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THE BUSINESS BEHIND ISRAELI SETTLEMENTS IN THE OCCUPIED PALESTINIAN TERRITORIES: A CASE STUDY OF THE SURVEILLANCE INDUSTRY

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ABSTRACT

This dissertation examines the profiting of Israeli and foreign companies from the Israel's settlement enterprise in the Occupied Palestinian Territory (OPT). By explaining the nexus between economy and Israeli occupation, the research engages with its main concrete realization: Israeli settlements. It argues that the settling of Israelis in the Occupied West Bank not only breaches international humanitarian provisions, amounts to war crimes, and implies several Palestinian human rights violations, but it is also part of a long-standing settler colonial project. In its interconnection with the neoliberal order, Israel's neo-settler colonialism opens the doors to foreign investments and turns Israeli settlements into sources of capital accumulation. Thus, several companies are exploiting these economic opportunities, by achieving a competitive advantage at the expenses of the Palestinian population. The objective of this dissertation is to investigate the business behind these Israel's residential zones, by highlighting who is profiting, what ethical obligations those actors should owe, and what the implications of their actions are. Whilst the harming nature of companies operating in Israeli settlements is well researched, studies on the solutions for holding these entities accountable in the said context are only partial. The research seeks to provide a comprehensive examination of the initiatives undertaken to enhance business accountability and of the extent of their efficiency in reducing the profitability and the political interests of Israeli occupation. By analysing the surveillance industry, this dissertation aims to narrow the focus of the overall findings while advancing a potential business case study in the field of neo-settler colonialism studies.

Keywords: Occupied Palestinian Territory; settlements; business; accountability; surveillance

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ACRONYSMS

AFPS: Association France Palestine Solidarité

AP I: First Additional Protocol to the Geneva Conventions

ATS: Alien Tort Statute

BDS Movement: Boycott, Divestment, and Sanctions Movement

BIRD: Israel-U.S. Binational Industrial Research and Development Foundation

CDG: Committee of Directors General

CSR: Corporate Social Responsibility

DG: Directors General

ESG: Environmental, Social and Governance

EU: European Union

EVS: Enhanced Vision System

GDP: Gross Domestic Product

HR: Hague Regulations

ICC: International Criminal Court

ICJ: International Court of Justice

IDF: Israel Defence Forces

IEI: Israel Export Institute

IGWG: Inter-Governmental Working Group

IHL: International Humanitarian Law

IV GC: Fourth Geneva Convention

MEIMAD: Leveraging R&D for Dual Use Technologies

MNCs: Multinational Companies

MNEs: Multinational Enterprises

NCP: National Contact Point

NPA: National Priority Area

OCS: Office of the Chief Scientist (OCS) of the Ministry of Industry, Trade and Labor

OECD Guidelines: Organization for Economic Cooperation and Development Guidelines for Multinational Enterprises

OPT: Occupied Palestinian Territory

PA: Palestinian Authority

PLO: Palestinian Liberation Organization

RICO Act: Racketeer Influenced and Corrupt Organizations Act

SIBAT: International Defense Cooperation Directorate of the Israel Ministry of Defense

TVPA: Torture Victim Protection Act

UAE: United Arab Emirates

UN OCHA: United Nations Office of the Humanitarian Affairs

UN OHCHR: UN Office of the High Commissioner for Human Rights

UN: United Nations

UNGPs: United Nations Guiding Principles on Business and Human Rights

USA/U.S.: United States of America

WASS: Wide Area Surveillance System

INTRODUCTION

What the worldwide practice has revealed is a deeper and deeper involvement of businesses, in particular corporations, in conflicts. Globalization has offered new opportunities for companies, including the unstable environment typical of conflict-affected areas, but at the same time has resulted in governance gaps that allow them to commit abuses without being punished. Their right to operate globally was well protected by investment treaties and free trade agreements, whereas their responsibility for the increasing human rights and humanitarian abuses lagged behind (Ruggie and Nelson 2015). Whether these powerful actors are direct perpetrators or "only" accomplices, whether with the intent of "only" benefitting from those dramatic situations or of maintaining that status quo, business enterprises have been increasingly commodified people's sufferings. The Israeli/Palestinian conflict is not an exception: there is a nexus between economy and Israeli occupation of the Occupied Palestinian Territory (OPT). Thus, the Occupation and its most concrete manifestation, the settlements, have become profitable for Israeli and foreign corporations, at the expenses of Palestinians' deprivation of basic rights.

Therefore, this dissertation aims to provide an explanation of the protracted occupation based on an economic perspective or, even better, by investigating the business behind Israeli settlements in the OPT: who is profiting, what ethical obligations those actors should owe, what are the implications of their actions. How Israeli settlements are synonyms of Palestinian's human rights violations, and how businesses are involved in this unlawful context are all well-known issues, covered by plenty of literature. The illegality of Israel's settlements under international law is on his way of reaching an international consensus – although some countries are still opposing this view -, like demonstrated by the ICJ in its advisory opinion *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. Consequently, the assumption that all business activities related to Israeli settlements would contribute to breaches of international human rights law and international humanitarian law is well founded and well researched. However, what is missing in the literature is a comprehensive analysis of the solutions implemented in order to hold companies accountable for their harm in the

OPT. The dissertation will seek to reduce this academic gap by arguing that even if corporate accountability is experiencing some quite favourable developments, the initiatives undertaken in that context appear not to be enough to reduce the profitability of "war" and the political interests behind it. To this regard, a deeper analysis will be provided on how accountability efforts are clashing with the reality on the ground: are they working or not, what are the factors underneath their lack of effectiveness? These latter will be the answers the thesis is committed to address. In order to better analyse the consequent results, the dissertation will narrow its focus on the surveillance industry's operations in the OPT, both highly profitable and highly devastating.

