

1967 Bypassing 1948: A Critique of Critical Israeli Studies of Occupation

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The number of studies seeking to explain the technologies of Israeli rule in the Occupied Palestinian Territories (OPTs) from 1967 has been on the rise in the last two decades, due in part to the persistent Israeli occupation and dwindling chances for a possible withdrawal from these territories. This possibility directly contradicts the Israeli government's agreement with the Palestine Liberation Organization (PLO), which opened up the possibility for a Palestinian state in these areas: in other words, the two-state formula, which aimed to separate Israel from millions of Palestinians and stabilize the status quo. However, the intensified settlement process vis-à-vis the future Palestinian state has led many Israeli scholars to admit that the Israeli presence in these areas is not temporary.

Critical Israeli thinkers began highlighting the contradictions between Israeli official discourse in peace negotiations and the practical policies on the ground that express opposed intentions. Others explored various dimensions of the technologies of control utilized by Israel's army and other state institutions. These studies greatly contributed to our understanding of the expanding Israeli colonization in the West Bank, thereby exposing the expansive tendencies of Zionism, something that was not seriously considered in the past.

One of the central dimensions that Israeli occupation scholarship began to address is the legal and constitutional justifications for settling what is considered, in Israeli legal tradition, state land.¹ These studies demonstrated

Unless otherwise noted, translations are my own.

1. See David Kretzmer, *The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories* (Albany, N.Y., 2002).

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how, despite the Israeli legal system's contradiction of international law, the Israeli High Court of Justice (HCJ) expanded its jurisdiction to include the OPTs. As Israeli columnist Nahum Barnea wrote in *Yidiot Aharonot*: "Only few among the settlers understand that the HCJ is their true partner: by focusing on the legality of one house here and a piece of land there, HCJ legitimizes the entire settlement project. If only two houses on the skirts of the settlement are illegal, [then] the entire settlement is white as snow."² Other studies addressed planning and zoning policies, emphasizing the architecture of occupation and the hollowing out of Palestinian presence in growing areas of the West Bank.³ Examinations of Israeli occupation policies related to issues of movement and time, exploring the checkpoint policies that fragment the OPTs, block free movement from one area to another, and thereby change the meaning of time and space.⁴ The building of the separation wall led to growing attention toward the sophisticated mechanisms of land confiscation policies. The building of two road systems, one for Jewish settlers and the other for Palestinians, made scholars aware of the apartheid nature of the Israeli control regime in the OPTs.⁵ This in turn led scholars to seek comprehensive explanations for the dual legal, judicial, and political system that allowed Israel to separate the nature of the regime within the Green Line from that which extends beyond it.⁶

These studies that defy official Israeli claims for peace, drawing heavy official critique, are not homogenous and belong to various methodological and philosophical traditions. For the purposes of this paper, it suffices to differentiate between two camps: one that criticizes Israeli colonization

2. Nahum Barnea, *Yidiot Aharonot*, 28 July 2015, p. 5.

3. See Eyal Weizman, *Hollow Land: Israel's Architecture of Occupation* (New York, 2007).

4. See Ariel Handel, "Gated/Gating Community: The Settlement Complex in the West Bank," *Transactions of the Institute of British Geographers* 39 (Oct. 2014): 504–17.

5. See Hagar Kotef, *Movement and the Ordering of Freedom: On Liberal Governances of Mobility* (Durham, N.C., 2015).

6. See Ariella Azouley and Adi Ophir, *The One-State Condition: Occupation and Democracy in Israel/Palestine*, trans. Tal Haran (Stanford, Calif., 2013).

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policies since they endanger the core Zionist idea of a Jewish and democratic state within the Green Line, and the other that does so based on the idea that colonization violates basic human rights and contradicts basic moral commitments that ought to be at the core of collective existence—including the Israeli Jewish one. Whereas the former camp's critique is pragmatic, the latter camp expresses critique without necessarily instrumentalizing their moral commitments. This difference is not always clear, but it is substantial. However, since the latter camp admits that Israeli Jewish collective sovereignty was born from injustice—and it is not their position to correct the injustice by dismantling its roots—and as they agree to some rights that Jews have acquired in the place in which they live, namely Palestine, they become entangled in an almost impossible position that indirectly supersedes the injustice and, albeit with agony, lives with it.⁷

One cannot but notice that the courageousness of these studies also raises doubts concerning their epistemological, ontological, and political assumptions and some of their moral implications. These doubts are delineated in the following pages. My commentary relates not only to structural limitations that circumvent the academic work of many critical Israeli scholars, but also to the blind spots that characterize their endeavor to provide an explanation of a complex and multilayered reality veiled with legal, political, and psychological discourse.

