

Appealing to Enlightened Self Interest: The Impact of Occupation on HR within Israel

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Introduction

This article analyzes the impact of the occupation of the West Bank, officially denominated ‘Judea and Samaria,’¹ on societal attitudes and policies towards human rights (hereinafter HR), both in terms of protection and its absence, in Israel and eventually on creation of political culture in this regard. At issue is a fundamental question: To what extent do dominant governments’ practices in areas outside their formal borders have an impact on the rights of their own people in the metropolis and popular attachment to the rule of law? In the case of Israel, many academics (e.g., Sprinzak 1999, Eisenstadt 1985) have long ago pointed to an ostensible diminution among Israel’s citizens of allegiance to the nation’s legal precepts, a development that was also underlined in an earlier joint academic effort (Kaufman, Abed, & Rothstein, 1993). Methodological considerations require discussing on what wider category could be Israel’s case being more legitimately included. Much of the writing on the subject has been focusing on Israel as a rather unique case, but putting it into a category through a comparative perspective- stressing both similarities and differences- allows us to assess the situation into a theoretical perspective. Yet, Many Israelis, regularly stressing their unusual situation—a small nation, geographically isolated and surrounded by nations with whom they have periodically been at war, with a domestic population that includes a minority overtly at odds with the majority Jewish population—argue that their collective

behavior should not be measured by universal standards, or at least granted a measure of leeway. But this is not a realistic proposition. To all intents and purposes, identity-driven domestic conflicts in most of the cases involve nations and groups that have been at least formally granted equal citizens' rights, albeit often in the context of objective and subjective grievances that were even accompanied by strong feelings of threats and sometimes violence. While these minorities often have a shared nationality, ones regularly recognized in the family of nations, their efforts to achieve collective self-expression may assume characteristics comparable to self-determination and, in the most extreme cases, secession or a lesser degree of autonomy within the existing state. This, however, is not the case of the Palestinians in the West Bank, and the limited situation in Gaza. They are not citizens of Israel, nor are they allowed the full exercise of rights that representative democracies regularly provide.

Focusing on the West Bank requires highlighting the distinct nature of this occupation and the violation of HR. The situation of the annexed (formerly Syrian) Golan Heights can be at best categorized as a border dispute, rather than the locus of vitiated HR. Boundaries have often undergone alterations in the aftermath of military conflagration as following the 1949 world legitimated Armistice agreements, resulting in the increase of Israel's size from 55%- to 78% of the total area of the British Mandate. The conquest of the Golan Heights also have become the venue for Jewish settlements, but the remaining native population (mostly a mere 20,000 Druze) have been granted equal citizenship as any other within Israel. Hence the international community has not been highlighting any significant complaints. As for Gaza, Israel unilateral total withdrawal – settlements included- in 2005, changed the territorial priority of the

occupation The current critical issues today are mostly limited to the proportionality of noncombatant casualties and physical destruction – often called ‘collateral damage’ typical of asymmetric warfare. Also the scope and indiscriminate nature of sanctions amounting to collective punishment, questioning the humanity of its restrictive definition, rather than a less controversial targeting of “smart sanctions” to the Hamas ruling elites.

The prolonged military occupation in the West Bank reveals a pattern of government perhaps best described as rather permanent ‘colonial domination’ or ‘occupation.’ The prevailing power imbalance has encouraged Jewish citizens to establish separate settlements within the occupied territories (hereinafter designated OT) and govern under a policy rubric that amounts to a double standard in the enjoyment of individual HR between Arab and Jew. A corollary outcome of this policy is Israel’s retention of a residual practical authority to determine specific delegation of municipal government responsibilities to Palestinian authorities in such areas as infrastructure development and provision of those services associated with the state’s police powers (e.g. health care, education, public safety). Regarding East Jerusalem, Israel has unilaterally declared its annexation. However, and differently, it has not granted to most of its quarter of a million Arab inhabitant’s full citizenship rights, limiting them to a more precarious resident status.

The principle objective of the present chapter is to analyze how the effects of occupation with their gross violation of Palestinians’ are percolating within Israel itself. As a background to this major theme, the chapter will describe in short the situation of rights in the Jewish state before 1967, will dwell on the developments of HR concerns in the

international community, provide a glimpse into its violation of in the occupied territories and end by placing our case into a global context.

Before the 1967 Six Day War: Shaping the Values of a New State

The universal aspect of HR—its application to all people, irrespective their ethnic, religious differences—has often been subsumed to transitory political interest in Israel, even ignored on occasion. The equal rights paradigm was initially subordinated to ‘raison d’etat’ or security, as it selectively violated those of the Arab minority during the first eighteen years of its existence, conducting expulsions, enacting various restrictive ordinances, and generally discriminatory treatment. But the occupation of the West Bank and Gaza as a result of the 1967 Six Days War was a major ‘game-changing’ event. Over two thirds of Israel’s history now includes control over the OT, effectively making that political arrangement more the rule than the exception. Sad to say, Israel has been violating HR of Palestinians there and likewise failing to socialize new generations of Israelis into its appreciation of as universal values.

The birth of Zionism in the second half of the 19th century embodied the goal of self-emancipation for the Jewish people in the land of their ancestors, and promised an exemplary Jewish society. While the state’s democratic infrastructure was already developed before independence, it was introspectively built for its Jewish settlers. From this perspective, Zionism as the national liberation movement of the Jewish people was not different from others seeking their self determination in a nation state within recognized borders. By and large however, it postponed or set aside the ‘Arab question.’ (see Shapira, 1992; Gorny, 1987). When the State of Israel was established the 1948 Declaration of Independence proclaimed a Jewish state granting at the same time

“complete equality of social and political rights for all its citizens”. The inherent tension in this formulation has been ever a source of domestic strife. Many Jews in Israel identify the Arab rejection by the Arabs of the ‘democratic and Jewish’ formula with an unwillingness to recognize the majority’s legitimate self-interest in this part of the Middle East. However, many within Israel’s Arab community resent the formulation as being incompatible with the notion of equal individual rights—a ‘state of all its citizens’—thereby perpetuating group discrimination, with a concomitant negation of individual autonomy.

The population transfer incidental to the establishment of the Israeli state remains an actual issue of collective memory to all Palestinians. Irrespective the actual causes of this exodus—they have been debated ad nauseam—the Universal Declaration of Human Rights (UDHR), affirms that “everyone has the right to leave any country, including their own, and to return to his country (Art 13, par 2).” Thus the question naturally arises: If Jews have the right to return to their homeland after 2,000 years should not the same right be extended to those who were keen to exert their right to return after a war when the Arabs were defeated sixty two years ago? For Israelis that matter is not so much principled- rather it is existential—the first, and overriding, Israeli priority is survival. To the extent that deference to HR raises the prospect of Jewish submergence in an enlarged Arab population, HR loses both its luster and moral priority. The events of 1948 provide only one example to the problematic standing of the HR principles in the State of Israel. There are many other that will be presented later. But a major premise that it is advanced in this chapter suggests that this clash comes in the zeitgeist of emphasis of HR in the international community.

Paradoxically, it was the Holocaust that triggered the first international HR convention to focus on genocide, even preceding the UDHR. The message was that the international community should not stand idle when innocent people are repressed by a regime of their own or from elsewhere. But the lesson of the Holocaust was interpreted differently in Israel and by many of the Diaspora Jews. “Never again” was translated in the first into particular value and considerations. These considerations were encapsulated in the words of numerous Israeli political figures from the entire Zionist spectrum. Prime Minister Benjamin Netanyahu was quite clear. “We must not allow those who want to commit mass murder, those who want to destroy the Jews, to emerge unscathed. That is our lesson from the Holocaust.” He continued that two important lessons were learned from the Holocaust: Jews must be able to defend themselves, and that barbarians must be prevented from acquiring arms (Haaretz, 28 August 2009). Years before him, former Labor Prime Minister Golda Meir pointed out that after what was done to the Jews in the Holocaust, “we can do what is needed and nobody has the right to criticize us and tell us what to do (Haaretz, 14 August 2009).” In fact, there has never been real difference between the leading figures and major political parties on this matter.

