LIVING EMERGENCY

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Israel's Permit Regime

in the Occupied West Bank

YAEL BERDA

stanford briefs
An Imprint of Stanford University Press
Stanford, California

Stanford University Press
Stanford, California

Printed in the United States of America on acid-free, archival-quality paper

Library of Congress Cataloging-in-Publication Data

Names: Berda, Yael, author.
Title: Living emergency : Israel's permit regime in the occupied West Bank / Yael Berda.
Description: Stanford, California : Stanford Briefs, an imprint of Stanford University Press, 2017. | Includes bibliographical references.
Identifiers: LCCN 2017033750 (print) | LCCN 2017035544 (ebook) | ISBN 9781503605299 (electronic) | ISBN 9781503602823 (pbk. : alk. paper)
Subjects: LCSH: Freedom of movement—West Bank. | Palestinian Arabs—Legal status, laws, etc.—West Bank. | Military government—West Bank. | Palestinian Arabs—Government policy—Israel. | War and emergency legislation—Israel.
Classification: LCC KMM748.2 (ebook) | LCC KMM748.2 .B47 2017 (print) | DDC 342.569408/58—dc23
LC record available at https://lccn.loc.gov/2017033750

Typeset by Bruce Lundquist in 10/13 Adobe Garamond

To those who do not have freedom of movement (yet)

CONTENTS

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PROLOGUE

Issa lives with his wife and three children near Hebron in the south of the Israeli-occupied West Bank. In 2001, Issa began working in construction for a Jerusalem-based contractor. Through the Payments Section of the Israeli Employment Bureau, which set quotas for the number of Palestinian laborers Israeli companies could employ within Israel proper, Issa received an official work permit that allowed Issa to enter Israel from 5:00 a.m. to 7:00 p.m. every day. The work permit was conditional on the possession of another document—a biometric identity card (a magnetic smart card), which was provided to Issa by the Hebron office of the Coordinator of Government Activities in the Occupied Territories (COGAT.) Every three months, the construction company would apply for a bulk renewal of work permits for all its workers, including Issa. The work permit was duly renewed regularly until the fall of 2004.

In November 2004, the company applied once again to renew the permits for all its workers. Out of the fifteen applications, two were refused, including Issa's. The rejection alarmed him. Neither he nor his employer could determine why his permit renewal was declined. After speaking to a few of his colleagues, Issa thought

the reason might simply be the approaching expiration date of his magnetic card. Palestinian residents of the Occupied Palestinian Territories (hereafter Occupied Territories) had to renew their cards every two years, so Issa started the process. He went to the District Coordination Office (DCO) in Hebron, paid a registration fee of NIS 145 (New Israeli shekels), and after waiting for several hours (the DCO did not have regular office hours), approached the soldier at the booth. The soldier told Issa he was classified as "restricted for security reasons by police" (*manua mishtara*), which means the Israeli police denied him entry into Israel. The soldier wrote the letters "MM" with a black felt-tipped pen on his application form.

The next day, Issa returned to the DCO to ask how he could appeal his travel ban. He wanted to know which official had made the decision to place him under a police security restriction—and why—and hoped to speak to this person directly. The soldier at the booth told him to go to the police representative at the DCO, but the representative was not in the office that day. A few days later, Issa returned and was told that the entire DCO, a department of the military Civil Administration, was closed for renovations for the next two weeks.

In January 2005, Issa made a formal request to the police representative at the DCO, and ten days later he was informed that the police had filed two criminal charges against him for entering Israel without a permit, one at the Moria police station in Jerusalem and a second at the police station in Bat Yam. A police officer said that he had no authority or discretion to remove the security restriction and could only "deliver information about the restriction, kind of like customer service." He told Issa that the only way to remove the proscription was to hire a lawyer who could petition to close the criminal cases. Issa still had no idea why he was restricted.

In February 2005, Issa hired M. Hassan, a Palestinian lawyer, also from the Hebron region. Hassan was licensed to represent clients only against the military authorities and the Civil Admin-

istration, who governed the Occupied Territories, but he could not directly approach the Israeli civilian police, which were part of a separate legal system. The military system had jurisdiction over Palestinian residents in the Occupied Palestinian Territories, while the criminal system had jurisdiction within Israel proper over Israeli civilians living or traveling beyond the Green Line (the demarcation line drawn up between Israel and its neighbors during the armistice in 1949). A Palestinian legal license allowed a lawyer to represent clients against the military authorities, but not civil authorities, because there are two legal systems in the Occupied West Bank: military decrees for Palestinians and civil law for Jews.

At that time, I was an Israeli lawyer licensed to interact with the Israeli civilian police, so Hassan approached me to assist on the case. Every police district had different procedures for processing offenses of illegal entry. Therefore, in March 2005, to obtain dismissal of the charges and close Issa's illegal entry files for "lack of public interest" (the authorities did not think the case was important enough to pursue), I contacted the prosecution department of the Tel Aviv district police in the Ayalon region for the Bat Yam station and the investigations department of the Moria station in Jerusalem. When my written requests went unanswered, I called Moria station on the phone. The station operator told me that even though the police database (known as "Rolling Stone") lists Issa's case as administered by the Jerusalem police station, since the separation wall had been built, the cases have been processed by the Jerusalem Envelope (Otef Yerushalaim) investigations unit of the Border Police, to which cases concerning Palestinian illegal aliens are automatically transferred. When I called that unit, based in the Atarot Industrial Zone in annexed East Jerusalem, a young policewoman told me the unit runs a dedicated hotline for lawyers, operating exclusively between 9:00 a.m. and noon on Thursdays. On Thursday, I called the Jerusalem Envelope investigations unit, but no one

replied. I sent a fax to the chief of the unit, Lt. Moshe Avital, who called back personally with a promise to close the case as soon as it arrived at his desk.

The case at the Bat Yam station took even longer to move forward. My attempts fell over the Passover holiday, and it was impossible to reach the various litigation departments involved. A mere administrative procedure such as closing Issa's file was not seen as urgent and therefore would not be handled until after the holiday. After I sent several letters, the prosecution department informed me by fax on May 10, 2005, that the case was dropped for lack of public interest. I called Hassan and told him one of the cases was closed; he said he would tell Issa and take care of the rest of the procedure with the Civil Administration. The next day, he contacted the police representative at the DCO with the fax from the prosecutors. The police officer told him he would need an official form from the police registrar. Again, Hassan could not approach the Israeli civilian police directly, so he called me to procure the form. The entire process—an administrative one, since the legal merit of the cases of "illegal" entry was never discussed—took nearly three months, during which time Issa could not enter Israel to work.

A week later in May, Issa returned to the DCO with the official form in hand, but again he was informed he was still under a police security restriction, which also means that he was still not eligible for a new magnetic card. Hassan called the police representative at the DCO and was told that updates from the database at the national police headquarters to the military database on the status of a case could take ten to fourteen days. I tried to speed up the process by calling the national police headquarters directly and was directed to the subunit on entry bans. The secretary told me that since there were only two clerks to enter updates on closed cases into the Rolling Stone database, in a procedure called an "exceptional populations status update" (*status uchlusiyot harigot*), updating Issa's status could take up to two weeks. In early

June, Hassan once again approached the police representative at the DCO and was told the Bat Yam case was closed, but the one at the Jerusalem Envelope was still open.

By this time, Issa had been unable to enter Israel for work for more than six months and was worried he would lose the possibility of working for his employer. The company that had originally hired him was still interested in his services, but the project manager told him the contractor was wary of employing workers without a work permit because, due to new laws and more enforcement, he would liable for a fine of NIS 5,000 and risked criminal charges for breaking the Entry to Israel Law. Issa, whose family had no resources for their daily needs, decided to risk being caught as an illegal alien. He entered Israel without a permit through the Sheik Saad area, where the separation wall was not yet built, to seek construction work as a day laborer. Every day he worked in Israel, he risked being caught by police as an illegal alien, which could lead to trial and imprisonment of up to one year. I preferred not to know how many times he took that risk during the long months of waiting.

In June 2005, I called the Jerusalem Envelope investigation unit. I was told that Issa's case had been forwarded to the military prosecutors who would press charges, which was a direct contradiction to the earlier statement from Lieutenant Avital that he would personally close the file. After considerable effort, I managed to speak to Lieutenant Avital again. Apparently, he had neglected to write down our agreement in the file, and the case proceeded along its default course, which was prosecution in a military court.

In July, I wrote to the officer in charge of military prosecution in Judea and requested the case be closed for lack of public interest. I explained the confusion concerning the case, which was never meant to reach the prosecutors at all. A week later, there was still no reply. I happened to be representing another client at the military court at the Ofer Camp, so I used that opportunity to

inquire in person about the status of Issa's case. The soldiers at the prosecutor's office told me they had not yet received the case from the Jerusalem Envelope unit. Throughout July, I repeatedly contacted both the unit and the military prosecutors, but both offices had difficulties locating the file.

Finally, in September 2005, the head of the investigation unit called to report that the case had been sent back to him and was finally closed. He apologized for the delay. I immediately called the Moria police station and requested an official closure form. I then forwarded it to Hassan, who took it to the DCO, where he was told the office was operating on reduced capacity during the Jewish holiday season and the police representative was unavailable. Issa had little choice but to wait for the holiday season to pass. Then in October, he applied for a new magnetic card at the DCO. The soldier at the booth informed him that while the police no longer banned him, he was now under a ban issued by the Shabak (commonly known as the General Security Services [GSS] or Shin Bet) and he should contact its representatives at the DCO.

Exasperated and terrified, Issa called me to swear by everything he held dear that he had never lifted a finger against the security of the Israeli state. He vowed by his children that "his heart was pure and as clean as clean can be." He asked me if I thought a family feud in his village could have led to the security ban. He wondered who could have done that to him, since he himself had never committed anything worse than a traffic violation. I was already well accustomed to terrified calls like this prompted by the words "banned for security reasons," and I tried to calm him down, telling him that thousands of people were banned for security reasons, including elderly people, the seriously ill, and so on—maybe up to more than two hundred thousand of the West Bank residents all together. There was no need for him to swear his innocence to me.

Issa returned to the DCO, presenting the Shin Bet representative there with an *istircham* (plea for clemency) form, in which he

generally apologized for whatever he did, even though he never knew why he was put under a security ban. He asked the Shin Bet to remove the ban and reinstate his work permit. That day at the entrance to the DCO, he ran into volunteers of the human rights group Machsomwatch, who helped write the clemency plea. After submitting the plea, Issa returned every morning to the back entrance of the DCO to the metal gate leading to the Shin Bet building. Every day he presented his identity card to the guard at the gate—a reserve soldier—and waited to be called to talk to the Shin Bet representative to convince him that the security ban was a mistake. He waited for three days, from nine in the morning until five in the afternoon, and each day the soldier returned his card at the end of the day and advised him to try again tomorrow.

After his attempts to speak to the Shin Bet had failed, in November 2005 Issa hired a second Palestinian lawyer, who contacted the Office of the Legal Adviser for Judea and Samaria, a branch of the Civil Administration in the settlement of Beit El, asking them to remove his client's security ban. Although the Shin Bet is not officially part of the Civil Administration Population Registry Department, the request to the legal adviser to review Issa's status was an appeal of sorts against the decision of the Shin Bet. In effect, this was the last legal recourse available short of appealing to the Israeli Supreme Court as High Court of Justice.

A month later, the Palestinian lawyer received a letter from the legal adviser with a request to resend his appeal along with an original power of attorney. The lawyer promptly complied. In January 2006, after several reminders, the population registrar told the lawyer that in light of classified information, the security ban of his client could not be removed and advised the lawyer to try again in a year's time.

Issa was desperate. He feared he would lose his employment with the contractor, who recruited new laborers, residents of annexed East Jerusalem or West Bank residents who carried the coveted magnetic card. The Palestinian lawyer contacted me once

again, asking if there was any possibility of bypassing the decision of the legal adviser. I wrote to the public complaints section at COGAT in another attempt to remove the ban. COGAT replied after two weeks, stating that the legal adviser acted according to guidelines and advising Issa to approach the DCO in a year, which was the earliest he could appeal a security ban to the legal adviser.

In February 2006, Issa was caught by a Border Police patrol while trying to enter Israel through a gap in the separation wall near Sawahre a-Sharkieh in East Jerusalem. He was detained for a few hours, asked to sign a form that he had been detained, and released. Issa feared he would be summoned to a military court, but the incident had no consequences. In the meantime, the Palestinian lawyer told Issa that the only way to remove the ban was to petition the Supreme Court. At the time, my (subsidized) legal fee for assisting Palestinians who were facing a security ban and who contacted me via Checkpoint Watch was NIS 1,200. On top of that, Issa needed to pay a court fee of NIS 1,507. Although the court usually absolved those who could provide documented proof they could not pay the fee, Issa decided not to apply for this particular waiver, so as not to prolong the process even further. He borrowed money from his family to pay the court and legal fees.

In March 2006, I petitioned the Supreme Court, requesting its intervention in the decision to classify Issa as a security threat and deny him a magnetic card and a permit. The court ordered the state attorney to respond within thirty days. In May 2006, after a two-week extension and a request by the state attorney for a "review" by the Shin Bet, a lawyer at the state attorney's office informed me that Shin Bet had decided to remove the ban and Issa would no longer be classified as a security threat. As a result, I retracted my petition before there was a hearing. Issa had to suppress his desire to find out why he had been banned in the first place. Neither he nor we, his lawyers, were ever told why the security ban had been imposed or why the Shin Bet decided to lift it.

Meanwhile, even though the case was supposedly closed, the ban was not removed from the DCO computers and Issa still could not get his magnetic card. Two weeks later, after a considerable number of phone calls to the legal adviser and the state attorney's lawyer, the restriction was removed from his official record. A few days later, the project manager of the construction company , with whom Issa stayed in close touch, contacted the Payments Section at the Employment Bureau with a request to provide Issa with a work permit. In July 2006, Issa resumed his work with the company.

Issa could not restore his work permit for nineteen months. For most of that time, he did not work and lost more than NIS 100,000 in salary. He borrowed money to support his family, and his legal expenses climbed to more than NIS 10,000. Today Issa works in Israel, with a work permit, and although he still fears a possible police or security ban, he is managing to support his family.

. . .

Issa's story is not unique. In my practice, I encountered hundreds of similar stories of many Palestinian residents of the West Bank caught in the enigmatic process to obtain and maintain work permits in Israel. The permit regime in the West Bank is an extreme case of a sophisticated apparatus to manage population movement in a settler colonial context, so it is not representative of other types of contemporary border controls and policing. However, it does reveal the institutional logic of other systems throughout the world to control and monitor populations through classifications of security.[1] In some ways, the management of the Palestinian population in Israel has served as a laboratory for policies and technologies restricting mobility, particularly to police social inequalities.[2] This book is a study of organizational and institutional consequences of governing through emergency.

Between 2005 and 2007, I represented two hundred Palestinian clients in their attempt to obtain various types of movement per-

mits. I gathered materials for this book when I set up my legal practice in Jerusalem, focusing on human rights issues, particularly impediments to freedom of movement. Many of my clients were Palestinian residents of the West Bank; the Shin Bet or the Israeli police classified most of them as security threats. I represented some fifty families in the process of family unification between members living in the West Bank and members who were residents of East Jerusalem, more than thirty Jewish employers of Palestinian laborers, and several companies and restaurant owners in the Greater Jerusalem area. I represented my clients in the military courts of the Ofer Camp and in Ashkelon detention center, in civilian district courts in Jerusalem and Tel Aviv, and in the Supreme Court. My status as a Jewish Israeli attorney in a racialized political structure granted privileges that provided access to documents, enabled conversations and interviews with clerks in different departments, and allowed me to observe in minute detail attempts to acquire permits from the vantage point of both Israeli employers and Palestinian employees.

During these two years, I conducted observations, held conversations, and investigated archives and correspondence in the various sites of the bureaucracy of the occupation, such as the Payments Section of the Ministry of Industry; the Civil Administration's DCO offices in Beit El, Hebron, and Etzion; Border Police headquarters in Judea and Samaria and its investigations section in Atarot; the employment office in A-Ram, the litigation section of the Israeli police; and the entrance to the Shin Bet installation in Ofer Camp.

I conducted eighty interviews with individuals classified as security threats and members of their family, as well as six structured interviews and some thirty unstructured interviews with officials within the permit regime. Hundreds of phone conversations with clerks and casual conversations in hallways and offices revealed details that allowed me to re-create the institutional framework of the permit regime.[3] Apart from military directives,

verdicts, court documents, and correspondence with military authorities, most of the documents used as sources for this book were received from Palestinian laborers in the process of securing their work permits and from fellow attorneys and women active in a Machsomwatch project aiding laborers classified as security threats to clear their name and receive permits.

I relied on conversations with officials from the military Civil Administration, which are inaccessible to the Palestinian subjects of the permit regime because Palestinians have no direct contact with the system that controls vast aspects of their lives, except for the soldier behind the glass partition at the DCO office or at the checkpoint. The vantage point I had into the world of occupation bureaucracy was made possible by virtue of my being a Jewish Israeli citizen and a lawyer. Because I am a young woman, many agents within the administration perceived me as harmless; no one questioned my loyalty, and people opened up and shared their woes and difficulties. Nevertheless, accompanying laborers and families from the West Bank, which included representation, as well as translation of the administrative and legal jargon, also allowed me to encounter the bureaucratic mechanisms from the perspective of the victims of the population management system. I followed their day-to-day struggle with the bureaucracy of the permit regime, as well as their daily resistance to the system, and observed both the organizational structure and the impact of the practices of governmentality from the vantage point of its subjects.

I represented mainly service and construction workers and a small number of urban professionals from cities and villages around Jerusalem: Ramallah, Bethlehem, and Hebron. In all these cases, the Palestinian workers received some backing from their Israeli employers and had made contact with lawyers or human rights organizations, so these were people who could maneuver and utilize resources and networks to influence their lives. Nevertheless, the main criteria applied by the bureaucracy of the occu-

pation is not class, economic and professional status, religion, or the workers' personal and professional relationships with Israelis. Their identity as Palestinians was the central element.

In this book, I explore examples of documents and events that revealed the structure and practice of the permit regime. I chose to present cases that illuminate the obscure parts of the bureaucratic labyrinth that governs the lives of millions of Palestinians in the West Bank. I focus on documents that code the relationships between the subject and the state or between organizations within the bureaucracy of the occupation, the colonial authorities located in the West Bank, and the departments of the Israeli government within Israel proper. The examples I present are a small fraction of the cases and data collected; they are a sample of organizational practices that demonstrate the routine and mundane operation of the permit regime. These are not outliers but accumulated evidence of thousands of administrative interactions that are local yet over time became the mammoth institutional system I call the bureaucracy of the occupation.

Israel's persistent justification for the management of Palestinian mobility and the perpetual violation of human rights of millions of people daily is presented as an absolute necessity for the security of the Israeli state and its citizens. In this study, I found that the structure and daily practices of the myriad institutions involved in the permit regime call into question the necessity of such measures as security and point to other institutional goals, such as control of daily life on a massive scale and recruitment of thousands of informants to the Shin Bet.

This book is about Israel's prevention of civilian movement in the Occupied Territories, but managing "dangerous" populations is a central concern for most governments in an age when terrorism, crime, immigration, and labor have been compounded into a broad range of security threats to states. Population management systems on a global scale have been developed to deal with these security threats, by preventing and slowing down the movement

of populations across and within contested borders. States deploy technologies, expertise, and staff to prevent movement; collect data about "risk" populations; and monitor, identify, and label target populations. Israel is not a representative sample of the global mobility regime, nor have global changes in surveillance and profiling throughout the world created the Israeli permit regime in the West Bank. Yet, because Israel is a state in a perpetual state of emergency, Israeli practices of population management are mimicked and proliferated as part of the "global war on terror." The knowledge, technologies, and institutional logics of the population management apparatus in the West Bank have proliferated throughout Europe, the United States, and South Asia in the last decade, through marketing technologies and training forces, as states struggle with governing and preventing movement of perceived dangerous populations through consolidation of organizational scripts for border control and homeland security.[4]

1 DANGEROUS POPULATIONS

On June 7, 1967, the third day of the Six Day War, when the Israeli military occupied territories of the West Bank, Gaza Strip, Golan Heights, and the Sinai, the Central Command of the Israeli military issued a decree on law and governance that established the power of the military commander to govern the civilian population: "As the commander of IDF forces in that area, this officer has thereby acquired all the powers of government, legislation, appointment and administration over the West Bank and over all its residents."[1]

THE POPULATION REGISTRY AND THE CHECKPOINT

That summer, two relatively mundane administrative events, a census and a military decree declaring the West Bank and Gaza closed military zones, would shape the organization of the military rule of the Palestinians fifty years later. The details of those two events, too boring and technical to be newsworthy at the time, were the building blocks of one of the most elaborate systems for managing populations in the modern world, the Israeli permit regime for Palestinians.[2]

The census of the Occupied Territories was supervised by the Israeli Central Bureau of Statistics and carried out by soldiers in

the Israeli army in September 1967.[3] The results of that enumeration ultimately formed the Palestinian Population Registry, the core source of data for management and control of the civilian population in the West Bank. In this registry Palestinians were given an unstable legal status, one that changed with political shifts and new laws and later became the basis for the identity documents that are central to Israeli control over Palestinian life.[4] The legal declaration by the Israeli military that the West Bank and Gaza Strip were closed military zones had little effect on Palestinian movement for the first two decades of occupation. However, during the 1990s, a massive, expanding system of checkpoints was implemented, and eventually the separation wall was built. Yet the original military decree closing the territories is the reason that many Palestinians call the West Bank the "Great Open Prison."

ORGANIZING THE "ENLIGHTENED OCCUPATION"

When the Israeli military occupied the Palestinian territories of the West Bank and Gaza in 1967, they already had experience running a military apparatus that governed a local population they perceived as hostile and suspicious.[5] A military government had ruled the Palestinians in Israel from 1949 to 1966 following the Israeli War of Independence and Palestinian Nakba. The military administration used a set of colonial tools, inherited from the British, to monitor the movements and control the daily and political lives of Palestinian citizens of Israel. Three powerful tools would soon shape the organization of the occupation: emergency laws, classification of the population,[6] and spatial closure.

In 1968, Shlomo Gazit, the first coordinator of COGAT, looked to that earlier period as a cautionary tale: military government was an abhorrent form of rule, rampant with corruption and power, in which officials manipulated conflicts between clans by exploiting the population for petty gain and plunder. These concerns echoed

a rare consensus in Zionist politics in Israel against the legitimacy of the military government.[7] Gazit recounts that plans for organizing the new military rule of the territories were overshadowed by the types of administration that they did not want: "Not the experience of the military rule within Israel, and not the experience of the American system in Vietnam. The most useful experience we had available was the Nazi occupation of Norway. We didn't want to learn from that, for obvious reasons, even though there did exist a mechanism of Nazi civil administration."[8]

The administration of the territories included a set of tensions inscribed in colonial rule, exacerbated by the fact that it was to be a temporary occupation. Officials vacillated between the desire to control the population through administration, which required long-term planning, and their fear of assuming the economic burdens of managing the Palestinian civilian population. Political scientist Neve Gordon explains Israel's unwillingness to incorporate or integrate Palestinians in the Occupied Territories into Israel. The distinction it made between the occupied land, which was of great importance to Israel, and its inhabitants, who were not recognized as owners of the land, became the overarching logic informing the occupation.[9]

In November 1967, the Israeli government accepted Defense Minister Moshe Dayan's plan for an "invisible administration" in the territories. Israel would allow movement between Jordan and the West Bank, from the territories into Israel, and between the West Bank and Gaza Strip. Dayan's logic enabled extensive political, legal, and economic flexibility, as it blurred the territorial boundaries between the Occupied Territories and 1948 Israel, while it highlighted the stark difference in political status between the citizens of Israel and Palestinians residing outside 1948 boundaries. While Labor Minister Yigal Allon had proposed to redraw the border to gain "maximum security and maximum territory for Israel with a minimum number of Arabs," Dayan's stance, which permitted free movement by day, allowing workers into Israel yet

demanding their return to the territories by night, enabled the ongoing attempt to separate the occupied land and its inhabitants.[10] It was an effort to incorporate the West Bank and Gaza Strip into Israel's territory without integrating the Palestinian population into Israeli society.

Even as the military was focused on security, it also had the obligations of an occupying power under international humanitarian law, as an "effective sovereign,"[11] to administer a sophisticated civilian apparatus.[12] The British imperial mechanism of indirect rule—in which a few senior administrative roles were reserved for European officials and mid-tier roles were delegated to thousands of local or native employees—provided a template for managing the Palestinian civilians.[13] With this model in mind, the military officials granted a degree of autonomy to the Palestinian mayors, engaging Palestinian elites in the administration to some degree. This was not the only set of administrative tools inspired by the British, for the entire legal framework of the occupation was based on British colonial emergency laws.

COPY AND PASTE: COLONIAL EMERGENCY LAWS

Four years before the occupation, in spring of 1963, Military Attorney General Meir Shamgar decided to use the British colonial Emergency Defense Regulations of 1945 as a legal contingency plan in the event of Israeli occupation of the West Bank. Motivated by a tidal wave of protests in the West Bank, demanding Jordan join Egypt in a United Arab Republic, Shamgar's plan outlined a legal system to manage the civilian population in accordance with the laws of war. The Emergency Defense Regulations were a despised set of rules that had been used throughout the British Empire and earlier in Mandate Palestine to subdue uprisings, decapitate political opposition, and facilitate economic exploitation. The regulations created government by decree and enabled extensive executive power and discretion.

Zvi Inbar, a young soldier on Shamgar's legal team, wrote in his diary in 2001 that the template for administering the Occupied Territories was very literally copied and pasted from the British regulations of 1945: "Today I worked with a translator on preparing the [Emergency] Defense Regulations of 1945 in Arabic, and they needed to be purged of . . . terms like 'High Commissioner,' 'His Majesty's Forces,' and replaced with 'the commander in chief,' 'Israeli forces,' and so on. Instead of the High Commissioner or the Chief of Staff we put the highest authority in the hands of a commander in chief, who, as we entered the territories, would announce these regulations as part of the legal system of the occupied territory, and would use them to appoint 8 representatives as military commanders." A few days later, Inbar wrote, "To continue the preparation of the defense regulations in Arabic, we found that the best way for preparing the material is photocopying the regulations and preparing the text by cutting, pasting, and recopying."[14]

Yet copying and pasting did more than transfer the authority of the law. The colonial regulations carried with them the administrative memory of colonial rule, which involved not only laws but organizational practices and political dispositions, primarily the legitimacy to use separate legal systems for different populations based on race. In 1967, this same legal plan was used as scaffolding for governing civilian life in the Occupied Territories, and the role of the governors was again similar to that of district commissioners in the British colonies. Administration of the occupation was possible with very few Israelis at the helm, while Palestinians who served in the lower ranks of civil service and the police were recruited and paid by the military apparatus. The law was a set of military decrees that derived authority from the Emergency Defense Regulations of 1945.These military decrees did not govern territory but the Palestinian population. They were separate from Israeli law.[15] One of the first decrees was that every Palestinian resident older than sixteen had to register and carry an ID card.

