

THE POWER OF INCLUSIVE EXCLUSION

Anatomy of Israeli Rule in the
Occupied Palestinian Territories

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The Order of Violence

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The main part of this text aims to describe and to analyze the new formations of violence employed by Israeli forces in the Occupied Territories since the outbreak of the al-Aqsa intifada in October 2000 (also called the second intifada) and to examine their significance as a constructing element of the occupation regime. In order to do this, we—very briefly—present the two general formations of power relations between Israelis and Palestinians that have evolved since the onset of the occupation in 1967 and review their specific characteristics formed since the Oslo Accords.

TWO FORMATIONS OF POWER RELATIONS

Two formations of power relations have been inscribed in the Occupied Territories and have clear spatial expressions. The first, in which submission of the population of the Occupied Territories to the occupier is enacted and displayed, is distinguished by the proliferation and decentralization of contact points between Israelis and Palestinians, mostly inside the Occupied Territories, vaguely demarcated and open to the occupier's free movement. The second formation is characterized by efforts to minimize and concentrate any contact between the two sides along clearly delineated lines of separation.¹

The outstanding characteristics of each formation have changed over time, but the formations themselves have not ceased to coexist. Their changing relations will serve as our key to describe various phases of the occupation regime. The differences in power relations between Israelis and Palestinians are manifest in the possibilities, means, and manners available to one of the two parties to act upon and within these formations in order to defeat the other or to gain advantage over it. Important milestones in the history of the occupation are an outcome of the (ever

partial and temporary) success of one of the sides in changing these formations and their interrelations, making one of them more dominant than the other.

Under the Oslo Accords, separation, the second formation, appeared for the first time as a reciprocal relation between two supposedly equal parties that resolve their conflicts essentially through negotiation and agreement.² However, this symmetry and reciprocity did not apply to the first formation, that of submission. In fact, Israel persisted in increasing the number of contact points at which Palestinians encountered Israelis as occupiers who ruled them with no regard for coordination or agreement while minimizing the Palestinians' capacity to cross the lines of separation, both within the Occupied Territories and into Israel across the Green Line. With the division of Palestinian territory into Areas A, B, and C (and the later division of the Hebron area into Areas H-1 and H-2) as devised in the accords, a new matrix of control had taken effect: "dissection" or fragmentation.³ Palestinian territory was literally carved up, making the area itself far more penetrable while curbing Palestinian movement within it even more extensively. As early as the spring of 1994, with implementation of the accords still in its first phase, it was already evident that while pretending to separate the two sides, Israel continued to control the Palestinian population and administer its life. As the al-Aqsa intifada broke out in the fall of 2000, the separation formation, which had previously been subject to political negotiations "toward peace" between two sides, was transformed into open warfare wherein all lines of separation became subject to a "security-first" military rationale. In 1968, Israel had defined the Occupied Territories as hostile territory, but in 2000, they became a war zone from which anyone uninvolved in the fighting was to be kept out and where anyone defined as the "enemy" was to be systematically annihilated. Martial thought pervaded all aspects of life. All Palestinian territories immediately became a kind of war-room map and thoroughly accessible to the Israeli Army, which in turn could make instant contact with the local population. Such contact aimed to destroy whoever was defined as the enemy and to impose a new formation of occupier-occupied relations along the new lines of separation formed within the deconstructed Palestinian space described above.

The military term for this form of domination on the ground is "regulation of the combat zone."⁴ With such "regulation," the Israeli ruling apparatus functions in various ways to crush the Palestinian side, albeit short of its total destruction. Dissecting space and restricting movement within it have become the main means of control and domination of life in the Occupied Territories. New conditions have thus been generated for exerting violence, and this new order of violence, in turn, has necessitated a reorganization of space and new restrictions on movement. This dialectical process has been ongoing at least since the Oslo Accords and reached

its epitome in Israel's disengagement from the Gaza Strip and the army's new form of power wielding there. We cannot present this process in its entirety here. We will only analyze the changes in the order of violence in view of the changes in regimentation of movement. Nor can we discuss the phase of disengagement, but rather propose a theoretical framework for such a discussion. Our interest will be mainly limited to the Israeli apparatus. We will not analyze the rationality of Palestinian violence and its various agents, from local armed groups to the Palestinian national authority. Clearly, a comprehensive analysis of the history of the conflict necessitates the inclusion of what we relegate here to the margin of our frame. However, we study the Israeli apparatuses of violence as part of our attempt to understand the occupation regime as a sui generis form of power,⁵ and in this context, we believe, this framing is permissible. For brevity's sake, we will also skip here the systematic examination of separation and submission as spatial techniques and the organization of space they have dictated.

TWO KINDS OF VIOLENCE

Violence is a kind of power, and as Michel Foucault defined it, a mode of "acting upon the action of others." Foucault stressed that such action does not necessarily mean the use of physical force, but clearly, physical force is also a way to act upon the action of others.⁶ Violence is physical force that acts upon the actions of people because it inflicts or threatens to inflict harm on their own persons and possessions or on those of their dear ones.

Other kinds of power, such as purchasing power or the power exercised by a ruling authority, can act without harming anyone or anything. They can move persons or things elsewhere or effect exchanges. Not so violence. Violence is the exertion of physical force to injure its object. Violence is invasive, disruptive, painful, or erosive. Disruption, penetration, erosion, and the like are forms of destruction: After the injury, the injured has difficulty existing in the state that preceded the injury. Regard for the law, central to a critical discussion of violence,⁷ will always be secondary to the power of destruction. Violence destroys; law might allow or prohibit destruction, limit or ignore it, enable, restrict, or reject claims to reparation, however destruction does not result from the law or its regard, but from the actual or potential contact between the active force and its object: a body or property.

Acts of violence such as invasion, penetration, or demolition have a visible aspect par excellence—even in the absence of eye witnesses, such as instances of violent robbery in a dark alley or a massacre in a god-forsaken forest—because they are always visible events, at least in the eyes of the victim. But an act is also violent when the force is not eruptive and violence is withheld. Withheld violence

is the presence of a violent force whose outbreak is imminent, but is not manifest. It differs from violence insinuated by words, a flag, or other symbols in the immediacy of its potential manifestation and the rapidly diminishing interval in space and time between the presence of such force and its actual outburst. In withheld violence, threatening and deterring gestures replace direct contact with the exposed body, but these are gestures of overt presence on the part of the threatening force. The difference between withheld violence and insinuated violence is a matter of degree and continuity. At times, insinuations of violence act as threats, and their deterrent effect is no less powerful, even greater than its overt presence. But in an ongoing conflict, insinuated threats tend to lose their effectiveness, and the ruling power needs to intensify the threats by means of displaying withheld violence. In any case, violence—either insinuated or withheld—is effective even when there is no outburst of physical force. Without such an outbreak, when no blow is given, there is no visible bodily contact, and yet the traces of destruction are clear.

In this respect, insinuated or withheld violence does not differ from economic power, purchasing power, the rhetorical power of persuasion, and other such acts and representations in which people "act upon the actions of others" without exerting physical force. When people act upon the actions of others, they maintain power relations. Such relations must not be described in binary terms, both because in every binary relation there is always a third—distanced—party (and such distancing is an exertion of power) and because the polarization of power relations requires the regular, ongoing exertion of force, amassing the majority of people and consolidating their interrelations around two extremities. Potential power—money and possessions, political authority, physical fitness, courage, or an arsenal of arms—has meaning as an "action upon actions" or upon the behavior of others only if something indicates it or signifies it—only if it shows its presence. Potential force acts through the discourse that represents it and through the imagination that simulates its action without necessarily being linked to the actual designated force. Potential force, like any "thing in itself," is applied merely through the mediation of whatever represents it, acting according to the effectiveness of such a representation: how it is designated, leaves traces, is expressed and symbolized, imagined, metaphorically molded, counted, and quantified. Purchasing power that has not been consummated, but is represented; knowledge that has not been demonstrated, but is signified; political authority that has not been exercised, but is declared; violence that has not been actually exerted here, but elsewhere—are all significant in defining the possible field of action of power, its range of influence. Every such form of presence of potential power partakes of the actual productive game of power.

These distinctions are true of all sources of power—physical, economic, political-governmental, or cognitive-cultural.⁸ In the present context, however, attempting to understand Israel's control mechanism in the Occupied Territories, as in other contexts where violence is practiced widely and systematically alongside other control mechanisms, it would not suffice to place violence alongside other sources of power, as their equivalent. Violence in the Occupied Territories, as in many "emergency zones" throughout the world, is a comprehensive form of regulating and administering life, activity, movement, and human interrelations, and we should better understand its machinations as a ruling system in its own right, apart from other power sources and ruling systems, in order to comprehend fully the way in which it is incorporated in them.

One obvious difference between violence and other sources of power in modern society is the special weight intrinsic to the relation between the potential force and its manifest state. This difference is expressed in two aspects of the transition from potential to manifestation: the regulation of this transition and its frequency. The transition from political authority to political resolution, from purchasing power to actual purchase, from covert to overt information, is fluent, frequent, very partially regulated, determined mainly or even exclusively by the judgment of the enforcing party, restrained only within the limits of a specific activity (certain things may not be purchased, certain people are prohibited from purchasing certain things, certain things must not be known or revealed, and the like). The nature of the transition from insinuated violence, to withheld violence, to the eruption of violence is at the heart of state rule and at the base of social order, and this nature varies from regime to regime.

The prevalence of such a transition is a function of the ruling power's legitimacy in the eyes of its subjects and of the political order's stability. A stable, legitimate ruling power is one in which such transitions are rare and are regulated by law, restricted in space and time, and generally accepted by the governed. The effectiveness of violence in a political system is affected by the gap that lies between withholding force and its exertion, on the one hand, and the continuum between potential violence and its manifestation, on the other. "Proper" rule—especially political, but also the kind of rule maintained in other violence-needy contexts, such as educational facilities, industry, or the military—works mainly by means of insinuated threats of violence and not through actually applying violent force. When it is challenged, it usually chooses to deter and defeat its opponents through the display of withheld violence and would hesitate before instructing its armed forces to open fire. But the essential meaning of an insinuated threat is that it might be carried out at any moment—all the more so when withheld violence is overtly present.

When a ruling power loses its legitimacy and stability, it tends to display withheld violence on a wide scale and exert overt violence on an irregular and ad hoc basis. In actual fact, these differences are blurred, of course, but on this continuum, we find it important to maintain three distinct ideal types: proper rule under which withheld violence is an exception to the rule and its eruption a rare event; proper rule under which, in certain distinct areas, withheld violence is the rule; and unstable, illegitimate rule whose jurisdiction is typified by the daily occurrence of both forms of violence, withheld and eruptive. In spite of the differences between these three types of rule, as long as the ruling power is concerned about its legitimacy both internally and externally, it recognizes that its best interests lie in maintaining a guise of continuity and ordered transition between the two forms of violence and further in presenting its violence as a legal response to severe legal transgressions and eruptions of violence on the part of the governed. Violence thus appears before both as part of the legal order and as a condition for its existence.

Obviously, the occupation regime is not considered legitimate by the Palestinians in the Occupied Territories, but for the occupation regime, the question of legitimacy never concerns the Palestinian population, only Israelis and part of the world public. Euphemistic language that describes enlightened checkpoints, targeted eliminations and smart bombs, and the legal safety net given to all of these actions clearly express the effort made by the control apparatus there to display its restraint. It wishes to create the impression that wherever possible, its forces are concentrated only to deter, and it seeks to diminish the extent of direct violence that is exerted. Its ostensible interest in legitimizing its overt violence has characterized occupation rule since its inception. However, since the disengagement from Gaza in August 2005, a decisive change has taken place, because two entirely different arenas have been formed for the exertion of force: the Gaza Strip and the West Bank. In each, each type of violence— withheld and eruptive— has a different status. It is, as we noted, a process that began with the Oslo Accords and that was exacerbated by the “disengagement.” It casts doubt on the nature of the gap and continuity of the two types of violence that the ruling power wishes to present and requires us to reexamine the relations between them in every arena where they are practiced.

Furthermore, under a regime that has no legitimacy in the eyes of the governed— certainly the case of occupation rule in the Occupied Territories— violence confuses the relation between suspending force and its eruption, and its effectiveness as a ruling apparatus does not depend on keeping them apart and continuous. Therefore, discussion of violence practiced in the Occupied Territories cannot begin by seeing violence as a potential realized by the ruling power according to law or convention. Instead, one should examine the actual forms of eruptive

violence, on the one hand, and the deployment patterns of withheld violence, on the other, and discern the nature of harm inflicted by each of these two types of violence. To persist in the discussion of violence as the relations between a potential and its realization means accepting the conceptual point of view of power. Our justification for shifting the main discussion of violence from the accepted patterns for realizing withheld violence over to the victims of violence stems from our insistence on distancing ourselves from power’s perspective and turning it into a part of the issue at hand.