Progress Regarding HR in World Politics

The 1948 UDHR was the first international document legitimating the protection of individual rights as entitlements. What was earlier considered to be the exclusive domestic jurisdiction of the state was gradually changing; while their territorial sovereignty continues to be respected, concern over the way the population under their control is treated does not stop at the national borders. HR as a distinct international regime (Donnelly, 2002) has developed with a vast set of universal norms, governmental

and non-governmental range of operational tools- from declaratory statements, through fact-finding, investigation missions, condemnation for gross violations and cultural, diplomatic, economic and military sanctions. The old concept of sovereignty is being challenged by humanitarian intervention and the responsibility to protect HR. Current criticism arises on the will and ability of the international community to equally stop its violations across the globe, often “too little too late” and double standards towards weak or strong states and blocs (Kaufman, 2001).

The initial post-WWII United Nations impetus from promoting HR soon came to a halt with the emergence of the Cold War and the new fear of a “Nuclear Holocaust” moving the global agenda from the bottom up defense of the individual to the reduction of the arms race, with a resulting paralysis of governmental action against HR violators. With the moving into a period of détente between the superpowers, already in the early seventies, only three countries were highlighted as such, in order of condemnations: Apartheid in South Africa, Israel in the OT and Pinochet’s dictatorship in Chile- two of them ending with the regime change- and towards the rest of the violators worldwide was what Amnesty International called then ‘a conspiracy of silence’. Non-governmental organizations led the HR field into action, successfully lobbying Western governments to widen and endorse their criticism, targeting other powerful countries such as the Soviet Union and China. Furthermore, with the demise of the Soviet Union and new consensus got the international community to upgrade HR to the forefront, encompassing their practices everywhere. While still highly politicized, the UN developed mechanisms that were more effective in the enforcement of their declaratory policy, with a more systematic monitoring, lifting the impunity of violators and increasing endorsement of

humanitarian interventions, confronting armed state and non-state actors. Gross HR violations became categorized as war crimes and as such can be brought to justice by the now functioning International Criminal Court.

September 11, 2001 was a setback in the HR advancement, the declaration of the global war on terror by the United States put Israel in the same coalition with many Western democracies and indirectly even with Arab countries that have been victims of such attacks. At different levels, many states restricted the rights not only of their external enemies-combatants but to a more limited extent, of their own citizens. But there is a big difference in the comparison, since other democracies fighting wars in Iraq or Afghanistan are not doing it for territorial expansion. At this time in history, the case of Israel is a unique case of colonial occupation. In fact the State of Israel because of various reasons did not internalize the changes that were taking place in the international community. Hence the trend towards progress in the international system (Adler and Crawford, 1996) has been inversely facing a reality of regression in the respect of HR by Israel. Its increasing isolation Israel has been preventively dismissing as reflecting a biased approach of the United Nations and usually hostile world which is 'always against us' (Bar-Tal, 2007).

HR Practices in the Occupied Palestinian Territories

In order to grasp fully the attitudes and practices related to the HR in the Occupied Palestinian Territories since 1967, there is need to look at the practices that were developed in the state of Israel since 1948. For the first eighteen years following independence there were serious HR violations in many domains especially towards the

Arab minority but also towards Jews (Hofnung, 1991), Focusing only on the Arab minority Arabs in Israel it is important to note as an example that they lived under a restrictive, military-regulated regime, one that greatly restricted their freedom of movement, residence, correspondence, expression and privacy. However, with its abolition in 1965, their situation as well a general situation showed signs of improvement. But, whatever hopes Israel's Arabs may have nurtured, they were dashed with the outbreak of the 1967 Six Days War. This conflagration engendered a diminished status for the formerly Jordanians now identified as Palestinians, one that eventually was bound to have repercussions for the Arab minority resident in Israel.

Since the focus of this chapter is on HR in Israel, in order to better appreciate context and understand specific workings of cause and effect, it is worth summing up the record in the West Bank since Israel's occupation began in 1967 in order to better comprehend the impact of governmental behavior in that region on Israeli HR perceptions.² An extended review appears in the introduction chapter and it will be only noted that HR violations have been both sins of commission (e.g., setting a double standard in benefit of the Jewish settlers in housing, separate roads, no check points, access to water) and omission (e.g., failing to stop abuses perpetrated by settlers against the resident Arab population). The impact of Israeli policy is reflected in the very different outcomes in the annexed and occupied areas. The U.S. Department of State 2009 report identified ongoing respect for basic rights in the annexed Golan Heights territory compared with what can only be described as a disregard for those rights in the OT. For example, and quoting from the report, *"The IDF [Israel Defense Force] conducted numerous incursions into Palestinian areas to carry out arrest operations and*

kill suspected terrorists... Israeli law prohibits arbitrary arrest and detention, but the security services did not always observe these prohibitions...” Conversely, within Israel itself and the annexed areas matters were otherwise. Again, quoting from the State Department report, *“The government or its agents did not commit politically motivated killings within its territory... The law prohibits arbitrary arrest and detention [a constraint that was] generally observed... Arab Israelis are subject to the same laws as all citizens... Non-Israeli residents of the Israeli-occupied Golan Heights were subject to the same laws as Israeli citizens.”*

Now it is place to turn to the major part of the chapter and discuss the impact of occupation on the HR within the State of Israel.

The Impact of Occupation on HR in Israel

Before beginning this analysis a few caveats are in order. It would be simplistic to attribute to ‘colonial domination’ the totality of deterioration of HR norms and values among Israelis. Such factors as, e.g., transitions of leadership from founding fathers to the third generation, wealth generation and economic growth, demographic changes brought about through recent immigration, religious and ethnic-specific birth rates, modernization and development (Goldscheider 2002), and international processes resulting from consumerism and globalization as well as internal fragmentation within the Israeli society have likely all played a part. Over six decades of existence Israel has changed, for both the better and the worse. But we would like to underscore that in terms of cost and benefit, occupation has provided a mostly negative impact.

For Palestinians, in both the OT (OT) and Israel proper, on balance the conditions of life have declined in relative terms to the majority population. First, while there has not been a direct correlation between each violation in the OT on similar rights on Israeli Jews, certain restrictions are becoming visible on Arab citizens (approximately 20 percent of total population), members of the Palestinian nation who have been in solidarity with their brethren in the OT. Simply stated, this population is viewed by the Jewish majority as an internal security threat. One outcome of poor treatment is increased self-awareness of a subordinated status, increasing marginalization of Arab citizens, and a growing polarization of Israeli society (Kretzmer 1990).

Second, the impact of occupation on societal attitudes, while closely related to a slower process of erosion of moral precepts formally underlying state institutions, must be parsed from the latter. Reinforcement is not only bottom-up but also top-down, evidenced by the nearly total absence of any mention of HR in the elite discourse.³ The fight against current anti-Semitism or, for that matter, memorializing the Holocaust has not occurred specifically in the context of racial discrimination or genocide. Indeed, some of the actions promoted by pro-settler organizations have the backing of right wing personalities both in government and opposition, individuals with no affection for their Arab fellow citizens and a comparable absence of solicitude for that population's rights. This, in turn, leads to another consideration: the deterioration of values by specific sectors of society that perpetuated hostile acts towards Arab and specific Jewish targeted groups (Kaufman, 1993; Negbi, 2004)

In sum, HR violations by Israeli authorities, in the main, have their origins in the practices of those Jewish settlers—Israeli citizens in the West Bank benefiting from a

privileged set of laws and practices—disregarding Palestinians’ rights.. This situation differs markedly from a military occupation when all are treated much the same—equally good or bad—as individuals. Conversely, in the OT there is a clear discriminatory policy and even worse societal abuses. The settlers act as well within Israel and its institutions to ensure such privilege while the government largely overlooks such unlawful acts (U.S. Department of State 2009). Burning orchards, uprooting olive trees, and vandalizing Palestinian mosques as retaliatory acts against official Israeli efforts to curb unauthorized outpost settlements demonstrate to the native population that it cannot look to the resident military force as a source of protection for either persons or property (Haaretz 23 April 2010).

We now begin to briefly discuss the impact of occupation on HR Israel with the focus on the Arab minority who are formally full citizens in the state of Israel.