In August 1967, the Israeli cabinet decided that the government of the territories would be funded by tax revenue, so it would not allocate budgets for governing the civilian population. The Committee of Ministers for Economic Issues decided that Israel would allow Palestinian laborers to work within its boundaries, based on quotas. By 1968, some 6 percent of the Palestinian labor force worked in Israel.[16] In November 1968, the Israeli Employment Service opened its first office in the territories to manage the employment of Palestinians. Over the next few years, fourteen offices opened throughout the West Bank and Gaza Strip.[17] In 1970, the government established the Payments Section of the employment office, whose declared mission was to equate the wages and rights of Palestinian and Israeli workers through registration and taxation of Israeli employers of Palestinian workers. Despite declaring the equality of the workers, when the Payment Section applied Israeli labor law to Palestinian workers, it simultaneously cemented their status as external to the Israeli labor market,[18] but it failed to regulate their work through registration. In practice, tens of thousands of undocumented Palestinian laborers worked in Israel daily—the territories were a closed military zone legally, but population movement was not yet prevented.

THE CLOSURE

In 1968, the Entry to Israel Directive stipulated that entry into the territories required a permit and transferred authority to grant visas from the minister of the interior to the regional military commander. The open-border policy meant that no visa or permit was actually needed to cross into Israel, and little attention was paid to this transfer of authority, but this directive legally separated the political status of Palestinian residents of the West Bank from that of all other noncitizens: tourists, immigrants, and migrant workers remained under the jurisdiction of the Ministry of the Interior.[19] Harsh forms of control of movement, such as curfews, deportations,

and denial of entry, were used at this time, but they were reserved for those who participated in political or military resistance. On occasion, with growing frequency, settlers attempted to erect checkpoints and conduct searches of cars, mainly those of Palestinians.

In July 1972, Defense Minister Moshe Dayan made the open-border policy official by declaring a general exit permit from the territories into Israel. Thus, Palestinians were allowed to enter Israel and remain there from 5:00 a.m. to midnight without receiving an individual permit from the military commander. While enabling movement, the general permit also facilitated exploitation of cheap Palestinian labor by Israeli employers. This policy was notoriously named "the stick and the carrot" because it was applied to Palestinians based on their degree of collaboration with the occupation authorities. The general permit did not change the status of the territories as a closed military zone, but the closure was not enforced. In the first two decades of the occupation, while the gap between legal closure and the open-border policy was maintained, Palestinians in the West Bank became dependent on workplaces in Israel as their main sources of livelihood. By 1974, some 32 percent of the Palestinian labor force worked in Israel.[20]

"CIVILIZING" THE OCCUPATION

In 1981, following the Camp David Accords between Israel and Egypt, the Israeli cabinet established a Civil Administration in the Occupied Territories.[21] Designed to legitimate the status of the West Bank, this move officially signaled what had become quite clear after two decades—the occupation was not temporary, and Israel would control the territories until a peace agreement was reached. The government aimed "to separate security and civilian activity in Judea and Samaria; the purpose [of the administration] was to provide a framework for civil activity, with the aim of serving local residents and increasing their well-being."[22] The military government was dismantled, and in its stead, the

Civil Administration was created to administer the lives of the civilian population. Military battalions continued to control the security of the territory, but the military governors who had ruled the districts were replaced by civil servants, many of them civilians in the service of the Israeli military, in an attempt to institutionally separate the territorial control of the population and the administration of daily civilian life. In many ways, the involvement of military commanders in managing the daily life of the population increased. Strikes and resistance to new taxes and decrees of the Civil Administration were met forcefully by the army, making arrests and shutting down businesses.

During the 1980s, Israel consolidated its institutional control over the Occupied Territories with "the four pillars": army battalions, the Civil Administration, the Shin Bet, and the Israeli police, which operated a contingent of Palestinian police stations. Although it was never designated in the defense ministry's organizational chart, the fifth pillar was the growing settlement movement. "Civilizing" the occupation by establishing a Civil Administration was not just an institutional shift to promote legitimacy for Israel's military rule. The Civil Administration was part of a political and economic project of marrying the administrative apparatus of the occupation with the expansion of settlements.[23] Following peace accords with Egypt, Israel intended to normalize the status of the West Bank to differentiate it from the Sinai Peninsula it had returned to Egypt as part of the accords. The Civil Administration was established in that context. Israel attempted to create opposition to the Palestine Liberation Organization (PLO), the representative organization of Palestinians, in the West Bank. The "civilizing" process of the territories also entailed the creation of "village associations" (*Agudot Hakfarim*), supported by the Civil Administration in an effort to institutionally groom and co-opt local Palestinian leadership that was independent of the PLO.[24] In 1982, Israel replaced ten mayors in the West Bank and Gaza with military governors.

The Civil Administration had a central role in determining state resources for the expansion of the settlement project. During the 1990s, positions within the Civil Administration were filled by settlers, who accumulated great power in the administration over the years.[25] Because the interests of the settlers did not always correlate with those of ministries and the security establishment, the settlers gradually established an institutional system of their own within the administrative mechanisms of the occupation, primarily the Civil Administration, through appointments and internal guidelines, such as the appeals committees concerning land in the West Bank and the set of decrees determining that Israeli law applied to Jews living in the West Bank. These aimed at facilitating access to land and deepening the separation between their own communities and the Palestinian residents on legal, bureaucratic, and spatial levels.

THE OSLO ACCORDS AND THE "DOUBLE-HEADED" BUREAUCRACY

In 1993, Israel and the PLO signed the Oslo Accords. The institutional centerpiece of the agreement was autonomy of rule for Palestinians through the establishment of a Palestinian national authority. A gradual time line for progress was determined that was to culminate in the establishment of a Palestinian state. The accords made a very significant institutional change in the administration of the territories, one rarely addressed in the violent history of blame and despair since their collapse. The accords designed a complex jurisdictional map that separated chunks of territory and legal status of the West Bank. Authority and responsibility were divided between the Israelis and Palestinians in jurisdictional spaces known as Areas A, B, and C. In Area A, the Palestinian Authority had responsibility for security and civil matters such as education and health care. In Area B, the Palestinian Authority shared security responsibilities with the Israeli military. In Area C, the Israeli military had sole security control. As Israeli forces with-

drew from the Palestinian cities of Hebron, Ramallah, Nablus, Bethlehem, and Jericho, which were designated as Area A, civilian powers were handed over to the Palestinian Authority. The Oslo Accords drew a fundamental distinction between civilian powers, which included education, health care, water supply, trade, and population management of civilians, and security powers, which included border control, counterinsurgency against Palestinian resistance forces, detentions, and law enforcement in Areas B and C. Oslo brought an opportunity to introduce the politics of scale into the Palestinian territories, treating and targeting populations differently according to their location, population density, and proximity to Israelis.[26] In turn, this scale would determine the differentiation of violence—prevention of movement, arrests, detentions, confiscations, and so on—and control imposed on the population.

Though rarely discussed in tandem, the configuration of the permit regime for Palestinian residents of the Occupied Territories grew within a larger plan to transform the landscape of the labor force in Israel. The management of migrant workers and Palestinians, both crucial to Israel's economy, was made possible by changes in the global labor market and the monitoring of the movement of laborers within it, facilitated by the Oslo Accords.

In the early 1990s, as migrant worker flows were expanding, nearly 40 percent of construction workers in Israel were Palestinians from the Occupied Territories. [27] While the migrant worker industry was intended to devalue and discipline Israel's local labor force, the Israeli policy of closure and separation applied to Palestinian workers provided the conditions for recruiting work migrants and turning them from temporary substitutes for Palestinian laborers in the West Bank into an inseparable labor force in the Israeli economy.[28] The policy of closure turned migrant workers into an instrument for managing the political conflict in the labor market. The dependence of Palestinians' livelihood on freedom of movement rendered the permit regime a

powerful economic weapon for population management through distinction between labor and political status. The racial separation of Palestinian workers from other workers in the job market fed into the rigid hierarchy of the labor force in Israel, already characterized by ethnic stigmatization and stratification:[29] Jewish workers of European origin; Jewish workers of Middle Eastern or North African (Mizrachi) origin; Palestinian citizens of Israel; migrant workers; and at the bottom of the pyramid, which reflected the degree of protection the state provided for their labor rights, Palestinian workers from the Occupied Territories.

The major institutional change was that the Palestinians would be governed jointly by Israelis and Palestinians through a double-headed bureaucracy in which the Palestinian Authority would receive administrative applications from Palestinians and negotiate the administrative process with the Civil Administration.

The transfer of power from Israel to the "Autonomous Territories" called for a shift in the role of the Civil Administration from a state institution directly governing the lives of Palestinian civilians in the West Bank to a coordinating institution that was to oversee and direct the Palestinian Authority. The Palestinian Authority was to govern the lives of the Palestinian residents of the Occupied Territories, including determining the mobility of workers into Israel. In the new hierarchy of power, the Palestinian bureaucratic apparatus was supposed to produce for the Civil Administration the demographic and statistical data needed to make executive decisions on population management and then handle the daily paperwork and requests made in person through new joint institutions, the DCOs (one Israeli and one Palestinian in each district).

Despite these far-reaching organizational changes, there was no plan or preparation for massive organizational transformation and overhaul of bureaucratic practices of the Civil Administration, nor was there any warning to the civilians whose lives would change dramatically through this transition. The implementation of the agreements produced many drafts of new organizational flow

charts. Literally overnight, the dual Israeli-Palestinian bureaucracy was to jointly manage Palestinian lives through the Population Registry, the database that matched each Palestinian's data and administrative history with a legal status. Based on the information in the Population Registry, decisions on people's status were made and identity documents were produced in a complicated process that created more uncertainty, anxiety, and suspicion than order.

The Population Registry played a central role in the double-headed bureaucracy. Palestinian residents applying to the Civil Administration for an identity card or a license filed the request with the Palestinian Interior Ministry, which forwarded the requests in bulk to the Civil Administration via the DCOs. The transition created an institutional separation and hierarchy between the Palestinian ministries that were to provide services directly to the population by sending the requests to the Palestinian coordination office, which then negotiated the requests with the understaffed Israeli DCO. The Oslo structure created an administrative model of indirect rule that included both spatial segregation between populations and institutional separation on the legal and organizational levels. This institutional design, though not intended as such, compares to the model propagated by Jan Smuts, former prime minister of South Africa. Smuts explained in 1929 that mere territorial separation was insufficient to control a population, and for the sake of stability, one had to pursue institutional separation, in which local institutions control the population.[30]

The implementation of the Oslo Accords required management of multiple organizations in three locations: the Occupied Territories, border areas and the "seam zone," and Israel.[31] The dual bureaucracy of population management and joint security mechanisms required intraorganizational cooperation that caused constant preoccupation with new procedures and redefinition of existing roles. This institutional negotiation took place daily, breeding friction, struggles, and turf wars within the Israeli system and between the Israeli system and its nascent Palestinian counterpart.

Some of the struggles were motivated by a desire to shrug off responsibility; others, by attempts to claim authority and control operations. Clerks and officials were compelled to learn new operating procedures with steep learning curves and engage in issues that they found foreign; at the same time they thought that their previous knowledge and expertise were being discounted and disregarded.

Because of the massive administrative change from direct governance of the population to coordination with Palestinian ministries, the scope of the Civil Administration's mission was reduced by 90 percent. Before the accords, it was the largest employer in the Occupied Territories, with a payroll of thirty thousand employees, including Israeli soldiers and civil servants as well as Palestinian residents. In 1995, the Civil Administration was downsized to five hundred soldiers and 130 Israeli civil servants that formed what was known in the British Empire as a "thin white line" of civil servants who administered millions of natives through indirect rule.

The Civil Administration became the headquarters and communication hub of the nine DCOs that were to liaison with the Palestinian Authority in providing services to residents of Areas A and B. In Area C, the DCOs continued to provide the Palestinian population with administrative services on the individual level. The DCOs became a civilian governmental authority that performed the tasks for which Israel had retained responsibility. They also provided Palestinian residents with magnetic cards, a requirement for obtaining permits and a major tool of information gathering. Perhaps most important in this governing toolkit was the growing use of data, statistics, and control of the Population Registry.

PEACE, DATA COLLECTION, AND CONTROL

Under the logic of the Oslo process, Israel would grant gradual autonomy to the Palestinians as it withdrew from the territories. The most poignant critical view of the Oslo Accords was that Israel was granted more territory, which would enable expansion of the

settlement project, but had less responsibility toward the Palestinian population and therefore less control of Palestinian civilian life. According to this view, Israel had shifted its paradigm from colonization to separation. During colonization, the Israeli military managed the lives of the colonized inhabitants while exploiting the territory's resources. Separation meant that when Israel withdrew its security forces from Palestinian cities and transferred responsibilities for education and health care to the Palestinian Authority, the government lost interest in control of the civilian population and intervened less in Palestinian daily life.[32] My findings show that despite the structural shifts, the system for the Civil Administration's management of the Palestinian population, the security forces, and the degree of interest Israel took in the activities of that population (particularly on the intelligence-gathering level) only grew.

In May 1994, the Palestinian Authority was granted legislative, judicial, and administrative powers for the Jericho area, while foreign policy, security, and administration of Israelis remained in the hands of the military commander. In September 1995, the Palestinian Authority received, among others, the responsibility over statistics. In November 1995, when the Population Registry was handed over to the Palestinian Interior Ministry, few could imagine the nascent permit regime and the scope of control the registry would provide for the Israeli government. Despite the transfer, the Interior Ministry could make changes to the registry only after Israeli approval, which was crucial to prevent discrepancies between the registries of the Palestinian Authority and Israel. This was vital because Israel had effective control over border crossings and validated or vetoed the Population Registry documents.

This relationship revolving around the registry was symptomatic of the institutional shift Oslo instigated. A crucial aspect of the power transfer was Israel's shift from directly administering the population's civilian life to coordinating security aspects with the Palestinian Authority through joint committees. Focusing on population

management from the vantage point of Israel's security caused the Shin Bet to increase its power. It changed from a formal advisory agency on issues of security, counterinsurgency, and intelligence to the central agency that shaped policy to manage the Palestinian population, now classified through the Population Registry on a sliding scale of security risks.[33]

Liaison between the police and the Palestinian Authority—a role played in the past by COGAT—was now a separate force. The Civil Administration inherited from the army the responsibility of administrating crossings for people and goods. A new area of regulation was created that combined a security perspective with an economic-demographic one under the authority of the Ministry of Industry, which extended authority beyond monitoring population movements within the territories.

THE ORGANIZATIONAL CRISIS OF "DECOLONIZATION"

The years 1995 to 1996 were rife with violent incidents and attacks on civilians, alongside a cascade of administrative failures of the DCOs. The Civil Administration benefited from substantially increased budgets due to its function as a main axis of diplomacy between the Israeli Defense Ministry and the Palestinian committees, yet it failed to create effective joint institutional practices with the Palestinian Authority. There was much planning, with a new organizational chart drawn every week, but very little progress toward establishing a functioning shared bureaucracy.

Dov Sedaka, head of the Civil Administration from 1998 to 2002, explained this organizational breakdown almost as an identity crisis, as the Civil Administration officials transitioned from the role of an omnipotent "colonial patron" to a position of partnership and coordination. He claimed that officials accustomed to wide discretion and a high degree of freedom from external intervention in decisions were incredibly frustrated in the aftermath of the transfer of power, when they were suddenly obliged to explain their activi-

ties to the diplomatic corps managing the peace agreements. The diplomats (even high-ranking military officials) did not have the faintest idea how to administer the territories. They had low regard for the Civil Administration's expertise and decades of experience in administering the civil population of the West Bank. These frustrations led to an inevitable clash between political figures, including the pro-Oslo COGAT leadership and the Civil Administration officials. While the institutional goals of the Civil Administration were dramatically altered by the accords, executive power remained in the hands of senior officials, many of them settlers who opposed the accords politically and personally because they usurped their previous authority and discretion.

Agents accustomed to managing civilians had become mandated authorities of territorial control, so Civil Administration officials now had authority to deploy police and military and paramilitary Border Police forces. Organizations that controlled territory, such as the Border Police, now had to focus on monitoring the population, gathering information, and pressing charges against Palestinians who entered Israel without permits.

The undercurrents of frustration and animosity between Civil Administration officials and their political superiors had deep effects on the organization. From 1995 to 2000, during the years of the double-headed bureaucracy, two COGAT chiefs were enthusiastic supporters of the agreements: Brig. Gen. Oren Shachor and Brig. Gen. Yaakov "Mendi" Or. In their attempts to implement the agreements, they were in constant struggle with Civil Administration officials who sought to retain as much of their power over the Palestinians as they could manage and saw them as politicians who did not know how to control the Palestinians. It was during these years that the permit regime developed and expanded without policy guidelines, so many of the activities and decisions contradicted or even negated one another.

The permit regime was the epicenter of the struggle between COGAT and the Civil Administration because it provided power-

ful bureaucratic tools for control of the civilian population. Yet it operated with very limited tools of spatial control over population movement, which consisted of few sporadic checkpoints that were gradually growing in number. At that time, the separation wall was not yet imagined.

The permit regime was developed in a complicated institutional environment, which included the massive classification of the Palestinian population, establishment of checkpoints and patrols, and creation of procedures and documents that permitted movement for workers and merchants and for some people on a humanitarian basis. These changes often created frustration, confusion, and embarrassment, and gradually the double-headed bureaucracy resorted mainly to accusations about political violations of the agreement that were causing organizational failures of officials who had a lot of responsibility but few resources.

THE BUREAUCRACY'S WEAPONS OF WAR

In 2000, with the outbreak of the Al Aqsa Intifada, the first institutions to violently implode were the DCO systems. In extreme cases, Israeli soldiers and Palestinian security forces shot at each other in the shared security coordination compounds. The relations between the joint committees were severed overnight, and the Palestinian leadership was viewed by their Israeli counterparts in the Civil Administration as the "architects of terrorist attacks." According to Dov Sedaka, then head of the Civil Administration, the pro-Oslo leadership of COGAT felt hopelessly betrayed. He wrote of his Palestinian counterparts in his personal notes: "Hussein A-Sheich, head of the Palestinian Civilian Committee, reverted to terrorism and began executing terrorist attacks. Zuheir Khalf [one of the leaders of the Palestinian Supreme Civilian committee] disappeared."[34]

Sedaka claims that the Al Aqsa Intifada decisively concluded a five-year internal feud within the Civil Administration between

supporters and opponents of the peace agreement. The heads of the Civil Administration considered the intifada a declaration of war by their Palestinian partners. The implosion of the coordination institutions granted the Israeli branch of the occupation bureaucracy legitimacy to fully use its powers as an administrative weapon against the Palestinian civilian population. Palestinians were no longer viewed as a "hostile population" but as a "dangerous enemy population" involved in and supporting a direct war. [35]

As the civil coordination activities were shut down, the permit regime was paralyzed entirely, excluding a rare crossing permit for ad hoc medical treatment granted through a special humanitarian center. International aid organizations (especially the United Nations Relief and Works Agency and International Committee of the Red Cross) expanded their operations because the Civil Administration engaged with them to reduce the crisis level in an attempt to prevent international intervention in the West Bank.

The army was preoccupied with preventing Palestinians from entering Israel and imposing a blockade on Palestinian cities (for example, the blockade of Nablus prevented movement of people and goods for entire years, until 2005).

In less than two years, between the outbreak of the Second Intifada in September 2000 and the conclusion of Operation Defensive Shield in May 2002, the Civil Administration transformed into an administrative weapon of population control wielded by division commanders in the military. Sedaka explains,

> The events [in October 2000] were regarded as a slap in the face of the Civil Administration and created legitimacy for the Civil Administration to become a tool of the military against the population. Civil Administration officials who had been opposed to Oslo and were forced into the partnership [with the Palestinian Authority] were freed from the chains of the joint organization and could regard the Civil Administration system as yet another instrument in the struggle against the Palestinians. The Al Aqsa Intifada was the point at which the system declared it could no longer distinguish friend from foe.

> During that period, it became "unpopular" to serve the requests of the Palestinian population. Work permits stopped completely; no entry permits into Israel were granted, except in rare humanitarian cases.[36]

Sedaka states that the Civil Administration shifted away from its mission of governing civilians to managing a "dangerous population" through a paradigm of security accelerated by "the feeling it was impossible to distinguish friend from foe,"[37] the defining moment of emergency, according to conservative legal scholar Carl Schmitt. This defining moment, of necessity, occurs when bureaucrats use their power as a weapon of war against the Palestinian civilians, which are perceived as an "enemy population."[38]

Clerks within the Civil Administration faced uncertainty regarding the distinction between "peaceful Palestinians" and "Palestinians who supported terror." This situation spread shock and confusion within the Israeli bureaucracy of the occupation and motivated establishment of new criteria for distinction of friends from enemies. The only certainty was that every resident of the West Bank was a possible security threat. This belief turned the process of classification and identification of security threats into the crux of the administrative mechanism.[39]

Very swiftly, identifying and thwarting security risks overshadowed all other goals of the bureaucracy of the occupation, and the Shin Bet set the criteria for classification of Palestinians into categories of security threat. In a time of institutional disintegration and disarray, the Shin Bet, through its monopoly of intelligence and classification of Palestinians, widened its impact on the administration, both in scope and intensity. Only days after the beginning of the intifada, the Shin Bet became both the source of knowledge and bottleneck of decision making in the administrative system of population management in the Occupied Territories.

The collapse of the dual bureaucracy created severe administrative problems for the Civil Administration because of shortages in personnel and funds. Also no changes to deal with the situation had been determined. For example, DCOs that were initially es-

tablished to process permit requests of 3 percent of the Palestinian residents in Area C were inundated by tens of thousands of permit requests from the entire West Bank due to cessation of communication between the Palestinian Authority and the Civil Administration, which had halted all joint administrative operations. The organizational effects were shattering. When Palestinians requested permits from Palestinian Authority offices, they were told that there was no communication with the Israelis, so they went to seek documents from the DCOs themselves. When Civil Administration employees demanded more personnel to cope with the thousands of Palestinians who arrived at their offices daily, their protests and multiple strikes were met by a flat refusal from the Ministries of Defense and Finance.

Because DCOs were the only organizations that could provide documents, the enormous queue of Palestinians grew daily. The influx was exacerbated by the steep rise in the number of Palestinians classified as security threats and banned from entering Israel. Between October 2000 and 2005, the Shin Bet classified more than two hundred thousand Palestinian residents as security threats, and the police classified another sixty thousand as criminal security threats. Thousands of those denied entry attempted to remove the ban and obtain the coveted magnetic cards and entry permits.

From October 2000, Shin Bet's control over the permit regime grew exponentially; it changed from a body of security experts who offered policy recommendations based on intelligence and manipulated networks of agents on the ground to an organization that shaped the policy and practices of the administrative system. However, it remained invisible in the organizational flow charts of the Civil Administration. The expertise of determining whether Palestinians were friends or foes became an unassailable form of power. The domination of a "security theology" gradually rose during the Oslo years as the perspective of the Civil Administration shifted. The events of October 2000 created chaos and confu-

sion. The definition of "security risk" itself was expanded to include many residents previously exempt. By 2001, the definition broadened from one devised to cope with a state of emergency into a permanent and institutionalized classification in the Population Registry.

THE ORGANIZING PRINCIPLES OF THE PERMIT REGIME

The permit regime, the heart of the administration of the occupied West Bank, is a peculiar set of organizations and technologies if one judges it by the classic principles of rational bureaucracy and management. In most modern bureaucracies, civil servants pride themselves on their efficiency, particularly in their efforts to adjust means to their goals and prevent waste of time and resources. However, the bureaucracy of the occupation is characterized by a phenomenon I call "effective inefficiency," which is a product of the ambiguity of a system that is both civil and military with a severe shortage of personnel. In classical management theory, effectiveness means achieving objectives with minimum friction and without the squandering of resources. Yet in the process of granting labor permits to Israel, other characteristics seem to be at work, as they were regarding security. Administrative flexibility, wide discretion, conflicting decisions, and changing decrees create constant administrative friction and uncertainty.

While administratively inefficient, these characteristics of the population management system achieve two important results for governing the West Bank: to create Palestinian dependency on the administrative system—to construct, maintain, and widen the scope of monitoring and control; and to create uncertainty, disorientation, and suspicion within Palestinian society through the prevention of mobility.

From a legal perspective, the permit regime is not a statutory regime based on formal rules. Yet it is not a lawless system or one that is outside the law. The mix of administrative decrees, internal

regulations, and ad hoc decisions that have developed into the permit regime is an extremely effective legal regime for the purposes of creating economic dependency by administrative means.

Space, race, and documents are the trinity of organizing principles of the permit regime. The first is closure—the legal-spatial control and containment of the population within the territory; the second is exclusion from citizenship; and the third consists of administrative practices that establish racial hierarchy through separate legal orders for different populations in the same territory.[40]

This trinity relies on two preconditions: "contained violence," physical violence through military force or the threat of such violence,[41] which means the Israeli army and its Border Police can used lethal force against anyone attempting to move across the territory without a permit; and enforcement of spatial closure, which was the driving force for change and development in the rules of the occupation. Although Israel relinquished responsibility for administration of civilian affairs when closure was enforced, it increased and intensified its control over the daily lives of the Palestinians in the West Bank by slowing their movement across the territory and monitoring it through required documents.

The permit regime encouraged Israeli organizations to harvest information about the population through data, biometrics, and increased opportunities for surveillance and recruitment of informants. The legal status of the permit regime is fascinating, because its foundation was an exception to an exception. An emergency decree annulled the general exit permit temporarily and was reenacted every year, and the general exit permit was an exception to the legal status of the population of the territories as a closed military zone. The fact that the permit regime was a legal exception that had no administrative guidelines meant that it developed without regulatory oversight. The unlimited discretion of the Civil Administration in determining distribution of permits allowed the system of classification and profiling to be developed and maintained secretly, without any public oversight or scrutiny. The centrality of

profiling to population management systems was not exceptional or unique to the permit regime in the territories. Its features were very similar to the profiling that originated in the British colonial system of surveillance developed between the two world wars in India, which later diffused to the rest of the British Empire, including the British Mandate in Palestine.[42] However, the complexity of Israel's bureaucratic arsenal, implemented on millions of people in a particular territory, is historically unprecedented.

The lack of regulation did not make the permit regime extralegal or a site of lawlessness. On the contrary, the permit regime created a separate legal sphere that regularized Palestinian labor by military decrees while simultaneously excluding Palestinians from the rights provided by the Israeli Labor Law.[43]

THE SPATIAL MATRIX

Closure, the prevention of entry or exit from the Occupied Territories by law and the threat of violent enforcement, is the fundamental feature of the permit regime. Until the First Intifada in 1987, constraints on freedom of movement were specific in regard to time (curfews), geographic areas, public spaces, or people (political leaders, union organizers, and newspapers editors). Checkpoints were used by the military during and following military operations. Closure was localized and usually had a specific purpose, even when it was used as collective punishment against a village or a clan.

However, when it was applied to the entire population, closure became a systematic administrative weapon against Palestinian civilians. The use of closure as a consistent policy was first introduced in Gaza in the wake of the First Intifada and during the outbreak of the First Gulf War.[44] In 1991, the general exit permit granted to Palestinians in the Occupied Territories was canceled and the permit regime instated. Each Palestinian thus became an individual target of surveillance and monitoring.

The language of the Oslo Accords aimed to stimulate a free flow of workers and goods from the territories into Israel, yet in 1995 the number of Palestinian workers in Israel dropped 50 percent due to closures. The disparity between the political discourse on free movement and free markets and the harsh realities of immobility, atomization, and poverty created fear and doubt about the accords among the Palestinians of the West Bank. In 1994 and 1995, suicide bombings in Israeli cities fueled the justification and enforcement of the closure policy that limited movement through an array of technologies, including manned checkpoints, earth mounds, Border Police and military patrols, and the expanding demand for documents.

