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## I. METHODOLOGICAL INTRODUCTION

This article aims at analyzing the impact of occupation of the West Bank on the prevalence of human rights norms and values in Israel, searching also to learn from lessons elsewhere. More than two thirds of the Jewish state’s history includes control over the Occupied Territories, becoming now more the rule than the exception. To what extent top-dog governments’ practices in dominated areas may have an impact on the rights of their own people and their attachment to the rule of law? This debate has been ongoing within Israel’s mainstream political elites since the early stages of the post- 1967 realities. Twenty years ago, Former Labor parliamentarian Dr. Michael Bar Zohar maintained that “Israel’s democratic foundations were not affected by the Intifada [First Palestinian uprising]<sup>1</sup>. From the same party, former Minister of Justice Haim Zadok believed that “ Within the state of Israel, inside the Green Line, everything looks nice and clear in terms of the rule of law”...”When such state of affairs continues for a long time, you have the danger that the situation in the territories will slip into the state of Israel. It was thus that the Jewish terrorist underground was born. It was thus that we now see attempt to undermine the authority of the government and the attorney general. I’m not saying that this is a clear and present danger, but the situation has been going for twenty years now, and the longer it continues, the greater the danger”<sup>2</sup>. Most academics have been clearly pointing in the direction of the latter<sup>3</sup>, as we also cautioned in an earlier book.<sup>4</sup>

Revisiting the issue at the beginning of the six decade of occupation, we briefly dwell in the second section on violations in the Occupied Territories of the internationally protected human rights as listed in the Universal Declaration on Human Rights (UDHR), subsequently developed in the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights,

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<sup>1</sup> Michael Bar-Zohar, *Facing a Cruel Mirror*, (New York, Charlers Scribners and Son, 1990), p 5

<sup>2</sup> Interview with Haim Zadok, *Politika* (Tel Aviv, 4, 1986), (in Hebrew)

<sup>3</sup> The late Ehud Sprinzak restated in his last book that the belief that the Israeli society could remain uncontaminated by occupation was wishful thinking” E. Sprinzak, *Brother Against Brother: Violence and Extremism in Israeli Politics from Altalena to the Rabin Assassination*, ( New York, Free Press, 1999). S.N. Eisenstadt’s “the commitment to democratic values was being eroded”, [Shmuel N. Eisenstadt, *The Transformation of the Israeli Society* (Boulder, Westview Press, 1985), p. 533

<sup>4</sup> Edy Kauf,man, “War ,Occupation and the Effects on Israeli Society”, in E. Kaufman, S.Abed and R. Rothstein, (eds.), *Democracy, Peace and the Israeli-Palestinian Conflict*, (Boulder, Lynne Rienner Publishers, 1993), pp 85-121

documents ratified by and hence binding Israel<sup>5</sup>. In addition of violations committed by the occupation military forces, we mention also the failure to protect the Palestinians from abuses perpetuated with a high degree of impunity by Jewish settlers and their preferential status as compared with the native population<sup>6</sup>.

Subsequently, the third section is the core of this article, where we attempt to assess both the impact on Israel's institutions (The Knesset, our legislative; the Judiciary and the Supreme Court in particular; the bias in the Cabinet and overall administration; the military.) The targets of human rights violations have restricted citizenship in various degrees, the slippery slope starting with the limited rights of Palestinians in East Jerusalem, Arabs in Israel in general, foreign workers and Jewish dissenters. Focusing on the impact of Occupation on the human rights standards and effective equalitarian policies in Israel, no doubt could be expanded into a book,; in this article, we need to put the issue into context, including the theoretical and conceptual framework; in the following fourth section to puts our observations into a comparative perspective with other cases worldwide. Inserting it into a wider category allows us to theorize. Often Israelis stress the uniqueness of their situation, and hence should not be measured by universal standards. But this is not a realistic proposition. We can also compare with other related forms of domination from the past. The question is what category can be the most relevant since we could place it both in terms of military occupation and colonial domination.

At present, those identity driven conflicts involve nations and groups that are formally given equal citizens rights, -albeit with objective and subjective grievances of severe discrimination. While these minorities have a shared nationality recognized in the family of nations, what they are searching in their quest of self-determination in the most extreme case is secession or a lesser degree of autonomy within the existing state. This is not the case of the Palestinians in the West Bank, and the 343Tlimited situation in Gaza, they are not citizens of Israel, nor are they allowed to exercise the rights that a sovereign representative government should provide. In shaping the focus of our

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<sup>5</sup> We have highlighted mostly gross violations of human rights and did not cover all, and for the sake of brevity did not dwell on the respect of socio-economic and cultural rights in the Territories, since the remaining sections dealing with Israel are at the core of this article.

<sup>6</sup> For the purpose of this chapter we will provide the overall picture, and references for further information its sources, included in detailed reports drafted by international non governmental human rights organizations such as Amnesty International and Human Rights Watch, by the United Nations and by the United States Department of State as well as Israeli NGOs such as B'tselem, the Israel Information Center on Human Rights in the Occupied Territories.

research on the West Bank or as officially called Judea and Samaria<sup>7</sup>, it is important at start to differentiate this situation from the annexed Syrian Golan Heights. The conflict there can be best seen as a border dispute rather than an individual rights issue. Furthermore, this article is not a critique of territorial occupation per se as a result of war; in fact more often than not this has been the case that boundaries have been changed and with time, the result of victory has been legitimated by the international community and even the neighbors, as it has been the case with the outcome of the 1948 war that increase the Israeli size from 55% of the allocated by the UN partition of 1947 to 78% as the result of the 1949 armistice agreement. Indeed, the Golan Heights has Jewish colonies, but with the unilateral annexation to the state of Israel of all its inhabitants with formally equal rights. The absence of severe human suffering of the sparse Druze community may explain that pressures on Israel from the international community are minimal as compared with the focus on our study.

We should also remind ourselves of the years of temporary military occupation in Southern Lebanon that ended in 1999, where no colonialism was involved. In section three, we also cover the status of Palestinians in East Jerusalem. Similar to the Golan Heights, Israel has unilaterally declared its annexation. But differently, the state has granted only a restrictive residency, without the full citizen's rights that enjoy the Jewish majority in the city. As to Gaza, while sharing similar characteristics with the West Bank till 2005, the unilateral and complete settlements' withdrawal has changed its colonial nature. It has deteriorated into a sharper violent conflict between the Hamas quasi-government with Israel, inflicting heavy collective suffering to the Palestinian population in the Strip as well as the adjacent Israeli towns. Yet, the attributes of the confrontation there are more typical of two separate, albeit asymmetric parties.

The prolonged military occupation in the West Bank reveals a pattern of colonial and military domination, the most problematic combination. The prevailing power imbalance has encouraged Jewish citizens to establish themselves in separate settlements within the occupied territory and generate a double standard in the enjoyment of individual rights. A corollary outcome of this political subordination is the ability to affect the relegation of local government responsibilities to Palestinian authorities such as infrastructure development and the protection of social and economic rights (e.g., health care, education, public safety), often with the help of foreign donations.

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<sup>7</sup> Interestingly, the occupation of Sinai and Gaza from Egypt, Southern Lebanon and the Golan Heights from Syria did not result in renaming such territories, as it has been the case of the West Bank of Jordan, officially called by the biblical Judea and Samaria terms.

We examined the nature of **military occupation** as a stratagem for exercising authority over other nations in a post-colonial, democratic world, one in which, in theory at least, formalized abridgement of individual rights, based on the asymmetrical power relationship would be otherwise unacceptable. As a norm, only few and remote past examples of military occupation are a long-term proposition as in our case, enduring now more than four decades. Among them, currently the Chinese 57 years old occupation [albeit annexation] of Tibet<sup>8</sup>, the occupation of north Cyprus since 1974 by Turkey [with total Turkish Cyprus autonomy protected by the Republic of Turkey<sup>9</sup>]. Probably in all of them we could find similar acts done by the occupier that violate different human rights' codes, as for instance, sporadic and/or systematic cases of killing civilians, deportation of part of the occupied population, populating the occupied territory with occupying population, collective punishment of the occupied population, demolition of houses and damaging other private property in the occupied territory.<sup>10</sup> In the past, such restrictive provisions could stretch for decades under international legitimization, as the League of Nations mandates or United Nations trusteeships. By current standards, a military occupation cannot be legitimized unilaterally, and such a presence can be only legitimated by assuming the structure of an international presence, one that is subject to periodic review and renewal by higher international authority and has a humanitarian purpose<sup>11</sup>. Israel's official policy of referring to these lands as 'militarily occupied territories' (accepting voluntarily to apply the Geneva Convention humanitarian clauses) keeps available residual options extending from continuing the status quo, to overt annexation, or, even, to a forced 'ethnic cleansing'—all of them acts abhorrent to prevailing international community standards. We also reviewed the old definitions of '**colonial rule**'<sup>12</sup>. The use of such term is touching upon a polarized debate: detractors of Zionism consider the mere existence of the State of Israel, no matter

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<sup>8</sup> In the case of Tibet, why flagrant human rights violations have been committed by the Chinese government, (<http://www.freetibet.org>) it could be argued that this people has been submitted to a similar treatment to all citizens and minorities elsewhere.

<sup>9</sup> Different from the Israeli occupation, the Turkish Republic military occupation of the part of Cyprus that eventually protected the majority of its Muslim citizens can be compared to the Trans-Jordan occupation of a large portion of the West Bank in 1949, a proxy that eventually provided full citizenship rights

<sup>10</sup> Nimrod Rosler, Daniel Bar-Tal, Keren Sharvit, Eran Halperin, and Amiram Raviv, "Moral Aspects of Prolonged Occupation: Implications for an Occupying Society", Chapter to appear in Sarah Scuzzarello, Catarina Kinnvall and Kristen Monroe (Eds.), *On behalf of others: The morality of care in a global world*. New York: Oxford University Press (forthcoming)

<sup>11</sup> Even the American military presence in Iraq was formulated as a component of a group of nations designated 'coalition forces,' and whose initially stated purpose was stopping the allegedly developing Iraqi nuclear threat—afterwards determined to be without foundation—but which later mutated into the public goal of installing a democratic regime in that nation.

<sup>12</sup> The definition of "colonial" relates to "colony", among others, as (1) a body of people settled in new territory, foreign, often distant, retaining ties with the motherland or parent state; (2) a settlement in a new country; (3) the body of descendants of settlers wholly or partially retaining their ideology and organization; (4) settlement made in hostile, newly conquered, or unstable country as a means of facilitating established occupation and governed by

on what borders, as a colonial fact.<sup>13</sup> Most Israelis have strongly reacted against such formulation, stressing that the right to return to the homeland of their ancestors is providing the legitimacy to possess the Promised Land, and perhaps even more than any other group such as Arabs who came much later from the Arab peninsula, where their holiest Muslim places are located. “Colonial occupation” seems to be the term best applies to the Israeli situation as a dominant power controlling the ‘colonized’ territory while not providing full civil and political rights to that territory’s native inhabitants. The prevailing power’s policy even encourages Israeli citizens to establish separate settlements within the occupied territory, enjoying a status virtually indistinguishable from extraterritoriality. Hence, a systematic comparison of other colonial experiences and its impact on the metropolis’ human rights standards and democratic practices is of relevance.

A ‘colonial situation’ according to Sivan is one in which “one ethnic group rules over another, ethnically different, and group within the same territory. The ruling group holds a monopoly of power, as well as a disproportionately large share of the territory's economy resources.”<sup>14</sup> Hence, we may be best served in comparing with previous colonial cases and metropolis, the closest has been the French occupation of Algeria, and Albert Memmi<sup>15</sup> can provide us many approximations that are relevant. In order to assess similarities and differences we have further disaggregated in the fourth section of this article “colonial occupation” into twelve variables that may produce different effects on the occupier. The fact that we need to look but into cases through the last hundred years and do not find cases at present is indicative also of another factor, which points out to the parallel progress of the international community in terms of decolonization and human rights<sup>16</sup>. Hence, the expectations of the international community in terms of compliance with human rights principles, and the sense of relative deprivation of Palestinians without full citizenship in the twenty first century can show the gap with long gone situations elsewhere.

