analytically deconstruct.



## CHAPTER SIX

### THE ANATOMY OF *STATELESS CITIZENSHIP*

To recap, the project of *stateless citizenship* is not to examine the Israeli citizenship of Palestinians through an account of what is lacking, absent, missing or deficient, in terms of rights, benefits, identity and representation. That much follows under the rubric of the *what* of Arab citizenship which has, as mentioned, been extensively documented and addressed by critical Palestinian and Israeli social science research. Instead, the intention here is to analyze the *how*; namely the conceptual and political dynamics of Israeli citizenship itself, as both a theoretical and practical notion. And when we begin our analysis from the condition of Arabs *with* Israeli citizenship, we realize that the problem extends from the racialized structures of Zionism to the ways in which the existing relations of exclusion in classical liberal citizenship are employed, reversed and enhanced by the Israeli incorporation regime. Thus, central to my account of the purpose, dynamic and structure of Israeli citizenship will be a focus on the embedded relations of exclusion in the concept of citizenship itself.

Evident from the small sampling of the existing scholarship in the previous chapter is that the deficiencies and contradictions of the citizenship offered to Israel's non-Jewish population have been extensively documented. That the Palestinian citizens of Israel are not placed on an equal conceptual, ideological, political or even legal footing with their Jewish counterparts<sup>1</sup> is no longer uncharted academic or political territory. Indeed, at a very rooted level, and despite their citizenship status, the Palestinian citizens of Israel remain stateless in the Jewish state. Thus far, my examination has shown that the mechanisms of control and exclusion developing out of the Zionist incorporation regime shape both the changing settler-colonial boundaries of the Israeli polity and, by extension, its hierarchical citizenship framework. The design of Israel's incorporation regime demarcates Palestinian-Arab access to citizenship rights and

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<sup>1</sup> The use of the term *compatriots* would be misleading here because, as explained, the State of Israel is, by its self-definition, not *theirs* (it does not belong to the Arabs). Arabs and Jews in Israel do not exist as equal countrymen and countrywomen; they are not 'with' the 'homeland' and they are excluded from (or do not share in) the existential, ideological, political and legal makeup of the state. As such, it is more apt to say that, in the Zionist framework, Jewish citizens are the *counterparts* of the Palestinian-Arab citizenry.

representation while repudiating their status within the state as *citizens of that state*, rendering this community *stateless citizens*.

Yet my examination of the Zionist incorporation regime, of Israeli *hostipitality*, and the dynamics of liberal-Zionism has also indicated that the statelessness of Palestinian citizens of Israel is not the statelessness of Palestinians in the West Bank, Gaza Strip, in the refugee camps and legal limbo within Arab states, and living abroad. This is an important point that ought to be emphasized: the *stateless citizenship* of Arabs in Israel must not be superficially conceptualized alongside the *statelessness* of other parts of the Palestinian nation. It is not an indistinguishable or interchangeable legal, political or socio-economic condition. Of course, students and observers familiar with the Israel-Palestine conflict understand that, at a very elementary level, the Palestinian nation as a whole – whether citizens or non-citizens of other states – are a stateless people. They do not have an established and independent state that agrees (or is able) to represent them, their needs, rights and aspirations, as a people.<sup>2</sup> At the same time, the statelessness of the Palestinian citizens of Israel differs both conceptually and substantively from the rest of the Palestinian nation. Despite the familiar arrangement, as it stands, the Palestinian citizens of Israel do have a particular political and legal relationship with the Israeli regime, that other Palestinians do not have. However limited and the internal contradictions aside, there are benefits granted to the Palestinian-Arab citizenry through their inclusion in the discourse of rights *as citizens* of Israel that are denied to the rest of the Palestinian population, such as mobility rights and the right to vote, among others. Granted, the oppressive and exclusionary mechanisms of the Zionist regime do extend beyond Israel's 'legal' boundaries, and they have been presented here as extending across a single political-geographic unit – inclusive of 'Israel proper', Jerusalem, the West Bank and Gaza Strip. But the Arab citizens of Israel no longer live under a brutal military administration and, for the most part, Israeli military violence and dehumanization measures against the Arab citizenry are not conducted or justified in the same political and legal manner as those in the West Bank, Gaza Strip,

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<sup>2</sup> Despite the UN General Assembly vote on November 29, 2012 to recognize the State of Palestine within the 1967 borders as a non-member state with observer status (mentioned in the Preface of this book), Israel is still an occupying power, and possesses complete military control and decision-making power over policies and practices concerning the environmental, economic and political development in the OPT, certainly in the West Bank and East Jerusalem, and to a great extent in the Gaza Strip.

neighbouring Arab states or abroad. For instance, during the ethnic clashes in the port-city of Acre in 2008, the Israeli security establishment had border guards pulled from the Ramallah area of the West Bank and sent to Acre.<sup>3</sup> While the same specialized border units tasked with dealing with non-citizen Palestinians in the West Bank were dispatched to deal with Israel's Palestinian citizenry, the official discourse from local political figures nevertheless remained one of coexistence and cohabitation among Jewish and Arab citizens.<sup>4</sup> We certainly do not see the same attempts by Israeli political and public figures to calm military and civilian violence by calling for coexistence with the Palestinians in the West Bank and Gaza. The multifaceted and mutually amplifying mechanisms of control, racial exclusion, systematic marginalization, and underdevelopment with which Palestinians citizens are faced are therefore discernible from the measures against non-citizen Palestinians. What this indicates, and what is outlined in this chapter, is that while all Arab Palestinians are excluded from the Israeli incorporation regime, the logic of the relation of exclusion faced by Arab citizens differs from that of non-citizen Palestinians. Conversely, the statelessness of Arab citizens is characterized by the fact that though they possess a recognized and legally supported citizenship status in Israel, but are not represented by it at an ideological, existential, institutional and political level. The State of Israel is, by its self-definition, not theirs. This makes them stateless in that they have formal membership but, as non-Jews, are not a part of the self-definition of, nor are they embodied by, the State of Israel. Taken together, such differences highlight the Zionist regime's particular use of *citizenship* in transferring the Palestinian-Arab population within Israel into a condition of *statelessness*. And this is where the concept of *stateless citizenship* becomes a particularly useful paradigm: it is able to analytically frame and illuminate the mechanisms through which this statelessness is achieved (*how* it is produced) and maintained (*how* it is preserved).

Abdo reminds us that the contradictions and contestations that serve as a defining feature of every nation-state are exaggerated and magnified in a settler-colonial state such as Israel. A hierarchical citizenship framework emerges as a result of this legally enshrined regime of racialized domination, and can be understood

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<sup>3</sup> *Ma'an News Agency*, "Israeli border guards pulled."

<sup>4</sup> The fact that these were army units tasked with securing Israel's *borders* illustrates how Arabs in Israel are also imagined as being located at the conceptual borders of the state, perpetually limited to its peripheries.

... in terms of the presence of two different processes operating simultaneously within the Israeli state: one of exclusion and racial separation which affects the Palestinian citizens at large; and another of racialized (and ethnified) inclusion to which Palestinians and Mizrahis (especially women) are subjected (Abdo 2011, 39–40).

The point alluded to here, and stressed in this chapter, is that it is not the case that the citizenship regime in Israel is non-inclusive whereas the citizenship regimes of other states are inclusive. As outlined in Chapter One, there is an inherent and categorical Otherizing that lies at the root of the concept and process of citizenship as such, one involving the formation and maintenance of an Other, a non-member or outsider excepted from the social arrangement. So the citizenship regime in Israel is not an anomaly because its citizenship is rooted in a relation of exception. Instead, what sets the Israeli citizenship regime (along with the particular peripheral placement of Palestinian-Arabs within it) apart is the specific mechanisms of Israeli citizenship and the exclusive dynamics of its *internal* relations. Left out of the scholarly discussion of *how* Palestinians are excluded from the Israeli political regime is the very fact that this relation of exclusion is sustained through the inclusive mechanisms of citizenship itself. Again, it is actual inclusion within the Israeli citizenship regime that creates the inherent contradictions and paradoxes of Arab citizenship in a Jewish state. And these ethno-national and racialized relations of exclusion shaping the Israeli citizenship regime stem from its commitment to political Zionism.

We know that, however truncated, Arabs in 'Israel proper' do have Israeli citizenship and are, at least formally, part of the Israeli civic body. Yet we also know that there nevertheless remains a range of conceptually under-explored dynamics and levels of (in-)existence and (non-)representation to which Palestinians in Israel are also subjected. What is missing from the discourse and academic research on the Arab citizenry of Israel is a conceptual account of the fact that theirs is a *statelessness that is realized through the provision of citizenship status*. In the rest of this chapter I explain that the conceptual, political, ideological and even legal implications of the stateless citizenship of Arabs in Israel can be understood through an examination of three separate yet related paradoxes which arise as a result of this form of citizenship, and within which this population placed. The stateless citizenship of the Arabs in Israel forms an *exclusive inclusion* whereby the bodies of this community become the borders of the state, is a condition of and conditional to Israel's *stable and perpetual state of emergency*, and creates a situation where the Palestinian-Arab

population *coexists* as citizens *without actually existing*. By deconstructing these three-pronged paradoxical conditions of an exclusive inclusion, a stable and perpetual state of emergency, and coexistence without existence, the concept of *stateless citizenship* illuminates the specificity of the mechanisms of Israeli citizenship and its internal dynamics. In doing so, stateless citizenship both works from and expands the paradigm of *citizens without citizenship* to redirect the scholarly discussion away from considerations of what is missing from Arab citizenship and instead centre our analytical gaze on the paradox that it is through (and with) citizenship that Arabs are deemed stateless.

As we will see, all three of the dynamics of stateless citizenship are necessary to the continued maintenance and reproduction of the Jewish state. The distinctive status of stateless citizenship provided to Arabs is itself a product of the exclusionary features of the Zionist incorporation regime, of Israeli *hostipitality*, and of the dynamics of liberal-Zionism. Put differently, the exclusions, inequalities, and violations outlined here, along with their conceptual dynamics and paradoxical realizations, are endemic to the existing hegemonic Zionist consensus. As a result, any struggle against the unequal juridico-political order, rampant discrimination and hierarchical citizenship structure of the State of Israel – the stateless citizenship of Arabs – necessarily involves a confrontation with the multifaceted forms of Jewish domination within it. It is important to stress here that the focus of this confrontation is not merely limited to Israel as a modern territorial state, but rather, it includes its racialized configuration, exclusionary ideological underpinnings and socio-cultural realizations. Hence, key to any challenge to the multifaceted discrimination faced by non-Jewish citizens in the Jewish state is a direct and genuine questioning of the Zionist incorporation regime.

#### KNOWING THE TERRAIN: FROM THE EXCEPTION TO THE EXAMPLE

Dedicating the ninth chapter of her book on totalitarianism to a critical account of human rights, Hannah Arendt in “The Decline of the Nation-State and the End of the Rights of Man” links the fate of the ‘rights of man’ with that of the nation-state. Though, in theory, the rights of man in the form of universal equality, emancipation from dependency, protection from state despotism, and the inalienable dignity of each individual belong to every human being, the practical realization of these rights is dependent on a nation-state. Implying a structural and deep-rooted

connection between the rights of man and the nation-state, then, Arendt identifies a paradox wherein the conception of human rights ceases to be based on the existence of the human being as such. Pointing to the figure of the refugee, she writes:

The conception of human rights, based upon the assumed existence of a human being as such, broke down at the very moment when those who professed to believe in it were for the first time confronted with people who had indeed lost all other qualities and specific relationships – *except that they were still human* (Arendt 1973, 299, emphasis added).

Put differently, the rights of man become the property of nation-states, so that membership with a nation-state becomes the real precondition of the ‘right to have rights’. Arendt tells us that within the nation-state framework, nothing is “sacred in the abstract nakedness of being human” as the inalienable and inherent rights of man are deficient in protecting and rendering visible the dignity of the human being the moment they cease to assume the form of citizenship rights within a recognized nation-state. Her objection is discernible in the evasive title of the 1789 *La déclaration des droits de l’homme et du citoyen*. The terms “homme” and “citoyen” do not decipher whether the two refer to distinguishable realities or whether they form a constituent system – or what Giorgio Agamben calls “a hendiadys in which the first term is actually always already contained in the second” (Agamben 2000, 19). In other words, the rights cited in the *Déclaration* are implicitly only attributed to the human being insofar as citizenship status is obtained and maintained – “only to the degree to which he or she is the immediately vanishing presupposition ... of the citizen” (Agamben 2000, 20). With this, human rights as such become part and parcel of the movement inscribing natural naked life into the juridico-political order and system of nation-states, for a “stable statute for the human in itself is inconceivable in the law of the nation-state” (Agamben 2000, 19). In such a situation, the only substitute for a home that is offered by a regime of nation-states is “an internment camp, a site of prolonged homelessness, an institutionalized limbo,” i.e., statelessness (Isaac 1996, 63). As such, far from an anomaly, the deprivation of national and civil rights and protections of refugees, asylum seekers and stateless peoples is part of the inherent dynamics of the political regime of nation-states.