Under Israeli occupation of the territories, these two forms of violence— withheld and eruptive— belong to two distinct spheres of action and may take place simultaneously without being related to each other. Their simultaneous exercise happened for the first time in an organized fashion toward the end of the first intifada, in the late 1980s, when special undercover army units (the Mista’arvim), acting covertly and extrajudicially to injure resistance leaders and activists, became a routine part of the ruling apparatus. It happened again, much more extensively, with the outbreak of the al-Aqsa intifada. The issue is not temporal and ontological continuity between potential and eruptive violence or between acts of flagrant violence and its retraction and freezing into structures of unexecuted threat. The issue is the simultaneous presence of violence that has not yet been exerted and eruptive violence whose menacing presence has not been felt previously. Under the control apparatus maintained in the Occupied Territories, the entire space has become penetrable to both types, whereas the relation between withheld and eruptive violence is no longer that of potential and fulfillment: The apparatus of withheld violence is constantly active and does not remain a mere potential threat, while potentially eruptive violence hovers separately and independently. The force wielded by the occupation might materialize anywhere, like a *deus ex machina*, and its emergence does not necessarily express the realization of potential force that the regime marks and presents in conventional codes. By the same token, the presence of withheld, contained, suspended force turns out to be the continuous infliction of violence upon objects— body and mind— that refutes the assumption that the link between suspended and flagrant force is the link between potential and activated force.

If one assumes that the two forms of violence create a continuum, then apparently the further away one moves from suspended violence, its presence is made all the more tangible. The threat that it emanates increases, and the time needed to carry out that threat is reduced. This is, of course, an assumed continuum. In actual fact, observing Israeli violence in action in the Occupied Territories, it becomes evident that on the one hand, the violent outburst, the *passage à l’acte*, does not

always originate in potential violence. On the other hand, countless foci of potential violence are visible throughout the dominated space, and the mere presence of potential violence suffices to prohibit, direct, and administer life, inflict bodily injury, and crush the life texture of an entire population. Our main distinction, therefore, will be between withheld violence and eruptive violence.

There are indeed places in the Occupied Territories and situations in which continuity is evident between the two poles of violence, linked by potential-manifest relations. But we argue that such a continuity has now become the exception to the rule. The regulation of continuity between withheld violence (potential) and eruptive violence (actualization) assumes conventions known to the ruling power and its subjects—temporary or permanent zoning throughout this space of private and public, accessible and inaccessible areas, both penetrable and impenetrable to the infliction of sanctioned violence—and the grounds on which the two sides partake in preserving these conventions and their recovery, if breached. Such conventions and demarcations are no longer valid in the Occupied Territories since the outbreak of the second intifada. The ruling apparatus can breach accepted rules at any moment and penetrate defined areas (private homes and public places, the ministries of the Palestinian Authority, public institutions such as mosques, schools, hospitals, and cemeteries), and it may do so with a violence that leaves its victims helpless, unable to demand that the regime suspend this eruptive violence along accepted rules. When violence is suspended, the subject might sometimes assume or guess how close the violent force was to erupting and what could delay or escalate transition from threat to deed, but he or she knows that the attempt to decipher the order of violence is usually just so much guesswork, and in any case, the subject remains trapped in its ongoing impact.

Withheld violence is suspended violence whose potential dimension—usually invisible—is made visible and displayed conspicuously. Violent force acts by flaunting its potential. Here it is not merely a declared or referred authority, the publishing of fiscal balances, or the waving of titles and uniforms. It is the display of the “thing in itself.” It is not “the thing in itself,” of course (the shot or blast), only its display, but the display is real (an actual weapon-carrying body, or at times, just the weapon itself). It is not a symbolic presentation—the power is present, not just represented. It acts through its actual presence. In a gang fight or a tribal feud, dispersing demonstrators or strikers, preparing for war, or even in war itself, the display of violence plays a central role. When the display of violence is regulated through cultural and legal codes that are considered legitimate, it might be a part of the strategy of struggle between the parties to the power relations, a strategy employed without having actually to exert violence. Such a display might use decoys or simulation, of course. One can try to scare through

exaggeration or belittling in order to mislead, but these possibilities stem from the role that is already assigned to the visibility of the violent force. However, lacking cultural and legal codes agreed upon by the parties, the display of violence always constitutes the exertion of violence.

The description of withheld violence as a separate kind of violence should not be understood as disconnecting the display of violent force from actual manifested violence. On the contrary, suspension means that the eruption of violence is but one possible form of withheld violence that may not necessarily be fulfilled. Suspended violence, either insinuated or withheld, is an active force,⁹ as expected the outbreak works because it deters, while when suspended the outbreak works because it enables a space of negotiation, or retreat, or escape, or countervail. Unrealized potential works not only because it might be fulfilled, but also because it might not. The presence of power in withheld violence should be conceived here not as a necessary phase on the way to actually erupting, as though that were an objective that would eventually be achieved, but as a presencing of the potential either to erupt or not to erupt, to be or not to be an eruption of violence.¹⁰ The more intense such presencing of power is, and the more effectively it is deployed in space and time, the greater the chances for potential to act as potential, to realize its power through unfulfillment: to injure, direct, and administer, urge and block, diminish and expand, abandon and grab, redivide, lay down borders and breach them—all by force of its presence as destructive potential. One should add that as soon as withheld violence replaces the insinuated violence of the “proper” regime as a major tool of domination, insinuated violence, too, becomes afflicted, is less insinuated, and functions as a display (or presencing) and not merely a representation of the potential to erupt or not to erupt.

Withheld violence tends to be contagious. During political crises such as states of emergency, wars, or occupations, when the law is suspended or imposed, and subjects persist in their resistance, there are no permanent arrangements for the presence of withheld violence, and the rules for realizing its potential are drawn up ad hoc, changing according to the “situation on the ground.” In such situations, when the suspending effect of withheld violence intensifies, there is an intrinsic tendency to blur differences between this kind of violence and eruptive violence, and the governed are trapped in a state of constant threat to their well-being, their lives, and their possessions.

MAPPING THE VIOLENCE IN THE OCCUPIED TERRITORIES

Until the outbreak of the first intifada, Israel ruled the Occupied Territories with a semblance of order. The presence of withheld violence was usually sufficient to

destroy political space, although violence erupted from time to time in response to attempts at political organization or acts of overt resistance, both civil and armed. In the first twenty years of the occupation, about 650 Palestinians were killed in clashes with the Israeli security forces and colonists. During the first intifada, a substantial rise was felt in the level of violence, and during the five years of uprising, over 1,400 Palestinians were killed and more than 10,000 were wounded. Even when it responded to terrorist activity that resumed following the Hebron (Cave of the Patriarchs) massacre of March 1994, Israel did not escalate its eruptive violence in the territories, where, as a rule, until the late 1990s, it had remained relatively limited. In spite of the growing number of casualties, it was still low compared with that of the years of the second intifada—more than 660 Palestinians dead and more than 4,300 wounded each year. But even this number is still a low rate compared with the number of victims in ethnic conflicts elsewhere.¹¹ Before the second intifada, eruptive violence was exerted in more or less distinct incidents: clashes with armed resistance fighters, dispersing demonstrators, torture, home demolitions, arresting suspects. The main change felt after the Oslo Accords was the deployment in space of withheld violence, as described above.

With the onset of the second intifada and the entrance of massive military forces into the West Bank and Gaza Strip, the ruling apparatus ceased to function as an administration of civilian life that maintains a semblance of distinction between the two types of violence and that displays potential violence or exerts eruptive violence according to fixed, known, and authorized codes. The map of violence became characterized by a wide and contiguous deployment of forces that enabled the tangible, powerful presence of withheld violence and that intensified uncertainty as to how this violence was deployed and how its subjects were expected to submit to it. The span of time needed to exert violence and the frequently changing instructions for opening fire made it difficult for Palestinians to anticipate eruptions of violence. Israeli military forces were now deployed throughout the area almost as in a state of war, but there was no war. War itself was suspended. There were “only” army operations, violent arrests, occasional incursions into residential neighborhoods, and targeted killings, with their “collateral damage” and the destruction of infrastructure and dwellings, whether as punitive measures or as a form of attack.

Following the diminishing frequency of suicide bombings and the change in the political situation as the disengagement plan was about to be implemented in summer 2005,¹² a certain reduction was felt in the force and frequency of such army activity, but it never stopped altogether and was renewed shortly after the Israeli Army left the Gaza Strip.¹³ Still, in spite of the obvious number of violent clashes in general, and particularly those initiated by Israel (which has had its share of

accumulating death and destruction), and in spite of the tremendous increase of the direct use of violent measures in the Gaza Strip after disengagement was completed, most of the soldiers in the Occupied Territories do not occupy anything. In spite of the growing presence of their weapons, these usually stay locked. Eruptive violence remains suspended, withheld in the club, the rifle, the armored vehicle, but also in the voice announcing a curfew, in the computer issuing the magnetic cards that serve as permits of passage, in the metal arm of the roadblock and the concrete structure that serves as an ID inspection booth—and this is precisely how this violence is exerted. It imposes its constraints upon the movement of the subjects of the Occupied Territories and upon their conduct wherever it is present and wherever it might show up. And it might show up—as we well know—anytime, anywhere.

One of the main effects of withheld violence in the Occupied Territories is suspension. It delays or prevents movement, creates waiting lines, postpones daily activities, stretches out waiting time for whatever has to be waited for, and forces people to loiter in the wrong place at the wrong time. In this manner, withheld violence encumbers, complicates, disrupts preferences, undermines plans, maddens, wounds, infests, generates disease, and kills. This is the tangible, immediate effect of the withheld presence of force. Withheld violence prevents individuals—at whom it is directed—from doing whatever is needed to avoid its harm, which is very hard to ascribe to a specific cause. Detaining women in labor at the checkpoints or refusing to grant passage to ailing patients are extreme instances that speak for themselves. But people in good health and in no need of special medical care are harmed no less than the sick and the weak. When withheld violence suspends life itself, it takes its toll without erupting and with no direct regard for the obedience of its subjects. Its outcome might prove no less disastrous—perhaps even more so—than that of exerting eruptive violence. Actually, in areas and periods when violence suspends its victims all the more forcefully, such as in the cramped pens at checkpoints—full to bursting—where the crowd inches its way to the checking posts after days of closure, in waiting lines for food after a prolonged curfew, in areas deprived of water where delays in traffic hold back water-tanker trucks and disrupt the distribution of rationed water, or in areas where the electrical power supply has been cut off for days and basic services are unattainable, the formal difference between eruption and threat is entirely erased, and the body is incessantly vulnerable to all types of harm.¹⁴

The Occupied Palestinian Territories have become a “zone of indistinction” between the two types of violence, which, under stable sovereign rule, are otherwise distinct. Against this background, one might understand the occasionally recurring phenomenon of “moral stock taking” by the Israeli public about the

morality of exerting force in the territories. The seasonal spells of "righteous indignation" that public figures and journalists undergo in view of showcase violence exerted by the ruling apparatus aim, apparently, to rehabilitate the deteriorating distinction between the two kinds of violence. At the same time, withheld violence and a considerable part of its suspending effects are not reported. They are normalized, detached from their causes, and their visible results are publicized only in periodic reports produced by nongovernmental organizations that hardly find their way into the Israeli public sphere. While focusing on the violation of rights, it is difficult to measure the daily damage inflicted on routine life, the ability to maintain a family life, a regular social life, or to assess worsening work conditions. Reports of the deterioration of the standard of living do not reflect all the dimensions of impoverishment in Palestinian society and the havoc wrought on infrastructure of all kinds. Damage to health and education services is measured especially by their accessibility, denied through the regimentation of movement in the Occupied Territories. There is, however, no clear appraisal of the accumulating damages to health and education. Nor are there reports of the frequent arrests of many Palestinians who do not end up in jail, but are disposed of, left for hours waiting at the roadside, blindfolded, their hands cuffed in tight plastic strips — only to be released later, just as they had been picked up, without any explanation.

Erupting violence, on the other hand, emerges as an accessible topic of discourse, quantified through the tally of victims, assessed by its proportionality, examined in light of the Israeli Army's official "code of ethics," and is forever justified in the name of security. When the press occasionally bothers to deal with "immoral behavior" by Israeli soldiers in the Occupied Territories, it tends to repeat the descriptions of military operations there in light of accepted moral rules that are supposed to regulate violence, sanction some of it as a necessary evil, and condemn whatever exceeds this. Every now and then, stories are told of lethal, destructive showcase violence, erupting regardless of the accepted code. Condemnations then resound from the left, sometimes even from the right, and the issue suddenly involves military men, as well. The violent events are presented as both shocking and exceptional. commonplace discussions in the media and politics disconnect showcase violence from its place in the economy of violence, tend to ignore withheld violence, and do not concern themselves with the destruction it inflicts upon Palestinian society.

