

منابع مقاله «فلسطین: یک وضعیت استثنایی پراکنده و خردشده»

1. Mahmoud Darwish, 'Routine', in *A River Dies of Thirst* [Athar al-Farasha] (2008).
2. Supreme Court of Israel, *The Association for Civil Rights in Israel (ACRI) v. The Knesset and the Government of Israel*, HCJ 309199/, judgment, 8 May 2012, para. 19. Extracts quoted from this judgment are based on an unofficial professional translation; on file with the author.
3. Colonial present
4. Derek Gregory, *The Colonial Present* (Malden, MA: Blackwell, 2004).
5. See Edward W. Said, *Orientalism* (London: Penguin, 1978) 4473-.
6. Michael J. Shapiro, *Violent Cartographies: Mapping Cultures of War* (Minneapolis: University of Minnesota Press, 1997) xi.
7. See, for example, Vijay Prashad, *The Death of the Nation and the Future of the Arab Revolution* (Oakland: University of California Press, 2016).
8. Gregory, *The Colonial Present*, 16. As one commentator observed in the context of the American decision to go to war in Afghanistan, '[m]ore than a rational calculation of interests takes us to war. People go to war because of how they see, perceive, picture, imagine and speak of others: that is, how they construct the difference of others as well as the sameness of themselves through representation.' James der Derian, 'The War of Networks' (2001) 5:4 *Theory & Event* §.21.
9. Imperialism
10. 8 Anghie, *Imperialism Sovereignty*, 273. Within the spectrum of colonialism, of course, settler colonialism may be distinguished from extractive colonialism or exploitative colonialism on the basis of a primary purpose of human settlement of the territory beyond simply resource extraction or labour exploitation, but some degree of physical colonization and imposition of rule from the metropole is common to the pursuit of all such forms of colonialism.
11. Discourse
12. In addition to chapters 56- of *The Colonial Present*, see Derek Gregory, 'Palestine and the "War on Terror"' (2004) 24:1 *Comparative Studies of South Asia, Africa and the Middle East* 183.
13. State of emergency
14. Kanishka Jayasuriya, 'Struggle over Legality in the Midnight Hour: Governing the International State of Emergency' in Victor V. Ramraj (ed.), *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008).
15. Gregory, *The Colonial Present*, 136.
16. Legal stratification
17. Settler colonialism: لغتی عربی از ریشه وطن است به معنی کسی که جای جدیدی را وطن خود می‌کند و به جای کلمه «شهرک‌نشین» در فارسی به کار می‌رود. با توجه به اینکه مفهوم «شهرک»، به آن شکلی که ما آن را می‌فهمیم بخش کوچکی از این شکل استعمار است، استفاده از واژه مستوطن را در این متن مناسب‌تر یافتیم. یادداشت مترجم.
18. Lloyd, 'Settler Colonialism', 60.