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a parent state; and (5) a settlement in a new territory enjoying a degree of autonomy or semi-responsible government without severing ties with the parent state and without attaining the more free status of a dominion” (*Webster’s Third New International Dictionary*, Springfield, G. & C. Merriam Company, 1971, pg 447)

11. Anti Zionist agree with Jewish settlers that the policy was always colonialist and that the green line makes no difference, that colonist (‘mityashvim’ the Hebrew term for the pre-1967 founding members of new communities) differ only semantically from the settlers (‘mitnachalim” in Hebrew, forming communities in the land of their ancestors including Judea and Samaria, and other post-1967 Occupied Territories. Matan Kaminer, *The Semantics Make a Difference*, Hagada Hasmalit (The Left Bank)

April 4, 2007, <http://www.hagada.org.il/eng/modules.php?name=News&file=article&sid=159>

<sup>14</sup> Emmanuel Sivan, “The Intifada and Decolonization”, *Middle East Review*, (Winter 1989/1990), p 5

<sup>15</sup> Albert Memmi, *Colonizer and the Colonized* (Boston, Beacon Press, 1991).

<sup>16</sup> Emanuel Adler and Beverly Crawford (eds.), *Progress in Post-War International Relations*, (New York, Columbia University Press, 1990)

Within this context, it is important to point out attempts to compare Israel's policy with the Apartheid regime in South Africa<sup>17</sup>. As the rather unfortunate title of Jimmy Carter's book<sup>18</sup> gave the impression that the state of Israel plus the occupied West Bank and Gaza are similar to the policies installed in all South Africa in 1948. It codified existing social practices, often in minute detail, to assure white racial superiority over the much larger black and colored population. The differences are both in terms that the denial of citizens' rights of towards another ethnic group in the case of Israel is not over its full territory like South Africa, and that it is not exclusively on an ethnopolitical basis. While recognizing their discrimination, Arabs in Israel have full voting rights, as it is not the case in the territories under occupation. However, we posit that the continuation of the present trends is making inroads within the limits of Israel getting us closer rather than further away from the no longer in existence South African model.<sup>19</sup>

## II. THE HUMAN RIGHTS SITUATION IN THE WEST BANK

While the focus of the article is on Israel proper, a succinct coverage of human rights abuses in the Palestinian Territories is needed to provide context for later stressing cause and effect processes. We are not looking now into the interaction with Palestinian violence and terror but how the Israeli violations in the permeate into Israel, its government being responsible by commission of human rights violations of the local population; by setting a double standard in benefit of the Jewish settlers in housing, separate roads, no check points, access to water, etc; and by omission, for not stopping their abuses perpetuated against the Arab population. From the immense coverage we have selected quotes from international and Israeli non-governmental organizations, United States and United Nations sources. The first twenty years after the Six Days War were perceived by most Israelis as 'benign occupation' and while some mild repression was targeted to individual opponents, the

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<sup>17</sup> Virginia Tilley et al, "Occupation, Colonialism, Apartheid- A re-assessment of Israel's practices in the occupied Palestinian territories under international law, A study of the Middle East Project of the Human Sciences Research Council of South Africa, (Cape Town, May 2009, [www.hsra.ac.za/D\\_G\\_phtml](http://www.hsra.ac.za/D_G_phtml))

<sup>18</sup> Jimmy Carter, *Palestine Peace: Not Apartheid* (New York, Simon and Schuster, 2007). . See rebuke by Benjamin Poground "Israel is a democracy in which Arabs vote, *FOCUS magazine*, The Helen Suzman Foundation, Johannesburg, December 2005 and B. Poground, South Africa Is Not a Model for Us, *Palestine-Israel Journal*,( Volume 14 No. 2, 2007: Future Options)

<sup>19</sup>"Without any differentiation,"- The UN's Special Rapporteur for Human Rights in the Occupied Palestinian Territories, John Dugard, has issued a harshly critical report on Israel's human rights record in regards to its treatment of the Palestinians in the occupied Palestinian territories of East Jerusalem, the West Bank and the Gaza Strip." The international community, speaking through the United Nations, has identified three regimes as inimical to human rights - colonialism, apartheid and foreign occupation," Dugard says. In his 24-page report, Dugard warns Israel that, "In apartheid South Africa, a similar system designed to restrict the free movement of blacks - the notorious "pass laws" - created more anger and hostility to the apartheid regime than any other measure. Israel would do well to learn from this experience." Dugard singles out Israel's illegal separation wall as one of Israel's most apartheid-like tools. (Ma'an, UN Press conference in Bethlehem, 2006).

overall result was economic progress and some widening of individual liberties as compared with the previous period of Jordanian rule. But this picture dramatically started to change when in 1987 the Palestinian local leadership and people moved from an attitude of “Summud” (steadfastness) to “Intifada” (get ride of occupation) or rebellion, leading to widespread arrests and collective punishment. We chose different periods through the last decade, recognizing that the violent events from the second Intifada Al Aqsa at the end of the year 2000 through the 2008/9 Gaza War deteriorated the human rights situation even further.<sup>20</sup> In many references dated earlier than 2005, the situation and figures described included both the West Bank and Gaza.<sup>21</sup>

According to **Human Rights Watch**<sup>22</sup> ”... many civilians were among the over seven hundred Palestinians and over two hundred Israelis who, by November 2001, had been killed in the violence that followed the eruption of clashes between Israelis and Palestinians in September 2000. In addition, some 16,000 Palestinians and some 1,700 Israelis were injured in the violence. Israeli security forces were responsible for extensive abuses, including indiscriminate and excessive use of lethal force against unarmed Palestinian demonstrators; unlawful or suspicious killings by Israel Defense Forces (IDF) soldiers; disproportionate IDF gunfire in response to Palestinian attacks; inadequate IDF response to abuses by Israeli settlers against Palestinian civilians; and ‘closure’ measures on Palestinian communities that amounted to collective punishment”. According to B’Tselem, “following the killing by a Palestinian gunman of an Israeli settler child, Israeli settlers killed at least eleven Palestinians between September 2000 and September 2001 and injured dozens more. Settlers attacked Palestinian homes, destroyed stores, automobiles and other property, uprooted trees, prevented farmers from reaching their fields, blocked major roads, stoned Palestinian cars, including ambulances, and targeted humanitarian workers, diplomats, and journalists”. “Curfews, closures, and blockades had a devastating impact on Palestinians' lives, obstructing access to health care, schools and universities, businesses, and places of worship.”...” There were new

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<sup>20</sup> For transparency sake, it may be worth point out that the author was a founder and then chair of B’tselem(the Israeli Information Center for Human Rights in the Occupied Territories), as well as board member of the International Executive Committee of Amnesty International and currently serves at the Advisory Board of Human Rights Watch/Middle East

<sup>21</sup>”Gaza remains an imprisoned society as a result of the complete closure of the main crossings.”...” Israel refuses to recognize Gaza as an occupied territory, which it clearly is under international law, and instead has declared Gaza to be a “hostile entity”. “The humanitarian crisis continues and over 80 per cent of the population is living below the official poverty line. IDF military incursions are a frequent occurrence as are the targeted assassinations of Palestinian militants”...” While the firing of such [Qassam] rockets is to be condemned, Israel’s response is disproportionate and fails to distinguish clearly between civilian and military targets. Statement by Prof. John Dugard, Special Rapporteur on the situation of human rights in the Occupied Palestinian Territory, 62nd session of the General Assembly, Third Committee, Item 70 (c), 24 October 2007, New York

<sup>22</sup> Human Rights Watch, World Report, (New York, 2001)

reports of torture of detainees by Israeli security forces after October 2000.”...”Israel continued to detain Palestinians for extended periods without charge or trial”.

**The Department of State**, in its 2004 worldwide country report mentions<sup>23</sup>: “Trials sometimes were delayed for much extended periods, because Israeli security force witnesses did not appear, the defendant was not brought to court, files were lost, or attorneys were delayed by travel restrictions. Palestinian legal advocates alleged that these delays were designed to pressure defendants to settle their cases. However, police detention and interrogation facilities for Palestinian were overcrowded and had austere, provisional conditions.” “The IDF conducted numerous military incursions into Palestinian population centers, in response to Palestinian mortar and antitank fire. These actions often resulted in civilian casualties. Israeli forces fired tank shells, heavy machine-gun rounds, and rockets from aircraft at targets in residential and business neighborhoods where Palestinian gunfire was believed to have originated. Palestinians often used civilian homes to fire upon Israeli forces and booby-trapped civilian homes and apartment buildings. In response to these actions, the IDF usually raided, and often leveled, these buildings.” “Israeli law, as interpreted by a 1999 High Court of Justice decision, prohibited torture and several interrogation techniques, such as violent shaking, holding and tying of prisoner in painful positions, shackling, sleep deprivation, covering the prisoner's head with a sack, playing loud music, and prolonged exposure to extreme temperatures, but allowed "moderate physical pressure" against detainees considered to possess information about an imminent attack. However, [the Committee Against Torture in Israel] CATI and the Physicians for Human Rights in Israel (PHR) reported that techniques prohibited by the law were used against Palestinian detainees during interrogation” “Israeli law prohibits the admission of forced confessions, but most convictions in security cases were based on confessions made before legal representation was available to defendants.”” Israeli security forces used force against Palestinians involved in demonstrations. Closures and curfews limited the ability of Palestinian journalists to do their jobs. Israeli forces used Palestinians as "human shields" in violation of applicable Israeli law. In 2002, the Israeli High Court of Justice granted an injunction against the use of Palestinians as "shields" for Israeli forces. The IDF admitted violations of existing procedures and reiterated that IDF forces "are absolutely forbidden to use civilians of any kind as a means of 'living shield' against gunfire or attack by the Palestinian side or as 'hostages.'" However, IDF soldiers were permitted to seek consensual assistance of civilians in operations. Human rights groups asserted that Palestinians

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<sup>23</sup> United States Department of State “Israel and the occupied territories,” in Country Reports on Human Rights Practices - [2004](#), Released by the Bureau of Democracy, Human Rights, and Labor February 28, 2005



who consented often did so out of fear even if they were not coerced. Such Palestinians face the risk of being branded as collaborators. During the year, Israeli forces delayed the movement of, and occasionally fired upon; medical personnel and ambulances”. “Israeli forces fired tank shells, heavy machine-gun rounds, and rockets from aircraft at targets in residential and business neighborhoods where Palestinian gunfire was believed to have originated.

In 2006, according to **Amnesty International**,”... Increased violence between Israelis and Palestinians resulted in a threefold increase in killings of Palestinians by Israeli forces. The number of Israelis killed by Palestinian armed groups diminished by half. More than 650 Palestinians, including some 120 children, and 27 Israelis were killed. Israeli forces carried out air and artillery bombardments in the Gaza Strip.”...”. Military blockades and increased restrictions imposed by Israel on the movement of Palestinians and the confiscation by Israel of Palestinian customs duties caused a significant deterioration in living conditions for Palestinian inhabitants in the Occupied Territories, with poverty, food aid dependency, health problems and unemployment reaching crisis levels. Israeli soldiers and settlers committed serious human rights abuses, including unlawful killings, against Palestinians, mostly with impunity. Thousands of Palestinians were arrested by Israeli forces throughout the Occupied Territories on suspicion of security offences and hundreds were held in administrative detention.”...” Israeli settlers in the West Bank repeatedly attacked Palestinians and their property, as well as international peace activists and human rights defenders who sought to document their attacks on Palestinians. Some of the attacks occurred during the olive harvest season, when Palestinian farmers attempted to go to their fields close to Israeli settlements and which Israeli settlers sought to prevent them accessing. In June the Israeli Supreme Court issued a ruling instructing the army and police to protect Palestinian farmers seeking to work their land from attacks by settlers. The incidence of such attacks decreased, but several more were carried out, some in the presence of Israeli security forces who failed to intervene.<sup>24</sup> Israeli security forces demolished and sealed the homes (owned or rented) of Palestinians suspected of terrorism or the relatives of such suspects, without judicial review. During the year, according to B'tselem, Israeli forces demolished 181 housing units in the occupied territories as punishment for terror activity and deterrence against future attacks.

