

“The Frontier is where the Jews Live”: A Case of Israeli “Democratic Colonialism”³¹

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The frontier is where Jews live, not where there is a line on the map. Golda Meir

Space and law, or rather the space of law and law applied to space were among the primary elements of Israeli colonial sovereignty in the Occupied Palestinian Territories (OPT) and of the forms of subjugation it employs to express this force. Through colonial practices that have systematically violated the borders of the very same international legislation that enabled ‘temporary’ Israeli occupation, and through the legal regularization of these violations, the landscape of the OPT has been gradually transformed into a legal arena in which colonial sovereignty works by means of a mixed system involving the application –and mutual integration– of increasingly complex laws and constant ‘innovations’ in government instruments and practices affecting Palestinian movements and areas. This historical process has become even more evident after the Oslo Accords, when the institutionalization of the separation between Israelis and Palestinians –without decolonization³³– resulted in increased Israeli compartmentalization of the Palestinian landscape and the refinement of its techniques in doing so.

Like other colonized peoples, the Palestinians do not live so much in a real system of “suspended sovereignty” (Kimmerling 1982: 200) as in a situation where Israeli colonial sovereignty is continuously undergoing refinement, in a spatial and peripheral frontier in which the colonial encounter (Evans 2009) is the moment of the creation, application and re-activation of the colonial order. In such a context, what is interesting is not so much the question of the legality or illegality of the practices and rules that reify the occupation so much as that of their logic and of how they came into being through space. Space is in fact some of the main issues in colonial hierarchization and separation; it is not mere means, but materialization of policies.

In his analysis on how, in the West Bank, the distribution of legal rights among “Israeli citizens” and “Palestinian subjects” takes place – in the daily practices – along what he names “ethno-national lines”, reproducing those very inequalities on which this differential legal order is founded, Thobias Kelly (2006: 172) sheds light on how colonial – spatial – compartmentalization and legal statuses are deeply intermingled:

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³³ On the institutionalization of the separation produced by the Oslo Accords and its paradoxes, Neve Gordon writes: “One cannot fully understand the replacement of the colonization with the separation principle without examining Palestinian space. Historically, the withdrawal of colonial powers from their colonies has entailed the abdication of control over the means of legitimate movement within and from the colonies. [...] By contrast, [after Oslo] in both the Gaza Strip and the West Bank Israel has maintained its control over movement [...], in reality it continues to control both the space that the Palestinians occupy and the legitimate means of movement” (Gordon 2008: 208).

Legal status [in the West Bank] is always a spatial practice, since the checking of documents takes place in particular locations. The Israeli state constantly moves between being a state of its citizens wherever they may be and a territorially bounded state. It has no legal boundaries, but instead delimits its reach through armistice lines, walls and checkpoints that are constantly shifting, by sometimes following bodies and sometimes taking shape within specific places and spaces.

Fundamentally, the territory of the West Bank has progressively been transformed into a proliferation of frontiers, in a space in which legal boundaries, “following bodies” or moving to specific places and spaces, have constantly shifted, shaping the constant and *unlimited* process of formation of the Israeli state. As Eyal Weizman (2006: 91) has pointed out, in such a context, state and non-state actors share the principles and the strategic objectives of an “organized chaos”:

Criticized for their brutality, colonial powers have often claimed they lacked effective means to enforce their own laws on the periphery of their territories, or claim that the criminal actions carried out by their agents are exceptions that do not reflect the rule. Often, however, these powers profit in psychological effect and/or territorial control from the brutal and illegal “local initiatives” of armed settlers or rough soldiers, without having to take responsibility for the latter’s actions. Colonizing states may excuse what is effectively the rule as an exception, and exceptions as the rule. [...] When the frontier seems to degenerate in complete lawlessness, it is because its “organized chaos” is often generated from the center.

My article will focus on a specific area of this system of producing spatial and legal lines –Battir, West of Bethlehem, and the Gush Etzion colonial block. I will firstly attempt to reconstruct the main stages in the genesis of Israel’s sovereignty over the area, the facts relevant to the process –still underway, still internationally unrecognized, but no less real for this– of creating spaces and rules of separation and annexation that have, bit by bit, resulted in an extension of the spaces of Israeli citizenship and a reduction of the spaces of Palestinian non-citizenship and subjugation. In the second part of the article I will present the case of one of the multifarious “operators” and “operations” (Foucault 2003) which has recently taken shape within the framework of the Israeli apparatus of control over Palestinian space. My aim is that of “de-centralising” the analysis of *state colonial law* and re-contextualizing it in the framework of action of one of the many examples of “operators” who embody the very essence of the Israeli colonial regime: settlers. This paper argues, through the analysis of the genesis of a legal case study in the Israeli Supreme Court, that new political assemblages such as *human rights* (“ethnically pure”) *settler organisations* can act as repressive actors and make Israeli sovereignty and spatial forms of control more and more sophisticated in such a contemporary colonial frontier as Palestine. This case can highlight the historical excesses of Israeli colonial sovereignty –the extension of colonial sovereignty “where the Jews live”– and the *modus operandi* of these new expressions of power, whose final aim is that of perpetuating the production of colonial peripheries and constantly enabling the dispossession of Palestinians.