19. Ibid., 71.
20. This is mirrored in different contexts in Israel's 'othering' of the native Bedouin and nomadic peoples, as well as of African migrant and asylum-seeking communities, for example.
21. Dov Weisglass, advisor to then Israeli Prime Minister Ehud Olmert, quoted in Conal Urquhart, 'Gaza on brink of implosion as aid cut-off starts to bite', *The Observer*, 16 April 2006.
22. See, for example, Amos Harel, 'IDF rabbinate publication during Gaza war: We will show no mercy on the cruel', *Ha'aretz*, 26 January 2009; Chaim Levinson, 'Police release rabbi arrested for inciting to kill non-Jews', *Ha'aretz*, 27 July 2010.
23. See Uri Blau, 'Dead Palestinian babies and bombed mosques – IDF fashion 2009', *Ha'aretz*, 20 March 2009.
24. Status update
25. This refrain has been sounded not only by NGOs, journalists and activists, but by authorities such as the UN Under-Secretary-General for Humanitarian Affairs. See, for example, 'UN humanitarian chief warns of disaster if Gaza siege continues', *Ha'aretz*, 12 March 2010.
26. Closure
27. Darwish, 'Routine'.
28. As of 1 July 2014, 1,258,559 of Gaza's estimated population of 1,760,000 are refugees registered with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). See www.unrwa.org/where-we-work/gaza-strip.
29. Sara Roy, *The Gaza Strip: The Political Economy of De-development* (Beirut: Institute for Palestine Studies, 3rd edn., 2016).
30. Gregory, 'Palestine and the "War on Terror"', 189.
31. Adi Ophir, 'A Time of Occupation' in Roane Carey and Jonathan Shainin (eds.), *The Other Israel* (New York: The New Press, 2002) 51, 60.
32. Agamben, *State of Exception*, 59.
33. Judith Butler, *Precarious Life* (London: Verso, 2004) 68.
34. Report of the United Nations Fact-Finding Mission on the Gaza Conflict, UN Doc. A/HRC/12.48, 25 September 2009.
35. Edward W. Said, 'The Academy of Lagado', *London Review of Books*, 17 April 2003.
36. Theodor Herzl, *The Jewish State* (1896) (Raleigh: Hayes Barton Press, 2006) 18.
37. physical embodiment
38. Gregory, *The Colonial Present*, 122. For a compelling account of the colonial control mechanisms and physical transformation of Palestinian territorial spaces under occupation, from subterranean realm to militarised airspace, see Eyal Weizman, *Hollow Land: Israel's Architecture of Occupation* (London: Verso, 2007). On the "besieging cartography" of Israel's convoluted surveillance apparatus, see Camille Mansour, 'Israel's Colonial Impasse' (2001) 30:4 *Journal of Palestine Studies* 83, 87.
39. Refuser Solidarity Network, quoted in Gregory, *The Colonial Present*, 125.
40. Nadera Shalhoub-Kevorkian, *Security Theology, Surveillance and the Politics of Fear* (Cambridge:

Cambridge University Press, 2015).

41. China Miéville, 'Exit Strategy', *Guernica*, 1 November 2013.

42. Giorgio Agamben, 'The State of Exception – Der Ausnahmezustand', lecture at the European Graduate School, August 2003, transcribed by Anton Pulvirenti.

43. Ronit Lentin, 'Palestine/Israel and State Criminality: Exception, Settler Colonialism and Racialization' (2016) 5:1 *State Crime* 32, 33.

44. Disjunct

45. Juridical order

46. Neve Gordon, *Israel's Occupation* (Berkeley: University of California Press, 2008) 21.

47. Sari Hanafi, 'Palestinian Refugee Camps in the Palestinian Territory: Territory of Exception and Locus of Resistance' in Adi Ophir, Michal Givoni and Sari Hanafi (eds.), *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories* (New York: Zone Books, 2009) 495-496.

48. *Ibid.*, 506.

49. Bare life

50. Ronit Lentin, 'Palestinian Women: From Femina Sacra to Agents of Active Resistance' (2011) 34:2 *Women's Studies International Forum* 165. See also Ronit Lentin, 'Femina sacra: Gendered Memory and Political Violence' (2006) 29:5 *Women's Studies International Forum* 463-473; Cristina Masters, 'Femina Sacra: The "War on/of Terror", Women and the Feminine' (2009) 40:1 *Security Dialogue* 2949-.

51. Total institution

52. Hanafi, 'Palestinian Refugee Camps', 508, 511.

53. Necropower

54. Mbembe, 'Necropolitics', 30.

55. Biopolitical

56. Necropolitical

57. *Ibid.*

58. *Ibid.*, 27.

59. Fanon, *Wretched of the Earth*, 3738-.

60. *Ibid.*, 3940-.