The Israeli army divided the West Bank into "territorial cells" and could therefore impose more flexible and local limitations, such as "encirclement" (a blockade over a city) or "separation," the prohibition of movement between two or more areas. The construction of the separation barrier produced another spatial unit, the "seam zone," for which another battery of permits was invented.[45] Thus, an entire system of special permits proliferated: permits for crossing a blockade, thirteen kinds of permits for the seam zone, permits in spite of a security ban, and so on. Despite all these restrictions, the closure never brought about a complete halt to the movement of Palestinians, and they, especially the laborers, found their own ways of entering Israel. The completion of the separation barrier in 2006 turned closure into a highly effective means of blocking movement, and the entry permit, combined with the Population Registry, became a vital document for sustaining even minimal living conditions. The tightened closure predicted what Palestinians in the Occupied Territories would realize only years later, that peace meant more control on their daily lives than ever before through the permit regime.

The introduction of limitations on movement and physical control over space turned permits into valuable documents, and their production transformed the labor offices in the Civil Admin-

istration from a dusty, neglected administrative system that registered less than half of the workers before the accords into a powerful apparatus for decision making on all aspects of Palestinian life. From the early 1990s, as closure was enforced, granting permits was subject to security consideration, which meant approval by the Shin Bet and, from 1995 onward, the approval by the police as well.

Closure brought with it a privatization and individualization of the relationship between the Palestinian subject and the effective sovereign. When the double-headed bureaucracy imploded during the Second Intifada, so did the administration of the Palestinians as a collective, through organizations or the Palestinian Authority. The relations that governed mobility were directly between Palestinian individuals and the Israeli state, which manipulated that power through the massive recruitment of informants who exchanged low-grade information for the ability to move.

One might think of closure as applying to the territory, but it was actually closure on a population. In practice, closure meant that movement of every Palestinian was constrained based on his or her identity, whether seeking to enter Israel or moving within the occupied West Bank or between the West Bank and Gaza Strip. The movement of Jewish settlers across the territories in the same closed military zones was permitted, so over time, an entire system of administrative enforcement based on race was developed, through documents, technologies, and infrastructures of segregation.[46] Most of the military decrees limiting movement in the territories concluded in a clause stating they did not apply to Israelis. The category "Israeli" included Palestinian Israelis, but because those enforcing closure often found the distinction between Israeli Palestinians, Palestinians of the West Bank, and Palestinian residents of East Jerusalem impossible, Palestinian Israelis were often targets of monitoring and inspection as well. Therefore, the exemption of limitations on freedom of movement applied only to Israeli Jews, particularly the Israeli Jewish settlers.[47]

THE ISRAELI DOCTRINE OF MOVEMENT AS PRIVILEGE

The Israeli state views the permit system as a regime of privileges that hinges legally on the authority of central command to issue decrees. Contrary to a regime of rights, which obliges the state to avoid infringement of individual rights, a regime of privileges allows the sovereign to grant (or withdraw) services for certain populations, in an instantaneous administrative decision, so the subject is dependent on the grace and goodwill of the ruler.

The political status of Palestinians is based on a racial divide. Governed by international humanitarian law, Palestinians are in a liminal legal space, also called a citizenship gap, as they are physically present in a territory controlled by Israel yet excluded from political membership and rights of citizens and the provisional rights of tourists or work migrants, whose status is defined by civilian Israeli laws. The administrative hierarchy that separates the ruling and the subjugated population in the same territory, based on identity, was an organizing principle of bureaucracy in most colonies, where different populations were governed by separate legal orders in the same physical space of the colony, so law was being enforced according to a subject's identity, particularly laws governing mobility.

This regime of privileges allows for considerable discretion in how and when a privilege is granted. The data I collected indicated there was no system of coherent guidelines that directed the organizational mechanisms of the permit regime. Rather, the permit regime developed as a chain of ad hoc decisions made in different contexts by an array of officials and clerks. Parts of the permit regime were enacted as a reaction to political changes on the national level, such as new economic plans that demanded shifts in labor, or a result of power struggles between different authorities or emergency solutions for internal operations. Legally, the activities of the permit regime were conducted through internal memos of the military system in the West Bank. However, the permit regime required vast organizational activity on the part of the civil-

ian ministries in Jerusalem, the military departments in the headquarters of the Israeli army in Tel Aviv, and the DCO units and employment offices in the Occupied Territories.

There were no published, legible procedures and guidelines for the operation of the permit regime. As a rule, these procedures were classified and were published only during major structural change or following petitions to the Supreme Court, when state or military attorneys were requested to provide information about the procedures.

At the same time, while closure aided in the restructuring of the Israeli labor force from an economic standpoint, the enforcement of the closure damaged both the dependent Palestinian economy and the Israeli economy. Economist Shir Hever argues that the closure and the security expenses entailed in enforcing the movement-regulation regime have changed the occupation from a profitable operation in its first two decades into an economic burden on Israel.[48] Yet the administrative system of permits grew exponentially and unpredictably, both in the variety of types of permits it required and in the elaboration of monitoring the movement of Palestinians within Israel.

Closure enforcement varied with different spatial scope and implications, as movement became a game of administrative monopoly, with rules that changed frequently. For example, "general closure" and "hermetic closure" involved a sweeping cancellation of all entry permits into Israel. Such closures would "reset" the entire permits system, forcing employers to reapply for permits for their workers once closure was lifted. Full closure meant that the population would embark on a bureaucratic journey that involved the employment office, the Payments Section, and the approval of the permits by the Shin Bet and police at the DCO.[49] Geographic closures applied only to certain areas; a professional closure permitted only laborers from a particular field or profession to enter Israel. Closures on particular villages and regions were commonplace and fluctuated in tandem with political changes such as

peace talks, militant attacks of Palestinians on Israelis, or settler violence against Palestinians. Settlement building and expansion were and remained reasons to declare closure of an area.

The institutional logic of closure was an issue of controversy and negotiation within the bureaucracy of the occupation. From 1994, senior officials in the Defense Ministry argued that closure was a security need, a necessary and effective way to forestall terrorist attacks. Closure was introduced at "sensitive" times, a temporal category that fluctuated and expanded through the years. Gradually, the sensitive times expanded into a tight schedule of confinement. Closure was applied during Jewish holidays, visits of foreign political leaders, or national events, such as a general election in Israel. In the aftermath of a terrorist attack, closure was also applied as a punitive measure. During peace negotiations, Israel relaxed closure policies as a measure of good faith, given the code name "hour of willingness" (*Sheat Ratzon*).

The closure announcements were broadcast across Israeli media, not published as a decree. These announcements were legally binding and had implications for criminal charges against Palestinians because during closure, being in Israel was a violation of both the law of entry into Israel and a decree forbidding the unauthorized exit from the Occupied Territories. Permits do not include a clause declaring them invalid during closure, yet thousands of workers with valid permits have been detained because they were arrested in Israel during closure. In September 2006, during Jewish New Year closure, I represented two Palestinians from Hebron at a hearing where police requested their detention for "illegal" entry. The court declined the detention and determined, in a rare decision, that since entry permits themselves carry no mention of their validity during closure, the workers who had been arrested for illegal entry into Israel could not be considered illegal aliens. Nevertheless, the two workers were immediately deported from Israel on the order of the regional military commander, and the permits they carried were therefore invalid.

The closure policy had grave consequences for the Palestinian economy. All aspects of life in the West Bank, including trade, education, and health care,[50] were directly affected by closure. Denial of mobility prevented many from access to these services and further stratified Palestinian society based on their proximity to services.

2 PERPETUAL EMERGENCY

The entire permit regime is predicated on the justification that monitoring movement is the key to preventing terrorist attacks in Israel. At the heart of the massive profiling system of the permit regime are more than two hundred thousand residents of the West Bank classified in the population registry as security threats. Persons "denied entry for security reasons" cannot obtain magnetic cards and are prevented from conducting commercial, familial, and cultural connections in Israel. The permit regime created a consistent anxiety and uncertainty for all Palestinians in the West Bank, due to the fluidity and instability of the documents they carried, because of the uncertainty of their legal status and their ability to use the identity documents they obtained for movement across the checkpoints.[1] However, for those classified as security threats and denied entry, as well as their families, the anxiety stemmed from certainty that they had been marked by the Israeli government and their lives were guaranteed to be affected by their classification.

I represented nearly eighty persons who were denied entry for security reasons in their legal struggle to remove the classification, and I was able to sketch the pivotal role of the secret service through its activities and interactions with my clients. I encoun-

tered how the Shin Bet invoked its executive powers in a set of mundane and systematic practices and how it deployed security classification as an administrative weapon against the civilian population to reinforce its power within the organizational structure of the occupation. In the wake of the Oslo Accords, when the Israeli military pulled out from Palestinian cities, the Shin Bet use of human intelligence declined, because operating a web of embedded agents in a territory that Israel no longer fully governed was complicated. As a result, security forces became what Salim Tamari aptly called "eyeless in Judea."[2] The alternative was to gather information by recruitment of many informers and to obtain intelligence with smaller risk to the life of Israeli agents, since they no longer needed to blend in with the local Palestinian population. Recruitment of informers and collaborators in exchange for permits grew on a small scale from 1994 onward.

The outbreak of the Al Aqsa Intifada, when permits were not distributed, had significantly halted the information flow of the dual bureaucracy that produced permits. From 2002, as the permit regime resumed, maintained only by the Israeli bureaucracy, the scarcity of permits and scrutiny of the process created favorable conditions for the Shin Bet to recruit thousands of informants through the permit regime. This effectively meant that Israel now had more knowledge and control of Palestinian life in this epoch than before the Oslo Accords. The vulnerability of those classified as security threats granted the Shin Bet more opportunities to recruit Palestinian residents as informants in exchange for magnetic cards.

THE EXPANDING CATEGORY OF "SECURITY THREAT"

Before the outbreak of the Al Aqsa Intifada, the Shin Bet list of Palestinians who had been denied entry into Israel included only a few thousand names. By early 2006, this blacklist for entry included nearly a quarter of a million residents of the West Bank.[3]

Through the establishment of the web of checkpoints after the Oslo Accords, the organization commanded growing administrative influence on movement of Palestinian individuals into Israel and within the West Bank. This influence was mostly the result of the expansion of the various categories of security risk and the wide range of people to whom the classification applied through a set of changing profiles. These profiles were produced by the Shin Bet to determine the "terrorist character" for the agents in the administration of the occupation. This concept was translated into routines, forms, and categories that developed the population management system over time.

Officials described the list as "a one-way street—you can go in but not come out"[4]—and while all officials and agents of the bureaucracy of the occupation knew about the expanding classification, none of my interlocutors could explain which actions or circumstances turned an individual into a security threat. Only when I represented people who had been classified as security threats in the Israeli supreme courts over the course of two years, learning their personal histories in detail, did I begin to gather the characteristics and circumstances necessary to sketch an index of security risk according to the bureaucracy. Reasons for the security restrictions themselves are not publicized, unknown even to agents who work within the bureaucracy. Through correspondence and the experiences of lawyers and human rights groups I collected reasons for the classification. I also compiled a database from official replies to hundreds of requests for removals of security restrictions, matched to the applicants' brief biographies. More than two hundred thousand male residents of the West Bank, approximately 20 percent of the male population in 2007 between the ages of sixteen and fifty-five, were classified as security threats, which indicated that the restriction was applied broadly across a wide range of risk levels, not only in cases where information actually existed. Yet the consequence was the same—it barred them all from obtaining movement permits.

According to Maj. Liron Aloush, director of the Population Registry Department in the Office of the Legal Adviser for Judea and Samaria, permits are divided into internal categories that affect how long the permit will be valid and the territory it allows its holder to cross. "Security threat" was not a stable category; it was a fluctuating matrix of profiles sometimes based on age, gender, region, family, village, political affiliation, or intelligence information. As the blacklist expanded, so did the indices and measures of the security threat profile, which remained classified and unavailable to all agents of the bureaucracy of the occupation except the agents of the Shin Bet. The matrix of categories of security threats was an administrative puzzle that varied from organization to organization within the bureaucracy, depending on the type of movement required, its duration, and the person's affiliation with Israel. Types of risk varied according to geographic area and time of day, and the political and economic status of the applicant determined another set of risks. This puzzle also changed according to whether the classification was applied by the Civil Administration or the Interior Ministry.

For example, requesting a permit for a few days had a different risk level than a labor permit for three months, and the three-month permit harbored less of a risk than a family unification permit, which enabled free movement for a year. The greater the time and/or the territory covered by the permit, the harder it was to obtain that type of permit. The type of security threat noted in the computerized systems had far-reaching consequences, including delays at checkpoints within the West Bank or the increase in the chance of police pressing charges of violating the Entry into Israel Law if the person entered without a permit. Moreover, receiving one type of permit was not a guarantee of obtaining another type.

A Palestinian woman from the West Bank who carried a magnetic card and held a permit to work in the Atarot Industrial Zone in East Jerusalem was later denied both a permit for family unifi-

cation and a work permit to the Jerusalem Islamic trust (*waqf*) by the Ministry of the Interior. Responding to her appeal, the attorney general's office outlined the logic of the decision from the ministry's perspective:

> The entry permits granted to the petitioner for the purposes of working in Israel are not a precedent for a permit requested now for permanent settlement for the purposes of family unification. Officials from the Shin Bet, who opposed the family unification request, were not involved in the granting of entry permits given to the petitioner over the years for the purposes of working in a factory in the [West Bank]. These were limited-entry permits that clearly state they allow entry only to the limited territory of Atarot Industrial Zone, where the petitioner's factory is located. In contrast to those permits, the petitioner's request for a work permit to work with the Jerusalem *waqf* requires the opinion of General Security officials, and in view of their position, the request was declined.[5]

This case-by-case decision making in granting or denying permits avoids committing to an administrative precedent and has become a key method of the Shin Bet to keep the criteria for defining security threats secret. Secrecy and flexibility were vital because they preserved the organization's opportunity for discretion; when asked by courts to describe the method used to determine the various levels of security threat, the Shin Bet revealed the arbitrary nature of the classification, in which the same person can be denied or granted a permit at different times. If one accepts the logic that certain people are a security threat, then it is illogical to grant a permit for seven days but not ninety, or to enter Jerusalem but not Maaleh Edumim, as an attack against Israelis could be carried out during any of these periods and locations. The gradation of categories is useless unless the organization obtains concrete information on intention or ability to carry out a terrorist attack.

It was usually impossible to find out what various government bodies considered a security threat. In most cases, courts have

refrained from intervening in the decisions of the Interior Ministry in family unification matters, which is considered a matter of administrative expertise. However, the Haifa District Court severely criticized a set of contradictory decisions of the Shin Bet and the military and the wholesale delegation of discretion from the Ministry of the Interior to the Shin Bet. The petitioner was granted status as a temporary resident of Israel following a long vetting process by the ministry. She was then denied a permit for family unification by the ministry due to her classification as a security threat by the Shin Bet. The court criticized the strange practice of one administrative arm banning entry into Israel while the other granted it: "The fact that no new information has accumulated indicating an increased security risk due to the petitioner's entry into Israel indicates that the alleged security restriction has no firm basis that would justify halting the family unification process." [6]

THE FANTASTIC BLACKLIST

While the classification of someone as a security threat is a swift, invisible, administrative maneuver, its impact on people's daily lives is immense. The blacklist is a major tool for creating uncertainty regarding mobility status and thus the precarity of a person's personal and economic horizons. The omnipresence of the blacklist also creates a culture of suspicion and mistrust within Palestinian society, for good reason. One of the most common ways to be included on the blacklist is someone's mention by a Shin Bet informant as a security threat. Many of my interlocutors told me they suspect the origin of their classification was a report from another Palestinian with whom they were in conflict. While preparing their affidavits for the Supreme Court, my clients would often voice their worries that an argument over lands in the village or even a childhood grudge was the cause of their security restriction. While some of these suspicions were founded on reliable

facts, they were also a product of the uncertainty of the classification system, which breeds paranoia and attribution of fantastic superpowers to the Israeli security services.

One of my clients, Mahmoud Rabai, was one of the rare few who agreed to speak with media and international organizations openly about the plight of those classified as security threats. For me, his analysis of the classification was illuminating, and our discussion led me to understand the particular profiling method of the classification as (1) radical simplification, (2) standardization, and (3) homogenization. Radical simplification was the reduction of people's life stories into basic traits or tendencies. Therefore, one's religiosity was automatically suspicious, as was political participation in grassroots organizing. Through standardization the Shin Bet created a key or index of tendencies, which included one's age, geographic area, family ties, and participation in social, cultural, or political affairs. The index formulates a template of the security threat, which is constantly changing, but simultaneously enabled homogenization, which creates a collective profile yet erases collective political membership. Rabai's open expression of how lonely it felt to be classified as a security threat highlighted how homogenization worked: although the classification applied to hundreds of thousands of Palestinians, each person had to fight and cope with the classification alone.

Rabai was a forty-three-year-old construction contractor from Kafr Yata. He had been restricted from entering Israel or exiting the West Bank into Jordan since September 2006. He spoke about the anxieties and suspicions that consume a person classified as a security threat:

> I haven't done anything. My heart is clean. I do not mess with anyone, not Hamas, not [Islamic] Jihad. I have worked in Israel for twenty years, and I had a trading permit and a contractor's permit too. I have a cement brick factory, so I would go see contractors all over Israel. I have many Israeli friends, who also cannot understand why I was put

> under security restriction. If I have done something wrong, let them take me to prison. But they do not even talk to you. They say, "You're under a security restriction," and that's it. I wasn't offered to work with [the Shin Bet] like everyone else is, and I don't have a reason to work with them. I have a trade and I need an entry permit to work in that trade. I understand why you [Israel] need the Shin Bet, the police, and the army. It's important, but not so they can tell people who haven't done anything that they're restricted and can't move. We're stuck in the great prison [of the West Bank] because of the Shin Bet, and something someone might have or might not have told them.

The systemic uncertainty regarding one's mobility does not make the discovery that one is classified as a security threat any less surprising or terrifying. Like many others with similar experiences, Rabai discovered suddenly, after years of holding a permit, that he was denied entry for security reasons. It happened when he attempted to cross the Allenby Bridge into Jordan. He was denied exit from the Occupied Territories, which is a restriction even more severe than prevention of entry into Israel. Others found out they were classified as security threats during a routine trip or request for documents when they went to a DCO or Civil Administration offices or when they were detained at checkpoints and prevented from crossing. The worst situations were those that were completely unexpected, such as Nabil's, a merchant who was traveling with a valid permit. In November 2007, his permit was confiscated by Border Police in Tel Aviv. He was told that he was classified as a security threat and his permit was no longer valid—effective immediately. When someone is unable to plan or prepare in any way, financially, socially, or emotionally, this change in classification not only alters plans for a particular trip but also changes someone's entire life course, social possibilities, and economic prospects for months and years to come.

My conversations with clients about why they might have been restricted produced an entire spectrum of guesses, some of them logical and others more and more dubious and fantastic as situa-

tions turned more and more desperate. Their reasons included short-term detentions during the First Intifada, quarrels with neighbors or employers, or participation as observers in the Palestinian elections. Some guesses included having American relatives, pursuing chemistry studies in high school, or marrying a North African woman. The opacity of the reasons undermined people's self-confidence in their life course, causing self-doubt and general regret, as well as fear of the future. Because they did not know which activities had led to the classification, they also did not know which actions to avoid in the future, which generated a sense of paralysis and confusion. Uncertainty regarding the causes of the restriction turned it into a force majeure, an act of fate, or an incurable administrative disease. The strongest effect of the restriction that remained constant across hundreds of people I questioned was the chilling effect on political activity and a belief that political participation and active citizenship would be criminalized and penalized by the Shin Bet or the Israeli military.

FIGHTING CLASSIFICATION AS A SECURITY THREAT

Appeals against being classified as a security threat landed on the desk of Maj. Liron Aloush at the Civil Administration headquarters in Beit El/Ramallah. The Population Registry Section is the hub of the profiling apparatus—its clerks translate the directives of the Shin Bet into practice, applying the abstract classifications to people. This department is the only administrative avenue to appeal a security restriction that prevents someone from obtaining a magnetic card or permit into Israel in the majority of cases where the secret service did not grant clemency from the classification as a security threat. Appeals were usually written by human rights nongovernmental organizations (NGOs) and lawyers who requested an administrative review of the classification. Many Palestinians were reluctant to apply for clemency because they feared a meeting with a Shin Bet officer, who might request their

collaboration with the organization to obtain a permit. Writing the Population Registry Department seemed more official and created the semblance of a bureaucratic buffer between the Shin Bet and the applicant.

In the quest to remove a security restriction, applicants would encounter one of three administrative paths: denial of entry based on "classified intelligence," denial on the basis of the characteristics of the risk, or removal of the classification. About half the requests were of the first kind. They were denied by the Population Registry office in a form letter that consisted of a single paragraph: "The subject's request to be allowed entry into Israel has been examined by security officials, and in consideration of the overall information, including classified intelligence, it is impossible to allow his entry into Israel, for security reasons."[7]

In November 2005, Aloush was indignant about my recurring inquiries about clients' classification in the registry. "Our internal registration should not be of interest to anyone. Only when it becomes relevant for a specific person do we review the registration." The classification becomes relevant only if the Palestinian worker has an employer who is interested in his labor, or as Aloush explained, "if the Palestinian Authority has submitted a list of people" it has interest in acquiring permits for or "a large corporation needs a certain group of workers in the territories, like Coca-Cola."

The case of Barsat Shabane, a construction worker from a village near Bethlehem, in February 2007 illustrated that one can attempt to remove the restriction only if one has a workplace, although practically, most employers would rather not employ a worker classified as a security threat.[8] Following our appeal of Shabane's case to the legal adviser of Judea and Samaria, Aloush replied that removal of a restriction could take place only at the request of an employer: "I would like to clarify to you that our office does not deal with the removal of restrictions unless for the purposes of issuing work permits. If this is the case, you should

send the request again in full with the relevant documents attached, such as a recommendation by the employer, the field of employment, place of employment, etc."

The worker who was denied entry became a legal subject that could appeal only if he had an Israeli employer, so the right to administrative appeal was given only to those employed. This practice meant that those classified as security threats were entirely dependent on their employers to appeal the decision to the Registry Department, yet many employers are reluctant to write recommendation letters for such workers because they are uncertain how the letter reflects on them. Employers also fear that they will be suspected of employing Palestinians without a permit when they request reexamination of their employee's case and would be charged with criminal offenses of illegal employment. Even when lawyers and human rights activists repeatedly explained to employers that their recommendation would not put them at any risk, on many occasions employers chose not to intervene because of a general fear of being perceived as supportive of terrorist organizations. To those unaware that the security threat status is a default category of sorts, the very term "security restriction" emanates danger, implicating the worker in question as "hostile," even if the employer and the worker have had a working relationship for decades.

Employers had powerful influence on a worker's classification because many bans originated from an anonymous complaint of an employer to the police or other security service, which was usually a result of a labor conflict between Israeli employers and Palestinian workers. For example, between 2001 and 2004 Awni Hammad was a project manager at a large construction site in Jerusalem and presented the grievances of the workers in his charge to the contractor. The contractor threatened that unless Hammad desisted from organizing workers and making demands regarding shift hours and safety measures, he would ensure Hammad "won't get into Israel ever again." Hammad resigned and

found similar employment elsewhere. A few months later, in early 2005, he was denied a permit because he had been classified as a security threat, although his work permits had been consistently approved since 2001. After we petitioned the Supreme Court, explaining Hammad's suspicion that his reclassification originated from a complaint by the contractor based on his threats to do just that, the Attorney General's Office withdrew the restriction before the hearings began. Many similar cases were reported to the Foreign Workers Hotline, an NGO specializing in aid to workers in Israel and the Occupied Territories. Labor relations had a crucial influence on classification of Palestinian workers, and while workers were bound by dependency and threat, they still had some possibility to choose their employer. Other types of security bans were related to kinship, their village, and their family's political affiliations, over which they had even less control than their employment situation.

SUSPICIOUS KIN

According to Shin Bet criteria for classification of security threats, identity, region, and kin can render a person suspicious by definition, unrelated to the individual's beliefs and actions. Anyone belonging to a family in which one of the members is under administrative detention without charge or trial, or has been detained in recent years, may be classified as a threat. Dozens of such cases exist, but this category is inconsistent. I have come across a case in which the administrative detainee had two brothers: one received an entry permit into Israel, and the other was denied entry for security reasons.

The most painful restriction due to kinship is bereavement. A person from a family who has lost a member because of violence by Israeli security forces is classified as a security threat for fear of "a motive of revenge [that would prompt the person] to attack Israelis," a clerk at the Registry Department explained over the

phone. This is one of the harshest of existing restrictions, and it includes a wide circle of people who become security threats as a result of the activity of Israeli security forces. This applies even to the relatives of innocent bystanders, people usually defined by military forces as "collateral damage." Physicians for Human Rights (PHR) reported cases in which family members of victims of combat incidents could not enter Israel to receive health care or to accompany wounded children for medical procedures because they turned into security threats in the same instant that their relatives lost their lives. A joint report by PHR and Checkpoint Watch offers an example of restriction of patients wounded by Israeli forces:

> On October 20, 2003, the air force launched two rockets, ninety seconds apart, on a car in which men suspected to be Hamas activists were traveling across the Nuserat refugee camp in the Gaza Strip. Many camp residents who had rushed to the scene of impact by the first missile were directly impacted by the second. The casualties of the second explosion included Mahmoud Tabaze, a fourteen-year-old-boy. His condition was so severe that he was transferred to the [Israeli] hospital of Tel Hashomer. His brother Abed, thirty-two, an economics student, and his cousin Ibrahim, a high school senior, were both killed. Other family members were also wounded. Mahmoud's father, Muhammad, had a work entry permit into Israel, but when he tried visiting his son at the hospital, soldiers at the Erez crossing confiscated his permit. He was told, "This is because of your kids, because of what happened to your family."[9]

The explosion, besides killing his children, had repercussions for Muhammad. Not only was he not allowed to visit his son; he was also faced with the prospect of losing his livelihood. He was now viewed by the Israeli government exclusively in the context of familial bonds. Only through legal and media activity by PHR and the personal intervention of Yossi Sarid, a member of the Knesset, was the decision reversed and a new permit issued.[10]

Denial of entry because of the "criteria of risk" is situational and depends on age, region, and family status, regardless of the individual's biography. According to Liron Aloush, the criteria reflect the general characteristics of potential security threats constructed by the Shin Bet. In practice, this mechanism results in collective punishment and denial of freedom of movement to thousands of people who fall into the rigid categories because they are single, are younger than thirty-five, or come from a certain village. Moreover, the estimated security threat changes over time, yet usually categories were added, not removed, from the profile that constituted the security threat.

When we sent a request to the Population Registry Department to remove Jamal Fakhia's classification as a security threat and grant him a magnetic card and work permit, we received a form letter from the office of the legal adviser of Judea and Samaria on June 13, 2006. Fakhia was not considered a security threat because of specific information against him; he simply did not meet the criteria for a permit. The response reveals the logic of the regime of privileges based on territorial control and the full discretion of the Shin Bet to decide on who and where are "estimated security risks":

1. In response to your query regarding the above, I hereby inform you that the area is a "closed zone," based on the Decree on Closed Zones (West Bank Area) No. 34, 1967. According to that decree, the exit of the residents of the area to Israel is prohibited unless they carry an individual exit permit. It follows that no resident of the area has any legal right to exit into Israel.
2. Our inquiry found that your client does not meet the current criteria for allowing residents of the area to enter Israel.
3. These criteria are established based upon general and individual risk estimates conducted by security officials with attention to the circumstances and relying, among other indicators, on age, family situation, place of residence, and other personal parameters.