With this regard, it is necessary to contextualise the main research questions into the broader topic of Israeli settlements in the West Bank. The first chapter of the dissertation will then provide for a general analysis of this phenomenon. Thus, the thesis will examine the historical and political background that allowed the evolvement of the Israeli settlements throughout the years, crucial in order to understand the current situation in the OPT. The protraction of Israeli occupation, which now enters its 53th year, owes its "success" to the establishment of *schchunot* (neighbourhoods) designed to be purely Jews in the most strategic areas of the Palestinian territory. These residential areas are in fact a crucial tool to gain more land, to settle Israeli population in the occupied territory – which amounts to war crimes under the Rome Statute – and to delineate the physical space of the biggest "mega prison", where Palestinians are its inmates (Pappé 2017). This latter aspect will also be covered by the first chapter, with an analysis of the devastating nature that Israeli settlements have on Palestinian's human rights. Houses and lands stolen, unequal access to justice and legal protection, daily deaths and injuries are only few of the dramatic challenges Palestinians have to face every day, now even more pressing when considering Israel's Prime Minister Netanyahu's threat of annexation of parts of the West Bank.

The proliferation of companies profiting from Israeli settlements is not accidental, but it relates to the nexus existing between the occupation and economy. In order to better understand this relation, the second chapter will enter the core of the dissertation's main topic. To this regard, the intersection between Israeli settler colonialism project and neoliberalism's realization will be examined, since it enables the settlements to become a tremendous opportunity for capital accumulation, and as such, to attract business

presence (Clarno 2017). Companies are clearly benefiting from the discriminatory policies in place in the OPT, while at the same time maintaining the settlement enterprise and being complicit in Palestinians' human rights violations. As it will be analysed in the second chapter, this phenomenon turns out to be so widespread to touch several areas of involvement, whose borders are becoming more and more blurred. Therefore, the dissertation will critically delineate the normative framework that applies to businesses operating in occupied territories and that imposes international obligations not only on business but also on host and home countries. Generally, a positive trend to improve standards that regulate the conduct of business enterprises has been experienced at the international level, enshrined in provisions of international humanitarian and human rights law. Specifically, the *UN Guiding Principles on Business and Human Rights* and the *OECD Guidelines for Multinational Enterprises* are overall positive developments towards business' responsibility, by advancing important concepts like human rights due diligence.

Since the path towards binding international obligations for business enterprises has not yet come to an end, it is crucial to ensure in the meantime accountability for companies' abuses, especially in a context like the OPT where impunity seems prevailing. Therefore, the third chapter will analyse the main solutions undertaken by a plurality of actors to make business answerable for their role in maintaining Israeli settlements. To this regard, the UN OHCHR *Database on the business enterprises involved in certain activities related to Israeli settlements* "names and shames" the said companies. Other important initiatives are related to the civil society *Boycott, Divestment and Sanctions campaign* and to non-judicial mechanisms in the field of business and human rights like the National Contact Points, bodies established by the OECD Guidelines. Concerning corporate liability, despite the enormous difficulties, criminal and civil lawsuits have been opened by home countries in order to hold companies and their directors responsible for the harm done; moreover, recent studies have highlighted the possible role of the ICC to prosecute corporate executives for international crimes. Therefore, the aim of the third chapter is to critically analyse the strengths and weaknesses of the above-mentioned solutions to deter companies from persisting in exploiting the collateral damage of Israeli settlements.

The fourth chapter aims to apply all the main findings of the dissertation to the sector of the surveillance industry and its activities in Israeli settlements. "High-tech surveillance

technology, once the purview of sophisticated spy services in wealthy countries, is now being offered by private contractors around the world as part of a highly secretive multibillion-dollar industry" (Weinberger quoted in Zureik 2020: 224). Israel has been one of those countries able to profit out these new opportunities, by exploiting the continued state of war with Palestinians in the OPT and testing its surveillance products over Palestinian civilians. Therefore, the chapter will analyse the human rights implications of conducting surveillance on Palestinians, by referring also to the Motorola Solutions Israel and its U.S. Mother Company case, both listed within the UN OHCHR *Database on the business enterprises involved in certain activities related to Israeli settlements*. The international normative framework of business and human rights not only includes provisions that companies should pursue, but they are also reserved to host countries and home countries. Thus, the dissertation will seek to explain how Israel and the United States have implemented their responsibilities through the provision of solutions aimed at enhancing business accountability for their involvement in Israeli settlements.

Due to the strong evidence-based nature of the research, it will be supported by the combination of qualitative and quantitative data. Thus, in order to assess all the questions raised by the dissertation, the research will rely on a variety of tools coming from different actors and available in English, as public statements by governments and international institutions, reports, data and index collected by the United Nations and NGOs, and academic literature relevant to the matter. To this regard, in light of the political and controversial nature, it is worth noting that the dissertation will duly take into account sources belonging to both sides of the conflict. In this way, a neutral and objective narrative of the facts will be assured. Nevertheless, while dealing with the issues covered by the research it is crucial to problematize them rather than simply outlining: therefore, critical sources such as newspapers and magazines' articles will be used. Moreover, as primary sources the dissertation will rely on conventions, treaties, domestic legislation, and due to the business-oriented nature of the research, also on data and reports released by companies.

CHAPTER ONE - Israeli Settlements in the OPT: An Historical Analysis of the Phenomenon and Its Human Rights Implications

Over the past 53 years, Israel has been occupying the Palestinian West Bank, and before 2005 also the Gaza Strip. Since 1967, every Israeli government has upheld a policy of advancing the two main Zionist goals: controlling most of the historical Palestine while at the same time reducing considerably the number of Palestinians living in it. Therefore, since Palestinians could not be forcibly and massively expelled, two main parallel strategies have been implemented to prevent the formation of a viable Palestinian state. Firstly, Israel has taken over *dunams* after *dunams* of the most strategic areas of the West Bank through the establishment of settlements – neighbourhoods meant to be purely Jews -, whose intensity has waxed and waned over time but it has continued on inexorably. Secondly, the local population has been totally controlled with a range of restrictive measures designed to make their life unbearable, and to lead them eventually to leave.