The moral sensitivity shown by opponents of the occupation may be heightened by such instances of eruptive violence, more so, perhaps, than by others. Withheld violence, however, still tends to slip by them with relative ease, although withheld violence is not only very evasive, but also extremely widespread. Even at the height of the al-Aqsa intifada in the spring of 2002, during the Israeli operation

named Defense Shield, when the Israeli Army "reconquered" most of the West Bank, once more making the local population feel its powerful presence, and changed the nature of its control in the Gaza Strip — even then, the power active in the Occupied Territories was more withheld and checked than eruptive. Even then, withheld violence had greater impact upon the lives of Palestinians than eruptive violence. After all, withheld violence is the kind that controls everyday life. Eruptive violence is short-lived. Whether as an unexpected reaction or as a premeditated operation, the eruption of force is meant to end by reaffirming the presence of withheld violence, which at times — though not necessarily — happens through a new deployment of forces and a reorganization of the space, time, and living arrangements of the dominated. Usually, the subject chooses to obey, retreat, pass or refrain from passage, go out of his or her way, work or refrain from working, strip, stand in front of the camera, wait in line, clam up, become resigned to the verdict (without trial), keep quiet, maintaining order, polite speech, or silence.

For those who operate the ruling apparatus, this preference on the part of the subjects proves the success of the apparatus's functioning principle, for resistance is checked without any eruption of violence. But such proof has only temporary validity and must be produced again and again. This requires both the reintroduction of withheld violence and direct action through eruptive violence. Sporadic bursts of violence, random in space and time, bear witness to the continuous existence of the withheld presence, to its homogeneity in space and time. These eruptions must take place more and more frequently as the threat contained in suspended force gradually erodes. The threat is eroded not necessarily because the threatening force has weakened or retreated, for the threat is not only a result of the introduction of armed forces, but also of the way in which their withheld violence is perceived by the threatened party. The more violence is exerted against it, the less the threatened side has anything left to lose. The less it has left to lose, the greater the threat against it must become in order to achieve the same result: destroying the threatened's power and will to resist. In 1971, the army razed dozens of homes in refugee camps in Gaza in order to "air the camps out" and prevent the sheltering of armed people while inflicting relatively small damage on their residents and without any signs of resistance; 2002 saw the army in Operation Defense Shield raze 140 homes at the Jenin refugee camp alone during its fierce battles against Palestinian fighters who showed great determination and caused the army numerous casualties.

RULING APPARATUSES

Violence, in both its forms, is the main ruling apparatus active in the Occupied Territories. But in order to comprehend how violence functions, we must step back

this apparatus has been completely reduced to its functions of counting and classification at the service of "security," entirely giving up its caring functions (for example, the provision of health, education, infrastructure, and so on).¹⁷ For the same reason—the resistance of the governed—this apparatus can be maintained only through violent enforcement. Since, with the exception of apparatuses of violence, the reduced governmental apparatus is the only one still functioning, and since its function is absolutely conditioned by its possible violent enforcement, relying on the governmental apparatus only enhances the need for violence, for neither the judicial nor the disciplinary mechanisms can be of any help.

THE JUDICIAL APPARATUS The overwhelming majority of actions by the ruling apparatus in the Occupied Territories is still performed with ruling authorization that is subject to the law and withstands judicial scrutiny. Commanders and officials usually act according to authority that has been vested in them by law. But legal authorization is more or less the only remaining vestige of law in the ruling apparatus of the territories, and it, too, has been breached lately, because the army avoids obeying explicit orders of the High Court of Justice in the rare cases where rulings have favored the Palestinians.¹⁸

Israeli law in the Occupied Territories is suspended both due to the state of occupation and military rule declared there in June 1967 and due to the suspension of military rule by emergency regulations and ad hoc regulations that are changed sporadically by announcements of military commanders on the ground.¹⁹ Recently, the law has also been suspended due to the simple fact that the army has been knowingly and intentionally acting contrary to court rulings, especially on different occasions in the Hebron area. Still, the law in the Occupied Territories proliferates incessantly by force of edicts and regulations that are produced now and then, as well as by force of the occasional review of various policies and particular actions by the Supreme Court. This judicial criticism questions the lawfulness, reasonableness, or "proportionality" of actions undertaken with the authorization to exert violence, to destroy and confiscate property, and to arrest, detain, grant permits, and deny them. Such criticism is always heard in retrospect and has mainly one effect: giving the occupation regime a semblance of lawfulness and thus enabling the continuity of the two ruling apparatuses without revoking the difference between them. Usually, when judicial criticism delivers constraints upon the security forces, the latter ignore them or find ways to avoid them. When, however, judicial criticism refers to damages on the Palestinian side, this almost always results in legally justifying damage already done. Still, there are rare cases in which the court has ruled in the Palestinians' favor, and these are precisely the cases that uphold the semblance of the lawfulness and sovereignty of the judicial

and place it in the context of other ruling apparatuses. Following Foucault's work in the 1970s, one may distinguish three ruling apparatuses involved on a daily basis in the rule of a modern state: the judicial-sovereign apparatus that establishes general law, interprets it, and enforces it in particular cases; the disciplinary apparatus that forms individuals into subjects and citizens; and the governmental apparatus that focuses on administering territories and populations, assuring the well-being and security of society at large.¹⁵ Despite Foucault, it seems to us correct to locate in each of these three apparatuses an ideological component, as Althusser defined the term: practices meant to shape the individual as a subject of power. The subject of power, having internalized power relations, sees himself or herself as a recipient of power's instructions, however much he or she opposes it, and experiences the world as mediated by conceptual categories, metaphors, and images shared with others taking part in the same web of power relations.¹⁶

Retreat to violence may take place in all three apparatuses, in their more or less ideological components, but only the judicial-sovereign apparatus functions by regularly combining violence and the law, because some of its organs sanction the violence exercised by the others. Within this framework, violence usually appears in some relation to law, as a war that aims to destroy existing law and instate new law or as policing to preserve the existing law. The law, in its turn, might legitimize war or preparations for it, the various forms of police violence, as well as its own retreat and abandonment of land and population in states of emergency.

The flagrant presence of withheld violence in the Occupied Territories is explained by the fact that Israel acts there without the ability to make significant use of ideology, law, or disciplinary mechanisms that reduce its need for violence. In the late 1980s, the Palestinian uprising already diminished this ability to a great extent. In spite of the fact that the occupying power, of its own accord, rescinded laws as its *modus operandi*, it has been operating in the territories (and since August 2005, only in the West Bank) a quasi-sovereign apparatus that attempts to create a semblance of law and order. Despite the fact that the occupying power has rescinded—either on its own initiative or unwillingly—disciplinary venues destined to shape the disciplined Palestinian subject, it has not ceased trying to operate the disciplinary apparatus, particularly and individually wherever the security forces encounter Palestinians in their activity at the checkpoints, in the offices handling applications for permits, in patrols, and during arrests. Both judicial and disciplinary practices act as mere simulations of similar apparatuses of regulated sovereign rule. Of the three apparatuses mentioned above, the only one functioning properly in the Occupied Territories is the governmental apparatus. But because of the transfer of responsibilities to the Palestinian Authority that followed the Oslo Accords and because of the population's sweeping resistance,

system, as well as the legitimacy of the entire occupation regime—in the eyes of the occupiers, of course.²⁰

De facto rulings take place through an elaborate system of “ruling by decrees” that has characterized colonial regimes since the late nineteenth century.²¹ A similar format of control was maintained in the Gaza Strip until the disengagement. Since the outbreak of the second intifada, most orders deal with the movement of Palestinians in a Palestinian space that has become a cluster of distinct land cells. Thus, these orders actually belong to the governmental apparatus of control (see above). The law in the Occupied Territories is not an effective device of control not only because the Palestinians do not recognize its legitimacy, but because the Israeli regime changes it incessantly by suspending laws and annulling them. The military command inundates the area under its control and its subjects with orders and regulations that keep changing and often does not follow its own regulations.²²

The Occupied Territories are not a legal vacuum. The abuse of life at the hands of the ruling power is not due to some withdrawal of the law, but occurs thanks to a savage proliferation of legalities and illegalities and the creation of an extensive judicial patchwork that has no lawfulness of its own and that keeps changing the law itself, the regime’s authorities and immunity, and the subject’s own status before the law.²³ Under such conditions, subjects cannot—and are not supposed to—internalize the law. Under such conditions, the difference between law and decree, decree and order, and between order and the presence of the uniformed person who administers it greatly diminishes and at times disappears altogether. Even under less duress, ruling by decree is chronically and outstandingly unstable, and in the Occupied Territories, this instability has been on the increase since the first intifada. Because the rules that the subjects are supposed to follow change rapidly, it is impossible to rely on the validity of anything that is not accompanied by withheld violence. No order is worth the paper it is written on without the actual presence of the force that can implement it. The regime needs the massive presence of withheld violence in order to announce the rules and with them direct and dictate the behavior of its subjects. But the subjects, too, need this presence in order to be informed of the rules and to know how to calculate their everyday moves. In order to know which route to take to work, one must know where the checkpoint is placed; in order to decide whether even to bother going to work, one must know whether or not a curfew has been imposed during the night—and thus on and on, with every activity in every aspect of life.

DISCIPLINARY SITES AND PRACTICES Ever since the Oslo Accords, the Israeli regime no longer maintains disciplinary sites in the Occupied Territories. Prisons and

detention centers are meant mainly to isolate the inmates, rather than to shape them as disciplined subjects.²⁴ In their capacity as disciplining sites, prisons have paradoxically served the Palestinian rebels, and not the Israeli ruling power. Incarcerated Palestinian prisoners have used these closed disciplining sites to shape the disciplined subject of the Palestinian uprising. The disciplinary apparatuses functioning within Palestinian society are not subject to Israeli rule. As in an inverted mirror image of the way in which such apparatuses in Israel train and recruit their “subjects” for the struggle against Palestinians, the Palestinian apparatuses recruit their own “subjects” into the struggle against Israel (and since the Hamas takeover in the Gaza Strip, against Fatah or Hamas, respectively). They shape nearly every boy and girl, man and woman in whose lives they are involved into subjects who see this struggle as inevitable, as an arena of excellence, and as a vital dimension of any public activity.

Disciplinary practices are still maintained in nearly any encounter between Palestinians and the forces that exert withheld violence, and especially at the institutionalized points of friction: the checkpoints, questioning rooms, and whatever is left of the Civil Administration. But this disciplining—which takes place under absolutely illegitimate conditions set by the disciplining power—fulfills a local, ad hoc role. The Palestinians are taught how to behave when crossing a checkpoint, how to address an official in the district coordination office, how to gain benefits in detention cells. What the Palestinian learns in an encounter with the regime in one venue, however, does not teach him or her what to expect in other encounters in other venues. Moreover, he or she ought to learn precisely this: that it is pointless to internalize rules of conduct, for these constantly change and must be forever deciphered anew in every encounter with the regime. Only two things will be repeated in nearly every encounter: the absolute submission of the Palestinian to the agents of the Israeli ruling power and the need to relearn again and again what is expected in order to either please or avoid them. The sporadic disciplinary practices that do occur do not serve to teach the subject how to internalize the regime’s perspective and embody it in his or her relations with others when not under surveillance. More importantly, they do not construct a reliable subject. Quite the contrary, perhaps: The almost unlimited authority that security forces have to change the rules is a way to produce a subject that is inherently unreliable. Therefore, any unaccounted-for Palestinian is suspect and must be supervised. The rules of discipline, like the law, need the immediate presence of withheld violence. The judicial apparatus, as well as the disciplinary practices, cannot produce the “remote-control” effect that typifies disciplinary apparatuses in a modern state. Therefore, paradoxically, instead of reducing violence (at least withheld violence) by means of nonviolent governing apparatuses, any appeal to the letter of the law and to

disciplinary norms in the Occupied Territories requires the intensification of withheld violence, without which the law and disciplinary norms would be ineffective.