The Enclavisation of a Palestinian Area

Before analysing our case study of democratic colonialism, it is necessary to provide a synthetic reconstruction and contextualisation of how the Palestinian space in which our legal case saw the light has been historically enclavised. Prior to 1948, Battir and its surrounding villages looked to Jerusalem –culturally, economically and from the point of view of spatial practices. The inhabitants of the area, particularly known for its cultivation of vegetables, used to sell their produce at the town markets. Battir, Nahalin, Wadi Fukin and Al Walajeh are in fact characterized by a widespread system of irrigated terraces where vegetables are cultivated. The system of irrigated terraces played an important role not only in the economic life of the area but also in determining the mobility of its inhabitants, who travelled daily to the markets in the District of Jerusalem. It is important to draw attention to the genealogy of the connections and disconnections that have distinguished the history of our area of study. During the Ottoman period, Battir was connected to Jerusalem by an abundant series of valleys. A path which could be walked led the people from the village through these valleys directly to the Old City of Jerusalem. Until 1890 this was the main route to the Holy City. In 1890, the Ottoman administration built a railway line not far from the path. This railway would connect the villages to Jerusalem and Jaffa. After the construction of the railway and its connection to the main centres of the Arab world –Cairo, Damascus, Beirut, Mecca– the train became an opportunity for travel, and for new experiences –mostly for study and commerce– in the major Arab sites of culture.

Immediately after 1948, with the creation of the state of Israel, a patent process of fragmentation began to afflict the area of Battir and the surrounding villages situated south-east of Jerusalem: a process in which war, negotiations and official agreements between Israelis and the Jordanian administration, and planning of a differential use of the infrastructures of transport along ethno-national lines altered the shape of the area's territory.

After the Rhodes Agreement of 1949 between King Abdullah of Jordan and the first Israeli government, the Ottoman railway was renovated by the Israeli state, which subsequently decided to close the station of Battir and effectively eliminate the village's railway stop, preventing the local inhabitants from using the train. This policy of closure marked the start of a process of fragmentation, separation and restrictions that has increased steadily over the decades (**see Fig. 1**).

Non-reification of the Green Line³⁴ into a boundary that separates Israelis and Palestinians, the Israeli army's campaign to occupy the West Bank and the building of civil colonial structures and infrastructures (the settlements) subsequent to 1967, are all factors that have further altered the geography, landscape and territorial-jurisdictional order of the area under analysis. The villages of Battir, Al Walajeh, Nahalin, Husan, Wadi Fukin and Jaba'a were the focus of the first intense Israeli colonization campaign since the Six Day War. The aim was to create a large colonial block south of Jerusalem: what is currently Gush Etzion.

³⁴ The Green Line has over the years become increasingly less permeable in the relations between Palestinians and Israelis. It has never become a real border and, as a result, it is subject to change, to political calculations, dreams of "territorial exchanges" in the so-called peace negotiations and to constant administrative and territorial amendment.

In 1967, encouraged by the radical messianism of certain rabbinic schools, the ‘redemption’ of Gush Etzion began, with the creation of the Kfar Etzion colony, blending socialist and messianic aspirations with those of a colonial sovereignty yet to be established, as can be inferred by the words of one of the rabbis from the orthodox cooperative that backed the operation: “the commandment [...] that states that the Land of Israel must be in the hands of the Jewish people

1949 -1967

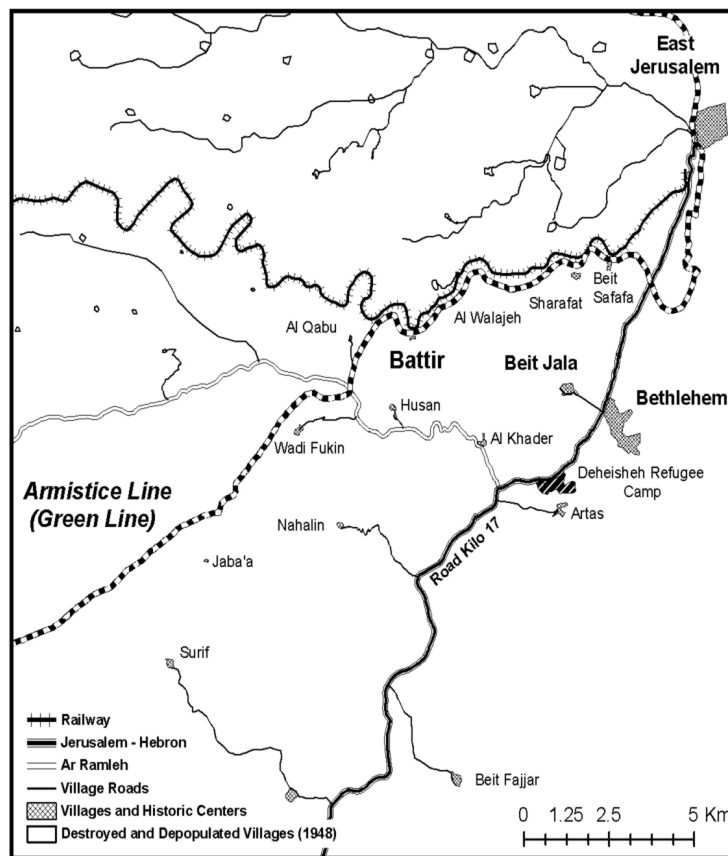


Fig. 1: beginning of the fragmentation in the area after the depopulation of the Palestinian villages and the Jordanian-Israeli Accords on the Armistice Line.

[does not only mean] that settlements must be created, but that [the Land of Israel] is under Jewish *sovereignty* [Italics are by the author]” (Gorenberg 2007: 107). After a long debate between various governmental and non-governmental figures, aspiring settlers, members of the National Religious Party of the Knesset, rabbinic schools and members of the Greater Israel Movement, at the end of 1967, even the Israeli Prime Minister Levi Eshkol accepted the idea of starting a campaign to colonize the West Bank. “Masking”

the colony as a “military outpost”³⁵, which would somehow have been tolerated by international law, the settlers and the government welded on the common strategic objective of expanding Israel’s territorial sovereignty. Essentially, a varied group of figures not belonging to state organizations pushed a compliant government beyond the limits set by international law, in a complex legal and colonial scheme that crossed the Green Line for the first time and marked the start of one of the most considerable and historically stratified settlers’ blocks in the West bank, later administratively formalized into a “Regional Council”. A mixture between “*Utopian* imagination and planned *topian* praxis” (Efrat 2003: 61), therefore, contributed to the genesis of Gush Etzion, or the Etzion Block.