The purpose of this chapter is therefore to provide an historical background of the Israel/Palestine conflict, while at the same time highlighting the human rights implications of one of the occupation's main realizations: the Israeli settlements. In order to do so, the first paragraph will be entirely focused on critically analysing the events that occurred since the first arrival of Jews in Historical Palestine until today. Specifically, this description will take into account the setting up of the biggest mega-prison in the world - whose conditions would vary accordingly to Palestinians' behaviour - and the delineation of a physical space to isolate Palestinians, carried out by fragmenting the West Bank and settling Jews through the creation of settlements. In light of these developments, the second paragraph will then provide an overview of Palestinians' conditions in the OPT, where due to Israel's multi-faceted policies economic struggle, violence, liberty restrictions, and double standards are occurring on a daily basis.

Paragraph One - A Historical Hint: Fifty-three Years of Occupation

I. The Inheritance of Early Zionism and Nakba

"Erect a Jewish state at once, even if not in the whole land. The rest will come in the course of time. It must come."

David Ben-Gurion, 1937[1]

The origin of Israel as a state dates back to the late XIX century. In order to escape from southern Russia's pogroms[2], Eastern European Jews emigrated to Western Europe, the Americas, and Palestine. Jewish settlers had been initially arriving in Palestine in two waves (*aliyah*): the first one, between 1882 and 1903, experienced the arrival of 20,000 immigrants; the second one, between 1904 and 1914, when 35,000 and 40,000 Jews reached Palestine (Kimmerling 2001). In the meantime, Zionism as a movement began to emerge in Europe. Among its priorities, there was the need to find a place where Jews could find refuge from anti-Semitism, and where Judaism could finally become a nationality. The solution was easier than expected: instead of settling foreign lands, they could have come back to their homeland, The *Eretz Israel*[3], the place where all began and where all Jews should return to (Morris 2018). Thus, historical Palestine appeared as the perfect occasion to find their place in the world while keeping alive the connection with their past and culture. Moreover, the creation of a Jewish nation in Palestine was backed by Britain, who clearly stated its support by issuing the Balfour Declaration[4].

However, in order to achieve a Jewish State and to enable Jews' settlement something urged: the control over Palestine and, consequently, over the persons living there – an

[1] Quoted in Kovel 2007:89.
[2] The fear of competition among the Southern Russia middle classes never let Jews integrate and assimilate. On the contrary, anti-Semitism took the form of bloody persecutory attacks, known as pogroms.
[3] Expression in Hebrew used for the Land of Israel.
[4] According to the letter from British Foreign Secretary, "His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavors to facilitate the achievement of this object". Original text available at: https://www.jewishvirtuallibrary.org/text-of-the-balfour-declaration.

issue that would later be dealt as the "Arab question" (Avi Shlaim 2012). At the beginning, the acquisition of land was not easy: Jewish settlers of the early stages were too weak either to rob or to governmentally expropriate Palestinian lands. The only option left to Zionists was the purchase, made it possible by the support of the wealthy Jewish philanthropists and of the World Zionist Organization[5] (Shafir 2005). Zionists were aware of the little coercive power that the Jewish community had in Palestine, compared to the more numerous Palestinian population that was still claiming its natural right to sovereignty over the territories. Because of this consciousness, demography began to matter: Jewish settlers must grow whereas Palestinians' presence must be reduced (Short and Rashed 2012). In this way, Jews would reach a more favourable position to negotiate on the future of their State in Palestine. Or not negotiating, by adopting the line of building and maintaining an "iron wall" against Palestinians. In this sense, building an "iron wall" was first theorized by Jabotinsky to symbolically express the recourse of military strength when dealing with the "Arab problem" - the cornerstone of Israeli government strategy from 1948 onward (Avi Shlaim 2012).

More lands were required: by 1948, the Jews were able to own only 7% of Palestine (Shafir 2005). Nevertheless, that year revealed to be the best time to carry out the Judaization of Palestine. On 14th May Ben Gurion – primary national founder of the State of Israel and its first Prime Minister – issued the *Declaration of the Establishment of the State of Israel*, the coronation of Zionism's victory. By equating Eretz Israel to the whole territory of the British Mandate Palestine, the newly created Israel State was however violating the 1947 United Nations (UN) partition of Palestine into two Independent Arab and Israel State[6] (UN Human Rights Council 2013). The Arabs did not accept it, and they went to war: the 1948 conflict began. Backed by a superior military strength, Israel had now the power to set and impart its rules, whose mainly foundations were land expropriation with force, and getting rid of the Palestinian population. In a nutshell, perpetrating an ethnic cleansing. With this aim in mind, a series of military plans that later

[5] It was the official body of the Zionist movement, established in 1897. In order to nationalize acquired Palestinians lands and sublet them to Jews, the WZO set up the Jewish National Fund in 1901.

[6] Tired of dealing with the growing tension between the Jewish population and Palestinians, Britain handed the whole question over the United Nations General Assembly. With its Resolution 181, the body opted for a Jewish State on the 55% of the territories, even if Jews owned only 7% , and the Arab State on the remaining land.

converged on the March 1948 *Plan Dalet*[7], were already designed to conquer and expel most Palestinians from the country (Khalidi 1988). The result was the following *Nakba,* the "Catastrophe": a combination of large-scale intimidations, laying siege to villages, bombing neighbourhoods, setting fires to houses and fields, forced expulsion, and installation of TNR in the rubbles (Pappé 2017). At the time of the 1949 Armistice, Israel had seized 77% of the land, but at the expenses of the 700,000 Palestinian Arabs who were uprooted from their homes and refused to return (Morris 2018). Furthermore, thanks to several favourable circumstances – such as, the British withdrawal from Palestine, the impact on Holocaust on the western public opinion that reflected into a pro-Zionism coalition within the UN, the disarray in Arab and Palestinian world, and the crystallization of a particular Zionist leadership - the Jewish settlers succeeded in having their country with a Jewish majority (Pappé 2017).