61. Politics of verticality

62. Eyal Weizman, 'The Politics of Verticality', *Open Democracy*, 23 April – 1 May 2002.

63. Symbolics of the top

64. Mbembe, 'Necropolitics', 29. Emphasis in original.

65. See, for example, Markus Gunneflo, *Targeted Killing: A Legal and Political History* (Cambridge: Cambridge University Press, 2016).

66. Mbembe, 'Necropolitics', 29.

67. *Military Prosecutor v. Adnan Jaber et al.* Translation quoted in Ra'anan Alexandrowicz, *The Law in*

These Parts (2011).

68. Mbembe, 'Necropolitics', 30.

69. Yehouda Shenhav and Yael Berda, 'The Colonial Foundations of the State of Exception: Juxtaposing the Israeli Occupation of the Palestinian Territories with Colonial Bureaucratic History' in Ophir, Givoni and Hanafi (eds.), *The Power of Inclusive Exclusion*, 338-339-. See also Yehouda Shenhav, 'The Imperial History of "State of Exception"' (2006) 29 *Theory and Criticism* 205.

70. Shenhav and Berda, 'The Colonial Foundations', 347, 350.

71. Ibid., 347.

72. Ibid., 344. Shenhav and Berda also remind us that the founding violence of law is as relevant to law in the metropole as it is in the colony, which negates the idea of the colony as an exceptional space in that particular regard.

73. Ibid.

74. Hanafi, 'Palestinian Refugee Camps', 495-507, 496-. Emphasis added.

75. Shenhav and Berda, 'The Colonial Foundations', 346.

76. rational model

77. Ibid., 340, 366.

78. Shlomo Gazit, quoted in Shenhav and Berda, 'The Colonial Foundations', 337.

79. Adi Ophir, Michal Givoni and Sari Hanafi, 'Introduction' in Ophir, Givoni and Hanafi (eds.), *The Power of Inclusive Exclusion*, 23.

80. Ibid.

81. Michelle Farrell, *The Prohibition of Torture in Exceptional Circumstances* (Cambridge: Cambridge University Press, 2013) 249-251-.

82. Ibid., 22.

83. Stephen Morton, *States of Emergency: Colonialism, Literature and Law* (Liverpool: Liverpool University Press, 2013) 174. Emphasis added.

۸۴. یادداشت مترجم: منظور نویسنده دو عبارت حذف همه شمول و انحصار شمول است که در متن انگلیسی به ترتیب با عبارات inclusive exclusion و exclusive inclusion آمده است.

85. Pale of law

86. See further John Dugard and John Reynolds, 'Apartheid, International Law, and the Occupied Palestinian Territory' (2013) 24:3 *European Journal of International Law* 867.

87. Decisionistic

88. Mandate

89. Morton, *States of Emergency*, 174. Footnote omitted.

90. Ilan Pappé, 'The Mukhabarat State of Israel: A State of Oppression is not a State of Exception' in Ronit Lentin (ed.), *Thinking Palestine* (London: Zed, 2008) 148, 149.

91. Teju Cole, 'Bad Laws' in Vijay Prashad (ed.), *Letters to Palestine: Writers Respond to War and Occupation* (London: Verso, 2014).