Over the following decades, well-organized architectural and legal procedures and brutal military orders resulted in the gradual expropriation of the Palestinian villages west of Bethlehem. In a dramatic escalation, the construction of these colonies³⁶ and infrastructures has, in many cases, irreversibly changed the landscape of the area. Battir and its surrounding villages witnessed the proliferation of legal and military mechanisms of dispossession and further enclavisation. Several thousands of *dunams* of land were confiscated and expropriated in the Seventies and the early Eighties by the Israeli administration in Battir and its neighbouring villages by applying military orders, and then declared “state land” by exploiting Ottoman law, which still represents, together with the Jordanian law, part of the basic framework of colonial law in the OPT³⁷. While at the end of the Seventies the purpose of dispossession through military orders was, officially speaking, to create ‘temporary’ military structures (the outposts, as in the case of Kfar Etzion) rather than civil ones, during the Eighties this legal philosophy was flanked by new methods of state expropriation reinforcing the expansion of the Israeli state sovereignty over the area. After the “state lands” came those expropriated for

³⁵ This is how the Israeli journalist Gorenberg (2007: 116-118) described this historical moment in which the “temporary border” constituted Green Line has been obliterated and the Israeli colonization of the West Bank has been triggered in our area of study by state and non-state actors: “None of the actual characteristics of an outpost existed; the settlers were not soldiers and therefore were not serving in Nahal, a branch of the army; there were no officers, no uniforms, no military tasks such as conducting patrols of the area. Nonetheless, next morning’s papers all dutifully reported the establishment of a Nahal security post. [...] The myth of a reluctant Eshkol pushed by Orthodox settlers into reestablishing Kfar Etzion would later serve the purposes both of the Israeli left and the young Orthodox rebels. But [...] Eshkol made a choice, knowingly evaded legal constraints, imposed his decision on the cabinet, and misrepresented his intentions abroad”.

³⁶ Rosh Zurim (1969), Alon Sherut (1970), Har Gilo (1972), Tekoa and Migdal Oz (1977), Efrat (1980), Ma’ale Amos (1981), Neve Daniel and Nokdim (1982), Adora and Asfar (1983), Karne Tzur and Kedar (1984), Beitar Illit (1985), Bat Ayin (1989): over 2000 hectares of “municipal areas” (not counting the conspicuous amount of land expropriated and turned into various types of infrastructure for the settlers). As is evident from the chronology, most of these colonies were established before the Oslo Accords, but almost all experienced booming territorial expansion and infrastructures above all after the agreement. Source: Foundation for Middle East Peace: <http://asp.finep.org/app/settlement/ShowSettlementTablePage.aspx>.

³⁷ Most of the expropriation took place in the lands that Ottoman law after 1858 defined as *miri*: these made up a 2.5 km ring around the Palestinian villages, and consisted of farmed land which alternated with uncultivated land. The ring formed a sort of hinge-like space between the various villages. The legal status of these areas was of lands owned by the State, which allowed Palestinian farmers right of use. A Turkish law of 1913 abolished any distinction between use and ownership, allowing the farmers who had registered their land full right of ownership. In 1967, only 30% of the lands were in the Land Registry, and much of the expropriation, later declared as “State lands”, was concentrated in the remaining 70% (Bimkom 2008). On the incorporation through military orders of the Ottoman and Jordanian laws into the “infrastructures of control” of the West Bank after 1967, see Gordon (2008: 26-27)

“public use”, and together with the “public lands” were those expropriated for “security reasons”, the expedient which was progressively more frequently implemented after the Oslo agreement, especially after the Second Intifada.

This complex jurisdictional machine provided the state, the settlers and the military and civilian architects of the occupation in the area with a fundamental backbone for both further enclavisation of the Palestinian villages and exclavisation of the settlements. The “natural growth” of the colonies and their civilian infrastructures was made on this very articulated set of expropriated lands. So, the area was subjected, bit by bit, to further fragmentation: new infrastructures; new roads for “Jews only” – encircling the Palestinian enclaves and preventing their urban expansion and their possibility of planning –; a new system of tunnels “sterilizing” settlers’ roads and separating the settlers and the Palestinian inhabitants of the villages through apparent measures of “traffic management” (See Fig. 2). This process can be defined as “shifting legal geography” (Weizman 2006: 91): a process of continuous refinement of a departmentalized space; a process of “masked apartheid” in which the expansion of the landscape of Israeli citizenship and the restriction of the Palestinian space of life were enabled both by the violence of the Army and the legal procedures of the Israeli Supreme Court.

It is within this framework of military and civilian measures that the present post-Oslo jurisdictional and territorial order of our space of enquiry was finally shaped (See Fig. 3). The Oslo