Notwithstanding this clear victory, a feeling of dissatisfaction was perceived within the Israeli society: the West Bank was in fact excluded from occupation, and Judea and Samaria - as the cradle of Judaism - were places of historical and religious importance for Jews. Consequently, their exclusion would have impaired the project of a *Greater Israel*[8] (Morris 2018). It was a missed opportunity. From now on, each occasion would be used as a pretext to adopt a provocative behaviour towards the Arab neighbours, in order to atone for that big national mistake. As stated by Livia Rokach – daughter of a Zionism's pillar, who had an intimate knowledge of other famous Zionist members –: "towards this end it may, no –it must – invent dangers, and to do this it must adopt the method of provocation- and-revenge .. and above all – let us hope for a new war with the arab countries, so that we can may finally get rid of troubles and acquire our space" (Pappé 2017: 16). Israel in fact succeeded in creating several moments of tension on its borders, while waiting for the best opportunity to act. It arrived in 1960, when the Rotem crisis exploded in the no men's' lands at the border with Syria: luckily, the UN allowance of Nasser intervention in defence of Egypt and Syria, and the American willingness to curb Israel's expansionist project, deterred Israel to advance a war (Uri Bar 1996). However, Israel was ready: the army was prepared, a consensus on the need to go to war

[7] Original text available at: https://www.ampalestine.org/palestine-101/history/original-documents/text-of-plan-dalet-plan-d-10-march-1948.
[8] English translation of Eretz Israel. This expression is commonly used to encompass the territory of the State of Israel together with the Palestinian territories.

developed, and panic among the media was disseminated. As a result, again in 1967 the provocative behaviour in the eastern border[9] led to the escalation of tensions once more: as a result, Israel attacked Egypt to "pre-empt an attack", Jordan intervened, and the Six-Days War began (Segev 2005). It was not a self-defence war for Israel since the hostilities could be avoided[10]: an option that Israel chose to ignore in light of advancing 1948 dispossession.

As a proof of the ideological drive behind the 1967 War, members of the legal section of the army, academics of the Hebrew University, and officials of the Ministry of Interior started to meet in 1963 to discuss and prepare the occupation plan (Pappé 2017). Certainly, one of the major issues was to find a solution to the West Bank's Palestinians, since this time "regrettably Palestinian would not flee" and, thus, Judaization of Israel would be at stake (Ben Gurion quoted in Pappé 2017: 21). Therefore, those four years of preparation enabled Israel to find the formula that reflects the fundamentals of Zionist ideology – respectively, keeping the territories it gained without annexing the people it negated - while safeguarding Israel from international condemnation: i.e., the biggest mega-prison in the world, which will remain in place for the next 53 years.

II. Setting up a Prison – The Open Air Model

"I understand… you covet the dowry, but not the bride."

Levi Eshkol, 1937[11]

[9] This provocative attitude took the form of no men's lands between Israel and Syria, the attempt to divert river Jordan into its own water system, and the reprisals and attacks to solve some Palestinians'groups guerrilla activities. Among the latter, the dramatic episode at Samu that resulted in the destructions of a hundred homes, the death of three villagers and Israeli and Jordanian militaries, and the injuries of 96 people (Bunch 2008).

[10] A statement by Rabin revealed that Israel knew Nasser's intentions did not include a war: ""I do not think Nasser wanted war. The two divisions that he sent to Sinai would not have been sufficient to launch an offensive war". He knew and we knew it" (Pappè 2017: 30). Moreover, Israel Foreign Minister Abba Ebad flew to Washington on 25th May to understand US position on a possible Middle-East war. On that occasion, American leaders assured him that Egyptian deployment in Sinai remained defensive ad there was no intention to attack in the next 48 hours (Oren 2005).

[11] Quoted in Gordon 2008:29.

The dowry was the land that Israel occupied in June 1967, whereas the bride was the Palestinian population. After having inflicted a crushing defeat on the Arabs, and having conquered Sinai, West Bank and Golan Heights, the Zionist goal of a "Jewish state in Palestine, Jewish independence, the creation of a Jewish majority, and the consolidation of Jewish power" appeared to be completed (Avi Shlaim 2012:84). Nevertheless, the almost one million Palestinians residing in the West Bank and Gaza Strip could have threatened the demographic dream to have a Jewish majority. Furthermore, when Israel had realized that international community would not support mass expulsions one more time, he was somehow short of options[12]. Hence, the solution to balance the trade-off between geography, demography, and not granting citizenship: i.e. maintaining control over Palestinians through their isolation in a mega prison. Like in every prison of the world, behaviour became the variable for their life conditions: behave properly and you will experience an open-air prison, where a sort of autonomous life is permitted; resist and you will face the maximum-security prison, with no autonomy, harsher punishments, and restrictions (Pappé 2017). In other words, the mega prison's project is the practical realization of the "carrots and the sticks" policy, which will result in the "voluntary" flee of Palestinians from the occupied territories.