This reality is difficult to deconstruct and loaded with personal human dilemmas. Working from within Israeli academia, especially after the legislation of the boycott law, makes it difficult for critical scholarship to reach its objectives. On the other hand, being a descendant of the *ultimate victim* who himself becomes a victimizer is not a situation that one would wish for. The Israeli academic establishment, which is relatively open, benefits from this ambivalent situation. The balance it maintains between freedom of thought and the suppression of critical voices enables it to win in both worlds. It simultaneously practices surveillance and sets limits without losing its "open" and "liberal" character. By instrumentalizing critical scholars with the same technologies of rule that make occupation possible, it is able to whitewash the dark side of its practices.

Before proceeding it is important to clarify that I do not direct my critique necessarily at the intentions of these critical scholars but rather at what is directly and indirectly implicated by what they introduce. The following critique may entail generalizations. Nonetheless, it is still worth

7. See Ophir, *The Order of Evils: Toward an Ontology of Morals*, trans. Rela Mazali and Havi Carel (New York, 2005).

making in order to make the Israeli mentality of rule apparent and critical scholarship more aware of its own implications.

To begin with, I will highlight the apparent limitation that characterizes conceptualization of the occupation itself. The concept of occupation differentiates between what it is and what it is not on the one hand and between the meaning of occupying an area and its colonization on the other. The concept of occupation does not entail the bad intentions of colonizers; thus, it introduces a narrow understanding of the Israeli-Palestinian reality. First, it conceptualizes the complex, asymmetric reality of Israelis and Palestinians since the beginning of the conflict based on the boundaries set in 1967. Second, it invites doubts as to the motivations behind occupation, which may sound reasonable. Third, it assumes a coherent and permanent state—Israel—and a fluid object—Palestinians. Accordingly, Palestine, if it exists, is limited to the boundaries of the OPTs, where Palestinians are mainly those living under “occupation.” The implicit meaning of such perceptions indirectly legitimizes the Israeli official understanding of the conflict and renders historical Palestine and its disintegration a result of Jewish colonization and the establishment of Israel, as well as the Palestinian state one of exile and estrangement, irrelevant to the conflict.

Another point to be made apparent is that this characterization privileges conceptualizations of Palestine as that which was created in June 1967 and effectively downsizes the 1948 war and its ramifications, especially the refugee problem and the human suffering that has since occurred and is a central part of the Israeli-Palestinian conflict. This does not mean that critical Israeli scholarship is not aware of the 1948 war and its ramifications. I argue instead that Israeli critics conceptualize the study of occupation narrowly, framing the areas under Israeli sovereignty from 1948 as unoccupied; this viewpoint directly contradicts the way these areas are perceived by most Palestinians. By analyzing occupation policies and pinpointing the manipulations used to promote the expansion of Israeli control over Palestinian areas, one fundamentally differentiates between the zone of normality, namely Israel, and the state of exception, which takes place in the areas occupied in 1967; critical scholars posit that the latter could be undone if there is a political will to do so, as if years of occupation have no implications.

Albeit not directly or intentionally, most critical Israeli scholarship takes for granted Israeli sovereignty within the Green Line and Jewish normal presence in historical Palestine, focusing instead on the policies of the Israeli government in the OPTs and the way they differ from those applied in the areas inside the Green Line. This means that critical scholarship is satisfied with demanding changes to Israeli policies but not Israel as such.

This understanding, which is the predominant one, depicts Israeli policies as a deviation from an original moral and legitimate model that could be reestablished if only the Israel army withdrew from the OPTs.⁸

Most critical occupation scholarship carries this mischaracterization forward not only by establishing two separate zones but also by implying differentiation between Israel and its policies. Accordingly, the state is implicated as a given, sovereign agent, notwithstanding its disputed policies. There is an implied separation between the state and certain groups, such as the settlers, who “exploit” state resources in order to promote policies that do not win the support of the entire Israeli public.⁹ Even if unintended, the mere theoretical distinction between the state and the OPTs legitimizes the state as Jewish and democratic, while seeking to put it back on its “right” track. The more radical critical scholars do not necessarily make this claim by distinguishing between the expanding mission of post-1967 Israel and that which was established in 1948. Nonetheless, by focusing on the evils of occupation in the OPTs, with all its importance and contribution to our understanding of Israeli colonization policies, it still implies that the establishment of the state in 1948 and its policies within the Green Line were not of the same colonial nature.