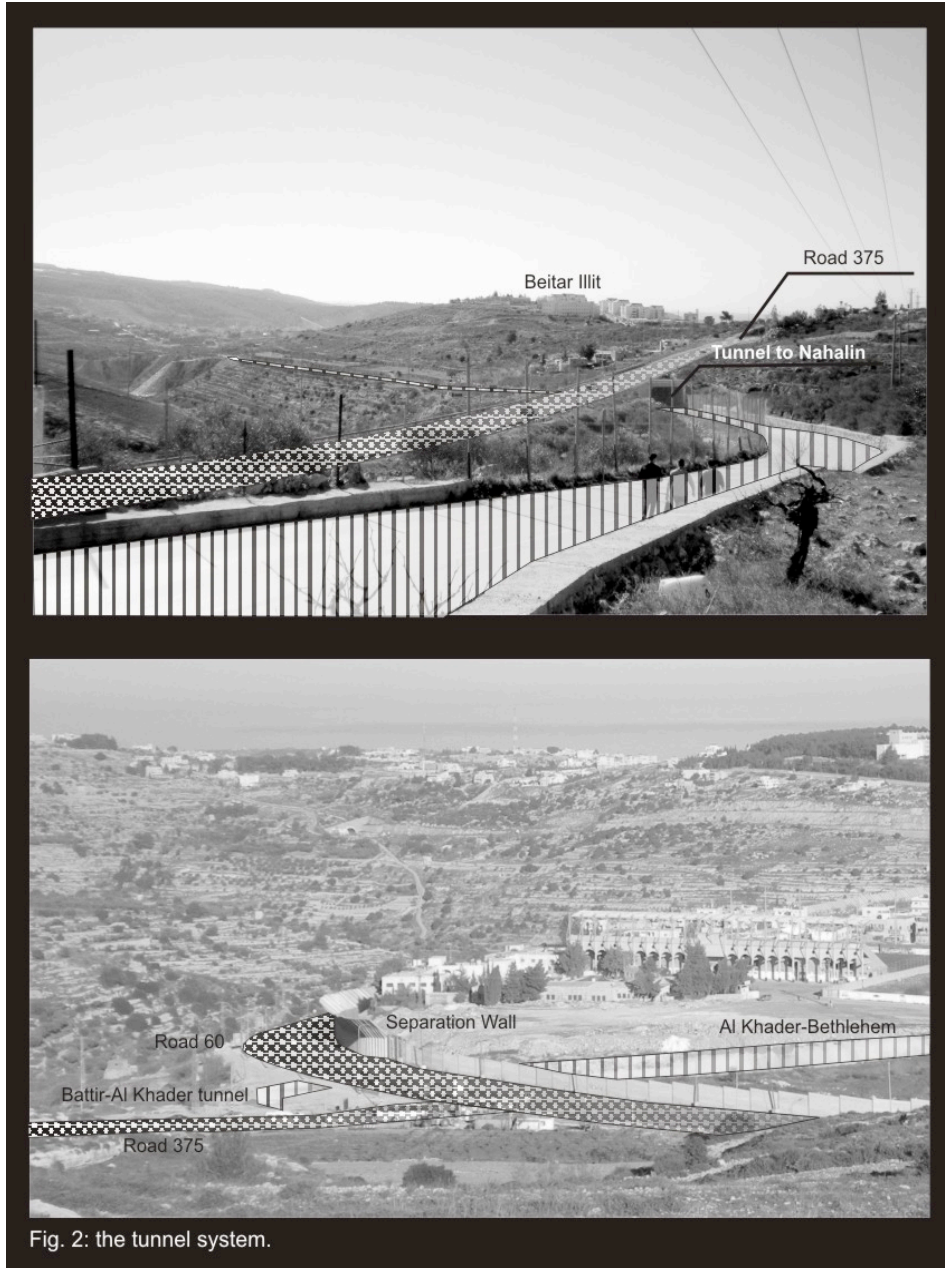


Fig. 2: the tunnel system.

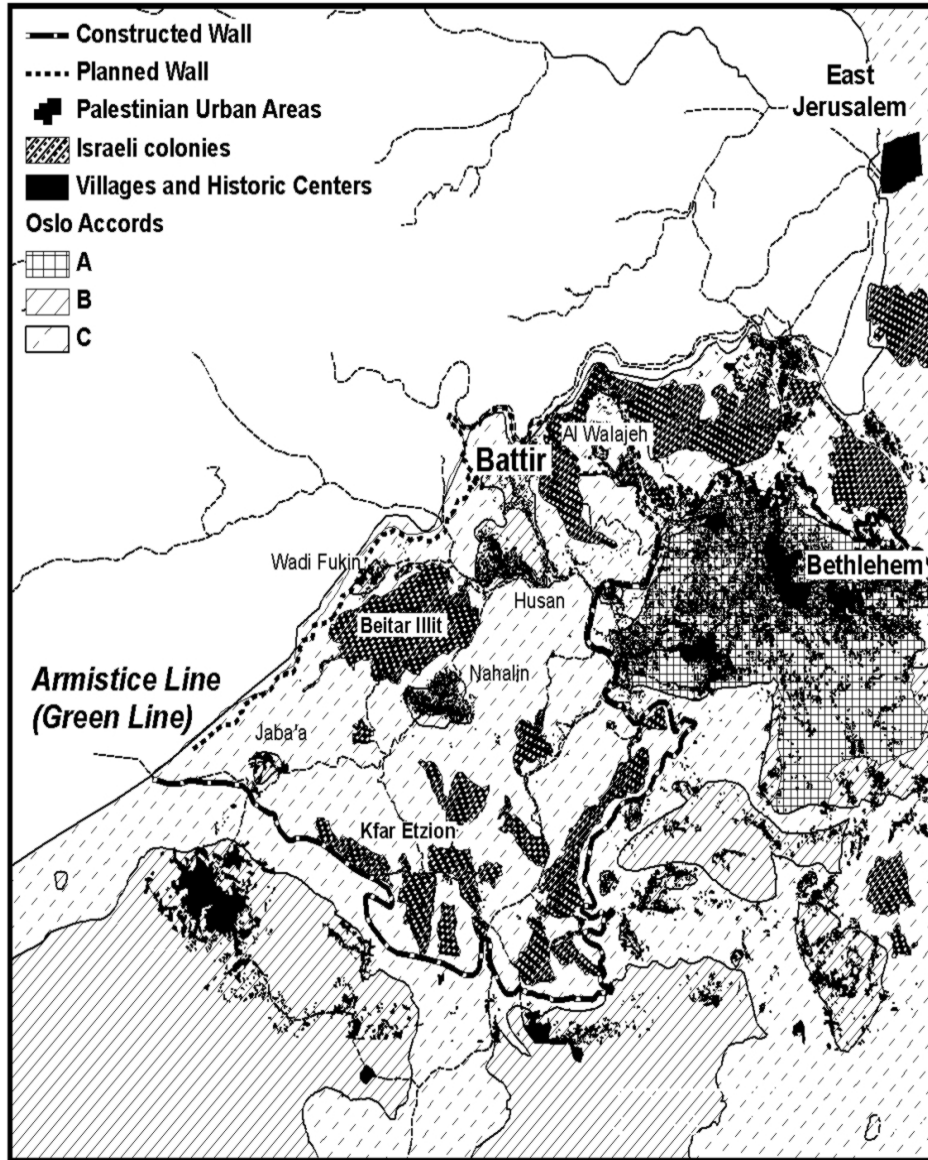


Fig. 3: the transformation of the jurisdictional-territorial order from 1967 to the post-Oslo period.