Military rule was extended also to the 1967 Palestinians, and the setting up of this machinery of control was left to the discretion of the army. Maintaining a mega prison would have not been possible without the bureaucracy of the occupation. From the very beginning of the occupation, it governed every aspect of Palestinian lives and was structured in a way to treat them as dangers (Shenhav and Berda 2009). Unless, of course, they succumbed to Israel's plans. At the top, there was the *Committee of Directors General* (CDG) made up of all the DGs of the ministries relevant to the occupation. This body eventually survived to the conversion from military rule to the Civil Administration

[12] The international community was already alarmed for the annexation of East Jerusalem, act that derived from the consensus from both sides of the Israeli political spectrum. Moreover, despite mass expulsion in its totality could not be an option, there is evidence that Israel carried out a policy of partial expulsion in the first years of the occupation in order to downsize the population. According to governmental and UN documents, massive demolitions of houses, deportation of people, destruction of villages took place (Pappé 2017).

that occurred in the '80s[13]. This turning was only a façade to show a more human face of the occupation: every action of the Civil Administration had to be approved by the *Active Coordinator in the Territories*, who was appointed among the generals of the army (Gazit 2003). Furthermore, the heart of the bureaucracy of the Israeli occupation lied on the separation role of the law and its ability to organise time and determine control and space (Shenhav and Berda 2009). In the first place, Palestinians had to be "separated" from their own land. By following Shagar's rationale - whereby the West Bank is not an occupied territory because it was not part of a sovereign state and, as such, the *Fourth Geneva Convention* could not apply - Israel upheld this focus on the status of the land rather than the population, i.e. Palestinians and their right to self-determination (Gordon 2008). On the contrary, the adoption of the *Hague Regulation* of 1907 would have been useful to maintain some of the laws already existing in the territories, especially the *British Mandatory Emergency Regulations of 1945*[14].

The latter represented the legal basis for the military governor's unlimited control over every aspect of Palestinians lives: in particular, he had the power to expel the population, to use pre-emptive measures and administrative arrests, and to summon any citizens in a police station (Pappé 2017). This inheritance of the British, combined to Jordanian laws - only those that advanced Israel's aims were maintained - and Israeli military orders, composed a complex legal system that applied to West Bank Palestinians, far exceeding the concern for security of its military forces, completely arbitrary and based on a day-to-day management. Whenever the circumstances required, the decrees issued by the military commander could cancel existing laws and create new ones, and could regulate any matters, including movement, planning, education, welfare, health, and fiscal ones (Gordon 2008). This patchwork of laws was the legal infrastructure that allowed creation of military courts, where Palestinians would be arrested without trials, abused and sent to torture. In few words, Israel was committed to show a "rule of law" and "justice"

[13] The abolishment of military rule meant the end of the "temporary" occupation and a de facto annexation of the occupied territories to Israel. The international community with its approach "don't ask , don't tell" did not halter this process (Pappé 2017).

[14] According to art. 43 of the Convention IV respecting the Law and Customs of War on Land, the occupant shall maintain public order and safety "while respecting, unless absolutely prevented, the laws in force in the country". Moreover, it is interesting to note how dual system was in place between international norms and Israeli law: when Israel had to justify some wrongful acts it was on the basis of the powers attributed by international norms as an occupant; on the other hand, when Israeli colonization was hampered by international laws, domestic laws were invoked.

approach to Palestinians, which in reality was not aimed at protecting the individual from the powerful sovereign, but to maintain control and to legalize Palestinians' discrimination and exclusion. When crossing the Green Line, another legal system was in place, where the never-ending issuing of decrees to set the terms of the mega prison.

During the first twenty years of occupation, there was the attempt to establish an open-air prison, where the "carrots" prevailed over the "sticks"[15]. It was still a prison, with a punitive nature embodied by isolation, arrests, and demolitions of houses; nevertheless, at the same time, some kind of reward was offered to Palestinians in exchange for their lack of active resistance. The Israeli policy towards Palestinians, that followed the path designed by Minister of Defence Moshe Dayan, may be summarized with three principles: inconspicuousness, non-intervention (by the Israeli administration), and open bridges (Gazit 1999). The authority was delegated to local municipalities and councils: in this way, the occupation would not be seen but felt. Furthermore, in order to make the Palestinian population docile, it was crucial to raise their standards of living. Thus, the Israeli and Palestinian economy became integrated[16], and the economic productivity of Palestinian farmers was sustained by services aimed at saving crops and preventing the death of livestock (Gordon 2008b). The economy of the OPT grew incredibly during those years, but their development was still obstructed by the bureaucracy machinery's obstacles. However, what mattered to Palestinians at that time was the access to opportunities that were not available before. For instance, Israel allowed colleges to become universities and the movement, even if limited, enabled daily commuters to move freely on the main roads (Pappé 2017). Therefore, it appeared that there was the potential for a different reality to develop, but Israel's real intentions became clearer when the Palestinians started to oppose the open-air prison.

Under the rule of the Labour Party in the first ten years of the occupation, almost no Palestinians' resistance was met. The fact that the 1973 War did not lead to popular unrest was a good sign that the prison system was actually working. Nevertheless, it took time for the impacts of the Left policies, aimed at making the occupation continuing as long

[15] According to the carrot and stick policy, the provision of normal services (the carrots) are reward for good behaviour whereas resistance was met with collective punishment (the stick)

[16] Israel found in the West Bank a market and a tool to trade with the Arab World; in exchange, the cheap Palestinian work force was absorbed into the Israeli economy. Despite the concrete benefits that might have achieved, in the long term this economic policy led to a one-sided dependency.

as possible, to be felt. They became more evident when the Likud party came to power in 1977: the State-led dispossession of Palestinians, in terms of houses 'demolitions and lands 'expropriation, and the endless support to settlers turned into a more aggressive colonization[17](Pappé 2017). The growing harassment of the settlers' community towards Palestinians was another instrument of control and a tool to make their life unbearable. The only concrete possibility of negotiations in twenty years of territorial maximalist Prime Ministers – i.e. Israel-Egypt peace agreement, and the consequently 1978 Camp David Summit – failed with a reaffirmation of Israel's full sovereignty over the OPT (Avi Shlaim 2012). As a response, the Palestinian Liberation Organization (PLO) started to become more aggressive in making its voice heard. Israel, in turn, understood that in order to facilitate the absorption of the West Bank, Palestinian nationalism must be destroyed, both inside and outside. Thus, the time has come for deploying disproportionate use of force in a war that included the 1982 invasion of Lebanon, and in a punitive approach within the West Bank that would precede the overall uprising of the harassed Palestinians[18]. Still, the prevailing position was "no to withdrawal from the Occupied Territories, no to recognition of the PLO, no to negotiations with the PLO, and no to a Palestinians state" (Avi Shlaim 2012). It seemed therefore that on the eve of the First Intifada, the uncompromising attitude towards any kind of negotiations with the Palestinians, and the strengthening of the hardships paved the way for the collapse of the open-air prison.

