THE PATHOLOGY OF THE OCCUPATION

Plant a Tree, Get Married, Have a Child, Build a House

Avigdor Feldman

You expelled our children in the name of demography;
You stole our land in the name of geography;
You closed our school in the name of pedagogy:
Your rulers are our tragedy.

—*Mommy,* a rock fantasy by Hillel Mittelpunkt

A GENETIC FREAK

Last year the State Department issued two "shifter reports" on human rights in Israel. The major one deals with the occupied territories, while its shorter, junior counterpart deals with human rights in the State of Israel proper.

The two reports refer to the same body—a genetic freak, one of whose arms is a muscular club- and rifle-wielding limb while the other is tender and caressing. In 1988 the violent arm killed 366 Palestinians, wounded twenty thousand, deported thirty-six, detained some five thousand without trial, and demolished or sealed up 154 houses, thus leaving a thousand Palestinians homeless. The record for this year is not going to be lower: the death toll, after six months, is 120.

How was this genetic mutation conceived and born? The gentle and brutal arms are nourished by the same blood supply. In many cases the same administrative and judicial organs deal with the occupied territories and with the State of Israel proper; but voices have not been raised in criticism of the policy of beatings, indiscriminate shootings, and mass arrests in the territories.

One source of the bad blood flowing to the territories is the throbbing heart that keeps the entire organism alive—Israel's Supreme Court. Israeli authorities see the Court as the paragon of legal enlightenment. In truth, it is a peephole into the mechanisms of defense, rejection, and evasion practiced by Israeli society when confronted with what is taking place in the territories.

A young, inexperienced Court, lacking a constitution for guidance, lacking a real legal tradition—what can it do with so much power? Until 1967, the Supreme Court had never deported anyone, never demolished a house; administrative detainees were a phenomenon as rare as military government orders nullified by the Court.

Anyone who reads the Court's decisions dealing with the occupied territories has to be impressed by the Court's total lack of compassion for the residents of the territories. This is the case not only for decisions founded on security considerations (it stands to reason that these considerations usually prevail over humanitarian motives), but also with regard to the justices' attitude toward the Palestinians' daily concerns: the basic practices of planting a tree, getting married, having a child, and building a house. In this light, it is not surprising that out of seven hundred petitions submitted to the Supreme Court by residents of the territories, only four have been granted.

THE SUPREME COURT PLANTS A TREE

Consider the case of a land expropriation order that took place a number of years before the intifada and that foreshadowed its arrival. Because of an erroneous entry in the land registry, a similarity in the names of fathers and sons, the appellants before the Court included two men who had died before their land was expropriated and even before the IDF (in 1967) had overrun the out-of-the-way village in which the appellants had lived. The dead souls and the living residents asked the Court to nullify an order issued by the district military governor expropriating their land for a bypass around Kalkilya that would lead to Jewish settlements—part of the network of roads that Israel is building on the West Bank.

The military administration has an insatiable appetite for Arab land. There are a thousand and one schemes for transferring land to Jewish control: expropriation, proclamation, closing off, prohibition of entry; declaring the territory ancient Jewish land, land within shouting distance of a city, state land, or dead land. Other orders, dealing with the protection of wild animals, the supervision of tilled ground, and the marketing of agricultural produce, also lead to land seizures. In order to understand this phenomenon, one must become familiar with

Avigdor Feldman is an Israeli attorney who specializes in international law. This piece is based on a series of articles that appeared in Politika.

the arcane language and secret code of the military administration.

The dead souls and their fellow petitioners argued before the Supreme Court that the road network being constructed by the State of Israel on the West Bank required massive financial investment and the expropriation of thousands of *dunams* of Arab land, and that it irreversibly altered the geography of the occupied area. The petitioners relied on international law and the Geneva and Hague conventions, which stipulate that the occupying power must maintain the status quo and change only what is absolutely necessary for the security and safety of the occupying army. It is abundantly clear that the planned roads were a shortcut from the borders of the State of Israel to Jewish settlements in the territories. An occupier has no right to expropriate land in order to pave access roads to settlements, which are themselves illegal: so argued counsel for the petitioners. The state denied that the roads were intended to serve the settlers. True, the roads seemed to be drawn between existing or planned Israeli settlements, but that was purely a coincidence, a result of planning considerations determined by topography, not by ideology. In any case, argued the state, the ultimate purpose of the roads was military and was linked to defense of the nation's existence.

The Court rejected the assertion that the roads were meant to serve the settlements and accepted the state's arguments that there was a military rationale for the expropriation. With broad brushstrokes the justices painted the West Bank as a vast, almost apocalyptic battlefield. The full dimensions of the military administration's fraudulent case were reflected in the following section of the Court's decision:

> It can be assumed that the military authorities who shouldered the task of planning and building this road network, whose cost is very high, did not do so merely in order to ease civilian traffic and sustain the environment, and that the prime consideration for them was the military aspect. Should, heaven forbid, a war break out and there be a need to move troops through Judea and Samaria, their transit is liable to take longer because the existing roads are tortuous, narrow, and long, and also because motor traffic is liable to block them altogether or to slow down traffic on them. Alternative roads, short, wide and straight, which do not pass through populated areas, are a strategic asset of prime importance in wartime.