4. These criteria change from time to time in respect to the security risk assessment by security officials that are impacted by the scope of terrorist attacks, the identity of their perpetrators, and so on.
5. A renewed request can be submitted up to six months after the receipt of this reply from our offices.

This is one of the only documents that articulates the permit regime as a practice of control over the territory as a form of sovereignty rather than a focus on controlling the movement of populations and extracting information, that is, practices of governmentality. The template emphasizes the temporary nature of current criteria, of circumstances related to security, and fails to mention the economic structure in which these criteria are defined—quotas set to regulate work permits. In fact, the text of the letter does not refer to the permit regime at all.

Civil servants in the Palestinian police or other armed forces usually fall into this category: considered a security threat because of certain criteria. In January 2006, I filed a petition to the Israeli Supreme Court in the case of Iyad Mesk, who had been classified as a security threat for several years. Even before the court hearing, we were told the restriction had been removed, yet when Mesk approached the DCO with the official declaration from the attorney general's office, he was told by a soldier at the window that he could not receive a magnetic card. The reason given was that he was listed as serving with the Palestinian police, although he had ended his service in 2005. He was told to procure a statement from the police saying he was no longer employed there. Finally, he received his magnetic card and permit. This criterion applied to mid-level officers and clerks for the Palestinian Authority; permits for senior officials are dealt with on a different track, as exceptional permits for VIPs.

When I telephoned Liron Aloush and inquired about the content of the general criteria, he replied that profiling criteria are classified for fear that if they were published, terrorist organiza-

tions could evade them. The uncertainty, the flexibility of the criteria, and their frequent change are viewed by the Civil Administration as defense mechanisms to prevent the "enemy" from knowledge of how the permit regime perceives the "current terrorist character." For the general population, these practices produce uncertainty and paralysis because no one knows if and when movement will be restricted, or for what reasons.

Restriction according to general criteria is a lighter restriction than others based on alleged information about an individual. From my own experience, 20–30 percent of the restrictions are removed after administrative appeal and when petitioning the Supreme Court for removal of the restriction. Success rates in removing a general restriction were much higher.

The third path was instances in which the security ban was removed following the appeal to the Population Registry Section: 20–30 percent of the cases of people who could engage in the process of procuring a permit. In these cases, the Civil Administration's response was, "Our review found there is no security restriction bearing on the applicant's entry into Israel. Please instruct him to contact the DCO unit in the district of his residence to submit a renewed request for an entry permit. The request will be dealt with in accordance to the current closure orders, which are subject to change." While it was a great relief to those fortunate enough to have the restriction removed by the administration, some had spent years suffering from and fighting the classification, which seemed to them cruel and arbitrary.

CLEMENCY AND BLACKMAIL

To appeal the classification of security threat, one needs to submit a clemency form (*istircham*), although the possibility of earning clemency is learned only by word of mouth. On the clemency form, the appellant asks the Shin Bet to remove the security restriction and declares that he is not involved in any security activity

that would merit the classification. Because people do not know why they have been classified, the appellant also adds a general apology for anything he might have done unknowingly. The form is submitted to the soldier at the window of the DCO and is passed on to the Population Registry Section.

Some of those who submitted a clemency form *were* called on to speak to the Shin Bet. They arrived at the outer gate of the Shin Bet installation at the DCO, gave their ID card to the guard at the door, and waited for hours. Oftentimes the wait was useless, and they were sent home without speaking to an official. Some made dozens of visits before their names were called. In some cases I worked on, people went to the Shin Bet offices nearly every day for two years, for example, Muhammad Faraj, a tour guide from Bethlehem, who was restricted for two years. He told me about the long wait:

> I would come to the DCO to speak to the Shin Bet about removing my restriction maybe ten times a month, for two years. It's like a job. You come in the morning, you give your ID to the guard at the door, he tells you to wait, and at four or five in the afternoon he gives it back and says, "Go home; they don't want to talk to you." So you come on a different day to wait to get in and talk to the captain. Nothing I can do but come here; I need a permit; I need to work.

When people did finally manage to get an interview with the Shin Bet, their conversations followed a pattern: The Shin Bet investigator said the organization has "security-related" information against them. He offers to help them if they agree to help him; usually, the phrase "you help us and we'll help you" is enough for the Palestinians to understand the nature of the deal offered. If they still don't understand, they are plainly told they need to provide information in exchange for a magnetic card and an entry permit into Israel. In a minority of cases, they are also offered money.

The number of restricted Palestinians who acquiesced to collaborating with the Shin Bet in exchange for a permit is unknown.

This "deal," or blackmail, was offered not only for a work permit but also for a permit to exit to Jordan (which is the only way residents of the West Bank can travel internationally) or travel for medical treatment—in other words, when the person who is restricted from movement is most vulnerable to life's pressures.

The organization's control over the permit regime allowed it to continually expand and replenish its stock of potential informers through the denial of magnetic cards and work permits and subsequent granting of them on the condition that the applicant become an informant. Because of the temporary nature of the permits (valid up to three months), the relationships between informants and Shin Bet are volatile and the turnover is high. Theoretically, if the permit regime were to evaporate and movement from the West Bank were hermetically shut down, the Shin Bet would lose its main bureaucratic instrument of recruitment. Gaza is an example of the "hermetic" policy that offers insight into the impact of total closure on Israeli intelligence capabilities. The siege Israel has imposed on the Gaza Strip and cessation of work permits have had a decisive influence on both quantity and quality of intelligence gathered by the Shin Bet, and most human intelligence about Gaza is currently from West Bank informants.

For example, Fouad Mesk sought to enter Israel with his four-year-old son, who needed treatment for a severe injury to his testicles, due to a circumcision that went awry. One of the Shin Bet captains, as they called themselves, offered in exchange for collaboration with the Shin Bet not only a travel permit but also coverage of the medical expenses for his son. Mesk declined. In a petition to the Supreme Court on his behalf I described the nature of the deal he was offered, and after some negotiation, the attorney general's lawyer declared the restriction canceled, even before the hearing took place. She adamantly emphasized that although a Shin Bet officer did speak to Fouad Mesk, she denied that the offer to cover medical expenses in exchange for a permit ever took place and claimed that such pressure would be absolutely unthinkable.

Yet refusing the blackmail carries its own consequence. One very clear type of reason for classification as a security threat is a refusal to collaborate. Hisham was a married, thirty-six-year-old construction worker and father of four. He could not obtain a magnetic card despite a clean security and criminal record. He believed that the reason for his classification as a security threat was an episode that occurred in the early 1990s when he was twenty. A Shin Bet agent had approached him to collaborate. During that encounter, Hisham had signed a paper written in Hebrew, which he could not read. Immediately after that interview, Hisham had second thoughts and told the agent that he would not work with the secret service. Since then, he has never been able to obtain a magnetic card. In 2005 Machsomwatch volunteers appealed his classification, but the appeal was denied based on "intelligence information." A year later, he sent another appeal through the volunteers, which was denied again. Hisham decided not to appeal to the Supreme Court for fear the court would uphold the classification and he would be denied entry for life.

Recruitment of Palestinian informants by Israeli forces has a long history.[11] From the inception of Israel, Palestinian collaboration was met with suspicion, yet Palestinian leadership refrained from retaliation against collaborators.[12] Ron Dudai and Hillel Cohen show that this trajectory changed during the First Intifada when killings of collaborators and alleged collaborators took place. The main targets were informers who helped the Israeli security services. The years following the Oslo Accords changed official Palestinian responses to collaboration, with all Palestinian political factions, including PLO and Hamas officials, encouraging collaborators to "engage in soul searching and come back to the bosom of the Nation."[13]

This Shin Bet practice of recruiting informants by administrative means constitutes a grave violation of the Geneva Convention, which clearly states in Article 31 that the occupying force cannot recruit spies among the protected civilian population.[14]

Nevertheless, as the permit regime grew and practices restricting movement expanded, the pressure on Palestinians to become informers increased. In many ways, this aspect of the permit regime renders it different and more extreme than other systems of population management, although there is growing evidence that applications for asylum, naturalization, and citizenship can entail requests for information about undocumented relatives or acquaintances to officials in the United States and several European countries.[15] Some of the most vulnerable are Palestinians in the midst of family unification processes, who are married to Palestinians from East Jerusalem or Israeli citizens.

Usually living physically with their families in Israel, people like forty-one-year-old Omar, who lived in Jerusalem with his Jerusalem-born wife and four children, are targets of persistent recruitment by the Shin Bet. For many years, Omar worked as a mechanic in a textile mill in Beit Jala. Until 1996, he received entry permits for Israel. But then his attempts to receive permits were futile for a decade, until 2006, when he began appealing his classification as a security threat. His mobility was extremely restricted because of his fear of arrest and deportation to the territories, which would prevent him from living with his wife and children. Omar recounted his first encounter with a Shin Bet captain to Machsomwatch volunteers. The interview took place at the Etzion DCO with three people sitting across from him. At the end of the meeting, the captain said to him, "I am prepared to help you, if you help me." At first Omar did not understand what help meant, but after some clarification, he understood that he could obtain a magnetic card only if he collaborated with the Shin Bet. When he refused the offer, he was instructed to sign a document in Hebrew and then informed that the paper confirmed that he was forbidden forever to enter Israel.

Palestinians know of the Shin Bet blackmail of recruiting informants through the permit regime and how widespread the phenomenon is. The systematic recruitment through the permit

regime since the Second Intifada has changed attitudes toward informants, who are seen as weak but not condemned and despised as traitors as they were during the First Intifada. However, those who succeed in obtaining permits are considered suspicious and of doubtful loyalty. Through these practices of blacklisting, blackmailing, and recruiting informants, the permit regime creates multiple layers of suspicion within Palestinian society, not only from the Israeli official viewpoint that Palestinians are possible terrorists but within Palestinian communities themselves, including nuclear and extended families.

THE CIVIL ADMINISTRATION AGAINST THE SHIN BET

While none of my interlocutors within the bureaucracy of the occupation denied the scope and breadth of the Shin Bet's power, not all agents and organizations agreed that recruiting informants was and should have been the goal of the permit regime. However, the Shin Bet's primary role in the decision-making hierarchy drew legitimacy from the high regard that the officials of the bureaucracy of the occupation held for the organization. Everyone seemed to respect the hard work of Shin Bet agents, their vast responsibilities, and perceived expertise in diagnosis and analysis of security risks.

From a legal point of view, the scope of Shin Bet's authority is to protect the security of the state, the democratic regime, and its institutions. However, on March 15, 2007, Yuval Diskin, then head of Shin Bet, wrote a commentary in the newspaper *Fasal Elmakal* that revealed the organization's broad interpretation of the scope of its authority, justified by the principles of "Defensive Democracy": The Shin Bet sees itself as committed to "undermine the subversive activities of anyone interested in infringing on the character of Israel as a Jewish and democratic state, even if their activity is carried out by means provided to them by the democracy." The criminalization of political and cultural activities, by

defining their leadership as security threats, has had massive effects on Palestinian civil society in the Occupied Territories as well as on Palestinian citizens of Israel.

Diskin was referring to Shin Bet's activity among Palestinian citizens of Israel, but the greatest expansion of the Shin Bet's authority was its intervention in the lives of Palestinian residents of the territories who are not citizens of the state. This intervention included preventing political and community organizing through classifying political organizers as security threats. In 2004, two brothers, Iyad and Naim Morar, were arrested on suspicion of political activism after leading protests against the separation wall in the village of Budrus. They were held in administrative detention under the general clause of "threat to the security of the area." I appealed their administrative detention with attorney Tamar Peleg. In a rare ruling, the military court of appeals decided that their activity, which was organizing protest demonstrations, was political and not a threat to security and canceled the detention order. That month, more than six hundred Palestinians were held in administrative detention, and to my knowledge, no appeals against the detention were accepted then.

Clerks and officers working in the permit regime consider the Shin Bet representatives to be security experts. Shin Bet controls all information on Palestinian citizens, most of the means to produce that information, and the administrative power to determine classifications and categories in the databases of the permit regime. Interviews with former heads of the Civil Administration revealed a persistent struggle with the Shin Bet and the organizations that administer the civilian aspects of governmental activity, such as the Civil Administration and representatives of the Ministries of Economy and Employer Associations. While those concerned with civilian life attempt to promote more possibilities for mobility, the Shin Bet promoted its interests in creating what was called a "hermetic closure" that would prevent the entry of nearly every West Bank resident into Israel.[16] Some of the struggle was

staged and performative since the possibility of movement is crucial to the Shin Bet, because it offers endless opportunities to recruit informers.

One of the Shin Bet's sources of power over agents and organizations is fear of blame for terrorist attacks because of increased mobility of Palestinian civilians. From many interviews and conversations, it seemed that while officials opposed the Shin Bet policy of hermetic closure, they feared taking responsibility for the consequences, as Brig. Gen. Dov Sedaka told me in an interview in September 2006:

> The permit regime was not something we discussed in advance, but something that developed as a changing arena according to the needs of the system: government decisions, international pressures, and sensitivity to what was going on in the PA. The system of the permit regime is controlled by the Shin Bet [representatives], who have a habit of sitting at government-level meetings on the permit regime and asking anyone who wants to introduce a more relaxed policy on entry into Israel: "Do you want to take responsibility for that?"

Another aspect of the battles within the bureaucracy of the occupation is the difficulty in locating decision makers. In phone conversations with clerks at the Population Registry Section and the public affairs officer at COGAT, I was told frequently that they had no discretion to intervene in the decisions of the Shin Bet and that they could only ask the Shin Bet to speed up its own review process. Intervention within the administrative bodies proved effective only when former senior officers personally acquainted with the appellant approached the Shin Bet to request a review. Such cases are extremely rare, because most Palestinian residents classified as security threats do not have the networking resources to mobilize intermediaries in such high places. One other effective type of intervention is that of international organizations, who approach the foreign affairs or the international organization departments of COGAT and manage to have the restriction temporarily

withdrawn. Because there is no separation of powers in the permit regime between the military commanders who sign decrees and the Civil Administration, policy decisions are dictated by the classification apparatus and policy makers do not have control of the administrative structure. Maj. Gen. Ilan Paz explained in an interview in August 2006 that the permit regime, particularly the role of the Shin Bet in its maintenance, simply was not compatible with the principle of rule of law:

> In the Civil Administration's field of operations, national interests and the law don't meet. There is a clash between the law and between Israeli interests, and then a gray area is created where the head [of the Civil Administration] knows the law, understands the unspoken national interest, and understands he is expected to navigate the activities of the organization in accordance with the national interest, even if this clashes with the law.

The head of the Civil Administration knows the law, but as the law clashes with the government demands, confusion revolves around the sources of sovereign authority. Since the Knesset is not the legal sovereign in the Occupied Territories, authority is divided between the military commander and the central government. However, because of the sovereignty gaps between the regime in Israel and the regime in the territories, and the incommensurability between the law and governmental interests, or between the Knesset and the government, a situation of continuous emergency is created for the head of the Civil Administration. Moreover, within that perpetual emergency, the Shin Bet determines both policy and practice, despite opposition within the bureaucracy.

THE ECCLESIASTICAL SITES OF "SECURITY"

Administrative flexibility, covert instructions and operations, the anonymity of the Shin Bet agents, and the finality of the Shin Bet's decisions forge a set of practices that turn Shin Bet classifica-

tions into law. The Shin Bet's administrative blackmail system establishes an almost absolute authority to decide whether a person is friend or foe, based on the assumption that Palestinians are a dangerous population and a potential terrorist lurks inside nearly every Palestinian civilian. Shin Bet officers wield absolute discretion regarding profiling classifications. The toolkit of practices and the authoritative role the Shin Bet has within the bureaucracy of the occupation all contribute to the omnipotent image of Shin Bet agents by Palestinians classified as security threats.

The accounts of Palestinians describing conversations with Shin Bet captains were the same stories, with little variation. They reflect a well-established method of exploiting the administrative framework of the permit regime for recruiting informants and expanding control over the private lives of Palestinian residents.

In practice, the interminable wait to know the reason for the security restriction, the uncertainty that comes with the wait, and the incessant doubts about the causes of the restriction and the self-blame that accompanies it, turn the Shin Bet offices at the DCOs into places filled with tension and awe, hope and despair, shrines where a man is brought into the presence of the sovereign power itself. People wait there, praying and hoping they will not be offered a deal to collaborate that will put them in an impossible situation: accepting collaboration means betraying your community and nation as well as risking your and your family's lives; declining can end any possibility of earning a living once and for all, relinquishing hope for economic survival.

A Palestinian who acquiesces to the deal finds himself outside the Palestinian collective in the West Bank where he resides; despite collaboration with the Shin Bet, he remains external to the Israeli collective. A Palestinian who rejects the deal is banned from moving physically across the space and, in many ways, from taking part in social and economic life. The Shin Bet's power grows with every collaborator recruited by administrative means. All other players in the permit regime—the Civil Administration, the

Ministry of Industry, and even the human rights groups—are essential for the manufacturing of exceptions by the Shin Bet and their transmutation into rules to which new exceptions will be made ad infinitum.

According to the formal administrative flow charts, the Population Registry Department has authority to classify each person. However, as officials in the departments of the bureaucracy of the occupation admit in conversations, the Shin Bet is the only organization that classifies population a priori, and requests from other departments merely prompt it to review its decisions, at times considering the reasons for the decision only when it is appealed. As 1st Lt. Eyal Freiman, formerly a public affairs officer at COGAT, explained in December 2006, "All I can do is ask the Shin Bet to speed up their checkup. I can only do that. At the end of the day, only they decide."

The prime minister's office has ministerial responsibility for activities of the Shin Bet yet has denied the existence of a procedure in which Palestinians are classified as security threats. In October 2005, the prime minister's spokesperson replied to a query from the Association for Civil Rights in Israel: "Our office is not familiar with a procedure called security restriction."[17] This response is strange, especially considering the wide usage of this very procedure by the Interior Ministry to deny family unification requests and the classification in the Ministry of Labor's database. Moreover, the Shin Bet is the direct respondent for hundreds, perhaps thousands, of rulings by the administrative and supreme courts on petitions against the classification. The military advocate general himself referred to the security threat classification in a number of Knesset committee sessions. However, the denial of the prime minister's office is much less bizarre if we consider the Shin Bet as a phantom sovereign, one that is omnipresent and holds powers of clemency and security classifications, as well as power to determine who is loyal to the state. Yet it is impossible to locate its powers within the laws that govern executive power in Israel.

The denial of the prime minister's office of the classification process itself indicates the liminal location of the Shin Bet, a legal shadowland, in which Shin Bet uses the classification system to recruit collaborators every day in the nine units of the DCO.

POLICE AND CLASSIFICATION AS A CRIMINAL SECURITY THREAT

The police classifications of Palestinians as security threats entered the permit regime much later, following the Second Intifada in 2000. The Judea and Samaria police district was established in 1994,[18] with the transfer of powers to the Palestinian Authority, but had not engaged in classification of the Palestinian population in a significant way. The introduction of police forces alongside the security forces already operating in the territories blurred the political difference between sovereignty and annexation, manipulating the meaning of keeping public order according to international humanitarian law. The police introduced another layer to the control of the permit regime through fines and the classification "criminal security threat."

This classification prevented Palestinians from receiving permits, as did unpaid traffic tickets, so the thousands of tickets and fines for traffic violations issued each month by police had a massive effect on access to permits.[19] During 2004, the Shai police district received eleven thousand requests to remove this classification from Palestinians who had been denied permits.

In November 2006, following a petition by the Association of Civil Rights in Israel to the Supreme Court, a team at the police Investigations and Intelligence Department prepared a draft titled "Criteria for Limitations on Entry into Israel of Residents of the PA, on the Grounds of Criminal Restriction." The new document stated that the goal of the classification system was "to reduce the risk anticipated to the public peace in Israel stemming from the entry of Palestinian Authority residents with security or

criminal backgrounds, especially repeat offenders."[20] The document crystallized ad hoc criteria that had been sporadically used since October 2000 and became a systematic set of regulations.

The police criteria revealed a peculiar logic of reducing risk by setting a matrix of schedules and timetables for three categories of criminal security threats: Palestinian residents awaiting trial, Palestinian residents serving a sentence, and Palestinians who had been released from prison. The people in the third category were in double jeopardy because as soon as they were released from prison, the mobility restriction was applied.

Meirav Inbar, the director of the entry ban unit at police headquarters in Jerusalem, explained how the database worked: The very existence of a court case or a conviction was sufficient to prevent a person's entry into the country, without regard to the content of the judicial decision itself, the sentence, or the circumstances of the offense. As soon as a "criteria event" was registered in the database, the ban on entry to Israel became irreversible, with no process for appeal.[21]

In 2006, Hafez Amro, a resident of Kafr Dura, was caught in Israel having "illegally" entered while trying to bring his four-year-old son, who had been run over by a car, to an Israeli hospital. The

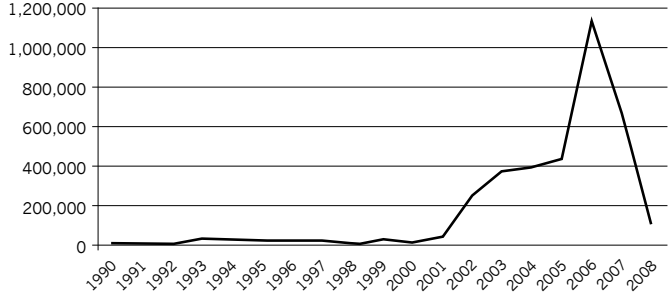

FIGURE 1. Number of Palestinians classified as criminal security risks by police.
SOURCE: Data from public complaints officer, Israeli police, March 2017.

dramatic circumstances compelled the court to avoid penalizing Amro, and he was not convicted. According to police criteria, entering Israel in violation of the Entry to Israel Law leads to an eighteen-month ban if the trial ended with conviction and two years if it did not. Thus, Amro was banned for two years. If a judge decided to avoid conviction because of the circumstances, the defendant is banned from Israel for longer than if he had been convicted.

The length of a sentence determines the number of years of classification as a criminal security threat. If a person receives a sentence for up to one year, he is restricted from entry for three years; up to five years, he is restricted for five more years; and more than five years, he can be banned for up to twenty years. Since 1970, more than six hundred thousand Palestinians have served a prison sentence, so the limitations on entry into Israel apply to a substantial part of the population. In 2006, the police security classification was a restriction that prevented entry into Israel, permits for the seam zone, and permits to work in settlements, so spatially it was more confining than the Shin Bet security classification. The criteria also imposed multiyear restrictions on people who had investigation files opened, even in cases of entering Israel "illegally" with a permit but during closure.

Both the Shin Bet and police security classifications that had not been removed by the DCO could be lifted only through a petition to the High Court.

SECRET EVIDENCE: SHIN BET AND THE HIGH COURT

In most cases, the only possible intervention in classification cases was the appeal to the Supreme Court, as High Court of Justice, for judicial review of the decisions of the Civil Administration (which were actually the decisions of the Shin Bet). One of the only forms of resistance to the permit regime, petitioning the High Court meant shifting the arena of the decision from the

colonial government in the West Bank to the central government via the Supreme Court. The schedule and administrative principles operating in Israel are then applied to the case. The petitions forced the central government to address the practices of the colonial governors and the Civil Administration, and in turn, the Civil Administration had to show some compliance with administrative principles. However, while lawyers and international organizations expected the judicial oversight to create more accountable practices in the Occupied Territories according to international human rights law,[22] over time the administrative practices spilled over seamlessly from the organizations running the occupation in the West Bank to departments of the Israeli government in Jerusalem and Tel Aviv.

The Shin Bet officials are invisible in the flow charts of the bureaucracy of the occupation; they are physically seen only by the Palestinians selected by them for an interview. However, they remain obscured from the eyes of lawyers and activists involved in attempts to have the restriction removed. In this regime of perpetual emergency, the Shin Bet representatives are the sole decision makers on a person's categorical fate. The encounter of the Shin Bet with the subjects classified as security threats is a place where the sovereign, who defines the state of exception de facto,[23] meets face-to-face with the victim, a space where only the maker of the decision and the immediate subject of the decision can exist. When the court intervenes in the executive decision, the pure sovereign-like power of the military commander over the subject is mediated by a semblance of rule of law.[24] The only place in the bureaucracy of the occupation when Shin Bet representatives are revealed to Israelis is during the process of petitioning the Supreme Court to remove the classification as a security threat. Even when Shin Bet representatives present secret evidence and the court usually upholds the classification, the Shin Bet gains legitimacy from revealing its participation in the process itself, one that is lawful and goes through judicial review.

In 2007, Machsomwatch reported that 290 of the 1,312 appeals to the legal adviser of Judea and Samaria to remove security restrictions were accepted in the years 2005 and 2006, a success rate of 22 percent.[25] Another human rights organization, Hamoked: Center for the Defence of the Individual, appealed to the Civil Administration on behalf of Palestinians barred from traveling abroad via Jordan because of their classification as security threats; 256 were successful, almost 40 percent. The legal adviser rejected 243 appeals that were then submitted to the Supreme Court. Of these petitions, 183 (78 percent) were successful, and the security classification was removed. In 70 percent of these cases, the restriction was withdrawn by the state before a single hearing could take place.

In 2006 and 2007, I submitted more than eighty petitions to the Supreme Court on behalf of Palestinians classified as security threats by Shin Bet. In 75 percent of the cases the Shin Bet agreed to remove the classification because of prehearing negotiations with the state attorney's office. The fact the withdrawal was prompted merely by an appeal to an office external to the Shin Bet indicates that the classification was not based on comprehensive guidelines, administrative evidence, or fact-based decision making. An external administrative action could coax the Shin Bet to alter its decision with immediate effect, and a person classified as a security risk was almost overnight in possession of an entry permit into Israel.[26]

The main aim of the petitions is to facilitate negotiation with the system through mediation of the attorney general's office. Most of these petitions are not heard by the court; the mere filing of the petitions serves as the only means of applying pressure to the Shin Bet, who would rather grant an individual request than expose its practices and decision making to judicial oversight. From the vantage point of the Shin Bet, any judicial oversight is an infringement on its administrative flexibility, discretion, and capacity for manufacturing administrative exceptions. Filing a pe-

tition speeds up processes and takes weeks rather than months or years waiting for an administrative response. Government lawyers act as adjudicators and prevent the petitions from being heard, in many cases convincing the Shin Bet to annul the classification.[27] The High Court of Justice Department (Bagazim Department) at the attorney general's office is not an integral part of the bureaucracy of the occupation. Formally, it represents the state when administrative decisions are petitioned to the High Court of Justice. In practice, it is also a bureaucratic unit responsible for "deblocking" the administrative pipeline of appeals to the Civil Administration and Ministry of Defense. The government lawyers fully participate in the bureaucracy of the occupation by negotiating its boundaries of power with the Supreme Court. The Supreme Court does not generally tend to intervene in administrative decisions requiring expertise, particularly when security experts are involved. The court intervenes even less often when petitioners are Palestinian residents of the West Bank, who, as far as the attorney general is concerned, do not possess a right to enter Israel in the first place—the right of entry is considered a privilege awarded by discretion under the permit regime.

