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APARTHEID AND THE ONE-STATE FRAMEWORK:

COMPARATIVE STUDY OF ISRAEL AND SOUTH AFRICA

by

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Dedication

Dedicated to my persevering parents. To my administratively detained cousin Amir Matook and all the resilient children of Palestine: may they be free from all psychological and physical constraints and bondages to drive on streets that never end, free from the labyrinths of security walls, checkpoints, military courts, prisons, and armored vehicles.

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Abstract

The concept of colonialism is increasingly prevalent in evaluating the structural and institutional problems of the Palestine-Israel conflict. Colonialism is utilized as an explanatory and critical framework to understanding and challenging the ideological, ethnic/racial, and political foundations of both the Zionist and Palestinian movements. The research poses as a qualitative case study to assess the legal and ideological foundations of apartheid in South Africa and Israel towards their native populations despite varying strategies in establishing exclusive settler-colonial states. This thesis characterizes apartheid as the modern legal manifestation of colonialism and explores the constraints of the internationally supported two-state solution.

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1. Introduction

In recent years, activists, academics, and legal practitioners have revived the one-state framework as a solution to the increasing accusations that Israel has and continues to institutionalize racist policies of discrimination, segregation, and expulsion towards Palestinians and non-Jewish Israelis (Pappé, 2015). Growing stronger today is the perspective that Israel is an apartheid state that requires a solution based on Israel annexing the Occupied Palestinians Territories (OPT) of the West Bank and Gaza as a binational or democratic state (Busbridge, 2018; Ghanim, 2016; Pappé, 2015). This framework challenges and counters the hegemonic narrative that characterizes Palestine and Israel as a military occupation with its respective solution by creating two separate states (Ghanim, 2016). Major events in the past few years marked yet another shift in Palestinian-Israeli relations including U.S. President Donald Trump's controversial decision to declare Jerusalem as Israel's capital following the relocation of the U.S. embassy from Tel Aviv to Jerusalem on May 14th, 2018, marking the 70th anniversary of Israel's establishment. He did this despite nearly a century of international law declaring Jerusalem as an international city and its future status dependent on future Israeli-Palestinian peace talks. Several other pivotal anniversaries occurred in 2017 besides Israel's 70th year since its creation including: the 10th anniversary of Gaza's military blockade and siege; 50 years since Israel's occupation of the West Bank, Gaza, and the Golan Heights; and 100 years since the British proclamation of the Balfour Declaration promising a Jewish homeland in Palestine (B'tselem, 2016; Freeman-Maloy, 2017; Shaban, 2017).

Considering these events and the ongoing expansion of illegal Israeli settlements and the transfer of Israeli citizens into the West Bank contrary to international law: is it still possible to apply the two-state framework given that Israel continues to entrench itself and acquire more land

in the West Bank (B'tselem, 2016)? This research explores the framework of apartheid in South Africa and assesses its seemingly binary relationship with the one-state solution by focusing on the settler-colonialism. It utilizes the narrative of apartheid and the one-state solution to break this political *impasse*. Moreover, it discusses the inadequacy of the two-state solution in addressing many issues including the right of return for Palestinian refugees and Israel's ongoing colonization of the West Bank among long-term structural problems.

Notwithstanding cross-disciplinary and international consensus that the Oslo Accords failed and derailed Palestinian national aspiration, this thesis critiques and counters the hegemonic paradigm by advancing a transformative conflict mitigation strategy based on distributive justice and equality. Influenced by the works of Antonio Gramsci and Edward Said, I challenge the dominant Zionist hegemony by highlighting historical and contemporary power asymmetries by interjecting suppressed indigenous narratives. This research expands the sphere of representation and historical narration by reclaiming the politics of naming and language, and transforming the dominant political and media lexicon as part of counter-hegemonic tactics (Chomsky and Pappé, 2015; Reynolds, 2015). Consequently, legal scholar John Reynold suggests that:

> [A] social or political movement should not restrict itself to a monolingual articulation of its struggle; rather than choosing to use only and always *either* the language of human rights *or* that of radical distributive justice, for example, it ought to be a case of tactically mobilizing multiple, complementary (and sometimes contradictory) discourses towards strategic objectives, in ways that maximize the progressive potential of each and minimize their contradictory effects (2015, p. 52).

This paper establishes an integrative, inclusive legal, historical, socioeconomic approach that addresses the overarching reproducing mechanisms of social injustice and structural violence as

part of a broader long-term anti-colonial and emancipatory project. It is a qualitative case study to assess the legal and ideological foundations of apartheid in South Africa and Israel towards their native populations despite their contrasting strategies in establishing exclusive settler-colonial states.

The comparative analysis initially was conducted by comparing two different frameworks, one which convened the concepts the two-state solution and military occupation, and the second framework pairing the concepts of apartheid and the one-state. These seemingly mainstream binaries that appeared in most policy and legal discourses, became less substantial moving further in this research project. Noting this, apartheid still stands as a much more thorough and analytical tool to the framework of military occupation to evaluate the relationship between Israel and Palestine but is still insufficient without recognizing the concept of settler-colonialism. The overarching paradigm, then, is the concept of settler-colonialism which incorporates apartheid and a one-state solution. Israel's unequal and discriminatory treatment of Palestinians in Israel, the West Bank, Jerusalem, Gaza, and the diaspora relative to Israeli Jews living in the same geoterritorial areas and the diaspora fit the behavior of a settler-colonial enterprise. Israel's practices constitute apartheid because it goes beyond the typical confinement of Palestinians within the forcibly receding boundaries of the Occupied Territories as it extends to exclusion or restriction of their rights of return, travel, water, land, citizenship, expression, and self-determination by applying separate legal domains to Palestinians and Israelis. Settler-colonialism is a structural and recurring process with the end trajectory being the elimination and replacement of the natives by settlers (Wolfe, 2006). Early and contemporary Zionists exploit and manipulate the military occupation and the two-state solution as a means to continue the conflict's impasse. In this manner, the ongoing process of settler-colonization is evident through the expropriation of

Palestinian lands and resources and the expansion of settlements at the expense of the Palestinian people. These comprehensive, elaborative, and interdependent conditions enable Israel to continue conquest and control with little recourse through the fragmentation and expulsion of Palestinians by institutionalizing a racial legal system of apartheid.

Considering the limitations of the legal doctrine of apartheid as an explanatory or evaluative framework for examining Israel's behavior towards the Palestinians, it only becomes sufficient to provide a more systematic and critical method by considering the comparative history of settler-colonialism, ethno-religious nationalism, and land acquisition in South Africa. The apartheid framework encompasses and addresses a wider array of issues, those which other frameworks overlook that are salient to political, social, and economic stability. The comparative case study of Israel with apartheid South Africa will evaluate the trajectory of their colonial agendas, legal structures, and neoliberal economic development. Respectively, I distinguish features of apartheid practices that are commonly masked and manipulated by Israel through the deterministic application of international humanitarian law. The survival and maintenance of Israel's political legitimacy are contingent upon support from the West and disguising its coloniality with European liberal legalism (Reynolds, 2017). Israel's legitimacy as a democratic state is a globally *prima facie* claim backed by the fact that Palestinian citizens of Israel have the right to vote and politically participate in the electoral process (Clarno, 2017; Peteet, 2016). Later this study provides the basis of the two-state strategy's shortcomings in addressing entrenching conditions of settler-colonialism, racial capitalism, and its legal form of apartheid which have established an irreversible conditions fait accompli. The irreversible and permanent obstacles of settler-colonialism and the conditions for decolonization necessitates a state strategy of unification, equality, integration, and inclusion. Settler-colonialism is the connective tissue which

organizes the continuous uneven processes of invasion, ethnic cleansing, expulsion, occupation, and now apartheid all the while precluding the conditions necessary for a two-state solution. Conducting comprehensive research to address self-perpetuating and entrenched issues of Israel and Palestine will distinguish and clarify conditions crucial for the elaboration of a constitutive, multifaceted, and functional conflict resolution strategy.

2. Common Frames

Arguably one of the most debated and intractable conflicts of our time, the Israeli-Palestinian conflict continues to intensify and polarize as each year passes without its resolution. Settler-colonialism, ethno-territorial conflict, nationalist struggle, military occupation, apartheid, and religious dispute are descriptions commonly used by academics, politicians, and engaged individuals to frame the conflict (Bourdan, 2015). The dispute also draws comparisons to Ireland-Northern Ireland, ethnic cleansing of the indigenous in the Americas, US Jim Crow, and apartheid South Africa (Bourdan, 2015). While Israel contends the status of the Palestinian territories of the West Bank and Gaza as "disputed," the international community recognizes it as occupied with Israel as an occupying power in the Palestinian territories with the land's status as militarily occupied (Roberts, 1990, p. 69). Notwithstanding the "remarkable degree of unanimity" by various human rights nongovernmental organizations (NGOs), United Nations General Assembly (UNGA) and Security Council (UNSC), and the International Court of Justice (ICJ) on Israel's role as occupier and its responsibility to apply the international law of occupation in the Occupied Palestinian Territories, gaining mainstream attention is the perspective of apartheid (Robert, 1990, p. 69). In the last two decades, the language of apartheid shifted from academic to both public and legal discourse in describing Israeli practices toward Palestinians (Pappé, 2015). Despite the long history and expanding recent utilization of the apartheid frame to Israel by public officials, academics, and activists, it is still widely contended. This chapter will conceptualize the key definitions as a method to evaluate the conflict through political and legal discourse analysis which will later be used to assess the constraints and limitations of the appropriate state solution. I will conceptualize them in the following order: military occupation, apartheid, the one-state solution, and the two-state solution by providing their respective definitions, applicability to

Israel-Palestine and historical arguments. Following a robust comprehensive description of each concept, I will highlight the reoccurring patterns and themes which will form the basis of the theoretical and analytical model used in a later section to compare the formation of Zionist and Afrikaner ideological movements into modern polity to the contemporary state.

Military Occupation

Legal Definition of Occupation

The contemporary basis of international law of occupation draws upon 1907 Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land, the 1949 Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Geneva Convention Additional Protocol I, and other customary international humanitarian laws (International Committee of the Red Cross, 2004). The provisions of the Hague Convention are considered as authoritatively embodying rules of customary international law, which means that they are binding on all States even those not a formal party to them (ICRC, 2004). The 1949 Fourth Geneva Convention has 196 state parties which, with such high numbers, strengthens the argument that the Convention is in whole or in considerable part declaratory of customary international law (Roberts, 1990). These Conventions hold tremendous weight internationally and are used extensively in other international governing instruments to administer situations of occupation which is especially the case for Palestine and Israel.

The 1907 Hague Convention and the 1949 Fourth Geneva Convention complement each other in providing the definition and rules of military occupation. The 1907 Hague Convention predominantly provides the rights and obligations of the occupying power, while the 1949 Fourth Geneva Convention offers the rights and protections of occupied individuals. The Hague

Regulations stipulate in Article 42 that a "territory is considered occupied when it is placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised." The subsequent articles designate that the occupiers are obligated to maintain public order and safety over the occupied; that forcing the occupied to pledge allegiance and collaborate with occupying power is forbidden; to respect family honor and rights, lives and private property, religious convictions and practices and that private property shall not be confiscated (1907 Hague Convention, Arts. 43-46). Articles 47 and 48 state that pillage is forbidden and if the occupiers collect dues in the occupied territories than it is bound to contribute to the administrative expenses of the area to the same extent that the legitimate government would contribute (1907 Hague Convention). While these are the essential provisions of the law of military occupation, there are other vital codes which the legal team of the International Committee of the Red Cross (ICRC) summarizes on their website.

Additionally, the ICRC legal team designates the essential rules from the 1907 Hague Convention, Articles 42-56, and the Fourth Geneva Convention Articles 27-34 and 47-78 to include that over the territory the occupant does not acquire sovereignty; that occupation is a temporary condition with the limitation of the rights of the occupant to the length of its duration; and that the laws in the occupied territory must be respected by the occupying power unless it constitutes a security threat (2004). Other significant procedures are that the occupiers must provide sufficient hygiene, public health standards, food, and medical care to the occupied population; forcible transfers of individuals or groups of the occupied population from and within the occupied territory are prohibited; and voluntary and forcible transfers of the occupying civilian population into the occupied territory are prohibited (2004). In terms of physical harm and property damage, the Hague Convention and the Geneva Convention stipulate the prohibition

of collective punishment, taking hostages, and retaliation against the occupied population, but also that the destruction and seizure of enemy and private property are prohibited (ICRC, 2004). Concerning property and natural resources as defined in the Geneva Convention and the Hague Regulation, both can be confiscated and used by the military or occupation for administrative reasons and shall not be used or benefited by anyone outside the occupied territory (ICRC, 2004). Given these definitions and conditions of military occupation as stipulated by the Conventions operating as binding customary international law, there are official legal declarations which specifically apply them to Israel and Palestine.

Law of Occupation Pertaining Israel-Palestine

There is a vast amount of official legal documents relating the international law of belligerent occupation to Israel and Palestine by various organizations, agencies, and policymakers. The most important of which are the various resolutions and statements promulgated by the United Nations Security Council (UNSC), United Nations General Assembly (UNGA), and the United Nations Human Rights Council (UNHRC) on the occupied status of the West Bank. On October 7, 2000, the UNSC passed Resolution 1322 titled "the situation in the Middle East, including the Palestinian question" with a 14 to 0 vote making it binding international law. In paragraph 3 of the resolution, UNSC "calls upon Israel, the occupying Power, to abide scrupulously by its legal obligations and its responsibilities under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949" (UNSCR 1322, para. 3).[1] Again in 2016, UNSC voted on Resolution 2334 reaffirming Israel's legal obligation as an occupying power under the Fourth Geneva Convention, this time, however, condemning all Israeli measures to change the demographic makeup in East Jerusalem including settlement construction and expansion, transfers of Israeli settlers in the West Bank,

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[1] Full text of UNSCR 1322 found here: http://unscr.com/en/resolutions/doc/1322

land confiscation, home demolitions and displacement of Palestinian civilians which are violations of international humanitarian law.[2] The Resolution also calls for a freeze of settlement activity, for the Palestinian Authority Security Forces to halt individuals engaged in terrorism, and for both parties to act by international law and previous dealing and agreements (UNSCR 2334). Regarding the territorial boundaries and conflict de-escalation, the UNSCR maintains that it will not accept any deviations to the 4 June 1967 lines including Jerusalem for the purposes to implement a two-state solution which the current status-quo is gradually corroding and evolving into a "one-state reality" (UNSCR 2334, para. 1-4, 7-8). Other international governing bodies and human rights organizations influenced the latest UNSCR, which all mirror similar issues and concerns regarding the occupation.

In 2004, the ICJ released an advisory opinion on the "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory." [3] Despite the non-binding nature of an advisory opinion, any international law referenced by the ICJ in an opinion is legally binding on the parties (Tilley, 2009). In light of recently passed resolutions on the illegality of the settlement enterprise and the security wall construction, the Court evaluated the consequences of Israel's behavior in the West Bank. It found that Israel's construction of the security barrier to separate Israel proper from the West Bank in 2004 was enabling grave human rights violations, but also creating a *fait accompli* reality potentially becoming permanent, which is equivalent to "de facto annexation." The wall's route drastically diverges from the 1967 Green Line curtailing land designated for a future Palestinian state, expanding settlement opportunities, and altering the demographic composition of Jerusalem and the rest of the Occupied Palestinian Territory. Despite Israeli government's claim that the wall was of military and public necessity and protection, the

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[2] Full text of UNSCR 2334 found here: http://unscr.com/en/resolutions/doc/2334
[3] Full text of ICJ Advisory Opinion found here: http://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf

Court determined that the wall did not rise to the standard of proportionality to the threat nor was it constructed as a last resort.

In addition to the explicit authoritative edicts by the ICJ supported by scores of UNSCRs, the ICRC, and the international community at-large, the Israeli Supreme Court and the Israeli military on multiple occasions have defined the situation as existing under belligerent occupation (Meron, 2017). According to the "rules of international law, when an army occupies enemy territory all governmental power, including legislative power, [shall be] concentrated in the hands of the military commander" (Kretzmer, 2002, p. 27). Acquiescing with this principle, after taking control of the West Bank and Gaza in June 1967 the Israeli military issued Israeli Military Proclamation No. 2 bestowing full legislative, executive, and judicial authorities over the West Bank and its inhabitants in the military commander (Weill, 2007). Following this Proclamation, Israeli military legislation accepted the Fourth Geneva Convention as *lex specialis*, or prevailing over any other general law, in Proclamation No. 3, despite revoking the position shortly after its issuance (Tilley, 2009). Article 35 of Israeli Military Proclamation No. 3 acknowledges Israel as an occupying entity and the applicability of international human rights law which stipulates that Israeli military courts dealing with cases from the territories must observe the provisions of the Fourth Geneva Convention "and in case of conflict between this Order and the said Convention, the provisions of the Convention shall prevail" (Kretzmer, 2002, p. 32). Besides this early instance, the Israeli Supreme Court has recognized the customary or binding nature of The Hague Convention No. VI regularly in court cases from the West Bank (Meron, 2017; Roberts, 1990).[4] Notwithstanding the Israeli proclamations and rulings, there are adversary opinions, presented in

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[4] See, e.g., HCJ 393/82, Jam'iat Iscan v. Commander of the IDF in Judea and Samaria, 37(4) PD 785, 792, para. 11 (1983) (Isr.); HCJ 7015/02, Ajuri v. The Commander of IDF Forces in the West Bank, 56(6) PD 352, paras. 13, 21, 22 (2002) (Isr.); HCJ 2056/04, Beit Sourik Village v. The Government of Israel and the Commander of the IDF Forces in the West Bank, 58(5) PD 805, para. 1 (2004) (Isr.).

the forthcoming section, on whether Israel is an occupying entity to the extent that it is required to apply The Hague and Geneva Conventions in the territories.

<p align="center">*Debates Concerning the Occupied Territories*</p>

Regardless of the territories' international recognition as an occupied territory, there is still endless debate on the meaning and applicability of the international law of belligerent occupation in the Palestinian territories. While many hold a view on Israel-Palestine that is advanced by the governing bodies and treaties of the international community, there is an exhaustive extent of academic perspectives concerning the question of Israeli occupation. Given the over-discussed nature of this issue, this section will only analyze the academic debates on the applicability of the international law of belligerent occupation that has profoundly impacted domestic and international law and politics. This literature review will detail the nuances, critiques, and repercussions of the Blum-Shamgar perspective which argues that Israel has legitimate title over the West Bank and that it does not occupy the territory.

The most notable of these perspectives, which successive Israeli governments have frequently utilized to deny the applicability of the international law of occupation in the disputed territories, is the Blum-Shamgar position (Meron, 2017). Hebrew University Professor Yehuda Blum and former Israeli Supreme Court of Justice Meir Shamgar developed this argument after Israel's conquest of the West Bank during the 1967 Six-Day War where a few cases concerning judicial authority arose (Meron, 2017). The Blum-Shamgar thesis, or "the Missing Reversioner" argument, asserts that for a territory to be considered occupied it must have belonged to a legitimate sovereign that has been ousted by the conquering party (Blum, 1968; Shamgar, 1971). The missing Reversioner argument contends that Israel is not a belligerent occupant and has lawful possession over the territories because no other State could show better title, given that

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Egypt and Jordan were not legitimate sovereigns over them and were at most belligerent occupants (Blum, 1968; Shamgar, 1971). Proponents of this thesis rely on Article 2 of the Fourth Geneva Convention, which provides that:

> (1) …the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

> (2) The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Blum interprets Article 2 to mean that to constitute as an occupation the ousted sovereignty must be officially considered a "High Contracting Party," which the Kingdom of Jordan and Egypt were not (Blum, 1968). Jordan and Egypt forfeited valid legal title when they used violent force to gain control over the West Bank and Gaza after the demise of the British Mandate of Palestine on May 15, 1948, violating the UN Charter (Blum, 1968). Blum further argues that Jordan's and Egypt's behavior toward the territories are different from Israel's because the UNSC or UNGA determined that Israel's use of force did not violate the UN Charter since it acted in self-defense against Arab aggression (Blum, 1968). Under these conditions, Shamgar suggests the provisions of the law of belligerent occupation stemming from The Hague Convention - whose purpose is to protect the sovereign rights of the previous regime - did not legally apply to Israel, and that Israel was only obligated to apply the humanitarian provisions as stipulated in The Geneva Convention (Shamgar, 1971). Stated another way, concerning both The Hague and Geneva Conventions, the rule of law means the de facto application of the humanitarian provisions from both Conventions but not the state interest or rights provisions (Shamgar, 1971). This likely explains the reasoning

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behind military commanders' decision to amend Israeli Military Proclamation No. 3 to exclude

the Fourth Geneva Convention provision a few months after 1967; they were influenced by some

Israeli academic lawyers holding this position (Kretzmer, 2012). Although the Blum-Shamgar

thesis continues to thrive in Israeli public opinion and gain superiority in current legal and

political circles, there is substantial opposition to this thesis from an array of sources (Meron,

2017).

Despite the Israeli government's reliance on the Blum-Shamgar thesis in driving today's

domestic politics and national narrative concerning the West Bank, the ICRC, foreign experts in

international law, and leading legal scholars reject the position on multiple grounds (Kretzmer,

2002). The official legal argument against the Convention's application articulated by Shamgar

and Blum rests on an interpretation of occupation not covered only by paragraph 2 and not 1 of

Article 2 of the Fourth Geneva Convention (Kretzmer, 2002). ICRC's 1958 Commentary on the

Fourth Geneva Convention (1958 Commentary IV) and 2016 Commentary on the First Geneva

Convention (2016 Commentary I) both state that paragraph 2 is not autonomous from but

complementary to paragraph 1 with the purpose of broadening its applicability to those cases

where occupation resulted without a declaration of war or hostilities. The language from 2016

Commentary I is mostly concerned with the use of force regardless of whether a formally

recognized sovereignty controlled the territory. According to paragraph 325 of the 2016

Commentary I:

> Occupation exists as soon as a territory is under the effective control of a State that is not
>
> the recognized sovereign of the territory. It does not matter who the territory was taken
>
> from. The occupied population may not be denied the protection afforded to it because
>
> of disputes between belligerents regarding sovereignty over the territory concerned.

Essentially, the Commentary states that the status of belligerent occupation is contingent on the existence and continuation of declared war or any other armed conflict arising between two or more parties and not on the legal standing of the High Contracting Parties (Roberts, 1990). Notwithstanding the nonbinding nature of the Commentaries, state parties have primarily used them since they are considered as authentic and authoritative interpretations of the Conventions' text (Meron, 2017). The 2004 ICJ Advisory Opinion ruled that irrelevant of whether a territory was under a legitimate sovereignty, the de jure applicability of the Geneva Convention to any armed conflict between High Contracting Parties making it clear of Israel's occupier status and exact obligations as such. Besides these legal texts and their commentaries, international legal practitioners have challenged the Blum-Shamgar position since Israel took control over the West Bank.