92. Emergency Regulations
93. Gregory, *The Colonial Present*, 16. Emphasis in original.
94. connective tissue
95. Annexationist
96. Doctrine
97. Settlement
98. Brenna Bhandar and Rafeef Ziadah, 'Acts and Omissions: Framing Settler Colonialism in Palestine Studies', *Jadaliyya*, 14 January 2016. For a sample of the (renewed) engagement of Palestine scholarship with settler colonial studies, see the special issue on 'Past is Present: Settler Colonialism in Palestine' in (2012) 2:1 *Settler Colonial Studies* 1272-.
99. See, for example, Gershon Shafir, *Land, Labor and the Origins of the Israeli-Palestinian Conflict, 1882-1914* (Cambridge: Cambridge University Press, 1989).
100. Lloyd, 'Settler Colonialism', 68.
101. John Strawson, 'British (and International) Legal Foundations for the Israeli Wall: International Law and Multi-Colonialism' (2004) 13 (2005- *Palestine Yearbook of International Law* 1, 2.
102. John Strawson, 'Reflections on Edward Said and the Legal Narratives of Palestine: Israeli Settlements and Palestinian Self-Determination' (2002) 20:2 *Penn State International Law Review* 363, 369.
103. Resolution of the Zionist Congress, September 1921.
104. Strawson, 'Reflections on Edward Said', 376.
105. The Jewish Agency, along with the World Zionist Organisation and other 'para-state' institutions, remains central to the continuing colonisation of Palestinian land.
106. See Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Reissue with a New Epilogue, Cambridge: Cambridge University Press, 2005) 590-591-.
107. Detlev F. Vagts, 'Hegemonic International Law' (2001) 95 *American Journal of International Law* 843, 845.
108. *Dweikat v. Government of Israel*, H CJ 39079/, judgment, 22 October 1979.
109. See further Raja Shehadeh, *The Law of the Land: Settlement and Land Issues under Israeli Military Occupation* (Jerusalem: PASSIA, 1993); John Strawson, 'Britain's Shadows: Post-colonialism and Palestine' in Tareq Y. Ismael (ed.), *The International Relations of the Middle East in the Twenty-First Century* (Aldershot: Ashgate, 2000) 203-225-. In this case, the Israeli authorities had now moved to settling privately owned land in addition.
110. Weizman, *Hollow Land*, 100.
111. See, for example, *Abu Hilo v. Government of Israel [Rafah]*, H CJ 30272/, with Justice Vitkon explaining that although the seized land was designated for civilian settlement rather than military installations, the settlements 'are in themselves, in this case, a security measure'. See also *Abu Hilo v. Government of Israel [Beit El]*, H CJ 25879/, with Justice Vitkon again: 'In terms of purely security-based considerations, there can be no doubt that the presence in the administered territory of settlements - even "civilian" ones - of the citizens of the administering power makes a significant contribution to the security

situation in that territory, and facilitates the army's performance of its tasks.'

112. Weizman, *Hollow Land*, 105.

113. Cited in B'Tselem, 'Land Grab: Israel's Settlement Policy in the West Bank' (Jerusalem: B'Tselem, 2002) 49.

114. It must be noted here that the Elon Moreh ruling did not have any bearing on the continued settlement of "state land" in the occupied territories, nor on prior requisition orders of private Palestinian land, which remained valid as far as Israeli law was concerned.

115. In just six years from 1979 to 1985, the cultivated land in the West Bank was reduced by 40 per cent. Weizman, *Hollow Land*, 120.

116. *Ibid.*, 108.

117. See, for example, *Bargil v. Government of Israel*, HCJ 448191/, judgment, 25 August 1993.

118. Quoted in Ra'anah Alexandrowicz, *The Law in These Parts* (2011).

119. See, for example: Syria 19632011-; Egypt 19812012-; Algeria 19922011-.

120. Yoav Mehozay, 'The Fluid Jurisprudence of Israel's Emergency Powers: Legal Patchwork as a Governing Norm' (2012) 46:1 *Law & Society Review* 137, 137138-.

121. Mehozay, 'The Fluid Jurisprudence', 140141-.

122. Administrative Detention

123. 9 Knesset Debates 1807, 12 May 1951, quoted in B'Tselem, 'Detained Without Trial: Administrative Detention in the Occupied Territories Since the Beginning of the Intifada' (Jerusalem: B'Tselem, 1992)

24. See also, for example, Don Peretz, 'Early State Policy towards the Arab Population, 1948-1955-' in Laurence J. Silberstein (ed.), *New Perspectives on Israeli History: The Early Years of the State* (New York: New York University Press, 1991) 92.