In most cases when a petition was filed with the Supreme Court, government lawyers were required by the court to respond within thirty to sixty days; in 75 to 80 percent of the cases, the restriction was withdrawn by the Civil Administration. These cases never reached the courtroom itself. In other cases, in which the Shin Bet adamantly opposed the removal of the classification, a court hearing was scheduled. The court does not reexamine the decision itself but reviews the decision-making process and checks the reasonableness of the decision. In all security restriction cases to date, the Shin Bet refused to show the classified material in its possession to the petitioner or his lawyers for security reasons but agreed to reveal a "paraphrase" of the intelligence file to the judges themselves without the presence of the petitioner or his lawyer. If the petitioner agrees to the use of secret evidence in a one-sided

hearing, the hearing takes place as scheduled. If he does not—the petition is rejected because the court cannot examine the decision. Thus, an exceptional situation is created that contradicts essential principles of criminal and administrative law, in which the petitioner has no choice but to agree to have the state present classified material to the court without the petitioning attorneys being present or have his petition automatically rejected. The Supreme Court justified the need for the use of secret evidence and the extreme deviation from basic adversarial principles of evidence:

> In the conditions of a struggle against terrorism and a time when the security services operate within the boundaries of the law, with its hands tied by commendable considerations of human rights . . . classified material that is not presented to all parties concerned is an unquestionable necessity. . . . This of course puts a special duty on those who see the material to check it well, as they serve as a voice of sorts for those who cannot see it.[28]

In other words, the petitioner (if he is lucky enough to receive a permit to enter Israel to attend the hearing) leaves the courtroom with his lawyer and waits outside near the large wooden doors. The state attorneys and the Shin Bet present the classified materials to the court in a secret hearing. The hearing is an internal negotiation between the central state bureaucracy and the colonial bureaucracy of the Occupied Territories in which there is no place for the physical presence of Palestinian subjects, who are perceived as enemies even in their own court hearing. Several Shin Bet officials, including the organization's legal adviser, department chief, and regional coordinator, attend the hearings in which the organization presents classified material to the judges.

Even founders of the military government in the territories, such as Shlomo Gazit, gradually became severe critics of the Shin Bet's mass profiling practices. Gazit recounts that the Shin Bet was to advise the head of the Civil Administration on security affairs and focus on gathering data and intelligence. Shin Bet used methods of

collective punishment and profiling from the early days of the military government in 1949. After the Oslo Accords, the Shin Bet shifted away from a focus only on prevention of acts, or profiling of particular suspect communities within Palestinian society that endangered the security of Israelis, to attempt data collection and profiling of the entire Palestinian population to manage and control daily life. While I do not suggest that the Shin Bet created the permit regime, because I found no evidence to support the structural design of the permit regime, there is no doubt that the permit regime afforded the Shin Bet opportunity for recruitment of informants on a scale far larger than during the first thirty years of the occupation. I perceive the bureaucratic toolkit created by the Oslo Accords as facilitating direct engagement with masses of Palestinian civilians on a scale that was impossible before the large data and profiling mechanism of the permit regime.

Although the permit regime was not established to provide Shin Bet with an effective instrument of recruiting collaborators through bureaucratic means, the structure and practices of the regime serve that objective well. In the permit regime, the monopoly on data and information translates into a monopoly on movement and allows governmental control over the movements of Palestinian subjects, alongside sovereign control over the territory. While this control has varied in degree and scope since the signing of the Oslo Accords, the nature of control through population management has remained constant, despite resistance by the civilian population and various other groups.

The Supreme Court upheld the position of the Shin Bet in 95 percent of the hearings in which the Shin Bet presented classified information. The court either rejected the petition or persuaded the petitioners to withdraw it. The consistent acceptance of the Shin Bet's secret evidence granted legitimacy not only to its information but also to the profiling system of the permit regime itself, turning the High Court into an important institution in the bureaucracy of the occupation.

3 LABOR OF UNCERTAINTY

At the beginning of the occupation in 1967, Israel did not integrate the Palestinians into its economy, but it did create the conditions for their economic dependency that tied them to the Israeli economy for their livelihood. Some economists argued that dependency was caused by imposing partial integration of the Palestinians into the Israeli economy along with political intervention that introduced protectionist policies instead of implementing macroeconomic policies that served the needs of the Palestinian economy;[1] others thought that the political structure of the occupation led to underdevelopment or de-development.[2] Economist Lilah Farsakh suggests that the heart of Palestinian economic dependency is a basic colonial situation of exploitation and dislocation.[3] Two decades into the occupation, as the settler movement in the West Bank gained force, the political economy of the occupation followed a settler colonial logic of transfer that also included cutting dependency on Palestinian labor.[4] The bureaucratic choices made to administer Palestinian labor resonate well with the colonial model that kept populations separate while exploiting labor.[5]

THE ADMINISTRATION OF PALESTINIAN LABOR

In the summer of 1967, the issue of integration of Palestinians into the Israeli economy created internal strife within Mapai,[6] the majority Labor Party, regarding the future of the Occupied Territories. The declared reasons were social and economic, based on fear that integration would harm Israeli workers, cause capital flight toward cheaper labor and resources in the West Bank and Gaza Strip, and be detrimental to Jewish-sector domestic development. Politically, opponents of integration argued, integration would threaten interests of the Jewish trade unions and powerful agricultural lobbies, as well as pose a complicated challenge to the issue of citizens' rights. They suggested creating economic opportunities in the territories instead of opening the gates for work in Israel.[7] They lost the fight to Defense Minister Moshe Dayan.

Dayan's open-border policy created a workforce surplus in Israel that accelerated competition between Palestinian and Israeli workers. The Palestinian laborers who commuted to Israel commanded much lower wages than their Israeli counterparts did, particularly in the early years. In mid-1971, Israeli workers earned six times more than Palestinians from the West Bank.[8] The objections of the Histadrut, Israel's largest labor union, led to a government decision in October 1970 that established an employment department in the Occupied Territories that would distribute labor permits.[9] Its declared goal was to equate the wages and rights of Palestinian and Israeli workers, but it created a segmented labor market through an administrative apparatus that applied a strict racial separation between Jews, Palestinians, and migrant workers.[10] The administrative separation cemented the status of Palestinian workers as external to the economic and legal system of labor rights;[11] even though Palestinians constituted a considerable workforce, Israel never allowed Palestinian workers to organize, and these workers' interests did not influence labor politics in Israel.

The Ministry of Economy had several ways to manage Palestinian workers. The first was to treat Palestinian workers equally de-

spite the citizenship gaps. The second was to treat Palestinian workers as migrant workers entering Israel. They did neither. The ministry established a third category for Palestinians: the employment departments collected Israeli tax tills and Histadrut pension funds in a specific set of practices and organization designated only for Palestinian labor.

The military occupation had transformed the economy of the Occupied Territories from an agriculturally based one into a service-oriented labor-exporting economy. By 1977, almost one-third of workers from the West Bank were employed in low-skill construction and agricultural jobs in Israel. A decade into the occupation, the Israeli construction sector came to rely on Palestinian labor. Although at the macrolevel workers from the Occupied Territories represented less than 9 percent of the employed force in Israel in the 1980s, they provided 30–45 percent of all those working in the Israeli agricultural and construction sectors. Together with Palestinian citizens of Israel, they formed between 48 and 70 percent of the labor force in Israeli construction between 1975 and 1990.[12]

The Oslo Accords redefined the relationship between Palestinian laborers and Israel through the Paris Protocol, the economic agreement of the Oslo Accords signed in 1994. While the stated goal of the accords was to end the occupation and move toward Palestinian independence, the implementation of the accords focused on managing the Palestinian population according to Israel's security needs. This economic agreement created the spatial control or "Bantustanization" (which separated Palestinians into four territorial areas while they remained entirely dependent on Israel economically; this is different from cantonization, which is separation of territory only) of Palestinian labor flows by regulating them according to military, rather than economic, considerations.[13] The protocol did not promise free labor flows but stated, "Both sides will attempt to maintain the normality of movement of labor between them, subject to each side's right to

determine from time to time the extent and conditions of labor movement into its area."[14] Meanwhile, another part of the agreement, the Protocol concerning Civil Affairs,[15] specified that the only legal document entitling a Palestinian to work in an Israeli establishment was a permit issued by the Israeli military authority. Put simply, the accords ended Palestinian free labor movement across borders and directed such flows to suit Israeli security considerations.

The bureaucracy of the occupation created an organizational field that encompassed agents and entrepreneurs who maneuvered the legal patchwork that had turned the permit regime into a source of uncertainty in the life of Palestinian civilians.[16] The economic dependency of laborers and their families on securing employment permits gave rise to new occupations and fields of expertise that helped navigate the permit regime. Entrepreneurs sold their services as middlemen and began to broker permits between Israeli employers and Palestinian workers and military officers and clerks in the Payment Section. Some entrepreneurs used the uncertainty of the permit regime to create forgery networks that produced opportunities for bribes from employers and workers to obtain permits. Another layer of opacity and stratification was based on one's access to and ability to hire a lawyer or proximity to human rights organizations that could help. These intermediaries negotiated the assemblage of 101 different kinds of permits, the checkpoint terminals, and biometric cards in the intersections between economic dependency of the workers and the military who controlled their movement.

EMPLOYMENT CLERKS AND QUOTA LORDS

The permit regime did not only demand that Palestinian workers carry permits; employers also needed a permit to employ Palestinians. The Israeli government set a quota for these permits, which could fluctuate based on the needs of Israeli employers and the

perceived security risk of having Palestinian laborers enter Israel. The quota was not a technical decision, nor was it based on political and economic long-term planning for the labor market. Quotas were a dynamic arena of political and intraorganizational strife and manipulation, where conflicting interests of the occupation clashed, revealing complex institutional politics masked behind economic or security justifications.

Before October 2000, at the outbreak of the Al Aqsa Intifada, more than 125,000 workers were employed in Israel, 30,000 of whom carried work permits. Following the violent clashes and the collapse of the double-headed bureaucracy, quotas were reduced considerably. In June 2004, the Israeli government decided to reduce the quotas with a general goal of reducing the number of permits to zero by 2008. However, in April 2008, the Israeli cabinet decided to increase the quota by 5,000, thus bringing the number of permits up to 21,614.

Quotas of West Bank workers employed in Israel were determined by joint discussions between representatives of COGAT, the Ministries of Defense and Economy, the Civil Administration,

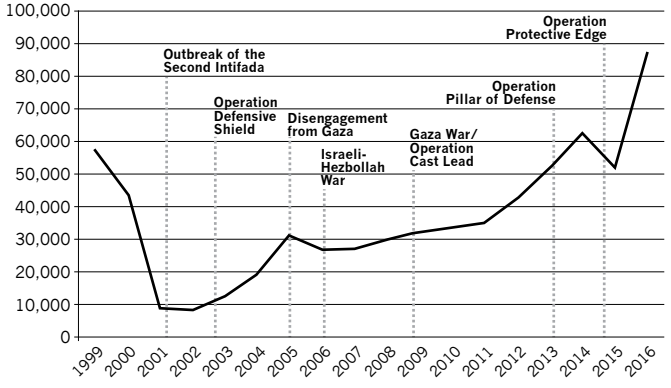

FIGURE 2. Number of labor permits in relation to political events.

SOURCE: Data from Civil Administration, January 2017.

and Shin Bet. The heated debates over the quotas (described to me as an administrative fistfight) were a site of fierce political struggle between the Civil Administration, legally the "effective sovereign" over civilian matters in the Occupied Territories, and other parties that had contradictory interests in permit quotas. Ministry of Economy officials lamented microeconomic effects of Palestinian workers on the Israeli labor market, while the Employment Service highlighted their importance for contractors of construction projects, particularly in the settlements.

The Civil Administration was perceived by the security experts as obsessively concerned with demographics and management of civilian life in the Occupied Palestinian Territories. The army commanders focused on the control of territory. Towering over other interests were those of Shin Bet, whose interest was to monitor and survey the population. Beyond these, and perhaps embedded in these institutional viewpoints, was the long shadow of the settler movement, which embodied separating the land from the population and whose representatives worked in every institution in the bureaucracy of the occupation. In the tug of war on quotas, officials in the Employment Service sought to reduce the number of West Bank workers, while the Civil Administration requested higher quotas "to keep things quiet so that they don't blow up because of unemployment and poverty."[17] Efi, an officer in the administration of the seam zone, explained that Civil Administration officials represent the civilian position and Shin Bet represents the "security" position: "As far as they [the Shin Bet] are concerned, you can close the territories like a pot with a lid above and a lid below, seal the border with glue, and not let anyone enter Israel, ever."[18] Officials explained it was impossible to predict when quota allocations would be made because meetings were not regularly scheduled or publicized. There were no formal processes to update clerks operating the permit regime, which prevented any administrative preparation for changes in the quotas, despite the high economic

impact of decisions on the quota. Nava, a clerk in the Payments Section, told me, "We don't set the quotas; we just get an announcement from the Defense Ministry [COGAT]. Sometimes we hear it on the media before we get any wind of it."[19]

The major obstacle for obtaining permits was the matrix of quotas, which varied by branch and region and was in constant flux. At times, the services branch would not be allocated quotas for workers for up to six months. Quotas were an intense subject of rumors among employers, workers, and middlemen, as well as the clerks of the Civil Administration. They usually concerned allocations or cancellations of quotas or exceptional procedures employed by the Payments Section when pressured by employer associations. Of special interest was a practice called "hour of goodwill" (*Shaat Ratzon*) employed by the Israeli government, when extra quotas were allocated, allegedly as a political gesture to the Palestinian Authority. When quotas were increased, the absence of a procedure to inform employers meant that permits were awarded on a first-come-first-served basis, so knowledge and connections to middlemen became more crucial than ever.

On one occasion, a lawyer for a construction company protested the administrative ambiguity that shrouds the Employment Office's procedures. Avner Peres, deputy head of the National Payments Section, tried to explain the office's ad hoc emergency procedures:[20]

A. At the time of the request . . . the Jerusalem office had not yet established procedures to process permits for Palestinian Laborers [after closure], and all requests were forwarded to the "exemptions committee" at the Tel Aviv office.

B. In "exceptional" cases, for employers who desperately needed to employ a single laborer, the department established an "accelerated procedure" as "first-aid" measures, and I personally authorized their form 33.

Most employers were not aware of these emergency procedures involving accelerated procedures, exemption committees. and first aid. They did not hear it by word of mouth, nor did department clerks make any mention of such procedures. I heard about this exchange from a couple of middlemen, who commanded the waiting room in the Payments Section; that is, they knew what was going on even though they did not hold official positions.

THE PAYMENTS SECTION

From 2002, the Payments Section became a critical stop for employers. Elevated enforcement of both Border Police and Immigration Police patrols as well as legislation that introduced high fines and prison sentences against illegal employment turned employing Palestinians without a permit into a risky and costly business. Increased spatial control (the wall that was under construction joined the web of checkpoints and Border Police patrols) mostly prevented entry of workers without permits into Israel. Employers, who had exploited Palestinian workers without permits for years, became dependent on the Payments Section, whose limited bureaucratic mechanism proved completely inadequate for their increasing needs.

The Payments Section was a branch of the Ministry of Trade, Employment, and Infrastructure, whose mandate was liaison between the ministry and the staff officer at the Civil Administration who dealt with employment. The practices of the Payments Section, a civilian department in the bureaucracy of the occupation, illustrate how institutional routines create repertoires of uncertainty. Nava Cohen, a clerk at the Payments Section, saw the system as ineffective and cumbersome, an organization she called "primitive" because of the practical obstacles it created for employers seeking to receive or renew work permits for their employees. She agreed with most of the virulent critique employers had of her workplace and felt hopeless that it could change for the better.

Nathan Hirsch, Nava's direct boss, deputy director of the Jerusalem branch, also expressed empathy for independent business owners struggling to obtain work permits for their employees. His corner office in the Klal Building in Jerusalem was tiny, choking with piles of papers that rose to a dizzying height. A small internal window links his office to the open space occupied by the section's receptionists, where they receive employers, who wait in two lines of white plastic chairs. Through the window, they hand him faxes and papers he needs to sign. Hirsch was well aware of implications the permit regime has for Israeli employers: "In any other country these employers would be millionaires if they only let them work. The amount of the time and effort they invest just to [get] workers is extremely high."[21]

In the pile of forms, when requesting permits, the employer signs a commitment to provide a monthly report on his workers and responsibility for their physical location at all times. In the oral conversation that accompanied the registration, employers were instructed to watch over their workers with "double and triple vigilance" and to report if there is even the whiff of a suspicion that the workers are engaged in any activity considered a security threat. The employer reports the hours his employees worked during the month. The formula for calculating wages was set in 1970 as balancing payments to equate the cost of employing Palestinians to that of Israeli labor. The formula is so complicated that it had to be calculated by the clerks rather than the employers themselves. The employer must pay the section by the fifteenth day of every month, and any delay was punished by the cancellation of the work permits, which in turn become nonrenewable.

The Payments Section was inundated by work and unreachable by phone. Its four clerks could be contacted by fax, but the arrival of the fax could not be confirmed by telephone. During peak times in the aftermath of a closure, a reply by fax could take between three and fourteen days. The only way to arrange matters at the Payments Section was to arrive there in person during recep-

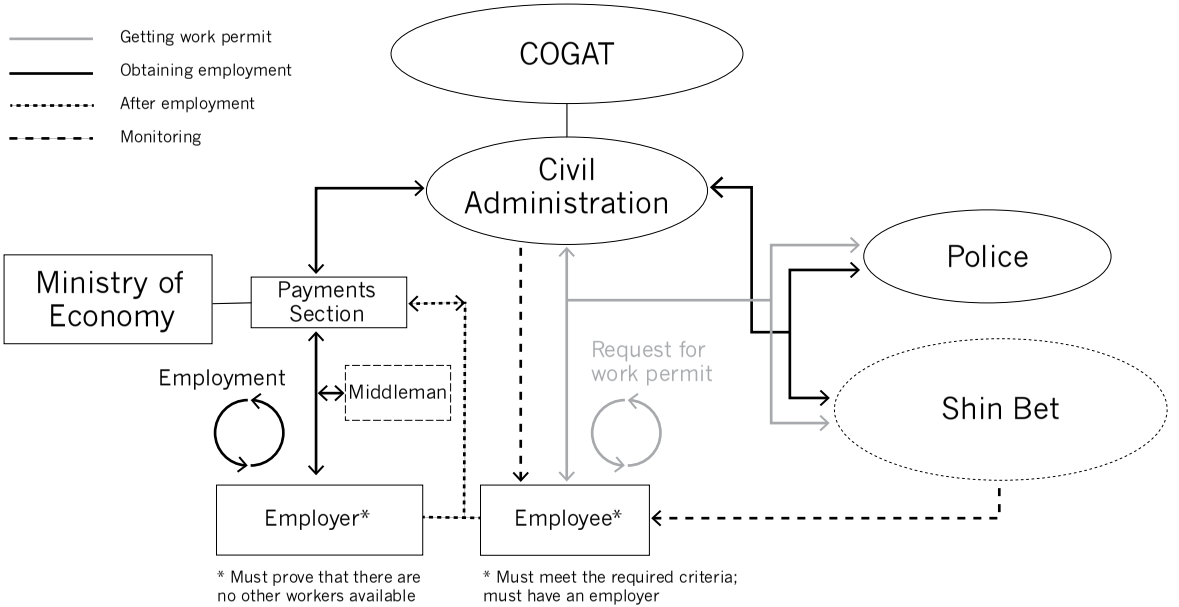

FIGURE 3. Administrative flow chart of the permit regime.

NOTE: Squares indicate military organizations, and circles indicate civil organizations. Arrows within circles indicate interconnected processes for the employers and employees.

tion hours, queue, and work with the clerk while he fed the details of the request into the computer or until he had an answer of some sort through the database or by telephone. Only Deputy Director Hirsch could open new files, and he was there four days a week between 9:00 and 11:00 a.m.

Policies at the Payments Section changed frequently and suddenly. Employers who had relied on exploitation of Palestinian labor from the West Bank for years learned how the permit regime worked by trial and error, some of them scarred by law enforcement raids that entailed hefty administrative fines (up to NIS 5,000) and jail sentences for those who employed Palestinians without permits. Gradually, it became impossible to navigate without the help of lawyers or mediators, who understood who makes the decisions, what strings one had to pull, and where those strings were.

GOVERNMENTALITY GAPS AND FAKE PROCEDURES

The multitude of organizations and agents harboring overlapping authority made it extremely difficult to locate decision makers within the permit regime. Allocation of labor quotas to employers was conducted by one sequence of institutions, and production of permits for workers by another sequence, which complicated attempts at drawing a linear organizational chart. Conversations with clerks and my observations of their work enabled me to sketch how the gaps in governance created peculiar institutional practices that originated in the Civil Administration and gradually spread to the civilian parts of the bureaucracy.

The reporting center of the Civil Administration provided information on permits to soldiers and police officers at checkpoints. The Population Registry Section received weekly updates on changes to the registry from the Palestinian Authority's Interior Ministry and provided information on eligibility for permits, including the imposition of police or security limitations and bans.

The financial branch of the Civil Administration,, in its capacity as the body collating the statistical information on the number of workers, number of permits, and their spatial distribution, played a central role in the discussions of Palestinian worker quotas. The financial branch administered the employment branch, which coordinated permits with the Ministry of Economy but was not in contact with regional employment offices, which distributed quota allocations to employers.

In January 2007 the Jordan Valley Cooling Company requested renewal of two permits for its Palestinian employees after a closure. A clerk replied by fax that the renewal was denied because the company had failed to submit an employment report for November 2006. The workers could not work then because of a three-week closure. To fix the problem, the company submitted a false report for seven days of employment. In reply, they received a single handwritten sentence: "No quotas, no permits."

In an attempt to get the workers' permits back, I asked Doron Segal, head of the economic branch at the Civil Administration, whether quotas for industry permits had been reduced. He said there was a decision to stop new permits for workers in industry, but the new policy did not affect permits given under existing quotas. I wrote the director of the Payments Section with this information, and although she did not reply, the next day workers received permits at their regional DCO.

An organizing principle of the permit regime that I call "personalism" created a system in which the outcome of a decision depends on knowing the identity of the decision maker and of the employer making the request. Another aspect of personalism was the difficulty in tracing the origin of the administrative decision. Very different from accountability gaps in state bureaucracies, where signing off on an administrative decision conveys responsibility for the outcome, in the permit regime, the person who signs a work permit is not the person who decides to grant or deny the permit. For instance, the Shin Bet and police officials are invisible

on the organizational chart, and there was no mention or documentation of their participation in the procedures. Some of the most crucial parts of the process are hidden, while other parts are superfluous.

Performative procedures demanding false applications and unneeded processes presented more challenges for employers that needed to obtain permits for workers who had worked for them for over a decade. The employers needed a special recommendation granting them eligibility to employ workers from the Occupied Territories, called form 33. To obtain the form, they had to prove there were no suitable Israeli or East Jerusalem workers.

In the Jerusalem area, employers who wanted permits for their Palestinian workers from the Occupied Territories had to file a request with the employment office in East Jerusalem, then interview sometimes more than twenty potential workers, and provide explanations for why any worker was being rejected. After employers demonstrated failure to find workers through the East Jerusalem employment office, they had to go back to the general (i.e., Jewish) employment office in central Jerusalem and repeat the entire process, this time with Israeli workers. If the performance went well and they could indeed reject all the potential workers, they would obtain form 33 and receive permits to employ workers from the Occupied Territories. Senior officials at the employment office explained that the process was necessary so they could justify setting a quota of Palestinian workers for Israeli employers.

In June 2005, a restaurant owner from Jerusalem sought to obtain permits for twenty workers from the enclaved village of Qatana he had employed for years, following an escalation of police and Border Police raids at his restaurant. I contacted the Payments Section with his request to obtain twenty service permits for his staff. The coordinator at the employment office, Aliza Cooperman, explained that the employer would have to interview potential employees from East Jerusalem. The restaurant owner

interviewed thirteen workers from East Jerusalem, whom he had no intention to employ, and rejected them. A month later, I reapplied to the coordinator, this time with a request to allow the employer a quota of twenty workers from the West Bank. In August, the restaurant owner was granted a quota of two service workers.

During the three-month process, the clerks at the employment office knew the restaurant owner was already employing the workers for whom he was seeking the permits. They also knew that until the permits were produced, these workers were considered illegal and that the request for the permits was a result of the enforcement activity by the Border Police. Off the record, clerks told me that no one expected the restaurant owner to find workers through this process, but it was a necessary procedure, even though it was useless and superfluous. After months of intensive maneuvering to locate an official who would grant the quota, which included observing the clerks and gathering information on the informal hierarchy of power within the employment office, the director, Shlomo Sharhabani, gave the employer a quota for an additional eighteen permits. An important part of that victory was an exchange that Cooperman had devised to persuade her supervisor to allow a larger quota. The plan was that the restaurateur promised to employ a few Israeli workers in exchange for the higher quota of Palestinian workers. Cooperman needed this exchange to justify the Palestinian workers' permits to her superiors. The restaurateur was obliged to agree. He received the permits little by little: two permits, then four, and so forth. A year later, he had accumulated permits for twelve of his twenty Palestinian workers.

The story of the restaurateur highlights the gap between the internal administrative guidelines of the employment offices and the reality of workers and their employers that could be bridged only by inside information and personal acquaintance with clerks. In other words, approaching different clerks at different times by different applicants produced different outcomes because out-

comes were the result of the identity of the decision maker, not of stable and standardized practices. This occurs despite meticulously detailed internal procedures that exist on paper, thus creating a fake transparency of governance through documents.[22]

THE RISE OF MIDDLEMEN

In the spring of 2007, a massive turf war shook the departments distributing labor permits. Accusations of corruption resulted in a complex recommendation system designed to standardize permit allocation. Employers were obliged to obtain not one but three recommendations from local and national employment clerks, as well as the national director of the section, Israel Einhorn. Instead of standardizing decision making, the triple procedure deepened the dependency on administrative agents. Employers had to maintain a complex network of personal relationships and knowledge about clerks' positions within the process. Economist Janos Kornai wrote about similar processes in communist bureaucracies that operated an economy of shortage of administrative resources.[23] To survive in that economy, one needed a high level of personal information on the agents of the system and its clerks. Shortage of administrative resources increased at times when the Israeli cabinet issued a directive to reduce quotas to nearly zero. Then the only way to receive permits for Palestinian workers was through personal acquaintances who would come up with creative solutions. The acute shortage of quotas increased the clerks' room to maneuver regarding permits and widened their discretion.

Technicalities, such as the place and time one received permits, were constantly in flux and required adaptation and attention. While the technicalities may seem minor, in a regime in which "illegal" movement can result in long prison sentences, it was crucial. From 2002 to 2005, to receive permits, workers were required to go directly to the employment offices at the regional DCO, which eventually entailed hours of waiting at checkpoints and ex-

tended searches at the entrances to the offices themselves. If the permit was not issued, the workers were not told why, and employers had to seek, by questioning different officials, where the permit was "stuck" in the bureaucratic pipeline. In 2006, following cases of forgeries and a feud between Palestinian and Israeli DCO units, a new policy required employers to accompany their workers to the employment office to receive the permits.