Under conditions of political stability, the main contributions of disciplinary apparatuses and ideological representation are to cause subjects to internalize the power relations and accept their position and status within such relations and to shape every individual as a subject of the ruling power. Without the rule of law, when power does not maintain effective disciplining sites or ideological mechanisms, the Palestinians in the Occupied Territories cannot be made subjects of the Israeli regime—blatantly unlike Palestinian citizens of Israel. The Palestinian is neither citizen of the regime nor submitted to it as *subjectus*,²⁵ and when he or she obeys, he or she does so only out of fear, neither willingly nor due to faith or conviction. He or she bows to a ruling power that, as far as the Palestinian is concerned, is the embodiment of arbitrariness. For the Palestinian, Israeli rule does not cease also to be an imaginary other who institutes the law. But as already stated, this is law that is impossible to internalize without the violent presence of the ruling power and impossible to formulate as an inner edict, even if one is willing to accept the absolute submission it involves, because it is impossible to formulate as a rule that appears ad hoc, sporadically, except the rule of hopeless arbitrariness itself, of violence that might emerge at any moment, anywhere. The subjects in spite of themselves, the noncitizens, who are ruled by means of violent force that suspends the law and that acts in ways that are unmediated do not internalize a thing. As far as they are concerned, power must always be overt, be just what it is on the surface of the area in its grip, in the endless game between the intensifying presence of withheld violence and the showcase instances of eruptive violence.

Without disciplining and ideological mediation, without legitimacy, when law is perceived as an arbitrary force that does not regulate violence, but that rather sanctions it, the ruling apparatus is called upon to empower the presence of withheld violence, to accompany it with eruptive violence (which, in addition to its specific purpose, is always intended to remind the subject what he or she might expect when "overstepping" and exactly what his or her place is in the relations of domination) and shorten the time needed to exert it. Instead of disciplining subjects or educating them, the ruling apparatus injures their bodies and possessions. Instead of punishing them in corrective frameworks when they resist (or are perceived by it as resisters, or as intending to resist), the ruling apparatus kills, bombs, and demolishes. The need for rapidity is expressed in a denser deployment of violence in the Occupied Territories and the absolute penetrability of the whole area to Israeli forces, regardless of the geographical or urban route of movement. This need has led to the development of new techniques of warfare in built-up areas, including razing and "swarming": The troops avoid moving in familiar

routes—familiar, also, to the Palestinians who might ambush them there—and proceed in as straight lines as possible, literally through house walls, equipped with gear and professionals whose purpose is to remove any obstacle in their way to their target. Anyone they encounter on the way—standing in or crossing the straight line that connects them to their target—risks being directly hit, risks his or her life. He or she will be injured for having been in the wrong place at the wrong time.

Still, mention should be made of the fact that most cases of destruction in the Occupied Territories—the razing and blasting of buildings, the digging of trenches, the laying of obstacles, the sealing of wells, everything that Amira Hass has called "weapons of light construction," which have totally changed the Palestinian habitat—all of them are not a result of an uncontrolled eruption of direct violence in response to resistance, but rather an outcome of the calculated use of tools meant to damage buildings, objects, and space without directly affecting humans.²⁶ The harm to humans is a byproduct of using these tools, but usually not its direct purpose. The rationale behind such harm is demographic: separating, assembling, and compressing populations, which at times includes transferring individuals or relatively small groups in what human rights groups have called "quiet transfer." Such acts are carried out by changing the law and using loopholes in it to make a population lose its residency rights,²⁷ or through the widespread destruction accompanying warfare and the creation of "buffer zones" close to fences in the Gaza Strip, or through space-shaping "civilian" enterprises such as the construction of the Separation Wall and the paving of bypass roads in the West Bank. The most expansive destruction so far was carried out next to the border at Rafah, where 116 houses were demolished during Operation Rainbow and 1,160 people had to evacuate the area. During this activity, 55 Palestinians were killed. This ratio—55 dead versus 1,160 people who were made refugees and forced to relocate—clearly expresses the relation between the means, violence, and the end, evacuating territory and transferring population.

The Israeli regime acts in the Occupied Territories first and foremost as a demographic ruling apparatus through the systematic separation of Jewish citizens (colonists, soldiers, and visitors from Israel) from Palestinian subjects, through the territorial separation of Jews and Palestinians, and through the separation of the various habitats of the Palestinians, a separation that has been progressively enhanced since the 1990s. Until the outbreak of the first intifada, this apparatus—first presided over by military governors and military administration and later by the misnamed Civil Administration and submitted to army commanders in the territories—consisted of various ruling apparatuses that were in charge of different aspects of the life of the dominated population: the economy and trade,

even causes Jews to mingle with Arabs. In short, from the demographic apparatus's point of view, eruptive violence has a dimension of lost control. All the more important, then, is withheld violence. This measured, precise presence of the security forces—along traffic routes, at checkpoints, in flash patrols, at the entrances of homes, the planned and meticulous combination of computerized soldiers and armed soldiers, of the magnetic card and the rifle, of passage permits and checkpoints that deny movement, of the sweeping blockage of movement throughout an entire region and the filtering of traffic by personal supervision of each and every individual passenger—promises maximal control by applying withheld violence at the lowest price. This is the price measured both in financial terms and (as we will explain) in human lives, both Jewish and Arab. There is an enormous price paid for Israel's primary, ruling resolution to separate citizens and subjects and to maintain in the Occupied Territories a ruling apparatus whereby relations between the two kinds of violence are neither regulated nor foreseen. But under the conditions created by this resolution, the apparatus of withheld violence is meant to maintain Israeli rule at the lowest possible direct price. This primary resolution is not self-evident. It constitutes the rejection of two other possibilities that always loom on the horizon: to withdraw from the territories occupied in 1967 and thus give up control of the local population or to annex the territories and naturalize its Palestinian residents.

VIOLENCE—PREVENTING VIOLENCE

The daily price that withheld violence demands of the Palestinians is exorbitant. As noncitizens, the Palestinians lack the legal shield that enables citizens to negotiate legally and politically the means by which they are ruled. Their access to the Israeli legal system is curbed, and the help it can provide them is negligible. Nor does the Palestinian—as a nonsubject—see himself or herself as a part of some social whole that the ruling power is supposed to represent. The Palestinian is a subject who only may submit or resist and force the ruling apparatus to intensify the presence of withheld violence or respond directly in violent eruptions. The persistence of Palestinian resistance shows an unusual degree of resilience in the face of such violence, which forces the apparatus to deploy its withheld violence ever more broadly and to instigate more frequent eruptions of direct violence. The Palestinians in the West Bank—and until the disengagement, in the Gaza Strip as well—cannot publicly display withheld violence for fear of its means being destroyed by Israel. The violence they direct toward Israelis is nearly always eruptive, for withheld violence has an overt, ongoing presence that is markedly lacking in the violence of the terrorist or guerilla warrior. The terrorist's violence is not

agriculture, health, infrastructures, education, traffic, communications, even welfare. Most government ministries were represented in these apparatuses. Budgets were allocated to deal with the Palestinian population, and various negotiation channels were maintained between residents and their local leadership and functionalities of the ruling apparatus. Care for the Palestinian population was limited, of course. Hardly any steps were taken to develop the Occupied Territories or Palestinian society in any realm, and measures were taken to curb their development in many realms. However, the occupation regime still bore minimal responsibility to administer a normal everyday life and to address particular problems that arose from time to time.

Since the first intifada, this apparatus has been retracted and has gradually deteriorated. The Oslo Accords gave responsibility for the governing systems in Areas A and B to the Palestinian Authority, while the services provided by the occupation regime to residents of Area C were further reduced. As the al-Aqsa intifada broke out, Israel nearly ceased any governing activity whatsoever that meant providing care for the subjugated Palestinian population. Since April 2002, Israel has been systematically destroying Palestinian administrative apparatuses. But the demographic apparatus has not been removed. It has only changed its purpose. It now works to hone and perfect the separation mechanisms and regime of movement that was implemented in the Occupied Territories sporadically since the First Gulf War, at times following the suicide bombings of the 1990s and systematically and continuously since the outbreak of the second intifada, in order to achieve as full as possible control and surveillance over the entire volume of movement of all Palestinians in the Occupied Territories. The regime of movement needs the classification, tracking, counting, and locating supplied by the demographic apparatus, and this demand creates an incessant supply of more and more "demographic" distinctions, some made on the basis of space (geographical location), others on biology (gender, age, state of health), employment, and "security"—a separate category that might, at any given moment, include any one of the other categories or all of them at once.

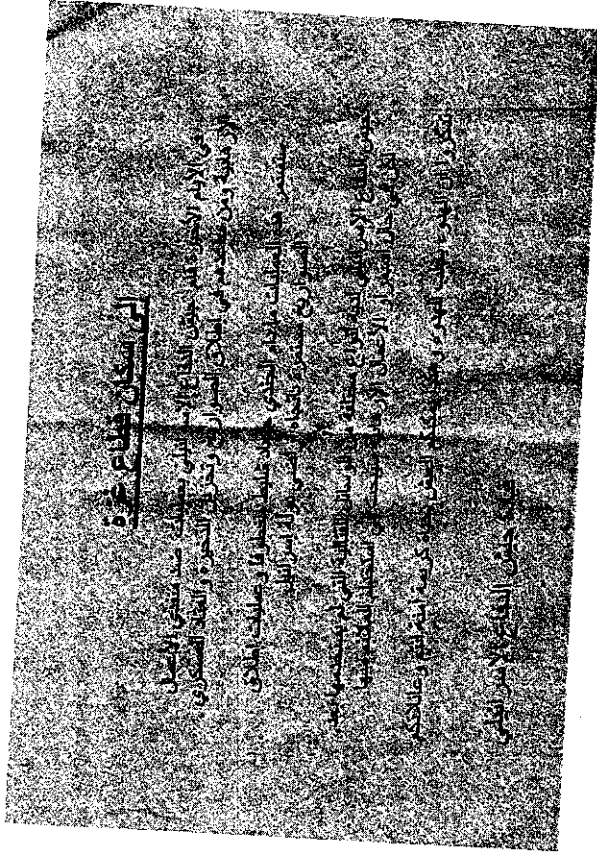
This is a highly perfected system that combines detailed spatial knowledge and detailed demographic knowledge, movement procedures and practices of classification, arrest, detention, and surveillance, investigation, reconnaissance, informing, incrimination, and more. Nothing in this system can exist without withheld violence, while eruptive violence tends to be used with caution and only up to a limit. Violence, when it erupts, disrupts movement arrangements, makes information gathering cumbersome, mixes up what has been sorted out and sorts out what should be mixed, makes it necessary to count again, to locate, classify, and reclassify. People disappear, while others appear unexpectedly, and at times, the system

associated with withheld violence, except as ever-present in the imagination of Israelis, which turns any Palestinian into a potential terrorist. In circumstances of absolute inferiority, both guerrilla actions and terrorism reflect the acknowledgment of weakness and an understanding that other channels of resistance (political, legal, or civil) cannot bring about any change in power relations. Under such circumstances, these two forms of resistance, especially suicide terrorism, provide the ruling apparatus with its principal excuse to intensify its use of violence, both withheld and eruptive.

The truth, however, is that most of the time, the majority of Palestinians are afraid to resist by resorting to withheld violence of their own. Since they also cannot totally give in to the dictates of the ruling apparatus, they try to survive through improvisation and manipulation, looking for ways out, smuggling, calculating the costs of daily activity, deciding every morning anew which path to take, how to dress for the inspection at the checkpoint, which permits to bring along, how to avoid encounters with the forces on the ground and how to address the soldiers. They must not be perceived as threatening, yet they cannot afford to remain without resources for coping with the situation. But this is precisely what happens to them all the time. They are forever suspect, at least as long as they retain their ability to speak back to the ruling power in its own tongue — force — and at times only for taking the liberty of a leveled gaze, and at any moment they might remain empty-handed. For the ruling apparatus, their resistance is not just their actions, but their mere presence, their insistence on staying.

According to the official Israeli conception, all Israeli mechanisms of violence active in the Occupied Territories are meant to fulfill "security needs," namely, preventing direct Palestinian violence against Israeli citizens. Observation of many of the situations in which the two kinds of violence are exerted shows that they were intended to prevent direct or indirect Palestinian violence against the ruling apparatus. Despite the fact that this is not a sovereign regime, and despite the fact that this regime does not operate disciplining venues, the ruling apparatus in the Occupied Territories maintains permanent, ongoing mechanisms of self-preservation, finalizing the form of power relations in the minds of the subjects. [See, for example, the leaflet on page 121.] Official Israeli spokespersons tend to ignore the possibility that the continuous massive exertion of violence, both withheld and eruptive, boosts violent resistance on the other side and that under the existing conditions of rule and in the absence of a tradition of civil disobedience, violent resistance tends to erupt time and again and is no less and sometimes more destructive than what the ruling apparatus successfully prevents. With every terrorist attack, official spokespersons hurry to announce that deterrence is never total, and as such, Israel has no choice but to persist in trying to prevent violent

A LEAFLET distributed in the Gaza Strip by the IDF following the abduction of the soldier Gilad Schalit, summer 2006.