III. The Failure of the Iron Wall Policy: the Maximum Security Prison

"We will teach them there is a price for refusing the laws of Israel".

[17] "Less lands for Palestinians and more lands for Israeli settlers" was a policy already in place under the Labour governments. However, when the Likud party came to power, the Palestinian dispossession was not hidden anymore under the pretext of military necessity and the government's ties with the settler movement, Gush Emunim became stronger. Therefore, the commitment to provide a solution for the socio-economic problems of the Mizhari and the Ultra-Orthodox Jews, and to fulfil the dream of a Greater Israel, became the main drivers behind a more aggressive colonization.

[18] The Minister of Finance Gad Yaacobi stated Yacobi stated that it was not a policy in retaliation of Palestinian resistance but only a way to accelerate the "creeping the facto annexation" (Pappé 2017: 167).

Yitzhak Rabin[19]

"During the six-year period 2001 and 2007 Israel has, on average, killed more Palestinians per year than it killed during the first 20 years of occupation" (Gordon 2008b:27). The resort to force has always been a constant in the history of the relations between Israelis and Palestinians: the Iron Wall policy, which has characterized the Israeli government strategy from 1948 onward, calls for achieving a strong power through military strength, as a mandatory step to live in peace as good neighbours[20]. The degeneration of this policy revealed all its harshness when Israeli imposed the maximum-security prison model, and the outbreak of the First Intifada (uprising) turned out to be the perfect moment to implement this shift. Thus, the Palestinians non-violent uprising, made up of civil action and resistance, was dealt with excessive and, even more dramatically, punitive violence. The Israeli reaction was so violent to shock the international community, and so, to break the immunity created around Israel's actions with the UN Security Council Resolutions 607 and 608[21].

Nevertheless, international condemnation did not refrain Israel from killing 1,000 Palestinians, arresting more than 120,000 Palestinians, and inflicting its anger on women and children during the six years of the Intifada. The punitive actions turned into a daily routine thanks to the contribution of the Civil Administration. The movement was restricted with such an intensity to heavily harm Palestinian financial, social, commercial and political life. Any elementary activities like working, studying, building and trading required a permit, issued only if physically present when requesting it, and not exceptionally withheld or denied. Closures and curfew became more and more frequent, justified by a variety of pretexts that never matched the real reason. State-led brutality implied high levels of demolitions of houses, the destruction of the rural resources, and the redirection of water in a way that Palestinians could not have access to it. The Israel Defence Forces (IDF) changed functions: they increasingly resemble death squads, by

[19] Quoted in Pappé 2017:190.
[20] More information available at: http://en.jabotinsky.org/media/9747/the-iron-wall.pdf
[21] The above-mentioned resolutions called Israel to refrain from deporting Palestinian civilians and to respect international law. Resolution 607, available at: http://unscr.com/en/resolutions/607; Resolution 608, available at: http://unscr.com/en/resolutions/608

carrying out mass arrests, systematic abuses and torture (Pappé 2017; Kadman 1998). Therefore, if in the first phase of the occupation Israel's intention was to rise the Palestinian quality of life, now it was making everything in its power to follow the opposite direction. Besides, Israel used the six years of the First uprising as a formative period, by testing this repertoire of evil and turning it into a daily routine for the following decades.

If the First Intifada succeeded in exposing the occupation for what it was, the Oslo Process normalized the occupation once again. Clearly, the 1967 victory gave Israeli that favourable position that would enable a political resolution to the Palestinian problem. However, it was only with the return to power of the Labour Party in the early '90s that for the first time serious negotiations were undertaken. The Oslo Accord in 1993[22] was a contradictory process. On the one hand, it succeeded in entailing PLO recognition of the Israel's right to exist and Israel recognition of the PLO as the Palestinian representative, and in showing a commitment to resolve their disputes peacefully (Avi Shlaim 2012). On the other hand, it was unfair and would have meant an unequal effort from each side: by excluding important issues from the negotiating table, Palestinians had to give up on self-determination, on Jerusalem, and for the first time on its refugees' right to return. Except for Jerusalem, they all became uncertain issues to be discussed during the final negotiations, only on the condition that the Palestinian Authority (PA) could prove to work effectively as a security sub-contractor (Said 1996). Several contradictions permeated not only the talks but also the facts on the ground. Although there was a sharp decrease in the daily frictions between Israeli security forces and Palestinian residents, more settlements were built , the first checkpoint system was experimented in East Jerusalem, and a permanent closures of the OPT was imposed (Carmi 1999). In few words, the only concrete realities for Palestinians after Oslo included: their encystation into Bantustans[23] in what is supposed to be their own territories, no promises for self-determination and small authority attributed to the PA[24]. Instead, Israeli kept control over

[22] On 13th September 1993, Yasser Arafat and Yitzhak Rabin signed a Declaration of Principles, under the auspices of President Bill Clinton.
[23] The territory of West Bank was bisected into Area A, B, and C. Encystation refers to the containment of Palestinians into their own areas.
[24] An authority that has systematically violated the human rights of the population under its "control" with for instance imposition of the capital punishment, censorship, torture, mass and arbitrary arrests and detention (Carmi 1999).

the lands, maintained the settlements, got rid of "terror" threats, and gained huge international benefits, including with the Arab World (Usher 1999).