In *Homo Sacer: Sovereign Power and Bare Life* (1998), an important resource for critical observers of the discourse of rights, the rule of law, and the nation-state regime, Agamben examines an obscure figure of Roman law – a person set apart from social membership with her/his



citizenship rights revoked. This figure is used by Agamben as a novel way of decoding the mechanisms through which the relation of exception constitutes the original relation of the whole of the Western paradigm of politics. Deemed sacred, the figure of *homo sacer* is one who cannot be ritually offered or sacrificed but whom one could murder without incurring a penalty. In other words, *homo sacer* is someone who is excepted from the law yet vulnerable to it; someone “subject to the law, but not a subject in the law” (Salter 2006, 171, 174). Though excluded from the law, Agamben points that this “juridico-political order has the structure of an inclusion of what is simultaneously pushed outside” (Agamben 1998, 18). As such, this relation of exception is “the extreme form of relation by which something is included solely through its exclusion” (Agamben 1998, 18). What is outside is included not merely through an “interdiction” or an “internment,” but is instead admitted through the very suspension of the validity of the juridico-political order. In other words, what is outside is included through the very ‘withdrawal from’ and ‘abandonment of’ the exception by the juridico-political order (Agamben 1998, 18). Hence, the relation of exception is not deduced from the rule, but emerges as a result of the suspension of the rule and is sustained in relation to it.

This exclusion can be explained through the Greek distinction between *zoē*, the mere fact of living – or bare life – and *bios*, the qualified political life. Although simple natural life carried “a natural sweetness,” it was excluded from the Greek *polis* in the most profound manner, as the end of the polis was not *zoē* but “life according to the good” (Agamben 1998, 2). Agamben explains:

The peculiar phrase ‘born with regard to life, but existing essentially with regard to the good life’ can be read not only as an implication of being born (*ginomene*) in being (*ousa*) but also as an inclusive exclusion (*an exceptio*) of *zoē* in the *polis*, almost as if politics were the place in which life had to transform itself into good life and in which what had to be politicized were always already bare life. In Western politics, bare life has the peculiar privilege of being that whose exclusion founds the city of men (Agamben 1998, 7).

Surfacing when *zoē* is excluded from *bios*, the pure, bare, biological life “fully enters into the structure of the state and even becomes the earthly foundation of the state’s legitimacy and sovereignty” (Agamben 1998, 127).<sup>5</sup>

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<sup>5</sup> When writing about *Versuchspersonen*, or human guinea pigs, who represent nothing to the sovereign except purely bare life, Agamben also asserts: “Precisely because they were lacking almost all the rights and expectations that we customarily attribute to human existence, and yet were still biologically alive, they came to be situated in a limit zone between life and death, inside and outside, in which they were no longer anything but bare life”

Yet, while “inaugurating the biopolitics of modernity” and though “placed at the foundation of the order,” this simple natural life gets lost in the figure of the citizen, within whom rights are preserved or maintained. Carried through Western political thought which focused on providing competing accounts of ‘the good life’, Agamben explains that this Greek understanding of the qualified political life as the ‘good life’ remains dominant. From this, he goes on to invoke Michel Foucault’s distinction between this classical political paradigm and the identification of a distinctively modern biopolitical paradigm whereby biological life of both the individual and the species becomes the main concern of politics. Agamben contends that in the transition from the classical to the biopolitical paradigm, the bare life of the Greeks as the simple unqualified fact of living that was excluded from the polis and political engagement is now incorporated and included in the sphere of politics. He writes:

The fundamental categorial pair of Western politics is not that of friend/enemy but that of bare life/political existence, *zoē/bios*, exclusion/inclusion. There is politics because man is the living being who, in language, separates and opposes himself to his own bare life and, at the same time, maintains himself in relation to that bare life in an inclusive exclusion (Agamben 1998, 8).

With this biopolitical paradigm, the classical exclusion of bare life from qualified political life has, in reality, become an inclusive exclusion. Here the concept of biopolitics allows Agamben to claim that this relation (which in the Western framework outlined the original distinction between the political and the non-political) actually marks the Western categories of *zoē/bios* and exclusion/inclusion. As such, in being excluded from the qualified political life, bare life is placed in a fundamental and intrinsic political relationship with the sovereign power that excludes it.

To expand on the features of this state of exception Agamben conjures the metaphor of the refugee camp. The figure of the camp is posited as the “absolute biopolitical space,” where “power confronts nothing but pure life, without any mediation” and where the state of exception is “realized normally” and transformed from a “temporary suspension of the juridico-political order,” to “a new and stable spatial arrangement” (Agamben 1998, 171, 175). He contends that

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(*ibid.*, 159). From this we understand that bare life is what surfaces when *zoē* is excluded from *bios*.

[t]he camp is a piece of territory that is placed outside the normal juridical order; for all that, however, it is not simply an external space. According to the etymological meaning of the term *exception* (*ex-capere*), what is being excluded in the camp is *captured outside*, that is, it is included by virtue of its very exclusion. Thus, what is being captured under the rule of law is first of all the very state of exception (Agamben 2000, 39).<sup>6</sup>

In other words, the camp is the structure or space in which the state or relation of exception is permanently realized. Those entering the camp – a permanent state of exception during which the law is suspended – therefore move about in a *zone of indistinction* between the inside and the outside, the relation of exception and that of the rule. Thus, as the “fundamental biological paradigm of the West,” it is the camp (and not the city) that serves as the site where “bare life and the juridical rule enter into a threshold of indistinction” (Agamben 1998, 181, 174).

Now, for Agamben, it is both the figure and the reality of the inclusive exclusion relation in the camp that underpins the contemporary model of citizenship in the Western political tradition. This relation of inclusive exclusion is the base upon which the traditional model of citizenship in Western liberal-democracies is built. Elaborating on the structure of this relation, Agamben contends that

[w]hat is excluded from the general rule is an individual case. But the most proper characteristic of the exception is that what is excluded in it is not, on account of being excluded, absolutely without relation to the rule. *On the contrary, what is excluded in the exception maintains itself in relation to the rule in the form of the rule's suspension. The rule applies to the exception in no longer applying, in withdrawing from it.* The state of exception is thus not the chaos that precedes order but rather the situation that results from its suspension. In this sense, the exception is truly, according to its etymological root, *taken outside* (*ex-capere*), and not simply excluded (Agamben 1998, 17–18, emphasis added).

In essence, through the “creation of a zone of indistinction, between outside and inside, chaos and the normal situation,” the juridico-political order is unable to clearly delimit its boundaries. As such, in order to refer to something, say a citizen-subject, the juridico-political order “must both presuppose and yet still establish a relation with what is outside relation (the nonrelational)” – namely, the non-citizen subject. In this sense, that which has been placed outside of the juridico-political order via the relation of exception, the refugee or stateless person, therefore acquires its

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<sup>6</sup> The term ‘exception’ is also examined in Agamben (1998, 169–170).

meaning from it as much as that which is included in the order, the citizen-subject. As a result, in being excluded from a qualified political life, bare life ironically enters a more embedded and elemental political relationship with the sovereign power. The modern biopolitical paradigm provides a kind of political inclusion in the very sovereign decision to exclude bare life. Agamben calls this the “sovereign ban:” a relation of exclusion which is, at the same time, an inclusion – or an inclusive exclusion – as the sovereign political authority continues to manifest even in the withdrawal of its resources and protection. He explains that

[h]e who has been banned is not, in fact, simply set outside the law and made indifferent to it but rather abandoned by it, that is, exposed and threatened on the threshold in which life and law, outside and inside, become indistinguishable. It is literally impossible to say whether the one who has been banned is outside or inside the juridical order (Agamben 1998, 28–29).

Agamben continues by positing the figure of the bandit, the exile, and later the camp inhabitant, as the figure traditionally subjected to the sovereign ban, whose

... entire existence is reduced to a bare life stripped of every right by virtue of the fact that anyone can kill him without committing homicide; he can save himself only in perpetual flight or a foreign land. And yet he is in a continuous relationship with the power that banished him precisely insofar as he is at every instant exposed to an unconditioned threat of death. He is pure *zōē*, but his *zōē* is as such caught in the sovereign ban and must reckon with it at every moment, finding the best way to elude or deceive it. In this sense, no life, as exiles and bandits know well, is more ‘political’ than his (Agamben 1998, 183–185).

Taken together, far from an aberration, the relation of exception and its inclusion of bare life in the political sphere “constitutes the original – if concealed – nucleus of sovereign power” in modern (particularly Western) nation-states.<sup>7</sup> Given that this “*production of a biopolitical body is the original activity of sovereign power*,” what is significant with the modern nation-state and its citizenship regime is that as biological life is placed at the centre of its calculations the “secret tie uniting power and bare life” is both highlighted and reaffirmed. Key to the relation of exception is that even by limiting the stateless persons, asylum seekers, refugees, foreigners, temporary workers, guests and aliens and other Others to the excluded margins,

<sup>7</sup> Here Agamben emphasizes that “[i]n this sense, biopolitics is at least as old as the exception” (ibid, 6).

these traditional marginal figures nevertheless acquire their meaning from this relation. In other words, these non-citizen Others continue to shape the vertical and horizontal peripheries of citizenship and are included and captured within the political sphere; both figuratively and materially given that they continue to maintain a relationship with the sovereign that excludes them. Politicized and included through their exclusion, these figures of bare life are, paradoxically, part and parcel of the traditional model of citizenship.

To deepen our understanding of the dynamic of *inclusive exclusion* – and to examine the effects of its inverse realization in the form of *exclusive inclusion* – Agamben brings in a discussion of language. As a counter to the *exception*, the *example* is introduced into the discussion as “situated in a symmetrical position” and “form[ing] a system” with the exception. Agamben explains:

*Exception and example constitute the two modes by which a set tries to found and maintain its own coherence. But while the exception is, as we saw, an inclusive exclusion (which thus serves to include what is excluded), the example instead functions as an exclusive inclusion [which serves to exclude what is included] (Agamben 1998, 21, emphasis added).*

And he goes on to deconstruct the internal dynamics of the example:

[T]he paradox here is that a single utterance in no way distinguished from others of its kind is isolated from them precisely insofar as it belongs to them. If the syntagm “I love you” is uttered as an example of a performative speech act, then this syntagm both cannot be understood as in a normal context and yet still must be treated as a real utterance in order for it to be taken as an example. *What the example shows is its belonging to a class, but for this very reason the example steps out of its class in the very moment in which it exhibits and delimits it (in the case of a linguistic syntagm, the example thus shows its own signifying and, in this way, suspends its own meaning).* If one now asks if the rule applies to the example, the answer is not easy, since the rule applies to the example only as to a normal case and obviously not as to an example. *The example is thus excluded from the normal case not because it does not belong to it but, on the contrary, because it exhibits its own belonging to it (Agamben 1998, 22, emphasis added).*

Already we see that the mechanism of the *exception* differs from that of the *example*. *The relation of the exception* includes something in the “normal case” by excluding it. This corresponds to the traditional relation of exception embedded in citizenship that excludes the non-citizen Others from its internal dynamics of representation, resource provision and protection. In so doing, the exception includes the excluded Others

within the relation by allowing (or, alternatively, tending to force) them to attain their very meaning from this relation. *The relation of the example*, however, excludes something from the “normal case” through the very motion of belonging to it. In other words, the example is not excluded by being excluded *as such*. Instead, it enters a relation of exclusion through its very inclusion, by exhibiting its belonging to it. Thus, while the exception is included from the relation insofar as it is excluded, the example is excluded from the relation insofar as it is included. Agamben explains that

[i]n every case, ... exception and example are correlative concepts that are *ultimately indistinguishable* and that come into play every time the very sense of the belonging and commonality of individuals is to be defined. In every logical system, just as in every social system, the relation between outside and inside, strangeness and intimacy, is this complicated (Agamben 1998, 22, emphasis added).

Hence, the mechanism of the exception, the traditional relation of exception existing in the model of citizenship, is one of *inclusive exclusion*. And the mechanism of the example, the inverse of the relation of exception within this model of citizenship, is therefore one of *exclusive inclusion*, whereby something is excluded through the very process that includes it.