There are other grounds on which legal scholars oppose the Blum-Shamgar theory which dispute Jordan and Egypt's sovereignty over pre-1967 territories. Whereas some legal scholars take the position stated in the previous paragraph, there are those who argue that Jordan and Egypt had legitimate sovereignty over the territories (Gerson, 1971; Meron, 2017; Tilley, 2009). To proponents of this claim, Israel implicitly recognized Jordan and Egypt's control as lawful through the 1949 General Armistice Agreements and the acceptance 1967 UNSCR 242 (Gerson, 1971; Meron, 2017; Tilley, 2009). From 1950 to 1967, Israel never contested Jordan and Egypt's sovereignty and administration over the territories to the extent that after the Six-Day War Israel would withdraw their armed forces from the conquered territories for possible repossession by Jordan and Egypt (Gerson, 1971; Tilley, 2009). This perspective negates the core contention in the missing revisioner argument and rationale for not applying the Fourth Geneva Convention (Tilley, 2009). If Blum and Shamgar's interpretation of Article 2 were correct, every conquering

state would be undeterred from disputing the authority of every defeated state even when no legitimate question of sovereignty exists (Meron, 2017). The consequence of which would threaten and undercut the purpose and viability of one of the most humanitarian convention (Meron, 2017). Despite the dominant nature of the exhaustive scholarly debates and their legal and political impacts of the applicability of the international law of belligerent occupation, the interest in apartheid concerning the conflict continues to grow regardless of its controversy.

Apartheid

Legal Definition of Apartheid

The international legal formulations against apartheid are a recent phenomenon relative to the international law of belligerent occupation, first appearing in the international arena in the late 1940s. By the 1950s the UNGA annually condemned apartheid and after 1960, the UNGA regularly condemned the South African regime as behaving contrary to Articles 55 and 56 of the UN Charter (Dugard, 2008). The International Convention for the Elimination of All Forms of Racial Discrimination was the first legal instrument to explicitly prohibit apartheid in 1965 (Tilley, 2009). After passing multiple UNSCRs criminalizing apartheid, the UNGA finally adopted on August 30, 1973 the International Convention on the Suppression and Punishment of the Crime of Apartheid (henceforth Apartheid Convention or ICSPCA) (Dugard, 2008). The Convention was adopted by 91 votes in favor, 26 abstained, and four against by Portugal, South Africa, United Kingdom, and United States (Dugard, 2008).[5] During ICSPCA's drafting stages, most delegates viewed the instrument as only applicable against South Africa, but others warned that the wording broadens the scope of the Convention enough to apply to other States practicing extreme forms of racial discrimination (Dugard, 2008).

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[5] https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-7&chapter=4&lang=en

Given this difference of opinion, endorsement by other international legal instruments affirmed the latter perspective on the applicability of the Apartheid Convention to situations beyond South Africa (Dugard, 2008). In 1977, Additional Protocol I of the Geneva Conventions of 1948 acknowledged apartheid as a breach of the Protocol without any limitations on geography. Furthermore, the UN International Law Commission in 1991 adopted features of apartheid as a crime in the Draft Code of Crimes against the Peace and Security of Mankind without any South Africa references. The Rome Statute of the ICC included apartheid as a form of crime against humanity as stipulated in Article 7. These are the main legal instruments against apartheid, which exist under both customary international law and the Rome Statute of the ICC (Dugard, 2008).

The Apartheid Convention and the Rome Statute's definitions of apartheid are the most commonly cited legal definitions because of their official weight as customary law. The terms of the ICSPCA supplements and complements the UN Charter, UN Declaration of Human Rights (UNDHR), Declaration on the Granting of Independence to Colonial Countries and Peoples (DGICCP), the Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG), and ICERD (Tilley, 2009). The Convention defines apartheid in Article 2 as:

> [T]he term "the crime of apartheid", which shall include similar policies and practices of *racial segregation* and *discrimination* as practiced in southern Africa, shall apply to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them:
>
> (a) denial to a member or members of a racial group or groups of the right to life and liberty of person:

(i) by murder of members of a racial group or groups;

(ii) by the infliction upon the members of a racial group or groups of serious bodily or mental harm, by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment;

(iii) by arbitrary arrest and illegal imprisonment of the members of a racial group or groups;

(b) deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part;

(c) any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association;

(d) any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof;

(e) exploitation of the labor of the members of a racial group or groups, in particular by submitting them to forced labor;

(f) persecution of organizations and persons, by depriving them of fundamental rights and

freedoms, because they oppose apartheid. (1976)

Similarly, the Rome Statute of the ICC defines apartheid in Article 7(1)(j) and 7(2)(h) "as a crime

against humanity…committed as part of a widespread or systematic attack directed against any

civilian population, with knowledge of the attack" which are "committed in the context of an

institutionalized regime of systematic oppression and domination by one racial group over any

other racial group or groups and committed with the intention of maintaining the regime…" Both

the Apartheid Convention and Rome Statute identify apartheid as a crime against humanity

conducted through a system of institutionalized oppression or domination of one group over

another.

Despite not overtly defining a racial group in enumerating extreme forms of racial

discrimination and segregation as apartheid, the ICSPCA does explicitly state that its terms are in

"accordance" to the ICERD's regarding a State's obligation to condemn and prevent racial

segregation and *apartheid* (1976). The International Convention on the Elimination of All Forms

of Racial Discrimination defines racial discrimination as "any distinction, exclusion, restriction or

preference based on *race, colour, descent, or national or ethnic origin*" (1969, p. 216). The crime

of apartheid is established on the articulation of racial groups derived from the definition of racial

discrimination. Given that racial discrimination and segregation are the basis of apartheid, the

victims of such will be the same. Similarly, the Convention on the Prevention and Punishment of

the Crime of Genocide conceptualizes groups for the purposes of genocide to be "national,

ethnical, racial, or religious" (1951, p. 280). While the ICSPCA and CPPCG convey apartheid

and genocide differently, they similarly stipulate groups protected from these crimes. The acts of

racial discrimination, apartheid, and genocide require the targeting of a specific and identifiable

group of people with shared characteristics or members of the same group that has common features and not exclusively or strictly a racial group.

Since much of the conduct defined as crimes of apartheid distinguished in the Rome Statute and the Apartheid Convention is also prohibited under other international legal instruments, some legal experts comment that the prohibition of apartheid is customary law binding on all UN members (Bassiouni and Derby, 1981). Other legal instruments that also forbid systematic and extreme forms of racial discriminations are as follows: the UNDHR, ICERD, the International Covenant on Civil and Political Rights (ICCPR), the Optional Protocol to ICCPR, the Convention on the Reduction of Statelessness (CRS), and the Convention on Refugees (CR) (Bassiouni and Derby, 1981). Articles 55, stating that members are required to respect the human rights and freedom of all without discrimination, and 56, requiring states to execute these protections, of the UNDHR are the sources for which member states are bound (Bassiouni and Derby, 1981). In addition to being customary international law, there is debate whether the prohibition of apartheid rises to the level of a peremptory norm, or *jus cogens* that creates obligations *erga omnes*, or "obligation owed to the international community as a whole" (Slye, 1998; Talmon, 2006; Tilley, 2009, p. 52). The International Law Commission (ILC) explicitly lists the prohibition against genocide, racial discrimination, and apartheid as peremptory norms of general international law producing a State's obligation to the international community as a whole (Slye, 1998; Talmon, 2006; Tilley, 2009). Albeit this stance, some argue that the Convention has not reached the level of a *jus cogens* norm because the West has not ratified it fearing the crime of apartheid could be too widely construed (Bultz, 2013). To date "parties to the Apartheid Convention do not include the US, Canada, Australia, New Zealand, Israel, post-apartheid South Africa, or any Western European country (Wintemute, 2017). Regardless of whether the

Apartheid Convention's rises to the level of a *jus cogens* norm with *erga omnes* obligations allocated to the state, the Convention still constitutes as a customary international law binding states irrespective if they have codified or ratified the Convention.

<center>*Law of Apartheid Regarding Israel-Palestine*</center>

The legal and political application of the Apartheid Convention, Rome Statute Article 7(1)(j), and the Article 3 of ICERD to the Palestinian-Israeli conflict are not as expansive or authoritative as the application of the law of occupation. Since the creation of Israel in 1948, UN instruments dealt with the region largely regarding the provisions of belligerent military occupation of The Hague and Geneva Conventions (Abdulla, 2016). Within the last 15 years, a dramatic rise in the state, NGO, and intergovernmental organization use of language about apartheid, institutional discrimination, and colonialism to describe the conditions in Israel proper, the West Bank, and Gaza Strip. While academia long discussed the concept of apartheid in Israel since the mid-1970s, only recently does legal, political, and scholarly discourses intersect and convene. The proceeding timeline summarizes the legal documents with significant mention of apartheid appears following the 2004 ICJ Advisory Opinion.

2007: Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 by John Dugard is published in January.[6] The Rapporteur in the report applies the Apartheid Convention to conclude that Israel violated the ICERD (Dugard, 2007, para. 49-50, p. 22). Examples cited include: Israel baring Palestinian travel without permits while allowing Israeli citizens unrestricted travel without permits. On average, Israel denies and delays for months to years, Palestinian travel and construction permits in the West Bank and Jerusalem relative to Israeli construction permits (Dugard,

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[6] The Special Rapporteur at the time was South African jurist John Dugard who is an expert on international law, human rights, and South African apartheid. He served as an ad hoc judge on the ILC and the ICJ in 2008 (Centre for Human Rights, 2012).

2007). The report also cites to the demolition of Palestinian homes, schools, and water

structures while allowing the expansion of Israeli settlers and settlements in the West

Bank, especially in Hebron, by giving them exclusive or significant use of water and

roads. While noting the differences between the legal systems of South Africa and Israel,

the Rapporteur argues that Israel purposefully acts to "establish and maintain domination

by one racial group (Jews) over another racial group (Palestinians) and systematically

oppressing them," and that Israel's practices probably does amount to apartheid (Dugard,

2007, p. 20). The report calls for another ICJ investigation but on the legal consequences

of prolonged Israeli occupation with qualities of colonialism and apartheid. The call's

urgency arises from Israel's failed compliance to the 2004 ICJ Advisory Opinion but also

because the Rapporteur perceives the Palestinians as the only people in the world at that

time whose human rights and self-determination were being subjugated and denied for so

long by a Western-affiliated country.

2007: A report by the UN Committee of the Elimination of Racial Discrimination (CERD) is

released a few months later inquiring into the findings of the Special Rapporteur earlier

that year. In assessing Israel's behavior towards Palestinians, CERD relies heavily on

language that centers on segregation, discrimination, and equal protection without explicit

mention of apartheid. The Committee inquires into Israeli policies including the Law of

Return; Citizenship and Entry into Israel Law; housing and education disparities between

Israeli Jews, Palestinian citizens of Israel, and Palestinians of West Bank; the formation of

the Israel Land Administration; and expulsion of Negev Bedouins.

2009: Report of the United Nations Fact-Finding Mission on the Gaza Conflict is a 451-page

report dealing mostly with violations committed in Gaza around Israel's incursion,

Operation Cast Lead, from 27 December 2008 to 18 January 2009.[7] The Mission found

that Israel's prior and ongoing Gaza blockade with severe border, airspace, and sea

restrictions in addition to its aerial bombardment was a form of "intentionally inflicted"

collective punishment leading to grave fuel, electricity, medical supply, and water

shortages (Goldstone, para. 1878, p. 404). Accordingly, the report claims that Israel

disproportionately attacked Gaza to target its main infrastructure as opposed to enemy

combatants to humiliate and punish the civilian population and weaken economic

capacity. It also notes that the Israeli government did not protect Palestinian living in

Israel from Hamas rocket fire as it as it did for Jewish Israelis living in the same vicinities

of rocket range. Concerning the OPT, the Mission found institutional discrimination in

Israel's application of civil law to Israeli settlers while applying military law to

Palestinians both living in the West Bank. Citing to the Association for Civil Rights in

Israel the report agrees that Israel acts to secure a Jewish majority in Jerusalem while

transferring Palestinian residents to the city's periphery through its "discrimination in

planning and building, expropriation of lands, and minimal investment in physical

infrastructure and government and municipal services…" (Goldstone, 2009, para. 1536,

p.332).[8] Subsequently, the Mission notes the discriminatory citizenship and legal

nationality laws that privilege "Jewish nationals" by affording them special immigration,

automatic citizenship, land use rights, and financial benefits, while ascribing Palestinians

in the OPT "alien" status barring them from constructing on or renting large proportions

of "state land," Israeli citizenship, and residence permits in Israel to reunite with family or

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[7] The report, known also as the Goldstone Report, was headed by Judge Richard Goldstone who was the former Judge of the Constitutional Court of South Africa and former Prosecutor of the International Criminal Tribunals for the Former Yugoslavia and Rwanda.
[8] For full report by the Association for Civil Rights in Israel see: https://www.acri.org.il/he/wp-content/uploads/2011/03/eastjer2009.pdf

spouses (Goldstone, 2012, p. 57-58). The report concludes that Israel acquiesces in military and settler violence against Palestinians by lessening the penalties of these acts and by failing to provide Palestinians with equal protection, fair judicial administration, or equal criminal sentences as Israeli Jews (Goldstone, 2012). For instance since 2000, cases of killed OPT Palestinians civilians uninvolved in hostilities were no longer subject to criminal investigations but military "operational debriefings" (Goldstone, 2012, para. 1407, p. 302). Additionally, Israel acquiesces by closing cases without an indictment being filed for 90 percent of investigations into settler violence (Goldstone, 2012, para. 1407, p. 301). The publication was received with extreme controversy and pressure on the UN to retract the extensive report for alleged anti-Israel bias and questionable credibility (Jilani, Chinkin, & Travers, 2011; LeVine, 2011).[9] Amidst mounting threats, Judge Goldstone would retract the claim that Israel intentionally targeted civilians and civilian buildings during its Gaza operation and that its practices do not amount to apartheid (Goldstone, 2011; LeVine, 2011). Notwithstanding Goldstone's position change, coauthors Hina Jilani, Christine Chinkin, and Desmond Travers stand firmly by the original conclusions which holds Israel accountable for crimes against humanity regarding practices of demographic engineering, intentionally and indiscriminately targeting Palestinian civilians and structures in Gaza, and institutionalizing a hierarchical system of rights for Israeli Jews over Palestinians in Israel proper and the OPT (Jilani et al., 2011; LeVine, 2011).[10]

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[9] For more information on the personal attacks and career stigmatization of Justice Richard Goldstone: http://www.aljazeera.com/indepth/opinion/2011/11/2011115141434848384.html

[10] In reaffirming the original report's conclusions, the coauthors perceived "the personal attacks and the extraordinary pressure placed on members [of the Mission]… clearly aimed at undermining the integrity of the report and its authors…" (Jilani et al., 2011; LeVine, 2011).

2012: CERD reports its concluding observations of Israel by touching and expanding on similar issues addressed in the 2007 CERD report but explicitly mentioning apartheid this time (para. 24, p. 6). The report finds that Israel's implementation "of two entirely separate legal systems and sets of institutions for Jewish communities grouped in illegal settlements on the one hand and Palestinian populations living in Palestinian towns and villages on the other hand," quantify as de facto segregation (para. 24, p. 6). It finds that two people (Jews and Arabs) do not receive "equal use of roads and infrastructure or equal access to basic services and water resources" (para. 24, p. 6). Conclusively, the Committee highlights Article 3 of the Apartheid Convention which prohibits all forms of racial segregation and apartheid, before urging Israel to immediately adopt measures to end practices that "severely and disproportionately affect the Palestinian population…" in violation of that provision (para. 24, p. 6). This is the Committee's first and most pronounced condemnation of extreme segregation and discrimination since apartheid South Africa (Horowitz, 2012).

2014: The Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 by Richard Falk builds on the 2007 Rapporteur's call to inquire on whether elements of Israeli occupation present aspects of colonialism and apartheid by focusing on "the international prohibition of ethnic discrimination, segregation, and apartheid," (Falk, 2014, para. 51, p. 14).[11] The report determines that Palestinians constitute a group facing racial discrimination as stipulated in Article 1 of the ICERD because they belong to a national or indigenous group. The Rapporteur finds that Israel violates various Articles of the Apartheid Convention including but not limited to

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[11] Richard Falk was the UN Special Rapporteur at the time and is the Albert G Milbank Professor of International Law and Practice Emeritus at Princeton University.

Article 2(a), 2(b), 2(c). Regarding Article 2(a) denying the right to liberty and life by (i) murder, (ii) severe bodily and psychological harm, infringement of freedom, and torture (iii) illegal imprisonment and arbitrary arrests; the Rapporteur cites to Israeli human rights organization B'tselem to exemplify these violations (Falk, 2014). For instance, as a result of Israel's military operations, 344 children were killed in 2008 and 33 IN 2012. In the West Bank in 2013, there were 5,000 political prisoners and 137 administrative detainees some of who face ill-treatment and torture in the form of sleep deprivation, beatings, sexual assault and humiliation, home demolitions, economic coercion, solitary confinement, and threats of killing family members (Falk, 2014). The report also posits that Israel violated Article 2(b) causing whole or partial physical destruction of a group during its military operations in Gaza in 2008 and 2012 and Article 2(c) concerning the establishment of a racial group by inhibiting the other groups' participation in political, economic, social, and cultural modules of the state, especially denying the right to nationality, speech, assembly, work, education, and domestic and international travel (Falk, 2014). The Rapporteur presents CERD's 2014 observations regarding the OPT to identify the parallel legal systems with the Israeli policy of *hafrada,* Hebrew for "separation," for the purposes of Article 2(c) (Falk, 2014). The report concludes that "the combined effect of the measures designed to ensure security for Israeli citizens, to facilitate and expand settlements, and, it would appear, to annex land, is *hafrada*, discrimination and systematic oppression of, and domination over, the Palestinian people" (Falk, 2014, para. 77, p. 20). The reports final recommendations include following: that the UNGA and ICJ issue an opinion on the legal status of the occupation and its colonial, apartheid, and ethnic cleansing features; that the UNHRC appoint expert panel to draft a

protocol to the Geneva Convention limiting occupation to 5 years; and for the

international community to investigate business practices of corporations and financial

institutions concerning settlements imports, the wall, and operations in Gaza (Falk, 2014).

2017:   Israeli Practices towards the Palestinian People and the Question of Apartheid issued by

the Economic and Social Commission for Western Asia (ESCWA) found that Israel

implement policies of apartheid towards not only OPT Palestinians, but Palestinians in

Israel proper and abroad also.[12] The investigation adopts a strictly legal approach that is

different from apartheid used in public discourse as discrete acts such as the apartheid

wall, acts of certain private groups as societal racism, or broad structural conditions such

as economic apartheid (Falk & Tilley, 2017). Pointing to Israel's laws, the authors find

that the core purpose of Israel's regime is to dominate Palestinians. To preserve Israel as a

"Jewish State, uncontested Jewish-nationalist domination over the indigenous Palestinian

people is essential – an advantage secured in the democracy of Israel by population size –

and State laws, national institutions, development practices and security policies all focus

on that mission" (Falk & Tilley, 2017, p. 36). Jewish-national institutions, such as the

Jewish National Fund (JNF) and World Zionist Organization (WZO), work in accordance

to Israeli Basic Law (Constitution) to maintain the Jewish national character of Israel

(Falk & Tilley, 2017). The Israeli government applies different sets of laws on

Palestinians based on their geographic location categorizing them in four legal "domains,"

with varying rights and statuses form one another causing internal fractionalization within

Palestinian society given that each category face different issues that obstruct unified

Palestinian resistance to Israeli oppression (Falk & Tilley 2017; Reynolds, 2015). At the

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[12] Coauthored by Richard Falk and Virginia Tilley who is a Political Science Professor at Southern Illinois University
and former Research Specialist in the Human Sciences Research Council of South Africa.

same time diaspora Jews, Israeli Jews, and Israeli settlers in the West Bank, East

Jerusalem, and Golan are uniformly governed as one distinct legal subject despite their

geographic placement (Falk & Tilley, 2017; Reynolds, 2015). Israel imposes an apartheid

regime mainly through strategic fragmentation of the people that deteriorates the aptitude

and determination of Palestinians for a consolidated and adequate resistance (Falk &

Tilley, 2017). These four domains include: civil law governing Palestinians holding

Israeli-citizenship with restrictions; permanent residency law governing Palestinians of

Jerusalem; military law governing Palestinians in the West Bank and Gaza under the

conditions of belligerent occupation since 1967; and finally, policy of preclusion

governing Palestinians outside Israel's territorial authority that prohibits the return of

exiles and refugees (Falk a& Tilley, 2017). These policies ensure that Palestinians of 1948

Mandate Palestine do "not grow to a point that would threaten Israeli military control of

the territory and/or provide the demographic leverage for Palestinian citizens of Israel to

demand (and obtain) full democratic rights, thereby eliminating the Jewish character of the

State of Israel" (Falk & Tilley, 2017, p. 5-6). The authors contend that these policies are

vital to institutionalizing the domination of all Palestinians to demographically maintain

an apartheid system within the territorial boundaries of Israel (Falk & Tilley, 2017, p. 6).

In Israel proper Israeli law alongside institutions such as JNF and WZO differentiate

between citizenship and nationality denotating that only Jews can be nationals, which

avails them to specific rights and privileges, while Palestinians are either citizens or alien

residents (Falk & Tilley, 2017). For instance, stipulated under Israeli Basic Law dictates

that land controlled by the State of Israel, the Israeli Development Authority, or the JNF is

nontransferable, allowing for their exclusive permanent and continuous management and

use (Falk & Tilley, 2017). The Israel Land Authority manages state-owned land, or 93

percent of 1948 Palestine, which "is by law closed to use, development or ownership to

non-Jews" (Falk & Tilley, 2017, p. 33-34). Other policies they cite as indicative of

preserving Israel as a exclusive Jewish State concern citizenship, immigration, and

residency that serve as a form of demographic engineering to maintain a Jewish majority

(Falk & Tilley, 2017). This is evident in laws allowing worldwide Jews the right

immigrate and obtain Israeli citizenship regardless if they can show links to the region,

albeit simultaneously withholding this right from Palestinians including those with

documented ancestral homes in Israel (Falk & Tilley, 2017). Palestinians in East

Jerusalem and Palestinians of Mandate Palestine face similar discriminatory conditions

regarding employment, health care, residency and building rights, security force brutality,

and home expulsions and demolitions (Falk & Tilley, 2017). Specific to Jerusalem

Palestinians is their "residency status" which is revocable and identifies them aliens with

the privilege and not the right to live in their birthplace (Falk & Tilley, 2017). Also,

increased home demolitions, expulsion from homes, and Israeli settlement expansion are

strategies Israel uses to demographically engineer East Jerusalem to achieve "60/40

demographic balance in favor of Jewish residents" (Falk & Tilley, 2017, p. 41). In 2014,

11,000 Palestinians in Jerusalem had their residencies revoked (Falk & Tilley, 2017).