Accords (1995) further fragmented the territory of Battir and its surrounding villages into “B-C Areas”³⁸, enclaving the urban centers into the so called “Area B” (according to a

³⁸ “Areas A include major Palestinian centres in the OPT. Areas B consists of other Palestinian-populated regions of the OPT, including a number of small towns, villages and hamlets. Area C covers all remaining territory of the West Bank [and] area C is the only one that is [territorially] contiguous. Areas A and B form island of Palestinian jurisdiction [...]. In Areas A, the PA has full authority over civil affairs, and internal security and public order, while Israel retains responsibility over external security. In Areas B, the PA exercises

demographic principle), and providing the Israeli Civil Administration and the Army with “temporary” administrative, planning and “security” powers over those very areas (C) on which confiscations and expropriations took place after 1967. Area C surrounding Battir and its closest villages has been the theatre of a constant proliferation of security infrastructures (fences, roadblocks, the Wall of separation), civilian infrastructures of connection of the settlements and disconnection of the territorial continuity between Palestinian inhabited areas (settler’s roads, junctions, tunnels).

It is the game with this line – between B and C – that is becoming more and more the legal battlefield on which Israeli state and non-state actors, Israeli Supreme Court, Palestinian Authority, lawyers and human rights organisations are fighting to extend or combat the elastic colonial sovereignty of Israel.

The “Red Castle” and *Democratic Colonialism*

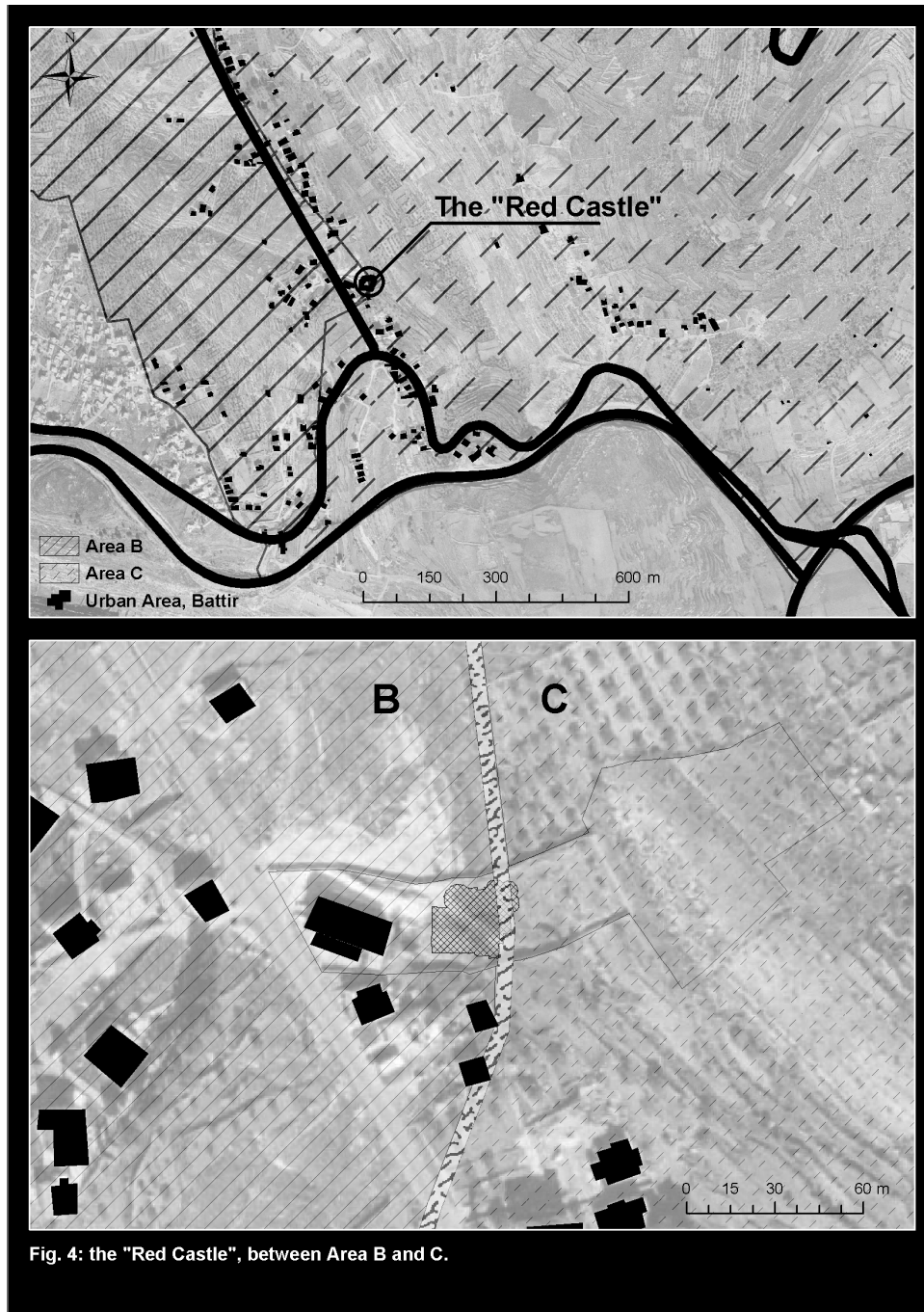
What is particularly interesting in the contemporary framework of the colonisation of the Palestinian Territories is what we could name the *democratic forms* that Israeli colonialism is assuming. The following legal case study – a case that has recently been brought in front of the Israeli Supreme court and that I had the opportunity of reconstructing during my research on the relationship between space and law in the village of Battir – and its genesis – so in the very etimological sense of the word, intended as the process of generation of a legal trial in the Israeli Supreme Court³⁹ – provide us with a clear example of what Michel Foucault described as *judiciability* (Foucault 1977) in a colonial context. Generally speaking, *judiciability* is the “sphere of what can enter the field of pertinence of a judicial action”; what is interesting in a contemporary colonial frontier as the one separating Area B and Area C in the village of Battir are the very “bottom-up” dynamics producing the effect of “magnetizing” the Palestinian non-citizens in the sphere of judicial action of a colonial instance such as the Israeli Supreme Court. What this legal case will show is that in an “ordered chaos” such as the one governing the Occupied Palestinian Territories, violent colonial actors – such as the settlers – can act as a NGO, claiming a monitoring function *vis à vis* what they perceive – in a specific historical circumstance, as we will see – as a non-democratic state (Israel), and proclaiming a “struggle for equality” which perfectly adapt to the political ecosystem generated by the model of colonial occupation promoted by that very state they are contesting. What in the classic conception of the political contemporaneity have been conceived as key actors – NGOs, human rights association, the so called civil society – in the creation of a balance for the excesses of the states, are becoming – in the specific form they assume within the Israeli ecosystem of the occupation – an important instance of reproduction and sophistication of the Israeli colonial sovereignty, beyond their apparent clash with the state.