#### AN EXCLUSIVE INCLUSION

As we will now see, it is the latter mechanism – the relation of exclusive inclusion – that underpins and structures the particular relation of Palestinian-Arab citizens with the Israeli state and its citizenship regime. Importantly, Agamben holds that the inherent dynamics and mechanisms of inclusive exclusion and exclusive inclusion are “ultimately indistinguishable.” First, this points to the stateless features of Palestinian-Arab existence in Israel that persists in spite of citizenship status. And second, it also illuminates the rooted and elemental statelessness present among all Palestinians, *as Palestinians*, to which we pointed above. All in all, the dynamic of exclusive inclusion constitutes the primary and major paradoxical feature formed through the stateless citizenship of Palestinian-Arabs.

By now we know that the Palestinian-Arabs in Israel are denied national-membership as non-Jews, and state identification, given Israel’s legal, political, and social self-definition as a *state for the Jewish people*. At the same time, this community is also distanced from the rest of the Palestinian population through the same legal, political, and social dimensions.

With this, one dimension of the statelessness of the Palestinian citizenry comes to the fore, namely, that there is no independent and recognized state that claims to represent and account for the needs of this community as Palestinian-Arabs. Yet, there is another elemental dimension of statelessness unique to the Arab community inside Israel captured and encapsulated by the notion of *stateless citizenship*: what is particular to the case of Arab citizens is that the statelessness of the Palestinian-Arabs in Israel lies not in the *absence* of citizenship, but rather in the *presence* of citizenship status.

It is not an exception from the State of Israel's juridico-political order that excludes Palestinian-Arabs. There is a zone of indistinction that is created between outside and inside, between the collective juridico-political Self and the Other, and between chaos and the normal situation. However, the placement of Arab citizens within this zone of indistinction is not in the form of the nonrelational, because the sovereign decision to exclude them generates a simultaneous political inclusion. The sovereign decision of the State of Israel, its "sovereign ban," does not exclude Arab citizens as it does the broader Palestinian nation. As mentioned, in the case of the latter group, Israel's sovereign political authority continues to manifest even in the revocation of its resources and protection, thus forming a relation of exclusion that is, simultaneously, an inclusion. For Arab citizens, it is their very inclusion in what is essentially an exclusive juridico-political state that fosters their exclusion from state membership, rendering them *stateless citizens*.

Such differences indicate the Zionist regime's particular use of *citizenship* in capturing the Palestinian-Arab population within Israel in a condition of *statelessness*. The modern paradigm of citizenship, traditionally a tool for inclusion in the rubric of state representation, accountability, protection and some form of social membership, is here placed on its head. Its inclusive exclusionary mechanisms are inverted. It is Palestinian-Arab inclusion within the Zionist citizenship regime that constitutes their multifaceted exclusion, thereby making the condition of Palestinian-Arab citizens a reversal of the classical relation of exception in the Western model of citizenship.<sup>8</sup> In contrast to the state of exception, where those in the camp are included by not belonging to the state, as stateless citizens, Palestinian-Arabs are excluded in the Israeli regime exactly insofar as they are included. Palestinian-Arabs are not denationalized; they are not

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<sup>8</sup> See footnote 9 in the Introduction.

stripped of their Israeli citizenship, they do not exist outside of the law, and there is no suspension of the validity of the juridico-political order. *It is the reverse.* Since they are recognized as Israeli citizens, international and domestic laws apply, and they have (limited) access to the institutions of the Israeli civic community, thereby making their relation to the state that of exclusive inclusion. The relation of exclusion within which Palestinian-Arab citizens are placed functions like the model of the *example*: as an exclusive inclusion. As such – and perhaps most important for us to consider – the *only way* in which Palestinian citizen membership within a Zionist state (one that is built on the pre-existing rejection and exclusion of the Palestinian subject) is realized is through the logic of stateless citizenship. Put differently, and worthy of emphasis, the exclusive inclusion of Arabs into its citizen regime is the only way in which the Zionist juridico-political order can remain internally coherent and intact. Indeed, short of deconstructing itself, stateless citizenship is the only kind of relationship the Israeli incorporation regime can allow itself to have with its non-Jewish constituents.<sup>9</sup>

The similarity between the two relations, inclusive exclusion and exclusive inclusion, is that the inhabitants of both states of being move about in a zone of indistinction between the inside and the outside, between the relation of exception and that of the rule. A familiar arrangement emerges: like all Palestinians, the Palestinians inside Israel are also rendered stateless. However, for the Palestinian-Arabs in Israel it is citizenship that serves as their entry into statelessness, and through the paradigm of *stateless citizenship* we can delineate the contours of the associated conceptual and political dynamics of this provision of citizenship. In doing so, in building a conceptual account of the unique parameters of the statelessness of Palestinian-Arabs in Israel, the actual practical institutional, political, ideological and legal mechanisms to which we have previously pointed begin to surface as part of the maintenance of their statelessness. Again, it is questions of *how* Arab statelessness inside Israel is produced and *how* it is preserved that the concept of *stateless citizenship* and the mechanism of exclusive inclusion are able to analytically frame.

Stateless citizenship, or the exclusive inclusion of the Palestinian-Arabs in Israel is reflected in Mark Salter's detailed account of the experience of 'the neurotic citizen at a border examination' (Salter 2008, 365, 374–377).

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<sup>9</sup> This point was alluded to during our examination of recent Israeli legislation in Chapter Two, illustrating that the strengthening of the Jewish character of Israel inevitably generates a feeble and tenuous democratic character.



Salter delineates an “embedded confessionary complex” faced by the citizen at the border which, rather than viewed as a “simple line indicating the limits of sovereign jurisdiction,” is defined as exercising “performative” functions. Here, the meaning of governmental procedures, choreographed national boundaries, and state policies registers and is realized only when performed by state authorities and subjects actually crossing the borders. Salter explains that “border agents and state bureaucrats play a critical role in determining where, how, and on whose body a border will be performed,” and with this verdict these representatives establish the border as a permanent state of exception. In other words, border examinations compel citizens, all citizens, to perform both their citizenship and the sovereignty of the state, placing them in an indefinite state of exception. He writes that

... governmental procedures of examination at the border institutionalize a continual state of exception at the frontier that in turn performs the spatio-legal fiction of territorial sovereign[ty] and the sovereign subject in each admission/exclusion decision (Salter 2008, 365).

Far from a suspension of the law, the border examination and the resulting state of exception is part of the sovereign decision to include a subject within its juridico-political order, an inclusion through which both the authority of the sovereign is reproduced and the submissive travelling subject is created (Salter 2008, 365, 371, 373). “In short,” explains Salter, “border policing creates securitized subjects,” and as a “confessionary machine” the border therefore creates the exclusionary relations and figures of insider/outsider and citizen/foreigner. In becoming members of the body-nation, citizens transform into subjects to be managed, directed, evaluated and contained, and as the “primary institution of citizenship” the border inspection also serves as that which “contains, disciplines, and normalizes the passage from the anarchic, dangerous international to the political, safe domestic” (Salter 2008, 374).

Salter’s metaphor of *the border* immediately appears to us as more reflective of the exclusive inclusionary political and legal realities of the Palestinian-Arab citizens of Israel than that of *the camp* – a condition of inclusive exclusion. Existing in a permanent state of exclusive inclusion, Palestinian-Arab membership with the State of Israel through citizenship status makes their *bodies into borders*. They are included in the Israeli incorporation regime, yet they are perpetually consigned to its peripheries. The racially hierarchical framework of the Israeli state apparatus and its juridico-political order determines that the borders of the state, its

ideological and conceptual contours and the limits and ends of its representation and protection, all acquire their shape and meaning from the Palestinian-Arab citizenry. And, in performing the boundaries of the State of Israel, Arab citizens reproduce the sovereignty of the state, thereby also reproducing their placement in an indefinite state of exclusive inclusion. Their position relative to the state, regardless of their location and situation within its juridico-political order remains, as Palestinian citizens, on its margins. Now, the rest of the Palestinian population, living under a suffocating military occupation, can also be understood as constituting and demarcating the boundaries of the Jewish state. Indeed, we can say that where *Israel* ends, *Palestine* begins, and vice versa – even when these two imagined spaces are juxtaposed. The difference in the nature of these demarcations, however, lies in the actual interaction of the Palestinian-Arab citizens of Israel and the rest of the Palestinian population with the state. The bodies of the former segment of the Palestinian nation, the Arab citizens of Israel, are rendered the borders of the regime through their very inclusion within its citizen body, while the latter segment is limited to its periphery through active mechanisms of direct exclusion.

In fact, the performative dynamics of the border to which Salter points, along with its ability to create the categories of insider/outsider and citizen/foreigner become particularly interesting when one notes that Israel is the only internationally recognized state in the world without final borders. Continued occupation, annexation, expropriation, expansion, displacement, forced transfer and besiegement of the Palestinian population and their lands places Israel's borders, in practice, in a continuous flux.<sup>10</sup> One of the many impediments introduced and maintained by

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<sup>10</sup> Of course, the legal situation is quite different from the reality of Israel's borders on the ground. Today, world leaders and state players active in the negotiations between the Israeli leadership and the Palestinian Authority repeatedly refer to a two-state settlement encompassing a future Israeli and Palestinian state 'based on the 1967 borders'. Important to consider here is that reference to the 1967 borders as the demarcating line between legitimate Israeli territory and areas to which Palestinians are entitled (namely, the West Bank, Gaza Strip and East Jerusalem as its capital) do not consider the inherent tensions and contradictions between United Nations Resolutions 181 and 242. Nor do they adequately consider the near complete unwillingness of the Israeli side to submit to either internationally mandated Resolution.

As mentioned in Chapter Four, footnote 3, UN Resolution 181 called for the partition of Mandate Palestine into two separate bodies: a state for the Jewish minority and a state for the large Palestinian-Arab majority. The demarcation lines formed in the Rhodes-Armistice Agreements, known today as the 'Green Line', remained the case until June 1967, when – in the face of years of human rights violations, systematic displacement and expropriation of the lands of Palestinian-Arabs – the conflict escalated in the form of a six-day war which, in the end, left the victorious US-supported Israeli forces with control over the West Bank,

the Zionist state and quasi-state apparatus to the solidification of its final borders is the continued building of the apartheid wall in the West Bank and Jerusalem.<sup>11</sup> By now, about a decade after construction work began on

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East Jerusalem, the Gaza Strip, Syria's Golan Heights and Egypt's Sinai region. The defeated Arab states painfully accepted the agreement outlined and passed unanimously by the UN Security Council as Resolution 242 of November 22, 1967, which held that the June 4, 1967 border would become the legitimate and recognized borders of the State of Israel. However, Resolution 242 also held that Arab recognition of these borders depended on Israeli detraction and evacuation of the Arab territories occupied since June 1967. As we now know, this detraction and evacuation was not forthcoming, and Israeli settlement expansion along with the building of new outposts has since continued and intensified, particularly in the West Bank, but also in the occupied Golan Heights.

Further, what Resolution 242 also did was to simultaneously render legitimate the illegal occupation of Palestinian land by the Zionist forces during the 1948 Arab-Israeli war. Though deeming it "most essential that due emphasis be put on the inadmissibility of acquisition of territory by war and hence on the imperative requirement that all Israeli armed forces be withdrawn from the territories occupied as a result of military conflict," the lands forcefully occupied by the Zionist militaries before the implementation of Resolution 181 were thereby normalized as belonging to 'Israel proper'. In doing so, the UN Security Council has granted legitimacy to the lands illegally acquired through previous Israeli military conquests in exchange for the evacuation of lands later conquered – thereby setting a devastating precedent. Evidently, Resolution 242 appears to be working with principles that would render void and repudiate its own acceptance of the 1967 borders as agreed-upon territorial boundaries for the State of Israel. Taken together, the legitimacy of the borders of 'Israel proper', namely the June 1967 borders, is inherently dependent on its compliance with Resolution 242, and others. Until such compliance, to remain politically and legally consistent, if the international community were to accept the inclusion of large Jewish settlements in the West Bank within the State of Israel by its leadership, it must also accept and consider legitimate the Palestinian claim to lands in 1948-Palestine, which would include cities such as Haifa, Acre, Nazareth and Jaffa as part of the state of Palestine. See United Nations Security Council, 1382nd Meeting, *Resolution 242*, (S/PV.1382), November 22, 1967, <http://unispal.un.org/UNISPAL.NSF/0/9F5F09A80BB6878B0525672300565063>; Pappé (2006); Ben-Gurion (1999); and Finkelstein (2003).

