1 DANGEROUS POPULATIONS

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

THE POPULATION REGISTRY AND THE CHECKPOINT

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

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

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

ORGANIZING THE "ENLIGHTENED OCCUPATION"

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

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

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

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

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

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

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

COPY AND PASTE: COLONIAL EMERGENCY LAWS

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

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

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

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

THE CLOSURE

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

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

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

"CIVILIZING" THE OCCUPATION

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

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

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

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

THE OSLO ACCORDS AND THE "DOUBLE-HEADED" BUREAUCRACY

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

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

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

In the early 1990s, as migrant worker flows were expanding, nearly 40 percent of construction workers in Israel were Palestinians from the Occupied Territories. [27] While the migrant worker industry was intended to devalue and discipline Israel's local labor force, the Israeli policy of closure and separation applied to Palestinian workers provided the conditions for recruiting work migrants and turning them from temporary substitutes for Palestinian laborers in the West Bank into an inseparable labor force in the Israeli economy.[28] The policy of closure turned migrant workers into an instrument for managing the political conflict in the labor market. The dependence of Palestinians' livelihood on freedom of movement rendered the permit regime a powerful economic weapon for population management through distinction between labor and political status. The racial separation of Palestinian workers from other workers in the job market fed into the rigid hierarchy of the labor force in Israel, already characterized by ethnic stigmatization and stratification:[29] Jewish workers of European origin; Jewish workers of Middle Eastern or North African (Mizrachi) origin; Palestinian citizens of Israel; migrant workers; and at the bottom of the pyramid, which reflected the degree of protection the state provided for their labor rights, Palestinian workers from the Occupied Territories.

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

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

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

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

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

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

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

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

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

PEACE, DATA COLLECTION, AND CONTROL

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

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

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

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

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

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

THE ORGANIZATIONAL CRISIS OF "DECOLONIZATION"

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

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

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

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

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

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

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

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

THE BUREAUCRACY'S WEAPONS OF WAR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE ORGANIZING PRINCIPLES OF THE PERMIT REGIME

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

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

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

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

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

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

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

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

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

THE SPATIAL MATRIX

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

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

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

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

The introduction of limitations on movement and physical control over space turned permits into valuable documents, and their production transformed the labor offices in the Civil Administration from a dusty, neglected administrative system that registered less than half of the workers before the accords into a powerful apparatus for decision making on all aspects of Palestinian life. From the early 1990s, as closure was enforced, granting permits was subject to security consideration, which meant approval by the Shin Bet and, from 1995 onward, the approval by the police as well.

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

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

THE ISRAELI DOCTRINE OF MOVEMENT AS PRIVILEGE

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

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

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

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

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

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

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

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

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

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