124. Jaffa

125. Ramle-Lod

126. Nazareth

127. Western Galilee

128. Negev

129. Edward W. Said, *The Question of Palestine* (New York: Times Books, 1979) 36, 105.

130. David Kretzmer, *The Legal Status of the Arabs in Israel* (Boulder: Westview Press, 1990) 116, 128.

131. State Comptroller's Report no. 9 (195778 (58/), quoted in Quigley, *The Case for Palestine*, 104.

132. Said, *The Question of Palestine*, 103.

133. 'Address by Prime Minister Ben Gurion', *New York Times* 528, 53- January 1961.

134. 36 Knesset Debates 1217, 20 February 1963, quoted in Quigley, *The Case for Palestine*, 109.

135. Government of Palestine, *The Defence (Emergency) Regulations, 1945*, *Palestine Gazette* no. 1442, Supplement no. 2, 27 September 1945, Regulation 125.

136. Quigley, *The Case for Palestine*, 106.

137. Hanna Dib Nakkara, 'Israeli Land Seizure under Various Defense and Emergency Regulations' (1985) 14:2 *Journal of Palestine Studies* 13, 1516-.

138. Shimon Peres, 'Military Law is the Fruit of Military Governance', Davar, 26 January 1962. Peres was Director-General of Israel's Ministry of Defence in 1962.
139. Peretz, 'Early State Policy', 90.
140. Committee of Displaced Persons from Iqrit, Rama and Others v. Government of Israel, HCJ 14181/.
141. Hussein Abu Hussein and Fiona McKay, *Access Denied: Palestinian Land Rights in Israel* (London: Zed Books, 2003) 85.
142. For a number of examples, see Quigley, *The Case for Palestine*, 133134-.
143. Originally Article 49; now Article 38.
144. Adalah, 'Information Sheet #1: State of Emergency', submitted to the UN Human Rights Committee, 22 July 2003.
145. Said, *The Question of Palestine*, 105. The Absentees' Property Law was enacted in 1950.
146. Kretzmer, *The Legal Status of the Arabs in Israel* 102, 115.
147. Absentee property
148. Amichai Cohen and Stuart Cohen, *Israel's National Security Law: Political Dynamics and Historical Development* (London: Routledge, 2011) 56.
149. Statutory legislations
150. Emergency Land Requisition (Regulation) Law 1949, Article 3(a).
151. George Bisharat, 'Land, Law, and Legitimacy in Israel and the Occupied Territories' (1994) 43 *The American University Law Review* 467, 517.
152. Emergency Regulations (Cultivation of Waste Lands) (Extension of Validity) Ordinance 1949, Schedule: Emergency Regulations Concerning the Cultivation of Waste Lands and the Use of Unexploited Water Resources, Article 17(a).
153. Jewish National Fund
154. Souad R. Dajani, *Ruling Palestine: A History of the Legally Sanctioned Jewish-Israeli Seizure of Land and Housing in Palestine* (Geneva and Bethlehem: Centre on Housing Rights and Evictions (COHRE) & BADIL Resource Center for Palestinian Residency & Refugee Rights, 2005) 18, 40.
155. Sheikh Ra'ed Salah v. Minister of Interior, HCJ 470602/, judgment, 17 July 2002.
156. Gross and Ní Aoláin, *Law in Times of Crisis*, 232233-, citing Menachem Hofnung, *Democracy, Law and National Security in Israel* (Brookfield, VT: Dartmouth, 1996) 5560-, and Mordechai Mironi, *Back-to-Work Emergency Orders: Government Intervention in Labor Disputes in Essential Services* (1986) 15 *Mishpatim* 350, 380386-.
157. Ordinary Statutes
158. Addameer, 'Palestinian Political Prisoners in Israeli Prisons' (Ramallah: Addameer, 2012) 4.
159. 'Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 1991' UN Doc. ST/LEG/SER.E/10 (1992) 149.
160. UN Human Rights Committee, 'Concluding Observations: Israel', UN Doc. CCPR/C/79/Add.93, 18 August 1998, §.11.
161. UN Human Rights Committee, 'Concluding Observations: Israel', UN Doc. CCPR/CO/78/ISR, 21 August 2003, §.12.