<sup>11</sup> In Western mainstream and liberal media and academic circles, this structure is often called the 'security', 'separation', anti-'terrorism' or 'annexation' *fence/barrier*. However these terms are all deeply problematic, misleading and even incorrect. The concrete parts of the around 709 kilometres long wall (a distance that is twice the length of the 'Green Line') are 8 meters high (around twice the height of the Berlin Wall) and armed with watchtowers and a 'buffer zone' ranging between 30–100 meters wide for electric fences, surveillance cameras, checkpoints, trenches, sensors, and army patrol. As it stands, these concrete parts are mainly present in the Bethlehem area, Qalqiliya, Ramallah, parts of Tulkarm and throughout the areas surrounding Jerusalem. Other parts of the structure consist of layers of razor and plain metal wire, military patrol roads, sand paths, deep ditches, road blocks and surveillance cameras. Now, to call this structure a *fence* or simply a *barrier* is either misleading, as it cloaks the fact that major parts of the wall are concrete, or it is too vague a description to adequately reflect the devastating realities of this structure. Put differently, similar to a bicycle and an army tank which are both vehicles, a fence and a concrete wall are both barriers, but their respective capacities for devastation are certainly not comparable. Moreover, as quoted in Chapter Four, footnote 17, geo-strategist and architect of the wall, Arnon Soffer admitted that far from 'security' concerns, his motivations behind the function and path of the wall were deeply demographic. So, the

the wall under former Prime Minister Ariel Sharon in June 2002, the initiative has run aground. Work has slowed significantly since September 2007 and, as stated by Amos Harel, journalist for *Haaretz*, all indications point to the fact that “the West Bank fence [or wall] is not done and never will be.”<sup>12</sup> Thus, with undecided and constantly rearranged borders, the demarcating lines in Israel between inside and outside, citizen and foreigner, and even between life and death, surface through different and multifaceted mechanisms of exclusion. Here, the relations of inclusive exclusion and exclusive inclusion serve the function of a border. What is different, however, is that in the case of Israel – a state, again, whose borders remain undetermined and in constant flux – the function played by its borders as outlined by Salter are horizontally and vertically extended and dispersed across and through the Zionist state apparatus, bleeding into socio-cultural, juridico-political, economic and infrastructural spheres. In other words, the experience of the “neurotic citizen at a border examination,” as Salter explains, has here been magnified exponentially, extending far

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descriptives of the wall as one for ‘security’ or ‘anti-terrorism’ are also inadequate. Regarding the appropriateness of the term ‘annexation’ to describe the wall, though the term does refer to a unilateral act where a territory is captured and incorporated by a stronger state, often through coercion, annexed areas are usually legitimated through the general recognition and acknowledgement of other international bodies and nation-states. In contrast, in the case of Israel, the International Court of Justice ruled in July 9, 2004 that both the *wall* (as it decided to call it in its ruling) and the associated regime that had been imposed on Palestinian inhabitants around it are illegal. And finally, as for the descriptive ‘separation’, this term implies that the wall somehow separates Israelis from non-Israelis; or rather Jews from Palestinian-Arabs. What the term fails to capture is the way in which the wall’s snake-like path separates members of communities from one another. Not only does it spatially divide Palestinians from Jews, but it separates Palestinians from other Palestinians, family members from each other, children from their schools and so on. As a result, the appropriate characterization of this structure appears to be the ‘apartheid wall’ to both capture its concrete realities, and point to the fact that the path, function, and development of the wall is systematically designed and implemented so as specifically to disenfranchise and devastate Palestinian-Arab life in and around the West Bank and Jerusalem. This is a political situation where the planned building of a wall is systematically implemented and results, on a daily basis, in displacement, violent repression, land confiscation, housing demolitions, uprooting of olive trees and other agriculture, creation of enclaves, and restrictions on movement and access to water, food, education, health care, and employment, all of which affects the ‘normal’ functioning of Palestinian life. In such a situation, one cannot maintain a clear moral and political conscience by simply adopting acceptable generic descriptions of the wall such as *fence* and *barrier*. The violations of such a devastating structure should not be concealed with less politically charged and softer descriptives. Thus, here as elsewhere, I define this structure, accurately, as an ‘apartheid wall’. For updated statistics and analysis on the wall, see B’Tselem: The Israeli Information Center for Human Rights in the Occupied Territories, “The Separation Barrier,” [http://www.btselem.org/topic/separation\\_barrier](http://www.btselem.org/topic/separation_barrier).

<sup>12</sup> Amos Harel, “West Bank fence not done and never will be, it seems,” *Haaretz*, July 14, 2009, <http://www.haaretz.com/hasen/spages/1100022.html>.

beyond the borders of the state. Without fixed borders, the “embedded confessionary complex” faced by the citizen at the border and prevalent at the peripheries of the nation-state have effectively bled into the whole of the Zionist state apparatus affecting both those on the inside and the outside, both the citizen and the foreigner. Yet with the ethno-nationally hierarchical Zionist citizenship regime – and the legal framework for their inferior and unequal status within the State to which we pointed in Chapter Two – it is the non-Jewish citizenry that is excluded through its inclusion in the sovereign jurisdiction. Through their citizenship, Palestinian-Arabs actually perform the borders of the State of Israel, and as such, they are never realized as fully inside or outside the state for, as non-Jews, they are at the permanent threshold of the state.

It is important to note here that this absence of set state borders both shapes the function the state itself performs in the Zionist project and helps structure Israel’s hierarchical citizenship regime. It is not the Zionist project that serves an overriding state project; rather, it is the state that serves as an instrument for and is superseded by Zionism’s continued settler-colonial project. Raef Zreik points to the fact that the organizations and institutions declaring the State of Israel were mandated to represent not only Jewish-Israelis in the *Yishuvs* of Mandate Palestine, but Jews all over the world. By extension, this mandate, he explains, reflects the broader mandate and purpose of the State of Israel itself. Indeed, the *Declaration of the Establishment of the State of Israel* itself specifies that the purpose of the state is to be “open for Jewish immigration,” foster “the ingathering of the exiles” and encourage “the Jewish people throughout the Diaspora to rally round the Jews of Eretz-Israel in the tasks of immigration and upbuilding.”<sup>13</sup> Zreik explains that the mission of the state was therefore to draw in and integrate Jews from all other nation-states, making the creation of the state itself “only one stage in a long journey.” He stresses that this was (re)affirmed three years after the establishment of the state by David Ben-Gurion who, in a 1951 speech made to the American Zionist Movement, explained that the creation of the state was not the culmination of the Zionist project:

*Zionism is a dream while the state is a fact.* The state only speaks in the name of its citizens and its laws are only valid for its citizens within its sovereign borders. However, not all Jews can take part in this sovereignty, but rather only few of them .... As a citizen of Israel my relation to the people of Israel

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<sup>13</sup> *Declaration of the Establishment of the State of Israel*, May 14, 1948, <http://www.unhcr.org/refworld/docid/3ae6b519io.html>.

has priority over my relation to my state because the state is just a tool, and at this point in time the state has absorbed only a small part of the nation ... *the state is a tool and an instrument, but it is not the only tool* (Zreik 2008, 139–140).

As explained in Chapter Five, Israel remains the only recognized state in the world whose citizens do not constitute its nationals. The constituents included in the Zionist national project are not limited to those within or even legally tied to Israel itself, whereas those who are actually within the state and legally bound to it are not actually viewed as its constituents. This point, (re)asserted by Ben-Gurion above, dilutes and blurs the distinction between *actual* and *potential* citizenship, and goes on to delimit the state as an instrument for the broader project of Judaization in Palestine. *The Law of Return (1950)*, to give an example, ought therefore not be understood as a law of the State of Israel, but rather as a legal precursor that constitutes the state. It is the Zionist project, and laws such as *The Law of Return (1950)*, that actually create the Jewish state, not vice versa.

The absence of fixed and decided borders is also reflective of the intentions and mandate of the State of Israel and the Zionist incorporation regime whose ideological and political constituency is not only not limited to those Jews inside Israel, but also does not include those Palestinian-Arabs inside the state. So, Israeli Prime Minister, Benjamin Netanyahu, is correct in more ways than one when in December 2011 he states in honour of International Human Rights Day that “We’re proud to be a country that is governed by laws, not people.”<sup>14</sup> The actual people inside the state are beside the point. These laws govern the state by maintaining a relation of domination among its citizens that is divided along ethno-national lines so that, though incorporated into its citizenship regime, a relation of exclusive inclusion renders the bodies of Arab citizens the conceptual borders of the Zionist state. Put differently, they are included in the Jewish state only so that they can demarcate its boundaries. Not included in the ‘Zionist dream’, and left out of the mandate of the Jewish state, Palestinian citizens are thus limited to its peripheries, substituting for its lack of fixed borders. And so, the stateless citizenship of Arabs in Israel is a statelessness that persists despite – and through – the bestowment of citizenship status.

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<sup>14</sup> Merav Michaeli, “When Netanyahu wants to be like Putin,” *Haaretz*, December 12, 2011, <http://www.haaretz.com/print-edition/opinion/when-netanyahu-wants-to-be-like-putin-1.400907>.

## A PERPETUAL STATE OF EMERGENCY

As an instrument, state-building is actually secondary to the unyielding project of Judaization. Fuelling this project and its state of exclusive inclusion is a perpetual state of emergency which, despite the absence of any genuine existential or material threat, remains a dominant and overwhelming Zionist aim. Through the application of a security discourse, Israel has systematically denied its Arab citizenry access to social, political, and economic benefits including access to land, resources and high-ranking political and legal state posts, among others. Rather than serving as an exception to the fact, the security rhetoric directed at Palestinian citizens reflects a permanent amalgamation by the state of the physical and conceptual presence of this community with the notion of an existential threat. Here the only ethic governing the border, and by extension the bodies of the Palestinian citizens of Israel, is what Salter calls the “Machiavellian ‘virtue’ of security ... [, namely] a narrative of sovereign protection that obscures the running state of exception at the border” (Salter 2008, 372).

The Israeli regime repeatedly makes the active decision to merge the existence and exclusive inclusion of Palestinian-Arab citizens with the notion of a ‘security threat’. Indeed, this Zionist conception of an emergency has accompanied the Israeli regime since its establishment. Rouhana and Sultany explain that though “this feeling progressively faded after the 1967 war, the 1978 peace agreement with Egypt, the Oslo accords with the Palestinians in 1993, and the peace agreement with Jordan in 1995,” the start of the Al-Aqsa Intifada witnessed a steep revival of the opinion that Israel faces an existential threat (Rouhana and Sultany 2003, 9). Indeed, it is the interface between Zionist objectives concerning security and territorial consolidation that has formed Israeli policy toward its Arab community. Lustick’s (1980) detailed account of the transition of the Zionist movement from a pre-state to a post-state project, mentioned in Chapter Two, is useful to reconsider here because in it he also points out that the state is an instrument and not its final objective – that it is a means to an end. He explains that widespread ideological commitments to the maintenance of the Jewish character of Israel are entrenched in a set of institutions that actively advocate Jewish independence in Palestine, mass Jewish immigration, increase of Jewish land ownership and other Zionist aims (Lustick 1980, 89). Together, these institutions – including the aforementioned Jewish Agency, the JNF, the *Histadrut* (general union of workers), the *Haganah* (the underground army and later the IDF), the Basic Fund, and the other political associations and their respective

educational systems and kibbutz (agricultural commune) movements – formed a kind of proto-state before 1948, called *Yishuv*, at an institutional and practical level. And, after 1948, it is these very institutions, whose primary commitment to the Zionist ideology remained unscathed, which continued to function as quasi-state organizations.<sup>15</sup> As a result, the Zionist movement's desire to achieve a multifaceted Judaization of Mandate Palestine was intersected with the objectives of security and territorial integrity, creating a regime of comprehensive restrictions on Palestinian-Arab life in Israel. Lustick recounts:

The leadership of the new state wanted to prevent the Arab minority from serving as a fifth column or abetting a large-scale infiltration; to acquire from Israeli Arabs [or Arabs in Israel] a large percentage of their land-holdings; to take advantage of Arab resources for the absorption of new immigrants; to harness Arab economic power for the rapid development of the Jewish-controlled economy; to aggregate political support among Israeli Arabs for partisan advantage; and to prevent the Arab minority from becoming a burden in the arena of international politics (Lustick 1980, 63).

In other words, the goals of the Zionist movement centred on the development and solidification of Jewish domination and did not include the equal integration or absorption of the Palestinian population into the framework of the newly established regime.