Palestinians in Jerusalem volatile status dissuades them from contesting or opposing the

discriminatory nature legally and politically in fear of having their residency revoked and

families expelled (Falk & Tilley, 2017). In the West Bank, 350,000 Israeli settlers exist

under a dual legal system in the West Bank (excluding East Jerusalem) as they are

governed under civil law and benefit from a Jewish-only infrastructure, which includes

roads, transportation, and security (Falk & Tilley, 2017).[13] The writers suggest that UN,

ICJ, and ICC take further action by investigating and assessing the claims set out by the

report on whether Israel is an apartheid regime (Falk & Tilley, 2017). Member States are

recommended within their legislative, executive, and judicial capacity to permit the

prosecution of Israeli appointees associated with instituting apartheid against the

Palestinians (Falk & Tilley, 2017). The authors also suggested for the restoration of the

UN Centre against Apartheid and the Special Committee against Apartheid to document

officially legal and administrative instruments used by Israel to implement apartheid,

which would contribute to legal analysis used by academics, legal practitioners, and

activists (Falk & Tilley, 2017). Finally, the report advises for national governments,

private sectors, and civil society to support and partake in boycott, divestment, and

sanctions to overcome the regime of apartheid (Falk & Tilley, 2017).

These reports not only allude to the growing use of the language of discrimination, segregation,

and apartheid; but also investigates other crimes against humanity which human rights groups

have observed and petitioned against. These reports are monumental in shifting the political and

legal discourse from a situation of military occupation to one framed regarding institutional

discrimination and apartheid (Abdulla, 2016; Peteet, 2016; Wintemute, 2017). As the first UN

agency to charge Israel with apartheid, ESCWA face tremendous political pressure leading to

resignation of its chairperson, Rima Khalef, in their refusal to withdraw the publication at the

order of UN Secretary- General Antonio Guterres (*UN Official Resigns*, 2017; White, 2017).

Khalaf, like the coauthors of the 2009 Fact-Finding Mission to Gaza, anticipated the backlash that

Israel and its allies would implement in order to push the UN Secretary-General to denounce the

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[13] Settlers in the West Bank including East Jerusalem is estimated to be 588,000 which is derived from provided data by Israel's Central Bureau of Statistics for 2015 and 2014 data from the Jerusalem Institute for Israel Studies. More information: https://www.btselem.org/settlements/statistics

report (LeVine, 2011; LeVine, 2017; White, 2017). Despite the publication's removal, the

conclusions were never renounced (*Exclusive: Amnesty Pledges*, 2017). This last report is

different from prior reports because it no longer discusses the risk, but the practice of apartheid

not only over the OPT but relative to Palestinians in Israel proper and Palestinian diaspora

(*ESCWA Launches Report*, 2017).

The controversy also arises from the determination that apartheid as a crime against

humanity as not only customary law, but peremptory norm (*jus cogens* norm), which creates an

obligations *erga omnes* (Dugard, 2008). Therefore, the norm is binding on and non-derogable by

any and all States regardless if they consented to the Apartheid Convention, which applies to

Israel if an authoritative entity finds that its policies are criminal (Falk & Tilley, 2017). As a

result, the UN and its bodies and all Member States are legally obligated to prevent and penalize

practices of apartheid by not accepting an apartheid regime as lawful, not aiding or abetting that

State, and to cooperate with other States and the UN to end apartheid. Following these legal

reports, other institutions have also inquired into the matter such as the Russell Tribunal on

Palestine, which is an investigation conducted by civil society, intellectuals, and jurists (Russell

Tribunal on Palestine, 2018). Correspondingly, human rights organization Amnesty International,

also pledged to explore whether Israel is committing apartheid in the OPT after years

documenting discriminatory practices in Israel (White, 2017). A distinctive feature of reports

utilizing the ICERD or Apartheid Convention is that they elaborate and connect new and different

issues and consequences previously curtailed in official reports utilizing the framework of

military occupation. The latest reports lay the groundwork for the possibility of an ICC

investigation, which UN members could prompt, over whether Israel is, in fact, implementing an

apartheid regime against the Palestinians. The Apartheid discourse presents a need for new

strategies and courses of action, as exemplified in the ESCWA's report recommending the policy of boycott, divestment, and sanctions or reviving old committees.

Debates Concerning Apartheid and Israeli Policies

Notwithstanding the recent expansion of apartheid language in official international political and legal discourse, the apartheid label has been a part of the lexicon of intellectuals, activists, and government representatives on all sides of the conflict for almost half a century. One of the earliest claims that Israel is an apartheid state comes from the former South African prime minister and the architect of "Grand Apartheid" Hendrik Verwoerd (Kasrils, 2015, p. 23-24). In dismissing Israel's vote in the UN against the practice of apartheid in South African in 1961, former Prime Minister Verwoerd stated, "Israel is not consistent in this new anti-apartheid attitude… They took Israel away from the Arabs after the Arabs had lived there for a thousand years. In that, I agree with them. Israel, like South Africa, is an apartheid state" (Clarno, 2017, p. 3). Palestinian intellectuals utilized the comparison starting in the 1970s to describe the similarities between the Bantustan strategy in apartheid South Africa and the fragmentation of the West Bank and Gaza into disconnected landmasses and segregated Arab enclaves in Israel proper, Gaza, and the West Bank (Clarno, 2017). By the 1980s, critical Israeli scholars declared Israel an "apartheid state" with Gaza as the "Soweto of the State of Israel" (Clarno, 2017, p. 3). Prominent individuals who used the apartheid label include: former President Jimmy Carter; Secretary of State John Kerry; Pink Floyd member Roger Waters; Nobel Peace Prize awardee and anti-apartheid figure Desmond Tutu; Israeli historian Ilan Pappé; civil rights activist Angela Davis; and African-American author Alice Walker to name a few (Macintyre, 2012; Barrows-Friedman, 2014; Cohen and Labott, 2014; Gallagher, 2016). Pro-Palestine advocates are not the only ones

who use the apartheid label, Israeli officials are cited to liken their government's practices to those of apartheid South Africa to either criticize or to urge action.

High-ranking Israeli officials on the left and right have alluded to apartheid South Africa or apartheid-like practices to describe Israel's policies (Pappé, 2017). For instance, the first Israeli Prime Minister David Ben-Gurion in 1967 stated that Israel should "rid itself of the territories and their Arab population... if it did not Israel would soon become an Apartheid State" (Jewish Voices for Peace, 2014). In 2002, former Israeli Attorney General Michael Ben-Yair claimed that Israel has "in effect… established an apartheid regime in the occupied territories immediately following their capture" in referring to 1967 Six-Day War and advancing settlement construction in the West Bank which governs settlers under civil law and Palestinians under military laws (JVP, 2014). Former Education Minister, Shulamit Aloni, in 2007 wrote, "Israel practices its own, quite violent, form of Apartheid with the native Palestinian population (as cited in Peteet, 2016, p. 258). In the same year, Israeli Prime Minister Ehud Olmert, advised that "if the day comes when the two-state solution collapses, and we face a South African-style struggle for equal rights (also for the Palestinians in the territories), then, as soon as that happens, the State of Israel is finished" (JVP, 2014). Yossi Sarid, former Education Minister in 2008, stated, "What acts like apartheid, is run like apartheid and harasses like apartheid, is not a duck – it is apartheid… What should frighten us, however, is not the description of reality, but reality itself… Palestinians are unfortunate because they have not produced a Nelson Mandela; the Israelis are unfortunate because they have not produced an F.W. de Klerk" (JVP, 2014). Chief of General Staff Rafael Eytan specified, "Blacks in South Africa want to gain control over the white minority just like Arabs want to gain control over us. And we too, like the white minority in South Africa, must act to prevent them from taking over" (Pappé, 2015, p. 1). In 2010, Israeli Defense Minister Ehud

Barak asserted "as long as this territory west of the Jordan River there is only one political entity called Israel it is going to be either non-Jewish, or non-democratic. If this bloc of millions of Palestinians cannot vote, that will be an apartheid state" (JVP, 2014). Despite the array of individuals on both sides of the conflict who use the language of apartheid to describe Israeli practices of discrimination and segregation, it is still hotly contested and controversial.

Beyond the use of the apartheid by individuals from all perspectives, the controversy has reinvigorated studies in the phenomenology of apartheid and comparative studies of South Africa to Israel to contextualize the current situation as or unlike apartheid. The following paragraphs will cover prominent counter-arguments to the apartheid label concerning Israel's practices and treatment of the Palestinians. There are those who believe that within Israel, the Israeli government operates as a vibrant democracy providing equal rights and protection to all Israeli citizens, Jewish and non-Jewish alike (Goldstone, 2011; Pogrund, 2017). Nevertheless, these academics acknowledge that occasional societal racism and discrimination does exist as it would in any pluralistic society (Goldstone, 2011; Pogrund, 2017). Some academics argue that Israel's behavior in the West Bank constitutes as military occupation and not apartheid regime (Zilbershats, 2013). Then there are those who claim that Israel does practice apartheid with varying opinions whether it is practiced in only the West Bank or includes Israel major (Dugard and Reynolds, 2013; Falk & Tilley, 2017; Yiftachel, 2005). Given the previous section in articulating the argument that Israel imposes apartheid, this portion will only discuss the counter-arguments and refutations.

In a response to John Dugard and John Reynold's accusation of apartheid in the OPT, Israeli professor, Yaffa Zilbershats claims that the authors failed to "differentiate between norms governing occupied and sovereign territory and ... to address Israel's policies in the context of an

armed conflict characterized by the Palestinians use of terror" (2013, p. 916). Zilbershats contends

that "Israel does not have, nor does it claim, sovereignty over most of the territories beyond its

borders," but have been held under belligerent occupation (2013, p. 916). Subsequently,

belligerent occupation is a temporary condition where an area beyond a state's territorial

boundaries, acquired during the war, remains under that state's military jurisdiction without any

claims to sovereignty until belligerent parties settle the dispute (Zilbershats, 2013). The writer

further asserts that while Israel does not have sovereignty over the territories "the military

commander functions as the head of all three branches of government: executive, legislative, and

judicial" and providing normal political rights to occupants are beyond the legal requirements off

the occupier (Zilbershats, 2013, p. 920). He argues that travel restrictions, the Wall, and

checkpoints are out of security necessity (Zilbershats, 2013). Zilbershats ignores the legal issue of

settlements and settler presence in the West Bank and Israel's annexation of East Jerusalem in the

1980s in his analysis (2013). He does not deny the discrimination and unequal treatment of

settlers and Palestinians in the West Bank but claims that Israel does so because of the

inhabitants' legal status as opposed to 'racialized nature' (Zilbershats, 2013). Israel cannot apply

Israeli civil law on Palestinians in the OPT because some would perceive it as annexation nor

would it be practical to govern Israeli settlers under military law (Zilbershats, 2013). The dual

legal system is a temporary state, which will be resolved by both parties through political

processes and agreements later (Zilbershats, 2013).

As for the position that apartheid exists in Israel proper and the OPT, South African

journalist and human rights activist, Benjamin Pogrund contends that Israel does not legally

enforce separation based on race, "whether in the law, government, military service, land and

property ownership, education, sport, entertainment, public amenities, social welfare, or business"

(Saks, 2016, p. 150). Judge Richard Goldstone also claims that the label of apartheid is "unfair and inaccurate slander… calculated to retard rather than advance peace negotiations (2011). While Palestinian citizens of Israel suffer discrimination, they do have full and equal citizen rights and receive equal health care treatment in the same hospitals as Israelis (Pogrund, 2017). Under apartheid, Black South Africans could not vote, hold office, and use the same public facilities or amenities as whites which is not the case for Palestinians in Israel proper (Goldstone, 2011; Pogrund, 2017). Pogrund states that East Jerusalem is under occupation and that Israel controls 60% of the West Bank while the PA controls the other parts (Pogrund, 2017). Pogrund acknowledges that construction of settlements and the Wall constitute as land grabs of Palestinian property in the OPT, further deteriorating the two-state solution but contends that they are not connected to apartheid-like behavior (2017). Consequently, Pogrund claims that Israel faces criticism that is hypocritical, unproportionate, and anti-Semitic (Saks, 2016). Unlike the South African struggle that was nonviolent, Israel experiences Palestinian terror attacks, which are the primary source of security concerns that motivate Israeli policy; not racist ideology in the form of apartheid (Goldstone, 2011; Pogrund, 2017).

State Solutions

Two-State Solution

The source of the territorial dispute arises from the secret treaties negotiated by the British during World War I promising territory in return for mutual support of local warlords and nationalist movements in the Middle East while simultaneously financially and legally supporting a Zionist takeover of Palestine (Gelvin, 2008; Lockman, 2012; Shlaim, 1995). In 1915, the British pledged to Arab nationalist leaders guns, gold, and independence of all Arab lands in exchange for an Arab revolt against the Ottomans (Gelvin, 2008; Zogby, 2017). The Allies won with the

support of individuals such as Emir Faysal, Hussein's son, who led an Arab revolt against Turkish rule (Gelvin, 2008; Zogby, 2017). A few years later, British foreign secretary, Arthur Balfour, in a 1917 statement known later as the Balfour Declaration, would propose Palestine as the national home for Jewish people (Freeman-Maloy, 2017). Following the decree, a steady influx of Jews migrated to the British Mandate of Palestine escalating tension between Palestinian and Zionist movements (Gelvin, 2008). Before relinquishing control of the Palestine mandate, British in 1937 issued a report partitioning Palestine into three parts, which both the Arab and Zionist leadership rejected for various reasons (Gelvin, 2008). The British relinquished control over Palestine in February 1947, a newly formed UN adopted Resolution 181 in November 1947. In December 1947, the war between native Palestinians and Zionists began (Gelvin, 2008). The outcome of the war resulted in Jews acquiring 80% of the mandate as the newly formed State of Israel with the rest of the territory under the control of Jordan and Egypt (Gelvin, 2008; Shlaim, 1995). The UN Partition Plan of 1947 that carved out territory for two separate independent states for Jewish and Palestinian national aspirations would be the basis of peace agreements for the next seven decades (Shlaim, 1995). These are the origins and start of the two-state solution and its legal and political application in negotiations and policies on the national and international levels. The two-state paradigm appears in UN Resolution 242 in response to the outcome of the Six-Day War, 1973 Resolution 338, 1978 Camp David Accords, 1993 Oslo Accords I, 1995 Oslo Accords II, 2002 Saudi Peace Plan, and 2003 the Quartet Group's Roadmap for Peace (Carter, 2006). Established in these agreements are plans for a future Palestinian state in the Gaza Strip and West Bank with the withdrawal of Israeli administration and forces from these regions. Decades of failed peace negotiations based on the two-state solution have led to the reemergence of the one-state solution

in both academic, political, and activist discourses (Abdulla, 2016; Abunimah, 2006; Barghouti, 2011; Isaac, 2017).

<p style="text-align:center;">*One-State Solution*</p>

Despite the one-state's revival, the idea was developed during the British Mandate by Jewish and Palestinians intellectuals (Ghanem, 2009). Both the first Zionist thinkers and Palestinian Arabs knew early on of the irreconcilability of the Zionist and Palestinian narratives (Said, 1999). Efforts to implement a state with Jewish-Arab collaboration before the creation of the State of Israel (Hermann, 2005). In 1925, a small Jewish minority rejected Zionist colonization and domination over Palestinians and created a group called Brit Shalom (Covenant of Peace) in hopes of establishing Jewish-Arab understanding and cooperation (Hermann, 2005). A decade after Brit Shalom's dissolution, Martin Buber and Judah Magnes operated Ihud (Union) from the early 1940s to the mid-1960s, which pushed for a one-state solution (Hermann, 2005). During the early years, a clear majority of Palestinians rejected the concept of binationalism and those who cooperated where assassinated (Hermann, 2005; Karmi, 2011). Other well-known advocates of the one-state solution included Hannah Arendt and Edward Said (Said, 1999). The Palestinian Liberation Organization (PLO) also adopted this paradigm in 1968 before abandoning it in 1974 (Ghanim, 2016). While these efforts considered the protection and rights of the other, they often prioritized their own national identity over the other (Farsakh, 2011).

There are variations of the one-state solution, which are often used interchangeably and confused. These include the binational model or the secular democratic model (Karmi, 2011). The binational model consists of two groups remaining ethnically separate but sharing the country (Karmi, 2011). A binational state would preserve the religious and ethnic identity of the two communities by allowing autonomy of each group concerning language, education, religion, and

culture through the establishment of administrative bodies to govern communal affairs (Karmi, 2011). Joint governing bodies and institutions with equal representation would deal with national issues such as defense, national policy, and economy (Karmi, 2011). One model proposed could emulate the US or the Flemish and French-speaking communities of Belgium, consisting of localities, federation, or states linked to central government and common capital (Karmi, 2011). This solution appeases those who are adamant about preserving Zionist-Jewish and Palestinian identities.

The secular democratic state emphasizes the individual as opposed to the community and establishes itself on the one-person, one-vote philosophy of individual citizenship and equal rights irrespective of race, religion, or gender (Karmi, 2011). Some envision a state established by the international community, which would ultimately separate religion and state, ban religious parties, and provide secular education (Karmi, 2011). The official languages would be Arabic, Hebrew, and English (Karmi, 2011). This state, conceptualized by Yoram Avnak, would cancel the Israeli law of return and allow a restricted right to return for Palestinians to maintain a demographic balance between the two of 45% each (Karmi, 2011). Each side would be given 45% representation in state parliament with 10% for others (Karmi, 2011). To that end, the Old City of Jerusalem would be like the Vatican as a separate entity governed by Christians, Muslims, and Jews from all over the world appointed by an intergovernmental organization such as the UN (Karmi, 2011).

Summary

Chapter two elaborates on the mostly legal and official parameters of the central concepts by offering their accepted definitions followed by their application to Israel-Palestine, and surrounding debates. Through surveying official and documents pertaining to military occupation,

apartheid, the two-state solution, and the one-state solution, I established the foundation of this research which will later be used to determine whether Israeli practices surmount to the level of apartheid and the implications and conditions requiring territorial unification in Palestine-Israel. From the literature, reoccurring associations between the type of conflict and their seemingly concomitant state solution appear to form a pattern which will later be organized into separate dichotomous frameworks for examining Israel's behavior. I found that the law of military occupation and the two-state strategy are routinely correlated as a distinct analytical framework dominate in diplomatic and legal discourse. Besides it being the academic norm to describe the issue as a military conflict, its use in international treaties, resolutions, declarations, and negotiations also exemplifies the dominance of the occupation-two-state perspective which both Palestinian and Israeli officials and multinational institutions advance. While arguments continue to evolve concerning the question of occupation, the occupation legality and its fait accompli permanency, settlement expansions, Israeli Jewish only by-pass routes, the dual legal and penal system in the West Bank, punitive Palestinian home demolition, targeted and extrajudicial killings, administrative detention, Jerusalem's status, as well as other issues are increasingly being challenged and protested against. The conditions of Palestinians in Israel or the diaspora, the Israeli settlers living in the West Bank, 1967 Green Line boundaries, and whether Palestinians would control resources and borders are a few topics that the occupation-two-state model fails to resolve.

The apartheid and one-state solution model, which is ardently controversial and less accepted, has emerged recently in mainstream discourse given the mounting frustration of impacted individuals, activists, and political figures looking for alternatives to end the conflict. Advocates of this perspective typically use it as a strategy mirroring the anti-apartheid South

African struggle to pursue Palestinian self-determination and equality. This perspective is used to illustrate and end policies of discrimination, subjugation, and domination Palestinians and non-Jews experience. Those who support this frame often perceive the inevitability regarding Israel's increasing control over both the West Bank and Israel major through settlement expansions into the West Bank and further fragmentation of Palestinian territory and political autonomy. Within this narrative, unification of the OPTS and Israel proper with equal rights and citizenship for Israeli Jews and Palestinians is the less costly and more probable solution for the current situation. As such, the concepts of apartheid and the one-state solution are typically articulated together, but often missing is the evaluation of settler-colonialism and ethno-religious ideologies. Both Israelis and Palestinians in political, academic, and ideological settings have long used the apartheid label to describe Israel, which is a major tool for international solidarity movements to push for equality and social justice of Palestinians by disrupting and intervening the hegemonic Zionist narrative. The shortcomings of this approach include its disputed legal definition, which is to be held accountable, and the lack of agreement as to how to end it. While this approach has its shortcomings, it is much more comprehensive, systematic, and expansive in contextualizing current issues relative to historical processes and forgoing developments. Critically contextualizing and evaluating the claims that Israel practices apartheid and the demands for a one-state solution with prevailing on ground reports and to new conceptual and theoretical work surrounding Israel-Palestine will establish a contemporary understanding of apartheid and its consequences by overcoming the conflict's stagnation. Another realization, through surveying and analyzing the legal texts concerning the conflict is the issue of colonialism. The language of colonialism is evident in discussions analyzing the military occupation of the West Bank as evident in the Special Rapporteurs by Richard Falk and John Dugard. How then does colonialism

correlate with the frameworks of occupation/two-state and apartheid/one-state? Is the conflict on-going colonialism, military occupation, apartheid, or all of the above? How does colonialism affect the type of state solution if it is practiced in the region?