To Residents of the Gaza Strip

In recent days, Israeli security forces took action against persons who engaged in terrorism and persons who aided them in firing missiles and in storing ammunition and weapons.

This activity will continue so long as Gilad Schalit remains abducted and missile fire at Israel persists.

Israeli security forces have a variety of combat means that have not yet been used. In the event that the acts of terrorism continue, use of the appropriate means will be considered.

Remember that quiet will bring quiet, enabling both you and your family to live your lives in dignity and security.

resistance, and journalists and politicians echo them repeatedly. Violence thus is presented as violence-preventing violence, as violence exerted in order to enable the apparatus to be the last one to exert violence and vice versa. But the latest violent eruption is always the last of an infinite series—another will follow shortly, a new “last one.”

The lull between one outburst and another has grown longer since 2005. Most Palestinian violence today is practiced by the relatively small Islamic Jihad organization and by Hamas, and it focuses on Israeli towns and villages near the Gaza Strip. But the dynamic has remained the same. Nearly every eruption of Palestinian violence provokes an outburst of Israeli violence and vice versa. The latest outburst usually creates the conditions for the next eruption, and thus again and again, ad infinitum. Victory will follow the latest blow, but the latest blow contains defeat (it, too, only temporary, of course), which will follow the next eruption of the other side. The real difference, at least as regards violence, is not between victory and defeat, but rather between more and less lethal and destructive show-case violence. By this token, the Palestinians are losing, naturally: 4,274 dead and over 30,000 wounded since the beginning of the intifada and until August 2007, as opposed to 1,024 Israeli dead and about 6,000 wounded.²⁸

Is there at least a connection between cause and effect, the means and the end? “Cause” should be understood here as motive: the motive to choose violence as a means. In both cases, the explicit motive explains only a small part of the outcome, and the effect is much greater than the end. In both cases, the decision to continue resorting to violence is not influenced by the extent to which violent means succeed in achieving the ends to which they were used to begin with (destroying terrorist infrastructure; destroying the Zionist entity, or at least scaring the Israelis into leaving the Occupied Territories). In both cases, the choice of violent means seems more affected by the place that the economy of violence takes in the political order of each of the sides and in its political imagination. On the Palestinian side, the issue is the struggle between Fatah, Hamas, and Islamic Jihad, on the one hand (the political order), and the role of violence in the reconstruction of the Palestinian as a subject of sovereign rule resisting the Israeli regime, on the other (the political imagination). On the Israeli side, the issue is choosing to administer the Occupied Territories by means of violence, rather than by other state mechanisms (the political order) and the separation of the territories from “Israel proper” as a form of containing the territories within the Israeli regime (the political imagination). The Palestinians resort to violence because they do not feel they have other effective means of removing the occupier, and their acts of resistance or terrorism express a refusal to make a distinction between the occupier as military force or as a civil force. Most Israeli soldiers and policemen

(but not necessarily most colonists) exert violence according to orders given by their commanders and those who authorize them. The instructions change constantly, however, leaving vast room for the judgment of officers and soldiers, who in time have become nearly immune to legal charges, even in cases of deviation from explicit instructions.²⁹ Violence is always justified by the need to preserve security, but “security” has become a general, abstract term that hides the fact that the ruling apparatus in the Occupied Territories exerts violence because the primary ruling resolution does not leave it any other means of controlling the Palestinian population there. Most of the Israeli public and its political leadership are willing—in the name of security—to accept the reduction of relations with Palestinians to various forms of violence and to live with the vast injuries inflicted upon Palestinian subjects, but also on Israeli citizens—a direct result of this reduction. They accept risking Israeli soldiers as self-evident and prefer to ignore the mental and moral damages that follow military service in the Occupied Territories.

Both parties in this struggle are in each other’s grip, conditioning each other, and the reacting force adopts the reasoning of the acting force, even as it attempts to free itself of the deadlock. But the relations between Israeli violence and Palestinian violence are not symmetrical, and not only because of the relations of submission and the obvious difference in armed might. In most cases, the Palestinians have neither the ability nor the means to respond violently to the violence exerted against them, and the violence that they do resort to erupts in places where they recognize openings in the web of withheld violence in which they are caught. This use of violence against Israelis is not the regime they wish to establish or the power by which they wish to be ruled. It is not meant to preserve an existing regime, but rather to free them of its hold. Therefore, it does not necessarily express recognition of the authority of central Palestinian ruling institutions or the authority of any regime whatsoever. On the other hand, when Israeli security forces apply violence, withheld or eruptive, they act on behalf of the state and as a part of it, authorized by it in the name of the law and for the preservation of law and order. In their actions, they assert themselves as subjects of this regime and endow both recognition and legitimacy both to the regime and to its ruling apparatus, to forms of exerting violence as well as to the models of justification that accompany it and the recruitment mechanisms that enable it.

Not all Palestinians resort to violence. The majority still try to act in a civil mode. A few of them still—or again—try to affect Israeli public discourse. Others pursue a legal struggle, and since petitions have been heard regarding the Separation Wall, they have known a few successes—whose significance is limited because the legal procedure takes years, and in the meantime, the ruling apparatus is free to act, and no one reimburses the victims for the damages inflicted upon them all that

of eruptive violence, a part of the natural order of things and a tool of domination that is used legitimately in order to supervise and regulate the subjects' lives. The ruling power will always describe its eruptive violence as an unavoidable response to Palestinian violence, whereas its withheld violence will be presented as an unavoidable substitute for "law and order" and as a preventive and defensive measure against the outburst of Palestinian violence.

In fact, the issue at hand is an apparatus of withheld violence and a parallel active apparatus of eruptive violence. Eruptive violence is often exerted independently of the visible forces that display their presence and yet withhold their violence. It emerges out of the blue and vanishes just as arbitrarily. It tends to appear and disappear without any evident rationale. Withheld violence is present, changes its deployment, or becomes invisible according to an explicit rationale that changes incessantly. Some of the rules of this violence may be learned and become familiar in time, while others must always be guessed anew. Civil struggle against withheld violence takes a clear toll: It cannot appeal against the illegality of the ruling apparatus. However, because of the semblance of legality that is still assumed in acts such as land dispossession or road blockage, it is still possible (in principle) to reduce withheld violence by judicial and political means. Eruptive violence, however, has no obvious link to withheld violence and if there are rules that guide it, they remain clandestine, and eruptive violence is thus all the harder to rein in, control, or resist in legal ways.

This economy of violence offers the dominated population countless opportunities to touch upon the threshold of eruptive violence. Thus it realizes the assumption on the basis of which the ruling apparatus functions: Every Palestinian is a possible source of eruptive and unbridled violence (terrorism)—if not right now, then yesterday or tomorrow. If not he himself or herself, then his or her neighbors and relatives. In the perspective of the occupation regime, the Palestinian by his or her mere presence is both an object of violence and an accumulation of withheld violence that is just waiting for the right moment to erupt. But unlike the flagrant presence of withheld violence that the Israeli regime exercises under a lawful façade, withheld violence on the part of the Palestinian is both forbidden and a challenge to such lawfulness and is thus necessarily concealed and requires efforts to be exposed. One needs to threaten, constrict, restrict movement and monitor it, penetrate in order to carry out surveillance, carry out surveillance in order to penetrate, make arrests in order to investigate and investigate in order to make arrests, ruin cultivated farmland (razing for the sake of exposing), impose closures and curfews. Violence-preventing violence produces violence just as much as it reduces violence. It constantly inflicts injuries on bodies, alive and inert, and destroys their common spaces. But it shapes new spaces and establishes

time. Moreover, many verdicts are not implemented at all, and the cases in which the state is obliged to change "facts established on the ground" are few and far between. They are the exception to the rule that reaffirms the rule and that actually enables it, since in every case where the local action of the ruling apparatus is condemned, the rest of the "facts on the ground" established and sheltered through withheld violence are condoned retroactively by the judiciary.³⁰ At the same time, as though not to leave any doubt about the futility of civil struggle, the army exerts unprecedented violence—both withheld and eruptive, spectacular—to disperse or altogether to prevent nonviolent demonstrations protesting the construction of the Wall, which have recently become very frequent. The Palestinians who take part in them alongside Israelis and international volunteers insist on developing modes of unarmed civil struggle, but the ruling apparatus seems to insist on preventing this, and every week it displays its force in new ways, using new tools to throw the civilizing arena back into the heart of the economy of violence.

What has happened since February 2005 near the village of Bil'in, where weekly nonviolent protests have been taking place, proves that the economy of violence, feeding on the terrorist attacks and expanding because of them, is similarly maintained without them.³¹ To this, one should add the many cases of random shooting at suspects, which has killed about 180 Palestinians—only 97 of them armed—in the time span between the Palestinian declaration of cease-fire and the disengagement from Gaza. The tag "armed" has long become a license to kill—meaning that at the slightest insinuation of possible Palestinian violence, violence-preventing violence is called for. Whether it will indeed emerge and in what form is subject to military considerations. Political considerations, on the rare occasions in which they are taken into account, might delay an eruption of violence or hurry it along, but in any case, they come only after the military need for action has been established. Legal considerations, if they enter into the picture at all, appear mainly in retrospect, when an action needs to be justified that inflicted greater "collateral damage" than expected.

Contrary to the popular opinion that "the merry-go-round of violence" is a direct result of terrorist attacks, Israelis do not resort to violence because they are subject to terrorism, but rather because using violence is a fundamental part of their ruling apparatus in the Occupied Territories, all the more so when they define the area as a war zone. Terrorist attacks and Qassam rockets change the intensity of reprisal, not its basic format: an endless game of withheld and eruptive, spectacular violence that depend on each other and feed off each other and that together compensate for the lack of other functioning ruling apparatuses. The division of labor between the two kinds of violence has no expression in the language of the ruling power, which tends to present its withheld violence as the opposite

new structures. It invents mechanisms and methods, sows anxieties and fears, beliefs and opinions, agents and dangers galore. This violence has a totalizing nature—without it, so we are told, everyone would be vulnerable. For its sake, everyone can be made vulnerable. It does not cease to act. It can hardly stop or accept agreements that declare a ceasefire. A pause in this cycle of violence always means just a longer stay at the pole of withheld violence—no attempt is made to stop the pendulum swinging between the two poles, hiding their simultaneous existence and thwarting every effort to construct alternative ruling apparatuses that should enable the sublimation of violence. In this economy of violence, violence is withheld without going through sublimation and erupts without any relief. The borders of this economy are temporary and fluid. Fencing is its permanent practice,³² but wherever necessary, it breaks walls and fences. No border is immune to it, and in fact, the entire dominated territory is subjected to its reasoning.

THE SUBSTITUTE

The distinction we have proposed here between eruptive and withheld violence echoes an important distinction formulated (and deconstructed) by Walter Benjamin when he differentiated “lawmaking” violence (through a revolution or coup, for example) and “law-preserving” violence (through police and military forces acting on behalf of the law).³³ However, ours is not congruent with his distinction, but rather crosses it via the concepts of eruptive, suspended, and withheld violence. One might thus say that our formulation is already contained in Benjamin’s: Lawmaking violence is always joined by vast eruptions of force acting directly upon bodies, whereas in law-preserving violence, force is both suspended and present in the form of the policeman or soldier, the billy club or the rifle, and such suspended presence is a necessary condition for the enforcement of law and the maintenance of “the rule of law” in all senses of this phrase. This is all true, but not sufficient. At any moment, violence constructing law anew must also be preserved as *withheld* violence, lest it dissipate before establishing the new political order. Law-preserving violence, on the other hand, always contains traces of eruptive violence, too, as Benjamin himself pointed out when discussing the police.³⁴

The duality inherent in both eruptive and suspended violence is displayed in the acts of the police that invariably both declare the law and participate in its reconstruction through the acts intended to preserve it, also preserving the law through the acts intended to construct it. However, this duality is precisely what cannot be attributed to withheld violence in the Occupied Territories. While the army or police violence to which Benjamin refers both constructs the law and preserves it, withheld violence, which we locate in the ruling apparatus, does not

construct the law, nor does it preserve it. It is not a tool of the law at all. On the contrary, the law is a tool in the hands of withheld violence. It uses the law to give legal guise—either in advance or in retrospect—to orders and edicts that give it shelter and sanction and that legitimize it in cases where legality is questionable. The situations in which we observe withheld violence are those in which the law is recruited to sanction an area not originally under its jurisdiction, where orders and edicts of one of the military authorities replace the law. Force is exerted under the authority vested in the military commander, and his actions are—in principle—under legal scrutiny, but that is precisely all that is left of legality. The authority vested in the ruling power to damage, destroy, and kill is vast, and its victims have almost no way of knowing the rules guiding the actions that harms them or how possibly to defend themselves against it. The law—as a differentiated sphere of texts and practices, the rules of which can be known a priori and whose players all enjoy essentially equal access to its resources and negotiating positions within it—this law is no longer applicable. It is suspended without any proper warning (therefore, one cannot speak of the violence involved as law-preserving), and no other law is constructed (therefore one cannot speak of it as law-instating violence), except for the ad hoc orders that contain the entire judicial and enforcement systems *in potentiam*, from the authority to arrest all the way through the authority to execute, barring any actual juridical procedure itself.