Confining the treatment of colonization policies to areas occupied in 1967 minimizes the developments of fifty years of occupation and its implications for the character of the Israeli political regime *within* the Green Line. This is reflected in the fact that many critical scholars assume that Israel has achieved democratic statehood and thus choose to discuss the decay of democracy as a result of its expanding settlement policies, despite the fact that millions of Palestinians have been living under Israeli control without basic human rights since 1967. This phenomenon mirrors the understated notion that the debate surrounding the future status of the areas occupied in 1967 is an internal Israeli affair. Such a notion entails a hidden sovereign, who is taken for granted and is to determine the future of Israelis and Palestinians. The latter are not viewed or addressed as members of a defeated sovereign state whose sovereignty is suspended because it lost the 1948 war. The equal legitimate right of Palestinians to determine the future of the land in which they have lived for hundreds of years and in which some still live is conditioned by an assumed Jewish collective that has rights equal to

8. Oren Yiftachel, “Epilogue: Studying al-Naqab/Negev Bedouins—Toward a Colonial Paradigm?” *Hagar: Studies in Culture, Polity and Identities* 8, no. 2 (2008): 173–91.

9. Oded Hakali, “Religious-Nationalist Mobilization and State Penetration: Lessons from Jewish Settlers’ Activism in Israel and the West Bank,” *Comparative Political Studies* 40 (June 2007): 713–39.

those of the indigenous inhabitants of the land. This also means that Palestinians have to accommodate and even recognize their colonizer before they can negotiate their future. Past wrongs are thereby not only partially superseded but actually completely omitted.

It is true that criticizing occupation entails humanistic moral and ethical underpinnings.¹⁰ However, the above indicated shortages render much critical scholarship shortsighted. This is reflected in the fact that none of the Israeli Jewish critical scholars seriously address the Palestinian refugee problem created in 1948 as equally central to understanding the colonization policies of Israel. These refugees are not perceived as part of the Palestinian people that have the right to determine what happens to their forefather's land in the future. None attest the equal right of Palestinians to determine the meaning of sovereignty in the entire land of Palestine, including defining the meaning of Jewish presence and its legitimacy as a viable future. This vision would necessarily entail a historical bond between Palestinians and their land that is not less moral and important than Jews view for themselves.

The epistemology of separation seems to remain deeply embedded in the philosophy and theory of Israeli-Palestinian relations among many critical scholars, who do not manage to completely overcome methodological identitarianism. This is reflected in the fact that few to no Israeli critical scholars study methods of detention, especially of Palestinian children, or of interrogation of political prisoners in Israeli jails. Whereas many address the status of and official policies toward African refugees, almost none have examined the sociology and politics of imprisonment of Palestinians. The importance of such distinctions increases when we compare studies conducted by Israeli Jewish critical scholars with those done by Palestinian Israeli scholars. Many of the latter differ from Jewish scholars in not assuming a fundamental difference between the 1967 areas and those of 1948. These Palestinian Israeli scholars view the Palestinian people to be one social unit that faces sophisticated policies of fragmentation and physical, epistemological, and mental colonization.¹¹

The focus on technologies of rule in the OPTs, even when addressing the evils of occupation, minimizes the fact that occupation has become a central, defining principle of the practicality of the Israeli state and society. Only a small group of critical scholars have recently begun to overcome the an-

10. See *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories*, ed. Adi Ophir, Michal Givoni, and Sari Hanafi (New York, 2009).

11. See Azmi Bishara, *The Arabs in Israel*, (London, 2006); Nadim M. Rouhana, *Palestinian Citizens in an Ethnic Jewish State: Identities in Conflict* (New Haven, Conn., 1997); and Amal Jamal, *Arab Minority Nationalism in Israel: Politics of Indigeneity* (New York, 2011).

alytical and, to some extent, normative separation between the Israeli control system inside and beyond the Green Line.¹² Nonetheless, the demographic reality under Israeli de facto control, where an almost equal number of Palestinians and Jews live west of the Jordan River, is mainly addressed as a challenge to the aspirations of their community, even when these scholars do not necessarily identify with them. These studies assume an epistemological departing point that prioritizes Jewish subjectivity, as the dilemma is a Jewish one. The mere assumption of an autonomous Jewish national subject that can contemplate its moral dilemmas adheres to the Zionist narrative that imagines itself as a coherent historical subject with the ultimate right to speak for Palestine, as if it were empty of Palestinian subjectivity. This view is also not sufficiently attentive to epistemological violence when it comes to relations between various groups within the Jewish nation, such as the de-Arabization of “oriental” Jewish experience.¹³

One of the major common features of Israeli occupation studies is the omission of the human suffering of the Palestinians living under occupation, despite their assumed universality of human rights. The deprivation and regression of Palestinian society has not become integrated into critical Israeli scholars’ discourse. This means that Palestinians are turned into objects of Israeli occupation and, in continuation, objects of Israeli scholarship. There are hardly any Israeli critical studies that portray Palestinian society as a normal human entity seeking to materialize its aspirations for self-determination and sovereignty without having to agree with the means utilized to achieve this goal.¹⁴