The Arab Minority

As mentioned above, discriminatory practices directed at the Arab minority were in existence during the first two decades of the Israel’s independence, albeit slowly subsiding. However, after the 1967 war and increasingly common clashes with PLO military units, Israeli security responses, which invariably snared Arab noncombatants, heightened both the objective and subjective senses of being treated as second class citizenry (Sikkuy, 2009, Rouhana 2010). At the popular level this usually took the form of casual bigotry, resorting to such insulting expressions as ‘dirty Arabush’—a Minister adding this derogatory suffix to an otherwise ethnic descriptor—did not differ all that much from comparable social practices in the OT (*Haaretz*, 19 June 2009)

As disturbing as such behavior may be, it was the ensuing violence that is considerably more ominous. Verbally expressed disrespect can lead to violent confrontation. One such example was the shooting with life ammunition of twelve Arabs in Israel in October 2000, in reaction to stone-throwing demonstrations documented into a wider context by the official commission of inquiry led by Judge Or (Haaretz, 2003). Similar violent ultra-Orthodox anti-Zionist Shabbat riots in West Jerusalem have been met no more than teargas or water cannon, at the price of often more policemen wounded than demonstrators. That Israeli Jews regularly call the OT 'liberated areas,' compounded with the existential threat encapsulated in the location 'demographic bomb' (the upsurge in the Arab proportion of the overall population, incident to the higher Arab birth rate), has generated what amounts to moral dissonance, an ostensibly law-abiding society members tacitly endorsing 1) some form of ethnic cleansing of Judea and Samaria and perhaps the forceful eviction of Arabs from Israel or (2) by so restricting practical exercise of citizens' rights by the Arab minority, the latter group will abandon any expectation of participating in a society in which 'one person one vote' is not longer acceptable (Haaretz, 11 May 2008).

As Arab resistance turned to violence during the second Intifada in October 2000, Jewish support for universally applicable HR withered, as support for limitations on the rights of Israel's resident Arabs increased (Shamir & Sagiv-Schifter 2006). Sixty-two percent of Israelis think the government should encourage its Arab citizens to emigrate from Israel. Twenty-nine percent of Israelis think crucial decisions concerning Israel's future should be decided by a Jewish majority without counting Arab Knesset members. Nearly 50 percent of Israeli Jews don't want to live near Arabs, while 56 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 prefer not 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.

Successive governments did little to reduce institutional, legal, and societal discrimination against the country's Arab citizens. For instance, in addition of mandating a curriculum that does not take into account the Arab narrative, Arab schools are overcrowded, understaffed, poorly constructed, more distant from Arab neighborhoods than their Jewish counterparts, or simply unavailable (HR Watch, 2003). Former PM Ehud Olmert decried the 'deliberate and insufferable' gap between the proportion of Arab citizens in Israel and their inclusion in the state's civil service positions (Jerusalem Post, 2008). Figures on socio-economic gaps show that fifty percent of Arab families live below the poverty line, a rate three times higher than that among Jewish Israelis. On average, Arabs also earn 30 percent less than Jews. Certain government agencies won't employ them, with 'security' being regularly cited as justification for discrimination. In the words of As'ad Ghanem, "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" (The Jerusalem Fund, 2008).

Palestinians in East Jerusalem

East Jerusalem was occupied by Israeli military forces during the course of the 1967 war and was annexed to Israel shortly thereafter. Upon annexation, resident Palestinians were granted the right to request Israeli citizenship, although the majority

chose the permanent resident alternative. Requesting Israeli citizenship carried with it the risk of retaliation by PLO operatives. In any event, the Israeli government rarely approved such citizenship applications. However, permanent residency remains a precarious status. 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 OT. 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. Municipal services are inferior to those available in other parts of the city (ACRI 2009)..

Societal Trends

Popular Jewish perceptions of Arabs are not conducive to the fostering of a peaceful society (Bar-Tal & Teichman, 2005). However, as the dominant political and social contingent of Israeli society, much of the responsibility for bringing popular perceptions into alignment with HR falls to the nation's Jewish component. Much of this is arguably attributable to a profound change in the popular perception of security (Bar-Tal, Magal, & Halperin, 2009). During the early decades of Israel's existence, the existential threat was national—foreign uniformed enemies. In recent decades—after the experience of Intifada, suicide bombing, and the like—the threat has become identified with the “enemy from within”. As the perception of threat and its attendant dehumanization of

Palestinians grow among Israeli Jews, a concomitant support for objective violations of HR precepts has grown. Security considerations have an inverse relationship with HR, the principle itself often perceived as a weapon in the hands of Israel's enemies. This perception was already in place during the Oslo peace process but gained strength during the subsequent Intifada Al Aqsa..

Public opinion: In a democracy public opinion ultimately affects official policy, and vice versa. In today's Israel is increasingly encouraging a disregard for rule of law, and the establishment of populist, demagogic and shortsighted policies. A recent survey discovered the lowest support in the last twenty years for the assertion that democracy is the best form of governance: Only 77 percent of the respondents supported this premise, compared to 90 percent in 1999. Israel is also one of the only four countries of the thirty two listed in the study, in which most of the public believes that "strong leaders can do more for the country than debates or legislation" (Israel Democracy Institute, 2009).

The fusion of effects of occupation, wars, and national and personal security concerns have surely contributed mightily to this ethnocentric trend (Maoz and McCauley, 2008). This understanding was made evident from evidence derived from a recent poll of Jewish citizens, one in which adherence to a principle found in the UDHR was first asked and, thereafter, its application to the Palestinian minority was likewise queried. General support in many or most cases for the violation of the fundamental right to life is only 4.5 percent but in reference to the latter, goes up to 20.3 percent. Support for restriction to the freedom of movement in general is 17.1 percent but doubles in

relation to the Palestinians to 34.5 percent; and the right to property can be violated in principle only 7.6 percent but for the latter 29.9 percent.

These discriminatory attitudes become even more plangent in light of answers to questions relating solely to security-related restrictions on Palestinians. Support for torture is 34 percent; use of live ammunition in curfew enforcement is 36 percent; house demolition as a response to suspected subversive activity 47 percent; prolonged administrative detention without trial 46 percent; curfew, encirclements and enclosures 50 percent; and delays at checkpoints 55 percent. In sum, an average 45 percent of respondents supported flagrant violations of HR precepts. Nonetheless, the survey also indicated that 89 percent of Israelis lay great store by HR, the protections they afford, and the necessity of their being fostered (Ilani 2008).

Violent acts and threats : The settlement movement was invigorated by zealots manifesting a messianic streak, a small minority of Israel's Jews whose apocalyptic thinking has now permeated all sectors of Jewish society. It has fomented violence, besmirched Israel's good name, brought humiliation to another people, and led some Jews to promote 'murder in the name of God,' both within borders and without. And not only Arabs are affected. Those Jews vigorously opposed to settler policy have been called 'Jewish traitors' and their harm is justified. In this line threats to peace-oriented leaders and activists have largely originated in organized (and arguably subversive) groups in society rather than from governmental security forces. Although such cases are isolated—the murder of Emil Grunzweig in 1983 when marching in a Peace Now gathering in Jerusalem being a case in point, the most salient act was the assassination twelve years

later of PM Yitzhak Rabin by a religious young zealot when leaving another large peace demonstration in Tel Aviv.

One of the later incidents involved Professor (and peace activist) Zeev Sternhell who was injured when a pipe bomb, rigged to explode when his front door was opened, exploded. An extremist group has offered a prize of 1.1 million shekels to anyone who kills a member of Peace Now. Another case involved the distinguished violinist Daniel Barenboim, threats against whom necessitated the company of security escorts during his concert season in Jerusalem. While such acts remain the province of small Jewish terrorist undergrounds (or individual fanatics)—and are routinely condemned by the nation’s leadership and citizenry alike—they nonetheless dramatize the growing schism in Israeli society.

Civil disorder: Opposition on the part of settlers and their supporters to government decisions regarding removal of officially or unofficially sanctioned legal settlements or illegal outposts has become a permanent feature of OT public life. Civil disorder has extended to the cutting of roads within Israel, to provocative actions, to appeal to disobey military orders, all of them activities that contribute to a diminution of citizen adherence to the rule of law as a governing precept (Sprinzak 1991). Israel Defense Forces have harshly criticized extremist West Bank settlers, especially those who have attacked Palestinians and soldiers and are regularly engaging in sedition, to wit, fomenting dissent within the Armed Forces (Harel 2008). Furthermore, settler rabbis have urged IDF soldiers to refuse evacuation orders (*Haaretz*, 11 July 2009)⁴, and a few even condoned the killing of innocent non-Jewish civilians (Estrin 2010)⁵. Roi Sharon (Ma’ariv, November 9, 2009) observed that “What makes it worse is that the permission

to kill is now expanded to all human beings potentially liable to endanger the Jewish people.”