3. Between Colonization and Apartheid

Research Question

The lexicon of colonialism appears repeatedly throughout contemporary legal analysis of apartheid regarding Palestine/Israel. The concept is becoming increasingly prevalent in evaluating the appropriate paradigm to address the structural and institutional problems of today. Activists and academics utilize colonialism as an explanatory and critical framework understand and challenge the ideological, ethnic/racial, economic, and political foundations of both the Zionist and Palestinian movements (Salamanca, Qato, Rabie, and Samour, 2012). Colonialism as a paradigm first appeared in the 1937 work of Palestinian trade unionist, George Mansour's *The Arab worker under the Palestine Mandate*, which consequentialized imperial Britain's ushering of a Zionist enterprise in Palestine and its impact on the indigenous Palestinian population (Salamanca et al., 2012). In the mid-1960s, academics using the analytic framework of colonialism had grown substantially in assessing the connection between Zionism and the establishment of Israel with Palestinian nationalism (Clarno, 2009). The analytical framework would also begin to appear in the following decade in comparative studies of Israel and apartheid South Africa by critical scholars to highlight and challenge racist structures (Clarno, 2009). Despite its disuse in the 80s and 90s, revitalization in comparative settler-colonial studies in recent years brought its reemergence in Palestine studies in context to prevailing domestic social, economic, and political issues (Clarno, 2009). Settler-colonial analysis is used as a socio-political tool to garner international solidarity but also to connect and understand past and ongoing practices of land appropriation, dispossession, and erasure of Palestinians (Salamanca et al., 2012). Although scholars have long described the relationship between Zionists and Palestinians as settler-indigenous or colonizer-colonized, only lately has it emerged extensively in legal and

official discourse (Dugard, 2007; Falk, 2014; Falk & Tilley, 2017; Hadawi & Lehn, 1977; Shafir, 1996; Weinstock, 1973).

As seen in the previous chapter, the language of colonialism appears in legal discussions of both belligerent occupation and apartheid (Ben-Naftali and Reznik, 2015; Benvenisti, 2012; Dugard, 2007; Falk, 2014; Falk & Tilley, 2017). Special Rapporteurs John Dugard in 2007 and Richard Falk in 2014 utilize the language of colonialism in the UN reports concerning the human rights situation in the OPT. Both Rapporteurs describe the occupation as portraying qualities of colonization and apartheid in accordance to the DGICCP and Apartheid Convention (Dugard, 2007; Falk, 2014). While the UNGA adopted the UN Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960, it does not explicitly stipulate whether it covers settler-colonialism. Some argue that the use of international humanitarian law (armed conflict and belligerent occupation) as the dominant paradigm to resolve the Israeli-Palestinian conflict forecloses on resolving entrenched structural problems of colonization, but also is the source of these problems in itself (Abdulla, 2016; Dugard, 2015; Reynolds, 2015). It fails to meet the demands of issues concerning internally and externally displaced and expelled Palestinians in the region. Legal scholar John Reynolds suggests utilizing alternative legal frameworks of colonization and apartheid, but to also consider the importance "…not to fetishize legality to the extent that false delusions of law's grandeur and centrality to the national liberation are created or perpetuated" (2015, p. 10). For these reasons, colonialism specifically settler-colonialism will be an integral part of the analysis in assessing the question of Israeli apartheid in context to South African apartheid and the applicability of the one-state solution.

While the more articulated argument is that extreme segregation and discrimination reaches the level of apartheid within only the OPT, there are claims that these practices extend to

Palestinian-Israeli citizens living in Israel proper and the Palestinian diaspora outside as well. Although Palestinian-Israelis can vote, utilize the same public facilities, hold official positions, and start their own political parties, domestic and international human rights groups have documented and reported violations of civil and political rights of Palestinians (Pogrund, 2017; Yiftachel, 2005). Violations include the detention of leaders of political organizations, arrests for social media posts, administrative detentions, citizenship revocations, punitive home demolitions, deportations, unequal allocation of state funding to non-Jewish schools, and freedom of speech restrictions (Adalah, 2017; B'tselem, 2016). Given the uncertainty, I postulate that Israel's behavior towards non-Jewish Israelis amounts to extreme levels of segregation and discrimination for the crime of apartheid. This element is vital in determining whether Israel imposes a regime of apartheid towards *all* Palestinians because it challenges directly critics of the label who point to the governing mechanisms of democracy to support their claims. Utilizing the occupation framework undercuts and forgoes issues concerning Palestinians in Israel and the diaspora and absolves Israel of accountability for previous and ongoing acts. In determining the adequate solution, I further argue the necessity to consider the treatment of Palestinians as a whole, despite their geographical location because of the grievances and subjugation propelled by ongoing present-day settler colonization, which continues to deteriorate Palestinian heritage and territorial aspirations. Applying the two-state resolution permanently fragments and factionalizes Palestinians, but would not address structural inequalities, power asymmetries, and intergenerational animosity and distrust between Palestinians and Israelis but also Palestinian attitudes towards the international regime. Utilizing a strategy of integration by allowing Palestinians and Israelis equal rights to the self-determination, citizenship, and the right of return would decrease the power asymmetry and disparity between them. This situation should not be

understood as a conflict between two national struggles, but as settler-colonialism as the majority of Jews in 1882 migrated from all over to Palestine to establish a state while Palestinian Christians, Jews, Muslims, and Druses have coexisted for centuries under Ottoman rule. Therefore, Israel's actions since and within its 1948 territorial boundaries are further conclusive of heightening settler-colonization in the land with apartheid being its contemporary legal manifestation towards the territorially fragmented and displaced Palestinians as a whole. Foremost, settler-colonialism as an all-inclusive, structural, and historical process incorporates the contemporary legal concepts of occupation and apartheid used to understand the conflict. With this considered, the apartheid and one-state paradigm requires an evaluation of Israel's ideological foundations and evolution to understand the extent it has shaped current policy towards non-Jews. Analyzing its historical ideological and political motivations is crucial in shedding light on its treatment and practices towards Palestinians in Israel proper, the OPT, and the diaspora for determining whether its practices impose an apartheid regime. If Israel imposes a regime of apartheid, then the two-state solution is inadequate given that it treats both parties on equal footing with equal bargaining power and will not resolve the massive inequality and oppression of Palestinians that is required for Israel's behavior to reach the level of the crime of apartheid. Therefore, the one-state solution is a more feasible solution because it addresses the historical power asymmetries that result from the colonizer-colonized relationship. An effective state-solution is a just and fair solution which addresses intergenerational trauma and violence by unifying and treating the Palestinians as a whole and allowing Palestinians in the OPT and diaspora access to their ancestral land just as Jews in Israel and the diaspora have the right to return.

Research Plan

In determining whether Israel's behavior falls under Article 2 of the International Convention on the Suppression and Punishment of the Crime of Apartheid, the case of apartheid in South Africa will be a guide and reference in evaluating the severity of Israel's actions. South Africa's practices will serve as examples of the level of discrimination and segregation that rises to apartheid under the Apartheid Convention since it is the only case of apartheid in modern history. Given that no two cases are the identical, Israel and apartheid South Africa will undoubtedly have their differences. Those who argue that Israel does not practice apartheid cite to these differences to support their claim. The central assertions include that Israeli-Jews are the majority unlike the white South Africans; that Palestinians in Israel participate in the political process and are provided the same public facilities and services; that Israel is not sovereign in the OPTs since Fatah in the West Bank and Hamas in Gaza are the elected Palestinian representatives of those areas; and that the Israeli economy is not dependent on Palestinian labor. This qualitative comparative study goes beyond the typical legal framework to analyze additionally the historical, ideological, legal, political and economic factors between Israel and apartheid South Africa to determine whether Israel employs an apartheid regime and assess the two-state solution.

Although substantial conceptual overlap exists between settler-colonialism and apartheid, there are other reasons for comparing Israel to South Africa besides their treatment of the indigenous populations including the formation of their ideological movements, and their deep and historical alliances with each other and with the West. There are more historical, legal, and ideological similarities between South Africa and Israel than any other settler-colonial state. Although the experience of settler-colonialism is not limited to European or white colonization, Australia, US, and Canada are generally cited in comparative settler-colonial studies (Busbridge,

2018). While these states, including South Africa, were colonized and settled mostly around the thirteenth century onwards by various Europeans such as the Dutch, Portuguese, Spanish, British, and French, indigenous populations inhabited these territories for millennia. The outlining colonial states of Australia, US, Canada, and South Africa are all connected by their experiences as former British colonies under British imperial rule ranging from the eighteenth to twentieth century. Dominating and outliving other European imperial powers, Britain was one of the last to end its subjugation and exploitation of territories and their populations. The United States won its independence from British imperial rule in 1780 which was much earlier than other British colonies who gained independence in the mid-twentieth century. Eventually, those English settlers would extinguish and liberate themselves from British imperial rule in the US, Canada, Australia, and New Zealand. South Africa is unlike these countries for English settlers were not ascendants of the political, legal, and administrative apparatus after the period of British imperialism, the Dutch were. In 1948, Dutch descendants finally gained control of the South African government after their limited incorporation into the British dominated legal and political system. The British unified regionally, politically, and economically the various regions held by the English and Afrikaners (Terreblanche, 2002). Accordingly, the event's significance is as a point of comparison with the Zionist movement by one scholar who notes that "the conceding of independence by Britain to the white minority in South Africa in 1910 is comparable to the 1947 partition deal that paved the way for the handing over of power in Palestine to the Jewish minority (Kasrils, 2015, p. 26).

While theoretically apartheid can exist without colonization, assessing apartheid in the current case as the legal and modern manifestation of settler-colonialism is crucial for understanding past and ongoing barriers to a viable solution. Comparing Afrikaner and Zionist

ideology and its use of ethno-religious beliefs to justify settler-colonialism and its later legal manifestations of apartheid minimize the differences by contextualizing both cases within a broader picture. This research will examine the inner discourse, self-perception, and practices of the ideologues to critically engage and challenge the charges against Israel for practicing settler colonial strategies such as ethnic cleansing, territorial expropriation, exploitation, and racial discrimination. Renowned Afrikaner historian Dan O'Meara discusses the importance of utilizing Afrikaner internal discourse to challenge widely held ideological assumptions which would apply to evaluating the Zionist movement as follows:

Many non-Afrikaner historians have failed to read, or at least take seriously, what Afrikaners write about themselves how—how Afrikaner ideologues and commentators have sought to interpret the world for the *volk*—relying instead on the hackneyed interpretations of the political opponents of Afrikaner Nationalism. Ironically, this has produced a mirror image of its ideological assumptions. Almost without exception, studies of Afrikaner Nationalism have accepted the conceptual apparatus and social categories inherent in Afrikaner Nationalist ideology: they have failed to query the ideological premise that ethnic/racial/cultural categories constitute the natural and sole units of social action in South Africa, where social classes 'are not meaningful social realities'. Explanation remains rooted in ideas and ideology, themselves aspects of social action but hardly its explanation. By taking as given precisely that which requires explanation, the primacy of ethnic/racial/cultural categories, Afrikaner Nationalism is presented as a monolithic political, social and ideological phenomenon, and is explained in a highly circular fashion either as the product of culture itself, or as the collective psychology of a culturally pre-defined group, 'Afrikanerdom'. I know of no attempt to explore the

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generation, development and acquisition of the cultural values of Afrikaner Nationalism,

nor the interaction between ideologues and masses in the process of ideological

production, which does not assume some kind of relatively static collective 'culture' or

'civil religion'. These critical questions cannot be merely taken as given or self-

explanatory. This is no merecarping. If these questions are explored, Afrikaner

Nationalism soon ceases to be a monolithic response by an undifferentiated

'Afrikanerdom'. Rather it emerges as the historically specific, often surprisingly flexible,

reaction of particular class forces to the pressures of capitalist development. Through the

location of Afrikaans-speakers in the material world of the South African social formation

in all its historical phases of development, different patterns of relation to the means of

production are immediately apparent. The exploration of their effects illuminates the

gradual development, and careful cultivation by specific groups, of an ideological and

political matrix which could apparently articulate and co-ordinate their varying responses

to the pressures of capitalist development. (1977, p. 157)

It's common practice for scholars and academics to examine Zionism without critically assessing

and questioning the ideological premises just as non-Afrikaners scholars had in studying

Afrikaner ideology. The problem in the current case is collapsing the history and experience of

Judaism with Zionism as one in the same which are the consequences of treating ideological ideas

and identities as monolithic and static when they are actually socially constructed contingent on

historical developments and economic conditions. The following chapter analyzes Israeli

practices of de jure segregation and discrimination as apartheid first by providing a historical

analysis of the ideological foundations and practices of both Afrikaner and Zionist movements

following an analysis of the socio-political and legal structures and major events since 1948 to the

present.

4. Republiek van Zuid-Afrika and Eretz Yisrael

There are many commonalities between the modernization and state creation of South Africa as that of Israel. These include their colonial histories, the emergence of ethnoreligious movements, and indigenous and international resistance. The first section analyzes the general concept of settler-colonialism, the debates surrounding the concept, and its applicability to Israel and South Africa. Afterward, the historical evolution of discrimination and segregation in South Africa will be examined with a focus on Afrikaner ethnoreligious mobilization, economy, and contemporary legal system. The following segment concerning Israel and the Zionist movements will proceed similarly by evaluating the ethnoreligious tenets, settler-colonial economy or racial capitalism, and then the evolution of the contemporary legal system. Afterward, a few legal developments and political events under various elements of apartheid will be compared. South Africa is an adept comparison to Israel because of the history of ethnoreligious ideological and socioeconomic mobilization and consolidation, and the extensiveness of contemporary legal-political separatism and discriminatory structures. This section seeks to examine comparatively the relationships in South Africa and Israel between land, racism, colonization, capitalism, and the modern state's legal modus operandi to address the constraints and limitations of a practical solution for Israel-Palestine. Identifying and elaborating the relationship of these concepts help determine the factors and conditions driving them, which are essential for evaluating and applying the adequate political, territorial solution. It is also essential in understanding how settler-colonialism has shaped the establishment of their respective modern nation-states of South Africa and Israel into regimes of apartheid.

Colonialism of Special Types

While colonialism and settler settler-colonialism in contemporary colonial studies are closely and often associated with the central conditions of native displacement and domination, they are foundationally different (Veracini, 2011). Colonialism is defined as exogenous domination by a foreign people over an indigenous population by permanently exploiting their labor for the benefit of the metropole or parent country (Elkins and Pederson, 2005; Veracini, 2011; Wolfe, 2006). Settler-colonialism, on the other hand, is defined as endogenous domination by a foreign people seeking to permanently reside in a territory by eliminating the native and emancipating themselves from the metropole (Veracini, 2011; Wolfe, 2006). Settler-colonial scholar, Patrick Wolfe's seminal work *Settler Colonialism and the Elimination of the Native*, stipulates the conditions and consequences of settler-colonialism regarding what he calls "the logic of elimination" of the native population for complete territorial acquisition, which is unlike genocide given the difference in motivation and process (2006). The primary motivation of settler-colonialism for removing the indigenous population is not race, which is socially constructed and determined in its targeting, but the acquisition of territory (Wolfe, 2006). As a result, as Wolfe posits "territoriality is settler-colonialism specific, irreducible element" and that for the natives "where they are *is* who they are" (2006, p. 388). The distinction between exploitation of colonization and elimination of settler-colonization establishes different operational conditions and relational systems between colonizer or settler-colonizer and native (Veracini, 2011). The colonial system operates by reinforcing the connection of colony and metropole and by sustaining the permanent subjugation of the indigenous forever suspending their equality and freedom (Veracini, 2011). The settler-colonial system, contrasting colonialization's need to recreate itself constantly, diminishes its association to the metropole and is characterized

by temporality of having a definite end (Veracini, 2011). Stated differently, settler-colonialism is constantly motivated "to ultimately supersede the conditions of its operation... [It] justifies its operation on the basis of the expectation of its future demise" (Veracini, 2011, p. 3). As Wolfe notably asserts, settler colonial "invasion is a structure, not an event…[which] destroys to replace…elimination is an organizing principle of settler-colonial society rather than a one-off (and superseded) occurrence" (2006, p. 388). As follows, successful settler-colonial societies are formulated to repress and extinguish native societies continuously through time until they completely replace the natives and claim indignity (Veracini, 2011). For this reason, Wolfe argues that "settler-colonialism is relatively impervious to regime change," with settler-colonial societies being driven by zero-sum logic to secure the territory, eliminate colonized alternatives, and claim indigene (2006, p. 402). Notwithstanding these differences between the two phenomena, Black South Africans have articulated the regime of apartheid South Africa as one of internal colonization given the Afrikaners presence in the same territory as those they oppressed.

There is a reemerging trend in radical and Marxist discourse in assessing the intersections of racial domination, colonialism, and capitalism in pre- and post-apartheid South Africa as a regime of "racial capitalism" (Clarno, 2017, p. 8). Professor Andy Clarno conceptualizes racial capitalism as a mode of settler-colonial economic development where capital accumulation and racialization occur as "mutually constitutive processes" which merge in "dynamic, context-specific formations" (2017, p. 9). Cedric Robinson, the originators of racial capitalism, observed that "the development, organization, and expansion of capitalist society pursed essentially racial directions.... [as did] social ideology. As a material force…racialism would inevitably permeate the social structures emergent from capitalism" (as cited in Melamed, 2015, p. 76). Capital accumulation can only be realized through producing and moving through relations of stark

inequalities among people which necessitate "loss, disposability, and the unequal differentiation of human value" (Melamed, 2015, p. 77). Accordingly, then, racism preserves "…the inequalities that capitalism requires... it does this by displacing the uneven life changes that are inescapably part of capitalist social relations onto fictions of differing human capacities, historically race" (Melamed, 2015, p. 77). The central features of white supremacist capitalist development which include genocide, slavery, colonialism, confinement regimes, migrant exploitation, and modern racial conflict are often associated with racial capitalism (Melamed, 2015). The study of racial capitalism highlights colonial conquests, imperial domination, and coercive labor regimes that are pivotal to capital accumulation and the creation of racialized social structures (Clarno, 2017, p. 9). Despite disputes on whether racism came before or materialized in conjunction with the capitalist global economy, "capitalism consistently operates through racial projects that assign differential value to human life and labor" (Clarno, 2017, p. 9). According to Clarno then, "racism cannot be reduced to an effect of capitalism; rather, processes of racial formation are relatively autonomous from and constitutive of capital accumulation" (2017, p. 9). The settler-colonial state facilitates and entrenches racial capitalism by simultaneously dispossessing natives and accumulating wealth and land as a strategy (Terreblanche, 2002). Dispossessing individuals of their resources and land is not merely capitalism's predecessor, but a strategy of consistent, regular capital accumulation (Clarno, 2017).

Consequently, dispossession functions as a settler-colonial strategy but also as a process of racializing capital accumulation with integral features including violent forms of exploitation such as slavery, sharecropping, indentured servitude, debt peonage, convict labor, and sweatshops (Clarno, 2017, p. 9). The strategy for deriving capital by exploiting ethnically devalued indigenous groups frequently involve exclusionary efforts by colonizers to reserve jobs or space

for a privileged group. Several scholars have observed shifting interconnections between dispossession and exploitation where dispossession directly leads to exploitation, while also leading to abandonment, expulsion, or genocide (Clarno, 2017, p. 9-10). Unlike Veracini and Wolfe, Clarno does not treat the relationship between dispossession and exploitation as mutually exclusive or strictly rigid when distinguishing between settler-colonialism and other colonial forms (2017). Analyzing colonialism in such a manner highlights the fluid and complex interlocking structures of the settler-colonial states in utilizing different strategies of exploitation or elimination during different periods to meet various needs (Clarno, 2017). In his analytical framework, the author rejects the notion of constant and stable relationships between race and class or dispossession and exploitation, to capture the dynamic complexities of racial and capitalist projects that many settler-colonial scholars fail to address (Clarno, 2017).

In 1962 South African Communist Party (SACP) defined the situation of South Africa as 'Colonialism of a Special Type' (CST) which helped formulate the strategies and tactics of the national liberation movement for various resistance groups (Kasrils, 2015). According to this understanding CST:

> The conceding of independence to South Africa by Britain in 1910 was not a victory over the forces of colonialism and imperialism. It was designed in the interests of imperialism. Power was not transferred into the hands of the masses of people of South Africa, but into the hands of the White minority alone. The evils of colonialism, insofar as the Non-White majority are concerned, were perpetuated and reinforced. A new type of colonialism was developed, in which the oppressing White nation occupied the same territory as the oppressed people themselves and lived side by side with them.

On one level, that of 'White South Africa', there are all the features of an advanced

capitalist state in its final stage of imperialism… But on another level, that of 'Non-White

South Africa,' there are all the features of a colony. The indigenous population is

subjected to extreme national oppression, poverty and exploitation, lack of all democratic

rights and political domination…Typical too of imperialist rule is the reliance by the state

upon brute force and terror… Non-White South Africa is the colony of White South

Africa itself.

It is this combination of the worst features both of imperialism and colonialism, within a

single national front, which determines the special character of the South African system...

(SACP as cited in Kasrils, 2015, p. 26).

SACP's version of settler-colonialism diverges from the widely cited conceptions elaborated by

Veracini and Wolfe that centers on the elimination of the native, which is why it is considered

'colonialism of a special type.' It is considered internal colonialism, or settler-colonialism, given

Dutch's emancipation from its parent country but is different for it absorbs the exploitative labor

structures of British colonialism and imperialism to dominate natives by monopolizing control

over the land. The colonization of Palestine is identified as internal colonialism, or settler-

colonialism, because the Jewish diaspora with no parent country migrated to and conquered

Mandate Palestine from British colonial rule, and then absorbed antiquated land laws to dominate

the natives. Both ideologies of Zionism and Afrikanerdom are a means to an end in mobilizing

ethnic power through utilizing racist and religious considerations to gain political and economic

power by continuing the subjugation of indigenous people after taking control and incorporating

methods from the British (Clarno, 2017; Pappé, 2015; Terreblanche, 2002). Their goals are

similar (exclusive ethnoreligious political and economic domination), but the means and overarching structures are slightly different despite land being central in the process (native elimination or labor exploitation) (Clarno, 2017; Pappé, 2015; Terreblanche, 2002). Appropriately, the cases of South Africa and Israel are similarly structured and centered on internal domination, territoriality, displacement, and racial classification, but embody varying native experiences and timeframes.

Land is central to the settler-colonial enterprise, which forcible native population and elimination, and apartheid stem (Reynolds, 2015; Wolfe, 2006). The articulation of settler-colonialism used in this research is a minimal one advanced by Clarno as a process "marked by ongoing efforts to displace local populations and expropriate their land in order to establish or expand a society dominated by settlers… [which] at its core... are land, race, and the state…[T]he process of establishing control over land [is] through displacement, expropriation, and settlement" (2017, p. 5). While the settler-colonial experience is different in South Africa concerning the exploitation of cheap African labor, the growing demand for labor does not minimize the demand for land which was necessary to proletarianize Africans and people of color to exploit their labor (Clarno, 2017). At times the English and Dutch establishment shifted their use of dispossession and expulsion to reshape African labor to meet the fluctuating demands of mining and agriculture industries according to the changing market. This fluidity is also apparent within the history of Israel-Palestine where at times, the Zionist establishment benefited from the exploitation of Palestinian labor while at other dispossession and expulsion through appropriating and controlling land was the dominant policy (Hever, 2012; Lockman, 2012). Addressing the different aims and strategies settler-colonial projects absolves the rigid boundaries between exploitation and dispossession to explain best the racialized features of these regions and why they continue to

permeate even after the era of formal imperialism and colonialism. It also closes the gaps in understanding why land is instrumental in exploiting and dispossessing the natives for the benefit and domination of the settler to its transformation as apartheid. The analysis of Israel and South Africa then positions itself mostly after the period of British imperialism to assess settler-colonialism, racial capitalism, ehtnoreligious ideology, and the institutionalization of racial policies into the contemporary state.