**B'tselem** figures for gross human rights violations for the period September 2000- November 2008 are as follows: 4,781 Palestinians killed in the Occupied Territories (2990 in Gaza and 1791 in the

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<sup>24</sup> Amnesty International, United States Section, 2007 Annual Report for Israel and the Occupied Territories, <http://www.amnestyusa.org/>

West Bank) and 69 within Israel, and additional 45 killed by Israeli civilians (4 in Gaza and 41 in the West Bank). The total of Israelis civilians killed in the Territories was 237 ( 39 in Gaza and 198 in the West Bank) plus 490 killed within Israel and additional 245 military killed in the Territories (97 in Gaza and 198 in the West Bank) and 90 in Israel. More than 8,200 Palestinians are held in Israel, the vast majority in facilities of the Israel Prisons Service, and a small number in IDF facilities (figures provided by Israel authorities).

According to a 2007 **United Nations** report<sup>25</sup>” Israeli security forces demolished and sealed the homes (owned or rented) of Palestinians suspected of terrorism or the relatives of such suspects, without judicial review. There have been some improvements in the West Bank since the seizure of power in Gaza by Hamas – the release of almost 350 prisoners, the payment of some of the tax moneys due to the Palestinian Authority, the relaxation of travel restrictions in the Jordan Valley and the granting of residence permits in the West Bank to 3,500 Palestinians. These improvements are, however, offset by the increase in the number of checkpoints and roadblocks (now 571); increase in the number of military incursions and arrests; the continued construction of the Wall, with the associated harmful consequences for those living near the Wall; the continued expansion of settlements”

In the aftermath of the persistent eight-year rocket shelling of Southern Israel from the Hamas-controlled Gaza Strip, the coded “Cast Lead Operation” was launched by the Israel Defense Force in December 2008. A large percentage or more than the thousand casualties involved non combatant civilians, among them many women and children. Israeli human rights organizations have reiterated demands that Attorney General Menachem Mazuz reconsider his refusal to establish an independent investigative body to examine military proceedings during Operation Cast Lead.<sup>26</sup> The UN Fact Finding Mission led by Justice Richard Goldstone to probe war crimes committed by both sides in Gaza was categorically critical of Israel as well as Hamas.<sup>27</sup> The large level of civilian fatalities and

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<sup>25</sup> Statement by Prof. John Dugard, Special Rapporteur on the situation of human rights in the Occupied Palestinian Territory, 62nd session of the General Assembly, Third Committee, Item 70 (c), 24 October 2007, New York

<sup>26</sup> While the Attorney General is content with only an internal military investigation following disclosure of severe violations in the Israeli press, the letter makes clear that the government's failure to establish an independent investigation constitutes a violation of Israel's responsibilities under international law.” Press Release, March 19, 2009 (*Btselem*, [www.btselem.org](http://www.btselem.org)) Human Rights Organizations in Israel calling for the opening of an independent investigation.

<sup>27</sup> See full report at <http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/9/FactFindingMission.htm>, and op-ed by Richard Goldstone published in the New York Times, September 17, 2009.

the destruction of more than two thousand houses<sup>28</sup> is bound to have severe repercussions among the officers and soldiers' dehumanizing attitudes towards the "enemy" perceived if not as real then potential enemies or casualties caused by the mixing with the population of the Arab combatants.<sup>29</sup> Israel becoming totally isolated on this issue, the reaction of the Foreign Ministry was "promising to read the report carefully" rather than disputing the facts, but stress that the UN Mission had a "one-sided mandate"...."giving legitimacy to the Hamas terrorist organization".<sup>30</sup>

### III. THE IMPACT OF COLONIAL OCCUPATION ON THE HUMAN RIGHTS REALITY AND VALUES IN ISRAEL

One cannot adjudicate all the reasoning behind the deterioration of human rights norms and values in Israel to only one explanatory variable, "colonial occupation". We need to take into consideration those mutations in Israel incident to other trends, e.g., transitions of leadership from founding fathers to the third generation; wealth generation and economic growth; demographic changes brought about through recent immigration or ethnic-specific birth rates; modernization and development<sup>31</sup>; and such international processes resulting from consumerism and globalization<sup>32</sup> as well as fragmentation. Furthermore, over six decades of existence, the state of Israel has changed a lot, not only for worse, but also for better. But we would like to underscore that in terms of cost and benefit, occupation has contributed a mostly negative impact. Structuring this section is challenging. Firstly, while there has not been a direct correlation of each violation in the Occupied Territories with the restrictions of similar rights as it applies to **Israeli Jews**, this has not been the case in relation of **Arabs citizens** of this country (20% of the total population). One of the most direct impacts of occupation is the marginalization of the Arab citizens and their growing polarization towards the Jewish majority, a subject covered more in-depth in other sections of this book.<sup>33</sup>. Secondly, we may need to separate the larger impact of occupation on societal attitudes that the slower process of erosion in the state institutions. Finally, as in our previous assessment of the

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<sup>28</sup> *Ha'aretz*, ( March 20, 2009)

<sup>29</sup> *Ha'aretz*, 19<sup>th</sup> and 20<sup>th</sup> March, 2009. Amos Harel, "IDF in Gaza: Killing civilians, vandalism, and lax rules of engagement", as reported by combat pilots and infantry soldiers at an introspective meeting in of the Yitzhak Rabin pre-military preparatory course at Oranim Academic College in Tivon. See also testimonies published by Breaking the Silence, June 2009([www.breakingthesilence.org.il](http://www.breakingthesilence.org.il))

<sup>30</sup> Israel's initial reaction to the report of the Goldstone Fact Finding Mission

(<http://www.mfa.gov.il/MFA/About+the+Ministry/MFA+Spokesman/2009/Press+releases/...>)

<sup>31</sup> Many of this aspects are covered by Goldscheider, Calvin, *Israel's Changing Society – Population, Ethnicity & Development*, (Boulder, Westview Press, 2002)

<sup>32</sup> Segev, Tom, *Elvis in Jerusalem- Post-Zionism and the Americanization of Israel*, (New York, Henry Holt and Co, 2001).

<sup>33</sup> For a background book on the topic, see "David Kretzmer, *The Legal Status of the Arabs in Israel*, (Boulder, Westview Press, 1990)

impact, we need to highlight the deterioration of values by specific sectors of society that perpetuated hostile and discriminatory acts towards Jewish and Arab targeted groups.<sup>34</sup> We will try to integrate the three classifications in the subtitled sections and underlined analysis below

Lets remind ourselves beforehand that the issue of human rights violations by Israel as a whole starts in fact with the **Jewish settlers**- Israeli citizens in the West Bank subjected to a privileged set of laws- not respecting Palestinians' rights, benefiting and at the same time triggering official preferences of the Israelis (access to more water, more land, separate roads, etc). Hence, different from a military occupation where all are treated equally bad or good as citizens (as in occupied Golan Heights), here there is a clear discriminatory policy and societal behavior. And the settlers act as well within Israel and its institutions to ensure such privilege while the government overlooks such unlawful acts.<sup>35</sup>

#### THE ARAB MINORITY

At the popular level, and even in the words of a minister , expressions such as “ dirty Arabush” – adding an derogatory suffix to the term Arab-<sup>36</sup> do not differentiate across the Green Line from the other Palestinians referred to in the previous section. In the preamble of the UDHR the reference to equality and the dignity of men is highlighted, and the overall sentiment of this minority is that Jews have been mistreating them from a position of superiority<sup>37</sup>, Furthermore, oral expressions of discrimination have often been translated in violent behavior. One blatant example has been the massacre with life ammution of 12 Arabs in Israel in October 2000, in reaction to a stone-throwing demonstrations while similar violent ultraorthodox anti-Zionist Shabbat riots in West Jerusalem have been met at worst with tear gas or water cannons at the price of several policemen wounded.<sup>38</sup>

The fact that many Israelis call the territories “liberated” compounded with the threat of the “demographic bomb” generates a dissonance, that can be resolved by either ethnic cleansing of

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<sup>34</sup> E.Kaufman, “War, Occupation and Effects on Israeli Society”, in Kaufman, E et all, op.cit, pp 85-134

<sup>35</sup> For a critical analysis of the settlers direct action and the encouragement or acquiescence of Israeli governments, see Judith Zertal & Akiva Eldar, Lord of Lands: The War Over Israel's Settlements in the Occupied Territories, 1967- 2007, (NY, Nations Books, 2007)

<sup>36</sup> The reference is to a reaction to a Jewish undercover agent by the Minister of Police, later apologizing for using a ‘popular expression’ ..” In an editorial Ha’aretz lamented that the silence of the government has given indirectly support to such statements, and that PM Netanyahu could have at least publically condemn such racist language. Haaretz , June 19, 2009

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<sup>38</sup> One of the last violent incidents incited by the ultraorthodox took place in Jerusalem through June 2009, protesting the opening of a parking garage on Shabbat near the Old City, even if free of charge and manned by non-Jewish manpower.

Judea and Samaria and with the same reasoning the forceful eviction of Arabs from Israel; or their inclusion in a reshuffled territorial map., or by restricting their citizens' rights giving up of the minimalist definition of democracy "one person one vote".<sup>39</sup> Successive governments did little to reduce institutional, legal, and societal discrimination against the country's Arab citizens. Prime Minister Ehud Olmert decried the "deliberate and insufferable" discrimination against Arabs at the hands of the Israeli establishment. The gap between the proportion of Arab citizens in Israel and their inclusion in the state's civil service positions "arouses concern and unrest."... "There is no argument that there were ministries and offices that did not accept Arabs".<sup>40</sup> Overall, according to Ghanem..."the citizenship of Palestinians in Israel has no real significance"... "it stems from Israel's paradigm of control."..."This concept gained currency after the Israeli conquest of the West Bank and Gaza in June 1967. Aside from participating in elections, an extremely limited form of participation for a minority, Palestinians in Israel do not enjoy basic protections or basic rights that ought to be assured by the fact of citizenship."<sup>41</sup>

An illustration of applying double standards can be found in the application of the policy of house demolition for Arab terrorists-- a doubtful deterrence instrument and clearly a case of collective punishment to the entire family in East Jerusalem; but this was never the case for Jews involved in an underground organization neither when Yigal Amir assassinated in cold blood the Israeli Prime Minister Yitzhak Rabin

This segregation of minorities is popular. But the perception of threat increased among Israeli Jews during the second Intifada Al Aqsa, hence widening the support for limitation of civil rights to Arabs in Israel proper<sup>42</sup>. 62% of Israelis think the government should encourage its Arab citizens to emigrate from Israel<sup>43</sup>. Twenty nine percent of Israelis think crucial decisions concerning Israel's future should be decided by a Jewish majority. Nearly 50% of Israeli Jews don't want to live near

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<sup>39</sup> Ha'aretz, May 11, 2009. Akiva Eldar "What are we, Arabs?" A survey by Prof. Daniel Bar-Tal and Dr. Eran Halperin found that 53 percent of Israelis consider the West Bank liberated territory and only a minority sees it as occupied territory?.) Even though the threat of Israel becoming a binational or apartheid state increases annually, such pressure is insufficient to make it pull out of the territories.