civil authority and maintains a police force to protect “public order for Palestinians”, while Israel retains “overriding responsibility for the purpose of protecting Israelis and confronting the threat of terrorism” [...]. In Areas C Israel retain complete territorial jurisdiction.” (Source, Palestine Liberation Organisation Negotiations Affairs Department, *Briefing Note*). 61% of the West Bank is Area C, 21% is Area B and 18% A. In the area of Battir more than 90% of the territory is area C, and there is no Area A, but only B and C. The A-B-C order should have last for five “temporary” years but a final Israeli withdrawal never took place.

³⁹ The Israeli Supreme Court is the highest judicial entity in Israel. As supreme organism of judgment of the state, it has somehow followed the path of extension of the Israeli colonial sovereignty, expanding its judicial activities to the Occupied Palestinian Territories.

The legal case study I intend to analyse is that of what the inhabitants of Battir, the Civil Administration and the associations of Israeli settlers by now call the “red castle”. This case might be defined as liminal, on the border between what the Oslo agreement marked off as Areas “B” and “C”, between the urban area of the village and the areas particularly hit by the historical Israeli policies of confiscation and house demolition.

As you enter Battir’s main street, both sides of the main artery through the village are still in Area B. A few tens of metres along on the right hand side of the road, delimited by an invisible line, starts what Rabin’s Israeli government and the nascent National Palestinian Authority recognized at Oslo as Area C (see **Fig. 4**). One of the most recent constructions, built at the beginning of the main road to the historical centre is the so-called “red castle” (*Qasr Ahmar*), a luxury residence which takes its name from the nickname of its owner –a Palestinian from the Diaspora who emigrated to the United States, where he opened a supermarket chain– and from the colour of the stone the architects had initially chosen before the construction work began. What is of interest is not so much the luxury of the castle although, as we shall see it has become part of the



legal battle, but rather the jurisdictional and spatial context in which the castle has been built, and the dynamics its construction has set off.

In December 2009, two years after the foundations of the building were laid, some very unusual members of a human rights association turned up, accompanied by a reporter from Israel's Channel 10 and a television crew. They interviewed the contractor (*wakl*) of the villa⁴⁰ and began asking him details about the owner and legal statute of the building as regards the B-C territorial order: information that the contractor provided in good faith. In actual fact, these supposedly casual passers-by were representatives of a peculiar human rights association: the "Regavim Movement for the Protection of National Land", which defines itself, in the words of one of its exponents, as a "non-political movement whose aim is to protect national lands and properties, preventing *others* [my italics] from illegally taking possession of national property resources"⁴¹. As a Regavim spokesperson declared at the Israeli newspaper Ha'aretz during an interview with Israeli journalist Amira Hass, the organization:

*[Regavim] is taking a very serious approach toward the illegal takeover by Arabs of lands in Area C in Judea and Samaria [the biblical name for the Palestinian West Bank], including by means of agricultural cultivation designed only for this purpose. Regavim is following with concern the increasing involvement violating the laws of the State of Israel and brazenly undermining its sovereignty ... Regavim calls on the of foreign countries and entities in establishing facts on the ground unilaterally [my emphasis], while Foreign Ministry to convey an unequivocal message to the international parties [active in Palestine-Israel], and state that Israel is very upset by their behavior and demands that they immediately desist. The Regavim movement is pleased to hear that the Civil Administration has responded to its demands and has been enforcing the law in an egalitarian manner, among Arabs as well.*⁴²

Previously only active on the Israeli side of the Green Line, the original aim of this 'national association' was to report 'illegal Arab building' by Palestinians who were still living in Israel after 1948. It is now becoming increasingly active, however, in the OPT, given that its 'hard core' is made up of right-wing settler-observers of whom there is a high concentration in the southern colonies of the West Bank, between Hebron, Bethlehem and Jericho⁴³. In one of their petitions, the members of this association define themselves as a NGO that pays close attention to the relationship between space and law and which is invested with a vein of "indigenism" that aims to protect the public from any exploitation it might be subjected to by its own State, almost as if in a sort of democratic emergency:

[Regavim is] an association responsible for the protection of the citizens of Judea and Samaria, for the prevention of the use of the land by those who are unauthorized to do it, and for the surveillance of the

⁴⁰ The contractor is handling construction work on the villa and the legal question that has arisen after the visit from the 'human rights association'.