This was not a final arrangement: that would eventually take place when the successful interim period of five years came to an end. However, with the assassination of Rabin and the election of Netanyahu as Prime Minister, the peace process was frozen. The intention of the new leader to undermine and subvert Oslo was made quite clear, especially when he compared the peace process as "a mortal danger to Israel's security" (Avi Shlaim 2012: 91). Afterwards, the Labour leader Rabin took over, and opened a second stage of negotiations, the final ones, that took place in 2000 Camp David. This time, the evidence of a deterioration in the quality of Palestinian life due to Oslo led Arafat to be less inclined to sign for the unacceptable terms proposed by Israel. Unsurprisingly, his demands for the de-escalation of an intensive colonization, and the de-brutalization of Palestinian treatment was not met by Barak, who did not want to compromise on these two issues (Pappé 2017). As a result, Arafat left Camp David with the broken promise of reaching a final agreement. The peace process failed in living up the existing big expectations, and a sense of frustration and betrayal spread within the Palestinian society, which paved the way for the outbreak of the Second Intifada.

Once more, the confrontations followed the same pattern: Palestinian mass demonstrations of dissatisfaction, crushed with brutal force by Israel. As a result, more desperate Palestinians actions like suicide bombers were answered by F-16 fighter planes, targeted assassinations, shelling and bombing of residential areas. The war on terror started, "a war that claims innocent victims daily, being conducted systematically, in an organized fashion and methodical direction" (Israel Ministry of Foreign Affairs 2001)[25]. In this way, Israeli-Palestinian relations entered in a darker era and far bloodier, where the suspension of the law became the norm, especially when related to extra judicial killings. Thus, the conflict resulted in the killings of 4,228 Palestinians, 1,024 Israelis, and 63 foreign citizens; the numbers of people injured were seven times more than the people killed (OCHA 2007). In addition to weapons, walls, fences, apartheid roads, checkpoints, roadblocks became the reality for the Palestinian residing in the West Bank. The Israeli imposition of internal closures curtailed the movement of 2,3 million

[25] Discourse to the Nation proclaimed by Sharon in 2001.

Palestinians and destroyed their economy, education, healthcare, and welfare system (The World Bank 2003)[26]. The complete disinterest in diplomacy and peace, together with the preservation of the Israeli settlements' natural right to grow and to prosper, would be the foundations of the strong line adopted by the various Right leaders in the following years. On the other hand, the Arab Spring shaped the popular demands for democracy and for ending the occupation, and culminated the PA's application to become a member of the United Nations (Avi Shlaim 2012).

Nowadays, the situation does not look any different. The level of violence is lessened compared to the figures of the Second Intifada, but President Netanyahu is still persisting with an Iron Wall policy. The coalition agreement between the Prime Minister and his former rival Benny Gantz in fact sealed his repeated promises to annex parts of Judea and Samaria. Backed by the American Peace Prosperity Plan published in January 2020, Israel was committed to formally annex - there was already a de facto annexation - areas of the West Bank that include Jewish settlements and the Jordan Valley (Holmes 2020b). In other words, this plan can be translated into more seizing of Palestinian territories, and worsening of their already precarious living conditions: as it happened following East Jerusalem annexation in 1980, its potential impact, in fact, may include growing difficulties in accessing essential services. Netanyahu's annexation has been temporarily "suspended", as a clause of the recent agreement stipulated between UAE and Israel – even if the prime minister is stating the contrary to his constituents. Despite the latter represents a turning point in the normalization of Israel-Arab world relations[27], "the question of Palestinian rights and self-determination is - even here - a side note in this political charade" (El-Kurd 2020).

Therefore, it can be deduced that the final aim of building an Iron Wall has clearly failed. There was the possibility to peacefully normalize Israeli and Palestinian relations. Israel had achieved that favourable position that it was looking for, and after the First Intifada, there were the premises to concretize reasonable negotiations. However, what was - and still is – missing is the real willingness to leave all those advantages coming from their

[26] The World Bank reported in 2003 that after almost three years of conflict and Israeli restrictions on movement that disrupt business activity, average Palestinian incomes had dropped by more than one third, and a quarter of the workforce was unemployed.

[27] Israel- Arab world relations have in fact always been "under-the-table" and contingent on the creation of a Palestinian state (Black 2019).

supremacy position in the name of fairness, peace, and humanity. Therefore, no solution to the "endless use of sword" by Israel appears to be possible until the international community will actively act and put pressure towards a peace process, not only meant to show the process itself, but to achieve real peace. In this regard, the excuse "no withdrawal until a final agreement is reached" cannot be accepted anymore after 53 years of occupation.

IV. The *Schchunot* (Neighbourhoods)

"We will be here permanently forever".

Benjamin Netanyahu, 1996[28]

The setting and maintenance of a mega prison would not have been possible without the delineation of a physical space where to isolate Palestinians. Bisecting the West Bank and settling Jews became the main methods in order to define what was "ours" from what was "theirs". Hence, the Israel's attempt since 1967 to achieve a cartographic vision of the Occupied Territories as an area divided between territories meant to be purely Jewish and Palestinian populated spaces. The basic idea behind all the future planning plans was to allow Palestinians to be segregated in their spaces, while achieving control on the most strategic areas of the West Bank through their Judaization, i.e. by building settlements. The strategically choice of the spaces to colonize aimed to prevent at any costs the development of a Palestinian state on the ground. The easier ways to achieve it: systematic land grabbing, colonization, designation of green spaces, houses demolitions and refusing building permits to Palestinians.