The erosion of tolerance: NGO HR monitors are now routinely condemned as ‘anti-Semitic,’ or even national enemies, when they point up shortcomings in Israeli policy and practice. Societal rejection of the traditional HR monitor’s role—a relatively recent development in the Israeli polity—reflects what is now a likely majority opinion among the nation’s Jews. As a practical matter, most Israelis believe these organizations are hostile toward Israel and tarnish its international image. A major anti-HR campaign, instigated by an ‘NGO monitor’—whose sole purpose is to criticize HR organizations work in or about Israel—and the *Im Tirzu* movement – themselves funded by the “Christian Zionists” among others- have taken to denouncing local Israeli HR organizations as fifth columnists in the pay of European and United States governments. The latter group added a sentence to a prayer of longstanding recited in remembrance of the fallen, stressing those ostensible enemies from within who have condemned the behavior of our soldiers. Naming individual Jews as ‘Self-Hating Israeli Traitors’.⁶, many of them with distinguished careers in the Zionist Movement, diplomacy, law enforcement agencies, and the military is an expression of lack of prevailing tolerance. In a survey commissioned by the Tel Aviv University’s Tel Aviv Research Center, a plurality of those polled (including 76 percent among right-wing respondents) said HR groups should not have the right to freely publicize immoral or illegal conduct on Israel’s part (Haaretz, 28 April 2010).

Vulnerable segments of society

The Jewish Orthodox: If many religious Israelis are given over to chauvinism and xenophobia, others retain their attachment to the nation's founding liberal ideals. These exceptions include Meimad (a small political party), NGOs such as Pathways of Peace, Rabbis for HR, several of the founding reserve soldiers in Breaking the Silence, the founder of the Bereaved Families Forum, as well as distinguished academics, intellectuals and journalists. Not all of their opponents shrink from violence. For example, Yaakov Teitel, described in the media as a 'Jewish terrorist,' targeted for attack left-wing Jewish professors, homosexuals and Christian groups Adopting what amounts to a regime of vigilante justice, one extending considerably further than legitimating the killing of Arabs⁷, led to the assassination in 1995 of PM Rabin by Yigal Amir, a law student at Bar Ilan, a religious orthodox-based university (Zertal and Eldar, 2007).

Israel's youth: Israel's youth, both Jewish and Arab, manifest intolerant attitudes to a significantly larger degree than their elders. They are in greater numbers both the victims of violence and its perpetrators. A poll conducted among Jewish high-school students showed that 49.5 percent answered negatively to the question whether Arab citizens should be granted equal rights, a metric skyrocketing up to 82 percent among religious students. The same score was as high when the latter were faced with the question of whether Arabs should be eligible to run for elections to the Knesset, while 47 percent among secular students were opposed to that constitutional privilege (Haaretz, 28 April 2010).

Such negative attitudes toward the rule of law also extended to the refusal of nearly half of the students to refuse order to evacuate outposts or settlements in the Palestinian territories. (Haaretz, 11 March 2009). Comparing young soldiers' concerns

with humane behavior towards an armed Arab enemy in the aftermath of the 1967 War (The Seventh Day, 1970) and, in the aftermath of the 2009 Gaza War, in dealings with unarmed civilians, points to a fundamental erosion of basic values. Some IDF soldiers have adopted unit insignia featuring revolting imagery—dead babies, mothers weeping on their children’s graves, a gun aimed at a child or a bombed-out mosque. At least some of this must be attributable to the dearth of military training in required humanitarian treatment of civilians and, on a larger scale, a comparable absence of education in HR requirements during periods of schooling.

New immigrants from the former Soviet Union: Perhaps because they originated in an authoritarian state—one in which considerations of HR were theoretical, at best—Israel’s influx of Russian Jews increased the number of Jews ill disposed toward Arab rights. A poll determined that 77 percent of Russian immigrants support promoting Arab emigration from Israel, as opposed to 47 percent of native Jews who support such a policy. Thirty-three percent of native Jews accept the presence of Arab political parties within the Knesset, while only 23 percent of the immigrants favor this proposition. Twenty-seven percent of Israelis oppose the statement that “a Jewish majority is necessary for fateful decisions for the country,” in contrast to the 38 percent of Russian Jewish immigrants 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 (Polak 2009).”

The university community: In years past, the university community was a stout support of individual rights, even to the extent of alienating the Jewish ‘man in the

street.’ While that attitude remains significantly intact, Jewish intellectuals—the core of the university community—no longer retain the almost unquestioned support and respect that they enjoyed only a few decades ago. Lately, the monitoring of critical views of governmental policies towards the Palestinians has resulted in the sense that government intrusion—big brother is watching you—extends even to the classroom. Such watchdog groups as IsraCampus and Israel Academia Monitor are believed to be stepping up their campaigns after the recent publication in a US newspaper of an Israeli professor’s call to boycott Israel. Targeting principally Ben Gurion, Haifa and Tel Aviv Universities, both groups have been alerting the universities’ external donors, mostly American Jews, to what they describe as the questionable behavior and utterances of ‘subversive’ professors, as a means of bringing pressure to bear on school administrations to sanction faculty staff critical of Israeli policies. In response, 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 attempt to limit the freedom of expression on campuses’ minorities has resulted in the appellation of the gag effort as a campaign of ‘McCarthyism’.

The Institutional Impact

The above-described deterioration in Israeli attachment to certain ethical values cannot be accounted *per se* a HR transgression. Nonetheless, a democratic society has a moral responsibility to assure that popular ideas at odds with the nation’s generally accepted core beliefs are not allowed to be translated into antisocial behavior. To a limited extent this has already occurred. Earlier paragraphs have alluded to public

discourse in which ‘might versus right’ has been privileged at the expense of equality and a decided lack of initiative on the part of government agencies to pronounce explicitly on the merits and obligations of equal treatment, Israeli public relations stems entirely from the Zionist Israeli narrative, without any genuine attempt being made to learn the language of HR, which is dominant in international public discourse... Most important, Israelis at large must also be taught the language of rights. The better we understand that the world is not willing to accept the continual undermining of inalienable entitlements for reasons of security, and the more we ourselves adopt the discourse of rights, the easier we will find it to present our viewpoint to the world (Heiman 2010).”.

In sum, the outcome of this combination of popular brutishness and government inertia has been growth of the ‘democracy deficit’ (Bovard 2006), an ongoing corruption of Israel’s democracy in that the precept of respect for minority rights has been gravely compromised. Compared to the decades preceding the 1967 war, Israel has experienced decreasing transparency; abuse of power resulting in traduced legal and moral standards; limited accountability extending to withholding evidence in judicial proceedings; restricting or disregarding, respectively, the functions and findings of commissions of enquiry; a growing gap between poor and rich; the withering of checks and balances within the state’s institutions; increased difficulties in securing citizenship; increased restrictions on the freedom of the press, expression of opinion, and the right of association of non-governmental organizations.

Unlike other public institutions, Israel’s Supreme Court of Justice has enjoyed widespread prestige and has been perceived as a bulwark in defense of HR requirements, irrespective religion or ethnicity. But even this highest judicial body appears to be

wavering, retreating from past rigor and deferring to the Executive when ostensible ‘security’ considerations are raised (see the chapter by Kretzmer in the present book).