<sup>40</sup> PM Ehud Olmert, "Israeli Arabs have Long Suffered Discrimination", *Ha'aretz*, 10<sup>th</sup> December 2008

<sup>41</sup> The Jerusalem Fund – Interview with Dr. As'ad Ghanem, "Israel's Palestinian Citizens", September 2008, [www.thejerusalemfund.org/images/reportsandcomments.php?2CD=62](http://www.thejerusalemfund.org/images/reportsandcomments.php?2CD=62)

<sup>42</sup> M. Shamir, and T. Sagiv-Schifter. 2006. "Conflict, identity, and tolerance: Israel in the Al-Aqsa intifada", *Political Psychology*, 27, (4), 2006., pp 569-95.

<sup>43</sup> The Democracy Index 2006, was conducted in the Gutman Center under the direction of Professor Asher Arian. commissioned for the Israel Democracy Institute conference

Arabs<sup>44</sup> while fifty-six percent of Israeli Arabs strongly support living in the same neighborhood as Jews. Thirty-five percent of the Jews and 7 percent of the Arabs would not like to see Arab pupils in Jewish high schools, and some 23 percent of both groups are not in favor of meetings between Jews and Arabs

**Palestinians residents of East Jerusalem annexed by Israel** –received municipal services inferior to those available in other parts of Jerusalem<sup>45</sup>. Most of them originally have chosen not to request Israeli citizenship- an act repudiated by the PLO-, but instead have sought a residence permit or Jerusalem identification card. By now, when restrictions make daily life difficult, applications for citizenship are no longer entertained. Under the 1952 Law of Permanent Residency, such residents risk loss of status if their ties with Jerusalem lapse, even if born there and being counted in the post-1967 census. Residency restrictions affected family reunification. Palestinians who were abroad during the 1967 War, or who subsequently lost their residence permits, were not permitted to reside permanently with their families in the Occupied Territories. Foreign-born spouses and children of Palestinian residents experienced difficulty in obtaining residency as compared with the automatic approval for Jews in the same city. Palestinians also reported extensive delays in registering newborn children with Israeli authorities. The Israeli occupation authorities limited speech in East Jerusalem, activities as “Jerusalem the cultural capital of Islam”, as well as the display of Palestinian political symbols such as flags and banners- paradoxically when Israeli Prime Minister fly the same flag in their own residence in West Jerusalem when visited by their Palestinian counterparts- have been prohibited and punishable by fines or imprisonment. Israeli authorities censored Arab press coverage of the Intifada and reviewed Arabic publications for material related to public order and security issues. It has often been said that the test of democracy is not majority rule but the way it deals with minorities, and that in itself is enough of a verdict against occupation.

**Foreign workers**. The socio-economic rights of many legal and illegal foreign workers have been repeatedly violated, from those working in agriculture or construction to domestic help and even women trafficking<sup>46</sup>. Often replacing the manpower that used to daily commute from the Palestinian

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<sup>44</sup> Professors Faisal Azaiza and Rahel Hertz Lazarowitz, who conducted the survey, interviewed representative samples of 501 Jews and 513 Arabs.( By Fadi Eyadat, *Haaretz*).

<sup>45</sup> Association of Civil Rights in Israel, Report on East Jerusalem (Jerusalem, June 2009)

<sup>46</sup> Enough to check the titles of articles in Ha'aretz to get an overall impression: Foreign housekeepers have rights, too / By Lea Porat;Illegal workers may pose security risks / By Zvi Zrahiya;Illegal workers can now be jailed / By Gideon Alon ;Legal foreign workers dropped 31% in 1997 / By Moti Bassok ;Foreign workers' kids dubbed 'ticking time bomb' / By Shani Litman ;'Quickie' deportations may come in place of jail / By Reuven Shapira ;Children of illegal workers not going to school / By Zvi Zrahiya. See also reference by Philip Martin in MIGRATION NEWS Vol. 5, No. 5, May, 1998.

territories, the precarious conditions and uncertainties of several hundreds of thousands of them, have become an easy pray for abuses by Jewish individuals, families and contractors. One of the most blatant violations has been the deporting of families with children, reversing a previous promise to grant citizenship to families whose children were born, raised and educated in Israel and have no citizenship or identity other than their Israeli one..<sup>47</sup>

## THE INSTITUTIONAL IMPACT

Of all state institutions, the Supreme Court of Justice and the Israeli Defense Forces (IDF) have traditionally recorded the highest level of public prestige, the first is now becoming the last bulwark for human rights<sup>48</sup>, while the latter has been deteriorating. With less public appreciation, the negative effect of colonial occupation has tinted both the Executive and Legislative powers. All in all, the effects are primarily reflected in the “democracy deficit”<sup>49</sup>, reflected in art.21 of the UDHR, namely, the exercise of the right to elect and be elected. What we have observed and will briefly related below is its impact on the quality of Israel’s political leadership, with an overall poorer performance than before 1967, corroborated also in the lack of appreciation in public opinion; decreasing transparency, with the growing number of cases of corruption; abuse of power resulting in transgressing legal and moral standards; limited accountability, including hiding the truth in a court of justice, restricting or disregarding the functioning of commissions of enquiry; the growing gap between poor and rich; the malfunctioning of check and balances within the state’s institutions; limitations of citizenship rights; restrictions of the freedom of the press and opinion. Just to feature some of the trends:

**- Political stability:** The stability of the government has been damaged by occupation. During the first twenty nine years after independence, the country was run by a Labor led stable coalition, to be followed after 1977 with a fifteen year long Likud led and at times national unity government. With the PLO change of hearts into the “two state solution” and through the renewed Arab League Peace Initiative, facing the dilemma of trading territories for ending the conflict became a crucial factor in

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<sup>47</sup> Ha’aretz 1<sup>st</sup> July, 2009. “Judaism and racism” by Avirama Golan.:” Israel is rapidly losing the last vestiges of its humane posturing and is closing its heart and conscience not only to Palestinians in the territories, but to anyone who, quite simply, is not Jewish.

<sup>48</sup> Defending human rights seems to negatively affect public support. As in previous years, participants in the 2008 Democracy Survey were asked for their view of the country’s institutions, showing a decline of 12 percentage points in the public’s trust in the Supreme Court – 49 percent trust the Court this year, as opposed to 61 percent last year. <sup>48</sup>, Israel Democracy Institute Annual Report, Jerusalem, 2009.

<sup>49</sup> The term “democracy deficit” has been used lately to the setbacks in upholding citizen’s freedoms in reference to the Bush administration ( James Bovard, Attention Deficit Democracy, (New York, Palgrave Mac Millan, 2006) and the Arab world (Gary C.Gambill, “Explaining the Arab Democracy Deficit”, Middle East Intelligence Bulletin, Vol. 5 No 2 February-March 2003,

political instability. From 1992 till 2009 we had in those seventeen years eight prime ministers. This lack of continuity has been overwhelmingly the main factor for the inability to pursue sustained policies in most fields for the benefit of all Israeli citizens. Subordinating citizens' socio-economic needs to security considerations was a contributing factor to the widening gap and the large number of people living below the poverty line. Omit this point ---it is not related to human rights violation. OK , I AM WILLING TO DO SO, BUT DON'T YOU THINK THAN AN AVERAGE 2. YEAR GOVERNMENT COULD NOT PROVIDE LONG TERM SOCIAL POLICIES AND THAT COMPROMISES IN HESDERIM WERE CAUSED BY THE NEED TO KEEP A GOVERNMENT SPLIT NEARLY ALWAYS BY CONTENDING PRESSURES ABOUT OCCUPATION?

Increased corruption, transgressing moral standards among politicians generate different access towards benefits provided by the law to all its citizens. This could be the *direct* result of colonial occupation's practices such as selling Israeli identity documents for bribes, favoritism in the allocations of VIP permits (including to collaborators), business deals between Israeli former security officers with Palestinian cronies providing a cut for the use of monopolies over goods (oil, cement) and border control. As said, if "power corrupts", and "absolute power corrupts absolutely". *Indirectly*, the distancing from the political system does not stem only from the growing number of cases of elected officers involved in embezzlement, but also from an assessment of the system as corrupt. Anyone familiar with current public discourse in Israel will not be surprised to find that a rare consensus prevails concerning its scope: 90 percent of respondents state that Israel is tainted by corruption – 60 percent hold that there is a large scale in Israel, and 30 percent estimate that there is quite a lot of corruption. By contrast, only nine percent estimate that there is little corruption, and merely one percent holds that Israel is not at all corrupt. More than one-half of respondents (51%) hold that dishonesty today a necessary condition to reach the top of the political ladder in Israel, and 60 percent hold that integrity is a politician's most important quality.<sup>50</sup>

Poor accountability<sup>51</sup> for crimes committed against often innocent Palestinians has resulted in impunity, either by turning a blind eye (omission of justice) or by bluntly light sentences (commission of injustice), illegal practices condoned or tolerated by the authorities and cover ups have possibly affected restricting or disregarding the functioning of commissions of enquiry. Co-

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<sup>50</sup> The Democracy Index, 2008. The Israel Democracy Institute, (Jerusalem, 2009, [www.idi.org.il](http://www.idi.org.il))

<sup>51</sup> "Discrimination between Israelis and Palestinians is pervasive in all Israeli policies, be it the criminal justice system or the allocation of land and water. There is little accountability, whether on the individual or the collective level; from the soldier standing at the checkpoint to the highest levels of the army and government, it is extremely rare for anyone to be accountable for harming Palestinians." Btselem, "Human Rights in the Occupied Territories", 2008 Annual Report . (Jerusalem, 2009, [www.btselem.org](http://www.btselem.org)), pg 2



opting “collaborators” through corruptive practices may have been a necessary evil<sup>52</sup>, and the danger is that such behavior becomes a way of life, buying loyalties and betrays oaths of allegiance different from prosecuting presidents, ministers

Fair trials and the protection human rights by the Israeli courts--The prevalence of the rule of law has been guaranteed primarily because of a strong and independent Judiciary. The Supreme Court has been a barrier to protect civil rights, with particular relevance to the Arabs in Israel. Since the High Court of Justice decision on Elon Moreh in 1979, in which the court ruled that seizing private lands is illegal, powerful political forces have been attacking this basic institution. Increasingly facing heavy fire, there is no guarantee that its adherence to universal standards will prevail. Already, some of the courts’ decisions such as the removal of illegal outposts in the West Bank were not implemented, affecting their profile as upholders of the rule of law but at the lower courts, the protection of citizens’ rights has been often curtailed. Facing protest and civil disobedience by settlements’ supporters has been less severely treated than instances when demonstrations against Israel’s war acts or the building of the fence/wall in the West Bank have been more severely treated or punished<sup>53</sup> The Israeli Police acted just before the nation's Memorial Day, in 2009 against “New Profile” a dissent movement founded mainly by women.<sup>54</sup> Entering into the homes of five of the activists to confiscate their computers, arrest them. Reportedly they had search warrants (does that make it better, or worse?).

The Israel Defense Force: On the top of the concerns we find the change of values about treatment of civilians, From the early days of the state when the oath “purity of arms” delineated the limits as prescribed by humanitarian law we found a gap between instructions of fire and reality and in the aftermath of the Cast Lead operation, a painful debate in which a main stream of academia

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<sup>52</sup> Hillel Cohen and Ron Dudai, “Human Rights Dilemmas in Using Informers to Combat Terrorism: The Israeli-Palestinian Case”, *Terrorism and Political Violence*, (2005, 17 : 1-2) pp. 229-243.

<sup>53</sup> Ha’aretz 22<sup>nd</sup> September 2009. “This is a time of war, and every incident harms the people's morale." This was not a sentence in a right-wing journal, but rather a statement by an Israel Police representative during Operation Cast Lead seeking to persuade the Tel Aviv District Court to block anti-war protesters from the city. President Shimon Peres accepted the recommendation by former justice minister Daniel Friedmann to pardon 59 citizens who committed criminal offenses during protests against the disengagement in August 2005. The president stated that the pardons were being granted out of an understanding for the young people's protests, and awareness that this was an unusual, historic event. The Ministry of Justice spokesman responded: "During Operation Cast Lead there were serious nationalistically motivated gatherings and rioting, occasionally accompanied by real disturbances including stone throwing and road blockades, and in some cases there was risk to human life and public welfare, similar to the events of October 2000 (albeit not on the same scale and not at the same intensity.