These wide and straight roads waited four years for an invasion from the east, which never materialized. Then came a group of teachers from East Jerusalem with a strange tale that began with their desire to set up their own neighborhood east of the city. Each of them purchased a plot in an area zoned for residential construction and submitted an application for a building permit. Fearing that a joint request would be summarily rejected, they spread out the submissions over a period of time. The applications were duly approved until some diligent clerk in the Interior Ministry checked and discovered that, in effect, the building permits created an Arab neighborhood within the ring of Jewish settlements east of the city. Suddenly, overnight, the map of the main West Bank road system sprouted an essential interchange on the teachers' lands—and the land was expropriated. Instead of building an Arab neighborhood in a Jewish district, the teachers found themselves seeking relief from the Supreme Court.

Anyone who uses these roads cannot escape the feeling that he or she is travelling on a road to nowhere through a country of ghosts.

The Court demonstrated that anything the military administration can do, it can do better. During the four years since the first case, something strange had happened to the road network: it had grown winding limbs and imaginary tentacles. The straight and severe lines that had once typified it, which the Court had examined and found to be a strategic asset of paramount importance, had almost disappeared. The road network had been transformed—from a geometric drawing by Josef Albers into something by Jackson Pollock. But two characteristic motifs remained as before: all of the roads led to Israel, and they still linked the country with Jewish settlements. In any case, the road network had lost whatever security justifications it might previously have had. The panel that heard the teachers' appeal was headed by Justice Aharon Barak, who wrote the decision in the case. He wrote:

> The respondents assert that the purpose of the road network is to serve the area. It will permit rapid travel among the towns and villages of Judea and Samaria. It will serve the local population of Ramallah, Bir Naballa, Jedida, Nabi Samuel, Beit Iksa, Beit Hanina, Bidu, Rafat, and Bethlehem.

This new road map seems to have posed serious problems for the security argument, so much so that Israel decided to abandon that argument altogether, exposing the fraudulent nature of its claims in the earlier case of the dead souls. Israel chose to ground its claim on "the needs of the local population"—one of the occupation regime's most devious legal concepts,

born when the legal framework of military and defense needs had been exhausted.

The claim that the roads were paved for the good of the Arab residents of the West Bank is clearly disingenuous. No one really believes that the State of Israel sets as a top priority the transportation needs of rural districts of the West Bank, which are sparsely populated and are not faced with a significant volume of motor traffic. Anyone who uses these roads, which have already been paved, cannot escape the feeling that he or she is traveling on a road to nowhere through a country of ghosts, so stark is the contrast between the rural landscape and the multilane, deserted highways.

The Supreme Court Marries and Has a Child

This is the family reunification policy in the territories, as applied to the family of Samira, mother of six children. She was born in Beit Sahur, south of Jerusalem. Samira left in 1968, went to Venezuela, and, in the words of the Court, "cut her ties with the region." About ten years later, a man also from Beit Sahur took a trip to Venezuela, where he met and married Samira. She reentered Israel on a three-month tourist visa. Time flew. Samira loved her birthplace and didn't leave the country when the visa expired. Within seven years she had six children. One day her papers were examined at a chance roadblock, and it was discovered that she was living in the country illegally. The Supreme Court approved her deportation and rejected her husband's request for reunification with her and their six children. The Court held that a marriage between a resident of the territories and someone from outside the territories is insufficient ground for allowing the spouse to live there—even though she was born there.

In other cases, the Court has upheld this policy and applied it to people born in the territories—to families that may have been living in the West Bank or Gaza for more than ten generations, and to people who have left the area to pursue their studies, to find work, or simply to travel.

Recently, the Supreme Court ruled that in matters of family reunification it accepts without reservation the policies of the military government. These policies dictate that such requests be approved only in those rare instances when the authorities have a security, political, or economic interest in granting the petition. Someone who wishes to be reunited with his wife and children, or to return to the land of his youth, must provide a special reason why such reunification should be allowed.

Love, happiness, intimacy, parenthood, a sense of belonging to the landscape of one's birthplace—none of these are special reasons. These cases do not involve security concerns: no one argues that the petitioner poses a danger to the public welfare or that bringing a husband, wife, and children together poses a threat to security. Human concern has disappeared. You can't go home again—it's as simple as that.

One might compare these decisions with legislation dealing with the rights of Jewish immigrants. How are we to reconcile the principle that an Arab who leaves the country for a time has severed his or her ties to the area, with the central and seemingly most significant motif in Israeli legal culture, namely, the right of return, reflected throughout our legal corpus? The contradiction is massive and can hardly be overstated.