⁴¹ Jerusalem Post, 03-09-2010: <http://www.jpost.com/Israel/Article.aspx?id=153805>.

⁴² Declaration by a Regavim spokesperson, cit. in Hass (2010a).

⁴³ On the monitoring and petitions by Regavim against the Bedouins living in Jericho, in area C, and on the organization's campaign against "migrating nomads who are placing at risk the resources in an area due to experience natural growth [of the settlers]", see Hass (2010b).

activities of the [Israeli] authorities with the aim of making them respect the law [my emphasis].

Regavim's monitoring activities, which appear to range widely, are turning into a series of reports that the association is sending to top members of the Israeli government, to the colonial administration of the West Bank and the Israeli Supreme Court. Let us attempt to see what they are materially producing. After a petition presented by the organization to the Supreme Court in September 2009, for the first time in the history of the state of Israel the Court decided to carry out a number of orders to demolish Palestinian houses in the West Bank, further extending its jurisdiction within the OPT. In the past, these orders had been the prerogative of the Israeli Civil Administration, the Israeli colonial administration in the OPT. At the beginning of November 2009, the legal head of Regavim implemented the Right to Information Act, asking the District Court of Jerusalem for a list of international organizations operating in the West Bank and to see the applications presented to the Civil Administration by these organizations in order to construct humanitarian infrastructures and buildings. The group declared:

*The citizens of the State of Israel have the right to know what the foreign organizations [by that meaning foreign organizations working with the Palestinians] are doing in Israel [my emphasis], how the IDF and Civilian Administration treat them, and whether funds from foreign countries are used in illegal.*⁴⁴

At the end of November 2009, the Defence Minister Ehud Barak sent 40 new 'building inspectors' to the West Bank to reinforce the "settlement freeze" announced by the mixed Likud-Labour government of Benjamin Netanyahu. At the same time, Regavim submitted a petition to the Ministry of Defence against construction of Battir's "red castle", requesting its demolition. The timing of the petition, presented at the same time as the start of the so-called "settlement freeze", is particularly important in helping us understand the nature of Regavim's legal claims to the areas in the West Bank, as well as the *strategy of equality* the association adopted in its *radical democratic colonialism*. Regavim is in fact fighting for most peculiar forms of "equality" and "non-discrimination" in Battir and other zones: the right for equal treatment from the colonial authorities of the Civil Administration as regards the "illegal constructions" of the settlers and of those of the Palestinian inhabitants of the OPT. By exploiting the Israeli government's decision to officially freeze the settlement construction, due to international and US pressure to reopen peace negotiations for the umpteenth time, Regavim is in actual fact working on a further –detailed– extension of Israel's colonial sovereignty in the OPT, especially in Area C, by trying to reproduce a system of restrictions, immobilize construction work and protect national lands in a manner similar to that which the Palestinians of Israel or Jerusalem are subjected to.

Due both to its 'unrestricted' range of action in the territory –with an approach very similar to Golda Meir's definition of a frontier–, and to its articulated network –a structure empowered by international ideological and financial support–, it is hard to accept Regavim's self-definition as simply a "national right association". Like Saskia Sassen (2006), we could define it as a "trans-national assemblage", a small-scale

⁴⁴ <http://www.israelnationalnews.com/News/News.aspx/134454>.

“ethnically pure” political organization with branches worldwide, which profits from the support of lobby groups which include major exponents of the Canadian Jewish community. The Jewish Tribune, Canada’s main Jewish newspaper, defines Regavim and its role within another national and global assemblage, the Legal Forum for the Land of Israel:

The Regavim Movement for the Protection of National Land is one of those organizations [that takes part in the Legal Forum]. While unauthorized Jewish-built outposts [the military term used to hide the start of a new settlement in the West Bank] in Judea and Samaria are often demolished by the government, similar violations by Palestinians are generally ignored. In response, Regavim’s members take pictures and document the construction and pursue these cases with the authorities – even to the courts.⁴⁵

Registered in Israel, Regavim is backed internationally by a global network of funding and power and has recently shifted its activities from the ‘homeland’ to the colonial frontiers of Israel. Its activities can be followed the world over on the Internet – as our own reconstruction shows– and nationally on Israeli television.