The violent struggle under such conditions is not for instating alternative laws or preserving an existing legal system, but rather to *preserve the suspension* of the realm of right as described here and the conditions under which such a suspension will persist within the law itself. The meaning of “suspending” the realm of right here is twofold—the preservation of territory from which the law has been withdrawn, and the preservation of the territory’s link with the law, its definition as a territory where the law has not yet been altogether retracted and where it exists through suspension. We are referring to the preservation of occupied territory as an emergency zone, an area that has been made exceptional and abandoned, but is constantly referred to by law as what has been taken out of the reach of the law: an abandoned no-man’s land.

We distinguish here between deferment (*hashivaya* in Hebrew) and suspension (*hashf’uya*). Deferment indicates a temporary absence of what may or might appear, or be realized, or vanish at any moment. In the meantime, its appearance or disappearance is deferred. Suspension indicates the declaration by a ruling or bureaucratic authority of the temporary inapplicability or in validity of a rule or a law, which themselves are not altogether canceled. Under “normal” conditions of rule by a lawful regime, when the need arises to exercise violence in order to preserve both the regime and the law, what is suspended, but not deferred, is “law

itself" (or the legislator's intention, or the constitution). Under normal conditions, every juridical clarification is based on the deferred display of "law itself," whose validity in a certain singular case is yet to be clarified. Any juridical ruling is a temporary apparition of the law, embodied in the ruled case, but this embodiment is temporary until the next court ruling, until the next controversy or the next case that will demand that the ruling be delayed and that the interpretation that had previously appeared clear and final be suspended. The deferred law and suspended interpretation are part and parcel of a properly functioning judicial system. They hover above bustling legal-interpretative activity like a seductive ghost, an unfixed signified over whose representation numerous signifiers are busy competing. Law-preserving violence — both withheld and eruptive — has to keep this signified hovering in order to maintain an open space for discussing the question "What does the law say?" But when civil law is suspended in favor of an elaborate system of decrees, procedures and ad hoc orders, the deferment of eruptive violence is a substitute for the role played by deferring the presence of the law itself in a proper ruling and judicial system.

Israeli law has crept into the Occupied Palestinian Territories through several channels: enforcement of Israeli law in the areas annexed to Jerusalem, but in a way that left the Palestinian residents of Jerusalem with the status of "permanent residents,"³⁵ a hybrid status between that of subjects and citizens; a gradual — by now almost full — application of the law to all Jewish colonies in the territories;³⁶ the authorization of the military commander in the territories (and some of his subordinates), by force of emergency regulations, to issue regulations and edicts that regulate the everyday lives of Palestinians there;³⁷ subjecting such authority to the juridical criticism of the High Court of Justice;³⁸ and finally, disarming such criticism by a long series of rulings in which the court avoids interfering in the state's considerations (such as on the issue of targeted killings) or sanctions them retroactively (such as the ruling to construct the Separation Wall beyond the Green Line). It would seem that the fact that the Knesset itself had applied the emergency regulations to the territories and is renewing their application every year, as well as the fact that the military commander's decisions are subject to criticism of the High Court of Justice, leave the Occupied Territories and their inhabitants within the jurisdiction of Israeli law. But in fact, this was also the way both to leave the Palestinians within the confines of the Israeli judicial system while ignoring their protection by international law and to keep them outside that jurisdiction, ignoring Israel's responsibilities as the actual sovereign in the Occupied Territories.³⁹

Both establishing rules and suspending them are validated by the emergency regulations that are supposed to regulate an exceptional situation, but have long

since become a permanent tool of control in a permanent state of emergency. In fact there is no permanent distinction between the rule and the exception to the rule, for the rule that applies to Palestinians in a certain matter at a certain place is itself the exception to the rule that applies to Israeli citizens in the Occupied Territories or to Palestinian residents in other matters in other places. Furthermore, the higher the level of violence — systematically, since the outbreak of the second intifada — the more decentralized is the authority to establish rules and suspend them, to make exceptions to the rule, or to act regardless of any rules under rapidly changing circumstances. Not just at any checkpoint, and not even in any encounter between the security forces and Palestinian subjects, but wherever such encounters are to be anticipated — namely, at any point where the security forces are or will be active — the local military commander and any of his subordinates have the authority to exercise their own judgment and break previous rules — under the circumstances.

With such conditions, when civil law is suspended and the subjects are defined as noncitizens, the escalation of withheld violence does not preserve the law, but rather replaces it. More precisely, withheld violence enables the system of rules and regulations, exceptions and ad hoc rulings, to replace the suspended judicial system while sporting a semblance of legality as well as while gaining sanction from time to time on behalf of the very same judicial system that has been suspended. Within that system, the differences between a regulation and a momentarily issued order and between the latter and an order on the ground have been almost completely erased. Eventually, the presence of withheld violence — the soldier at the checkpoint, the policeman at the inspection post, the troops securing the bulldozer — establishes the rule: where traffic stops, who is permitted to proceed, what is to be demolished. This rule has already been disconnected from the judicial system and lacks any legal rationale. It is indeed dependent on some haphazard accumulation of authorizations, partially known edicts, and regulations that are revised time and again "to suit operational circumstances."

Essentially, withheld violence can turn into an eruption of violence directed at bodies at any moment, but must not be considered in terms of unfulfilled potential. The potential of withheld violence is fulfilled in its noneruption at least as much as in its eruption, and in fact, the institutionalization of such violence marks a systematic separation of suspension and eruption. Usually, the people whose presence embodies withheld violence are not particularly adept at using the weapons they wield, and they make fairly rare use of them. One must not confuse the mentality and practices of the checkpoint with those of killing. If something goes wrong, they will summon others more skilled than themselves. Naturally, there are exceptions; soldiers at a checkpoint, like policemen on patrol, do occasionally

exercise direct force unprovoked. But such exceptions, however frequent,⁴⁰ are usually the result of overexertion in a lawless zone and of regarding lives as already abandoned. They have no systemic rationale and are sometimes simply perceived as a sign of a failure of the control system, indication that the apparatus is overburdened.

Essentially, withheld violence can be rationalized to a certain extent and might become the object of civil negotiation over "humanitarianizing" the regime of movement by placing officers in charge of humanitarian matters and introducing humanitarian training for checkpoint operators.⁴¹ One might always try to teach the armed forces to speak politely, respect others, take the trouble not to violate rights unnecessarily, avoid superfluous humiliation, and follow instructions as long as they are in force. The ruling power even expects the subjects to appreciate the protection they receive from these armed troops, for everyone knows that with their conduct—be it more or less rational, more or less polite—they are a buffer between the bare bodies of the subjects and the thing itself.

THE PERMANENT SOLUTIONS

The thing itself, whose nonpresence must be enabled and ensured—and if that is impossible, then its appearance should be mellowed or diluted—the thing itself is not the law, but an emergence of a different order. Violence in the Occupied Territories does not uphold the law, nor does it enable its nonpresence. Violence—both withheld and eruptive, in their unique interplay, with their typical division of labor—does not relate to the (suspended) law. The thing itself that violence both defers and suspends, this different order, may consist of an emergence of total lawlessness, of sweeping violence that threatens to destroy everything, or alternately, in the return of an entirely different law, the law that abolishes the state of occupation and makes the state of emergency obsolete. We would like to name this other thing "the permanent solution." The permanent solution is what continues to hover, ghostlike, over the entire economy of violence, just as law itself hovers over withheld violence in a normal civil regime. What is suspended is not only the realm of right, but also the declaration of total war—or, alternately, the total abolition of the occupation. Every local act of withheld violence, every act of control by means of suspension, draws its power from the ongoing suspension of the permanent solution. The permanent solution is a singular point that is composed of two opposite virtual states that might essentially develop equally in each of these opposite directions, and it is equally wary of both: annexation, naturalization of the Palestinian residents, and full implementation of the rule of law, on the one hand, and total war, on the other. These are two potential

"final" states of the ruling apparatus that constructs ruling relations and interferes with them by suspending/deferring their presence and "presencing" their suspension/deferment.

The occupation, essentially a provisional state, has become a permanent ruling structure, an entire system of power and a regime that already has its own self-preserving principle, the urge to remain just what it is: an Israeli occupation regime in the Palestinian Territories. So-called "temporariness" lends this structure its legitimacy, at least in the eyes of most Israelis, as well as those of most Americans, because it is utterly impossible to reach agreement—neither Israeli nor, of course, Palestinian or international—about either one of the two contradictory states that might replace it. The occupation protects the Israelis—but also the Palestinians—from something worse: a final regulation through war that would include Nakba-like ethnic cleansing and a final termination of the Palestinian national struggle or a final settlement through Israel's annexation of land and making the Palestinians its citizens.

The sophisticated use of withheld violence does have a restraining effect, but this restraint must be understood here in two opposing senses: as the restraining not just of Palestinian terrorism, but also of the Israeli power of destruction, not just as replacing the law, but also as preserving a "lawful" situation. The massive presence of withheld violence everywhere allows the suspension of an outburst of much more widespread military violence and the suspension of declared, total war. It enables the ruling apparatus to function lawlessly, without any judicial form, with no education or disciplining, but also *without war*. Such a war, were it to break out under the present circumstances, with the Palestinians lacking any kind of military force, would mean either their expulsion or their annihilation. It would lead to one or another form of "permanent solution" of the conflict, for the territories are already occupied, and there is no enemy regime to be defeated. But the Palestinians are not being annihilated, just as they are not being assimilated. They are neither eradicated nor made citizens. The deferment of full-fledged annexation is the flip side of suspension. Annexation would formally change the Israeli regime and by turning 3.5 million non-Jewish subjects into citizens, would force this regime to give up its proclaimed "Jewish" identity and perhaps recover its proclaimed "democratic" identity. Withheld violence replaces the law, but also maintains the constitutional framework that enables withdrawal of the law. And who provides for the Palestinians? They remain temporary humans who are a part of the state of Israel as its noncitizens, submitted to its military authority, nonsubjects on the threshold of both law and catastrophe, subjects and patients of a ruling apparatus, abandoned with neither care nor supervision.

POSTPONING THE WAR

The occupation was a result of a brief war between states, but the Golan was annexed and cleansed of its Syrian residents, and Israel withdrew from the Sinai Peninsula after the peace agreement with Egypt. Hence, the term "occupation" has applied only to the West Bank and the Gaza Strip. The all-out struggle against their Palestinian residents was consolidated into a total military campaign only after the Camp David peace talks of the summer of 2000 failed and the second intifada broke out, and even then, it was not war. Until the 1982 War in Lebanon, Israel managed to neutralize any political organizing and uprising in the Occupied Territories, as well as the influence of Palestinian national organizing outside the territories upon life within them. In 1982, however, on Lebanese ground, Israel fought a total war against the Palestinian national movement, explicitly intending to annihilate it.⁴² This war included a massive ground invasion, bombing heavily populated areas with aircraft and artillery, and a lengthy siege of Beirut, capital of a sovereign state. In this war, thousands of Palestinians and Lebanese citizens were killed, the civil and economic fabric of life in southern Lebanon was seriously damaged, and leaders of the Palestinian national movement and its official bodies were forced to leave Lebanon and settle for exile in Tunisia. James Ron distinguishes between administering a population of noncitizens in a "ghetto" and reckless war against a "frontier" population, and he identifies the Lebanese arena as Israel's frontier since the 1980s. But Ron does not stress the main issue in the context of the occupation: the 1982 War in Lebanon was meant to enable Israel to continue administering what he calls a Palestinian ghetto in the Occupied Territories. The war against Palestinians in Lebanon was meant—precisely like withheld violence in the territories—to replace war in the territories and to enable further control of the Palestinians there without naturalizing them, neither expelling nor annihilating them.