The Supreme Court Builds a House

Beginning in 1947, a Mr. Burkan and his family lived in one of the houses in the Jewish Quarter in East Jerusalem. The area was under Jordanian rule then. In 1967 it was occupied by Israel, and the Burkan family was evacuated. In 1978 the Company for the Rehabilitation and Development of the Jewish Quarter in the Old City published an advertisement inviting the public to purchase flats there. Burkan offered to buy the apartment in which he and his family had lived a few years earlier, but eligibility was restricted to Israeli citizens who served in the army or who belonged to Jewish organizations prior to 1948. So the company refused to accept Burkan's bid. The Supreme Court approved the conditions laid down for the tender. It held that the Jewish Quarter of the Old City was being rehabilitated "only because the Jordanian Army invaded it, expelled the Jews, and pillaged their property. The renovation is intended to restore the ancient glory of the Jewish settlement in the Old City, so that Jews will once again, as in the past, have their own quarter there." The attorney general representing the company admitted in court that the criteria were devised to exclude non-Jews.

The law selects a history for those subject to its jurisdiction. The history chosen determines the starting point from which the law applies and the central myth to which the legal system gives life.

The Israeli legal system has chosen a Jewish version of history. It does not recognize the Arabs as possessing a history of their own; at best they are seen as part of the supporting cast of Jewish history. Hence, in the Burkan case, the Court could support its decision by relating a tale that began at a time when the Jewish Quarter was inhabited by Jews, rather than a tale that started with the war of June 1967, or with the Crusaders, or with Saladin, or with the day when Burkan's uncles or cousins were expelled from a village within the borders of Israel.

The intifada has changed the texture of the occupa-

tion. Before it erupted, the occupation was expressed chiefly in texts, in court verdicts, and in military government orders. The intifada has peeled away the paper texts and has revealed the violence lurking underneath—violence that was always there.

Supreme Court justices who demolish houses, divide families, uproot trees, pull out the land from under the feet of its inhabitants, and decree for these inhabitants a life of invisibility are no less violent than soldiers who beat and shoot in a blind rage. The State Department reports of previous years, which refrained from condemning Israel for its actions in the territories, did not realize at the time that Israeli morality was being slowly but inexorably eroded. □

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The Decline of the Labor Party

Haim Baram

Little more than an empty shell, the Labor party today is well organized but devoid of any real political direction. Worse—it lacks the will to live. Everyone understands this; the dirges have begun. The party's internal intrigues are endless, pathetic outcries for Shimon Peres's head abound, and party hacks have begun to regroup around Defense Minister Yitzhak Rabin.

Labor is in decline because it has failed to define a viable political alternative to Israel's right-wing leadership. For several years prior to the 1988 elections, Shimon Peres spent much of his public credibility defending the possibility of a "Jordanian option" as a realistic way to deal with the West Bank. Under the plan, Jordan's King Hussein would negotiate for the Palestinians through a Palestinian-Jordanian confederation. In advocating the "Jordanian option," Peres implicitly denied the importance of Palestinian national self-determination and statehood. Once the intifada began and Hussein himself renounced any Jordanian claim to representation of West Bank Palestinians, Peres's plan was rendered obsolete, if not ludicrous.

As the elections approached, Labor was forced to change its position at the last moment and support the notion of "land for peace." Having spent the previous four years advocating a different course of action, however, Labor found itself unable to explain its new position to the public. Then, after the (1988) electoral defeat, Labor refused to take on the role of an opposition party that would work to build a new national consensus around the concept of "land for peace." Instead, Labor entered the national unity government, providing what *Tikkun* editor Michael Lerner described as a "fig leaf" for Shamir's policy of perpetuating the occupation.

This "fig leaf" role comes easily to some of Labor's most esteemed leaders, many of whom are covert Likudniks. Yitzhak Rabin is only the most visible of a large group in Labor whose aims and tactics are almost identical to those of the so-called moderate faction of Likud. The differences between Rabin's followers and Shamir's Young Princes (Dan Meridor and Ehud Olmert, for example) are negligible. And even those Labor leaders who do have some ideological differences with Shamir are quick to subordinate these differences to their own self-interest. Wishing above all else to remain in the corridors of power, many Labor party leaders are willing to make critical statements about Likud's position and then oppose any actions that would actually break up the government. Moshe Shahal (Minister of Energy), Gad Ya'acobi (Minister of Communication) and Motta Gur (Minister Without Portfolio) are three leading candidates for the Lābor party's leadership. All, Ya'acobi and Shahal in particular, make occasional, vaguely dovish noises but end up echoing Rabin.

The United Kibbutz Movement (Takam) plays an even more conservative role. Shimon Peres's position as Finance Minister provides Takam with the best possibility it has of receiving the kind of governmental support needed to bail out the economically strapped kibbutzim. Takam can reasonably argue that a Likud government would be delighted to see the collapse of these last vestiges of the "socialist" ideas upon which the Labor party was founded. Less reasonable is the expansionist ideology of the Takam representatives in the government, Avraham Katz-Oz (Agriculture) and Ya'acov Tzur (Health). Labor's new fig-leaf role doesn't trouble them.

Ezer Weizmann is the only major figure who consis-

Haim Baram is a journalist and a writer. He teaches journalism, media, and politics at Bezalel Art Academy in Jerusalem.