The Legislative Branch: Israel’s Knesset is treading a slippery slope with the respect to universal HR, towards barring extreme but nonviolent dissident voices. A case in point is monitoring of loyalty to the state. Coalition party Israel Beiteinu’s motto, ‘without loyalty there’s no citizenship,’ was very effective in the 2009 Knesset elections. The plenary gave initial approval to a bill making 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 [polity] and causing an act of hatred, disdain or disloyalty’ to Israel. Foreign Minister Liberman 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 (Shragai 2009). While this legislation is directed against Israel’s Arabs, it might well be challenged by anti-Zionist ultra-orthodox Jewish groups, Naturei Karta being the extreme case. Much—perhaps all—of this is intimately related to difficulties flowing from what amounts to dictatorial occupation. On May 9, 2009 the government’s Ministerial Committee for Legislation adopted the proposed “*Nakbah*” [‘catastrophe’ in Arabic] Law,” which would prohibit commemorating the exodus in 1947/9 of three-quarters of the Palestinian people from their land, after replacing an originally drafted criminal penalty with an extreme economic measure, whereby the state would cut off funding for organizations and institutions that commemorate *Nakba* Day. In addition, another proposed bill expands the definition of ‘Terrorist Organization’ in order to impede legitimate political activity, specifically that of the Islamic Movement and Balad, both important Arab

political parties, thereby enabling the state to ban them. Under the present statute, a “terrorist organization” is a group of persons who, in their actions, use violence that might cause the death or injury to a person, or threaten such acts of violence. MK Ben Ari proposed to add “movements or parties that encourage a terrorist organization, or support armed struggle against the State of Israel, or seek to impair Jewish sovereignty over the Temple Mount.”⁸

Restricting Arab’s freedom of expression and assembly is now extended to foreign visitors of Muslim or Arab origin, Jewish and non-Jewish young people, who come peacefully either to work for Palestinian universities or NGOs. The list of undesirables has been arbitrarily extended and its membership ever-changing. As it happens, visitors often discover their listing only upon arrival at Ben Gurion airport (*Haaretz*, 4 April 2010). Norman Finkelstein and Noam Chomsky an academic critic of Zionism has been barred from entering Israel, a decision that raises the prospect that Israelis holding similar views may not be allowed to reenter their homeland. In the wake of the Gaza War, a multi-party Knesset effort was launched to limit NGOs’ sources of funding following allegations of ‘unpatriotic’ testimony made available to the UN HR Council Report relating to specifics of the Cast Lead operation.

Israeli courts: fair trials and declining deference to HR: For both Israel’s Arabs and dissident Jewish citizens the nation’s judiciary has served as a protective barrier against heavy-handed state activity (Kretzmer 2002). As a practical matter, the efficacy of judicial holdings has traditionally been the deference that the great majority of Israelis have paid to the courts as upholders of the constitution. In recent years, as noted above the courts have shown signs of retreating from their traditionally independent

status. In the early years of occupation the moral dilemma posed by official (or tacitly approved) resort ‘moderate physical pressure’—diminution of the integrity of the suspect versus state responsibility to secure the lives and property of citizens—has in recent years become considerably more acute and now involves interrogation techniques, indistinguishable from those described in documents prepared by the UN Committee Against Torture, conducted in the context of ‘ticking bomb’ scenarios (Kaufman and Tsur, 1989 ,B’tselem 2007)). The hardening of civilian attitudes now extends to non-crisis situations. For example, the HCJ’s decision on Elon Moreh in 1979, in which the court ruled that seizing private lands by executive fiat is illegal, enraged many Israelis and encouraged xenophobic groups to attack the institution.

Like it or not, there is no guarantee that Israel’s appellate courts will continue adherence to universal standards, even in some reduced capacity⁹. Indeed, some of the courts’ decisions (e.g., ones relating to removal of illegal outposts or redrafting the course of the separation barrier in the West Bank) were never implemented¹⁰, an executive response diminishing the courts’ image as upholders of the rule of law. Furthermore, Shinar (2009) concurs that ‘security’ arguments have had a comparable effect on the Supreme Court’s judicial opinion-making as societal beliefs regarding security have had on the thinking of Israeli Jewish society at large. “This observation is supported by the findings of a major poll conducted in the early 1990s, according to which the more the Supreme Court was involved in imposing supervision over the security authorities in the OT, the more that popular support for the Court has diminished (Barzilai, Yuchtman-Yaar & Segal, 1994).” Decisions of lower courts have regularly curtailed citizens’ rights, although such holdings were regularly overturned on appeal. This state of affairs is now

increasingly at risk. In sum, the increasing identification of court holdings with evolving and less democratic societal values gives substance to Kimmerling's 'incriminating verdict'.

Law enforcement agencies: Israel's law enforcement agencies fall under the jurisdiction of the Executive Branch and include the Israel Defense Force (IDF)—the title itself selected to highlight the limited nature of the use of force in self-defense. And the emphasis was rightly on self-defense. Before Occupation and even during the 1973 Yom Kippur War, the overwhelming majority of Israeli citizens and, for that matter, most Western governments felt that indeed the Jewish state had such inherent right. Furthermore, the wars conducted against established armies and even the acts of violence against armed and unarmed Arab citizens were carefully scrutinized. The goal of 'purity of arms' (*tohar haneshek*, in Hebrew), constrained by limits imposed by humanitarian law, was the official ethical standard of behavior and, in practice, soldiers themselves often agonized about any departures from accepted behavior..

In the face of mounting popular criticism over the large number of Israeli deaths attributable to the second Lebanon War—a public appraisal of the actual state of affairs that many observers considered disproportionate to the outcry—IDF planners were determined that the upcoming Operation Cast Lead in Gaza would observe as its highest priority a limitation on Israeli casualties. This, in turn, mandated a moral retreat from antecedent high standards of behavior in combat (Kasher 2010). And, as a corollary, the moral integrity of 'enemy' civilians was implicated. This shift in thinking has generated a number of unfavorable outcomes. It appears that high-ranking IDF officers are no longer socialized to any significant degree into the values of HR. The failure of the Israeli

government to thoroughly investigate and prosecute IDF members accused of HR offenses raises at least the risk that such offenders may be at risk of arrest should they venture outside Israel. And, at a deeper and more profoundly cultural level, it appears that there has been an intrusion of fanaticism into the ranks, one that the Army leadership has only lately addressed. During the Gaza War, a few Army rabbis described the effort in virtually messianic terms, calling on troops to banish non-Jews from the biblical land of Israel (Boudreaux 2009). “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.’ The whole thing has turned into something very religious and messianic (Boudreaux 2009).”

While the Security Services (Shin Bet) was rightly the subject of severe criticism for the extraction of coerced confessions from Arab prisoners, at least there was the possibility (perhaps even, in some instances, probability) that the victim was actually guilty of the offense in question. However, the Shin Bet, likely for reasons lying deep in organizational culture, underestimated the threat—or even dismissed the possibility—of Jews killing Jews for political reasons, at least until the assassination of PM Rabin. In response to that outrage, the security service now appears to be spending much of its professional efforts monitoring those who struggle peacefully for equal HR, peace and disarmament. Indeed, Israel has held since last December, based on allegations that during her military service she leaked classified documents suggesting that the Israeli army violated laws dealing with targeted killings (Kampeas 2010). And as for the Arabs in Israel, Yuval Diskin, head of the SBC believes it is within its charter to carry out

surveillance operations, such as phone taps, on individuals deemed as “conducting subversive activity against the Jewish identity of the state,” even if their actions are not in violation of the law.¹¹

The Border Police (the organization that monitors and regulates passage between Israel proper and the OT) and, to a lesser extent, the nation’s police forces, have been severely criticized for a grievous mistreatment of nonviolent peace demonstrators. Even stone-throwing demonstrations committed by Jewish ultra-Orthodox groups in Jerusalem result limited police reactions, compared to the excessive use of force exercised in confrontations with demonstrators against the Judaizing of Arab neighborhoods¹². Likewise, violent public protests and civil commotions committed by settlement supporters have engendered only modest official response compared to the brutal punishment meted out against opponents Israel’s military operations or construction of the fence/wall in the West Bank (*Haaretz* 22 September 2009)¹³. Such treatment is now officially extended to women. The Israeli Police acted just before the nation’s 2009 Memorial Day against New Profile, a dissent movement founded by university women.¹⁴

Absence of accountability: Many innocent Palestinians have been victimized, the perpetrators acting with virtual impunity. Accountability has taken a back seat to ethnic and religious considerations, either by turning a blind eye or by imposing absurdly light sentences. Such practices, openly condoned or tacitly tolerated by the authorities, have led to official cover-ups and have possibly resulted in official disregard of commissions of enquiry looking into such matters (Btselem 2009)¹⁵. As a recent example, an official state document entitled, the *Sassoon Report*,¹⁶ supported the conclusion that all Israeli governmental departments and ministries have engaged in the illicit funding of

‘illegal settlements’ or outposts, violating public law and misdirecting appropriated funds. 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 which findings, sad to say, were never addressed (Decision to postpone the demolition order of illegal outposts of Hayiovel and Harasha, *Haaretz* 21 March 2010)¹⁷.