In October 2006, a Jerusalem employer was told to get permits at the employment office at A-Ram. Before his arrival, he called the A-Ram office, where they had not received the permits, and directed him to the DCO instead. At 11:00 a.m., the employer, a Palestinian citizen of Israel living in Jerusalem, arrived at the Beit El DCO, where the soldier guarding the gate forced him to wait fifty meters away. The gate did not open until three hours later. Once inside, the employer received four out of the five permits he had before the last closure, because one of his workers was not yet thirty-five years old and thus did not meet the new age criteria introduced after the closure.

The demand for employers to arrive at the DCO units exposed many Israeli employers to the same humiliation their workers experienced to obtain permits, and employer complaints flooded the Payments Section. Following the complaints, the policy was changed to enable Palestinian workers to receive the permits directly from Israeli DCOS.

Under these conditions, personal acquaintance with officials and knowledge of the process quickened procedures and aided in obtaining necessary information, so the role of middlemen (*macherim*) flourished and expanded.[24] While the middleman is not unique to the bureaucracy of the occupation but an inseparable part of the Israeli bureaucratic landscape, the shortage of administrative workers in the permit regime created a fertile environment for informal economies of brokerage. Lack of coordination between the civilian and military authorities and shortage of personnel, personalism, and contradictory decision making made it nearly impossible to

operate the permit regime without using the services of mediators and middlemen, whose role in the bureaucracy was far more institutionalized and accepted than in other arenas.

In 2005, according to Avner Peres, than deputy director of the National Payments Section, the only systematic information for employers was a booklet produced in 1991 before the Oslo Accords. Systematic information was finally provided to employers in 2011, when the authority for population management in the Ministry of the Interior set up a website with guidelines and examples of application forms for employers.

To most employers, navigating the permit bureaucracy seemed impossible. One of the most noticeable figures in the Jerusalem branch of the Payments Section was a permit broker I call Yossi Rahmani, a Jewish former building contractor who went bankrupt and then made his living from negotiating and networking the permit regime on behalf of contractors. Rahmani found out the contractors' quotas of Palestinian laborers (and then obtained the workers), reported to the Payments Section on their behalf every month, and calculated how much they needed to pay for workers' social rights and state taxes. Shuttling between Jerusalem, Ramallah, and Beit El, he negotiated with delegates of the employment office at the Civil Administration over renewal of permits after closures and managed to expand shift hours on permits of the Palestinian workers, sometimes obtaining permits that allowed them to sleep in Israel when necessary.

Rahmani was a key figure for my understanding of the bureaucratic universe that processed the coveted labor permits. He assisted employers and workers with translation and navigation of the work permits' system. His expertise was obtaining information on current policy, a skill he said he acquired during his military service, when he was an intelligence officer in a unit he could not disclose, a story most people did not believe. Keeping up to date with vital information that changed weekly and sometimes daily was no small feat; knowledge about quotas, worker ages, the

state of closure (when closure would be lifted), and the name of key officials whom employers should approach was incredibly valuable, as was the task of keeping reporting and payments up to date with the Employment Service.

Rahmani and his colleagues existed on the margins of the bureaucratic field. He was external to the system because his narrow interests were aligned with those of the employers—and to a degree, the workers—but his knowledge and his familiarity with the system allowed him to carve out an intermediary position. Rahmani's livelihood depended on the illegibility of the labor permit process. His expertise was invaluable as long as there were no systematic practices one could count on. At times only he and a few other permit brokers were able to identify where there were exceptions and loopholes in the system and push things through.

Rahmani was usually at the Payments Section office with two ceaselessly ringing identical cell phones and a piece of cardboard under his arm, filled with handwritten ID numbers and birth dates of Palestinian laborers and the numbers of their employers. In January 2006, Rahmani was well aware of his essential role:

> The contractors pay me to run around and arrange for them that whole permit business. If they come here on their own, they are likely to explode [with frustration] because you can't do anything here if you don't know it well. It's mostly because everything changes all the time. They don't tell you when there are quotas, for which branch, when they run out or when they open the branch for workers under [age] thirty-five, and what's up with [work permits for] Atarot and Maale Edumim, which is up to Yehudit over here [the director of the Payments Section's Jerusalem branch]. They drive me nuts over the phone because they won't come here to ask the clerks questions, and even if they come, they won't understand anyway. The most miserable in all this are the workers, trust me.

The middlemen wielded unusual power by virtue of their literacy in the economic and military hieroglyphics of the bureaucracy

of occupation. They are external to the system yet agents of governmentality; their expertise places them on the seam between the Israeli and the Palestinian labor markets and at the intersection between the economic perspective of the Employment Service and the security perspective of the Shin Bet. During 2005–2007, as enforcement systems of the permit regime tightened when the number of checkpoints expanded and closure became routine, an informal economy of Israeli and Palestinian middlemen flourished. Permit brokers helped employers navigate the system. While it was a questionable vocation, it was still far from illegal.

THE BLACK MARKET OF PERMITS

Gradually, as documents became more and more crucial to economic livelihood for Palestinian workers and as the bureaucracy to obtain permits became more and more illegible, a black market of permits, forgeries, and rental of permits had developed. Registered contractors sold permits for unregistered contractors or to the laborers directly. When quotas were cut, as in the winter of 2005, the cost of a monthly permit was nearly NIS 3,000 (almost half the monthly wage of a senior construction worker). Surplus permits were a direct result of the uncertainty of employers regarding how many permits they would receive, so they requested more permits than needed. Anthropologist Cedric Perizot calculated the profit margins of surplus permits: a six-month permit that actually cost an entrepreneur NIS 1,200 per month could be sold for up to NIS 1,800. At a profit of NIS 600 per month, each six-month permit enabled NIS 3,600 profit per permit.[25]

Many employers engaged in renting permits to their workers, demanding they pay between NIS 1,000 and 3,000 per month for a permit. An illegal practice of exploitation, it kept the relationship between employer and worker intact, a major goal of the permit regime, since it forced employers to become agents of surveillance over their workers.

As part of the state's attempt to crack down on the black market of work permits in the early 2000s, employers were required to sign a commitment not to transfer any worker to another employer and to monitor the worker relentlessly, for fear, in the words of the form, that the worker "might become a security threat."[26] In 2006, when signing the forms, some employers were warned orally that their Palestinian employees could become "ticking bombs" overnight and that it was their responsibility to "keep an eye on" their workers.

Despite these warnings, employers continued to sell or rent permits to workers who worked for other employers. Hasan Zid, from Yabd village near Jenin, age forty-nine with five children, paid NIS 1,350 per month, and sometimes NIS 4,050 for three months in one payment. "If I didn't pay for three months up front, sometimes the employer would stop the permit after a month, and then I had to wait. We came in through the Efraim crossing with the permits, and we worked freely for different employers in different branches. I think there are about a hundred workers from Jenin that have similar permits." In 2014, the Worker's Hotline (Kav Laoved), a workers' rights organization, conducted a survey among one hundred Palestinian workers and found that workers paid between NIS 1,350 and 2,300 for a permit.[27] These fees amounted to approximately NIS 20,000 per year. In most cases, workers did not work directly for the employer named on their permit. The organization estimated that a quarter of Palestinian workers with permits (seven thousand to fifteen thousand per year) pay their employers or Palestinian middlemen for their permits.

One would think that because the declared goal of the permit regime is to monitor mobility and prevent movement from a hostile population under suspicion, forgeries and briberies that breach the complex apparatus of classification and vetting would be considered a threat to security. They were not. Soldiers in the Civil Administration and officials in the Ministries of Trade or Interior

engaged in the forgery of permits and accepted bribes for permits. These cases became more commonplace as the permit regime routinized, but surprisingly, these breaches were never viewed as security offenses but moral ones.

The black market in work permits included the sale of forgeries as well as invalid permits. Between 2004 and 2005, several army officers were arrested on suspicion of selling dozens of forged entry permits to workers and contractors. While corruption is not unique to the bureaucracy of the occupation—both corruption and black-market economies in documents develop wherever bureaucracy causes administrative shortages of allocations—its role in the bureaucracy of the occupation is central. These incidents prompted the installation of the "Rolling Stone" population management software at checkpoints across the West Bank, which linked all registered permits to a single database so validity of permits could be checked in the computer system or by direct phone calls to the permits center at the Civil Administration.

From 2005, permit forgeries were the product of more sophisticated networks of collaboration between contractors, clerks, and military officials with access to the database. Despite the expansion and sophistication of forgeries, only three indictments were pressed against soldiers between 2007 and 2016;[28] there was a higher rate of indictments against civilians who trafficked in labor permits.

One of the largest cases of permit forgeries, named Operation Secure Border,[29] is an illuminating example of the inner workings of the labor regime and porousness of the system declared central to Israeli security. Border Police discovered the forgery network during a routine raid of a construction site in Bet Shemesh to look for illegal workers. Ali, who worked at the site, had paid a man named Sammy for a permit as an agricultural worker, from an employer he had never met. The network involved Miriam, the head of the Payments Section in Ashkelon;[30] Sammy, the secretary of a small agricultural community, well known for his connections

with government officials; and Linda, a senior IT manager for the DCO in Etzion.

Sammy, with the help of Miriam and Linda, distributed more than fourteen hundred permits to Palestinian workers, some of which were canceled days after they were issued, and others that were "live" for three or six months. He received more than NIS 4.5 million from Palestinian workers for the illegal permits. Sammy's method was simple and brilliant: he would obtain permits, sell them, and then cancel them so he could get more permits for his quota, using the personal information of two employers without their knowledge. After canceling the permits, he would obtain other permits for different workers by submitting exceptional requests, which Miriam approved. He faked employment reports with the information he received from Miriam and Linda. He also contacted checkpoints and DCOs while impersonating different employers to gather information about quotas and closures.

Sammy's bribes to Miriam included boxes of fresh vegetables and promises to find work for her children, as well as cash payments of NIS 100 and 200 upon visiting her office. Sammy paid NIS 4,200 for sweets for Linda and gave her two laptop computers. He also promised to help her receive tenure at work with his connections in the government.

The outcome of the police investigation was the arrest of seven workers from the West Bank who were imprisoned for three months for buying permits. The four Palestinian middlemen were charged with brokering between the forgery network and Palestinian workers who bought the permits: two were sentenced to a year in jail after a plea bargain, and the others served a two-year sentence. Miriam and Linda were both sentenced to six months of community service. Palestinian middlemen Ali and Salim were tried in military courts and sentenced to two years. Sammy Cohen was convicted by the district court and sentenced to five years' imprisonment. In an appeal to the Supreme Court, Sammy's sentence was reduced to four years.

Dany Efrony, former chief military advocate general, recalled that there were three or four cases of permit criminals within the military during his service.[31] He explained that most cases of bribery and forgery of permits are considered an issue of breaching trust and values of the military and that the security element is secondary. Quite simply, producing unauthorized permits is not viewed as a security offense, even though it means that Palestinians are not vetted through the apparatus of the permit regime when they enter Israel. If the Palestinians receiving illegal permits were classified as security threats, it merely made the offense greater but still did not constitute a security offense. If the military prosecution could link entry on the forged labor permit to a militant attack, that would increase the severity of the offense. However, Efrony relayed that usually there was no link between the forgeries as such activities: "If the permit was given to a poor sixty-year-old Palestinian who only wants to feed his family, that's obviously different from someone who is classified as a security threat."

Given that the justification for the permit regime is that prevention of free Palestinian mobility is an absolute necessity for Israel's security, criminal prosecution against forgeries and bribery for permits was lax and addressed casually. Efrony explained this paradox: "The military is like the rest of the state. There are activities and services provided, and there is also misuse of power and people who accept bribes." If the briberies and forgeries in the permit system are equivocated to breaches in any licensing system, this called into question the validity of the claim that monitoring mobility of Palestinians is essential for Israeli security. If thousands of Palestinian residents of the Occupied Territories enter each year with unauthorized, forged, or illegal permits, and those who distribute the permits are not viewed as breaching security, then the apparatus of the permit regime controls Palestinian movement for other reasons that are very different from a security necessity.[32]

LABOR FOR SETTLEMENTS AND ITS HIERARCHY OF WORTH

The hierarchy of worth of labor permits varies according to the scope of movement that they allow. In the permit market, the weakest link is the worker himself. Getting "good" permits depends on the employer's ability to navigate the inner workings of bureaucratic mechanisms. Shalhav Haddad, a contractor of construction projects in the settlements, described how permits are priced on the black market according to their spatial restrictions:

> The better permits are those that allow the Palestinian worker movement through Jerusalem—like the ones for [Jerusalem-area] settlements of Ofra, Beit El, and Maaleh Edumim [in the northeast of the West Bank], for residents of the Bethlehem, Tekoa, and Hebron areas [in the south)]. The contractors take a surcharge of fifty shekels per day for the permit, and if it is a prestigious permit, then one hundred per day may be deducted [from the worker's wage].[33]

Day laborers usually offered their labor to contractors without demands for specific permits. Historically, before the closures policy, day laborers would gather in urban centers, notoriously nicknamed "slave markets,"[34] but these gradually shrank and disappeared because of the permit regime and enforcement of "illegal entry" offenses. A worker from near Bethlehem or El Khalil (Hebron) interested in looking for work in Jerusalem tried to obtain or "rent" a permit for work in a settlement, because if he was caught in Jerusalem without a permit, he was considered an illegal worker. Yet, when carrying a work permit for a settlement, the chances of detention or arrest shrank considerably. Practically, it was safer for a laborer to be caught with a permit for the wrong place than with no permit at all. While there was a stark difference between obtaining permits for the settlements, which were freely distributed to employers in the settlements without scrutiny of Payment Sections and the police, in terms of enforcement, the permit regime was not a binary of legality or illegality but a monitoring mechanism. If we

were to imagine a map of where permits allow people to work legally, it would be very different from the map of law enforcement practices to enforce those spatial restrictions.

The striking institutional difference concerning permits in the settlements was that the employers operating in settlements received permits directly from the Civil Administration, and because quotas for workers in settlements were plentiful, they procured as many permits as they wished. Settlement permits were decided on locally in the settlement itself—a precondition for obtaining a permit in a given settlement was obtaining the acceptance of the worker by the civilian coordinator of military security there. The coordinator had full discretion to classify the Palestinian worker as eligible or ineligible for a permit to work in the settlement.

The facility of employers to obtain permits for workers in settlements allowed them to use such permits as bargaining chips on labor conditions with workers who could not receive permits into Israel proper. Because some workers were vulnerable due to their age or family status or having been classified as security threats, working in settlements was the only option to earn a livelihood, so they were exposed to abuses of severe demands and manipulation by employers.[35]

Just as the prosecution of forged permits and bribes related to permits as moral offenses rather than security ones raises questions about the security justification of the permit regime and the classification process, the ease of obtaining permits for work in settlements, effectively bypassing the civilian system of the permit regime, raised questions about the spatial boundaries of security threats. If someone was considered a security threat and prevented from entering Israel, why was he considered less a security threat if he worked in a Jewish settlement in the West Bank?

Officials had three answers to this conundrum: The first was that the project of constructing the settlements was of higher national importance than general security concerns the permit re-

gime addresses. The second was that the entry of Palestinian workers into settlements is considerably less dangerous than their entrance into Israel proper because of monitoring and surveillance capabilities in settlements, which are surrounded by military fencing, technology, and patrols. The third explanation, given by a more critical official, was that the permit regime is not meant to separate Palestinians from Jews to increase security but to separate Palestinians from the territories from Israel proper.

Work permits for settlements were another controversial issue between the Civil Administration and the Ministry of Economy. The Employment Service was opposed to the near-automatic mechanism of production of permits for work in settlements because it infringed on the equality between employers in settlements and employers in Israel proper and undermined their authority within the apparatus. The racial hierarchy of labor and legal patchwork allowed employers in settlements to employ Palestinians with nearly no state oversight, in terrible conditions. On April 5, 2006, thirty-five years after Palestinians started working in settlements, the officer for employment in the Civil Administration decided to apply the Israeli labor laws to Palestinians in the West Bank. Nevertheless, even after the laws were officially applied to Palestinian workers in settlements, the enforcement of Israeli labor laws was partial at best.

One thirty-six-year-old worker who was employed in a plant in the Barkan Industrial Zone, built on Haris village lands, explained that the relative ease in recruiting workers and obtaining permits in the settlements had dire results for labor rights. When he demanded his rights from his employer in January 2006, the employer followed up by informing him two days later that his permit was problematic because he was classified as a security threat. When he went to the DCO, he was told that he did not have any security classification, but his permit had been canceled by the plant he worked in. He had to wait six months to obtain another permit. Beyond the economic dependency on the em-

ployer, the fear of employers reporting workers as suspicious deepened the asymmetrical relationship between Palestinian workers and their Israeli employers, who were also the providers of their work permits.[36]

The labor permit regime in the settlements is nested in a complex legal environment in which there is not only uncertainty of one's status but also uncertainty regarding which laws apply. There is a conflict of law between Jordanian law, which governed the Occupied Territories; Israeli labor law; and the hundreds of military decrees that amend Jordanian law.[37] In 2007, the Supreme Court ruled that Palestinians working in settlements have labor rights under Israeli law,[38] a method to apply Israeli law regardless of its lack of sovereignty in the territories, known as "enclaves of law," where, the Supreme Court described, "different regimes of law apply in one territory."[39]

The High Court of Justice played an important institutional role in cementing the labor permit regime as a legitimate framework of employment governed by a racial hierarchy that enabled applying different kinds of labor law to workers depending on their identity.[40]

4 EFFECTIVE INEFFICIENCY

As the permit regime expanded and penetrated Palestinian life, daily forms of resistance to the disorientation, atomization, and routinization of emergency grew as well. People found ways to obtain permits, broke pathways into Israel and across the separation wall, challenged the Shin Bet classifications in the High Court, and created open-air markets at checkpoints, making the long wait at the checkpoints part of the infrapolitics of practical life, not only places of oppression. What seemed to be the greatest resistance to the permit regime was to go on living life within the emergency.[1]

During the years after the Second Intifada, the permit regime consolidated through negotiation between different departments. Practices and methods of the colonial bureaucracy in the Occupied Territories migrated more and more from the Civil Administration into government offices across Israel. The fragmented permit regime also institutionalized, formulating thousands of regulations and guidelines, usually motivated by the persistent attempts of human rights organizations and international pressure to reform the bureaucracy or by the military's fear of external legal intervention. In 2005–2007, during the years of the study, everyone I interviewed, agents within the system or its victims, described the

permit regime as dysfunctional and disorganized, incoherent, fragmented, and indecipherable. Palestinians and human rights lawyers and activists described it as cruel or even evil.

In 2005, when Ilan Paz retired from his role as head of the Civil Administration, he voiced severe criticism of the close relationship between senior officials in the Civil Administration and the settler leadership. Despite his adamant criticism of both the politicization of the administration by the settler movement and manipulation of the justifications of security, Paz denied the colonial power structure of the permit regime and the racial hierarchy that engendered separate practices for separate populations. Paz's critique was similar to those of some human rights organizations aiming to reform the dysfunctional bureaucracy that did not adhere to the liberal principles of the rule of law. Yet both Paz and the human rights organizations failed to see the structural effects of institutionalized racial segregation. It was not a problem of malfunction or inefficiency, nor was it a systemic failure. The permit regime actually worked quite well to slow down Palestinian movement and provide opportunity for monitoring through the production of uncertainty.

The rational model of bureaucracy in modern states, which rely on the logic of the rule of law, follows a few clear principles:[2] Any administrative activity follows written and published instructions. There is a definite hierarchy of structure, and responsibility is divided into separate administrative roles, or jobs. While this is how the model was supposed to work, we know today that difficulties in defining roles and in coordination occur in almost every organization and that state bureaucracies are fragmented and uneven and work within a variety of legal regimes.[3] Although modern rational bureaucracy aspires to efficiency, ambiguity, friction, and power struggles may actually serve an administrative system, depending on its goals. In a situation of oppression, as in a military regime or in colonial relationships, the more confused the subject during his futile attempts to decipher the bureaucratic entangle-

ment concerning decisions or the possibility for appeal, the more dependent that subject is on the system. This dependency disciplines the subject, and fear and uncertainty slow down his movement. The bureaucratic cruelty of the permit regime, the disorganized mayhem that caused such suffering and despair, was incredibly efficient for achieving institutional and legal segregation between Jews and Palestinians, creating disorientation and atomization that turned life in the West Bank into a daily struggle within a perpetual emergency. Following a template of colonial bureaucracy, its purpose was not to promote Palestinian independence but to prevent it every single day through thousands of administrative obstacles and procedural violence.

AMBIGUOUS ADMINISTRATION

Its instability, messiness, and ad hoc development may lead to understanding the permit regime as a malfunctioning bureaucracy. A closer look at the practices of the permit regime instructs us that administrative flexibility highlights effective inefficiency, which achieves the system's objectives in creating a mechanism for tracking, delaying, and slowing the movements of the Palestinian population. Slowing down movement was vital for the political and intelligence needs of the bureaucracy of the occupation and created further administrative dependence of the workers on the permit regime.

Yet the greatest and most persistent effect of the permit regime was generating despair. I recorded telephone responses and asked interviewees about their experiences calling different departments in the system. The results were striking, and somewhat comical, if one forgets that at the other end was a person waiting for the possibility to gain freedom of movement so he could work to feed his family. Dozens of phone calls each month were made to military and civilian officials in an attempt to locate the decision maker regarding a permit. It made little difference whether calls were made

by volunteers, employers, lawyers, or international or human rights organizations. The answers were similar: "I can't help you," "We don't work on that," "That's not our department; it's as if you'd call the phone company to ask about the electricity grid," responded a clerk in the permits administration in late January 2007. "I don't know which department deals with that"; "I don't understand what the computer says"; "That's not Major K's decision; he just signs the permits. Do you really think he himself decides on every one?" was the response of a clerk at the Salem DCO in December 2006. A representative of the Civil Administration in Ramallah answered in April 2006: "It's not us; it's the Central Command, the seam zone administration, or Rainbow Administration. We're only the headquarters." Confusion, disorganization, and mostly the constant shirking of responsibility made it nearly impossible to locate the person who could make the decision, which served the goal of slowing down population movement and creating dependence on the administration.

In 2005, the Israeli state comptroller seemed to think that ambiguity inside the Civil Administration and between COGAT and the ministries was a grave concern:

> The orders concerning the relationship between the staff officers of the Civil Administration that represent the government ministries and the IDF officers serving as heads of branches of the administration are not clear. This ambiguity has contributed, among others, to activities that diverge from the professional work regulations of the mother ministries.[4]

The report was a reserved articulation of a battery of contradictory decisions and overlapping policies that created peculiar outcomes. For instance, during the Israeli military blockade of Nablus, international organizations had arranged for mobility for their humanitarian workers, who were denied entry by the military on a daily basis for months because of conflicting decisions. In the northern West Bank, farmers from the village of Anin, who held valid per-

mits to cultivate their lands in the seam zone, were detained for illegal exit from the territories. These ambiguities and conflicts of interest within the bureaucracy served cynical actors that prospered from the confusion, such as humanitarian organizations, which grew at the expense of other organizations because of their contacts in the bureaucracy that enabled their employees to gain access, and entrepreneurs who offered to buy land in the seam zone that farmers could not access and cultivate.

Conflicting decisions created recurring moments of disorientation and alienation for Palestinians, as well as for agents working within the bureaucracy. For example, in January 2006, a Palestinian businessman who was planning to establish a high-end shopping center in Ramallah was to meet Israeli government officials to discuss the plans. He received a businessman card (BMC) permit, reserved for senior Palestinian businesspeople, despite his classification as a security threat. When he reached the checkpoint, an officer declined his entry into Israel because of his classification as a security threat. Instead of meeting with the senior government officials, the entrepreneur spent the day shuttling between checkpoints with his permit, trying to get through. At the other end, Israeli officials spent the day calling soldiers at the checkpoints and clerks at the permits section, trying to understand how someone who is classified as a security threat can appear in the system as someone who simultaneously does and does not have a permit to enter. Only after a conference call between a senior aide to the defense minister, a representative of the permits administration, and the permits center at the Civil Administration was the matter resolved and the Palestinian entrepreneur allowed entry. This was not an extreme case or uncommon tale. The only reason the contradictory decisions were visible in this case was the elite status of the entrepreneur and his contacts with Israeli government officials. If he had had a labor permit, the shuffling would not have occurred at all, and he would simply have been denied. For laborers there were no phone calls to be made

and no contacts to help understand the conflicting decision. A laborer would have to make the convoluted journey to the DCO to discover where his permit status went awry, as Issa did in the first pages of this book.

The state comptroller's condemnations of the Civil Administration over the years pointed to systemic dysfunction, deviation from the rules, and allegations of an inefficient, clumsy, and corrupt system that had to be reformed to fit the rule of law. However, as I observed the routines and practices on a daily basis, it became clear that the state comptroller had not taken into account the institutional effects of governing through emergency for more than four decades. The result of governing through emergency means that such deviations are not deviations at all but an organizing principle of administrative flexibility and fluidity,[5] a defining feature of Israeli legal dynamics. The flexibility allowed the creation of constant exceptions to the rules. As these exceptions grew and became routine, flexibility increased the scope of authority over population movement, because of, not despite, the conflicting decisions and organizational friction, perpetuating what I call effective inefficiency.

ROUTINIZATION OF EMERGENCY

The Israeli government declared a state of emergency in 1948, which has never ceased mainly because so much of the state's structure and regulation were built on the legal situation of the emergency. The military legislation that governs the Occupied Territories was based on an exception, because the authority to govern rests on the international law of belligerent occupation, a temporary state that is an exception to sovereignty. Decree 378, which serves as the criminal code in the West Bank, is based on the Emergency Defense Regulations of 1945 legislated during the British Mandate. The constant state of emergency within Israel and the security legislation in the West Bank are the sources of

authority that permit the production of exceptions within the law, perpetually creating more executive laws and regulations.

In the permit regime, military decrees that declare closed military zones and specify which crossing points are legal to those holding permits turn freedom of movement into an exception to the rule prohibiting entry into Israel and within the West Bank. Because movement is the exception to the rule, the permit regime is constantly preoccupied with manufacturing exceptions: exceptional administrative categories for classifying the population, circumstances that grant permits in exceptional cases, and exceptions committees that deliberate issues encountered by employers or transfer requests for permit quotas to employers in fields where there is an acute shortage of labor.

Turning the map of the West Bank into a plethora of spatial exceptions, fracturing daily life with checkpoints, army patrols and bureaucratic constraints create a "geography of disaster" in which "Israel controls the space through the space: it holds the occupied territories by means of systemic suspension of the Palestinians' values of utilizing that space."[6] Exceptions to rules were also created by the multiple authorities and their contradictory decisions, some of which were institutionalized into rules and others of which vanished from the organizational memory. I found exceptions in procedures and practices and gaps between instructions and enforcement in the DCO units, the Civil Administration, the Payments Section, the restrictions unit at the Israeli police headquarters, the Border Police, and the Seam Zone Administration. As soon as a department created an exceptional procedure or decision, more exceptions followed.

The institutional impact of governing through emergency meant that the organizations in the permit regime consistently expanded the scope of discretion that could be employed within the boundaries of the law, a balloon of executive power that was created within the law by decree. Routinization of emergency is central to a system that consistently produces different regulations

and practices for different types of people in the same territory. Decisions depend on the actions of officials on the ground, action that is infused with both legislative and executive power so their decisions become law. Officials and clerks become "phantom sovereigns,"[7]simultaneously wielding wide discretion and remaining anonymous. In this regard, the permit regime resembles other systems of population management in Israel, where great power accumulates in the hands of the clerk—for instance, in the Interior and Housing Ministries, where a "quota economy" market is thriving for administrative resources like licenses or visas.