Crucial for understanding the dynamics of the existing relations of inclusion and exclusion in the Israeli regime is the declaration of a state of emergency made immediately after its establishment. As we will see, the status of stateless citizenship and its mechanisms of exclusive inclusion would not be possible without the operation of a conceptual and practical state of emergency. During the first twenty years of the existence of the Jewish state, a Military Government or Military Administration was employed to control and isolate the Arab population. Military governors were selected directly by the Minister of Defence to oversee 'Arab affairs', and practiced their authority on the basis of the *Emergency Regulations* inherited from the British colonial regime (Jiryis 1976, Chs. 1–3).<sup>16</sup>

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<sup>15</sup> On the continuity of the pre-state ideological practices and policies, Gabriel Piterberg explains that "... the period between the War of Independence and the Six Day War witnessed attempts to replace the partially exclusivist institutional structures of Zionism with the formal universalism of the Israeli state. But the continued existence within Israeli society and politics of institutions that evolved with exclusivist intent during the *yishuv* did not bode well for such attempts" (see Piterberg 2008, 91).

<sup>16</sup> Israel's adoption of the *Emergency Regulations* left behind by the British Mandate is further explained in Chapter Two.



These regulations became operative only after an 'emergency situation' was declared immediately following the 1948 establishment of the state, thereby forming the framework within which Arab citizenship was to be constructed. Indeed, at its first instance the inclusion of the Palestinians who remained on their lands after the 1948 Arab-Israeli war resulted in their immediate and simultaneous exclusion from the state order. At the very moment of being declared citizens of the State of Israel, Palestinians were – explicitly on the grounds of being 'non-Jews' – subjected to *Emergency Regulations* excluding them from a wide variety of juridico-political, civic, socio-cultural and economic spheres. In fact, that such a state of emergency continues to officially remain in force in Israel today accounts for the persistence of the exclusive inclusion of Arab citizens.

Given this continuity, it is therefore important to understand the existing patterns of institutional and structural systems of control and exclusion in Israel through its declared state of emergency as part of a *normal* pattern of behaviour. In an incorporation regime founded on the principle and objective of Jewish superiority, the only *normal* function or conduct is one that is antithetical to genuine inclusion, democratic citizenship and equality. As such, the parameters of a state of emergency that sanctions and cultivates a securitized and repressive treatment of the non-Jewish population is part and parcel of the Zionist incorporation regime. Now, in being widely considered a democracy, the stateless citizenship of and multifaceted exclusions faced by Arabs in the State of Israel are, often, deemed temporary *imperfections* and *limitations* by Western and Israeli scholars. To challenge the misconception that the relations of exclusion in the Jewish state are temporary and even inherently foreign to its ideological and political makeup, Kimmerling explains to us that

[t]hese imperfections have conveniently been attributed mainly to external and situational factors, such as Israel's protracted conflict with its environment. It has been presumed that once the conflict is terminated, these major deviations from the liberal democratic model will be corrected. All these scholars have emphasized the existence of structural conditions for a viable democratic regime in Israel (Kimmerling 2001, 180).

That Israel's political and legal establishment continues to permit the deep-rooted inequality and exclusive inclusion of Arab citizens is, in Kimmerling's words, "highly indicative of the regime's nature" (Kimmerling 2001, 180). The current state of exclusive inclusion upon which Jewish domination over its Arab citizens rests cannot function without the mechanisms, endorsements and allowances of a perpetual state of emergency.

Utterly revealing here is Yakobson and Rubinstein's placement of this permanent state of emergency within a liberal-Zionist framework:

Both legally and as a matter of fact, the state of emergency is not a passing phenomenon in the context of an acute crisis, but rather a 'chronic disease' which is an integral part of the state's existence, with varying degrees of severity .... It would be obviously wrong to tackle an emergency of this kind by applying the drastic measures to which democratic states resort in wartime. Precisely because the state of emergency in Israel is a continuous phenomenon ... (Yakobson and Rubinstein 2009, 105–106).

Their characterization of the state of emergency as “integral,” a “chronic disease” and a “continuous phenomenon” is remarkably acute and candid. The stateless citizenship of Arabs in Israel and the mechanisms of exclusive inclusion with which they are faced is neither incidental nor peripheral. *They are as temporary as the Jewish state itself.* The Israeli regime employs the state of emergency to protect and reproduce its boundaries as a 'Jewish state,' while using the threat to these boundaries as justification for making the state of emergency permanent. Like a “chronic disease,” the Zionist incorporation regime needs its Palestinian-Arab population to exist as *stateless citizens* to maintain the most integral part of its self-definition and existence: its exclusionary framework of Jewish domination. Therefore, for its self-preservation, the Israeli regime requires a constant ongoing re-creation of itself through a perpetual state of emergency in opposition and response to its Palestinian-Arab citizenry.<sup>17</sup> As an anchor for the exclusive inclusion of Arab citizens, the permanent state of emergency makes every moment of preservation of the State of Israel require as much energy as its creation (Voegeli 2009). Indeed, as the excursions in the preceding chapters have shown – particularly in Chapters Two, Three and Five – efforts by Israel to continuously recreate itself as a Jewish state are evident with the recent changes to Israeli laws proposed during and directly after the 2009 national elections. The legal amendments, made against the background of a hegemonic Zionist discourse, that sought to further embed Jewish ascendancy are part of the state's need to both reproduce its identity and its Palestinian Other, and force concession to a dominant Zionist consensus by them. As explained, the amended laws are some of Israel's oldest, served as its foundation and were part and parcel of shaping its identity, dynamics, and attitude upon its inception. The fact that these are the laws that are being amended

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<sup>17</sup> The processes associated with this reproduction are explained further in Voegeli (2009).

therefore indicates an intensification in the exclusionary identity and disposition of the state itself – an identity whose self-preservation requires a continuous (re)creation in opposition and response to its Palestinian-Arab citizenry. Therefore, having constitutionalized and legalized the dominance of the Jewish population as part of the self-definition of the state, Israel must constantly (re)fashion itself as such, and can thus only bestow upon its Palestinian-Arab community a stateless citizenship, a paradoxical status which is both a condition of and conditional to Israel's very existence.

#### COEXISTENCE WITHOUT EXISTENCE

In *Means without End: Notes on Politics* (2000), Agamben examines the question: "What is a people?" and begins by telling us that in modern European languages, the political meaning of the term *people* "always indicates also the poor, the underprivileged, and the excluded" (Agamben 2000, 28). The concept of a *people* therefore includes both the qualified political subject and the excluded, the bare life. Refraining from deeming this an accidental semantic vagueness, Agamben explains that the ambiguity embedded in the concept of the *people* reflects the fact that far from a totalized and "unitary subject," this concept is instead "a dialectical oscillation between two opposite poles" (Agamben 2000, 30). He writes that

... like many fundamental political concepts, ... *people* is a polar concept that indicates a double movement and a complex relation between two extremes. This also means, however, that the constitution of the human species into a body politic comes into being through a fundamental split and that in the concept of *people* we can easily recognize the conceptual pair identified earlier as the defining category of the original political structure: naked life (*people*) and political existence (*People*), exclusion and inclusion, *zoē* and *bios*. *The concept of people always already contains within itself the fundamental biopolitical fracture. It is what cannot be included in the whole of which it is a part as well as what cannot belong to the whole in which it is always already included* (Agamben 2000, 30–31).

The fracture or relation of exclusion configured within the 'people' arises because while it is a source of identity and meaning, it is also repeatedly compelled to turn to that which is outside, the excluded, for its self-definition. Here the outside is always already a part of the concept: it is already included in the concept but it is nevertheless outside of it and cannot belong to it. This double meaning of the people, the fundamental split between the 'people' as naked life and the 'People' as a qualified

political existence, is part of a dialectic. Both poles of this concept are indispensable and part of what Agamben describes as “an incessant civil war that at once divides this concept more radically than any conflict and keeps it united and constitutes it more firmly than any identity” (Agamben 2000, 31). As such, juridico-political attempts to fill the split that distinguishes the *people* from the *People* by radically removing, erasing and dissolving the excluded and disenfranchised *people* are ultimately insufficient. The biopolitical plan to form a simple people without crevice thus remains futile as it does not foster a politics that is reconcilable with the oscillation and fracture inherent in the concept of the people (Agamben 2000, 32–34).

The fracture embedded in the concept of the people at work in the State of Israel is more complicated than that which exists in recognized democratic nation-states in the West. As Chapter Five outlines, Israel remains the only recognized state in the world whose citizens do not constitute its people, or its nationals. In other words, the ‘Israeli people’ are not limited to Israeli citizens, nor are they limited to the Jewish population within its territorial rule. Israel does not simply express the Jewish majority in the country, but instead the Jewish people, *en genera*. Paradoxically, when asked to provide a clear definition of the Israeli people, Israeli legal and political authorities will instead repeatedly point out that its existence as a Jewish state renders it a state of the *Jewish nation*, or the *Jewish people* – both within and outside of its territorial boundaries. What the resurfacing of the Tamarin Petition outlined in the previous chapter reveals is that the identities of ‘Jewish’ and ‘Israeli’ are synthesized to such a degree in the Zionist framework that the mere acknowledgment of the latter would be equivalent to the creation of *something out of nothing*. And so, genuine citizenship in Israel as a Jewish state becomes *Jewish citizenship*, and nationalism in Israel as a Jewish state becomes *Jewish nationalism*. This constitutes the fracture, or “incessant civil war,” inherent in the concept of the Israeli people: it simply does not exist *as such*, for it is inherently merged with the concept of the Jewish people.

Taken together, there is a certain *invisibility* of the Palestinian-Arab population in Israel. At the level of rights, the privileges of Jews in Israel are defined both at the personal and the collective level, whereas those of Arabs in Israel are only defined at the personal level. The Arab citizenry lacks rights to and a share in the common goods of the collectivity including land, water, resources, cultural practices, commemorative events, official symbols, and holidays (Kimmerling 2001, 230). Indeed, as it stands, no Zionist political figure or party, including those on the Left, has ever directly acknowledged or politically confronted the fundamental tensions

of Israel as an ethnic Jewish state and its claims to be democratic. Indeed, the prevailing attitude within Israeli society, including most politicians and much of Israeli academia on both the political Left and Right, underpins the various ways in which Israel as a 'state for the Jewish people' renders full equality and genuine citizenship an impossibility for Arabs. Or, rather, it underwrites that Israel's self-definition as a Jewish state necessitates the exclusion of Arab citizens through their very inclusion. At a conceptual and ideological level, however, it is not only the case that the inequalities and relations of exclusion in the stateless citizenship of Arabs in Israel are ignored and unacknowledged. Perhaps more significantly, it is the very existence of Palestinian-Arabs in Israel as a separate nation and part of a forcefully dispersed indigenous collective that is actively denied.

Jiryis recounts a conversation between an Arab peasant and an official at the ILA recounted by prominent Palestinian land lawyer Hanna Deeb Naqqara:<sup>18</sup>

[A] peasant asked an official, 'What are you offering me? Is my land worth only two hundred pounds per dunum?' The official replied, 'This is not your land, it is ours, and we are paying you *watchman's* wages, for that is all you are. You have *watched* our land for two thousand years and now we are paying your fee. But the land has always been ours (Jiryis 1976, 74)!

What this remarkable interaction illustrates is that any discussion of the excluded and inferior status (or the *absent* status) of Palestinian-Arabs in Israel must relate back to the settler-colonial ideology of the state: Zionism. Since its inception, political Zionism has been premised on rejection of the Palestinian Other – its fulfillment is achieved by denying the existence of the Other. As *watchmen* and *watchwomen*, Palestinian-Arabs are not merely removed from the consciousness of the colonial protagonists of the story, but rather their existence and claims are demoted to the peripheries of the Jewish landscape. Refusing the juridico-political space for the indigenous Arab population to posit their own historical claims and cultural ties to their native soil, the Zionist categories of coexistence (even in their liberal variant) are: *Jewish* and *non-Jewish*. Thus, the Zionist incorporation regime invites Arab citizens to coexist with Jewish citizens as 'non-Jews'; but not as 'Arabs' and certainly not as 'indigenous' Palestinians. In short, a dynamic of the stateless citizenship of Arabs can

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<sup>18</sup> Originally from al-Raab, in the Galilee, Hanna Deeb Naqqara (1912–1984) was one of the most prominent and unyielding legal defenders of Palestinian land rights before the Haifa District Court and the Israeli High Court.

be described as *coexistence without existence*: Palestinian-Arabs are invited to coexist with Jews without actually existing as Palestinian-Arabs.