Education and its implications: Efforts at the socialization of Israeli youth into acceptance of HR and the necessity of their observance in order to assure the survival of a vibrant democracy have withered in recent decades, almost to vanishing. When analyzing the attitudes of high-schoolers, it appears likely that they have been influenced by an antecedent socialization involving symbols and narratives emphasizing nationalism and exclusive rights. Exceptionally, a few moderate governments sought to introduce in the teaching of civics an induction into pluralistic democracy as well as activities at school and extra-curricula focused on peace and coexistence during the Oslo process. However, during the past decade matters have regressed. In the last year appeared a well orchestrated attack on the circumscribed civic education by presenting it as being controlled by "leftist forces" and it is totally excluded from the curriculum of ultra-orthodox state funded schools.

In light of the occupation of Palestinian territories, “the aforementioned dual legal-administrative system that emerged after 1967 has created conditions whereby the ethos of constitutional democracy must have appeared increasingly hollow and hypocritical to many high school Israeli students attending classes in civic education just before they are inducted into the Army “The failure of Israel to draw a sharp demarcation line between legal and illegal force, between the illegal culture of the pre-state resistance

to the British Mandate and the legal culture following the establishment of the state, between the pre-independence and post-independence phases of state building, has therefore severely damaged democratic civic education as an investment in the future of the Israeli democracy.”(Halperin & Bar-Tal, 2006) This trend is extremely worrisome given the growing support among the youth for denying to Arabs in Israel equal rights to those enjoyed by Jews (49.5 percent) and even the right to participate in elections (56 percent).

Israel’s colonial occupation in comparative perspective

To what extent can any long-term lessons to be drawn from past historical experience that may realistically be applied to the Israeli case? Briefly, we must first appreciate both similarities and differences, analyzing generalizations and applying them in the Israeli context:

Geographic location: 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. Colonizers were not concerned with native numeric majorities. The fact that we are talking about possible annexation of adjacent territories makes the Israeli case more a policy of expansionism, the search for a vital space without granting the native population citizens’

Length of the violent conflict: The level of security threat to the metropolis is particularly evident in the protracted Israel-Arab dispute, especially in comparison with other colonial situations or, for that matter, military occupations. Rebellions, even with the cases of Algeria and Vietnam, were much shorter and did not threaten the 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 “one person- one vote” when and if necessary.

The changing nature of warfare: With 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 terrorism or freedom fighters, has emerged. The issue of occupation is no longer so much national as it is personal security. Herein lies a fundamental difference in comparison with past colonial independence movements. In similar situations, civilian metropolitan residents considered themselves immune to attack.

Depth of democratic roots: Colonial domination over long periods of time did not affect the centuries-long established democracies in Western 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 control. Israel is a new country, and, although inspired at its birth with democratic and egalitarian ideals, most of its founders and, for that matter, post-independence immigrants, came from countries in Eastern Europe and the Middle East, regions in which democracy was hardly normative.

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, rather than becoming tractable, becomes one of life or death. In the mentioned study of the social impact of colonialism

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 the Jewish settlers, who stress 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.' Normally, colonizers consider themselves as expatriates living in exile, but the Temple Mount in East Jerusalem, Abraham's tomb in Hebron and Rachel's in Bethlehem are perceived as the core of the historic Jewish nation. Contrary to a growing acknowledgment of wrongdoings towards the native population in the West, among a large segments of Jews has developed sense of homeland and natural rights is exclusively ethnocentric, ignoring any ostensible rights of native-born Arabs

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.

Time difference: While colonial rule was widespread when the Zionist movement first facilitated Jewish immigration to the ancestral homeland, the Jewish immigration nonetheless remains nowadays rather exceptional. After World War II, self-determination became a global priority, Israeli independence itself was seen to be part of the de-colonization process a partner in development. Yet, after 1967, not a few traditional past-looking Israelis ask: Why not replicate with the Arabs what the Americans did to the native inhabitants of that continent during their national expansion period? If we agree with a premise of progress in the international protection of human rights (Adler and Crawford

1990) , the world has changed to the extent that comparable behavior such as ethnic cleansing is no longer an acceptable option,

Economic exploitation: A colony is a place where one earns more and spends less, (Memmi 1991) entailing economic benefits for the colonizer. In other colonial experiences, the colonialist realizes that without the colonized, the colony would no longer have any meaning. (Memmi 1991) Still, in the Israeli case the colonization process lower such priority with the growing importance of high technology in the new ‘globalization,’ and as foreign workers replaced local, low salary workers, particularly in agriculture and construction.

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.¹ Likewise, during the first two two decades, Israelis coined the term “benign occupation” to explained that an impressive economic growth and some political liberalization was helping the local population to move towards modernity. Israel has portrayed itself as the Western outpost in the Middle East and was able to present this image elsewhere, for better or for worse. While becoming more accepted in the United States and Europe as member of the Judeo-Christian civilization, occupation is now furthering it away from such inclusion. 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. (Huntington 1993)

Late nation building: In the late nineteenth century the formation of centralized states in Italy and Germany out of separate smaller units, was interpreted as a unifying drive, one that that would be

¹ Ibid, p 52

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 also new country, calling for the ingathering of exiles.

Israel's diverse ethno-political make up: 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 in the state."(Migdal 2006, 2) The most direct impact of graduated citizenship is on more than 200,000 Palestinians in East Jerusalem, the Muslim minority in Israel and to a lesser extent the Druzes, together more than 20 percent of the population. To a large extent, this situation differs markedly in comparison with homogenous colonial powers. The concept of 'graduated citizenship' can be applied to Jewish sub-groups as well. '*Mizrachi*' Jews from Middle Eastern countries (also called 'Arab Jews') have been treated by descendents of Israel's Ashkenazi founders as no more than a source for mobilizing "manpower, revenues, and other forms of support, while restricting entry into the halls of power." They have suffered in the past blatant 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.

Conclusion

In retrospect, what has been the impact of occupation on HR in governance and societal values within Israel? The short answer is somewhere between extensive and substantial. A precise answer will likely never be attained, if only because the unvarnished truth lies buried in the critic's values. In this case of setting the alarm, one

may have pointed to the ‘worst possible scenarios’ rather than focusing in the ‘good news’. Nonetheless, given the evidence presented, some reasonable conclusions may be drawn.

First, the social ethos that developed during the pre-1967 period was insufficiently committed to universalized democratic ideals to maintain unstinting support for HR in a later time of stress during which those ideals became increasingly questioned.

Second, the State of Israel came into being that Jews might have refuge from discrimination of minorities as well as denial of fundamental rights and inherent human dignity. Yet within this same polity today—irony of ironies—overt support for HR has taken on the coloration of an adversary’s weapon. What was once and even at present so bitterly defended by Diaspora Jews in Israel is now casually ignored.

Third, the settlement enterprise has put Israel collectively on a very slippery slope. Sternhell has described the phenomenon as ‘colonial Zionism,’ an odd polity whose “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 its basic entitlements and recognize only rights for the Jews (Sternhell 2008)”. Yet, within the Green line, it is not the ‘apartheid state’ whose existence is so casually bruted about by Israel’s opponents. And yet, the apartheid type of rule on the OT is penetrating into this state.

Fourth, introducing a comparative perspective, we can realize that colonial occupation is an anachronism with no other similar examples at present times, a-historic and unsustainable.

Fifth, it is a cruel reality that that most the governing political elites of both nations and large segments of the public have not been socialized into the language and use of HR as universal principles (Kaufman & Abu Nimer 2006, p. 294). Making matters worse, democratic governments often face domestic constituencies that perceive the implementation of specific international HR decisions as a source of weakness, concessions granted solely due to pressure from biased world organizations and powers and antithetical to national interests. Could these popular perceptions be overcome, even under conditions in which national elites favored privileging HR implementation? The jury is still out, but the prospects are not all that promising.