Permits originated in 1991 as documents that indicated one could pass into Israel, but the permit regime ballooned into a system that included classifications of regions, occupations, purpose of movement, kinship, and economic status, eventually expanding to more than one hundred types of permits. The expansion of the types of permits was originally based on exceptions, the most striking of which was the permit given to those classified as security threats despite their security restriction. Palestinians who did not hold a magnetic smart card could receive these permits in exceptional cases, their status as "security threat" marked on the permit itself. Such a permit was not a rare document given only for a few hours or days for medical treatment but for up to three months. These exceptional permits created a new range of discretion for the Shin Bet to assess and classify the actual security threat of those so classified.[8]

ATOMIZATION AND SUSPICION

People who were classified as security threats became extremely self-conscious and continually monitored themselves and their close community, primarily because they were compelled to keep guessing at the reason for the restriction. The classification had a significant chilling effect on people's lives, choices, and participation in society. People who were restricted for security reasons

perceived participation in community activities, including social and cultural ones, as detrimental to the possibility of having the classification lifted. The restrictions had a wider disciplinary effect on any Palestinians interested in securing a magnetic card. The fear of being perceived as a security risk and the greater fear of being coerced and blackmailed into informing to the Shin Bet fueled social atomization and suspicion toward strangers and family members alike.

In 2006, Nasser, from the Hebron area, who was classified as a security threat, told me his family avoids discussing current affairs at the dinner table. "I'm afraid to talk about what I think even to my brother. You never know who's listening in and what can come out of it."[9] Self-discipline and the perpetual suspicion of informers severely diminish abilities for collective action because the fact that anyone can be an informant creates a sense of isolation and atomization: "Atomization is a pale academic word that denotes the constant terror one harbors when an agent or an informer does not need to belong to an external body but can be anyone, even someone within the family."[10]

The panoptic nature of classification as a security threat, the feeling that everyone is watching and everyone can be or become an informant at any moment, infringes on collective activity, including communal, social, cultural, and political organizations. It is surprising that despite the criminalization of political participation and the drawbacks of classification as a security threat, Palestinian youth continue to register with political parties.[11] Yet the particular methods of recruitment and use of information by Israeli authorities create both intense fear of security forces and a deep distrust between friends and neighbors.[12] Heads of the Palestinian villages are in the worst possible position when they negotiate freedom of movement with Civil Administration representatives. A senior member of a village council near Jenin told me in February 2007 of his plight. Village council members had no choice but to communicate with the Israeli authorities

and are therefore automatically suspected as collaborators in the pejorative sense of the word; however, because they are Palestinian Authority officials, the Shin Bet automatically classifies them as security threats, so they were all denied entry.

In many of the interviews I conducted, Palestinian workers would make similar statements that they are not and never were politically active and have never taken part in organizing any collective activities. Those classified as security threats seemed to have internalized the criminalization of political activity advanced by the Shin Bet, and they perceive every public activity as something that can endanger their very basic and existential needs. "What I care about is going from home to work; ask anyone you like," a middle-aged man from Abidiya told me. A haunting question came up in almost every interview: "What did I do? Just let them tell me what I did. I never had trouble, I've never been to jail, and I haven't done anything"; or, more succinctly: "I'm clean; just tell them to talk to me."

In the case of Mahmoud Rabai, the uncertainty about the reason for his restriction made the category of "security risk" meaningless: "If everyone is under security restriction, then no one is really a security threat, right?" he asks. "So if you're Palestinian, you're restricted. That's it."[13]

Community suspicions are also directed at Palestinians who had their security restriction removed. A person under restriction who had a permit issued nonetheless invited jealousy from peers who were denied a permit and inevitably set them wondering how he secured the coveted permit and if collaboration with the Shin Bet played a role. The suspicion was amplified in cases when the restriction is not removed but the subject receives a permit regardless. The exceptional permit given despite a security classification was particularly suspicious to people who had tried to remove their own permit restrictions for years, without success, and had refused to make deals with the captain of the Shin Bet.

FROZEN LIFE

In June 2005, a general closure was announced after a terrorist attack in Netanya. The closure went on for over two months, and even employers who had quotas could not request new permits or register new files. During closure, the entire bureaucratic apparatus of issuing permits ceases, and no services are available to Israeli employers or Palestinian workers. During periods when closure is declared, permits are useless, employers cannot file requests with the Payments Section, Palestinian workers cannot apply to DCO units for magnetic cards, reception hours are canceled, and although clerks are in their offices, they work fewer hours. In September 2005, when rumors circulated about a possible end to the closure, hundreds of employers and permit middlemen crowded the offices of the Payments Section, which had to lock its doors and engage a team of security guards to manage the crowd. When the permit regime apparatus stops during closure, permits are invalid and most bureaucratic processes have to start again from square one. A complex mechanism for decision making on permits emerged, creating uncertainty for everyone: the employment office clerks, employers, middlemen, and workers.

"Frozen life," the euphemism of the Israeli military for full closure, "resets" the permit regime.[14] It is an apt metaphor for the institutional standstill yet does not pertain to Palestinian life, because workers, although prevented from entering Israel legally, continue to enter by various pathways. A combination of the sovereign power to close the territory with the capabilities of monitoring and surveillance,[15] closure became a condition, much like a monsoon or a snowstorm, but made by an administration. Closure demanded Palestinians incorporate long periods of waiting and uncertainty into their daily lives.[16] At closure, all permits become instantaneously invalid, and even a Palestinian who does have an entry permit commits a criminal offense by remaining in Israel and thus violates both the Israeli law of entry and the mili-

tary decree banning exit from the West Bank without a permit. If a Palestinian worker was in Israeli territory during curfew or closure, his employer automatically also violated the criminal articles of the law on employment of foreign workers.

The massive impact of the closure is difficult to imagine for people who have not experienced severe impediments on their freedom of movement, but the reader can try to imagine how her own daily routine would be affected by "frozen life." For example, in 2004 there were 240 days of complete closure regarding the West Bank. That meant that one could travel into Israel and in some cases from the southern to the northern part of the West Bank. In 2006, there were 78 days of closure, between January and June, in which the Border Police and the army apprehended more than fifty thousand Palestinians who remained in Israel illegally, 80 percent of them during closure, since even workers who have permits are considered illegal during closure.

While closure precludes any possibility of filing administrative requests, it does not stop the administrative clock in which employers are required to supply forms. For instance, form 33, the recommendation from the Employment Service to the Civil Administration to allocate permits for the employer, is valid for only one month, and the worker has to use it within the stipulated period. During closure, when the entire permit system is suspended, an employer cannot use form 33 to request new permits, and if a month passes, the quota he was allocated expires. Once the closure is lifted by the Israeli government, the employer must go through the entire process again, although neither the form nor permits themselves mention closure as a constraint on their validity.

The permit regime was painfully slow in producing work permits. Yet this sluggishness contrasts with the lightning speed with which the system shut down. Stopping all movement at checkpoints, the system swiftly executed operations that required coordination, personnel, and logistics, such as carrying out mass expulsions of illegal aliens from Jerusalem by the Border Police,

slashing quotas, or, conversely, applying "goodwill procedure" and overnight adding thousands of work permits as a political bargaining chip with the Palestinian Authority.

In April 2006 complete closure was imposed on the territories because of elections to the Palestinian Authority, in which the Hamas movement won over Fatah, and then later because of the Passover holiday. The closure was canceled abruptly after Independence Day, when a new defense minister, Amir Peretz, took office. That very first day, Peretz authorized the entry of thirteen thousand Palestinian workers into Israel, an action interpreted by the media as a significant political message of peace toward the Palestinians. The decision attracted considerable criticism regarding the threat to Israel's security. Both the praise and the criticism seemed to ignore the fact that the decision to increase permits was identical to one made by the previous defense minister, Shaul Mofaz, who had confirmed the quota just before the closure. The principle of administrative flexibility allowed for a range of political interpretations for the same administrative action. On this occasion, a routine decision on quotas was presented as a new policy by a left-leaning defense minister, although it presented no change at all from the policy of his right-leaning predecessor.

In May 2006, *Haaretz* published an article quoting a senior official in the Defense Ministry about "easing up" of work permits and age limits.[17] When a Jerusalem restaurateur arrived at the Payments Section with the newspaper in his hand, nearly begging to receive his previous permits, the clerk pointed to the fax machine: "As for the opening of closure, no declaration has any relevance. Not in newspapers and not on TV. Until we get criteria from above, we're not proceeding with opening the closure."[18] The system returned to its sluggish self, a stark contrast to the beginning of that closure, which was announced in the media and effective immediately.

The account of the frozen life in the spring of 2006 reveals the process through which emergency was institutionalized into administrative routine. An emergency declared in the aftermath of an

attack, or even preemptive closure that security organs claimed would guarantee the safety of Israeli civilians during the Jewish holidays, turned into permanent policy that continued even after the emergency or national holiday. The emergency leaves its administrative footprints in the changes to quotas or criteria for acquisition of permits, such as age or area of residence. Even when security forces lift the emergency closure, the administration continues to effectively operate in an emergency mode, for example, in reprofiling individuals allowed to enter Israel for work purposes.

RESISTANCE TO THE PERMIT REGIME

Palestinians rejected and resisted the permit regime daily, through creation of alternative routes for mobility and by creating normalcy around the extraordinary daily experience of the monitoring and surveillance technology, presence of soldiers, designated spatial divides, and the disorienting nature of uncertainty about movement.

The problem of resistance to the permit regime, in the form of strikes or boycotts, a practice used frequently during the First Intifada, was the impact of such actions on the ability of individuals to obtain a permit in the future. The permit system, particularly the Shin Bet, wielded enormous power, as people feared classification or arrest that would prevent them from obtaining a permit. Anthropologist Rema Hammami notes that people came to understand that overt collective resistance to the checkpoints was futile.[19] Peaceful protests led to harsher checkpoint systems, and stone throwing led to the dead end of having the checkpoint closed.

Both Hammami and anthropologist Amahl Bishara show how movement itself—continuously crossing the checkpoints, moving despite closure, or being "on the road crossing over the partitioned territory" [20]—is resistance to the permit regime because "there is a collective understanding that the checkpoints are there to stop life, to destroy livelihoods and education and ultimately defeat the

will of a nation."[21] Thus, simply continuing to cross them becomes encoded not as an individual experience of victimization but as part of a collective act of defiance and ultimately national resistance. Checkpoints have also been reproduced as economic zones, sites of transport hubs and bazaars. [22] This daily form of internal social and economic resistance enlivens the well-known graffiti on the wall in Abu Dis in Jerusalem, written in English: "To exist is to resist."[23]

I experienced the resistance to the permit regime of those classified as security threats through the petitions they submitted to the High Court against the Civil Administration and the Shin Bet. Despite fear of retaliation and the risk of being "banned for life," as some of the workers I represented called it, people were willing to take the risk, expose the hollow nature of the profiling system, and write their stories in affidavits, including that they had been blackmailed by Shin Bet captains who offered permits for collaboration.

THE RISKS OF REFORMING THE PERMIT REGIME

The inefficiency and absurd situations encountered by anyone who engaged with the permit regime motivated lawyers and organizations to attempt to regulate and reform what they thought was a dysfunctional bureaucracy. Changes in the permit regime were frequent because it was a system in flux. Pressure from officials in different organizations within the system, who sought to coordinate operations and increase efficiency, alongside demands of human rights organizations and foreign governments for improvement of administrative services to the residents of the West Bank, created institutional changes. Another set of influences on the bureaucracy was the petitions to the High Court and the internal discussions they generated with military and government lawyers.[24]

However, in many ways, human rights organizations, such as B'tselem, Yesh Din, and the Association for Civil Rights in Israel, engaged in criticism of the lack of accountability and irregularities

of the permit regime through their tireless work to uncover violations of human rights, help Palestinians obtain sources of livelihood, and demand accountability and procedural stability, enabled the standardization of the arbitrary system.[25] The standardization of procedures turned ad hoc emergency practices into permanent ones that, in turn, had regulations attached to them. Human rights groups demanded regulation because of their severe criticism of what they perceived as the system's dysfunction and deficiencies. Accountability was pursued in accordance with principles of bureaucratic models in liberal democracies. At times, the results were detrimental, particularly when organizations used the standards of international human rights law because of the lack of remedies that existed in the international law of occupation.[26] The attempts to reform the permit regime consistently resulted in creation of more regulation, so ad hoc procedures targeted by lawyers as arbitrary were articulated and formulated. Decisions of military commanders that created unnecessary suffering to the civil population went from being one cruel decision of an official on the ground to a neutral "law in the books" that oppressed thousands of people systematically. In addition, as international human rights standards were used to oppose decisions of the military commanders, the High Court "balanced" human rights with security needs, which did not lead to the penetration of human rights standards into the permit regime. The balance between human rights and security meant that the term "security" became a concept encompassing every aspect of daily life, and in the name of security decisions that were illegal by both the standards of international law and Israeli administrative law were legitimated and turned into systematic regulation.[27]

The campaign to expose the procedure of classification of Palestinians as criminal security threats by the police was an example of the danger of attempts to reform the permit regime. Human rights organizations believed that transparent procedures would aid Palestinians to combat their classification as criminal security threats.

Following a petition to the High Court, the state revealed the police "criteria for limitations on entry into Israel of residents of the PA, on the grounds of criminal restriction." The last article of the new regulation grants full discretion to the police even if the case "does not fall under the above criteria, if a police officer believes that allowing that person to enter Israel constitutes a risk to the public peace and security."[28] This clause means that any police officer can restrict the entry of a West Bank resident into Israel based only on a suspicion of risk. The code that granted this wide discretion to any officer revealed that the regulation of criteria by human rights organizations was a double-edged sword. The published criteria make the restrictions acceptable by the norms of liberal administrative justice, but the content preserves the principle of administrative flexibility of colonial bureaucracy because it grants police officers full discretion to classify people as criminal security threats. The regulation and publication of the criminal security ban served to draw the human rights groups and Supreme Court judges into the routinization of the permit regime, yet the ambiguity and opaqueness of the criteria and extensive police discretion remained.

What they discovered was that exposing criteria is temporary and meaningless, because the criteria were composed only when there was a judicial demand to do so. Their demand to expose the criteria actually created the codification itself, granting the police the legitimacy of enforced criteria that had previously been entirely sporadic.

The colonial logic of the bureaucracy of the occupation creates a peculiar effect I witnessed in many cases: Because the permit regime is constantly producing exceptions, when it does expose the rules, it does so only to regularize the exceptions following intraorganizational conflict or judicial pressure from a pending Supreme Court petition. Attempts to regulate administrative activity resulted in more rigid rules and tougher control that sealed administrative loopholes through which Palestinians were once able to obtain information or prospects for permits.

When human rights lawyers and organizations challenged the definitions of "security threat" and "security necessity" as justifications to prevent population movement, the courts upheld the classification, and in turn, lawyers of the Shin Bet and Civil Administration turned the court ruling into a new category of justified security threat. The most dramatic cases were those in which the security threat was a bereaved parent who had lost a child in an Israeli military action, someone who was prevented from accompanying another wounded child to received medical care in Israel, or the owner of land confiscated to build the wall who was prevented from entering and cultivating that land.

Over the years, the accusations of corruption, inefficiency, and dysfunction of the bureaucracy of the occupation left the central ordering principle of the permit regime, the "security threat," unscathed. The category "security threat" expanded to encompass the entire population of the West Bank, not only as a suspicious population, as Palestinians had been from the dawn of Israel's independence, but as an "objective enemy,"[29] people whose very identity constitutes an imminent danger, a potential for terror, regardless of their individual thoughts or actions. The greater the inefficiency in the bureaucratic system, the overlapping authorities, conflicting decisions, forgeries, and secret pathways across the separation wall, the more effective it became in creating uncertainty for Palestinians and instability for Israelis in the permit regime. Effective inefficiency generated a permanent crisis that made those whose expertise was in combatting the security threat—clerks, military commanders, Shin Bet captains, security corporations, and academics—more powerful with the ability to wield more discretion. This growing power ensured the perpetuation of a system that created a living emergency for millions of Palestinians, with no end to the security threat for Israelis or Palestinians.

EPILOGUE

When I practiced law in Jerusalem, twice a month on Saturday mornings I would drive to a restaurant in Beit Jala, a village near Bethlehem, with my assistant. We would set up a makeshift office, with a printer and a few computers, and set up a line of chairs where people would wait. When we arrived, people started to congregate in the courtyard of the restaurant, fetching plastic chairs and smoking. These were my clients and their families, people who had been denied entry because they were classified as security threats. Most of them had attempted to fight the classification by appeals to the Civil Administration, with the help of private lawyers or the volunteers of Machsomwatch, but did not succeed. They were considering petitioning the Supreme Court in Israel against the military commander and the secret service to battle their classification. Some came to sign petitions and affidavits; some came for an initial meeting to decide together if they had a chance and their case was suitable for a petition to the High Court. Some had come to pay the fee for the court, NIS 1,500, and my own subsidized fee of US$300 per Supreme Court petition.

I became acquainted with the permit regime a few months after passing the bar exam. One winter day in February 2004, I arrived for the first time at the Ofer Camp, then a detention center and

military court on road 443, a ten-minute drive from Jerusalem. I drove along a dirt road to the detention center. Because I was not sure where the entrance was, I parked near the watchtower at the corner of the great gray cement wall. I got out of the car and looked for the entrance. I stood in front of a pair of giant metal doors on which someone had painted in white, "Beware strong winds." A few minutes later a Border Police armored jeep shot out of the doors, and very strong winds blew from the opening. I could see into the camp, where there were large army tents, towering piles of food, and prisoners sitting on the ground.

Two days earlier, I had received an urgent call asking if I could represent in an arrest of two brothers from Budrus Village in the West Bank, Naim and Iyad Morar. The caller anxiously told me that a jeep had come for the two brothers during the night and the family had no idea of their whereabouts. He relayed their identity numbers and phone numbers of their family. I understood that for over a month the brothers had been leading the protests in their village against the confiscations of their lands to build the separation wall. Another twenty-four hours went by before I could locate the two brothers.

As I was standing next to the iron doors, one of the guards inquired why I was there and directed me toward the entrance to the camp. An hour later, in a caravan where detainees could meet with their lawyers, I met Iyad Morar. He told me about the protests he was organizing and said he suspected that his administrative detention (which is detention without trial or evidence) was to prevent his political activity. He also told me that one of the figures who inspired him was Mahatma Gandhi, the spiritual leader of India who believed in nonviolent struggle against occupation and led India's fight for independence.

Representing Iyad Morar during his administrative detention made my acquaintance with the strange world of the military courts. What I saw was a circus of administrative and legal rituals and practices, some extremely bizarre and others that harbored a

semblance to the courts I knew. Because of the terrible acoustics in the caravan where the court presided, lawyers had a difficult time hearing each other and making arguments. In the military court, the criminal law code was actually a military decree, and it was a site of constant institutional chaos that had a different timetable from those of the courts inside Israel—time had an entirely different rhythm. But what stood out most was the separation between Israeli citizens and Palestinian residents of the Occupied Territories, not only the separate laws for each but also the physical and spatial divide in the military courts. There were separate entrances to the military camp and separate waiting areas in the fenced courtyard of the court of Judea.

As I continued to represent in military courts, my clients' family members had the much more mundane problem of obtaining permits to work in Israel. After only a couple of weeks I became acquainted with people who had been denied entry into Israel because they had been classified as security threats.

Two years later, in Beit Jala, the solemn silence when we began the interviews and the production of documents soon dissipated, and people began to listen to each other's stories, sometimes nodding in agreement, chiming in or distancing themselves from other people's cases.

One of those Saturday mornings, I drove alone through the tunnel road that linked Gilo, a settlement neighborhood in Jerusalem where I spent my childhood, and Gush Etzion. As always, as I approached the middle of the tunnel, my car was engulfed in darkness, despite the tiny orange lights on each side. A few minutes later, the tunnel ended and I prepared to turn left toward Beit Jala. It was full daylight, but it felt like the darkness remained around me. After making the left turn, I realized that despite the sunny and clear skies over the landscape of the rolling hills and the wall that sliced through them, built in some places, the darkness I felt was despair.

I realized at that moment that the legal battle against the permit regime was futile. Even when we won the case, we lost, as each

case created more regulations, crafted better answers for the Civil Administration, and highlighted gray areas and loopholes for the secret service. Taking on any part of the permit regime, including petitioning against it, meant it solidified its ad hoc activities into a legitimate institution; created a jurisprudence around it; normalized the completely impossible, absurd, and unacceptable situations; and rendered it part of the repertoire of the security justifications that made it grow.

I also realized that the constant living emergency that was the foundation of Israel's colonial bureaucracy in the territories created a distinct set of organizational practices in which race and racial hierarchy infused the practices and routines of the bureaucracy. It generated more justification for racism, which in turn justified the use of that very bureaucracy as the major weapon of control against the population.

That morning, as I made the turn from the tunnel into Beit Jala, I understood that the only important outcome was to end the permit regime, not to reform it in any way, and that one could not resist one policy or another successfully but had to reject the permit regime in its entirety. Similarly, I realized the fight inside the military courts was impossible, and the only legitimate struggle was one that would end the military court system.

For a few years, I had the honor to represent people who wanted to live and work and were classified by the permit regime as security threats. As I learned their life stories, which we wrote in long affidavits to the Supreme Court judges in an attempt to convince them there was nothing in these people's lives to render them a threat to anyone, my respect for them grew, not because they were heroes or activists but because they were resilient, exhibiting humor and despair and quirkiness.

Out of the dramatic moment of fighting the terrible classification as a security threat, I understood that the system itself I was part of as a lawyer was creating the security threat through the persistent procedural violence it unleashed on millions of civil-

ians. And at the same time, I met people who gave me hope that we could live together equally. The law was important, and so were rights, but I realized the way to change was not to challenge a system that grew stronger from critique, that separated and partitioned what could not be divided. Meeting those who fought the classification as a security threat eradicated my faith in Israel's legal system but not in the possibility to change its political regime and demand citizenship and equal rights for all the inhabitants from the Jordan River to the sea.

ACKNOWLEDGMENTS

Although I cannot thank the hundreds of people who have made this book possible, I do thank the people who trusted me to represent them, shared stories, and were brave enough to take their cases to the Supreme Court, and also those who chose not to. I thank the clerks, officials, and government lawyers who spoke to me, allowed me to see their correspondence, and shared their anxieties. Sylvia Piterman and Machsomwatch organized the subsidized High Court project for people classified as a security threat. I deeply thank my friends and colleagues, human rights and criminal lawyers in Israel/Palestine for their time, documents, and patience. My deep gratitude goes to Kate Wahl at Stanford University Press, her amazing team, and the manuscript reviewers, who contributed so much.

This project began, in its previous life, with a manuscript published by the fantastic team at Van Leer Institute under the profound direction of my mentor Yehouda Shenhav, where I had the opportunity to work with the materials and data I gathered in an intellectual context that focused on colonialism, emergency, and sovereignty in Israel/Palestine. Although the project evolved into an entirely different book, *Living Emergency* owes a debt to the previous project and the intellectual community that nurtured it.

Dimi Reider translated the first manuscript; few of his words now remain, but his work is embedded within the foundation of this book. At the Harvard Academy, my interest in the relationship between emergency and political economy grew. With Kate Wahl's guidance I approached my materials from a perspective that focused on the effects of the bureaucracy in the political economy of the occupation in order to reach a wider and more international audience in an accessible format. Deep thanks go to Jorge Dominguez, the administration, and my fellow scholars.

To my teachers Yehouda Shenhav, Joanna Macy, Paul DiMaggio, Avigdor Feldman, Lea Tzemel, and Kim Lane Schepele and to friends in the Departments of Sociology in Tel Aviv and at Princeton and Harvard, I owe endless thanks, as well as to my colleagues at my home department at Hebrew University. My parents, sisters, children, and friends and the community of people seeking to change life in Israel/Palestine into one of equality and freedom are my inspiration.

NOTES

PROLOGUE

1. Sociologist Ronen Shamir suggests that this type of population management is part of a "global mobility regime" in which persons are profiled according to certain indices of risk and then movement is allowed or prevented. See Ronen Shamir, "Without Borders? Notes on Globalization as a Mobility Regime," *Sociological Theory* 23, no. 2 (2005): 197–217.

2. Rema Hammami, "Qalandiya: Jerusalem's Tora Bora and the Frontiers of Global Inequality," *Jerusalem Quarterly* 41 (2010): 29–51.

3. Many of the internal decrees that I describe that were secret at the time of the study between 2005 and 2007 were released to the public in 2015 by COGAT following a Supreme Court decision, mostly confirming the outline of practice I analyze in this book.

4. Rhys Machold, "Mobility and the Model: Policy Mobility and the Becoming of Israeli Homeland Security Dominance," *Environment and Planning A* 47, no. 4 (2015): 816–832.

CHAPTER 1: DANGEROUS POPULATIONS

1. Security Provisions Order (West Bank—1967), in 1 Proclamations, Orders, and Appointments of the Judea and Samaria Command, 5.

2. Permit regimes were developed during the British Empire in India, Egypt, South Africa, and the Cape of Good Hope. In the twentieth century, permit regimes were developed in the USSR, China, and Korea. The Israeli permit regime is the most elaborate population management system to date because it is both documentary and spatial and includes a vast material and institutional infrastructure.

3. Abu Zahara shows how the census, Population Registry, and blacklisting

were tools inherited from the British Mandate in Palestine, particularly from the Arab revolt in 1936–1939. Nadia Abu-Zahra and Adah Kay, *Unfree in Palestine: Registration, Documentation and Movement Restriction* (London: Pluto Press, 2013).

4. See Tobia Kelly, "Documented Lives: Fear and the Uncertainties of Law during the Second Palestinian Intifada," *Journal of the Royal Anthropological Institute* 12, no. 1 (2006): 89–107.

5. The term "enlightened occupation" conveys the belief of certain elites in Israel that despite the military occupation of Palestinian territories, the rule of law is upheld to some extent, mostly due to the scrutiny of the Israeli Supreme Court. Critics contend that precisely the semblance of judicial review of the military occupation has upheld its legitimacy for half a century. For a critique of this type of reasoning, see Ronen Shamir, "'Landmark Cases' and the Reproduction of Legitimacy: The Case of Israel's High Court of Justice," Law and Society Review 24, no. 3 (1990): 781–806.

6. Ahmad H. Sa'di, *Thorough Surveillance: The Genesis of Israeli Policies of Population Management, Surveillance and Political Control towards the Palestinian Minority* (Oxford: Oxford University Press, 2016).

7. Arnon Yehuda Degani, "The Decline and Fall of the Israeli Military Government, 1948–1966: A Case of Settler-Colonial Consolidation?," *Settler Colonial Studies* 5, no. 1 (2015): 84–99.

8. Interview with Shlomo Gazit, June 2005, Tel Aviv University.

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

10. Ibid., 6.

11. The term "effective sovereign" is somewhat confusing in the context of occupation law. Briefly, the legal framework of the occupation is the laws of war, specifically the clause of the Hague Convention (1907) concerned with military occupation (*occupatio bellica*). These clauses create a unique legal institution in which the occupying power is responsible for order and security in the area it occupies but does not legally serve as sovereign.

12. Shlomo Gazit, *The Carrot and the Stick: Israel's Policy in Judaea and Samaria, 1967–68* (Washington, DC: B'nai B'rith Books, 1995).