<sup>54</sup> The suspects were charged, duly interrogated and finally, after several hours, released on bail on condition that they not talk to other women in the movement for an entire month! No phone calls, emails, or meetings!“The reality of serving in an army of conquest, routinely stomping on the human rights of others - that reality drives many conscripts to go AWOL or even contemplate suicide. New Profile evolved to counter that reality with dialogue groups, presentations, exhibitions, one-on-one counseling, printed literature, a web site, etc., the activists are quite possibly saving dozens of young lives a month”. *Deb Reich*,

<http://www.counterpunch.com/reich05012009.html>

legitimizes the killing of innocent Palestinian civilians if a life threatening situation of an Israeli combatant.<sup>55</sup> , the domestic impunity of IDF officers, pointed by international governmental and non-governmental organizations as violators, has generated a sense of personal insecurity to the military personnel when travelling overseas; and all the above has affected the values of the young in particular, as discussed later. The growing fear is that high ranking officers are not socialized into human rights, do not use such language ; much to the contrary- The convergence of messianic fundamentalism and ultranationalism has now been tolerated, albeit later limited, within the IDF. Moving away from their traditional role as chaplains ensuring that kitchens are kosher and religious services are available, Israeli army rabbis were criticized for their stance on Gaza 2009 war, calling banish non-Jews from the biblical land of Israel. "This rabbi comes to us and says the fight is between the children of light and the children of darkness," a reserve sergeant said, recalling a training camp encounter. "His message was clear: 'This is a war against an entire people, not against specific terrorists.'<sup>56</sup>


The Executive Power: not only that it has been a main suspect of corruption, with former several ministers at this time in jail. But the lack of transparency, with a limited access to knowledge, compliance but with winking an eye often relates to illegal policies in the West Bank. As a recent example, an official state report entitled, the "Sassoon Report," supported the conclusion that all Israeli governmental departments and ministries have engaged in the funding of "illegal settlements" or outposts.<sup>57</sup> Most of the facts have been known for a long time, but this was the first time they had been admitted in an official report.

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<sup>55</sup> See the exchange of views between Shlomo Avineri, Asa Kasher and Amos Yadlin limiting the protection of foreign civilians when Israelis attack versus Avishai Margalit and Michael Waltzer ((New York Review of Books, August 13, 2009) as well as Kasher and Yadlin debate with Moshe Halbertal and Avi Sagi in Israel's Yediot Hachronot, (April 10, 2009)

<sup>56</sup> "A squad commander identified only as Ram complained that army rabbis tried to press what he called a "religious mission" on his men. 'The military rabbinate brought in a lot of booklets and articles and their message was very clear: We are the Jewish people, we came to this land by a miracle, God brought us back to this land and now we need to fight to expel the non-Jews who are interfering with our conquest of this holy land,' Ram said. As a commander, he said, he tried to explain to his men that "not everyone in Gaza is Hamas [and] wants to vanquish us [and] that this war is not a war for the sanctification of the holy name, but rather one to stop the Kassams" -- a type of rocket fired from Gaza. Richard Boudreaux , *Los Angeles Times* ,March 25, 2009

<sup>57</sup> The report's 300-pages reveal a steady official channeling of services and maintenance funds to these outposts, even in the absence of government building permission. Prime Minister Sharon vowed to dismantle the outposts. However, a cabinet meeting, a ministerial committee was appointed to study the report, but to this time, no significant action was taken to evacuate settlements For a summary of the report see <http://www.mideastweb.org/sassoonreport.htm>

The Knesset: Our legislative is into a slippery slope. One case in point – monitoring the loyalty to the state: The Israel Beitienu party motto “without loyalty there's no citizenship” was very successful in the 2009 Knesset elections.  The plenary gave initial approval on to a bill that would make it a crime to publicly deny Israel's right to exist as a Jewish state, punishable by a sentence of up to a year in prison. It would outlaw the publication of any "call to negate Israel's existence as a Jewish and democratic state, where the content of such publication would have a reasonable possibility of causing an act of hatred, disdain or disloyalty" to Israel. In addition, a draft bill approved by Israel's cabinet to outlaw public displays of mourning over Israel's birth, which Palestinians call "nakba", an Arabic word for catastrophe. Foreign Minister Liberman also introduced to the cabinet a bill that would require Israeli citizens to take a loyalty oath to the Jewish state before they could be issued a national identity card.<sup>58</sup> While this legislation is aimed against the Arabs in Israel, this witch hunting would be challenged by anti-Zionist ultra-orthodox Jewish groups, Naturei Karta being an extreme case. Even without the laws passed the reality is that it is already happening curtailing the freedom of speech is overwhelmingly or only related to occupation

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<sup>58</sup> Haaretz , 27/5/09 , Nadav Shragai, “ Knesset okays initial bill to outlaw denial of 'Jewish state'”MK Haim Oron (Meretz) attacked the proposal, saying "this insane government, what exactly are you doing? Creating a thought police? Have you run off the rails?"

## SOCIETAL IMPACTS

Focusing on the moral and psychological effect of occupation on the Israelis at large has been already covered by Rosler et al in a thorough analysis covering abundant references to other scholars.<sup>59</sup> Public opinion feedbacks on the decisions on peacemaking, depending heavily on the politicians' reading of their mood and preferences. As the perception of threat and dehumanization of the Palestinians grow among Israeli Jews, this explain the support of parts of the Jewish Israeli public for concrete human rights violations ranging from administrative detention to torture.<sup>60</sup>, leading to a reductionist approach limiting the understanding of Israeli democracy to a mere adherence to Jewish majority rule. Hence demographics increasingly are understood as a major determinant of policy. The connection between basic freedoms and democracy is not only judged by the electoral act once in several years but the continuous adherence to equal rights. Indications of such Jewish ethnocentric understanding of the rule of law has been already pointed out in an earlier work.<sup>61</sup> And this marked deterioration seems to be not less worrisome at the level of societal values than institutional norms<sup>62</sup>. The overarching concern with security of the public at large legitimates a *raison d'état* based on national ethnic factors not only denies equality of rights to the excluded groups but also is accepting and calling for the limitations on the rule of law.<sup>63</sup> Such trend includes the lack of tolerance towards minorities; blaming the resulting condemnation to the messenger- the media, the international community and civil society organizations worldwide (like Amnesty International resulting in the criticism of their Israeli branches), calls for less freedom of the press, domestic violence, and more. Let's point out a few major characteristics of the deteriorating situation

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<sup>59</sup> Nimrod Rosler, Daniel Bar-Tal, Keren Sharvit, Eran Halperin and Amiram Raviv, "Moral Aspects of Prolonged Occupation: Implications for an Occupying Society" in Sarah Scuzzarello, Catarina Kinnvall and Kristen Monroe (Eds.), *On behalf of others: The morality of care in a global world*. New York: Oxford University Press, YEAR PAGES???

<sup>60</sup> Ifat Maoz and Clark McCauley, "Threat, Dehumanization, and Support for Retaliatory Aggressive Policies in Asymmetric Conflict", *Journal of Conflict Resolution*, 2008, 52 (1), pp 93- 116

<sup>61</sup> Polarization in society as a result of the Occupation has weekend the appreciation of institutions such as the Supreme Court of Justice and professional groups such as journalists- for the preference to act upon their ethical principles rather than expediency. E. Kaufman "War, Occupation & Israeli Society", *op.cit.*, p 120

<sup>62</sup> "Research on democratic societies has shown that the general public to be generally intolerant of political out-groups, and always less tolerant than the political elites". Michal Sahmir, "Kach and the Limits of Political Tolerance in Israel, in Daniel J. Elazar and Shmuel Sandler, eds., *Israel Odd Couple: The 1984 Knesset Elections and the National Unity Government*, (Detroit, Wayne State Press, 1990), p. 164

<sup>63</sup> Dan Horowitz and Moahw Lissak, *Metsuka B'Utopia*, (Tel Aviv, Am Oved, 1990), p 197 (in Hebrew)

If we look at the Jewish majority in Israel, the results of colonial occupation, wars, and national and personal security concerns have marked severely the ethnocentric trends. In terms of the internationally protected human rights as listed in the UDHR recent research, following previously work by Prof. Ifat Maoz<sup>64</sup> provides data with worrisome insights. The first set looks at a comparison of support to violations of specific human rights in principle and when specifically referred to the Palestinians. General support in many or most cases for the violation of the fundamental right to life is only 4.5% but in reference to the latter, goes up to 20.3%. Support for restriction to the freedom of movement in general is 17.1% but doubles in relation to the Palestinians to 34.5%; and the right to property can be violated in principle only 7.6% but for the latter 29.9%. This discrimination becomes even more significant when asked to relate only to restrictions of Palestinians that may be seen as resulting from security concerns, without a previous reference to the right in principle: Support for torture is 34%, use of life ammunition in curfew is 36%, house demolition 47%, prolonged administrative detention without trial 46\$, curfew, encirclements and enclosures 50\$ and delays at checkpoints 55%, an average of 45% in supporting flagrant restrictions to human rights.

Illegitimate Civil behavior: The contestation of the settlers and their supporters to government decisions about removal of officially or unofficially sanctioned settlements has become a permanent feature, civil disobedience has also affected the cutting of roads within Israel, provocative actions, to appeal to disobey military orders, all that undermining the citizens' adherence to the rule of law.<sup>68</sup> Israel Defense Forces have leveled harsh criticism against

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<sup>64</sup> Maoz, I & McCauley C. (2008). Threat, dehumanization and support for retaliatory-aggressive policies in asymmetric conflict. *Journal of Conflict Resolution*, 52 (1), 93-116

<sup>65</sup> Rabbi Chaim Siedler-Feller, in Brit Tzedek v, Shalom, A Rabbinic Guide to 40 Years of Occupation", (www.btvshalom.org)

<sup>66</sup> *Ha'aretz*, 25.09.08. Israeli author A.B. Yehoshua called on moderate settlers to take action in the wake of the attack. "The problem in this case is not only the legal authorities—which, perhaps, attempt to prevent embarrassing acts of this sort. The problem is more with the relatively moderate settlers who live in the dozens of settlements, who certainly reject such acts, but do not come out particularly strongly against them and do not condemn the extremists in their community. *Ma'ariv*, 9/26/08;

<sup>67</sup> The Democracy Index, 2005, op.cit. Eighty four percent of the respondents say that a political assassination could happen again (34% of them are fairly sure that such an assassination will happen again); 42% think that the likelihood of a civil war as a result of attempts to reach agreements on the future of the occupied territories is very high, while a further 30% assign this a low probability. Only 28% hold a civil war to be unlikely

<sup>68</sup> Sprinzak, Ehud, *The Ascendance of Israel's Radical Right* (Oxford University Press, 1991)

extremist West Bank settlers who have attacked Palestinians and soldiers.<sup>69</sup> Furthermore, settler rabbis have urged IDF soldiers to refuse evacuation orders.<sup>70</sup>

The erosion of tolerance: The condemnation of human rights NGOs, monitors performing a leading role within the civil society organizations, have been often characterized as enemies. Most Israelis believe these organizations are hostile toward Israel and tarnish its international image. The survey also indicated, however, that 89 percent of Israelis attribute great importance to human rights and the protection of them.<sup>71</sup> No wonder that most Israeli Jews – while expressing support to democracy and human rights as a concept, see its translation in the right of the majority to decide whatever is necessary, without regarding the cost of individual human rights. They see the situation as a necessary evil given the violent characteristics of the Palestinian resistance, which include-s terror against innocent Jewish civilians.