Fifth, and finally, we are ever reminded of the words in Deuteronomy. “Justice, justice you shall pursue (Deut. 16:20).” This deliberate repetition is by no means simply a religious requirement addressed to scrupulous Jews. When half of the Jewish people is still living as minorities throughout a globalized society, it is rather reminder of profound wisdom and common sense, a reflection of an enlightened self-interest,. And all too often failure to observe the strictures suggested by our longstanding teachings has led to ruin. Applying that thought to Israel’s OT policies, Rabbi Haim Siedler-Feller concluded, “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”.(Seidler-Feller, 2009)

References

Adler, E & Crawford, B (eds.) 1990, *Progress in Post-War International Relations*, Columbia University Press, New York.

Agi, MRC 1998, *Pere de la Déclaration universelle des droits de l'homme*, Perrin, Paris.

Amnesty International [UK] 2008, *We are all born free* [in Hebrew], Kinneret, Zmora-Bitan Dvir, Tel Aviv.

Association of Civil Rights in Israel 2009, *The State of Human Rights in East Jerusalem-Facts and Figures*, ACRI, May, Jerusalem.

Avineri S & Sternhell, Z 2009, 'Israel: civilians and combatants: an exchange', *The New York Review of Books*, 13 August.

Bar-Tal, D. (2007). *Living with the conflict: Socio-psychological analysis of the Israeli-Jewish society*. Jerusalem: Carmel. (in Hebrew)

Bar-Tal, D, Chernyak-Hai, L, Schori, N & Gundar A 2009, 'A sense of self perceived Collective victimhood in intractable conflicts' *International Review of the Red Cross*, vol. 91, no. 874, pp. 229-258.

Bar-Tal, D., Magal, T., & Halperin, E. (2009). The paradox of security views in Israel: Socio-psychological explanation. In G. Scheffer & O. Barak (Eds.), *Existential threats and civil security relations* (pp. 219-247). Lanham MD: Lexington Books.

Bar-Tal, D., & Teichman Y. (2005). *Stereotypes and prejudice in conflict: Representations of Arabs in Israeli Jewish society*. Cambridge: Cambridge University Press.

Benn, A 2010, 'Israel's real threat is Arab and Haredi isolation', *Haaretz*, 18 February.

Boudreaux, R 2009, 'Israeli army rabbis criticized for stance on Gaza assault: Some Israeli soldiers say military rabbis cast the offensive against Hamas rockets as a fight to expel non-Jews', *Los Angeles Times*, 25 March.

Bovard, J 2006, *Attention Deficit Democracy*, Palgrave Macmillan, New York.

B'tselem – The Israeli Information Center for Human Rights in the Occupied Territories, 2007 *ABSOLUTE PROHIBITION- The Torture and Ill-Treatment of Palestinian Detainees*, Jerusalem, May

Btselem, The Israeli Information Center for Human Rights in the Occupied Territories, 2009, 'Human Rights in the Occupied Territories', *2008 Annual Report*, Jerusalem.

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- Cohen, H 1984, *Human Rights in Jewish Law*, Ktav Publishing House, New York.
- Cohen, H 1992, *Human Rights in the Talmud and the Mikrah* [in Hebrew], Ministry of Defense Publishing House, Tel Aviv.
- Cook, J 2009, 'Campus Watch copycats close in on Israeli professors', *Crosscurrents*, 16 November.
- Estrin, D 2010, 'Rabbinic text or call to terror?', *Jewish Daily Forward*, 20 January.
- Eyadat, F 2008, 'Survey: Jewish population objects to Arab neighbors', *Haaretz*, 13 March.
- Gambill, GC 2003, 'Explaining the Arab democracy deficit', *Middle East Intelligence Bulletin*, vol. 5, no. 2, February-March.
- Goldscheider, C 2002, *Israel's Changing Society: Population, Ethnicity & Development*, Westview Press, Boulder
- Gorny, Y. (1987). *Zionism and the Arabs 1882-1948: A study of ideology*. Oxford: Clarendon Press.
- Haaretz, 2003, *The Official Summation of the Or Commission Report*, On-Line English Language Edition, September 2
- Halperin, E & Bar-Tal, D 2006, 'Education toward democracy in Israel: Its effect on youth and Israeli democracy', *Democracy and Security*, vol. 2, pp. 169-200.
- Harel, A 2009, 'Settler admits to murder, several bomb attacks', *Haaretz*, 1 November.
- Harel, A 2008, 'IDF West Bank commander: Rightist violence encouraged by settler leaders', *Haaretz*, 10 February.
- Heiman, G 2010, 'Israel must learn the international language of human rights', *Haaretz*, 18 February.
- Hever, S 2005, *The settlements: economic cost to Israel*, Alternative Information Center
- Hofnung, M. 1991. *Israel –security of the state and the rule of law 1948-1991*. Nevo: Jerusalem (in Hebrew)
- Huntington, Samuel R. 1993, "The Clash of Civilization", *Foreign Affairs*, Summer 1993, Vol. 72, No 3, pp 22- 28
- Horowitz, D & Lissak, M, 1990, *Metsuka B'Utopia* [in Hebrew], Am Oved, Tel Aviv.

‘ Human Rights in the Occupied Territories’, *2008 Annual Report*, Btselem, Jerusalem.

Ilani, O 2008, ‘Poll: Most Israelis think human rights groups hostile to their country’, *Haaretz*, 9 December.

The Israel Democracy Institute 2009, *The Democracy Index, 2008*, Jerusalem.

Israel: The Only Democracy in the Middle East, 2010, <http://theonlydemocracy.org>

The Jerusalem Fund 2008, ‘Israel’s Palestinian citizens [interview with Dr. As’ad Ghanem]’, *Jerusalem Fund Report*, September.

Kampeas, R 2010, ‘Israel gags news of soldier turned journalist under arrest’, *Jewish Telegraph Agency [JTA]*, 29 March.

Kasher, A 2001, *Human Rights in World Politics* [in Hebrew], Ministry of Defense Publishing House, Tel Aviv.

Kasher, A 2010, ‘A moral evaluation of the Gaza War: Operation Cast Lead’, *Jerusalem Center for Public Affairs*, vol. 9, no. 18, p. 4.

Kashti, O 2010, ‘Poll: Half of Israeli high schoolers oppose equal rights for Arabs’, *Haaretz*, 11 March.

Kaufman, E, Abed & Rothstein, R., (eds), 1993, *Democracy, Peace and the Israeli/Palestinian conflict*, Lynne Rienner Publishers, Boulder

Kaufman, E & Abu-Nimur M 2006, ‘Bridging conflict transformation and human rights: Lessons from the Israeli-Palestinian peace process’, in JA Mertus & JW Helsing (eds.), *Human Rights & Conflict: Exploring the links between rights, law, and peacebuilding*, United States Institute for Peace, Washington, pp. 277-308.

Kaufman, E & Tsur, N 1989, ‘Torture in Israel? Walking a Tightrope’, *Present Tense*, September/October, pp. 39-44.

Kaufman, E & Tsur, N 1990/1991, ‘Israel’s human rights problem’, *Jewish Quarterly*, Winter , pp. 60-63.

Kaufman, E., 1993, ‘War, occupation and effects on Israeli society’, in E Kaufman, S Abed, & R Rothstein (eds.), *Democracy, Peace and the Israeli/Palestinian Conflict*, Lynne Rienner, Boulder, pp. 85-134.

Kretzmer, D 1990, *The Legal Status of the Arabs in Israel*, Westview Press, Boulder.

Kretzmer, D 2002, *The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories*, SUNY Press, New York

Maoz, I & McCauley, C 2008, 'Teat, dehumanization, and support for retaliatory aggressive policies in asymmetric conflict', *Journal of Conflict Resolution*, vol. 52, no. 1, pp 93-116.

Margalit, A & Walzer, M 2009, 'Israel: civilians and combatants', *New York Review of Books*, 14 May.

McGreal, C 2005, 'Assessing the cost Israel's occupation policies', *The Guardian*, 25 February.

Memmi, A. 1991, *The Colonizer and the Colonized*, Beacon Press, Boston

Migdal, J. 2006, *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

Negbi, M., 2004, *Coming Apart- The Unraveling of Democracy in Israel*, Keter, Jerusalem (in Hebrew)

Polak, DW 2009, 'The Israeli Democracy Institute on its annual Democracy Index, 2009', *Haaretz*, 3 August.