13. Mahmood Mamdani, "Historicizing Power and Responses to Power: Indirect Rule and Its Reform," *Social Research* 66, no. 3 (1999): 859–886.

14. Personal diary entry, May 4, 1963, published on web page of the military advocate general, http://www.law.idf.il/SIP_STORAGE/files/6/286.pdf.

15. Some decrees did govern territory, such as those that set up procedures for annexation of land and issues of zoning and building permits in the territories. They were implemented very differently for Palestinians and Jewish settlers. See Rassem Khamaisi, "Israeli Use of the British Mandate Planning Legacy as a Tool for the Control of Palestinians in the West Bank," *Planning Perspectives* 12, no. 3 (1997): 321–340.

16. For an analysis of Palestinian workers in Israel during the first decade, see Salim Tamari, "Building Other People's Homes: The Palestinian Peasant's House-

hold and Work in Israel," *Journal of Palestine Studies* 11, no. 1 (1981): 31–66, appendix A.

17. Ariel Handel, "Chronology of the Occupation Regime," *Theory and Criticism* 31 (2007): 173–220.

18. Guy Mundlak, "Power-Breaking or Power-Entrenching Law? The Regulation of Palestinian Workers in Israel," *Comparative Labor Law & Policy Journal* 20 (1999): 569–620.

19. Ariella Azoulay and Adi Ophir, *The One-State Condition: Occupation and Democracy in Israel/Palestine* (Stanford, CA: Stanford University Press, 2012), 30.

20. Ariel Handel, "Controlling the Space through the Space: Uncertainty as a Technology of Control," *Theory and Criticism* 31 (2007): 101–126.

21. Decision 106 of the Israeli Government, 1989. Following the decision, the military commander issued decree 947, which established the Civil Administration, available at http://www.law.idf.il/Templates/GetFile/GetFile.aspx?FileName=XGF5b3NoLWRvY3NcdGhpa2FcdHphdmltXDkoNy5kb2M=&InfoCenterItem=true. See report of the State Comptroller no. 56A, published 2005, on the Civil Administration in Judea and Samaria, 190, http://www.mevaker.gov.il/he/Reports/Report_571/7fc5299f-7f87-4042-9fdb-6a4560a33e27/2005-56a-132-Ayosh-Minhal%20Ezrachi.pdf.

22. State Comptroller report no. 56A, 189, 190–192.

23. Shlomo Gazit, *Trapped Fools: Thirty Years of Israeli Policy in the Territories* (London: Frank Cass, 2003).

24. Hillel Cohen, *Village Associations: The Failure of Structure, Victory of the Paradigm and the Lost Peace*, Jerusalem: Hebrew University, 2014 (in Hebrew).

25. Idith Zertal and Akiva Eldar, *Lords of the Land: The War over Israel's Settlements in the Occupied Territories, 1967–2007* (New York: Nation Books, 2014).

26. Lori Allen, "The Scales of Occupation: 'Operation Cast Lead' and the Targeting of the Gaza Strip," *Critique of Anthropology* 32, no. 3 (2012): 261–284.

27. Leila Farsakh, "From Domination to Destruction: The Palestinian Economy under the Israeli Occupation," In *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories*, ed. Adi Ophir, Michal Givoni, and Sari Hanafi (New York: Zone Books, 2009): 379–402.

28. Adriana Kemp and Rivka Reichman, *Migrants and Workers: The Political Economy of Labor Migration in Israel* (Jerusalem: Van Leer Institute Jerusalem and Hakibutz Hameuhad Publishing, 2007).

29. Aziza Khazzoom, "The Great Chain of Orientalism: Jewish Identity, Stigma Management, and Ethnic Exclusion in Israel," *American Sociological Review* 68, no. 4 (2003): 481–510.

30. Mahmood Mamdani, "Indirect Rule, Civil Society, and Ethnicity: The African Dilemma," *Social Justice* 23, no. 1/2 (1996): 145–150.

31. The seam zone is the area within the West Bank where the separation wall was built illegally (according to international law). The area was declared a closed zone by the military, trapping Palestinian lands beyond the wall. Residents of the territory and others require permits to enter the seam zone.

32. Neve Gordon, "From Colonization to Separation: Exploring the Structure of Israel's Occupation," *Third World Quarterly* 29, no. 1 (2008): 25–44.

33. Yael Berda, "The Security Risk as a Security Risk: Notes on the Classification Practices of the Israeli Security Services," In *Threat: The Palestinian Prisoners in Israeli Jails*, ed. Anat Matar and Abeer Baker (London: Pluto Press, 2011), 44–56. Shlomo Gazit further notes that in the early days of the Civil Administration, the Shin Bet also advised the head of the administration on security issues, and its purview extended mostly to intelligence and recruitment of informers. Interview, June 2005, Tel Aviv University.

34. Interview with Brig. Gen. (res.) Dov ("Fufi") Sedaka, September 2006, ECF offices, Tel Aviv.

35. Ibid.

36. Ibid.

37. Ibid.

38. Carl Schmitt, *The Concept of the Political*, trans. George Schwab (Chicago: University of Chicago Press, 1996), 26.

39. It is much easier for women to obtain labor permits, and very few women are denied entry because of their classification as a security threat.

40. For analysis of closure, see Nadia Abu-Zahra and Adah Kay, *Unfree in Palestine: Registration, Documentation and Movement Restriction* (London: Pluto Press, 2013); Amira Hass, "Israel's Closure Policy: An Ineffective Strategy of Containment and Repression," *Journal of Palestine Studies* 31, no. 3 (2002): 5–20; Julie Peteet, "Camps and Enclaves: Palestine in the Time of Closure," *Journal of Refugee Studies* 29, no. 2 (2016): 208–228.

41. Azoulay and Ophir, *The One-State Condition*, 13–14.

42. Yael Berda, "Managing Dangerous Populations: Colonial Legacies of Security and Surveillance," *Sociological Forum* 28, no. 3 (2013): 627–630.

43. See Mundlak, "Power-Breaking or Power-Entrenching Law?," 588n20.

44. Amira Hass, *Drinking the Sea at Gaza: Days and Nights in a Land under Siege* (New York: Macmillan, 1999), 297–301.

45. See "Instructions on Movement in the Seam Zone and Instructions for Entry into the Seam Zone," in *Directives, Decrees, and Appointments of Judea and Samaria*, booklet 207 (published by legal adviser to Judea and Samaria, 2007), 3546–3568.

46. Eyal Weizman, *Hollow Land: Israel's Architecture of Occupation* (New York: Verso Books, 2012).

47. The only exceptions to Jewish freedom of movement were decrees that prevented mobility of settlers during the disengagement plan, regulation of access to multifaith holy sites, and ad hoc decrees designating areas as closed military zones where Jews and Palestinians protested against the separation wall.

48. Shir Hever, *The Political Economy of Israel's Occupation* (London: Pluto Press, 2010).

49. Full closure encompasses all the Occupied Palestinian Territories. It is different from partial closure and curfews. See Hass,. "Israel's Closure Policy," 5–20.

50. Shlomi Swisa, *Harm to Medical Personnel: The Delay, Abuse and Humiliation of Medical Personnel by Israeli Security Forces* (Jerusalem: B'tselem, 2003); and Hadas Ziv, "A Legacy of Injustice" (Tel Aviv: Physicians for Human Rights, 2002).

CHAPTER 2: PERPETUAL EMERGENCY

1. Tobias Kelly, *Law, Violence and Sovereignty among West Bank Palestinians* (Cambridge: Cambridge University Press, 2006), 174, 24.

2. Salim Tamari, "Eyeless in Judea: Israel's Strategy of Collaborators and Forgeries," *Middle East Report* 164/165 (1990): 39–45.

3. Data are human rights groups' estimates and assessments of former Civil Administration officials. See Sylvia Piterman, *Invisible Prisoners: Palestinians Blacklisted by the General Security Services*, Machsomwatch Watch, April 2007, http://www.machsomwatch.org/sites/default/files/Invisible%20Prisoners%20-%20English.pdf.

4. Interview with Ilan Paz, former head of the Civil Administration (2002–2005), August 2006.

5. Administrative Appeal Jerusalem 143/07 Ez Al Din Ziam and Others vs. Ministry of Interior Jerusalem, March 19, 2007.

6. Administrative Appeal Haifa 1196/05/10 Jawhar Nasser vs. Ministry of Interior, November 24, 2011.

7. Quotations throughout are from the many form letters sent by the Population Registry Section. There are three form letters that relate to each type of denial.

8. Years later, in 2012, employers were provided with a special form requesting the removal of their workers' classification as security threats.

9. Hadas Ziv, *Bureaucracy in the Service of Occupation: The District Liaison Offices* (Tel Aviv: Physicians for Human Rights, 2004).

10. Ibid.

11. Hillel Cohen, *Good Arabs: The Israeli Security Agencies and the Israeli Arabs, 1948–1967* (Berkeley: University of California Press, 2010).

12. For a poignant typology of collaborators, see Saleh Abdel Jawad, "Collaboration," Media Monitors Network, 2002, http://www.mediamonitors.net/salehabdeljawad2.html.

13. Ron Dudai and Hillel Cohen, "Triangle of Betrayal: Collaborators and Transitional Justice in the Israeli-Palestinian Conflict," *Journal of Human Rights* 6, no. 1 (2007): 37–58.

14. Hillel Cohen and Ron Dudai, "Human Rights Dilemmas in Using Informers to Combat Terrorism: The Israeli-Palestinian Case," *Terrorism and Political Violence* 17, no. 1–2 (2005): 229–243.

15. Bill Ong Hing, "Misusing Immigration Policies in the Name of Homeland Security," *CR: The New Centennial Review* 6, no. 1 (2006): 195–224.

16. Interview with Brig. Gen. (res.) Dov ("Fufi") Sedaka, September 2006, ECF offices, Tel Aviv.

17. Letter from the spokesperson for the prime minister's office to attorney Limor Yehouda, from the Association for Civil Rights in Israel, October 2005.

18. Following the 1993 massacre in the prayer hall of the Cave of the Patriarchs in Hebron, a committee led by Justice Meir Shamgar recommended establishing a new police district in the West Bank that was to focus on the growing violence of Jewish settlers toward Palestinians and mediate the complexity of the two regimes of criminal law that operated differently for Jews and Palestinians in the territory.

19. The scope of activity of the Shai police in the permit regime expanded rapidly. In 2004, police opened 21,442 investigations against Palestinians for property and security offenses, and more than five thousand traffic tickets and fines were issued. The police terrorist activity unit processed five thousand files and arrested more than twenty-five hundred Palestinians in cooperation with the Shin Bet.

20. Memo on police criteria that determine classification of Palestinian residents of the Occupied Territories as criminal threats and prevention of entry into the state of Israel. National Police Headquarters, Branch for Intelligence and Investigations, May, 1, 2010, http://www.gisha.org/UserFiles/File/LegalDocuments/procedures/security_and_criminal_block/43.pdf.

21. In July 2012, the Civil Administration introduced a process of appeal against classification as a criminal security threat by the police, in exceptional humanitarian cases. See http://gisha.org/UserFiles/File/LegalDocuments/procedures/security_and_criminal_block/42.pdf.

22. For a compelling argument on the effects of the use of international human rights law with the use of international humanitarian law in the Israeli occupation, see Aeyal Gross, *The Writing on the Wall: Rethinking the Law of Occupation* (Cambridge: Cambridge University Press, 2017), chap. 5.

23. Following the noted legal philosopher Carl Schmitt, who defined sovereignty as the power to decide on the state of exception in which the law is suspended, Giorgio Agamben introduced the concepts of bare life and the camp to describe places and events in which executive power directly decides the fate of subjects without the mediation or protection of legal rights. See Giorgio Agamben, *State of Exception*, vol. 2 (Chicago: University of Chicago Press, 2005); and Stephen Legg, ed., *Spatiality, Sovereignty and Carl Schmitt: Geographies of the Nomos* (London: Routledge, 2011), for fruitful analysis of the relations between movement and executive power.

24. Ronen Shamir, "'Landmark Cases' and the Reproduction of Legitimacy: The Case of Israel's High Court of Justice," *Law and Society Review* 24, no. 3(1990): 781–805.

25. Piterman, *Invisible Prisoners*.

26. From 2008, petitions against classification as security threats were streamlined from the High Court of Justice to the administrative courts, in which government lawyers were no longer key players in the pre-petition negotiation with the Shin Bet. This shift in the legal process changed the statistics dramatically against Palestinian petitioners, who were denied entry.

27. On the role of Israeli government lawyers in these cases, see Y. Dotan, "Government Lawyers as Adjudicators: Pre-petitions in the High Court of Justice Department 1990–1997," *Israel Law Review* 35, no. 2–3 (2001): 453–480.

28. HJC 5555/05 Federman vs. Head of Central Command,59(2)865, p. 869. The quote is from a central case on allowing Shin Bet to show secret evidence in a closed, one-sided hearing when only Shin Bet, government lawyers, and judges are present. Since this case concerned administrative detention of a Jewish settler who is an Israeli citizen, secret evidence in petitions by Palestinian residents of the Occupied Territories about classification as security threats will be consistently admitted.

CHAPTER 3: LABOR OF UNCERTAINTY

1. Arie Arnon, "Israeli Policy towards the Occupied Palestinian Territories: The Economic Dimension, 1967–2007," *Middle East Journal* 61, no. 4 (2007): 573–595.

2. Sara Roy, "De-development Revisited: Palestinian Economy and Society since Oslo," *Journal of Palestine Studies* 28, no. 3 (1999): 64–82.

3. Leila Farsakh, "From Domination to Destruction: The Palestinian Economy under the Israeli Occupation," in *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories*, ed. Adi Ophir, Michal Gavoni, and Sari Hanifi (New York: Zone Books, 2009), 379–402, quote on 381.

4. For a historical framework of labor dependency in settler colonies, see Patrick Wolfe, "Land, Labor, and Difference: Elementary Structures of Race," *American Historical Review* 106, no. 3 (2001): 866–905. On the difference between the colonial logic during the military government in 1949–1966 and the settler colonial logic in the West Bank post-1967, see Arnon Yehuda Degani, "The Decline and Fall of the Israeli Military Government, 1948–1966: A Case of Settler-Colonial Consolidation?," *Settler Colonial Studies* 5, no. 1 (2015): 84–99.

5. Yehouda Shenhav and Yael Berda, "The Colonial Foundations of the Racialized Theological Bureaucracy: Juxtaposing the Israeli Occupation of Palestinian Territories with Colonial History," in Ophir, Gavoni, and Hanifi, *The Power of Inclusive Exclusion*, 337–374.

6. Yossi Beilin, *The Price of Unity* (Tel Aviv: Revivim, 1985).

7. Arie Arnon, Israel Luski, Avia Spivak, and Jimmy Weinblatt, *The Palestinian Economy: Between Imposed Integration and Voluntary Separation* (Leiden, Netherlands: Brill, 1997), 4.

8. Neve Gordon, *Israel's Occupation* (Berkeley: University of California Press, 2008), 77.

9. The Ministers' Committee on Security Number 1/B, October 8, 1970, https://www.gov.il/he/departments/policies/legal_framework_employment_palestinians_israel.

10. Baruch Kimmerling, "Boundaries and Frontiers of the Israeli Control Sys-

tem: Analytical Conclusions," in *The Israeli State and Society: Boundaries and Frontiers*, ed. Baruch Kimmerling (New York: SUNY Press, 1989), 265–284.

11. Janos Kornai, "The Soft Budget Constraint," *Kyklos* 39, no. 1 (1986): 3–30.

12. Leila Farsakh, *Palestinian Labour Migration to Israel: Labour, Land and Occupation* (London: Routledge, 2005), tables on 70, 74.

13. Leila Farsakh, "Palestinian Labor Flows to the Israeli Economy: A Finished Story?," *Journal of Palestine Studies* 32, no. 1 (2002): 13–27.

14. Article VII.1 of the Economic Protocol, also known as the Paris Protocol, was part of the Gaza-Jericho Agreement and was later incorporated into the Oslo II Accords signed in 1995. The protocol was intended for five years, but it is still being applied in 2017 as part of the relations between Israel and the Palestinian National Authority. See "Gaza-Jericho Agreement Annex IV—Economic Protocol," Israel Ministry of Foreign Affairs, April 29, 1994, http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/gaza-jericho%20agreement%20annex%20iv%20-%20economic%20protoco.aspx.

15. Annex III, Article 11, of the Oslo II Accords signed in 1995 attempted to order the aspects of civil governance.

16. According to sociologist Pierre Bourdieu, a "field" is a "space structured according to oppositions linked to specific forms of capital, with differing interests" that "correspond to the division of its organizational functions." Pierre Bourdieu, *On the State: Lectures at the Collège de France, 1989–1992* (Cambridge, UK: Polity, 2014), 20. The organizations and agents, the various expertise of population and labor management, and economic and political interests represented by experts and agents made up the bureaucracy of the occupation.

17. Interview with a senior adviser on Palestinian affairs at the Civil Administration, February 2006.

18. Conversation with a representative of the Ministry of Labor following a coordination meeting of the "colors of the rainbow (Keshet Zvaim)" seam administration, May 2006.

19. Conversation with Nava at the Payments Section, June 2006. Nava was one of the clerks that I was consistently in contact with on my visits to the Payments Section between January 2006 and June 2007.

20. Interview with Avner Press, June 12, 2005.

21. Conversation in Nathan Hirsch's office, May 2005. During 2005–2006, I had multiple interviews and conversations with him that facilitated my understanding of the work of the Payments Section and situated its role in the political economy of the occupation.

22. Nayanika Mathur, "Transparent-Making Documents and the Crisis of Implementation: A Rural Employment Law and Development Bureaucracy in India," *PoLAR: Political and Legal Anthropology Review* 35, no. 2 (2012): 167–185.

23. Kornai, "The Soft Budget Constraint," 3–30.

24. The word *maacher* is originally from Yiddish, meaning "a man who gets the job done."

25. Cedric Parizot, "Viscous Spatialities: The Spaces of the Israeli Permit Regime of Access and Movement," *South Atlantic Quarterly* (forthcoming).

26. Conversation with Nathan Hirsch about the forms employers must complete.

27. The survey question was, "What do Palestinian workers pay for and why?" Worker's Hotline report, May 1, 2014, http://www.kavlaoved.org.il.

28. Official reply from Israeli military spokesperson, January 2017.

29. Criminal case 39860-03-1, State of Israel vs. Samy Cohen, District Court, Beer Sheva, November 5, 2013.

30. From 2006 to 2010, the years in which this sophisticated network of forgeries operated, the Payments Section moved to a special authority for the management of population, borders, and immigration in the Ministry of Interior.

31. Interview with Major General (Res.) Dany Efrony, who served as military advocate general to the Israeli military, 2011–2015, January 2017.

32. The only legal change made in the bureaucracy of the occupation following the forgery and bribe cases was the introduction of a procedure, in July 2015, to revoke permits not based on security or criminal threats but on the involvement of the permit holder in any forgeries of documents. See http://www.gisha.org/UserFiles/File/LegalDocuments/procedures/movement_between_israel_and_the_west_bank/153.pdf.

33. Interview with Shalhav Haddad, Jerusalem, June 2005.

34. See Guy Mundlak, "Power-Breaking or Power-Entrenching Law? The Regulation of Palestinian Workers in Israel," *Comparative Labor Law & Policy Journal* 20 (1999): 569–620.

35. Eitan Diamond and Zvi Shulman, *Crossing the Line: Violation of the Rights of Palestinians in Israel without a Permit* (Jerusalem: B'tselem, 2007). [in Hebrew]

36. Yehezkel Layne, *Human Rights Violations of Workers from the Territories in Israel and the Settlements* (Jerusalem: B'tselem, 1999). [in Hebrew]

37. Order Amending the Jordanian Labor Law, Law No. 21 of 1960 (Judea and Samaria) (No. 439), 5731-1971, August 5, 1971, http://www.mag.idf.il/801-he/Patzar.aspx?PageNum=10; and Order Amending the Jordanian Labor Law, Law No. 21 of 1960 (Amendment) (Judea and Samaria) (No. 825), 5740-1980, February 20, 1980, http://www.mag.idf.il/801-he/Patzar.aspx?PageNum=9. The original decrees can be searched and downloaded in Hebrew or Arabic.

38. HCJ 5666/03 Kav Laoved vs. Jerusalem Labor Court, 62(3) 264, September 19, 2007.

39. Order on Administration of Municipal Councils (Judea and Samaria) 1981 (No. 892) (Israel); Order on Administration of Regional Councils (Judea and Samaria) 1979 (No. 783) (Israel). See http://www.law.idf.il/602-2385-en/Patzar.aspx. See also http://www.mag.idf.il/801-he/Patzar.aspx?PageNum=10 and http://www.mag.idf.il/801-he/Patzar.aspx?PageNum=9, where the original decrees can be searched and downloaded in Hebrew or Arabic.

40. For a legal analysis of the impact of Israeli labor law on Palestinians working in settlements, see Amir Paz-Fuchs and Yaël Ronen, "Occupational Hazards,"

Berkeley Journal of International Law 30 (2012): 580; and Amir Paz-Fuchs and Yaël Ronen, "10 Integrated or Segregated?," in *Normalizing Occupation: The Politics of Everyday Life in the West Bank Settlements*, ed. Ariel Handel, Marco Alegral, and Erez Maggor (Bloomington: Indiana University Press, 2017), 172.

CHAPTER 4: EFFECTIVE INEFFICIENCY

1. Political scientist James C. Scott coined the term "infrapolitics" to describe the struggles of dominated and subordinate groups that practice resistance to the dominating regime through thousands of small actions and routines. See James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven, CT: Yale University Press, 1990), 183–201.

2. Sociologist Max Weber describes the characteristics of rational-legal bureaucracy as "precision, speed, unambiguity, knowledge of the files, continuity, discretion, unity, strict subordination, reduction of friction and of material and personal costs." Max Weber and Charles Wright Mills, *From Max Weber: Essays in Sociology*, ed. Hans Gerth (1946; repr., New York: Oxford University Press, 1973), 214.

3. John Brehm and Scott Gates, *Working, Shirking, and Sabotage: Bureaucratic Response to a Democratic Public* (Ann Arbor: University of Michigan Press, 1999); Michal Frenkel and Yehouda Shenhav, "From Binarism Back to Hybridity: A Postcolonial Reading of Management and Organization Studies," *Organization Studies* 27, no. 6 (2006): 855–876.

4. State of Israel, *The Ombudsman Annual Report 32 for the Year 2005* (Jerusalem: Office of the State Comptroller and Ombudsman, 2006), mevaker.gov.il/he/Reports/Report_313/ReportFiles/fullreport_1.docx, 190.

5. Yoav Mehozay, "The Fluid Jurisprudence of Israel's Emergency Powers: Legal Patchwork as a Governing Norm," *Law & Society Review* 46, no. 1 (2012): 137–166.

6. Ariel Handel, "Where, Where to and When in the Occupied Territories? An Introduction to Geography of Disaster," in *The Power of Exclusive Inclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories*, ed. Michal Givoni, Sari Hanafi, and Adi Ophir (New York: Zone Books, 2009), 179–222, quote on 104.

7. Yehouda Shenhav and Yael Berda, "The Colonial Foundations of the Racialized Theological Bureaucracy: Juxtaposing the Israeli Occupation of Palestinian Territories with Colonial History," in Ophir, Givoni, and Hanifi, *The Power of Inclusive Exclusion*, 337–374.

8. In December 2016, COGAT issued an order that set criteria to appeal classification as a security threat because of the "influx in requests for permits despite the classification as security threat." See http://gisha.org/UserFiles/File/LegalDocuments/procedures/security_and_criminal_block/17.pdf.

9. Conversation at DCO, Hebron, March 2006.

10. Hannah Arendt, *The Origins of Totalitarianism* (New York: Houghton Mifflin Harcourt, 1973), 435.

11. Rema Hammami, "Gendered Youth/Occupied Lives: Attitudes and Experiences of Palestinian Male and Female Youth in the West Bank, Gaza Strip and

Arab Jerusalem," in *Analytical Report 1 (Gender and Region) of the Institute of Women's Studies Gender Youth Survey, 2013* (Birzeit: Institute of Women's Studies, Birzeit University, 2014).

12. Silvia Pasquetti, "Legal Emotions: An Ethnography of Distrust and Fear in the Arab Districts of an Israeli City," *Law & Society Review* 47, no. 3 (2013): 461–492.

13. Interview with Mahmoud Rabai, Kufr Yata, April 2007.

14. Julie Peteet, "Words as Interventions: Naming in the Palestine-Israel Conflict," *Third World Quarterly* 26, no. 1 (2005): 153–172.

15. Merav Amir, "The Making of a Void Sovereignty: Political Implications of the Military Checkpoints in the West Bank," *Environment and Planning D: Society and Space* 31, no. 2 (2013): 227–244; Julie Peteet, *Space and Mobility in Palestine* (Indianapolis: Indiana University Press, 2017); Elia Zureik, "Constructing Palestine through Surveillance Practices," *British Journal of Middle Eastern Studies* 28, no. 2 (2001): 205–227.

16. Livia Wick, "The Practice of Waiting under Closure in Palestine," *City & Society*, 1st ser., 23 (2011): 24–44.

17. Aluf Ben, "Peretz Vows to Be Responsible, Devoted Defense Minister," *Haaretz*, May 7, 2006, http://www.haaretz.com/news/peretz-vows-to-be-responsible-devoted-defense-minister-1.186994.

18. Observation at Payments Section offices, Clal Building, Jerusalem, June 2006.

19. Rema Hammami, "On the Importance of Thugs: The Moral Economy of a Checkpoint," *Middle East Report* 231 (2004): 26–34.

20. Amahl Bishara, "Driving While Palestinian in Israel and the West Bank: The Politics of Disorientation and the Routes of a Subaltern Knowledge," *American Ethnologist* 42, no. 1 (2015): 33–54, quote on 43.

21. Rema Hammami, "On (Not) Suffering at the Checkpoint: Palestinian Narrative Strategies of Surviving Israel's Carceral Geography," *Borderlands* 14, no. 1 (2015): 1–17.

22. Helga Tawil-Souri, "New Palestinian Centers: An Ethnography of the Checkpoint Economy," *International Journal of Cultural Studies* 12, no. 3 (2009): 217–235.

23. Rebecca Gould, "The Materiality of Resistance: Israel's Apartheid Wall in an Age of Globalization," *Social Text* 32, no. 1 118 (2014): 1–21, quote on 4.

24. Michael Sfard, "The Price of Internal Legal Opposition to Human Rights Abuses," *Journal of Human Rights Practice* 1, no. 1 (2009): 37–50.

25. For an in-depth study and critique of the human rights industry in the Occupied Territories, see Lori Allen, *The Rise and Fall of Human Rights: Cynicism and Politics in Occupied Palestine* (Stanford, CA: Stanford University Press, 2013).

26. Aeyal Gross, *The Writing on the Wall: Rethinking the International Law of Occupation* (Cambridge: Cambridge University Press, 2017), chap. 5.

27. Samera Esmeir, "Introduction: In the Name of Security," *Adalah's Review* 4 (2004): 2–9.

28. National Police Headquarters, Branch for Intelligence and Investigations, May, 1, 2010, http://www.gisha.org/UserFiles/File/LegalDocuments/procedures/security_and_criminal_block/43.pdf.

29. Arendt, *The Origins of Totalitarianism*, 422–423, 426n107.