Vulnerable sectors of society: We have already mentioned the pernicious influence of large segments of chauvinist and xenophobic Jewish orthodox religious leaders-, but also important exceptions should be noted, as the political party Meimad, NGOs like Pathways of Peace, Rabbis for Human Rights, several of the founders of reserve soldiers in “Breaking the Silence” and “Bereaved Families Forum” as well as distinguished academics, intellectuals and journalists. Other groups to be mentioned, include:

The Youth: The prevailing intolerant attitudes among the young are pointing out the trends towards the principle of equal rights to all are predicting an even darker future. Comparison of young soldiers’ concerns with humanity towards an armed Arab enemy in the aftermath of the 1967 War,<sup>72</sup> and at the aftermath of the 2009 Gaza War, in dealings with unarmed civilians, contributes to an erosion of basic values. Not a few soldiers in uniform, order custom clothing

<sup>69</sup> Amos Harel, “IDF West Bank commander: Rightist violence encouraged by settler leaders”, Ha’aretz 02/10/2008. General Shamni said that the radical behavior among rightists has grown in light of encouragement they receive from the settler leadership, rabbis and public.

<sup>70</sup> Ha’aretz, 11<sup>th</sup> July 2009, Settler rabbis – same on the payroll of the government- said it is inconceivable that IDF or police would participate in the “immoral” razing of settlement outposts. Saying that decision to destroy outposts in the West Bank “does not stem from any judicial ruling, but rather from a political decision to bow to American pressure.”

<sup>71</sup> The survey, initiated by the University of Bar Ilan to mark the 60th anniversary of the Universal Declaration of Human Rights, “Amnesty International” and “B’Tselem” act against Israel. Poll: Most Israelis think human rights groups act against Israel, and are hostile to their own country By Ofri Ilani, Ha’aretz, December 9, 2008.

<sup>72</sup> Siach Lochamim, *The Seventh Day, Soldiers talk about the Six Day War* (London, Detusch, 1970)

featuring their unit's insignia, usually accompanied by a slogan and drawing of their choosing. “Dead babies, mothers weeping on their children's graves, a gun aimed at a child and bombed-out mosques - these are a few examples of the images Israel Defense Forces soldiers design these days to print on shirts they order to mark the end of training, or of field duty.

New immigrants from the former Soviet Union: Perhaps because of emigrating from a country with authoritarian traditions, be because of fear facing acts of violence or acting more “patriotic” than the Israeli born, a report found that 77 percent of Russian immigrants support promoting Arab migration from Israel, as opposed to 47 percent of native Jews who say they would support such a policy. 33 percent of the native Jews accept the existence of Arab political parties within the Knesset, while only 23 percent of the immigrants accept this fact. 27 percent of Israelis oppose the statement "a Jewish majority is necessary for fateful decisions for the country" ? in comparison with 38 percent who opposed the same statement in 2003. Overall “these figures indicate a growing support for the stripping of political rights from Israel's Arab minority”<sup>73</sup>.

Finally, the schism about the immorality or the justification of occupations has percolated into academic institutions. For several years, the monitoring of critical views of governmental policies towards the Palestinians has resulted in the sense that “big brother is watching” even inside the classrooms. Subsequently, concerned faculty has been split on the issue of internationally boycotting Israel at large and its universities in particular. While a large majority opposes such boycotts, the issue of the freedom of expression in its favor has come to a fore. Hence, the camp of those forces calling in alternative ways to an end of occupation by a negotiated peace has been furthered weakened

#### IV DISCUSSION: THE IMPACT ISRAEL’S COLONIAL OCCUPATION IN A COMPARATIVE HUMAN RIGHTS FRAMEWORK

An international perspective may further help to understand the impact of Israel’s occupation on his own people. In the XIX<sup>th</sup> and first half of the XX<sup>th</sup> century, did colonial practices

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<sup>73</sup> Paradoxically, the article is entitled :”Half of those born elsewhere can’t be true Israelis”, Dana Weiler Polak, Ha’aretz, 3<sup>rd</sup> August, 2009

generate concerns for the governance and human rights standards within the dominant powers such as Great Britain, France or the Netherlands? Should there now be a comparable lack of concern in Israel? Does the progress in the international protection of human rights in the post-Cold War era preclude the prevention of citizenship by a controlling regime, so typical of past practices? Seeking systematic explanations puts the unique character of Israel's relationship with the Territories in perspective. By disaggregating into twelve correlates of a colonial occupation in a post-colonial world we can better assess the hopefully still reversible damage that has been caused to the fiber of an healthy Israeli society:

1) Geographic proximity: The closer to the metropolis the location of the colony, the more that the colonizer may aspire to make the occupation permanent, perhaps even extending to political annexation. In the case of overseas colonies (e.g., India for Great Britain, and Indonesia for the Netherlands) apprehensions flowing from two-tier treatment regimes for citizens and non-citizens did not arise all that much in the political center. As a practical matter, past colonizers were not concerned with demographics, the natives' large numbers. Proximity, however, was a factor for France. Its efforts to contend with revolt in Algeria, at only a modest distance across Mediterranean, had political echoes in Paris.<sup>74</sup> The assumption that war has traditionally changed borders—perhaps especially applicable in the case of 1967 war, essentially a “no choice” but of self defense against an unprovoked attack justified what has become a logic corollary of an “accidental empire”<sup>75</sup> The distance between Palestinian Tulkarem and the Mediterranean Sea resort of Nathanyiah was less than ten miles, a geographic bottleneck in Israel' center. Jewish Jerusalem was surrounded on three sides by Jordan's West Bank. The search for vital space, strategic depth considerations, led to the possible annexation of adjacent territories, strengthening an Israeli expansionist policy but WITHOUT integrating the natives into citizenship, hence generating a discriminatory policy.

2) Length and type of the violent conflict: The level of security threat to the metropolis is particularly evident in the protracted—and seemingly intractable—Israel-Arab dispute, especially in comparison with other colonial situations or, for that matter, military occupations.

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<sup>74</sup> In later stages, after the dismemberment of empires, after the political independence was achieved by decolonization, conflicted relationships were generated for empire's immigrants to metropolitan countries.

<sup>75</sup> Gershon Gorenberg, *The accidental empire: Israel and the birth of the settlements 1967-1977* (New York Times Books, 2006).



Often, in the history of Israel, periodization has been made according to the wars, at least a war each decade. Nearly 100 years of violence: wars in 1948, 1956, 1967, 1973, 1982, 1991, 1996, 2006 and 2008; two *Intifadas* (1987 and 2000); ‘riots’ prior to independence (1921, 1929, 1935-7), and, between wars since national independence, a succession of incursions and retaliations—attrition warfare, in essence. In most cases Israelis saw these wars as a necessary evil, ones fought in response to threats to national security. No such long history of violent confrontation has occurred in other colonial situations, even over centuries of colonial rule. Colonial rebellions, with the arguable exceptions of Algeria and Vietnam, but in any case were much shorter and did not threaten civilian populations in metropolitan countries. In contrast, Israel has taken on the attributes of a garrison state—arguably a modern Sparta—emphasizing national security, at the expense of human rights, when and if necessary.<sup>76</sup>

3) The changing nature of warfare: With rigorous keeping of peace with Egypt—militarily, the strongest Arab country—and with Jordan—with whom Israel shares its longest border—the existential threat to Israel at its immediate borders has been significantly reduced. However, even as the threat of military assault has receded in the past decade, a new threat, in the form of terrorism, has emerged with the asymmetric wars. The issue of occupation is no longer so much national as it is personal or human security. Homes, shops, and work places have become a ‘home-front’—one in some respects little different from the classical battlefield.<sup>77</sup> Herein lies a fundamental difference in comparison with past colonial independence movements. In similar situations, citizens considered themselves immune to attack in their colonial countries. Conversely, Israeli fear of terrorism can be compared with the American public’s fears after the September 11, 2001 attacks, events that led to military intervention in Afghanistan and contributed to a justification for military action against Iraq. One-time bloody events in cities

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<sup>76</sup> Hence, the quest for a ‘strong’ leader and the active participation of former high ranking military in politics—perhaps one reminiscent of France’s De Gaulle—appear direct results of security interests as leading concerns for citizens. Strong rulers such as De Gaulle and Sharon, both of whom received massive popular support for putting an end to fragmentation and internal dissent, were likewise catalysts for abrupt changes of policy toward the occupied territories. As welcome as such outcomes may be, the quest for strong, even authoritarian, leadership may well negatively impact the practice of government in what is otherwise a liberal democracy.

<sup>77</sup> According to Hofnung, “the inability of the Israeli society to solve or to reduce the internal security pressure, in spite of the reduction in the external threat, is a source of continuous danger to Israeli democracy and the maintenance of the rule of law.” (Menachem Hofnung, *Israel-Security Needs vs. the Rule of Law* (doctoral dissertation submitted to the Hebrew University of Jerusalem, September 1989), English abstract, p. 8

such as in New York, London and Madrid have to some extent implicated traditionally accepted norms respecting individual freedom. The current preoccupation extends to the restrictions of civil rights within the United States (interception of personal communications, profiling, interrogation procedures).<sup>78</sup> The much greater challenge in Israel, with persistent explosions in civilian venues, is likely to have resulted in a blank check policy for the Border Police, or Israeli Defense Force in the Occupied Territories. There is concern with the overspill of restrictions and the dearth of consideration for Palestinians' human rights and dignity as a natural response to the threat of terror on BOTH sides of the Green Line.

4) Late nation building: The formation of centralized states in Italy and Germany out of separate smaller units in the late nineteenth century, was interpreted as a unifying drive, one that that would be followed by continued expansionism overseas or into adjacent territories. The power of the new state was enhanced in a sense of 'folk,' a sense of purpose, one that led to support of expatriates in the newly acquired territories, a colonial paradigm legitimating the late formation of the state. Israel is a new country, calling for the ingathering of exiles. As a corollary, for many years, Zionism tacitly de-legitimized continued Jewish existence in the Diaspora. After the 1967 Six Days War, in the eyes of a growing number of Israelis, state-building remained an unfinished enterprise, one that needed to be continued by attracting most Jews to immigrate and establish themselves within the nation's now-expanded geography. The consolidation of a Jewish nation-state was considered still in a premature stage, Israel's borders were not yet historically defined, and its political culture was still evolving. The discourse for a significant sector of the Jewish citizenry has been 'Hebron's faith as Jaffa-Tel Aviv,' [often corroborated by extreme Arab statements about re-conquering the entire land.] Hence, the goals of expansion for state building and *revanchism* seem to have reached their historic apogees, albeit without providing rights to the growing number of Arabs.

Some Israelis warn that the lack of an external common enemy will undermine the cohesiveness of the Jewish society and, further, that domestic strife will then threaten to destroy the state from within. The prediction is most likely unfounded, if only because 'late nation building' states—even those suffering major defeats—have survived the loss of empire

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<sup>78</sup> All of these are highly controversial, with many of the facts still in dispute. All three have been standard police practice, albeit ones that have been challenged by civil libertarians, at least under certain circumstances.

and even adjacent territories.<sup>79</sup> The dilemma of holding the occupied territories, with its attendant moral and human costs, has become a particularly now a divisive issue. Before 1967 there was a consensual national purpose, and it is likely to emerge again within the borders of a smaller Israel. If and when peace prevails, or at least the occupation is ended, there is likely to be a focus on improvement of socio-economic rights (e.g., seeing more Israeli citizens move above of the poverty line).

5) Roots of human rights protection: Colonial domination over long periods of time did not seriously affect the centuries-long transition to and consolidation of democracy in Europe. While there were no strong anti-colonial movements, the demand for the respect of citizens' rights grew independently of the fact that such rights were not granted to large numbers of individuals overseas under the same government's rule. Israel is a new country, although inspired at its birth with democratic and egalitarian ideals, most of its founders and post-independence immigrants, came from countries in Eastern Europe and the Middle East, regions in which democracy was hardly normative. The pre-state leadership shaped majority rule or consensual decision making in community life, an underpinning that provided a strong foundation for establishing and maintaining equalitarian institutions. Yet, the growing shallowness of democracy is seen in the societal values, as large segments of the population did not fully endorse equal rights for all citizens, or respect for minorities. Later waves of immigrants absorbed an understanding that inequality of rights was rampant and yet tacitly accepted and furthered the validity of a subtext of superiority of one people over another. Hence, there is the growing concern that, unlike citizens of the United Kingdom, Belgium, or the Netherlands, many Israelis are not fully socialized into universal human rights.