As my examination has shown, in today's Israel the indigenous Arab is subjected to a form of inclusion that is premised upon Arab consent to Jewish privilege in all spheres of the state. This is done through legally enforced loyalty oaths and other actions which function within a framework of institutionalized inequality. Again, an inclusion whose prerequisite is an acknowledged exclusion. But what stands out here is that the very existence of the subject that is excluded, the Palestinian-Arab, remains unrecognized. The dynamic of coexistence without existence of Arab citizens with their Jewish counterparts in the State of Israel is revealed in a testimony made by David Ben-Gurion in 1946. Appearing before the Anglo-American Committee of Inquiry on Palestine, Ben-Gurion explains the main functions of the future Jewish state, arguing as follows:

We will have to treat our Arabs and other non-Jewish neighbours on the basis of absolute equality *as if they were Jews*, but make every effort that they should preserve their Arab characteristics, their language, their Arab culture, their Arab religion, their Arab way of life ... (Lustick 1980, 37).

Evidently the rubric for juridico-political existence in the Israeli regime is the Jewish population, and the 'equal' status of Palestinian-Arab citizens is always relative to the equality of Jewish citizens. Here the category of Jews becomes the qualified political life, the *bios*. And with this implied separation of *zoē* from *bios*, a vulnerable and excluded bare life begins to surface namely, a subject that is neither Jewish nor qualifies to be treated *as if it were Jewish*. Palestinian-Arab citizens of Israel do not actually *exist* as Palestinian-Arabs in the ideological mindset of the State of Israel. Rather, any equal treatment of Palestinian-Arabs, however limited, hinges on understanding and conceptualizing this population *as if they were Jews* in the political and legal consciousness of the regime. This notion renders the liberal concept of *coexistence* void. Palestinians do not coexist with Jewish citizens as Palestinians; they coexist with Jewish citizens *as if they were Jews*. Palestinian-Arabs are not Jews, and therefore, the contention that they will be given access to rights, resources and representation *as if they were Jews* is both conceptually and practically unfeasible. They are included in the Zionist incorporation regime *as if they were Jews*, but because they are clearly not Jewish their inclusion cannot prevent itself from immediately becoming an exclusion – forming a condition of stateless citizenship. All in all, the concept of Palestinian-Arab existence *as*

*Palestinian-Arabs* lies outside even the liberal-Zionist conception of *coexistence*. Palestinian-Arab citizens co-exist with Israeli Jews insofar as they are citizens, but their coexistence as citizens is actually (and paradoxically) premised upon their lack of existence as Palestinian-Arabs in the ideological and political outlook of the state.

Because Arabs are not recognized as a nation by the state their presence in the Zionist melting pot, what Kimmerling calls “a giant mincing machine,” is conditioned by a strict multifaceted system of institutional and structural control and exclusion (Kimmerling 2001, 97). Looking at the second part of Ben-Gurion’s statement – namely, his recognition of a distinct Arab language, culture, and way of life – the moments when Arabs in Israel are recognized as *Arab* the regime adopts a strict principle of control as an analytical formula. As we have seen in Chapter Two, the ideological commitment to Zionism and the political praxis it produces have configured the institutional structure of Israeli society and solidified the peripheral position of Palestinian-Arabs within it (Rosenhek 1998, 565–566). That stateless citizenship is premised upon the lack of existence of this community as a distinct community has implications for principles of equality and non-discrimination. This is because *coexistence* with Israeli Jews in the absence of genuine *existence* renders the principle of non-discrimination inapplicable.<sup>19</sup> While the legal, institutional, and structural framework of the State of Israel generates far-reaching discrimination against Palestinian-Arab citizens, such an effect can neither be read nor treated as ‘discrimination’ as it is built into its foundation as a Jewish state. As an “organizational tool in the continuing struggle of the Zionist movement,” or what was called an “instrument” above, the State of Israel cannot act as a “neutral umpire” between Arab and Jewish citizens. Instead, the state needs to ensure a coexistence without existence to maintain its exclusionary incorporation regime.

By all measures, coexistence implies the simultaneous existence of two or more populations in the same space. But in the case of Israel, Palestinian-Arab existence alongside Jews is a coexistence without existence as the former collective does not actually exist in the Israeli consciousness as such. In many ways, the Zionist project reproduces a dynamic of existence

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<sup>19</sup> As Noam Chomsky states: “In fact, in ‘the sovereign state of the Jewish people’ there is little hope that Arab citizens will gain equal rights. For the Jewish majority, Israel is comparable in its civil liberties and inequities to Western democracies. But Arabs have no place in the Jewish state, except as a tolerated but essentially foreign element, just as Jews can look forward to no other status in an ‘Islamic state’. In part, the discriminatory structure of the State of Israel is embedded in law and institutions” (see Jiryis 1976, x–xi).

precisely antithetical to the famous ‘face-to-face encounter’ outlined by French-Jewish philosopher Emmanuel Levinas. The individual Subject’s encounter with the absolutely Other,<sup>20</sup> exposes the Subject to the Other as she/he is, and awakens and commands her/his responsibility to the Other. In this process, the Subject her/himself is born, solidified and exists as an ethical being. The Zionist incorporation regime does the exact reverse. The Jewish subject in the State of Israel – along with her/his hegemony and domination in all spheres of the juridico-political and socio-cultural order – is formed, maintained, and configured against and through the very rejection of the Palestinian-Arab Other as such. Instead, the political and ideological framework of a Jewish state or a ‘state of the Jewish people’ is premised upon the incorporation of all of its members not as Others, but rather, *as if they were Jews*. With this, recognition and representation by the state apparatus of a non-Jewish through any other lens than one which employs the Jewish population as a rubric is an inherent impossibility.

Taken together, all three of the dynamics of stateless citizenship – *exclusive inclusion*, the *permanent state of emergency*, and *coexistence without existence* – are necessary to the ongoing maintenance and reproduction of the Jewish state. The exclusions, inequalities, and violations outlined here, along with the conceptual dynamics and bizarre realizations presented in this chapter, are endemic to the existing hegemonic Zionist consensus. Overall, what this analysis illuminates and frames is that stateless citizenship is necessary for the reproduction of the Zionist incorporation regime. Hence, central to any opposition to the multifaceted exclusions faced by Palestinian citizens in Israel is a genuine deconstruction of the Zionist incorporation regime, and its principles, policies, and practices of Jewish domination. All of this involves a direct challenge to the above conditions of stateless citizenship.

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<sup>20</sup> Though beyond the present scope, it is relevant to mention here that Emmanuel Levinas’s notion of the ‘absolutely Other’ is part and parcel of the ethical relation he outlines. For Levinas, as the interlocutors of the ethical relation, the Self and the Other are absolutely separate and exterior to one another. This separation between the two is a reality for Levinas that cannot be consolidated or amalgamated into a form of interiority so that all efforts of merging and totalizing them are dispelled (see Levinas 2011, 28).



## CONCLUSION

In this book I have outlined the salient aspects of the particular framework of exclusion within which Palestinian citizens of Israel are placed. In doing so, I have worked from and moved beyond examinations of what is *deficient or wanting* in their provided citizenship rights (beyond the *what* of citizenship) and focused more on *how* this Palestinian citizenship came to embody its existing exclusionary dynamics. My concern here has been to elucidate *how* this deficient citizenship is produced and maintained, along with the way in which its relations of inclusion and exclusion are created. Throughout my analysis, it has been emphasized that an elemental feature of *how* Palestinian citizenship is formed and reproduced is that the means, the actual medium, *through* which, *by* which, and *from* which peripheral and limited Palestinian existence is maintained in Israel has been citizenship itself.

The parameters of the exclusionary citizenship regime of Israel are shaped by the ideological framework and colonial logic of Zionism, and configured to reject the non-Jewish Palestinian-Arab Other. Put differently by Shafir,

[c]itizenship has never been simple or unitary in form in Israel – a situation it shares with many other colonial and postcolonial societies. There has always been a multiplicity of hierarchically stacked citizenships .... The full complement of rights in Israel ... [is] only available to those who were part of the colonization of Palestinian land (Shafir 2005, 55).

Contemporary colonial contradictions in Israeli society, democracy and, by extension, in its citizenship regime therefore render genuine Arab inclusion an impossibility. This is because the institutions and claim-making processes are deliberately designed to exclude the non-Jewish community on the basis of their inclusion into this regime. As a result, the legal ensconcing of Jewish dominance as part of the self-definition of the state compels Israel constantly to (re)position itself in opposition to the Palestinian-Arab community. However, while all Arab Palestinians are excluded from the Zionist incorporation regime the logic of the relation of exclusion experienced by Arab citizens differs from that of non-citizen Palestinians. As I have tried to explain, differences between the inclusive exclusion of the broader Palestinian nation and the exclusive inclusion of Arab citizen indicate the Zionist regime's particular use of citizenship in

transforming the Palestinian-Arab population within Israel to a condition of *statelessness*. It is the granting of citizenship, the *actual inclusion* within the Israeli citizenship regime, which produces the inherent contradictions and paradoxes in any Arab membership in the Israeli political and social regime. *It is through the bestowal of Israeli citizenship that Arabs are deemed stateless; it is through inclusion within the Israeli citizenship regime that they are excluded.* Here the modern paradigm of citizenship, traditionally a mechanism for inclusion, is reversed, as is the relation of exception in the classical Western model of citizenship. The inclusive exclusive mechanisms of classical citizenship are inverted so that, far from a strict exclusion absent of a citizenship that places the Palestinian citizen outside and forever peripheral to the Israel regime, it is their very *inclusion* within what is essentially an exclusionary juridico-political condition that generates their *exclusion* from state membership – thereby rendering them *stateless citizens*.

The only way in which Palestinian citizen membership can be realized within a Zionist state designed to reject and exclude the Palestinian subject is through the logic of stateless citizenship. In other words, I have tried to show that the exclusive inclusion of Arabs is necessary for the internal coherence of the Israeli juridico-political order because the associated exclusions, inequalities, and violations outlined in this book serve as a foundation for the existing hegemonic Zionist consensus. Hence, given that stateless citizenship is necessary for the ongoing reproduction of the Jewish state, any challenge to the multifaceted racism and exclusions faced by Palestinian citizens in Israel must include a genuine questioning of the Zionist incorporation regime as well as its principles and practices of Jewish domination. And such questioning effectively means a direct and genuine challenge to all three of the dynamics of stateless citizenship – *exclusive inclusion*, the *permanent state of emergency*, and *coexistence without existence*.

The associated elements of stateless citizenship point us in the direction of three separate yet related political and theoretical considerations. These considerations are important not only for future studies of the Palestinian placement and role within the Israeli citizenship regime, but also for further examinations of the transformations of the institution of citizenship within liberal-democracies in Western societies in general.

The first point emerging out of the notion of *stateless citizenship* concerns the inherent exclusionary foundations of citizenship. In some ways, the exclusion of Arabs from Israeli citizenship is not only a problem of the Zionist-Palestinian conflict, but can be sourced in the reality that

citizenship is in itself a relation of exclusion. In the preceding chapters, I examined the Otherizing effects of citizenship with a focus on the exclusions that exist within citizenship as such. But rather than focusing on the Other that resides *outside or on the margins of* the citizenship regime, I have used the case of Palestinian citizens of Israel to examine instead the dynamic of Otherizing that occurs *within and through inclusion* in the citizenship regime. In this book, the exclusionary frameworks and dynamics generated through actual inclusion and membership in a citizenship regime – as opposed to exclusion from a citizenship regime – were deconstructed. Building on the paradigm of *stateless citizenship*, the first broader question to which future studies of citizenship ought to point is *whether citizenship is, or can be, genuinely inclusive, even of its own subjects*.

Developing from this question is a second consideration that concerns the relationship between the dynamics of exclusion in liberal theory and those in Zionism. As mentioned, the Judaization project that lies at the root of Zionism is, by definition, a project of exclusion. It cannot genuinely coexist with the promise of classical liberal principles of equality, representation, common possession, democratic participation, inclusion and multiculturalism. Of course, each of these liberal principles contain their own respective exclusionary frameworks and are often fraught with problematic realizations in the form, among other divisive issues, of racially configured government policies, practices and nationalistic discourse around *who* belongs to the common, *who* is the *real* citizen, and what it means to be equal within increasingly multicultural societies. Again, in many ways, the stateless citizenship of Palestinians in Israel is a problem of liberal citizenship itself, its exclusionary frameworks, dynamics and relations which, when enmeshed in numbing and vague liberal terminology, can have devastating realizations. However, these devastating effects of, and exclusions within, liberal discourse and practices are stimulated when employed to frame and legitimize the Zionist incorporation regime. In many ways, the Israeli incorporation regime can be said to actually operate through and from the above liberal promises. *Put differently, the racialized parameters of modern Zionism which underpin contemporary Israeli society and policies reflect an enhanced or accentuated version of the existing relations of exclusion in liberal citizenship and discourse*. Therefore, when we begin our analysis from the condition of Arabs *with* Israeli citizenship, we realize that the problem extends from the existing relations of exclusion in classical liberal citizenship to the ways in which they are applied, reversed and enhanced by the racialized tenets of Zionism that underpin the Israeli incorporation regime. And so, the existing dynamics

embedded in the liberal model of citizenship are exaggerated in the case of Israel through the inherent exclusions and racialist configurations of the Israeli citizenship regime.