Rise of Afrikaner Ideology and State

> *The origins of apartheid are linked to a dispute on who arrived where and when in South Africa. White mythology is that Europeans and Africans arrived roughly at the same time: this leads some whites to claim that territorial segregation, one of the main planks of latter-day apartheid, is justified. In reality, the Africans arrived in South Africa much earlier than the first Dutch settlers, who reached Cape Town in 1652. Radiocarbon dating, says the liberal historian T.R.H. Davenport, 'has produced evidence of negroid iron age settlement in the trans-Vaal as early as the fifth century AD.'* (Omond, 1986, p. 12)

Racial discrimination and inequality in South Africa long preceded the period of apartheid starting 1948 with origins dating back to 1652 Dutch colonization of Cape Good Hope (Clark and Worger, 2016). Discrimination prevailed even after the abolition of slavery in the 1830s in various ways as the expansion of European settlement, the conquering of indigenous groups by the British government, and the "civilising mission" of white rulers (Clark and Worger, 2016, p. 3). Distinguished Afrikaner historian Professor Sampie Terreblanche focuses on the economic history and chronologizes systemic periods in South Africa (2002). It proceeds first with the period of Dutch colonialism (1652-1975) that institutionalized mercantilist and feudal systems;

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following racial capitalism as established by British colonialism and imperialism (1795-1910); then the periods of segregation and apartheid (1948-1994) as practiced during the rise of Afrikaner movement and its political and economic hegemony (Terreblanche, 2002). When considering the 350 years of group conflict and the war in South Africa, reemerging patterns appear which contextualize CST as internal colonization and racial capitalism. The patterns that evolved is foremost one of victorious European colonial masters and defeated indigenous populations during the extended period of European colonialism and imperialism (Terreblanche, 2002). Another closely related pattern is the enrichment of local whites who are the descendants of the European colonizers at the expense and cost of the native population by instituting racial capitalism (Terreblanche, 2002). Three methods mostly upheld these patterns. The first was by creating and securing asymmetrical economic and political power structures; second, by denying land, water, and cattle to indigenous groups; and third, by reducing native people and slaves to various types of exploitable and unfree labor (Terreblanche, 2002).

South Africa experienced an economic and political revolution from 1890 to 1924, which was not only a time for state-formation but the consolidation of white domination on the bequest of foreign-owned mining corporations that constructed white supremacy's institutional and physical infrastructure (Terreblanche, 2002, p. 239). The facilitation of the mining and agricultural revolutions and establishment of racial capitalism was ushered in by the active role of the state which was influenced heavily by the mining corporations and well-organized Afrikaner agricultural sector (Terreblanche, 2002). It succeeded in formulating "a racially based socio-economic and labour structures aimed at supplying foreign corporations and white farmers with a cheap and docile labour force" (Terreblanche, 2002, p. 239). The industrial revolution established many typical discriminatory features of the 20th century, but specifically in South Africa these

features included pass laws, urban ghettos, impoverished rural homelands, African migrant labor (Clark and Worger, 2016). For instance, with the discovery of diamonds and gold, mining industries needing cheap labor pushed the British in the 1870s and 1880s to conquer independent African territories, confiscate their lands, and impose harsh taxation to limit their bargaining power as to ensure that they put up with severe work conditions (Clark and Worger, 2016). The mining revolution that initiated economic modernization caused dynamic structural changes including the proletarianization of a large portion of the white population forcing them to compete with black wage-earning proletariat for jobs (Terreblanche, 2002). Given that the white-controlled South African Parliament represented free white wage-earning class rights, laws were enacted to subjugate Black Africans as a subservient labor force (Terreblanche, 2002, p. 10).

For South Africa, the ideology of apartheid would never have gained political influence if it were not for the social cleavages and animosities between the British and Dutch that developed through the war periods as well as the institutionalization of racial capitalism (Dubow, 1992; O'Meara, 1996). The Anglo-Boer War of 1899-1902 between the Afrikaner republics and the British government is cited to be the provocation of the Afrikaner movement (Dubow, 1992). Political competition between British and Afrikaners would continue even after the Anglo-Boer War, despite this extension of "friendship" and the British Parliament's consolidation of South Africa into one state in passing the 1910 Act of Union (Marx, 1998; Terreblanche, 2002). Given the unification, defeated Afrikaner military leader, Louis Botha, was elected as prime minister of South Africa in 1910 (Marx, 1998, p. 97). It is also cited that Africans improved the socio-economic position for a short decade after the war was to the detriment of the Afrikaner proletariat (Terreblanche, 2002). British understood their only challenge to sociopolitical stabilization – crucial for the mining industry – was the Afrikaners who owned large plots of land

(Terreblanche, 2002). Siding with the Afrikaners would serve British interests more than aligning with Black African tribes despite being successful in co-opting Black African chiefs to collaborate with them (Terreblanche, 2002). An alliance between the Afrikaner state and British capital forged securing the interests of the British government, British mining corporations, and Afrikaner bourgeoisie that would institutionalize a system of white political and economic dominance and racial segregation of Africans (Terreblanche, 2002).

The reconciliation of the British and Afrikaners was a devastating shock to the African majority, colored, and Asian populations who were promised long-advocated reforms (Marx, 1998). The British compromised its agreement to the Africans as concessions to the Afrikaners which revealed that the British rhetoric of fighting the war on behalf of coloreds and Africans was only a pretense (Marx, 1998). Britain relied heavily on African scouts, laborers, and servants during the war to defeat the Boers, or Dutch settler farmers (Marx, 1998). Africans supported the British believing that they would give Africans their liberty and treat them as equals (Marx, 1998). Many Africans seized Afrikaner land and farms during the Boer War thinking that a British victory would give them access but instead, white commandos reclaimed these lands (Terreblanche, 2002). Shortly after unification, the issuance of the punitive and administrative measures of the 1913 Land Act and 1936 Natives Land and Trust Act eroded the economic independence and autonomy of African peasantry (Marais, 2001). After the state seized African land, it enacted the 1913 Land Act which prohibited Africans from acquiring land outside of "native reserves" which constituted 7.3 percent of South African land mass (Marais, 2001). The 1936 Natives Land and Trust Act doubled the size of these "native reserves" to meet the "minimum subsistence requirements" as one government later reported (Marais, 2001, p. 9). These "native reserves" were used to viciously marginalize Africans who were used as "reserve

armies" of labor but who also took on principal costs of reproducing that labor supply while being deprived of their means of production (land) through their physical fortification into these "reserves" that were located outside mining and industrial zones (Marais, 2001, p. 10). By denying access to types of healthcare, education, welfare, and recreational networks in urban centers, the pass law system which regulated labor flow into cities, "deflected the cost of reproducing labor to the periphery – thus laying the basis for a highly profitable cycle of capital accumulation… the native reserves [essentially] subsidized capitalist growth in South Africa (Marais, 2001, p. 10). Exploitation of a low-wage highly-controlled, expendable African labor force, which overwhelmingly were recruited from the entire subcontinent, would be the basis of capital accumulation (Marais, 2001). The exploitation of Black South African and migrant African labor is enforced through local, national, and interregional mechanisms that resituated and organized the workforce based on the evolving needs of foremost the mining industry and secondly the manufacture and agricultural sectors (Marais, 2001, Terreblanche, 2002).

The accrual of varying colonial experiences and the differing economic impacts of the Boer War on Afrikaner populations left them culturally, economically, and politically divided during the 1910 South African unification of Britain, Dutch, and African controlled territories (O'Meara, 1977). The Afrikaner experience in the Cape is different than for those living in the Transvaal and the Free State which during the early 20th century reflects class cleavages between Afrikaners and inter fractionalization after the 1910 unification and the need to politically and economically incorporate these various groups (O'Meara, 1977). Many Afrikaner proletariats felt wronged by the alliance between wealthy elite Afrikaners represented by Botha and British capitalists. During the years of 1910 to 1920s, Afrikaner ideologues succeeded in mobilizing fragmented Afrikaner society by overemphasizing "exploitation 'from above' by British

imperialism and foreign capitalism, and ... 'from below' of Afrikaner culture being swamped by 'uncivilized' African majority" (Terreblanche, 2002, p. 298). The anti-British sentiment apparent in historical Afrikaner literature reflects experiences of victimization regarding forced migration, known as the Great Trek of the 1830s, to avoid British policies emancipating slaves which was a significant economic loss considering the dependency of Dutch farmers who owned large plots of land (Clark and Worger, 2016). The migration to the border frontiers led them to clash with African leaders whom they thought were inferior and unworthy to rule the lands that the "settlers coveted for themselves" while also fighting wars against expanding British imperialism for the acquisition and control of the gold industry (Clark and Worger, 2016, p. 6). Afrikaners also experienced violent brutalization and repression by British forces every time their miner workers went on strike (Terreblanche, 2002). Additionally, immediately after the Boer War, the British outlawed the use of Dutch in both public schools and courts of law as a strategy to assimilate Afrikaners to British culture which failed and further antagonized Afrikaners (Clark and Worger, 2016). Afrikaner Christian nationalism then establishes Afrikaners as the beacons of Christianity and civility to the black "heathen nations" and the morally "dubious... materialistic and egotistic" English capitalists (Terreblanche, 2002, p. 299).

There are many parallels between British and Afrikaner racist ideologies given that Afrikaners envied and mimicked the English and incorporated preunification racial capitalist structures that were already in place before the growth of Afrikaner Christian nationalism of the 1940s (Terreblanche, 2002; O'Meara, 1977). Afrikaner ideologues sought to absorb and heighten measures of discrimination and segregation that English colonialism established in South Africa as they realized that these were the means to which the English maintained its hegemony and dominance over the rest (Terreblanche, 2002; O'Meara, 1977). British imperialism backed by

social Darwinism was used to embed racist policies which later heavily influenced and shaped

Afrikaner Christian ideology the 1920s and 1930s (Terreblanche, 2002). During colonial South

Africa, middle-class English-speakers and Afrikaners justified their unsympathetic attitude

towards both the poor Afrikaners and Black South Africans, based on religious, moral, and

biogenetic considerations (Terreblanche, 2002). For instance, the English and Afrikaners believed

that poverty was bestowed upon those who lacked morality, intellectual capacity, or physical

features and that God willed this hierarchical social order (Dubow, 1992; Terreblanche, 2002).

The exposure of German philosophy and Nazi propaganda to prominent Afrikaner ideologues

coupled with experiences of inferiority and insecurity of proletariat Afrikaners under English

controlled the ideologues to propagate and obfuscate a sense of Afrikaner victimization to garner

support from the proletariat but to also instill self-preservationist and anti-assimilationist notions

of the 'volk' (Dubow, 1992; Terreblanche, 2002).

After years of cultural, political, and economic suppression and exploitation by the

English preceding the 1910 unification, they finally incorporated Afrikaners into the political and

socioeconomic structures of South Africa to a limited extent which eventually led to their rise to

power (O'Meara, 1977). They faced limited employment opportunities given competition from

Black South African and migrant workers from surrounding countries but also were restricted to

lower levels of state bureaucracy even after Afrikaner political involvement (O'Meara, 1977). The

only avenues for expression and mobilization of Afrikaners, who felt culturally discriminated

against and economically deprived, were the church, literature, and low levels of government

administration (O'Meara, 1977). As a result, the Dutch Reformed Church (DRC) during the 19th

century played an essential role in the rise of Afrikanerdom and is cited as the link to apartheid's

origins (Dubow, 1992). Afrikaners were much more explicit than the British about being "a

divinely chosen people" and their superiority over the aborigine which continued long after these ideas became globally unfavorable amidst events surrounding WWII (Terreblanche, 2002). Accordingly, Afrikaners felt it was unfair that many of them were impoverished given they saw themselves as "divinely chosen people with the task – prescribed by Providence – of promoting Christian civilization and instilling high moral values into the members of all other population groups (including British)" (Terreblanche, 2002, p. 301). A sense of heavy paternalism underlined the beginnings of apartheid which positioned Afrikaners as protectors over inferior and "weaker" peoples, masking racial superiority as divine and virtuous right (Dubow, 1992, p. 224). Mobilizing ethnic and religious forces accompanied by scientific racism was a means to an end to retrieve political power and greater wealth by continuously subordinating allegedly inferior races "in order to create the 'space' for Afrikaners to attain their political and economic aims, and their promised land" (Terreblanche, 2002, p. 299). After decades of Afrikaner sectionalism, the Afrikaner exclusive National Party (NP), finally won the general elections in 1948 over the United Party (UP) whose supporters consisted of English-speakers, Afrikaners, and people of color in South Africa (Terreblanche, 2002). While the National Party was established in 1935 to uplift economically impoverished Afrikaners; 1948 would be a turning point for Afrikaners for it was the first time wealthy Transvaal farmers aligned with Afrikaner "petit bourgeoisie" and smaller farmers giving them greater access to higher levels of bureaucracy (Clark and Worger, 2016; O'Meara, 1996; Terreblanche, 2002, p. 300).

The unanticipated election of the National Party in 1948 did not fundamentally change the economy of racial capitalism that the English instituted but only heightened and modified it with new mobilized Afrikaner political and ideological power. The NP had a three-point agenda to carry out this new socio-economic order included freeing Afrikaners from "foreign capitalism" by

restructuring the economy; maintaining Afrikaner purity and defusing ethnic conflict by implementing the policy of apartheid; and imposing special comprehensive welfare programs for Afrikaner farmers and industrial workers (Terreblanche, 2002, p. 302). While NP failed to free the economy from foreign interests, they succeeded over the next four decades in uplifting Afrikaners by implementing apartheid policies which organized every facet of South African life around race until the 1980s (Clark and Worger, 2016). Throughout the years, the Afrikaner political hegemony implemented different laws in response to the growing, new challenges and contradictions which systematically separated the various ethnic groups and took away almost all of the opportunities and rights of nonwhites (Clark and Worger, 2016). Important to note is that representing apartheid as a "grand plan" or "single master plan," as Deborah Posel articulates, misconceptualizes and greatly exaggerates the political process and the "extent of the continuity, control, and long-term planning involved.'" (as cited in Terreblanche, 2002, p. 302). By the 1980s and nearing the end of apartheid, Africans "would no longer legally be considered citizens of that country but would be categorized as foreigners" under a police state where the legal system entrusted in the police as opposed to the courts immense surveillance and enforcement powers (Clark and Worger, 2016, p. 36-37). The state violently suppressed practically all African protests from the 1960s to the 1970s but eventually could no longer maintain its legitimacy despite sustaining political and economic power given the rise of opposition from liberation movements (Terreblanche, 2002). Even after the demise of the NP apartheid regime in 1994, patterns of self-replicating and continuously reproducing poverty traps and inequality are rampant, among other societal problems that imbue racialized features, in today's South Africa 24 years later (Terreblanche, 2002).

Rise of Zionist Ideology and State

> *Denying the humanity of the natives is the 'sine qua non' of settler-colonialism. Yet, an equally important aspect is the assertion of a special superiority over the native. The most pernicious claim to specialness is that one that invokes God. This invocation is the total and ultimate justification. People become agents of God's will; human acts are transmuted into a divine calling and responsibility is avoided. Actions and the consequences of those action become unquestionable and unassailable. This claim is the claim of Zionists and that of Afrikaner Nationalists: they claim to be the chosen peoples, the elect of God put in this world to fulfill a divine mission. These claims also have a virulent racist component.* (Moleah, 1981, p. 12).

The Arab-Israeli War of 1948 is a watershed moment in both mainstream Israeli and Palestinian narratives that often overshadows other important events of preceding and proceeding years. For instance, often overlooked are European colonial ideological influence on, and support of contemporary Jewish Zionism are cited as significant reasons Zionists were successful in establishing a state which would be an outpost in the Middle East for these colonial powers (Lockman, 2012; Massad, 2006). Years and events leading up to 1948 known to Palestinians as *Al Nakba* (the catastrophe) and to Israelis as the Year of Independence are crucial in understanding the current stagnation of the peace process and deteriorating conditions (Masalha, 1992; Wolfe, 2012). The racialization and unequal power dynamics between Palestinians and Israelis can be traced to the periods of Ottoman decline following the imperial British Mandate of Palestine. With the guidance of the British Empire, Zionist settlers were able to colonize the land and transform the agrarian economy into an exclusive racial capitalist economy. Modern Zionism is often depicted in traditional Israeli and US scholarship as a nationalist liberation movement given

its goals to establish an exclusive Jewish state, but in dominate Palestinian discourse as settler-colonialism for its exercise of elimination, exploitation, racial discrimination, and territorial expropriation and maximalism (Pappé, 2015; Rouhana, 2018). In present-day Israel, various groups of migrant Africans, Mizrahi (Eastern Jews), and Palestinians face major racial discrimination, inequality, and human rights abuses. Accordingly, Israel has the second-highest level of inequality, after the United States, relative to other advanced industrial countries and spends less on social safety nets than any other member of the Organization for Economic Cooperation and Development (Clarno, 2017, p. 39). This is apparent in the numbers measuring the inequality between Ashkenazi (Western) and Mizrahi Jews (Eastern) Jews, between Jewish and Palestinian citizens of Israel which is even more intense, and the inequality among Israeli settlers and Palestinians living in the West Bank, which are extreme. (Clarno, 2017, p. 39). Many scholars note that Zionism embodies elements of anti-Semitism, racism, and settler-colonialism that still permeate current Israeli society and politics (Makdisi, 2017; Massad, 2006; Wolfe, 2012). The first portion of this discourse and historical analysis lays out the ideological origins and foundations of modern political Zionism following the critical assessment of concepts underlying both its nationalist and settler-colonial characteristics. The second part of this section will delve into the mechanisms and tactics Zionists used to conquer Palestine.

Despite Zionism's heavy European colonial influences and strategies used to achieve its goals, some academics characterize it as a nationalist project than religious while others characterize it as a colonial project more so than national (Abdo & Yuval-Davis, 1995; Pappé, 2015; Wolfe, 2016). Zionist colonization and conquest of Palestine proceeded first economically and then militaristically by accumulating ideological legitimacy, power, and land (Said, 1972). The movement would slowly increase the numbers of forceful removals of the Palestinians over

the years. Zionism as a settler colonial movement operated throughout its history until today to "dispossess and then to exclude the Palestinians whenever possible from control over various resources" (Abdo & Yuval-Davis, 1995, p. 292). The success of the Zionist settler project in securing a Jewish state depended on the implementation of the doctrines of *Kibbush Ha'adamah* (conquest of land), *Kibbush Ha'avoda* (conquest of labor), and *Toztzeret Ha'aretz* (conquest of market) (Abdo & Yuval-Davis, 1995; Masalha, 1992). Despite the Zionist movement claiming to be representative of worldwide Jewry, it consisted mostly of Western and Eastern European Jews who before 1948 would constitute as the majority of settlers in Palestine and would continue to control even after considerable demographic changes after Israel's establishment (Abdo &Yuval-Davis, 1995, p. 294). Proportionately, speaking to the European quality of the Zionist movement, historian Walid Khalidi notes that:

> At the 1897 Basel congress that established the WZO, only 4 of the 199 delegates were Palestinian-born. Fifty years later, on 14 May 1948, only 1 of the 37 signatories of Israel's Declaration of Independence in Tel Aviv was Palestinian born. In many ways, this encapsulates the nature of the Zionist movement. It was not a native phenomenon. It was not of Palestinian provenance. (2009, p. 28)

Even within internal Zionist idiom, ideologues (mostly foreign-born) referred to Zionism as a colonial and foreign movement which is evident in their use of terms and doctrines such as *yishuv* (Jewish settler community of Palestine), *halutzim* (pioneers), *avodah 'irvit* (Hebrew Labor), *adamah 'ivrit* (Hebrew Land), *kibbush ha'adamah* (conquest of land) (Masalha, 1992; Pappé, 2015; Reynolds, 2017). This is also apparent in the names of key organizations such as the Jewish Colonization Association and Palestine Jewish Colonization Association to the blatant references

of "Zionist colonization" and "native population" by Revisionist Zionism leader, Ze'ev Jabotinsky in his 1923 book, *The Iron Wall* (Masalha, 1992; Pappé, 2015; Reynolds, 2017).

Of one perspective, David Lloyd states that Israel is a typical nation fitting in with the community of 'Westphalian' or European-style nations because it is the intersection of both European nationalism and Zionist nationalism (2012, p. 63). He further articulates that like its European predecessor's, Zionist nationalism was predicated on:

> [T]he belief in the historical destiny of a given people to self-determination and sovereignty. That belief, which, as Benedict Anderson most famously argued, was not only 'imagined' but also inseparable from the secularisation of the political sphere, was nonetheless accompanied by a quasi-religious belief in a deep, almost mystical link between people, land, and language, a belief that descended from the cultural politics of Herder through the more virulent Germanic nationalism of Fichte. Given that inheritance, European nationalisms have generally harbored a deep prejudice against racial mixing that belies the liberal, rights-based claims of the secular and democratic idea of the state that is their Enlightenment legacy. (2012, p. 63-64)

This description contextualizes the rise of nineteenth-century European nationalism as a reason Jews were stigmatized for being supposedly an "alien and unwanted minority" because of their perceived failure to assimilate to Western culture among other things that led to a wave of heightening anti-Jewish violence (Lloyd, 2012; Shlaim, 2001, p. 2). Historian Adam Jones cautions against presenting Jewish suffering in European history as one long continuation of repression and discrimination of Jews for it is misleading given that multiple centuries in Eastern Europe they lived a life of comparative peace and were even valued people in Muslim Spain (Jones, 2016).

Nonetheless, the emergence of nationalism backed by the budding biological sciences of race and heredity materialized into "scientific anti-Semitism," or scientific racism, which asserted that Jews and Christian Europeans were 'different' (Massad, 2013). These 'differences' were to anti-Semites supposedly "the reason why Jews caused so many problems for European Christians [which] had to do with their alleged rootlessness, that they lacked a country, and hence country-based loyalty" (Massad, 2013). Consequentially, anti-Semites argued in the Romantic age of European nationalism "that Jews did not fit in the new national configurations, and disrupted national and racial purity essential to most European nationalism" (Massad, 2013). This led Zionists during that time to perceive statelessness as the source of Jewish weakness, humiliation, pogroms, docility, and passivity casting them as "feminine" or inferior to European gentiles (Massad, 2006, p. 27). To this extent, the goals of modern Zionism would be to unify the Jewish diaspora, ensure Jewish self-determination and sovereignty, and to establish a Jewish state with a Jewish majority in opposition to anti-Semitism (Shlaim, 2001).