6) Ideological 'zero sum' paradigm: The Israel/Arab conflict, unlike other colonial conflicts, was perceived in the past as an existential conflict (both *Jihad/Hamas* and Jewish settlers' dispute the whole of 'Historic Palestine' versus the whole of the 'Promised Land'). As a result, and based on perceptions of the worst intentions from the enemy, the issue is perceived as one of "life or death", when concern with the number of casualties of the enemy is

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<sup>79</sup> An excellent example is modern Germany. Its eastern territories appear to be irrevocably lost, yet the nation is prospering to a degree unimaginable to Germans of only a half-century ago. This, of course, points to the increasing distance between territorial acquisition and national wealth, an outcome of economic conditions in the postindustrial period.

minimized. Furthermore, for the Palestinians, all their daily lives are daily affected by the occupation. But for the Israelis, the pullout from Gaza and the West Bank is one of realignment, for most, ‘who needs the territories?’<sup>80</sup> Especially during the *Intifadas*, Israelis—with the exception of settlers directly involved—refrained from visiting the West Bank, Gaza, or even East Jerusalem, and could likely reframe their lives with no more than a modicum of difficulty. In his study of the social impact of colonialism Memmi wrote about the ‘Nero complex’: the more the colonialist oppresses the colonized, the more he realizes the atrocity inherent the role he has chosen. His hatred of the usurper grows. He wants the colonized to disappear because their very existence leads him to act the role of usurper. The rise of maximalist views among an Israeli minority has likewise exacerbated latent feelings among Israelis legitimating human rights violations. The encouragement of ethnic cleansing (or, if possible, voluntary transfer) would be the settlers’ preferred solution<sup>81</sup>

7) The religious component: Colonialism has often encouraged religious conversion and assimilation to its culture (e.g., flag, holidays). But this is not the case with Jewish settlers, who stress residual differences in order to maintain a separate existence—no intermarriage and discouragement of conversion from Islam to Judaism or vice versa. Particularly relevant to the case in point could be a comparison with the practice of Apartheid in South Africa, where justification for the Boers’ assumption of superior status included the concept of a Promised Land and chosen people with more rights than obligations to the ‘Other.’ The geographic reality of the post-1967 occupation has transformed among still a minority the previously symbolic adherence to the ‘promised land’ of Israel’s biblical twelve tribes into a more thoroughgoing sense of impending messianic times.<sup>82</sup> This, in turn, has presented Israelis with a conundrum: Does one compromise the ostensible divine endowment of the same land to the people of Israel by separating the declaratory adherence to all ‘our’ land from a pragmatic

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<sup>80</sup> Bar-Tal, D., Kruglanski, A. W., & Klar, Y., “Conflict termination: An epistemological analysis of international cases,” *Political Psychology*, Vol. 10, No. 2, 1989, pp 233-255.

<sup>81</sup> However, ongoing settler confrontations with the Israeli army, by and in illegal outposts, appear to have finally brought the majority of the Israeli public—those within the Green line—to marginalize the Israeli settler population. Their being perceived as trouble makers and fanatics, as well as their disrespect for principles of law and order, are hopefully putting a distance between them and the majority public.

<sup>82</sup> Such maximalist drive also grew up to be very popular among Palestinians in the post-Khomeini expression of Arab political Islam, calling the Middle East as ‘Dar el Islam,’ with no room for rulers of other faiths, including Christians in Lebanon and Jews in Israel.

recognition that such a dream must be deferred, at least until the messianic times? Normally, colonizers consider themselves as expatriates living in exile, but the Temple Mount in East Jerusalem, Judea (Abraham's tomb in Hebron) and Samaria are perceived as the core of the historic Jewish nation. The colonizers' sense of homeland and natural rights is exclusively ethnocentric, ignoring any ostensible rights of native-born Arabs. Our national conflict has thus evolved into more of a religious conflict, for the Jews after 1977 (when the *Likud* party gained power on a Greater Israel platform) and for the Palestinians increasingly after the first *Intifada* and, more recently, *Hamas'* electoral victory.<sup>83</sup>

8) Specific Jewish traumatic historical experience: The Holocaust affected the polarization of Israel in two camps, ones that drew very different lessons from what was arguably the most grievous level of suffering ever visited upon any nation. Jews regularly say 'never again'—often, for that matter, intending the reach of that assertion to encompass all of humanity. No comparable trauma comprises the history any other colonialist metropolis. The experience of the Inquisition, pogroms, ghettos, and in particular the Holocaust has seared into Jewish collective memory the perception of Jews as victims. Today's unconstrained behavior, however much it may be related to a grim collective memory, and while it certainly poses a challenge to moral justification, may nonetheless be put into an understandable context. We can appreciate the psychological concern for survival and the lack of trust in other nations. However, in the face of recent Islamists' declarations favoring not only eradication of the Jewish state and its inhabitants, but also recent resort to the ahistorical negation the Holocaust, Israelis may well see their own behavior and ostensible intransigence as not only justified but also prudential. Does this present threat justify some underlying unwillingness to respect the otherwise inherent rights of persons whose only offense appears to be no more than belonging to the same religion as the anti-Semitic Islamists? How does the victim become a victimizer? Does applying the motto 'never again' presuppose that Jews learn from history only about themselves as Jews? Or can it extend to other victims of oppression—in this case the Palestinians? Defining the Holocaust as a uniquely horrible episode in modern history establishes in many Jews a reluctance to place it within the larger spectrum of other genocides,

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<sup>83</sup> Resistance to the withdrawal from Gaza and from the illegal West Bank outpost at Amana were solely the province of the *kipot srugot* ('knitted yarmulkes')—factions of militantly chauvinist Orthodox Jews.

almost certainly as the most extreme case. The perception of that single historic event can also be used to justify acts with the ancillary effect of causing suffering in others that is of substantially lower magnitude than that visited upon Jews in the past, relying on such an argument to undermine the legitimacy of Palestinian demands for equality of treatment.

9) Time difference: Colonial rule was widespread when the Zionist movement first facilitated Jewish immigration to the ancestral homeland but a process of de-colonization started soon after the Balfour Declaration, and subsequently with the League of Nations legitimated mandated territories (e.g., Iraq, Syria), to become independent before the outset of World War II. The notion that basic human rights (including, especially, respect for the integrity of the individual) were normative international requirements and intimately related to this postwar effort. Israeli independence itself was also seen to be part of the de-colonization process of the British Empire in much the same way than India's. Soon afterward, a major wave of de-colonization continued in Sub-Saharan Africa, and Israel was perceived to be a partner in its development. Hence, the further expansion of Israel after 1967, and the encouragement of establishing settlements in 'Judea, Samaria and Gaza,' came a century late, and was clearly ahistoric. Reactionary Israelis posed the question: "Why not replicate with the Arabs what the Americans did to the native inhabitants of that continent during their national expansion period?" Realistic Israelis answered: "The human rights regime has become central to the world's ethics, with principles such as legal equality and one-person-one-vote". If we agree with a premise of progress in international relations,<sup>84</sup> that the world has changed to the extent that comparable behavior is no longer an acceptable option. There hardly remain in today's world other examples of self-determination, in which independence resulting from secession is denied while at the same time the option of full citizenship in the metropolis is refused. Nowhere else does there exist some intermediate status of semi-autonomy—one with municipal rights but without the right to vote for a sovereign government.<sup>85</sup>

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<sup>84</sup> Emanuel Adler and Beverly Crawford (eds.), *op.cit.*

<sup>85</sup> It may be argued that the inhabitants of various dependencies of the United States (e.g., Puerto Rico, American Samoa) enjoy local, municipal rights but are denied other rights (e.g., to vote in national elections or to be fully represented in the national legislature). However, those same individuals remain American citizens are free to migrate to and settle in the United States, thereby automatically gaining any otherwise denied citizen privileges.

10) Economic exploitation: Colonialism usually entails economic benefits for the colonizer.<sup>86</sup> Profit results from the exploitation of human and/or natural resources. A colony is “a place where one earns more and spends less,”<sup>87</sup> and that was quite true in Israel during the period called ‘benign occupation,’ when cheap Palestinian labor was used not only in the metropolis (Israel within the Green line) but even for infrastructure construction in settlements in the Occupied Territories. In other colonial experiences, “the colonialist realizes that without the colonized, the colony would no longer have any meaning.”<sup>88</sup> Still, in the Israeli case the colonization process continued with the new ‘globalization,’ as foreign workers replaced local, low salary workers, particularly in agriculture and construction.

When forced to share political power with officers appointed from the ranks of the native population, other systems have often become corrupt. It has been argued that occupation corrupts, that personal illicit economic gains erode the faith in democracy. If top government officials are corrupt, so the popular thinking goes, then it follows that their subordinates are similarly venal. Experiences of this kind stand in sharp contrast to the frugal lives of Israel’s historic bi-partisan leadership, including such luminaries as David Ben Gurion, Golda Meir, Menachem Begin, Yitzhak Rabin and Yitzhak Shamir. While one should not single out occupation as the sole, or even primary, cause of such behavioral change, when rules are subject to flexible interpretation (rather than remaining normative), it is perhaps to be expected that such patterns of behavior may find their way beyond the Occupied Territories and into Israel proper.

11) Civilizing mission: Generally speaking, the dissonance arising from the recognition of their role as usurpers and of their privileges as illegitimate can be mitigated by the colonizers’ self-image of having a civilizing mission. They may come to believe that they are demonstrating the merits of a superior culture and the possibility of improving the livelihood of the native population.<sup>89</sup> Similar to the “white man burden” Israel “light of the Nations” has portrayed itself as the Western outpost in the Middle East and, paradoxically, as such accountable to higher human rights standards of behavior. While becoming more accepted in

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<sup>86</sup> There is a body of evidence that certain colonial powers (e.g., Germany before World War II) never profited financially from their colonial ventures.

<sup>87</sup> Memmi, *Op.cit.*, p 5

<sup>88</sup> *Ibid.*, p 66

<sup>89</sup> *Ibid.*, p 52

the United States and Europe as member of the Judeo-Christian civilization, Israel has become isolated from the Middle East not only as the result of Arab rejection in the past- no longer the case with the current Arab League Peace Initiative- but through its efforts at self-segregation. Israel's technical, scientific, agricultural and economic achievements should have gained at least a measure of legitimacy in the region. During the multi-lateral tracks that followed 1991 Madrid's Middle East Regional Peace Conference, the potential benefits of the Jewish state's incorporation into the region was seen, at least tacitly, as a 'win/win' for all the region's countries on issues such as water, environment and economic development. At that time, the now President and former PM Shimon Peres envisaged a 'New Middle East'<sup>90</sup> in which Israel would play an important role in building regional networks. PM Netanyahu promotes an "economic peace" with the West Bankers" as a strategy to postpone painful territorial decisions. The potential for such an approach has been there, even if there was some fear of neo-colonialist domination. Such contributions toward social, economic, and scientific development do not meet real objections in the Arab world, if they would occur under conditions of equality rather than domination. Clearly, a military occupation is not consistent with such vision. And the settlers' presence in the territories is a bad example for a mutually beneficial relationship. The settlements rather strengthen a Muslim perception of the Jews as the instrument of the new Crusaders, carrying the message of a clash of civilization—the West versus the rest.<sup>91</sup>

12) Israel's diverse ethno-political make up: The image of Israel as 'outpost of Western civilization' has had an impact within the domestic realm as well. One of the outcomes of Zionism in action included the immigration of large numbers of Jews from non-European areas. Most 'Oriental' Jews often had markedly different perspectives in matters relating to normative political and social values, at least in comparison with many of the Ashkenazi "founders". Whereas it is possible to look at Israel's demographic makeup as a dichotomy separating Jews from non-Jews (as in the Central Bureau of Statistics census), a new sociological approach disaggregates the concept into one of 'graduated citizenship,' "the existence of multiple levels of formal legal rights and obligations occupied by different groups

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<sup>90</sup> Shimon Peres, *The New Middle East*, (New York, Holt, 1993)

<sup>91</sup> Samuel P. Huntington, "The Clash of Civilizations," *Foreign Affairs*. Summer 1993, Vol. 72, No. 3, pp 22-28



in the state.”<sup>92</sup> The socio-economic status of the more marginalized groups—both Jewish and Arab—improved after 1967, with the growth of the economy and with the new working class coming from the Occupied Territories. But further examination of the dynamic effect of occupation up to the present “shows their status over time to be fluctuating, impacted among other factors by the colonial character of the state and nation.”<sup>93</sup> The majority of marginalized groups have been unable to penetrate the walls of exclusion of the hegemonic elites. The most direct impact of graduated citizenship is on the Arab minority in Israel, about twenty percent of the population, those affected by a ‘state fighting their nation’ situation. To a large extent, this situation differs markedly in comparison with homogenous colonial powers. Israel is, in a certain sense, a ‘multicultural’ colonizer, with a significant Muslim part identifying with the aggrieved colonized population, and often there under graduated co-optation of other smaller minority groups. In the past, the ruling elites in the metropolis used the “divide and rule” to maintain control in their colonies, and radical interpretations now extend such policy into Israel’s own borders.