Finally, and looking forward from the implications of stateless citizenship, a broader reference ought to be made to the question of citizenship in the context of globalization and migration. As it stands, processes of globalization and increased social interconnectedness produce complex relationships between home societies (or homelands) and host societies. These developments problematize the classical notion of national citizenship and often result in a rise of recognized identities and practices upon which claims are made. With a weakened national hold on citizenship, citizen-subjects will often go beyond state institutions for claims to rights, representation and protection. This complication in the traditional role of citizenship as connecting a citizen-subject to a nation-state, coupled with the rise of acceptable identities and practices as a basis for claim-making, has done its part to fuel calls from European countries (and to a great extent from Canada and the United States) for increased national homogeneity. To counter calls for a re-definition of state institutions and discourses surrounding citizenship, and to refrain from recognizing new claims for rights and representation, modern nation-states in the West are struggling to attain and maintain culturally homogenous identities, often revealed in a range of racist and nationalist legal and political agendas. Needless to say, such campaigns for homogeneity are working against the trends of increasingly socially, economically, culturally, technologically and politically interconnected global communities.

With this in mind, such reactionary and often xenophobic debates around cultural homogeneity along with its associated questions as to *who* is a *real* or a *desired* citizen can all be informed by events in Israel. Though exploration of these issues is beyond the present scope, *the concept of stateless citizenship points toward recognizing that, in some ways, what has unfolded in Israel over half a century on the periphery may provide a window on what may be developing in the core.*<sup>1</sup> Discussions in Israel regarding the maintenance of a Jewish demographic majority, an exclusive Jewish state-identity and of institutions ensuring Jewish dominance since its inception reflect an intensified version of racist, exclusionary and nationalist developments in older liberal-democratic countries in the West. Indeed, these developments at the core are not completely dissociated from the inflamed

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<sup>1</sup> See Chapter One, footnote 9, for an account of the terms 'core' and 'periphery' used here.

racialist frameworks of the Zionist settler-colonial project, including its current realization in Israel. As such, the practices and dynamics of the colonial logic of Israeli democracy and citizenship can inform future examinations of European and North American drives toward national and cultural homogeneity, despite the increasingly multicultural and multi-religious makeup of their societies. In the end, the stateless citizenship of Arabs in Israel may become a useful analytical lens through which to examine and deconstruct the core directions in which the exclusionary policies embedded in softer liberal characterizations are headed.



APPENDIX ONE

SELECTIONS FROM *THE DEMOCRATIC CONSTITUTION*  
BY ADALAH: LEGAL CENTER FOR ARAB MINORITY RIGHTS IN ISRAEL  
(20 MARCH 2007)

...

CHAPTER ONE: INTRODUCTION

1. The Universal Declaration of Human Rights of 1948, which enshrined the human rights lessons of the evils committed during World War II, and the international human rights covenants, which were subsequently ratified, state that: All human beings are equal; anti-discrimination is an absolute principle which cannot be compromised; all peoples have the right of self-determination; no nation possesses rights that are superior to those of another nation; and it is essential to ensure the personal liberty and economic and social rights of the individual for freedom, equality and justice to be achieved.
2. After the end of World War II, and as a result of their long and just struggle against colonial regimes, many nations succeeded to attain their independence and realize their right of self-determination. In the last two decades, historic processes have taken place in states where policies of repression and discrimination had reigned. The end of the apartheid regime in South Africa is the most prominent example. These states have derived lessons from the past and promoted historic reconciliation, based on recognition of the historical injustice these policies inflicted on groups that were repressed and discriminated against, and ensured the effective participation of these groups in the process of constitution-making.
3. Based on universal principles, international human rights covenants and the experience of nations, we – as a human rights organization – seek to propose a constitution, which contains provisions on the governing regime and on rights and liberties, as detailed below. We believe this constitutional proposal should be incorporated in the laws and/or the future constitution of the State of Israel.

4. In order to build an equal and democratic society, free of repression and violence, and as a basis for historic reconciliation between the State of Israel and the Palestinian people and the entire Arab nation, the State of Israel must recognize its responsibility for past injustices suffered by the Palestinian people, both before and after its establishment. The State of Israel must recognize, therefore, its responsibility for the injustices of the *Nakba* and the Occupation; recognize the right of return of the Palestinian refugees based on UN Resolution 194; recognize the right of the Palestinian people to self-determination; and withdraw from all of the territories occupied in 1967.
5. The Palestinian Arab citizens of the State of Israel have lived in their homeland for innumerable generations. Here they were born, here their historic roots have grown, and here their national and cultural life has developed and flourished. They are active contributors to human history and culture as part of the Arab nation and the Islamic culture and as an inseparable part of the Palestinian people.
6. Since their political status has been changed against their will, making them a minority in their homeland; since they have not relinquished their national identity; and since the rights of a homeland minority must include, inter alia, those rights which should have been preserved and developed as much as possible had they not become a minority in their homeland, thus, the legal starting point of this constitutional proposal is: The Arab citizens in the State of Israel are a homeland minority.
7. The policies and practices of Israeli governments have caused severe injustice to the Palestinian Arab minority since 1948, some of which continues today, including this minority's physical detachment from its people and nation, the uprooting and destruction of villages, the demolition of homes, the imposition of military rule until 1966, the massacre of Kufir Qassem in 1956, the killing of young people during the first *Land Day* in 1976 and in mass protests of October 2000, the confiscation of properties from the Muslim Waqf, the expropriation of land, the non-recognition of Arab villages, the separation of families, policies of institutional discrimination in all fields of life, and the exclusion of the Arab minority based on the definition of the state as Jewish. Therefore, the following constitutional proposal determines that the basic rights of the Arab minority include: the return of land and properties on the basis of restorative justice, effective participation in decision-making, the



- fulfillment of the right to cultural autonomy and the recognition of the Arabic language as an official language in the State of Israel.
8. The dignity and personal liberty of the individual constitute the basis for maintaining a society founded on human rights. However, the realization of these rights is conditional upon the existence of a society based on equality. Therefore, this constitutional proposal determines the duty to guarantee and protect the economic and social rights of all residents and citizens, especially the most needy.
  9. In a state that does not control or occupy another people and that is based on full equality between all of its residents and between all of the different groups within it, Arab and Jewish citizens shall respect each other's rights to live in peace, dignity and equality, and will be united in recognizing and respecting the differences between them, as well as the differences that exist between all the groups in a democratic, bilingual and multicultural state.<sup>1</sup>

**(Approved by Adalah's General Assembly on 15 July 2006)**

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<sup>1</sup> Explanatory notes: The introduction – The purpose of this introduction is to explain the principles which guided us in the writing of this constitutional proposal. We believe that the preamble of a future constitution for the State of Israel must be written, if at all, with the political agreement of the representatives of all the interested parties. The liberties and rights in this constitutional proposal are based, inter alia, on the constitutions and legal experience of many democratic states. They are also based on international human rights covenants and declarations, particularly the following: the Universal Declaration of Human Rights (1948), the Convention on the Prevention and Punishment of the Crime of Genocide (1948); the UNESCO Convention against Discrimination in Education (1960); the International Covenant on Civil and Political Rights (1966); the International Convention on the Elimination of All Forms of Racial Discrimination (1966); the International Covenant on Economic, Social and Cultural Rights (1966), the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990), and the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992).

## CHAPTER TWO: THE FOUNDATIONS OF THE REGIME

The Borders of the State of Israel<sup>2</sup>

1. The borders of the State of Israel are the borders of the territory which was subject to the Israeli law until 5 June 1967.

A democratic state

2. The State of Israel is a democratic state, based on the values of human dignity, liberty and equality.

The supremacy of the Constitution

3. The Constitution is the supreme legal norm in the State of Israel.

The parliament

4. The Knesset is the legislative authority of the state.
5. The Knesset is the house of representatives of the state and is comprised of 120 members.

A multi-party parliamentary regime

6. The democratic regime is based on a multi-party parliamentary system that conducts free, equal, proportional and secret-ballot elections once every four years to ensure appropriate representation for the national and religious groups.
7. Every adult citizen is entitled to elect and to be elected to the Knesset.

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<sup>2</sup> Explanatory notes: The state's borders – The demarcation of the borders of the State of Israel in the Constitution is also critical for issues of civil rights. The historical importance of the territory-citizenship synthesis began with the Treaty of Westphalia (1648) in Europe. Previously, the connection between citizens and the regime was not based on territory, but rather on tribal allegiance, religious affiliation, contact with the church, and/or the lifestyle of a group. According to this order, the Ottoman Empire, for example, granted religious autonomy to groups because of a tribal rather than a democratic orientation. The test of belonging to "a clear territory" facilitated the definition of "Who the citizen is" that stands as an equal before the state without intermediary agents. This is particularly true with regard to the State of Israel, where the lack of a defined border contributed to the fact that tribal and ethnic affiliation became the essence of citizenship. This also explains why Israeli law deals with "Who a Jew is" and not "Who a citizen is"; and it is no coincidence that the citizenship of Jews living outside the Green Line, for example, is stronger than that of the Arab citizens who live within the Green Line. It is also no coincidence that proposals are put forward for the transfer of the citizenship of some of the Arab citizens (in the Triangle area) as part of an exchange of populations. Indeed, the public perception that the citizenship of some of the citizenry is temporary due to a lack of defined borders will continually harm the everyday status of these citizens, thereby affirming the truth of the statement: Empires have frontiers, but democracies have borders.

### The government

8. The government is comprised of the prime minister and other ministers, and derives its authority to govern from the confidence of the Knesset.
9. The government is the body authorized to administer all divisions of the executive branch.
10. The government will exercise its functions subject to and in accordance with the Constitution and the law.

### The judicial authority<sup>3</sup>

11. The judicial authority has the power to adjudicate, including the power to annul laws which are in contradiction of the Constitution.
12. The courts which have the power to adjudicate in the state are the Supreme Court, the District Courts, the Magistrates' Courts and other courts, and tribunals established under the law.
13. The decisions of the Supreme Court will be binding on all the other courts of the judicial authority, except the Supreme Court.
14. Nominations of judges to the judicial authority will be made on the basis of the nominees' expertise and knowledge of the law, as well as their experience, independence and commitment to the Constitution.

### Citizenship

15. The laws of citizenship and immigration will be established on the basis of the principle of anti-discrimination and will define the arrangements by which the State of Israel will grant citizenship to:
  - A. Anyone who was born within the territory of the State of Israel and whose parent was also born within the territory of the State of Israel;
  - B. Anyone who was born to a parent who is a citizen of the state;

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<sup>3</sup> Explanatory notes: The three authorities – We relate to the three authorities – the executive, legislative and judicial – inasmuch as they are relevant to the essence of the Constitution and inasmuch as they have an effect on the democratic regime. Parliament enacted legislation is the appropriate way in which to detail the administrative aspects of those authorities which have not been detailed here, such as committees of the Knesset, the composition of the government, the number of ministers, and the duration of the terms of office of judges. In addition, we did not perceive a need in this Constitution to relate to other institutions which could be regulated by legislation, such as the presidency of the state, because their existence as an institution is not material to the functioning of a multi-party parliamentary regime. Moreover, every future piece of legislation which relates to the functions and administration of all such authorities will be subject to the Constitution.

- C. The spouse of a citizen of the state;
  - D. Those who arrive or remain in the state due to humanitarian reasons, including those who are persecuted on the basis of political background.
16. The citizenship of an Israeli citizen cannot be revoked.

...

A multicultural state<sup>4</sup>

18. A. Each group that constitutes a national minority is entitled to educational and cultural institutions; each group that constitutes a religious minority is entitled to religious institutions.
- B. All the groups mentioned in (A) are entitled to operate their institutions via a representative body chosen by the members of the group (hereafter: the representative body).
- C. The State of Israel will allocate a suitable budget to the representative body for operating the institutions to ensure their existence in good quality and at a level equal to that of the majority's institutions.
- D. All the historical, cultural and holy sites of all of the groups shall be preserved and protected from any damage or harm to the dignity and sanctity of the site.
- E. The dignity, equality and liberty of a person subject to the decisions of the representative body must be respected.
- F. Every citizen affiliated with one of the aforementioned groups is entitled to maintain his or her identity and culture in public life, and to develop and practice them.
- G. Every citizen is entitled to establish and maintain his or her family, social, cultural, religious and economic relations with members of his or her people or nation, including the right to freely cross borders to them.
- H. These minority groups are entitled to appropriate representation in all of the governmental authorities of the state.