Theodor Herzl, a Hungarian-born Jew and the father of political Zionism, would publish the groundbreaking book, *Der Judenstaat*, or *The Jewish State*, in 1896 which is said to be the beginning and basis for contemporary political Zionist movement (Masalha, 1992; Shlaim, 2001). He formulates in *Der Judenstaat* the conditions of the Jewish diaspora, anti-Semitism, and achieving the goals for a Jewish state as the solution to the "Jewish problem" (Shlaim, 2001). Herzl stipulated that the reasons behind the unfavorable conditions of Jews were not economic or religious, but national which not only required the creation of a state but a reinvention of Jewish society and identity based on Western values and ideals to end European anti-Semitism (Shlaim, 2001). In this sense, nationalism not only was a problem but a solution requiring the transformation of the "old Jew" by the physical migration to Palestine with the reconstruction of

Jewish identity to embody masculinity and self-sustainability (Shlaim, 2001). The following year, he would assemble the First Zionist Congress in Basel, Switzerland that adopted and endorsed Herzl's conception of Zionism that aimed to "to create for the Jewish people a home in Palestine secured by public law" (Shlaim, 2001, p. 3). The Basel Program of 1897, considered the official establishment of the Zionist movement, would discuss the prospects of a homeland but in following years world shift to promoting a Jewish state instead (Shlaim, 2001).

Nevertheless, not all Jews accepted Zionism and its vision to establish a Jewish state as the solution to the "Jewish problem," for a variety of reasons (Massad, 2006; Shlaim, 2001). Until the 1940s, the majority of Jews resisted Zionism as they understood it to be the continuation of anti-Semitism given its aims to transform and assimilate Jewish culture to secular European culture by geographically removing themselves from Europe (Massad, 2013). For instance, the First Zionist Congress was to be held originally in Munich, but given the strong anti-Zionist response from local Jewish community leaders and German Rabbinic Executive, it moved to Basle, Switzerland (Moleah, 1981; Shlaim, 2001). This rejection is elucidated by Rabbi Elmer Berger's critique of Zionism as going against Judaism for God promised the Jews the return of the land of Zion, or the Holy Land of the ancient Israelites, which they had lost because they sinned only if they satisfied the ethical and moral conditions of the covenant (Moleah, 1981). Correspondingly, only God, not man, could determine whether the Jews' conduct reached the level of high moral excellence to repair the covenant with God for that land to be returned to them (Moleah, 1981). Conclusively, Jews who rejected Zionism on religious grounds did so because the establishment of the Zionist state is a human phenomenon as opposed to the fulfillment of Divine obligation (Moleah, 1981). This perspective is reflected in Rabbi Joseph Hayyim Sonnenfeld of the separatist community of Jerusalem, 1898 response to early Zionists (Moleah,

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1981). Rabbi Hayyim claimed that Zionists were asserting their power over God's by expediting the return of Jews from all parts of the earth to Zion to establish a Jewish state thus undermining and denying God's power while further diminishing the holiness of Israel by maintaining its difference with other nations to the extent of "nationalism, blood and race…[making] faith and the religion are superfluous" (Moleah, 1981, p. 11). Furthermore, "the Lord and the Volk become identical," when sacredness attached to the Jewish people in the religious sense is transferred to them in an ethnic sense and respectively to their land, history, and more crucially, their state (Moleah, 1981, p. 10). Stated differently, religious Jewish critiques of Zionism claimed that it positions nationality before religion while additionally conflating and corruption Jewish tenets by associating it with national identity.

While some Jews rejected Zionism because of its purported perversion and manipulation of religious beliefs for nationalist and economic aspirations, some opposed Zionism as unethical and immoral for its discourse and praxis towards Palestinians from the onset of its colonizing endeavors (Masalha, 1992; Said, 1972). Other reasons Jews opposed Zionism includes: they feared that it would jeopardize their positions and interests in their home countries; Zionism embedded anti-Semitic perception of the Jewish condition; alliances with anti-Semitic regimes and individuals to advance Zionism's goals; and lastly, they worried that it would invigorate and encourage more anti-Semitic conspiracies and retaliation (Massad, 2006). The majority of Jews who rejected Zionism in the early days remained in their home countries in opposition to Zionist calls for mass Jewish migration to Palestine (Massad, 2013). Consequently, not only would 90 percent of European Jews be murdered in the Nazi genocide, so would the majority of Jews who rejected Zionism (Massad, 2013).

Notwithstanding the supposed historical claim that Jews originated in the East, Zionist Jews, as Israeli historian Avi Shlaim advances, "belonged to the West culturally, morally, and spiritually... [As] Zionism conceived by [Revisionist Zionist leader Ze'ev] Jabotinsky not as the return of Jews to their spiritual homeland but as an offshoot or implant of Western civilization in the East" (2000, p. 12). This conceptualization of Zionism which was accepted globally at the time would geostrategically align Zionism permanently with European colonialism against the Arabs (Shlaim, 2001, p. 12). Accordingly, settler-colonialism embodies the Lockean principle that territorial expropriation by European settlers was justified because they were supposedly more productive with the land than the natives. Under Zionism, this is manifested "between detestation of the Palestinian other and an (almost) equal detestation of the racist caricature of the European "old Jew" (Makdisi, 2017, p. 278; Wolfe, 2016). Adding to this Patrick Wolfe argues that:

> A kind of self-hatred was preconditional to this transformation… Ascent (aliya) was not merely a matter of leaving behind Gentile others, who, as goyim, did not ultimately count. Much more importantly, it was a matter of leaving behind a strenuously rejected self. Extirpating Europe from the old-Jewish self was the inseparable obverse of the extirpating Arabs from the new-Jewish self. (2016, p. 227-228)

Herzl exemplifies this racist caricature of Jews by describing French Jews in *Der Judenstaat*, in the same vein as European anti-Semites as having "bold, misshapen noses; furtive and cunning eyes" or that they spoke German that was debauched of "the stealthy tongues of prisoners" (as cited in Massad, 2006, p. 168). Hence, as historian Joseph Massad articulates: "Zionism, which espoused these views of Jews while conscious of their anti-Semitic pedigree, simply wanted to rid

Jews of such traits and teach them how to be Europeans" (2006, p. 168; Makdisi, 2017; Wolfe, 2016).

Both early Zionists and European anti-Semites agreed that the leading cause of Gentile anti-Semitism was the presence of Jews among non-Jewish societies, with the solution to remove Jews from Europe to a Jewish state (Massad, 2006). The issue with anti-Semites was that they offered no solution to the 'Jewish condition,' but would "become our [Zionists] most dependable friends, the anti-Semitic countries our allies" as Herzl stated in *Der Judenstaat* (as cited in Massad, 2006, p. 178). This would manifest into reality on multiple occasions to accomplish Zionist aims. In 1933, Zionist German Jews disrupted the global boycott against the Nazis by signing the *Ha'avara* (Transfer) Agreement with them, which compensated fleeing German Jews migrating to Palestine for their lost property in return for the exportation of manufactured German goods into Palestine (Massad, 2012; Y. Weiss, 1998). Consequently, "between 1933 and 1936, 60 percent of all capital invested in Jewish Palestine came from German Jewish money through the Transfer Agreement" (Massad, 2012; Y. Weiss, 1998). Other examples include Herzl's 1903 meeting with Russian interior minister Vyacheslav von Plehve, who supervised anti-Jewish pogroms, and Zionist leader Chaim Weizmann's 1917 collaboration with British statesman, Arthur Balfour, who passed the Aliens Act of 1905 refusing entry of those fleeing Russian Jews into Britain (Freeman-Maloy, 2017; Khalidi, 2009; Massad, 2013). Balfour passed the Aliens Act to supposedly save the country from the "undoubted evils" of Jewish immigration, but in a little over a decade later in 1917 would declare British support for the creation of a Jewish national home in Palestine (Freeman-Maloy, 2017; Massad, 2013). Given the importance of their shared colonial interests and goals, Zionists and anti-Semites would put their differences aside to achieve them. The Zionists needed ideological legitimization in the form of British imperial backing of

the Zionist colonization enterprise in Palestine, while Britain needed an ally in the region as a means to expand its empire but also a site for colonial powers to expel their unwanted Jewish populations to (Freeman-Maloy, 2017).

Radical changes would happen throughout 1882 to 1948 which paved the way for Zionist settler ascendancy and the establishment of an exclusive Jewish state. During this period there were waves of Jewish immigration to Palestine under the control of both the Ottoman and British empires (Shafir, 2005). The first immigration commenced between 1882 to1902 is known as the first *aliyah* which brought about 20,000 to 30,000 Jews, followed by the second *aliyah* that brought 35,000 to 40,000 immigrants between 1904 to1914 (Shafir, 2005). In July 1914, World War I would erupt joining the Ottoman Empire with Germany and the Austro-Hungarian Empire against Britain and France (*A century on*, 2016). Before the Balfour Declaration of 1917, the British government made earlier promises with diverging interests over the same territory with different parties (Shlaim, 2001). While still under Ottoman rule, the British in 1915 assured Sharif Hussein bin Ali of Mecca, known as the Hussein-McMahon correspondence, that in return of an Arab revolt against the Ottoman Empire they would back the creation of an independent Arab kingdom (Shlaim, 2001; Tahhan. 2017). The British would also make a secret agreement in 1916 to partition the Middle East, known as the Sykes-Picot agreement, with France and Russia which was headed by English political advisor Mark Sykes and French diplomat Francois Georges-Picot (*A century on*, 2016; Baroud, 2018). According to some sources, Mark Sykes would play a significant role in drafting the Balfour Declaration (*A century on*, 2016). Under Sykes-Picot, the regions of Baghdad, Kuwait, Jordan, Iraq, Palestine would be under British control, while the northern part of the Middle East of Syria, Turkey, and Lebanon would be under French (*A century on*, 2016). Russia would continue to control Istanbul, the territories adjacent to the Bosphorus

strait, and the four regions nearest the Russian border which never happened because of the Bolshevik Revolution of 1917 (*A century on*, 2016). The Bolshevik overthrow of Russian Tsar Nicholas II led to the exposure of and political scandal of Britain and France (*A century on*, 2016). A copy of the Sykes-Picot agreement was found in government archives by revolutionary leader Vladimir Lenin who would call it "the agreement of the colonial thieves" (*A century on,* 2016). His colleague, Leon Trotsky, published it publicly on November 24, 1917, exposing Britain and France's plan to split up and control the Middle East at the end of the war (*A century on*, 2016). This did not disrupt British and French acquisition of these territories eventually leading to Britain's conquest of Palestine in 1917 following the end of WWI (Baroud, 2018; Khalidi, 2009).

Secret agreements did not only take place between the European powers but between Zionists and self-proclaimed Arab nationalist leaders following the end of World War I (Masalha, 1992). The most important of these took place in 1919 between the Zionist leader, Chaim Weizmann, and Arab nationalist leader, Hashemite Emir Faisal, to exchange support for Jewish migration to Palestine for economic experts for the Arab state Faisal hoped to establish (Khalidi, 2009; Masalha, 1992). Given the vagueness of these agreements regarding what constitutes a homeland and territorial boundaries, historians disputed for decades whether Palestine was ever intended to be one of the territories that gained independence as an Arab state in the secret agreements between colonial powers and Arab nationalist leaders, some who were self-appointed (Khalidi, 2009). While it is still a disputed matter today, it is crucial to note that Palestinians had a national consciousness and rejected advancing Zionist settler colonization of Palestine as early as 1891 which was less than a decade after the first aliyah and the official founding of the Zionist movement through the 1897 Basel Program (Mandel, 1972; Tahhan, 2017; Wolfe, 2012). US

President Woodrow Wilson appointed a commission in 1919 to survey public opinion in Palestine and Syria which captures the local national consciousness of Arabs (Tahhan, 2017). Known as the King-Cane commission, the inquiry found that Palestinians strongly opposed increasing Zionist settler land purchases and migration into Palestine (Tahhan, 2017). This is also evident in Palestinian memoirs of political figures such as Awni Abd al-Hadi who condemned the Balfour Declaration as a document made by foreigners who had no claim to Palestine to give foreign Jews a right to it (Tahhan, 2017). Another example is the Third Palestinian Congress denouncement in 1920 of British strategies to promote Zionist colonization of Palestine as a violation of international law and indigenous rights (Tahhan, 2017).

The status quo was radically changed by post-WWI developments one of which was the abandonment in 1920 of the Sykes-Picot agreement that would partition the different territories under four different jurisdictions of direct and indirect control by the French and British for the implementation of only direct control of these regions under a mandate system (*A century on*, 2016; Khalidi, 2009). Additionally, in 1922 under Article 2 of the League of Nations Mandate over Palestine, Britain was to situate "….the country under such political, administrative, and economic conditions as will secure the establishment of a Jewish national home" (as cited in Khalidi, 2009, p. 24). European Jewish migration to Palestine facilitated by the British increased from 9 percent to 27 percent from 1922 to 1935 (Tahhan, 2017). Tensions between natives and settlers were present from the start of Jewish migration, but the largest uprisings did not begin until the mid-1920s onwards. In 1929, changes in the status quo concerning praying rights at Jerusalem's holy places would ignite anti-Jewish riots of 1929 (Masalha, 1992). Escalated and unhindered transfer of land and labor for exclusive Jewish control, led to the Great Arab Revolt of 1936-39, or the Palestinian Peasantry Revolt, which is described by historian Walid Khalidi as the

"the largest and most sustained armed defiance of British imperial authority in the first half of the twentieth century" (2009, p. 31). The British government would inquire into the matters of the rebellion and release the Royal Peel Commission of 1937 reporting that Arab and Jewish nationalism was irreconcilable to the extent that it required the partition of Palestine and population transfers (Masalha, 1992). The plan was to give Jews one-third of Palestine's most fertile lands, the majority of the coast, and predominantly Arab Galilee; Britain was to maintain enclaves of Haifa, Jerusalem, Bethlehem, Tiberias, Nazareth, Acre, and a route from Jaffa to Jerusalem; while the reminder including the Negev desert was designated for an Arab state (Masalha, 1992). The Peel Commission would also recommend the population exchange of 225,000 Arabs residing in proposed Jewish territory for the 1,250 Jews living in proposed Arab territory, which was an idea Zionist groups espoused privately for decades before then (Masalha, 1992). The Peel Commission was one of the first of many attempts to negotiate the partition the land.

According to Palestinian historians, nonconsent was a principal element in Zionist colonization of and agreements over Palestine which was carried out without consultation of local Palestinians (Khalidi, 2009; Masalha, 1992). Early Zionists recognized the inconceivability of a "voluntary agreement between us [Zionists] and the Arabs of Palestine… now or in the foreseeable future," as articulated in the 1920s by the Revisionist Zionist leader Ze'ev Jabotinsky (as cited in Shlaim, 2001, p. 13). This was the case of early attempts by Zionist leaders to negotiate the terms of Jewish colonization of Palestine without the consent of the natives (Khalidi, 2009; Masalha, 1992). For example, Theodor Herzl's early attempts to negotiate with Ottoman sultan 'Abd al-Hamid a settlement charter in Palestine, or Chaim Weizmann's negotiations with British foreign secretary Arthur Balfour and later Emir Faisal (Khalidi, 2009). Thus, official

proclamations such as the Balfour Declaration and Royal Peel Commission would be devised

against the will of the Palestinians (Khalidi, 2009). To this point, the Palestinian-American

scholar Edward Said stated that:

> [N]either the Balfour Declaration nor the mandate ever specifically conceded that
>
> Palestinians had political, as opposed to civil and religious, rights in Palestine. The idea of
>
> inequality between Jews and Arabs was therefore built into British, and subsequently
>
> Israeli and United States, policy from the start. (1999)

Even Zionist leaders acknowledged this nonconsensual factor in dealing with Palestine which is

exemplified by Weizmann's statement to US President Franklin Roosevelt that "it had been

impossible to submit the Zionist Project to the Palestinians for their consent, because it would

have been refused" (Khalidi, 2009, p. 25). David Ben-Gurion, Israel's first President, would

challenge Jewish philosopher Martin Buber's morality concerns about Zionism treatment towards

the Palestinians, claiming "that 'not even' Buber had immigrated to Palestine with Palestinian

consent" (Khalidi, 2009, p. 25). Furthermore, this is noted by the British when Arthur Balfour in

1919 would articulate that:

> Zionism, be it right or wrong, good or bad, is rooted in age-long traditions, in present
>
> needs, in future hopes of far profounder import than the desires and prejudices of the
>
> 700,00 Arabs who now inhabit the ancient land… Whatever deference should be paid to
>
> the views of those who lived there [i.e. Palestine], the Powers in their selection of a
>
> mandatory do not propose, as I understand the matter, to consult with them. (as cited in
>
> Khalidi, 2009, p. 30).

Finally, concerning the Balfour Declaration's terminology of a "national home" as opposed to "state," in a 1922 meeting with Weizmann, Arthur Balfour and then British Prime Minister David Lloyd reportedly stated that it "always meant an eventual Jewish state" (Tahhan, 2017).

Given this brief chronology of significant events, often overlooked are the European colonial origins of contemporary Jewish Zionism which led to the alignment of colonial powers with Jewish Zionists in establishing the Zionist state (Massad, 2006). The connection between European Jews and Palestine arose from the:

> Protestant Reformation with its revival of the Hebrew Bible that would like the modern Jews of Europe to the ancient Hebrews of Palestine, a link that the philologists of the 18th century would solidify through their discovery of the family of "Semitic" languages, including Hebrew and Arabic." (Massad, 2013).

However, Millenarian Protestants pushed for contemporary Jews to leave Europe to Palestine as descendants of the ancient Hebrews to "expedite the second coming of Christ" (Massad, 2013). This claim would later be supported by the emergence of nineteenth-century biological sciences of race and heredity (Massad, 2013). To support colonial projects, European figures of the nineteenth-century propagated non-Jewish Zionism for the first time to establish Jews as agents of European imperialism in Palestine to serve their interests (Massad, 2013). This was true regarding Napoleon I's Egypt campaign and the opinions of Napoleon III's private secretary, Ernest Laharanne (Hyamson, 1918; Massad, 2013). Laharanne in 1860 wrote *La Nouvelle Question d'Orient: Reconstruction de law Nationalite Juive* highlighting the economic benefits Europe would gain if European Jews settled in Palestine (Hyamson, 1918; Massad, 2013). He perceived the Jews as a people who were "to open new highways and byways to European civilization" (Massad, 2006). So practical and important was the collusion of French interests with Zionism's

goals that Zionist thinker Moses Hess wrote in 1862 wrote: "Do you still doubt that France will help the Jews to found colonies which may extend from Suez to Jerusalem and from the banks of the Jordan to the coast of the Mediterranean?" (as cited in Massad, 2006, p. 15). The British would also adopt the policy of "restoring" the Jews to Palestine as their "proteges" to provide support during the declining Ottoman empire against Pasha Muhammed Ali of Egypt (Hyamson, 1918). Acquiescing with colonial interests was extremely central for the success of Zionism who would brand themselves as an extension of the West to allow the colonial powers to use and support them for their imperial aims. For instance, Herzl proposed that Jews would be the "portion of the rampant of Europe against Asia, an outpost of civilization as opposed to barbarianism" (Lloyd, 2012, p. 62). Herzl spent most of his life trying to secure support from British imperial forces knowing the survival of a Jewish state was contingent on European support (Massad, 2006). Moreover, in response to British colonial secretary Joseph Chamberlain, Herzl stated that he:

> Believe[d] that our chances then would be even better [with British support]. For we shall be used as small buffer-state. We shall get it from the good will, but from the jealousy of the powers! And once we are at Al Arish [the Sinai] under the Union Jack, then Palestine too will fall into the British sphere of influence. (as cited in Massad, 2006, p. 17)

After meeting with various leaders from Ottoman sultans, Tsarist Russian ministers, Italian kings, to the German Kaiser, Herzl chose Britain as the sponsor of Jewish colonization of Palestine (Massad, 2006). Correspondingly, Britain welcomed this sponsorship by stating that "the creation of a buffer Jewish State in Palestine, though this state will be weak in itself, is strategically desirable for Britain" (as cited in Massad, 2006, p. 17). The language contained in the Balfour Declaration referring to "the indigenous Palestinian majority as 'non-Jewish' can only be seen as

a negation of native identity and its inclusion was indicative of the aiding and abetting by the British and League of Nations the of the Zionists' plan to colonize Palestine," regardless whether it asserted that the establishment of a Jewish homeland "was not to 'prejudice the civil and religious rights of *existing non-Jewish communities*'" (Abdulla, 2016, p. 54; Masalha, 1992; Said, 1999).

While various locations were proposed as future sites for a Jewish homeland including Argentina, Cyprus, Al-Arish in the Sinai, Libya, Mozambique, and Uganda; Palestine was finally selected based on its religious significance but most importantly its strategic and practical position in colluding with European colonial interests (Lloyd, 2012; Makdisi, 2017; Shlaim, 2001). Despite the land having significant religious relevance, there is no archeological evidence supporting the events depicted in the Bible and the evidence that archeologists do provide remains elusive and disputed (Hasson, 2017; Masalha, 2000). According to renowned Israeli archeologist Ze'ev Herzog, most Israeli archeologists and researchers agree that the Bible is a theological, not a historical book which is supported by the "unbridgeable gap" amid archeological findings and Biblical stories (Hasson, 2017). Concerning the historical validity of the Old Testament, Herzog in an interview stated the following:

> The Patriarchs (Abraham Isaac and Jacob), the bondage in Egypt, the Exodus, the conquest of Canaan and united Monarchy of David and Solomon… are legends and not historical documents. Later stories of the Kingdoms of Judah and Israel do contain solid historical elements. (Danilova, 2016)

There is no evidence that the children of ancient Israel lived in Egypt, wandered 40 years in the Sinai Desert, militarily conquered the land of Canaan, nor a united empire of David and Solomon existed (Danilova, 2016; Hasson, 2017; Masalha, 2000). Herzog also states that only a minority of

Israeli archeologists and researcher believe this and that both Christian and Orthodox Jewish adherents disregard archeological findings because the Torah and Bible are the word of God (Danilova, 2016). Despite centuries of Jewish, Christian, and Muslim coexistence in Palestine, ethnoreligious nationalism continues to evolve Israel into an exclusive Jewish state.