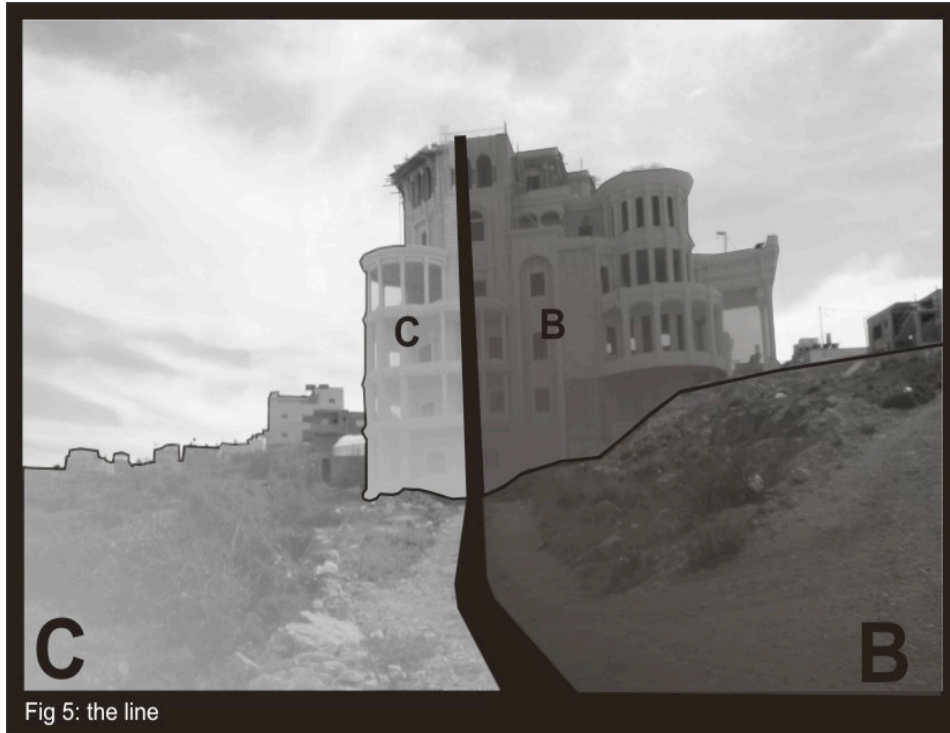
Let us however try to examine the legal debate that Regavim, this democratic figure which is supplementing the eco system of the colonial practices and spatial dynamics, has attempted to fuel with its petition to the Supreme Court against the castle of Battir. This will help understand the language with which the organization is trying to take a leading role in the legal arena of colonial sovereignty, and the nature of this role. The petition is addressed to the Court and it attacks four entities: the Minister of Defence Barak, the head of the “Civil Administration of Judea and Samaria”, the military head of the Civil Administration and the “red castle’s” representative. Claiming that the castle is entirely situated in Area C and that no permission of any kind has been afforded by the Civil Administration as required by the Oslo agreement, the petition asks for construction of the villa to be stopped and, and its electric and sewage to be demolished. Alongside the argument that the Oslo agreement is being violated, the petition uses an even more explicit language regarding the organization’s spatial policies. Indeed the Israeli colonial administration is criticized for: its negligence over what Regavim calls “transformation of the features of the area” –claiming that the villa alters the geography of the biblical landscape of the zone–; the fact that the castle stands in a “dominant position” –that the hills of Jerusalem can be seen from the area and even better from the castle– and that, since it is “close to the Wall”, there might be “repercussions on the security of the settlers” in transit; the luxuriousness of the villa, underlining more than once how inexplicable it is for a Palestinian from the Diaspora to be able to build a 5 million dollar villa.

To this game between legal discourse and matters outside the colonial law as it has been drawn in Oslo (i.e. the cost of the villa), and to this attempt by Regavim to berate the administration for not performing an increasingly detailed monitoring of the agricultural and building practices of the Palestinians living in Area C –a game which aims more at extending the borders of colonial sovereignty and surveillance than any real,

⁴⁵ “The Jewish Tribune”, 24 September 2009, available online: <http://www.brucebawer.com/jewishtribune.pdf>.

and extremely unlikely, equal treatment of the illegal Palestinian constructions and those of any settlers—, both Ehud Barak and the Civil Administration have replied by attempting to re-establish the legal order which came out of the Oslo agreement. Both the Minister of Defence and the administration have confirmed their authority, challenged by Regavim, and the legitimacy of their work, claiming that the government is aware of all the “illegal constructions and farming activities without permits” in the pre-Oslo area: constructions “without permits” and farming activities, such as the building of wells, concerning which the administration had opened files before the Oslo agreements but that, answering Regavim, they claim not to be able to implement in the demolition orders since these would represent a kind of *retroactive malfunctioning* or disorder of the current post-Oslo *pacification* order. The clash here is between a rightist settlers movement that adopted an anti-state and rights discourse, and a government that in the particular ecosystem of this legal case is assuming a presumed moderate position, re-establishing the authoritativeness of that very accord which enabled the continuation and the refinement of the apparatus of occupation.

However, the “red castle” legal case is still in a procedural phase at the Supreme Court. Indeed, as far as one can see from maps, a large part of the castle stands in Area B, while a small portion of the building and the plots of land bought by the owner prior to construction are in Area C (see Fig. 5). Multifarious maps show the line compartmentalizing the space to be volatile, and most of those available do not show with any clarity the threshold between these two different jurisdictional territories, with their separate legal systems. Rather than from the “dominant position” described by the lawyers of Regavim, the choice of the owner – backed by the National Palestinian Authority, which asserted its administrative and planning authority by approving the villa’s construction – seems to have been dictated by a ploy that took advantage of the jurisdictional and territorial line mapped out by Oslo, or rather by playing with the inherent elasticity of that line in the attempt to appropriate a liminal space, that *threshold* which embodies the territorial order of sovereignty, but also a space which engenders practices that can undermine and subvert that very order. To paraphrase Golda Meir, the frontier is where the Palestinians live.



Conclusions

Since 1967 Israel's illegal extension of its sovereignty has progressively intersected with International Humanitarian Law. Human rights organisation defending the rights of the Palestinian have always occupied the ambiguous threshold between the sphere of the protection of a population under occupation and that of the enablement of the occupation through the assumption of those very duties which, according to the International Humanitarian Law, are up to the occupying power. After the recent wars on the Palestinians (the Second Intifada and the wars on Gaza), the recent increase of Israeli repression towards its citizens of Palestinian origin, and after the recent attack on the humanitarian ship *Mavi Marmara*, it seems that international human rights organisations have become Israel's "strategic threat", together with Iran, Hamas and Hezbollah (Weizman, Keenan 2010). The attack to the Gaza Flotilla is the first deliberate attack on a humanitarian convoy. Are these dynamics and the proliferation of rights associations, even among violent settlers, two sides of the same coin? Are peculiar human rights associations such as Regavim trying to monopolize the right discourse, normalize the occupation and produce their specific conception of rights for a specific category of citizens, the same way the State of Israel is attacking humanitarian NGOs in order to obliterate the violence of its siege on Gaza? If, on one hand, post-colonial states can become democratic forms of colonialism (Chatterjee 2007), on the other hand, can Israeli colonialism assume the shape of a *colonial democracy* through the extension of its sphere of judiciability?

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