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<sup>4</sup> Explanatory notes: Multiculturalism – The source of these rights is stated in article 27 of the International Covenant on Civil and Political Rights, to which the State of Israel is a party. The scope and interpretation of this article was declared in the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992).

## CHAPTER THREE: RIGHTS AND FREEDOMS

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*II: Distributive and Restorative Justice* 8<sup>5</sup>Anti-discrimination in property

37. No person shall be discriminated against – directly or indirectly – in land transactions, such as purchasing, long-term leasing or renting property, based on nationality, religion, race, sex, colour, ethnic origin, sexual orientation, disability or age.

Distributive justice

38. Every group of citizens which has suffered from a policy of injustice and historical discrimination in the allocation of land is entitled to affirmative action based on the principles of distributive justice in the allocation of land and water and in planning.

Restitution of private property

39. Every person whose land has been expropriated or whose right to property has been violated arbitrarily or because of his or her Arab nationality under the following laws is entitled to have his or her property restored and to receive compensation for the period during which his or her right to property was denied: the Land Ordinance (Acquisition for Public Purposes) of 1943, and/or the Land Acquisition (Validation of Acts and Compensation) Law of 1953, and/or the Absentee Property Law of 1950, and/or article 22 of the Statute of Limitations of 1958, and/or Regulation 125 of the Emergency (Defence) Regulations of 1945.

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<sup>5</sup> Explanatory notes: Distributive justice and restorative justice – The articles referring to restitution of land, compensation and recognition of traditional title of Arab Bedouin are familiar to many judicial systems. The constitution of South Africa addresses the principle of restitution. In Canada, the United States and Australia, for example, similar rights were recognized for the indigenous peoples and natives. International principles of human rights also address these rights: the Convention (No. 169) Concerning Indigenous and Tribal Peoples in Independent Countries (adopted by the International Labour Organization in 1989); the UN Draft Declaration on the Rights of Indigenous Peoples (adopted by the UN General Assembly in 1994); and the London Declaration of International Law Principles on Internally Displaced Persons (adopted by the International Law Association in 2000).

### Internally-displaced persons

40. All of the Arab citizens of the State of Israel who were uprooted from their villages or from their place of residence during and after 1948 and were not permitted to return are entitled to return to their villages and original places of residence; a mechanism will be formulated in law to provide appropriate compensation for personal damages suffered by these individuals and their families since being uprooted, as well as assistance for building villages and/or homes of an appropriate quality.

### The Muslim Waqf

41. Muslim Arab citizens are entitled to the reinstatement of all assets of the Muslim Waqf, including its revenues, which were held by the Supreme Muslim Council and transferred as absentee property to the Custodian for Absentee Property pursuant to the Absentee Property Law of 1950.

### Traditional title to land

42. The Arab Bedouin citizens of Israel are entitled to recognition of title to land which is or was possessed by them based on their traditional patterns of ownership; none of these entitled persons shall be transferred from their land except with their full and conscious consent.

### Alternatives to restitution

43. In cases where there is an objective and genuine obstacle to fulfilling the right of restitution of land as defined in articles 39–42, an alternative and fair solution will be formulated with the consent of the rights holders; if no agreed solution is attained, the decision will be transferred to a special authority whose powers, working methods and composition will be established in law and subject to article 20.

### Unrecognized villages

44. The residents of villages known as “unrecognized villages” are entitled to have their existing villages recognized without delay through the implementation of adequate planning procedures with their full participation.

APPENDIX TWO

SELECTIONS FROM *THE HAIFA DECLARATION* BY MADA  
AL-CARMEL: THE ARAB CENTER FOR APPLIED SOCIAL RESEARCH  
(15 MAY 2007)

**We, sons and daughters of the Palestinian Arab people** who remained in our homeland despite the *Nakba*, who were forcibly made a minority in the State of Israel after its establishment in 1948 on the greater part of the Palestinian homeland; do hereby affirm in this Declaration the foundations of our identity and belonging, and put forth a vision of our collective future, one which gives voice to our concerns and aspirations and lays the foundations for a frank dialogue among ourselves and between ourselves and other peoples. In this Declaration, we also set forth our own reading of our history, as well as our conception of our citizenship and our relationship with the other parts of the Palestinian people, with the Arab nation, and with the State of Israel. We further present our vision for achieving a dignified life in our homeland and building a democratic society founded upon justice, freedom, equality, and mutual respect between the Palestinian Arabs and Jews in Israel. We also put forward our conception of the preconditions for an historic reconciliation between the Palestinian people and the Israeli Jewish people, and of the future to which we aspire as regards the relationship between the two peoples.

**Our national identity** is grounded in human values and civilization, in the Arabic language and culture, and in a collective memory derived from our Palestinian and Arab history and Arab and Islamic civilization. It is an identity that grows ever more firm through active and continuous interaction with these values. It is continuously nourished by our uninterrupted relationship to our land and homeland, by the experience of our constant and mounting struggle to affirm our right to remain in our land and homeland and to safeguard them, and by our continued connection to the other sons and daughters of the Palestinian people and the Arab nation.

Despite the setback to our national project and our relative isolation from the rest of our Palestinian people and our Arab nation since the *Nakba*; despite all the attempts made to keep us in ignorance of our Palestinian and Arab history; despite attempts to splinter us into sectarian groups and

to truncate our identity into a misshapen “Israeli Arab” one, we have spared no effort to preserve our Palestinian identity and national dignity and to fortify it. In this regard, we reaffirm our attachment to our Palestinian homeland and people, to our Arab nation, with its language, history, and culture, as we reaffirm also our right to remain in our homeland and to safeguard it.

**Our close affinities with the rest of the Palestinian people and with the Arab nation** are in fact a form of connection to ourselves. They are our natural space, of which we were deprived following the *Nakba*, and this connection is the embodiment of the complete Self. It is a human need and a natural and universal right of individuals and groups, which cannot be circumscribed by the existence of political agreements among states. It is also enshrined in international conventions pertaining to human rights.

...

**We bear our responsibility, as a society, as individuals, and as active organizations,** for our social problems. Our society has been, and to a large extent remains, subject to social, family, sectarian, and local structures that curtail individual freedoms. We respect family ties, as well as individual rights to free worship, faith, and creed, provided no creed or loyalty is exploited to impair individual freedoms, dignity, or rights. We reject sectarian zeal and all forms of prejudice, which at times reach the extreme of physical violence and which obstruct the opportunities of wider social solidarity and the construction of a national identity.

Adherence to these social structures together with the prejudices thus engendered has made it easier for Israeli governments to exploit the divisions and tensions within our society in order to subjugate our people through numerous means. Thus these governments have attempted to strip groups away from our community through a policy of “divide and rule”, which reinforced a discourse of sectarian, tribal, familial, and regional bigotry among us. Furthermore, Israel imposed compulsory military service upon the Druze youth of our people, and sought to enlist other Arab youths by exploiting occasional tensions between sectors of our society, and pursuing enticement policies through the offer of individual benefits. Israel has also appointed and supported Arab leaders loyal to these policies and has striven to create a subordinate Arab society indifferent to its own public good and to impede its political, cultural, and economic progress.

Our society must strengthen its rejection of all these phenomena, and must develop ways to resist them. It must also put forth a political and



social agenda that highlights human and national identity, restores respect for the value of political, nationalist action, sets as its goal the building of a credible political authority, and strives to develop the institutions and economy of our society. Rallying around and supporting this political and social agenda will guarantee the rise of an alternative consciousness and a different culture, with the ability to change the prevailing social structures and to establish moral standards to guide collective action, and govern the dealings between the national parties and the civil and community institutions in our society.

Despite the progress achieved in the status of women and the rise in awareness of and popular and feminist support for women's equality, most women in our society – especially the economically disadvantaged women – are still subject to multifaceted oppression: class, national, social, and gendered. It is our duty to endeavour to bring an end to the marginalization of women and discrimination against them in the private and public spheres in various fields, the most important of which are labour and education, and to resist attempts to deny them their right to total mastery over their fate. We must also resist all forms of violence, abuse, and exploitation exercised upon many of them, occasionally reaching the point of murder, in the name of what is known as “family honour”. It is our duty to strive to put an end to all forms of discrimination against women and to protect their rights on the basis of the principles of equality, justice, and affirmative action.

Discrimination and oppression in our society are not confined, however, to women, but also affect the elderly, children, and those with special needs. These groups suffer from social marginalization and from the infringement of their status, rights, and dignity, which necessitate the defence of their rights and the rights of all social groups that suffer from discrimination. Therefore, we call for the formulation of a national, progressive, and democratic plan to build a society based on social solidarity among all its members, which respects the freedom of the individual and his or her right to dissent and to differ, and which is based on the principles of justice, equality, and pluralism.

...

**Our citizenship and our relationship to 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. As we are a homeland minority whose people was driven out of their homeland, and who has suffered historical injustice, the principle of equality – the bedrock of democratic citizenship – must be based on justice and the righting of wrongs, and on the recognition of our narrative and our history in this homeland. This democratic citizenship that we seek is the only arrangement that guarantees individual and collective equality for the Palestinians in Israel.

We believe that the policies that require us to perform “civil service” and the steps that could lead to our involvement in Israeli militarism and the distribution of the spoils of wars are incompatible in our case with the principle of equality, because they disfigure our identity and disregard historical injustices.

**We look towards a future in which we can reach historic reconciliation** between the Jewish Israeli people and the Arab Palestinian people. This reconciliation requires the State of Israel to recognize the historical injustice that it committed against the Palestinian people through its establishment, to accept responsibility for the *Nakba*, which befell all parts of the Palestinian people, and also for the war crimes and crimes of occupation that it has committed in the Occupied Territories. Reconciliation also requires recognizing the Right of Return and acting to implement it in accordance with United Nations Resolution 194, ending the Occupation and removing the settlements from all Arab territory occupied since 1967, recognizing the right of the Palestinian people to self-determination and to an independent and sovereign state, and recognizing the rights of Palestinian citizens in Israel, which derive from being a homeland minority. Furthermore, such an historical reconciliation between the two peoples must be part of a comprehensive change in Israeli policy, whereby Israel abandons its destructive role towards the peoples of the region, especially in the context of a hegemonic U.S. policy which supports certain Arab regimes in oppressing their citizens, stripping them of their resources, obstructing their development, and impeding the democratic process in the Arab world.

This historic reconciliation also requires us, Palestinians and Arabs, to recognize the right of the Israeli Jewish people to self-determination and to life in peace, dignity, and security with the Palestinian and the other peoples of the region.

We are aware of the tragic history of the Jews in Europe, which reached its peak in one of the most horrific human crimes in the Holocaust

perpetrated by the Nazis against the Jews, and we are fully cognizant of the tragedies that the survivors have lived through. We sympathize with the victims of the Holocaust, those who perished and those who survived.

We believe that exploiting this tragedy and its consequences in order to legitimize the right of the Jews to establish a state at the expense of the Palestinian people serves to belittle universal, human, and moral lessons to be learned from this catastrophic event, which concerns the whole of humanity.

**Our vision for the future relations between Palestinian Arabs and Israeli Jews in this country is to create a democratic state founded on equality between the two national groups.** This solution would guarantee the rights of the two groups in a just and equitable manner. This would require a change in the constitutional structure and a change in the definition of the State of Israel from a Jewish state to a democratic state established on national and civil equality between the two national groups, and enshrining the principles of banning discrimination and of equality between all of its citizens and residents. In practice, this means annulling all laws that discriminate directly or indirectly on the basis of nationality, ethnicity, or religion – first and foremost the laws of immigration and citizenship – and enacting laws rooted in the principles of justice and equality.

...

**We firmly believe** that the fulfillment of all the conditions for a reconciliation between the two peoples, the Jewish Israeli and Arab Palestinian, which requires the recognition of the right of the Palestinian people to self-determination, and the realization of the rights of the Palestinians in Israel as a homeland minority, will create political circumstances that will enable the creation of confidence, cooperation, and mutual respect between two independent and democratic states: the State of Palestine and the State of Israel. We further hope that this will open up new horizons in which agreements and treaties will be concluded between them in the economic, scientific, and cultural fields that guarantee free and reciprocal movement, mobility, residence, and employment for the citizens and residents of the two states.



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