In the Occupied Territories, warfare has remained tentative. For many years now, the Israeli struggle against Palestinians living in the territories has been an all-out struggle—not just the takeover of a regime or land, annexation or dispossession, but a total change in the overall fabric of life of the Palestinians. This struggle has caused a transformation in Palestinian space and a drastic narrowing of Palestinians' freedom of movement within it by turning Palestinian territory into a mosaic of enclaves and compressing the population inside them. It has taken over the means of production and has interfered with the relations of production while denying access to various resources, systematically dismantling social institutions, and eroding the authority of others. But all-out struggle is not total war, in spite of the wide use of armed forces and various means of warfare and in spite of the various "operations" and, from time to time, the massive mobilization of troops. This struggle has never been conducted as a real war between two armies

or an army and a fighting population. At least not in the Occupied Territories.

Such an all-out struggle against an indigenous population is a familiar characteristic of colonization processes in different parts of the world, no less than the pendulum of relations between withheld and eruptive violence in which this struggle takes place. Under typical colonial European modes of control from the sixteenth until the late nineteenth centuries, all-out struggle did occasionally turn into total war: across North America and Australia, in South Africa, and throughout the Soviet Empire, entire regions were cleansed of their indigenous populations. "Natives" were crowded into reservations, their social frameworks shattered, their social strata collapsed, their family dynasties terminated, their cultures turned into laboratories for anthropologists and into a collection of folklore objects for tradesmen and tourists. The geopolitical conditions under which Israeli rule has been maintained in the Occupied Palestinian Territories since the late twentieth century, as well as the nature of Jewish Israeli society's recruitment into its colonization project (a recruitment often tormented, self-righteous, and full of contradictions), place enormous obstacles against any attempt to conduct the all-out struggle against the Palestinians in the Territories as a total war. In 1982, the first war in Lebanon could—just barely—be presented as a survival struggle in a way that never really gained widespread public legitimacy, because the PLO was presented as a hostile army posing a threat to the actual existence of the state, and a distinction was made (verbally, not necessarily on the battlefield) between the Palestinian national movement and the Palestinian population. In the Occupied Territories, such separation is impossible, or has been at least since the first intifada. Therefore, the struggle has to be an all-out one, but cannot—for the time being—be conducted as a war.

But this is not sufficient to remove the total war option completely. Total war hovers as a permanent option over any local confrontation and has turned into a routine issue in the discourse over necessary responses to Palestinian aggression in the Gaza Strip. Since preparations began for the "disengagement," Israel's spokespeople have never ceased their threats of total war if the Qassam rocket launchings resume or intensify.⁴³ These indeed have resumed and intensified, and have been followed by Israeli operations to eliminate Palestinian resistance. The threat of total war hovers anew over every such operation ("reoccupation" of the Gaza Strip in order to "drain the swamp," or "purge the area of terrorist nests"). There are plenty of examples. The military operations are often perceived and presented as preparatory actions for far more sweeping campaigns, still held back as contingency plans. An operation lasting several hours might eventually go on for weeks or months. At any moment, the number of detainees, the expelled, or the dead might double or triple. Instead of demolishing a row of houses in the heart

of a city, the whole city could be ruined. Instead of hundreds of dunams of farm land, thousands could be razed. But in the meantime, there are always political, moral, even military reasons for the decision not to extend the operation, in spite of the temptation to do so, reasons to postpone its second or third phase for the time being, to withdraw before the announced date and still assure us that "all our objectives were achieved." Total war and the utter disaster it would wreak are always kept as a distant threat, whereas the line between the reckless phantasm of violence and restrained violence actually exerted is drawn more flexibly than ever. The threshold of violence that the Israeli public conceives of as unbearable and unjustifiable is modified again and again according to operational circumstances, circumstances in which Palestinian terrorism plays an important role, but not a decisive one. As a result, more people are willing to comply and live with deeds that were previously regarded "inconceivable."

POSTPONING ANNEXATION

In order to understand this point, we should reiterate the regime's primary decision. In every modern state, this is a dual decision, both sovereign-judicial and demographic, that combines the legal status of various population groups and the regime's treatment of the lives of its subjects, respectively. The primary decision is the separation of citizen and noncitizen subject. The second decision is the choice between care for life and abandonment of life. Every such decision splits into further decisions between groups of citizens who are more or less defective in their citizenship and various types of care for life and abandonment of life.⁴⁴ The citizen is a participant in the political system. He or she has access to power and to the arenas where the struggle of seizing and shaping it takes place. He or she has "elbow room" for negotiating with the ruling power. The control that this power has over the citizen is mediated and limited by the law. Noncitizen subjects do not take part in the ruling power. They cannot legitimately struggle to seize it, have almost no access to it, their freedom to negotiate with the regime is most limited, and they are directly exposed to the control of armed forces, military and otherwise, that is exercised every so often when the law is suspended or entirely removed. Usually they are denied all possibility of organizing in alternative political modes for participation in the centralist game of the ruling power. Naturally, not all subjects are equally dispossessed and distanced from the ruling power (just as not all citizens have equal access to it), but even those who are totally dispossessed are still persons to whom the state apparatuses are not indifferent, working to control and administer their lives. The decision to abandon life and retract modes of life care that characterize the modern state might be directed toward (defective) citizens just as much as toward noncitizen subjects.

The Israeli reaction to the al-Aqsa intifada was the exacerbation of a process that had already begun during the period of the Oslo Accords: turning the state of emergency into a permanent condition, reducing the number of ruling apparatuses in charge of the lives of its subjects and (as a matter of security) diminishing their existence to the mere potential for terrorist activity that they embody, on the one hand, and to their mere survival (a matter of humanitarian concern), on the other. Until the outbreak of the second intifada, the Palestinian's political existence, as perceived by the ruling apparatus, was reduced to his or her status as a subject in the literal meaning of the term: he or she who is subjected or should be subjected to the ruling power. This reduction process has been ongoing and has intensified since the beginning of the second intifada, and it peaked during the "disengagement" from the Gaza Strip. The Palestinian ceased to be he or she who is subjected to power. His or her existence was reduced to that of a moving body that interests the ruling power in two ways only: as a humanitarian case, because of anxiety over the possible consequences (in Israel and abroad) of their (massive) death in a "humanitarian crisis," which forces the ruling power to let others — non-governmental and international organizations — provide the minimum conditions to keep the Palestinian alive, and as a suspect, a nuisance, a disturbance, or threat, someone who is placed as the recipient of withheld or eruptive violence. In any other sense, in the eyes of the ruling power, the Palestinian's life world has turned into a no-man's land. The Palestinian is not a subject, but rather an abandoned individual. The ruling apparatus treats the Palestinian with double irresponsibility. It abandons the Palestinian and shirks its responsibility for his or her condition, and it also treats the Palestinian irresponsibly when it shows interest in him or her as a suspect or even just as someone seen around suspects. This lack of responsibility, this act of abandonment, stems not from neglect, negligence, or failure. It is inherent, systematic irresponsibility that brings to perfection the separation between citizens and noncitizens, and between noncitizens ruled as subjects and those ruled precisely by being abandoned, ruled according to the ways and means of their abandonment.

The abandoning of Palestinians takes place between two death threats — the individual death of the suicide bomber and mass death resulting from a humanitarian disaster. The former threat is a pretext for containing the abandoned Palestinians within a ruling and surveillance apparatus more rigorous than ever before, while the latter threat is an excuse for making the area in which the abandoned Palestinians are enclosed accessible to welfare organizations the world over for active participation in the globalization of the conflict in general and for administering Palestinian life in particular. Although the Oslo Accords passed part of the responsibility for the administering of Palestinian life over to the Palestinian

Authority, Israeli reaction to the al-Aqsa intifada shattered the ability to function of that administration and placed the main responsibility for running Palestinian life on welfare bodies, nongovernmental organizations, UN agencies, and local charities, both civil-secular and religious. The ruling apparatus takes the liberty to deter and even sabotage the activity of these groups whenever it spots a threat to security, familiarly a sweeping consideration, while explicitly encouraging their activity whenever it fears an approaching humanitarian crisis. The Palestinians, especially those living in the Gaza Strip, constantly remain "on the verge of a humanitarian catastrophe."⁴⁵

The catastrophe is avoided for the same reasons that war is deferred, perhaps, but why are the Palestinians allowed to remain on the verge of catastrophe? Surely not for the same reasons that they are made to remain noncitizens. Denial of citizenship does not necessitate abandonment to disaster conditions, and as we have seen, for a long time, the occupation regime did treat Palestinians as subjects whose existence must be facilitated no less than their lives administered.⁴⁶ The first intifada, no less than a popular Palestinian uprising against the occupation, marked the emergence of a political space whose existence Israel had not previously allowed. In the Oslo Accords, Israel recognized this space and enabled its institutionalization. Thus it destroyed, in fact, though not officially, the option that had been left open in the first twenty years of the occupation: to naturalize the Palestinians and assimilate them into Israel's political sphere. Abandoning the Palestinians to disaster conditions, especially in the Gaza Strip, is a consequence not of the decision to deny them citizenship, but of the decision not to wage total war against them. Since the outbreak of the al-Aqsa intifada, creating disaster conditions has become a form of struggle with and control of the Palestinian population.

NOTES

- 1 This chapter is an excerpt from the third part of *This Regime Which Is Not One: Occupation and Democracy between the Sea and the River* (Tel Aviv, Resling 2008) (in Hebrew). Translation by Tal Haran. We would like to thank Michal Givoni, Miki Kratzman, Neve Gordon, Sari Hanafi, Ariel Handel, Udi Edelman, and Liron Mor for helpful comments and information.
- 2 Until the outbreak of the first intifada, Israel allowed Palestinian workers entry into "Israel proper," but after working hours, it drew the lines of separation shut again, with very few exceptions.
- 3 See Azami Bishara, "On the Intifada, Sharon's Aims, 48 Palestinians and NDA/Tajamu' Strategy," *Between the Lines* 3, nos. 23-24 (2003): pp. 3-16.
- 4 Jeff Halper, "Matrix of Control," *Middle East Report* 216 (Fall 2000).

- 4 Haggai Golan and Shaul Sahy (eds.), *Low-Intensity Conflict* (Tel Aviv: Maaracot—Ministry of Defense, Israel, 2004) (in Hebrew).
- 5 This regime is part of the Israeli regime, which also includes a more or less democratic system of government in "Israel proper," albeit a distorted one, hampered by the structural separation of and discrimination against Palestinians and other non-Jewish citizens. The present chapter is part of a larger argument about the nature of the Israeli regime, a regime that contains both democracy and occupation, and precisely for this reason "is not one." Ariella Azoulay and Adi Ophir, *This Regime Which Is Not One*.
- 6 Michel Foucault, "The Subject and Power," in *Power: The Essential Works of Foucault, 1954-1984*, vol. 3, ed. James D. Faubion, trans. Robert Hurley (New York: The New Press, 2000), 340. *Vis-à-vis* a long tradition of political thought, Foucault wishes to emphasize nonviolent means of control and administration and thus change the understanding of ruling power itself. The concealment of violence, justified in the historical and theoretical context of Foucault's writing, is unjustified in the present context.
- 7 Walter Benjamin, "Critique of Violence," trans. Edmund Jephcott, in *Selected Writings, Volume 1, 1913-1926*, ed. Marcus Bullock and Michael W. Jennings (Cambridge, MA: Harvard University Press, 1996), p. 236.
- 8 See also Michael Mann's classification of four sources of social power: ideological, economic, political, and military. Michael Mann, *The Sources of Social Power, Vol. 1: A History of Power from the Beginning to A.D. 1760* (Cambridge: Cambridge University Press, 1986), pp. 22-28.
- 9 On the dialectic between potential force and its eruption, see the classic discussion in Louis Marin, *The Portrait of the King*, trans. Martha M. Houle (Minneapolis: University of Minnesota Press, 1987).
- 10 We assume here Agamben's analysis of "potentiality." See, for example, Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford, CA: Stanford University Press, 1998), part 1, chap. 3, and *Potentialities: Collected Essays in Philosophy*, ed. and trans. Daniel Heller-Roazen (Stanford, CA: Stanford University Press, 1999), chap. 11.
- 11 See Neve Gordon, "From Colonization to Separation: Exploring the Structure of Israel's Occupation," in this volume. For data provided by B'Tselem on the first intifada, see http://www.btselem.org/english/Statistics/First_Intifada_Tables.asp (last accessed September 16, 2008). For data on the second intifada, see <http://www.btselem.org/english/statistics/casualties.asp> (last accessed September 16, 2008). For an army-related source, see <http://www.terrorism-info.org.il/site/home/default.asp> (last accessed September 16, 2008).
- 12 According to statistics provided by several Israeli and international organizations, Israeli deaths from suicide attacks have steadily decreased: from 230 in 2002 to 139 in 2003, 29 in 2005, 15 in 2006, and 3 in 2007.
- 13 See the archive of B'Tselem's reports on the Gaza Strip beginning in August 2005 at <http://www.btselem.org/english/ota/index.asp?WebbTopicNumber=30&image.x=44&image.y=14> (last accessed October 24 2008).
- 14 See, for example, Gideon Levi, *The Twilight Zone: Life and Death under Israeli Occupation* (Tel Aviv: Babel, 2004) (in Hebrew); Rema Hammami, "On the Importance of Thugs: The Moral Economy of a Checkpoint," *Middle East Report* 231 (Summer 2004). On water shortages, see Yehezke Levin, "Disputed Waters: Israel's Responsibility for the Water Shortage in the Occupied Territories," B'Tselem report, 1998, available on-line at http://www.btselem.org/english/Publications/Summaries/199809_Disputed_Waters.asp (last accessed September 16,