162. Government of Israel, 'Second Periodic Report to the Human Rights Committee', 20 November 2001, Addendum to UN Doc. CCPR/C/ISR/2011/4, 2/ December 2001.
163. UN Human Rights Committee, 'Concluding Observations: Israel', UN Doc. CCPR/C/ISR/CO/4, 21 November 2014, §.10; UN Human Rights Committee, 'Concluding Observations: Israel', UN Doc. CCPR/C/ISR/CO/3, 29 July 2010, §.5,7.
164. Lloyd, 'Settler Colonialism', 77.
165. Dr. Herzl Cook v. Defense Minister of the Provisional Government of the State of Israel, et al.; Ziborah Wienski v. The Minister of Defense, et al., HCJ 148/2 ;48/, HaMishpat vol. 3, 1948; quoted in Jiryis, *The Arabs in Israel*, 1314-.
166. Al-Karbutli v. Minister of Defence et al., HCJ 748/, judgment of 3 January 1949.
167. Zeev v. The Acting District Commissioner of the Urban Area of Tel Aviv (Gubernik), HCJ 1048/; Leon v. Acting District Commissioner of Tel Aviv, HCJ 548/.
168. Hassan Jabareen, 'Why "Jewish and Democratic" Values Negate Palestinian Equal Rights', *The Nakba Files*, 8 September 2016. See further Mazen Masri, *The Dynamics of Exclusionary Constitutionalism: Israel as a Jewish and Democratic State* (Oxford: Hart, 2017).
169. El-Ard v. Commissioner of the Northern District, HCJ 3964/.
170. Al-Assad v. Minister of Interior, HCJ 21979/.
171. Makhoul v. Jerusalem District Commissioner, HCJ 32281/.
172. The Association for Civil Rights in Israel (ACRI) v. The Knesset and the Government of Israel, HCJ 309199/, judgment, 8 May 2012, paras. 7, 9, 11.
173. ACRI v. Israel, interim decision, 1 August 2006.
174. *Ibid.*
175. ACRI v. Israel, interim decision, 7 December 2011.
176. ACRI v. Israel, judgment, 8 May 2012, para. 11.
177. *Ibid.*, para. 11.
178. Kahana v. The Minister of Defence, HCJ 180/, PD 35(2), 253, 257.
179. ACRI v. Israel, 8 May 2012, para. 19.
180. *Ibid.*, para. 17.
181. Saree Makdisi, *Palestine Inside Out: An Everyday Occupation* (New York: W.W. Norton & Co., 2008) 6.
182. Yuval Shany and Ido Rosenzweig, 'High Court of Justice Rejects Petition to End Israel's State of Emergency', 41 *Terrorism & Democracy* (May 2012), citing the 2008 Incarceration of Unlawful Combatants Law (Temporary Order and Amendment) enacted in anticipation of Operation Cast Lead.
183. The Association for Civil Rights in Israel, 'Counter-Terrorism Bill: Undemocratic Emergency Regulations Could Become Permanent Law', 4 August 2011.
184. Jewish Home party
185. Quoted in Jonathan Lis, 'Knesset Passes Sweeping Anti-terrorism Law', *Ha'aretz*, 15 June 2016.
186. Adalah, 'Israel's New Anti-Terror Law Violates Arab Citizens' Human Rights', 19 June 2016.
187. Lahav Harkov, 'Terror Bill Passes into Law', *The Jerusalem Post*, 15 June 2016.
188. 'Israel's Knesset Passes "Draconian" Anti-terrorism Law', *Ma'an News*, 15 June 2016.
189. ACRI v. Israel, judgment, 8 May 2012, separate opinion of Chief Justice (Retired) D. Beinisch.