One would expect critical Israeli scholarship to humanize Palestinians not only in order to counter the security-oriented scholarship that has dominated Israeli academia for decades but also in order to reflect the human reality in which Jews—critical scholars among them—enjoy the benefits of the harsh control policies applied in the OPTs, without which Israelis would have lost many of their current privileges, especially when it comes to se-

12. See Baruch Kimmerling and Joel S. Migdal, *Palestinians: The Making of a People* (Cambridge, Mass., 1994); Meron Benvenisti, *Sacred Landscape: The Buried History of the Holy Land since 1948*, trans. Maxine Kaufman-Lacusta (Berkeley, 2000); Yehouda Shenhav, *Beyond the Two-State Solution: A Jewish Political Essay*, trans. Dimi Reider (New York, 2012); and Yiftachel, “Epilogue: Studying Naqab/Negev Bedouins.”

13. See Shenhav, *The Arab Jews: A Postcolonial Reading of Nationalism, Religion, and Ethnicity* (Stanford, Calif., 2006).

14. An exception in this regard is Amnon Raz-Krakotzken, who speaks of the need to inverse the epistemology of the conflict and speak of the Jewish question. See Amnon Raz-Krakotzken “A Peace Without Arabs: The Discourse of Peace and the Limits of Israeli Conscientiousness,” in *After Oslo: New Realities, Old Problems*, ed. George Giacaman and Dag Brund Lonning (Chicago, 1998), pp. 59–76.

curing spaces of living, allocation of lands for housing, and participation in commerce and industry. Despite the fundamental contribution of critical studies to our understanding of Israeli technologies of domination, it lacks studies that examine Palestinian resistance against occupation, especially when such resistance utilizes popular and peaceful means.¹⁵ Palestinian struggle against occupation is left to security-oriented studies that depict Palestinians as terrorists and do not differentiate between legitimate and illegitimate means of resistance.

This last point leads us to another deficiency that characterizes critical scholarship of the occupation, namely the small number of studies that compare technologies of control and surveillance utilized in the areas occupied in 1967 and those used in the Galilee, the Triangle, and Negev inside the Green Line. Focusing on occupation underestimates the affinity between the Judaization of areas densely populated by Palestinians in all these areas. The land confiscation policies, the population deportation, the settlement policies, and the planning and zoning policies belong to the same family of colonization that we witness in the OPTs since 1967. Despite the different legal and judicial mechanisms applied, the intentions and end results of these policies are similar, namely the de-Palestinization of the land on the one hand and its Judaization on the other. The victims of such policies are Palestinians, and the separation between citizens and noncitizens is part and parcel of the fragmentation and control technologies that facilitate Jewish superiority and Palestinian inferiority. The fallacy established by occupation scholarship stems from its vertical epistemological perspective. This epistemology differentiates between two assumed spheres of ontological realities. This perspective undermines an alternative horizontal model. Instead two hierarchical layers of human existence have been constructed; one normal and continuous for Jews, and one fragmented and abnormal for Palestinians, no matter where they live west of the Jordan River.

In summary, one could say that the critical study of occupation is based on good intentions that seek not only to promote an analytical understanding of the dynamics and technologies of domination, but also to advocate humanistic values and norms. Many of these critical scholars have contributed much to the resistance of the Israeli occupation of Palestinian areas since 1967. Nonetheless, good intentions also sometimes have unintended consequences. Deconstructing critical occupation studies reveals an array of assumptions that contradict their immediate intentions, namely their overall commitment to the mentality of separation manifested in the partition

15. See Maya Rosenfeld, *Confronting the Occupation: Work, Education, and Political Activism of Palestinian Families in a Refugee Camp* (Stanford, Calif., 2004).

of Palestine and the two-state solution and the preservation of the privileges that Jews have managed to obtain since 1948. For critique to be genuinely critical it has to question its own basic and hidden assumptions. In this particular case, critical studies ought to explore not only the entire Israeli control system and how it operates, but also the epistemological and normative, taken-for-granted assumptions that make it work and justify its persistence. As mentioned earlier, the conception of occupation embodies epistemological violence, which humanizes Jews—who according to critical scholars are expected to face their essential moral identity—and objectifies Palestinians, who are indirectly depicted as secondary to Jewish presence and in need for their benevolence. For critical scholarship to positively affect the Jewish Israeli and Palestinian reality, scholars must look toward new horizons, free of the tainted scholarship mentioned above. One of the directions is to look for conceptualizations of the Israeli-Palestinian reality that humanize all parties of the conflict and overcome the epistemic and ontological boundaries embodied in current critical scholarship. This direction has to follow Derrida's claim that being ethical means questioning the grounds of ethics and overcoming the self-certainty of good conscience. The comments made in this paper are only a modest step in this direction.