One of the founding myths to support the Zionist enterprise in Palestine is the famous quote "a land without a people with a people without a land" which was used by prominent Anglo-Jewish writer Israel Zangwill in the late nineteenth century (Masalha, 1992). The land was presented to the outside world by Zionists as *terra nullius*, which is a European concept presented by philosopher John Locke where if nobody owns a land recognizable by Western standards, than those who discover it that can be more productive with and profitable from it can rightfully own the land (Peteet, 2016). Regardless of the territory's presentation as 'no one's land,' that was far from the reality given that some claim that Arabs as indigenous people are descendants of the Canaanites who over 5,5000 years ago established towns and agriculture (Kasrils, 2015; Peteet, 2016). Palestine caught the attention of the colonial powers because of its fertile arable land and ample water sources which could cultivate a variety of crops even during the winters (Elkins & Pedersen, 2005). Palestine was one of the most developed territories in the Middle East having large urban population despite its *Fellaheen* (Palestinian peasantry) constituting as the majority with a significant number of Bedouins (Abdo & Yuval-Davis, 1995; Masalha, 2018). Before British control, many districts in Palestine were autonomous and self-governing resembling pre-states during the period of Arab and Islamic rule (Masalha, 2018). By the end of the nineteenth century, Palestine was part of the global market regarding international trade and the exportation of goods such as olive oil and oranges (Abdo & Yuval-Davis, 1995).

In this regard, it was well known by early Zionists that Palestine was already populated by a native population before the call to establish a home for the Jewish people in Palestine, but little consideration was given to this population (Masalha, 1992). Zionists did not believe that the native population did not exist but that they were unworthy of the land within the standards of European civility (Masalha, 1992). After the 1896's publication of Herzl's *Der Judenstaat* and the convening of the First Zionist Congress in 1897, a fact-finding mission of Viennese rabbis sought to explore Herzl's ideas of pursuing a homeland in Palestine (Shlaim, 2001; Kasrils, 2015). Two selected representatives while in Palestine wrote back to Vienna stating that "the bride is beautiful, but she is married to another man" (Shlaim, 2001, p. 3). Zionists recognition that the land was inhabited and that they were more civilized than the indigenous population is reflected in Zangwill's public campaign in 1919 claiming that the Palestinians "are semi-nomad, they have given nothing to Palestine and are not entitled to the rules of democracy" (as cited in Masalha, 1992, p. 14). Israel Zangwill in 1905 claimed in a public speech that, "the pashalik of Jerusalem is already twice as thickly populated as the United States, having fifty-two souls to the square mile, and not 25 percent of them Jews…" (Masalha, 1992, p. 6). Years later in 1920, he would justify the "land without a people" quote claiming that "there [was] no Arab people living in intimate fusion with the country, utilizing its resources and stamping it with a characteristic impress: there is at best an Arab encampment" because he perceived Palestinians unworthy by European standards of a contemporary political state (Masalha, 1992, p. 6). Another example that Zionist acknowledged the natives includes socialist Zionist thinker Arthur Ruppin's statement in 1930s that:

Land is the most vital condition for our settlement in Palestine. But since there is hardly any land which is worth cultivating that is not already being cultivated, it is found that

wherever we purchase land and settle it, by necessity its present cultivators are turned

away…. In the future it will be much more difficult to purchase land, as sparely populated

land hardly exists. What remains is densely [Arab] populated land. (as cited in Masalha,

1992, p. 11)

In this regard, early Zionist leaders knew that the land was inhabited by an indigenous population

who were regarded as an obstacle to Jewish statehood. From the beginning, Zionist writers

proposed different solutions to the native problem, known as the Palestinian question, which

included population exchanges, expulsions or "transfers," exploitation, and religious conversion

(Massad, 2006).

The proposals to the Palestinian question were justified by many reasons including that the

Jews were superior and more civilized people; that they direly needed a state more so than the

Arabs who could easily relocate to surrounding Arab countries; and because they were the chosen

people by religious or divine right. Importantly though, the sentiment towards the Palestinian

population evident in the diaries and letters of Zionist leaders which many Zionist groups and

settlers embodied was that of "indifference and disregard to patronizing superiority" (Masalha,

1992, p. 7). An example of the patronizing superiority felt by many Zionists is apparent in a

statement by first Israeli President and the architect of the Zionist-British alliance, Chaim

Weizmann in the 1930s when he stated that Zionists "wish[ed] to spare the Arabs as much as

[they] can of the sufferings which every backward race has gone through on the coming of

another, more advanced nation" (Massad, 2006, p. 18). Labor Zionist leader, Moshe Smilansky,

in 1890 claimed: "Let us not be too familiar with the Arab fellahin lest our children adopt their

ways and learn from their ugly deeds. Let all those who are loyal to the Torah avoid ugliness and

that which resembles it and keep their distance from the fellahin and their base attributes." (as

cited in Masalha, 1992, p. 7). Even Herzl saw Palestinians as "dirty" people who resembled "brigands", while Menachem Begin saw them as "two-legged beasts" (Massad, 2006, p. 172). Winston Churchill, also, supposedly viewed Palestinians as inferior "backwards people and ate nothing but camel dung" as reported in 1938 by colonial secretary Malcolm MacDonald (as cited in Khalidi, 2009, p. 30). Thus, conveying themselves as a more civilized, advanced people coupled with divine right as God's Chosen people and the need to protect Jews from further European anti-Semitism justified Zionists objective to establish a Jewish homeland in Palestine and its later transformation to an exclusive Jewish state (Masalha, 1992). They understood the longer-term implication and consequences of having two national movements in one territory, perceiving indigenous Palestinians as an obstacle to an independent Jewish state (Abdulla, 2016; Lockman, 2012). Regardless of Zionism's ideological transformation, the political trajectory of the *yishuv* (pre-1948 Jewish settlers of Palestine) would always be shaped by the *Habe'ayah Ha'arvit* (Arab problem) or *Hashelah Ha'arvit* (Arab question) (Masalha, 1992, p. 7). From the beginning and throughout its history, Zionist ideologues would offer many solutions to the "Arab problem" ranging from coexistence, Arab collaboration and organized joint Arab-Jewish labor to native transfer, economic coercion, exclusion, elimination, and exploitation (Abdo & Yuval-Davis, 1995; Lockman, 2012; Masalha, 1992; Wolfe, 2012).

Despite the coexistence of the three Abrahamic religions before settler migration of 1881, the existence of both Zionist Jewish and Palestinian Arab national movements in the same territory would lead to long-term and ongoing problems as predicted by Zionist thinkers in observing early Palestinian Arabs protests to increased Jewish migration and land purchases in Palestine (Masalha, 2018). Albeit the vastly agreed upon solution of native transferal to the Arab question, there existed marginal groups such as Brit Shalom (Covenant of Peace), formed in 1925,

that advocated for the accommodation of Palestinian nationalism with Jewish nationalism under a binational state which would equally provide Jews and Arabs political and civil rights (Hermann, 2005; Masalha, 1992).

Aside from its international prominence and support by distinguished individuals such as Albert Einstein, Martin Buber, and Judah Magnes, it made no impact on the *yishuv's* policies and was harshly attacked by mainstream Zionists eventually leading to its disbandment in the early 1930s (Hermann, 2005; Said, 1999). Considering these diverging attitudes towards the Arab population, the Zionists as a heterogeneous group would mostly share the same basic ideas towards the Palestinian but only vary regarding characteristics, diction, and approaches (Lockman, 2012; Masalha, 1992). Ideas of native transferal would be the most favored and proposed option to the Arab problem despite a minority Zionist perspective advocating for coexistence and joint Arab-Jewish labor organization (Masalha, 1992). For instance, Herzl considered coexisting with Arabs, in the beginning, believing that they would be happy with the economic benefits that would come with the establishment of a Jewish state but would later adopt ideas of native transfer (Masalha, 1992). This was evident in a diary entry on June 12, 1895 stating:

> When we occupy the land, we shall bring immediate benefits to the state that receives us.
> We must expropriate gently the private property on the estates assigned to us.
> *We shall try to spirit the penniless population across the border by procuring employment*
> *for it in the transit countries, while denying it any employment in our own country.*
> *The property owners will come over to our side. Both the process of expropriation and the*
> *removal of the poor must be carried out discretely and circumspectly.*

Let the owners of immovable property believe that they are cheating us, selling us
something far more than they are worth.

But we are not going to sell them anything back. (as cited in Masalha, 1992, p. 9).

Furthermore, another example of transferal as a proposed option appears in early Zionist

discourse is a conversation between two settlers recounted by Moshe Smilansky in 1891:

"We should go east, into Transjordan. That would be a test for our movement."

"Nonsense… isn't there enough land in Judea and Galilee?"

"The land in Judea and Galilee is occupied by the Arabs."

"Well, well take it from them."

"How?" (Silence.)

"A revolutionary doesn't ask naive questions"

"It is very simple. We'll harass them until they get out..., Let them go to Transjordan."

"And we are going to abandon all of Transjordan?" asks an anxious voice.

"As soon as we have a big settlements here we'll seize the land, we'll become strong, and
then we'll take care of the Left Bank [of the Jordan River]. We'll expel them from there,
too. Let them go back to the Arab countries." (as cited in Masalha, 1992, p. 9).

Noting these first calls of native transfer and relocation, some scholars advance that these

concepts are just euphemisms for expulsion and the elimination of the native that would bridge

the gap between different ideological branches of Zionism, despite their adoption to implement

Jewish statehood (Khalidi, 2009; Wolfe, 2012).

These calls would later be assumed by the Revisionist Zionist leader and Russian born

Jew Ze'ev Jabotinsky whose version of Zionism would be uncompromising and maximalist in

terms to land and labor conquest (Shlaim, 2001). As an alternative and a offshoot of Labor

Zionism, Revisionist Zionism proposes the establishment of a Jewish state in all parts of a 'revisioned' Mandate which incorporates Transjordan with Palestine by forcefully imposing the Zionist will and sovereignty over the territory native Palestinians by way of an "iron wall of bayonets" or an armed Jewish barracks (Masalha, 1992, p. 28-29). This position was elaborated in Jabotinsky's book, *The Iron Wall* and would continue to be influential til contemporary times (Masalha, 1992). Labor Zionism, on the other hand, led by the founder of the State of Israel David Ben-Gurion was reluctant to blatantly accept the use of military force to establish a Jewish state but would instead take a "pragmatic, gradualist, and flexible approach" in establishing a Jewish state by coming to an agreement with Palestinians (Masalha, 1992, p. 28; Shlaim, 2001). Polish-born Ben-Gurion who migrated to Palestine in 1905 welcomed the British partition seeing it as a transitional stepping stone ushering in the rise of a Jewish state instead of a mandate state, which was unlike Jabotinsky who opposed partition based on his ideas of territorial maximalism (Shlaim, 2001). Consequently, by the 1930s Ben-Gurion's supposed territorial minimalist perspective would later give away to reveal his true territorial expansionist interests, as he viewed the boundaries as drafted by the Peel Commission as temporary and flexible for the extension of a future Jewish state in all parts of Palestine (Shlaim, 2001). Considering these distinctions, both Ben-Gurion and Jabotinsky perceived traditional diplomacy as inadequate to resolving the conflict with the Palestinian natives with the inevitable reality "that only insuperable Jewish military strength would eventually make the Arabs despair of the struggle and come to terms with a Jewish state in Palestine" (Shlaim, 2001, p. 19).

Respectively, both Revisionist and Labor Zionists would agree upon the need of external support, economic power, and military strength as means to establish a Jewish state in all parts of Palestine with a Jewish majority and native resettlement to neighboring countries (Khalidi, 2009;

Wolfe, 2012). This was accomplished was through land purchases, settlement expansions, and

mass migration from the 1880s to 1920s, following labor and market strategies from the 1920s

to1930s, and finally, the use of force after that to take over the political mechanisms from the

British in 1948 (Lockman, 2012; Wolfe, 2012). Unlike Australia and the United States, Zionism

intensified violent settler-colonial policies in acquiring territory as opposed to departing over the

years (Wolfe, 2012). During the Ottoman and British periods, the Zionist colonizing project

operated within the imperial frameworks knowing they were yet not strong enough to acquire

land without these frameworks (Wolfe, 2012). Securing international support and funds from

private sources and imperial powers Jewish settlers began to purchase land and move to Palestine

(Khalidi, 2009). The first thing required to establish a Jewish state to preaccumulate foreign

capital which was provided by Zionist organizations such as the World Zionist Organization and

wealthy individuals such as, Baron Rothschild who helped the Jewish migrants of 1880s to buy

land from absentee landlords and then exploit or forcefully remove the Palestinian peasantry

(Masalha, 2018; Weinstock, 1973). During the early days, land purchases and immigration by

early Zionist settlers could not be consistently restricted because of the disorganization and

inefficiency of the Ottoman Administration of the late nineteenth century (Wolfe, 2012). The

British were most useful in protecting the *yishuv*, or Zionist settlers in Palestine, by replacing old

Ottoman land laws, which blocked commoditization and transfer, but also prohibited the

expulsion of indigenous tenants, to one that allowed the dispossession of Palestinian tenants

(Abdo & Yuval-Davis, 1995). Both legal and illegal coercive means were used to transfer the land

from Palestinian ownership to exclusive Jewish ownership including bribery, taxation,

imprisonment, collective punishment, and levels of usufruct to titles (Abdo & Yuval-Davis, 1995;

Wolfe, 2012). Furthermore, they tried to establish "unbroken expanses of Jewish

ownership…which was not individual but collective. Once transferred into Jewish hands, parcels of land would cease being commodities in the general-alienability sense… every inch acquired Palestinian land would become forever Jewish" (Wolfe, 2012, p. 154). The Jewish National Fund would control land and labor and penalize those who would lease the land or employ Arabs (Abdo & Yuval-Davis, 1995). These methods provoked and angered natives who resisted and waged violent campaigns against the settlers who were violently suppressed by British imperial forces (Khalidi, 2009).

After securing financial support and land, Zionists aimed to control and conquer labor and market. In contrast to the first aliyah who did not oppose employing Palestinian labor and collaborating with Palestinian locals, the immigrants of the second aliyah moved to establish an exclusive and independent Jewish economy and society (Wolfe, 2012). The second wave of Jewish immigrants, some of whom were disenfranchised socialists fleeing Russia in the early 1900s, came to Palestine with the intention of continuing their socialist commitment in establishing a Jewish state (Weinstock, 1973). In popular Israeli scholarship, "the creation of the kibbutz and other forms of collective or cooperative enterprise, the sociopolitical power of the labor-Zionist movement, and the welfare-state institutions and policies that characterized Israel in its early decades all stemmed from the socialist values that these (much mythologized) second aliya 'pioneers' (*hautzim*) acquired in Europe and then sought to realise in Palestine" (Lockman, 2012). When the second immigrants arrived, they faced competition with less expensive Palestinian labor (Shafir, 2005). The second wave of Jewish settlers under the influence of Labor Zionist thinkers sought to create a Jewish working class and reserve employment opportunities for current and future immigrants by eliminating the competition (Lockman, 2012; Weinstock, 1973). The Labor Zionist movement abandoned its purely socialist ideals and adopted the twin doctrines

of *kibbush ha'avoda* (conquest of labor) and *'avoda 'ivrit* (Hebrew labor), which was a strategy to turn the mainly lower-middle-class Jewish immigrants into productive worker-pioneers, but to also exclude and prohibit indigenous Palestinian labor from all parts of the economy (Lockman, 2012; Weinstock, 1973). This socioeconomic development plan sought to gradually develop an entirely separate and independent, high-wage, exclusive Jewish economy in Palestine (Lockman, 2012). The strategy of economic separatism and exclusionary employment was to achieve an autonomous, homogenous settler society that was not dependent on indigenous labor. Utilizing Palestinian labor on Jewish farms was viewed by the pioneers as equivalent to colonialism so they advocated for exclusive Jewish labor by calling fourth to boycott all Arab produce and landless fellaheen, but also exclude Arabs from Jewish unions (Lockman, 2012; Weinstock, 1973). This policy was shaped by economist Hayyim Arlosoroff, who by utilizing South Africa as a comparison argued that as long as there was abundant, cheap Palestinian labor, there would always be downward pressure on Jewish wages and sociopolitical tension between the two (Lockman, 2012). The World Zionist Organization adopted the strategy of *kibbush ha'avoda* (conquest of labor) and continued to fund and invest exclusively in the Jewish economy and infrastructure, and were only successful for a brief time before the 1936 Palestinian Peasantry Revolt in replacing Palestinian farmers working on Jewish plantations (Lockman, 2012, Wolfe, 2012).

Aslosoroff noted in the 1920s that Zionists did not have the "political clout" the white workers of South Africa had to pressure the government into implementing and strengthening the color bar (laws that restricted non-whites from high paying jobs) (Lockman, 2012, p. 27). He predicted, "there is no example [i.e. other than Zionism] of an effort by a people engaged in settlement with a European standard of needs to transform a country with a low wage level […]

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into a site for mass immigration and mass settlement without *using coercive means*" (as cited in

Lockman, 2012, p. 27). Despite Britain's commitment to establishing a Jewish national home and

giving preferential treatment to the Zionists, the Zionist enterprise had no control over the British

colonial state to the extent that the movement implemented coercive means such as boycotts,

social pressure, and mass picketing against Jewish business for employing Arabs to further

Hebrew labor strategy (Lockman, 2012). Liberal Russian thinker, Ahad Ha'Am in 1891 harshly

criticized the eurocentricity of political Zionism and the exploitation and cruel treatment of the

natives (Masalha, 2018). Moreover, Palestinian-born Jew and Zionist writer Yitzhak Epstein for

moral implications opposed how Zionists purchased land and dispossessed Arab farmers, but

additionally because of the future threat of resurfacing resentment that could destabilize future

societies and economic development (Masalha, 2018). In response to Epstein's contention, two

prominent sentiments emerged in mainstream Zionism including that moral considerations were

second to land acquisitions, and the need to create an exclusive and separate *yishuv* (Jewish settler

community) in Palestine (Masalha, 2018).

Important to consider are the disparities of power and wealth throughout Zionist

colonization of Palestine, given there are many external forces and pivotal moments contributing

to their success which will be highlighted. For instance, in the 1920s Jewish capital annual inflow

was 41.5 percent greater on average than their net domestic product in Palestine (P. Weiss, 2017).

Meaning, contrary to the Zionists propaganda, they would not have made the 'desert bloom' in

early pre-statehood days without an enormous amount of foreign capital. Furthermore, the desert

had already bloomed before Zionists arrived given the region was already part of the global

market and had been exporting produce and goods since the days of the Ottomans (Masalha,

2018). Another integral part of Zionists achieving statehood was British's suspension in 1935 of

the democratic process and representative government to dismiss the majority of the mandate's

population who were Arabs, out of concern that it would threaten the growth of the Jewish

minority and their national home (Khalidi, 2009). By 1939, British also would provide military

training to more than thirty thousand Jewish settlers from Palestine in North Africa to create an

"auxiliary colonial army," known as the Jewish Settlement Police, who would later become the

underground paramilitary group the Haganah (Khalidi, 2009). With WWII looming, Zionists

knew British support and protection would eventually end leading them to secure the patronage

from the US government and American Jewish establishment through the 1942 Biltmore Program

(Khalidi, 2009). Winning the support of unelected Harry Truman at that time led to his advocating

of the 1947 partition plan and pressuring Britain to restrain itself in dealing with the terrorist

organizations of the Irgun and Stern, despite its troops vastly outnumbering the entire settler

population (Khalidi, 2009). Crucial to note is that Zionist organizations succeeded in securing

sponsorships from first Britain and then the US, while Palestinians were receiving support from

the pre-industrialized and pre-oil Arab states who were economically behind but also "riven by

inter-dynastic disputes and neutralized by subservience to various forms of Western tutelage"

(Khalidi, 1993, p. 108-109). From 1946 to 1947, total Arab and Palestinian contributions to the

Arab Higher Committee reached $1.73 million, while the *yishuv* totaled $145 million alone from

the contribution of American Jewish establishment (Khalidi, 1993).

By the late 1930s, Zionist forces in Palestine were strong enough to military confront and

remove the British who were trying to slow down Jewish immigration because of the Palestinian

uprisings (Khalidi, 2009). Well-financed and organized, the Zionists pre-military forces consisted

of the Haganah, the Palmach, the Jewish Settlement Police, and Gahal and Mahal in addition to

the Irgun and Stern gangs which were terrorist organizations (Khalidi, 2009). The Irgun and Stern

groups carried out operations for the first time against the British in 1944, but before then they had exclusively target Palestinian civilians by "delayed-action electrically detonated mines hidden in kerosene containers, milk cans, and fruit baskets at Arab bus stops, vegetable markets and cafes" which was a first in the Middle East (Khalidi, 2009, p. 34). They kidnapped and hung British noncommissioned officers and then booby-trapped their hung bodies while kidnapping and whipping others (Khalidi, 2009). Severely humiliated by Zionist forces and restricted from pressure by the US, the British Empire unable to reconcile obligations it assumed as a mandatory power in the face of mounting violence, handed Palestine over to the United Nations in February 1947 (Hadawi & Lehn, 1977). On November 29, 1947 the UNGA adopted the partition of Palestine in the interests of Zionists allocating 56 percent of the land, mostly cultivatable land and areas that border the sea, for a proposed Jewish state despite Jews constituting one-third of the population and only owned seven percent of the land (Hadawi & Lehn, 1977). Conflict between Zionists and the surrounding countries arose after the partition which after everything subdued resulted in the establishment of Israel controlling 78 percent of the land (Clarno, 2017; Hadawi & Lehn, 1977).