- 2008). On conditions at the checkpoint, see the nine-minute film *Qalanciya Report* by Tamar Goldschmidt, available on-line at <http://www.mahsanmilim.com/qalanciya-reportHE.htm> (last accessed September 16, 2008).
- 15 Michel Foucault, *Society Must Be Defended: Lectures at the Collège de France, 1975–76*, ed. Mauro Bertani, Alessandro Fontana, and François Ewald, trans. David Macey (New York: Picador, 2003), and *Security, Territory, Population: Lectures at the Collège de France, 1977–78*, ed. Michel Senellart, trans. Graham Burchell (New York: Palgrave Macmillan, 2007).
- 16 Louis Althusser, *Lenin and Philosophy and Other Essays*, trans. Ben Brewster (London: New Left Review, 1971). We question the position of Foucault, who rejected Althusser's concept of ideology, and propose to present Foucault's concept of *assujétissement*—shaping the individual as subject—as a critical interpretation and refinement of Althusser's concept of ideology.
- 17 In every respect connected with the responsibility for administering the life of Palestinians, Israel acts as though the Palestinian Authority were a foreign sovereign government. But whenever Palestinian governance matters touch upon Israeli presence in the Occupied Territories outside of Area A or upon any other issue defined as an Israeli interest, the control apparatus persists in its conduct as a sovereign. For its part, the Palestinian Authority, since the Oslo Accords, has established ruling institutions and supposedly maintains three functioning ones (a legislature, a judiciary, and an executive) under sovereign rule. However, in countless matters of legislation and government, customs, import and export, infrastructure, construction, industrialization, and, of course, enforcement mechanisms, its hands are tied. Amal Jamal, *The Palestinian National Movement: Politics of Contention, 1967–2005* (Bloomington: Indiana University Press, 2005). Since the outbreak of the al-Aqsa intifada, most of these matters are not addressed when the Palestinian Authority and Israeli rule come in contact. Encounters are mostly devoted to “security issues,” with Israel repeatedly demanding of the Palestinian Authority to play the role designated it by the Oslo Accords: to provide security services. Neve Gordon, *Israel's Occupation—Sovereignty, Discipline, and Control* (Berkeley: University of California Press, 2008). In any case, whether or not the Palestinian Authority has any role mediating between the control apparatus and the Palestinian subjects, this control is not implemented through legislation or law enforcement.
- 18 A case in point is the army's not opening Shuhada Street in Hebron in spite of an explicit court order to do so. See a joint report by B'Tselem and the Association for Civil Rights in Israel, May 2007, at http://www.biselem.org/english/Publications/Summaries/200705_Hebron.asp (last accessed October 24, 2008). Another is the army's shirking its instruction to dismantle a 41-kilometer-long low concrete wall built along a main road in the South Hebron hills. Amos Harel, *Ha'aretz*, July 24, 2007.
- 19 See Orna Ben-Naftali, Aeyal M. Gross, and Keren Michaeli, “The Illegality of the Occupation Regime: The Fabric of Law in the Occupied Palestinian Territory,” in this volume.
- 20 David Kretzmer, *The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories* (Albany: State University of New York Press, 2002); Aeyal M. Gross, “The Construction of a Wall between The Hague and Jerusalem: The Enforcement and Limits of Humanitarian Law and the Structure of Occupation,” *Leiden Journal of International Law* 19, no. 2 (2006), pp. 393–440, and “Human Proportions: Are Human Rights the Emperor's New Clothes of the International Law of Occupation?” *The European Journal of International Law* 18 no. 1 (2007), pp. 1–35.
- 21 Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt Brace & Company 1979), part 2, pp. 243–50.
- 22 For example, the army regulations regarding the opening times of the farming gates in the Separation Wall are breached on a regular basis. B'Tselem report “Not All It Seems: Preventing Palestinians Access to Their Lands West of the Separation Barrier in the Tulkarm-Qalqilya Area,” available on-line at http://www.biselem.org/Download/2004_Qalqilya_Tulkarm_Barrier_Eng.pdf (last accessed September 16, 2008).
- 23 We do not subscribe to Agamben's position in *Homo Sacer* on suspension of the law and abandonment of life per se, but suggest a more reserved formulation. See Agamben, *Homo Sacer*, pp. 83–85.
- 24 On prisons as the hothouse of the Palestinian uprising, see Lisa Hajaar, *Courting Conflict: The Israeli Military Court System in the West Bank and Gaza* (Berkeley: University of California Press, 2005), pp. 207–10.
- 25 See Étienne Balibar, “Citizen Subject,” in *Who Comes after the Subject*, ed. Eduardo Cadava, Peter Connor, and Jean-Luc Nancy (New York: Routledge, 1991), pp. 33–57, esp. 40–44.
- 26 Amira Hass, personal conversation, Van Leer Jerusalem Institute, April 2004.
- 27 Eyal Weizman, *Hollow Land: Israel's Architecture of Occupation* (London: Verso, 2007), chap. 7.
- 28 See B'Tselem's data on-line at <http://www.biselem.org/english/statistics/casualties.asp> (last accessed September 16, 2008). Since the ratio of the two populations is about 1:2, the real ratio of fatalities is not 4:1 but rather 8:1. This is an average ratio for the seven years from 2000 to 2007. In the last three years the ratio of death has changed quite significantly and is now about 10:1 (or 20:1 in relative terms).
- 29 This majority does not include small groups of colonists who violently assault Palestinians living and working next to their colonies. They regularly refute the Israeli ruling power's assumed monopoly on violence in the Occupied Territories. This phenomenon is so widespread that one cannot clearly tell whether it stems from helplessness on the part of law-enforcement authorities or from an institutionalized division of labor among the security forces and colonists' would-be militias. James Ron wrote of such division of labor in *Frontiers and Ghettos: State Violence in Serbia and Israel* (Berkeley: University of California Press, 2003), chap. 8.
- 30 Talia Sasson has elaborated on this in her report to Israel's Prime Minister Ariel Sharon on March 8, 2005. For the full report in Hebrew, see <http://www.pmo.gov.il/NR/rdonlyres/0A0FB93C-C741-46A6-8CB5-F6DC042465D/0/sason2.pdf> (last accessed October 2008). For an English summary see Talia Sasson, *Summary of the Opinion concerning Unauthorized Outposts* (March 2005), available on-line at <http://www.mfa.gov.il/MFA/Government/Law/Legal-Issues-and-Rulings/Summary+of+Opinion+Concerning+Unauthorized-Outposts++Talya+Sason+Adv.htm> (last accessed July 17, 2008).
- 31 For more on Bil'in, see Gadi Algazi, “Matrix in Bil'in: Colonial Capitalism in the Occupied Territories,” in this volume.
- 32 Ronen Shamir, “Without Borders? Notes on Globalization as a Mobility Regime,” *Sociological Theory* 23, no. 2 (2005), pp. 197–217; Yael Padan and Shuli Hartman, *Fences, Walls, and Environmental Justice* (Bimkom — Planners for Planning Rights, 2006) (in Hebrew), available on-line at <http://www.bimkom.org/dynContent/articles/walls,%20ofences,%20justice.pdf> (last accessed September 17, 2008).
- 33 Benjamin, “Critique of Violence,” p. 243.
- 34 The power of the police “is formless, like its nowhere-tangible, all-pervasive, ghostly presence in the life of civilized states.” *Ibid.*

- 35 As soon as these permanent residents leave Jerusalem, this permanence becomes temporary. Stein, *The Quiet Deportation*.
- 36 Amnon Rubinstein, "The Changing Status of the 'Territories'" (West Bank and Gaza): From Escrow to Legal Mongrel," Tel Aviv University Studies in Law 8 (1988), pp. 68-67; Menachem Hofnung, *Democracy, Law, and National Security in Israel* (Aldershot, UK: Dartmouth, 1996), pp. 229-37.
- 37 Shlomo Gazit, *Trooped Fools: Thirty Years of Israeli Policy in the Territories* (London: F. Cass, 2003); Hajar, *Courting Conflict*, p. 253.
- 38 The decision to grant residents of the Occupied Territories the right to petition the High Court of Justice was made shortly after their occupation. Kretzmer, *The Occupation of Justice*, p. 20.
- 39 Meron Benvenisti, *The Sling and the Club* (Jerusalem: Keter, 1988) (in Hebrew), p. 77.
- 40 Yael Stein, "Standard Routine: Beatings and Abuse of Palestinians by Israeli Security Forces during The al-Aqsa Intifada," B'Tselem Report, May 2001, available on-line at http://www.btselem.org/Download/200105_Standard_Routine_Eng.doc (last accessed October 2008).
- 41 Hagar Kotef and Merav Amir, "(En)Gendering Checkpoints: Checkpoint Watch and the Repercussions of Intervention," *Signs: Journal of Women in Culture and Society* 32, no. 4 (2007): pp. 973-96; Daniela Mansbach, "Protest on the Border: The Power of Duality in the Protect Practices of Machsom Watch," *Theoria ve-Bikoret* 31 (2008) (in Hebrew).
- 42 Baruch Kimmerling, *Politicide: Ariel Sharon's War against the Palestinians* (London: Verso, 2003), chap. 10.
- 43 See, for example, Amos Harel, "Preparations for the Third Round Have Begun," *Ha'aretz*, April 29, 2005; Ari Shavit, "Ya'alon: After the Disengagement, a Second War of Terror Is To Be Expected, with Bombings and Qassam Launchings against the Center of the Country," *Ha'aretz*, January 6, 2005; Aluf Ben, "The Second Qassam Test," *Ha'aretz*, September 9, 2005.
- 44 For the notion of "defective" or "impaired" citizenship see Ariella Azoulay, *The Civil Contract of Photography* (New York: Zone Books, 2008), chap. 1. For a thorough analysis of the system of differential citizenship in Israel, Yoav Peled and Gershon Shafir, *Being Israeli: The Dynamics of Multiple Citizenship* (Cambridge: Cambridge University Press, 2002).
- 45 The difference between the West Bank and the Gaza Strip, which has always existed, was exacerbated by the disengagement. The phrase "on the verge of a humanitarian disaster" was coined by Jean Ziegler, special envoy of the United Nations, whose report *The Right to Food* was presented to the UN General Secretary in September 2003. Under Israeli-American pressure, its original version was kept from the public, and it was publicized only in 2004 after certain sections were kept out. Similar data and expressions documenting a humanitarian disaster in the Occupied Territories have appeared in many reports made by various international organizations, as well as by foreign governments and parliaments. The proliferation of such reports is notable. The Occupied Palestinian Territories are probably one of the world's most widely documented disaster areas. See Jean Ziegler, *The Right to Food: Report by the Special Rapporteur*, Jean Ziegler, *Addendum: Mission to the Occupied Palestinian Territories* (2003), available on-line <http://www.unhcr.ch/pdf/chr60/1oaddzav.pdf> (last accessed September 17, 2008).
- 46 The reports of the military government and the Civil Administration from the 1970s and 1980s take much pride in their achievements in developing health, agriculture, public hygiene, employment, and more. See also Neve Gordon, *Israel's Occupation* and his "From Colonization to Separation: Exploring the Structure of Israel's Occupation," in this volume.

WITHHELD AND ERUPTIVE VIOLENCE Since the outbreak of the al-Aqsa intifada and after the situation in the Occupied Territories was classified an "armed conflict," the IDF ceased distributing the *Soldier's Pocket Booklet*, which specifies the open-fire regulations, to soldiers serving in the Occupied Territories. Although in the past, the IDF did not enforce the law on soldiers who injured or killed Palestinians in violation of the regulations, in recent years, an even more lenient attitude has been officially encouraged, with the rules for opening fire changing in place and time without obeying any written, clear, and binding regulations. The flexibility of the open-fire rules epitomizes a logic of military violence whose exercise is both systematic and calculated (from the point of view of the occupiers) and opaque, capricious and unpredictable (from the point of view of the occupied).