If Israel’s goal now is separation, will that goal eventually translate into separation from this minority, as well? Without considering the individual rights of Arabs born in Israel, some Jewish geographers and the leadership of ‘Israel Beiteinu’ are suggesting just that as the way to get rid of them by forcing them to become citizens of the new Palestinian state. Ceding predominantly Arab-inhabited territory to Palestine, in exchange for Israeli annexation of those sectors of the West Bank containing the larger Jewish settlements blocks.

Meanwhile, the occupation of Palestinian territories has exacerbated the debate between Arab and Jews in Israel about the ethnic nature of the state or of equal citizens’ rights to all. The conception of Israel as a Jewish state has been interpreted as having an inherent exclusionary connotation.<sup>94</sup> The element of racism that comes across so clearly in the Palestinian territories is antithetical to the pledge of equal rights to all in Israel (quoting the Declaration of

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<sup>92</sup> Joel S. Migdal, *Whose State Is It, Anyway? Exclusion from the Nation? Exclusion within the Nation and the Construction of Graduated Citizenship in Israel*, (University of Washington, Department of Sociology, Unpublished paper, March 2006), p 2.

<sup>93</sup> Gershon Shafir and Yoav Peled, *Being Israeli: The Dynamics of Multiple Citizenship* (New York, Cambridge University Press, 2002) pg 15

<sup>94</sup> Nadim Rouhana and As’ad Ghanem, “The Democratization of a Traditional Minority in an Ethnic Democracy: The Palestinians in Israel,” in E. Kaufman, S. Abed and R. Rothstein, *Op.cit.*, pp 163-188.

<sup>94</sup> Interview with Y. Gorni, in Aryeh Dayan, “We Racists” *Ha’aretz* (December 27, 1991). “Our aura of masters that accordingly everything is permissible to us, only because we are Jews, is dangerous.”

Independence, 1948), as often upheld by the Supreme Court of Justice.<sup>95</sup> Unequal access to opportunities is a policy rationalized by many of Israel's Jews because of their Arab co-citizens' shared traits with their enemies in the region.

The concept of 'graduated citizenship' can be applied to Jewish sub-groups as well. The bulk of "Oriental" ('*Mizrachi*') Jews from Middle Eastern countries (in provocation called 'Arab Jews') have been treated in earlier stages as no more than a source for mobilizing "manpower, revenues, and other forms of support, while restricting entry into the halls of power."<sup>96</sup> They have suffered discrimination, while at the same time have been expected to assimilate, adopting the European '*tzabra*' image, rather than be accepted as a component of a diverse society. Discriminatory policies have affected the differentiation efforts of the "Oriental" towards Arabs in general, shifting the collective memory of the Oriental Jews away from a status of being accepted and tolerated to one of being victims- mild comparison to the Jewish experience in Europe- a bad experience they can now reattribute.

In short, Israel's late to come colonial occupation- different from previous historical cases- has had the potential to generate great damage to the adherence to human rights standards across the divide.

## V. CONCLUSION

In the previous chapter, we stressed the importance to learn from similarities and differences with other cases over time. What has been the impact of occupation on Israel's governance and societal values, as learnt from the twelve explanatory variables? If we assess the rather negative impact of occupation in each separately, we can see the cumulative burden on this new state's institutions and societal human rights norms and values. We started this article quoting two leading of the same Labor party's politicians contending argumentation of twenty years ago about the impact of occupation on Israel. Lets conclude with two current quotes of a former high ranking military and a rabbi, both in agreement. Gen.(re.) Amiram Levin stated: "Ruling over another nation brings deterioration, stagnation, dirth", adding "democracy and a

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<sup>95</sup> Interview with Y. Gorni, in Aryeh Dayan, "We Racists" *Ha'aretz* (December 27, 1991). "Our aura of masters that accordingly everything is permissible to us, only because we are Jews, is dangerous."

<sup>96</sup> Joel S. Migdal, *Op.cit*, p 17

moral society cannot be victorious over a conquered nation”.<sup>97</sup> . Rabbi Haim Siedler Feller considered that “occupation is the greatest catastrophe to befall the Jewish people in the aftermath of the Holocaust. The settlers and the compliant Israeli government that have supported them have succeeded in overturning two thousand years of a tradition of justice for the ‘other’ and in transforming the Jewish people into an oppressive occupier”.<sup>98</sup>

Indeed, many of us have considered the settlements a destructive phenomenon that raises a large question mark over Israel's future viability. In fact, the settlement enterprise is an ideological, political and social phenomenon that has succeeded in creating an original androgynous creation: called by Sternehell ‘colonial Zionism’, “its leaders and spokespersons show disdain for both the weak politicians and the basic tenets of democracy itself. They know how to exploit democratic institutions, but they ignore human rights and recognize only the rights of the Jews”<sup>99</sup>.

So far, the international community is growing increasingly critical of Israel’s human rights violations in the Palestinian Occupied Territories, but is normally quiet in relation to citizenship issues within the Green Line. This clearly differentiates between the condemnations of “colonial occupation” from the Jewish state to be considered a “colonial feature”. However, over time such differences are getting blurred. The Palestinization of the Arabs in Israel, a consequence of not resolving their national grievances in a Palestinian state next door as an identity reference, has only exacerbated their the struggle for equal rights in Israel. Many, among the young and intellectuals, are now advocating a “one state” solution where their role as understanding both the Arab and Jewish societies could be enhanced. Obviously, this complicates the implementation of the “two state solution”, advocated by the world community led by the United States, the Muslim Countries Organization, the Arab League, the Palestinian Authority and the majority of both Israelis and Palestinians..

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<sup>97</sup> Ha’aretz, October 7, 2005, as reported by Akiva Eldar, pg 5bet

<sup>98</sup> Seidler-Feller, Haim, “The Withering of the Zionist Dream: Reflection on the Occupation after 40 years,” [A Rabbinic Guide to 40 Years of Occupation., Brit Tzedek v’Shalom, Jewish Alliance for Justice and Peace.\(www.btvshalom.org\)](http://www.btvshalom.org)

<sup>99</sup> Ze’ev Sternehell, Colonial Zionism, *Ha’aretz*, October 13, 2008

The reality is that most the political ruling elites of both nations and large segments of the public have not been socialized into the language and use of human rights as universal principles.<sup>100</sup> The individual and collective rights of nearly two million Palestinians are central to settling the future of the West Bank, as it also was in Gaza before the pullout. Israel now has peace agreements with Egypt and Jordan. It withdrew from Southern Lebanon and there has not been any important international pressure on Israel for an agreement with Syria. Concern for human suffering rather than intervening on disputes over sparsely populated borders has increasingly become a priority for the international community. While the relevance of human rights principles may be greater for integrated solutions (Northern Ireland, Sri Lanka) than for the cases of separation, in our reality, people's lives remain interwoven. Let alone that about twenty percent of the Israeli population is made of its original Arab inhabitants and bearing in mind that religious settlers could opt not to be evacuated from the Jewish Holy places that would remain in the Palestinian territory. Hence, even if in the future issues of individual rights are considered the domain of each sovereign state, it will be important to redress the gross violations of the past, protect rights during the lengthy peace process, and address the likelihood that the population of each state may include a substantial number of the other's nation.

Clearly, protection of its citizens is Israel's number one concern, which is why the reduction of Arab hatred of Israel, at the grassroots level, must be made a top national security priority. The respect for the "human dignity" of the individual is of universal relevance, but in our Middle East, humiliation and dishonorable treatment carry an additionally strong, cultural weight that needs to be factored in. And still the facts on the terrain, and the mentioned inhuman treatment have a most negative and perhaps lasting impact on the lives of practically every single Palestinian. The impossibility to reign long-term over millions of Palestinians – with negative repercussions on the Arabs in Israel, has been publicly recognized as "painful concessions" rather than legitimate entitlements of an occupied people. Paradoxically, democratic governments often face domestic constituencies that perceive the implementation of specific international resolutions as a source of weakness, concessions granted solely due to pressure

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<sup>100</sup> Mohammed Abu-Nimer and Edy Kaufman, , *op. cit.*, p 294.

from biased international organizations and world powers. Similarly perceived are the perceptions of the Supreme Court ruling to stop the use of “moderate physical pressure” in interrogations as amounting to torture, or the re-routing of the security barrier/wall from the small part of the West Bank. Public reluctance facing such unpopular acts can be better counteracted by framing the decision as an obligatory implementation of accepted universal principles ratified by Israel. When facing crucial decisions, recognizing human rights’ commitments as consummate, eases the public acceptance as the “cost of democracy.” Human rights are not to be seen as a foreign imposition, nor a punishment by the international community.<sup>101</sup> The values are rooted from the Jewish religion and books, which reveal the message of the prophets during early experience with statehood more than two thousand years ago, and surely as a persecuted minority in exile. The late Rene Cassin—a Nobel Peace Laureate, a proud Jew and president of the Alliance Israelite Universelle, when preparing the draft text of the UDHR, recognized the background to reflect the Ten Commandments<sup>102</sup>. The notion of human rights takes root in the Talmud.<sup>103</sup>

The State of Israel was formed so that the Jews would have a refuge from discrimination and the denial of rights and dignity. Jews cannot claim this moral claim while simultaneously denying it to others. The Old Testament states: “Justice, justice you shall pursue.” (Deuteronomy, 16:20) and scholarly consensus argues that the word justice appears twice in order to signify that a just cause must only be pursued by just means. Human rights are not only an inherent tenet of the Declaration of Independence in because of its democratic nature, but also because of its adherence to the vision of a “Jewish state”, inspired by the justice of its prophets. Whereas establishments often see human rights as the adversary’s weapon, it is not less important to understand that by endorsing them and claiming some contribution to its shaping, we are following our self-enlighten interest while also recognized as contributors to the better standards of human behavior

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<sup>101</sup> Edy Kaufman, *Human Rights in World Politics* (Tel Aviv, Ministry of Defense Publishing House, 2001, in Hebrew).

<sup>102</sup> Marc Agi, Rene Cassin, *Pere de la Déclaration universelle des droits de l’homme* (Paris, Perrin, 1998).

<sup>103</sup> Two excellent books were written by former Supreme Court judge Haim Cohen, *Human Rights in the Talmud and the Mikrah*, (Tel Aviv, Ministry of Defense Publishing House, 1992, in Hebrew), and Haim Cohen, *Human Rights in Jewish Law*, (New York, Ktav Publishing House, 1984).