'PM [Prime Minister Ehud Olmert]: Israeli Arabs have suffered discrimination', *The Jerusalem Post*, 10 December 2008

Print, M, Ugarte, C, Naval, C & M, A 2008, 'Moral and human rights education: the contribution of the United Nations', *Journal of Moral Education*, vol. 37, no. 1, pp. 115-132.

Reich, D 2009, 'No talking, Dammit!: the Israeli police crackdown on the new profile women', *Counterpunch*, 3 May.

Rosler, N, Bar-Tal, D, Sharvit, K, Halperin, E, & Raviv, A (2009), 'Moral aspects of prolonged occupation: implications for an occupying society', in S Scuzzarello, C Kinnvall & K Monroe (eds.), *On Behalf of Others: The psychology of care in a global world*, Oxford University Press, New York (pp.211-232)

Rouhana, N, 'A State for all its Citizens', *Foreign Policy*, June 5, 2010

Seidler-Feller, H 2007, 'The withering of the Zionist dream', *A Rabbinic Guide to 40 Years of Occupation*, Brit Tzedek v'Shalom [Alliance for Justice and Peace]

Shamir, M 1990, 'Kach and the Limits of Political Tolerance in Israel, in DJ Elazar & S Sandler (eds.), *Israel Odd Couple: The 1984 Knesset Elections and the National Unity Government*, Wayne State Press, Detroit.

Shamir, M & Sagiv-Schifter, T 2006, 'Conflict, identity, and tolerance: Israel in the Al-Aqsa intifada', *Political Psychology*, vol. 27, no. 4, pp. 569-95.

Shapira, A. (1992). *Land and power: The Zionist resort to force, 1881-1948*. Oxford: Oxford University Press.

Sharon, R 2009, 'The complete guide to killing non-Jews', *Ma'ariv*, 9 November.

Shinar O. (unpublished). *The Ethos of the Israeli-Palestinian Conflict as Reflected by the Judgments of the Israel Supreme Court 1948 – 2006*, PhD Research Proposal, The Hebrew University of Jerusalem, The Faculty of Social Sciences, submitted 2010

Shragai, N 2009, 'Knesset okays initial bill to outlaw denial of "Jewish state"', *Haaretz*, May 27.

Siach, I 1970, *The Seventh Day, Soldiers talk about the Six Day War*, Deutsch, London

Smootha, S 1989, 'A typology of Jewish orientations toward the Arab minority in Israel', *Asian and African Studies*, vol. 13 nos. 2-3, pp. 155-182.

Smootha, S 1990, 'Minority status in an ethnic democracy: the status of the Arab minority in Israel', *Ethnic and Racial Studies*, vol. 13, no. 3, pp 389-413.

Smootha, S, 2008, "Has Indeed the Occupation of the Territories Permeated Inside? The Modest Contribution of Israeli Sociology to the Study of Occupation Issues". *Sociologia Yisraelit* 9, , 255-262. (Hebrew).

Sprinzak, E 1991, *The Ascendance of Israel's Radical Right*, Oxford University Press, New York.

Sprinzak, E 1999, *Brother against Brother: Violence and extremism in Israeli politics from Altalena to the Rabin assassination*, Free Press, New York, NY

Sternhell, Z (2008), 'Colonial Zionism', *Ha'aretz*, October 13.

U.S., Department of State 2009, '2008 HR Report: Israel and the occupied territories', *2008 Country Reports on HR Practices*, 25 February.

Zertal, J & Edlar, A (2007), *Lord of the Lands: The war over Israel's settlements in the Occupied Territories, 1967-2007*, Nation Books, New York.

Endnotes

i. I would like to express my gratitude to Daniel Bar-Tal for his significant contribution in the preparations of this article as well as to my former student Arjun Sethi for his editorial assistance

¹ 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. omit

² In the interest of transparency, it should be noted that the author was a founder, and later 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.

³ References to HR in the majority of documents relating to the Oslo Peace Process are both scarce and vague. A content analysis of all speeches by then-PM Ariel Sharon could not identify any mention of HR. Likewise, President Yasser Arafat's references to rights were almost entirely restricted to Palestinians (Kaufman & Abu Nimer 2006).

⁴ Settler rabbis—some on the government payroll—said it is inconceivable that IDF or police would participate in the “immoral” razing of settlement outposts, arguing that any such decision to destroy outposts in the West Bank could “not stem from any judicial ruling, but rather from a political decision to bow to American pressure.”

⁵ Describing and commenting on Rabbis Shapira and Elitzur's *Torat ha-Melekh* [The King's Teachings], a *vade mecum* for ostensibly divinely approved gentile slaying,

⁶ Until recently, a list of about 3,000 Israelis could be found in the Internet when querying the letters 'S H I T' (Self Hating Israeli Terrorist), likely an Internet initiative of Kahana Chai, a small, extremist anti-Arab chauvinist group. Apparently, fear of a legal action against the organizers of the blacklist led to its removal.

⁷ “The prohibition ‘Thou Shalt Not Murder’” applies only “to a Jew who kills a Jew,” write Rabbis Yitzhak Shapira and Yosef Elitzur of the West Bank settlement of Yitzhar. Non-Jews are “uncompassionate by nature” and attacks on them “curb their evil inclination,” while babies and children of Israel's enemies may be killed since “it is clear that they will grow to harm us (Estrin 2010).” These are surely the sentiments of a very small minority of Israeli Jews. But the fact that they exist at all is disconcerting, to say the least.

⁸ Under the proposed Ordinance, leaders of such organizations are liable for a penalty of up to 10 years' imprisonment, and officials charged with the rule of law in Israel will receive tools to combat persons who cause incitement and insurrection against the State of Israel and to combat those who seek to impair the sovereignty of the State.

⁹ Spirited advocacy of HR appears to impact negatively on public support for the principle. In the 2008 Democracy Survey, as in past years, participants were asked for their perspectives on the country's institutions. Public trust in the Supreme Court showed a decline of 12 percentage points—49 percent trust the Court this year, as opposed to 61 percent last year (*Israel Democracy Institute Annual Report*, 2009).

¹⁰ For example, the September 2007 order of the High Court of Justice directing the defense establishment to consider “within a reasonable amount of time” a fairer route for the separation fence, which sits on land taken from the village of Bil'in, for the benefit of the settlement of Modi'in Ilit drew an inadequate response. At the end of 2008, Supreme Court President Dorit Beinisch declared the chosen alternative incompliant with the court ruling and ordered the state to dismantle the fence “without further delay.” In December 2009, the IDF spokesman declared, “It

is the intention of the defense establishment to begin erecting the amended route of the fence right at the beginning of 2010 (*Ha'aretz*, 9 December 2009).” No action has been taken at the time of this writing.

¹¹ Oron, Assaf, “Israeli Government Criminalizes Its Arab Citizens Leaders” *Israel: The Only Democracy in the Middle East*” Quoting from a letter sent on Sunday to the Adalah Arab rights group and written at the behest of Attorney General Menachem Mazuz, by SBC head Yuval Diskin, (May 14, 2010)

¹² Uneven treatment of demonstrators in East Jerusalem included the arrest of civil rights activist Hagai El Had, Director of the Association of Civil Rights in Israel (equivalent to the U.S. American Civil Liberties Union), and required the intervention of the Supreme Court to allow the demonstrations in the predominantly Arab neighborhood of Sheikh Jarrah.

¹³ The *Haaretz* report provides insight into both the thinking and the mindset of Israeli officials at the time. “This is a time of war, and every [negative] 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. On the other hand, President Shimon Peres accepted the recommendation by former justice minister Daniel Friedmann to pardon 59 citizens who committed criminal offenses during protests against the Gaza 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’.”

¹⁴ The suspects were charged and later released on bail on condition that they not talk to other women in the movement for an entire month (Reich 2009).

¹⁵ “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, 2009).

¹⁶ 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, at a cabinet meeting a ministerial committee was appointed to study the report, but at the time of this writing, no significant action has been taken to evacuate settlements. (For a summary of the report see <http://www.mideastweb.org/sassonreport.htm>.)

¹⁷ Issued by the HCJ in 2005, the state responded that it was determining its priorities for the demolition of the outpost. A new reminder was given in 2009, ordering the Defense Ministry to respond by 1 May 2010 when it intended to raze the houses. The homes at Hayovel were built on private Palestinian land, near the settlement of Eli. Among the structures were included the houses of two soldiers killed in the Second Lebanon and Gaza wars.