The year 1948 is known to Palestinians as *Al-Nakba* (the Catastrophe) because 800,000 out of 1.3 million total estimated Palestinians were expelled and ethnically cleansed from Palestine, relative to the estimated total of 630,000 Jews (Falk & Tilley, 2017; Masalha, 1992). For years Zionist leaders discussed the most effective way to transfer Palestinians, one of which that was the most detailed and elaborate of them was the Plan Dalet which contained orders to seize villages, remove inhabitants, and destroy homes (Abdulla, 2016). Between 1947 to 1948, 531 Palestinian villages were ethnically cleansed with up to 70 massacres committed by Jewish militias; Deir Yassin being the most noteworthy (Abdulla, 2016; Masalha, 1992). The Stern and

Irgun gang lined up and executed the villages' inhabitants, some of whom were woman and children, while other accounts exist of rape and mutilation, and victims being paraded in the streets of Jerusalem, (Abdulla, 2016; Masalha, 1992). Information about the massacres were broadcasted as a warning for Palestinians to leave their villages which many did from the terror of Deir Yassin (Abdulla, 2016). The fear from Deir Yassin and other massacres in the words of former Israeli prime minister, Menachem Begin, permitted Zionist forces to take over Palestine "like a hot knife through butter" (Abdulla, 2016, p. 56). Until today, the state prohibits publication of many files holding information and photos concerning historical military operations, like massacres such as Deir Yassin, because it could damage national security, foreign relations, and bargaining power with Palestinians (Aderet, 2017; Ravid, 2016). The High Court of Justice has rejected multiple legal petitions and requests to publish file 681-922/1975 "the Nakba file," which researchers compiled in the 1960s at Prime Minister David Ben-Gurion's request (Ravid, 2016). The purpose of this research was to neutralize and minimize US pressure to allow refugees to return to their homes by proving that Palestinians were not expelled and fled on their own accord (Ravid, 2016). Palestinians who fled are not allowed to return even if they have family or property remaining, while Palestinians who left for more than two years after Israel's establishment have their citizenship revoked. These policies are among many others that guarantees Jewish majority status in the 1948 territorial boundaries. Currently, many refugees from 1948 are internally displaced having moved from the 1948 territories to the West Bank and Gaza Strip which Jordan and Egypt respectively controlled until 1967 when Israel took over. Since its formation, Israel has exclusively governed Palestinians in Israel and the OPTS by invoking emergency legal doctrines, security regulations, and military law to ban travel, stifle dissent, revoke citizenship, confiscate land, suspend habeas corpus, utilize secret evidence,

administratively detain, conduct warrantless searches and surveillance, increase criminal

sentences, make broad arrests, demolish houses, and so on (Reynolds, 2017).

Summary

Providing the histories of the Afrikaner and Zionist movements in the context of settler-

colonialism and statehood highlights the major parallels and dissimilarities of the two. While

there are historians that describe these movements as nationalistic, there are those who have

identified them as variants of settler-colonialism. Both have featured elements of nationalism

including fusing strong religious, cultural, linguistic, or ethnic characteristics to nationhood;

establishing national organizations and institutions; and creating or preserving a myth. They also

display a mixture of colonialism or settler-colonialism including land appropriation for exclusive

settler use; elimination or exploitation of the native; and political, social, and economic

suppression and domination. In South Africa and Palestine, the British nurtured the settler

movements; scientific racism and European nationalism are the foundations of settler ideologies;

settler projected their sovereignty through expropriating the land; and controlled the natives by

spatial confinement. When the Zionists and Afrikaners were strong enough to overcome the

British, they mobilized to take over the legal and political apparatuses from the British as an anti-

imperial cause. Notwithstanding their 'independence,' economic and political relationships

between South Africa, Israel, Britain, and other powerful countries would resume for many years

even during global scrutiny of their practices toward the natives. Conclusively, British economic,

political, and ideological influences of the Afrikaner and Zionist movements largely shaped their

transformations into contemporary South Africa and Israel.

As race-theorist Anthony Marx articulated in his comparative analysis of South Africa, the

US, and Brazil, elites constructed a unified racial order of white supremacy to diminish intrawhite

conflict which was the case in the US and South Africa (1998). Accordingly, the imperative for white unity is predicated on the idea that "blacks were not capable of organized and united disruption, and so could and should be subordinated" unlike whites who were perceived by ruling elites to be a viable violent threat to stability, economic growth, and central rule (Marx, 1998, p. 12). Concern for order and security outweighed liberal calls for equality and justice given that settler societies incorporated and inherited prior ideas and conditions of racist ideologies to justify their conquests (Marx, 1998). This unity should not be dismissed or misunderstood as being a "functional" collaboration but instead as a volatile competition of two groups vying for power as an on-going process which shaped ethnoreligious identities and economic policies (Marx, 1998). Both Southerners after the Civil War and "Afrikaner nationalists were not easily appeased" pushing fourth harsher racial segregation policies (Marx, 1998, p. 15). The difference between the US's weakened central state and South Africa is that "the potential threat from the African majority impelled such strong intervention, which was matched by increasingly strong central state capacity, reinforced by the strength of the British Empire and encoded in a nonfederal political system of concentrated power" (Marx, 1998, p. 13). Another difference also is that regional disunity persisted in the US, while in South Africa different European settler groups were competing for power. Nation-state and white coalition building in South Africa are closer to Israel than the US on multiple grounds including settler unity and competition, they were the minority, received help from the Empire, followed German nation-state building. This is evident in mandate Palestine were both British colonists and Zionist settlers, mostly from Europe, had interests in the territory. Already in place was a colonial system imposed by the British which it wanted to preserve and did so by collaborating with the Zionist settlers as opposed to Palestinians. While there were Zionist ideologues, who disagreed with the treatment of the Palestinians, they were

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eventually suppressed by the exclusionary and racist ideas of Revisionist and Labor Zionist leaders. Both British and Zionist leaders viewed Palestinians as an uneducated and uncivilized people incapable of politically organizing themselves and maintaining a nation-state. The support the British Empire provided served another purpose: removing 'unwanted Jewish population' from Europe by fostering a Jewish state.

During Britain's colonial endeavors, it readjusted its political and economic regimes to guide and protect Afrikaner and Zionist movements to preserve and expand its colonial powers. British colonial policies towards the natives were inconsistent in South Africa and Palestine provoking both settler and native revolts. In South Africa, Britain abolished slavery and gave Black Africans limited rights angering Afrikaners but would later start again suppressing the natives after consolidating white rule. The British supported Zionists and repressed Palestinian nationalism until tensions between growing Jewish settlers and Palestinians became too volatile, causing British to restrict Jewish immigration angering Zionists to which Palestine was partitioned in their favor. The 1910 Union of South Africa that consolidated white settler rule over natives is equivalent to the 1917 Balfour Declaration which promised Jews a national home in Palestine with the help of Britain. The very individuals who implemented British imperial propaganda campaigns to unify white settler rule in South Africa are those who propagated British-Zionist allegiance in Palestine (Freeman-Maloy, 2017). South Africa's high commissioner Lord Milner and his apprentice John Buchan molded public opinion regarding empire and race to facilitate the institutionalization of white supremacy in South Africa and advancement of Zionism globally (Freeman-Maloy, 2017). In advising Britain first to reconcile the Dutch and English and to protect the Natives secondly, Lord Milner in 1897 projected "that object No. 2 is the principal obstacle to the attainment of object No. 1 – is, and always has been… I personal could win over

the Dutch in the Colony and indeed in all of South African dominions… You have only to sacrifice 'the n*****' absolutely and the game is easy…" (Marx, 1998, p. 92). Consequently, the British empire conducted these arrangements with Afrikaners and Zionists while simultaneously promising the Black South Africans equality to fight Afrikaners during the Anglo-Boer War and the Arabs self-determination to fight the Ottomans during WWI. Despite making multiple secret agreements in South Africa and the Middle East, the British never intended on obliging as evidenced by its inconsistent treatment of the natives.

The British saw the Afrikaners and Zionists as more favorable allies despite long-standing conflict with the Dutch and deep-rooted anti-Semitism because their colonial interests aligned. They also had more in common with settlers who they perceived as European or white and furthermore an extension Western civilization. Additionally, the settlers had more capital and financial assets than the natives, while both Britain and settlers believed the natives were incapable of governance and polity. The British empire would favor the settlers by accepting them in low-level bureaucratic and official positions and passing laws to sustain racial capitalism and racial hierarchy, while violently and frequently repressing indigenous movements and revolts. For instance, Britain in the late 1930s suspended its democracy and representative government as to not prejudiced the growth of the Jewish minority and attainment of a national home in the mandate (Khalidi, 2009). Despite imperial alliances with Afrikaners and Zionists,the two settler movements eventually sought to overcome British rule by slowly working within its political framework to establish their dominance. Afrikaners after 1910 would start establishing political parties and their spreading ideas of ethnoreligious supremacy and preservation in schools and churches. Zionists after the second aliyah of the 1900s would create ethnoreligious organizations and associations for land acquisition, economic strategies, and political and national

advancement. Both Afrikaners and Zionists worked their way through the legal systems of their

colonial predecessors until they were able to gain full control. Zionists achieved this through

heavy lobbying efforts to influence Britain during the 1930s Peel Commission and 1947 UN

partition plan, while Afrikaners did so by political lobbying and organizing internally.

Another commonality of Afrikanerdom and Zionism is the experience of victimization and

use of scientific racism and European nationalism to shape their ethnoreligious ideology as a

means to justify their domination and superiority over the natives. Jews suffered centuries of anti-

Jewish violence in Europe, while the British exploited and suppressed the Afrikaners in South

Africa. The elites and ideologues understood the prior insecurities and heterogeneous nature of

their respective groups given the varying experiences of the Dutch in South Africa and Jews

across the world, so they sought to create a new ideology to unify and empower them. Early

Afrikaner and Zionist ideologues established their ideas on scientific racism and social

Darwinism believing that adverse human conditions were the result of biological differences.

Afrikaners and Zionists perceived themselves as God's chosen peoples with divine entitlement to

the land and the attainment of which as conferring benefits upon the natives since they would put

it to better use. In addition to propagating the *terra nullius* myth, they saw the indigenous

populations as backward, uncivilized, and barbaric with settler-colonization as improving native

conditions given that they were incapable of doing so themselves. Given that the settlers thought

they were superior, they believed they exclusively had a right to self-determination and

sovereignty over the territory. Both settler groups held strict self-preservationist and anti-

assimilationist policies toward the natives including social, economic, and political policies of

hyper militancy, anti-mixing, separateness, and exclusion. Religion and culture were deliberately

tied to nationhood to create a new identity and social order to move away from their past

insecurities and inferiority complexes and establish their political and economic dominance by subjugating the natives. As analyzed by professor Anthony Marx, South Africa followed German styled nationhood and citizenship formation by affording citizenship based on ethnic exclusion and unifying the included (1998). This would also be the case for Israel where citizenship, land ownership, and certain rights are extended based on ethnic grounds; Judaism being treated by Zionists and anti-Semites during that period as not only a religion but as an ethnic group too.

Beyond the shared strategies of state formation, Palestine/Israel and South Africa took different economic paths that eventually lead them to establish very similar social and economic structures by the end of the 1900s. Despite the on-going processes of settler-colonialism and racial capitalism being distinct features of the two cases, they differ in how they were conducted. Racial capitalism and its aims for capital accumulation took place in mandate Palestine and South Africa by alternating between "accumulation by dispossession" and "coercive labor regimes" (Clarno, 2017). Accordingly, European settlement in southern African for the first 200 years prevailed through land appropriation and native displacement but transformed to a highly exploitative racial capitalist regime when gold and diamonds were discovered in the late nineteenth century (Clarno, 2017). Racial capitalism in Palestine proceeded first as a highly exploitative regime, seeing as the first Zionist plantations exploited cheap Palestinian labor given that Palestinians had intergenerational knowledge and experience with the land (Clarno, 2017). Eventually, the first aliyah succumbed to Labor Zionists' economic plan to exclude and ban Palestinian labor and production from the economy to reserve it exclusively for Jews, transforming exploitative racial capitalist regime to an exclusionary (Clarno, 2017). While Britain at the urging of settler groups implemented policies to proletarianize and suppress the indigenous populations by severely undermining land and labor rights, Zionists tried to avoid South Africa's

trajectory knowing it would be an obstacle to achieving an exclusive Jewish state. Both managed to implement a racial Fordist economy, as professor Andy Clarno stipulates, where white settlers enjoy full employment, high-wage positions, state support of settler sectors, and extensive welfare systems with low-wage labor by people of color subsidizing salaries, benefits, and profits of the white settler populations (2017). Ashkenazi (European) Jews transitioned from controlling the Labor Zionist movement which was the dominant branch of Zionism to controlling the state, labor coalitions, major businesses, and eventually replaced low-wage Palestinian labor with Mizrahi (Arab, African, Asian) Jews and other non-Jewish migrant labor (Clarno, 2017). Exploitation of Palestinian labor was never entirely eliminated even after 1948 and 1967, given Israel's on-going settler-colonization of the West Bank where it continues to build more factories, manufacturing companies, and settlements by utilizing cheap, abundant Palestinian labor from the OPT. Accordingly, professor Clarno determines that "the state combined an exclusionary settler colonial project with an exploitative racial capitalist project that incorporated the occupied Palestinian population (the 1967 Palestinians) into the Israeli economy with wages lower than the 1948 Palestinians" (2017, p. 30). Although most OPT Palestinians are reliant on the Israeli economy, Israeli capital was and is never fully dependent on Palestinian labor as opposed to South Africa which was entirely dependent on Black workers considering its mining and industry demands (Clarno, 2017).

5. Conclusion

The historical legal and ideological analysis in previous chapters highlight vital differences, similarities, and issues regarding the status quo in Palestine-Israel. Utilizing the military occupation and two-state framework ignores the historical power and economic asymmetries and ideological foundations of racism presented in the previous chapter. The two-state framework dismisses the settler-colonial experience of Palestinians as a people who were not consoled during British's maneuvering and shaping of Palestine to establish a Jewish national home or partition plans after that. The two-state solution is the continued imposition of an unequal political and legal strategy against the will of the Palestinians and is the readjustment of apartheid. The apartheid-one-state frame highlights the similarities between South African apartheid and Israel not only regarding laws and policies but also regarding ideological and social underpinnings. The concluding remarks delve into the constraints and relationship of the occupation and two-state solution, the question of sovereignty, and conditions required for an effective and legitimate solution.

International law rests on the assumption of sovereign equality between states, with sovereignty vested in the people, and not the government nor the use of force, giving them their right to self-determination (Ben-Naftali, Gross, & Michaeli, 2005). Accordingly, occupation is currently understood as "the effective control of a power (be it one or more states or an international organization, such as the United Nations) over a territory to which that power has no sovereign title, without the volition of the sovereign of that territory" (Ben-Naftali et al., 2005, p. 560). The central elements of occupation include the inalienability of sovereignty, the occupier's management of the territory as a trustee, and the temporary nature and definite end of the occupation. Israel has violated these elements of occupation as it has always been a settler-

colonial endeavor constantly expanding its boundaries and appropriating more land and practicing apartheid towards the remaining indigenous populations who were not expelled or dispossessed. The longer the situation continues to be framed as an occupation, the further Israel colonizes and entrenches itself in the OPT. While the international community does not recognize Israel's sovereignty in the OPT, Palestinians and Israelis do, given that it controls the borders, water, electricity, roads, travel permits, among other things. Israel has empirical and not juridical sovereignty in the OPT, having complete and exclusive control over Gaza and the West Bank altering the political, economic, and social character of the occupied population and territory in violation of international law. Israel's policies in the OPT including "appropriation of natural resources such as aquifers, construction of extensive civilian infrastructure throughout the territory, agricultural and industrial development totally hundreds of billions of dollars and seamless integration of all this into Israel's economy and society" reveal that Israel does act as fully sovereign over the territory to do as it pleases without formal title (Tilley, 2015, p. 297).

The indefinite nature of the occupation is in the interests of Israel who relies on provisions of law to maintain the status quo and its security concerns to the detriment of the population. Israel severs the link between Palestinian sovereignty and effective control of the OPT, by indefinitely suspending occupation law to impose a dual legal structure that serves the interests of the settlers at the expense of Palestinians brings the situation closer to resemble apartheid (Ben-Naftali et al., 2005). Acts committed under this dual legal structure include: allocating more water for settler use than Palestinian, continuous land expropriations; settlement expansions, Jewish only bypass roads, checkpoint and road closures, dispossessing Palestinians, home demolitions, nightly raids and searches, administrative detention, torture, child detainee, etc. (Ben-Naftali et al., 2005; B'tselem, 2016). The ICJ in 2004 determined that the construction of the Wall and

settlements constitute as de facto annexation altering the occupation's status from temporary to permanent especially considering that the territories have been occupied for 51 years. The Wall and settlements are sources of discrimination and segregation. Furthermore, the prolonged condition of the occupation, increased settlement expansions, and land appropriation are deemed to be the source of Israel's insecurity. Israel acts as sovereign by extending its law to settlers in the West Bank without formal annexation but falls short of this title by not providing citizenship rights to Palestinian inhabitants' citizenship rights (Ben-Naftali et al., 2005, p. 610). In this sense "Israel enjoys both the powers of an occupant and a sovereign in the OPT, while Palestinians enjoy neither the rights of an occupied people nor the rights of citizenship" (Ben-Naftali et al., 2005, p. 611). It avoids the legal obligations or consequences that would relate to sovereignty by deceptively forgoing an open legal claim of sovereignty, despite calls by religious and political leaders to annex the OPT.

Given that legal authority identifies Israel as non-sovereign over the OPT, the only legitimate solution supposedly then is for Israel to withdraw its settlements and military posts to allow the establishment of a Palestinian state (Tilley, 2015). Several principles of international law support this position including that territory acquired by force is prohibited (Israel's conquest in 1967) and the peoples' right to self-determination (legal authority and international support of Palestinian self-determination and an independent state) (Tilley, 2015). Lacking formal sovereignty over territory does not preclude Israel from the crime of apartheid (Tilley, 2015). This is supported by the Namibia precedent when the ICJ in 1970 determined that South Africa practiced apartheid despite lacking juridical sovereignty as a mandatory power over that area (Tilley, 2015). The difference between the two is that South Africa was authorized by the League of Nations to govern the territory as a mandate while Israel took control of the territory by force

categorizing it as a belligerent occupant (Tilley, 2015). Nonetheless, because South Africa did not have formal sovereignty and was preventing the Namibians from exercising their self-determination the solution was for South Africa's withdrawal as it would be for Israel (Tilley, 2015). Israel's withdrawal would be highly unlikely for its "annexation of the OPT is too advanced, the commitment to annexation is too embedded in the government's institutional design as well as in portions of the Jewish national fabric, and international action is far too inept to have an impact on matters of such essential internal value to Israel" (Tilley, 2015, p. 305). The apartheid frame is better at contextualizing the current situation considering that Israel is sovereign in the OPT in every way possible except the political will of the territory's population while additionally being fully settler-colonial (Tilley, 2015).

The paradoxes and contradictions in international humanitarian law has been exploited by the West historically to advance their interests and is considered to be the source of the Palestine problem. Britain and the League of Nations favored and supported Zionist settler sovereignty over Palestinian indigenous sovereignty by legitimizing Zionist claims to sovereignty by settlement under the 1947 UN Partition Plan (Reynolds, 2015). The occupation and two-state solution framework, thus does not take into account that Zionist and Palestinian claims to sovereignty were not treated as equal from the beginning. Today, Israel obstructs Palestinian sovereignty and self-determination by fragmenting the Palestinian people and categorizing them into different legal domains. It does this by not only exercising full control over the West Bank but also by imposing grave sanctions on Palestinian of Gaza and implementing discriminatory policies towards its Palestinian citizens in the 1948 boundaries. The major conditions of apartheid are racial categorization/segregation, territorial fragmentation, and violent repression. Recent research has identified specific laws and events in Israel that mirror South Africa to exemplify each

condition of apartheid. Israel's 1950 Absentee Property Law or Land Acquisition Law of 1953 are equivalent to South Africa's 1913 Natives Land Act for land expropriation and territorial fragmentation. Racial categorization and segregation are exemplified by Israel's 1982 Identity Card Act or Nationality Law, which are similar to the 1952 Pass Laws Act of South Africa. In the instance of violent repression, 2018 Great March of Return in Gaza is comparable to the 1960 Sharpeville Massacre.

The legitimate and effective solution would take into consideration that Israel has historically repressed Palestinian self-determination and sovereignty and that both Jews and Palestinians have equal sovereign rights to all parts of the mandate Palestine. The adequacy of the one-state solution is contingent upon addressing the ethnically cleansing and mass displacement of Palestinians in 1948 and 1967, and the ongoing current dispossession and expulsion of small villages by allowing internally and externally placed Palestinians the right to return to their places of origin. The one-state solution would appease religious Jews who make religious claims to the West Bank and Gaza, internally displaced Palestinians of Gaza and the West Bank who have ancestral claims to 1948 Palestine, and Palestinian diaspora who have ancestral claims to the OPT and 1948 Palestine. It also would be more efficient as a solution considering Israel already controls so much of the Gaza and West Bank, as opposed to dismantling its economic and political entrenchment in the OPT. The two-state solution would be inefficient for Palestinians because they are dependent on the Israeli economy and if it were withdrawn from the OPT, Palestinians would have limited resources to work with to form a newly independent Palestinian state. Additionally, bridging the sociopolitical and economic disparity between Gaza and the West Bank under the two-state framework would be nearly impossible without adequate financial resources. The two-state solution would also not address the insecurity and disparity between the

two groups, given that Palestinians would still resent Israelis for having settled for crumbs given that they currently have no negotiating power to bargain. Creating two separate states would not bridge the large asymmetry of power and wealth between Israel and Palestine, which even after the establishment of a Palestinian state, Zionist political and economic hegemony would continue to dominate the region. Palestinians and Israelis living in a binational democratic state then would be more feasible than the two-state for sociopolitical and economic reasons.

Zionist political hegemony has maintained its relationship with Palestinian self-determination and sovereignty as a domestic issue taking it away from the realm of international intervention. External pressure is necessary in order to implement an integrative solution that puts both Jews and Palestinians on equal footing. Utilizing the example of black resistance and liberation movements, their calls to global civil society to financially divest from apartheid South Africa increased South Africa's economic and political isolation. External pressure would include global grassroots campaigns such as the Boycott, Divestment, and Sanctions (BDS) movement which work towards nonviolently protesting Israeli policies towards Palestinians. The BDS movement incorporates the academic, political, and economic disengagement from Israeli businesses and institution operating within the West Bank and 1948 Palestine. Given apartheid is a crime against humanity, states must also recognize Israel's regime as unlawful and do what is in their capacity to hold Israel accountable. The West who has aided and abetting Israel throughout the years must especially has a duty to end their military, political, and economic support of Israel through embargos and sanctions. Britain and the US have extensively perpetuated and maintained the status quo, which are deteriorating Palestinian sovereignty and human rights. Furthermore, the Palestinian Authority (PA) in the West Bank should relinquish its position given that it has acquiesced in Israeli crimes towards the Palestinian but suppressing Palestinian political dissent.

The PA has over the years received financial support and aid from the US, only to divert those resources away from the Palestinian people and into the pockets of the political elite. External pressure in the form of legal strategies is also critical, seeing as South Africa was repeatedly condemned at the UN. Putting forth an inquiry to the ICC and ICJ to investigate Israel would exert external pressure to the extent that Israel would be forced to change its domestic policies and adhere to international law. Finally, internal pressure through continual and unified nonviolent resistance by of Israelis and Palestinians in Gaza, OPT, and 1948 Palestine is also crucial. Israel will continue its settler-colonial expansion and apartheid practices unless foremost major external and, secondly, internal pressure are exerted.

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