Despite the development of settlements in the West Bank may be attributed to the autonomous initiatives of some Israelis, especially in the first years after the occupation

[28] Quoted in Rudoren and Ashkenas 2015.

- the so called "Messianic Settlements" - it should be viewed also as part of a systematic state policy. The totality of Israeli governments has in fact contributed to the strengthening, development, and expansion of settlements in the West Bank, regardless to the different levels of involvement throughout the years[29] (Lein and Weizman 2002). All began with East Jerusalem, and then spread to other territories of the West Bank with the designation of the Allon Plan. This plan, originally designated by Yigal Allon[30] as an eventual peace agreement with Jordan, turned out to be an informal protocol to follow when colonizing lands. The foundations were moving the borders in a way to include a strip along the Jordan Valley – by separating Palestinians from Jordan; connecting the new area with Israel with a transport corridor that would bisect the West Bank from north to south; and "fattening" the zone around Jerusalem[31] (Benvenisti and Khayat 1987). The application of this plan, by the time that Likud came to power, resulted in the establishment of thirty settlements[32] inhabited by around 4,500 Israelis (Weizman 2017).

The colonization campaign became even more overt with the Right in charge: if prior to that moment the building of settlements was deemed related to national redemption, and then as a response of terror – in the face of Palestinian resistance – , now they were established in light of the closer ties with the settler movement, Gush Emunim[33]. Furthermore, other two plans shaped new cartographies of the West Bank: the Drobless and the Sharon Plan. According to the rapid settlement drive proposed by Matitiyahu Drobless[34], and in line with Gush Emunim's ambitions, the lands between the Arab populated centres and their surroundings - mainly the central mountain ridge - were settled (Lein and Weizman 2002). The planning of civilian settlements aimed at creating political facts of the ground, continued under Ariel Sharon[35], who focused his efforts

[29] The different involvement of the government in the settlement enterprise depended on the possible divergences in the political arena, the relative power of some groups to exert pressure, and the developments at the international level.
[30] At that time, Yigal Allon was head of the Israeli Ministerial Committee on the Colonies.
[31] In particular, the Etzion Settlement Block southwest of Jerusalem, and Arab East Jerusalem.
[32] A portion of this figure should be attributed to the Gush Emunim's actions.
[33] The group, institutionalized in 1974 believed that settling in the Occupied Territories was a divine imperative. As such, this movement aimed to advance colonization of the ancient biblical sites usually in populated Palestinians areas. Despite their project could appear in contrast with governmental plans, the Left government, especially with Simon Peres who worked hard to legalize their settlements, then supported the movement. Later on, the Right provided extensive financial assistance, including tax concessions and several subsidies.
[34] Head of the World Zionist Organization's Settlement Division.
[35] Minister of Agriculture from 1977 to 1981 and Israeli Prime Minister.

along the Green Line - in this way controlling the western strip of the West Bank – and on the development of east-west corridors that would further bisect the Occupied Territories (Benvenisti and Khayat 1987). Moreover, the Sharon Plan represented a shift away from the avoidance of Palestinian spaces that characterised the previous colonisation policies: he was committed to left to Palestinians only small high-density enclaves. The consequential "demographic concern" was solved with more aggressive policies of removal and transfer of Palestinians from their lands: hence, the Sharon decision to circumnavigate a Supreme Court Ruling through the misinterpretation of an Ottoman Law that allowed Israel to turn private lands into state lands, and use them for building new settlements. This trick enabled Israel to take over 2,150,000 dunams, 39 % of the West Bank, by 1985 (Pappé 2017: 163).

In the wake of the Oslo process, Israeli settlements continued to grow and prosper, whereas there was no territorial contiguity on what was left of the original West Bank. The development of Israeli settlements on the east side along the Jordan Valley, on the west side along the Green Line, and within the Palestinian inhabited areas, resulted in the segregation of Palestinian population in small enclaves. Contrary to the big expectations around the peace process, the Oslo Accords perpetuated the Sharon Plan, and ended up in strengthening the control of Israel. The division of West Bank in Area A, B, and C allowed Israel to maintain control over 60% of the West Bank, the latter vital for Palestinian sustenance and development (Carmi 1999). The Israeli pledge not to create new settlements but only to accommodate their natural growth, was clearly violated under the guise of "new neighbourhoods for the existing settlements" by establishing 100 outposts since 1996 (Aronson 2011). Furthermore, in order to serve both the final aims of segregating Palestinians while facilitating the moving of the settlements, the bypass roads started to increase dramatically[36]. In other words, after the signing of accords the Occupied Palestinian Territory (OPT) witnessed a second large-scale wave of settlement expansion, by clarifying Israel's intention to exclude the future of the colonies from the negotiating table.

[36] An example of the impact of bypass road on the development of settlements is provided by a report of the organization Peace Now. In particular, in the eight years since the opening to traffic of the Lieberman Road, 90% of increase in the numbers of settlers occurred. Research available at: https://peacenow.org.il/en/the-impact-of-bypass-roads-on-the-development-of-settlements

Therefore, the question turns out to be what was the position of the international community. Thus, settling a population in an occupied territory is a clear violation of international humanitarian law, and, as it will be deeper analysed in the next paragraph, implies several human rights violations. The direct transfer by the Occupying Power of its civilian population in the territory it occupies, is outlawed both by Art. 49 of the *Fourth Geneva Convention*[37], and by the *Rome Statute*[38] – which listed it as war crime. Furthermore, several other acts related to the creation of settlements have been contrary to international humanitarian law. In particular, art. 53 of the *Fourth Geneva Convention* established the prohibition of destroying real and personal properties: on the contrary, Israel is implementing massive Palestinians house demolitions in order to gain more space for the settlements' growth. Although Israel used a trick to avoid liability under international humanitarian law, several bodies of the international community have publicly condemned Israel for the illegality of the settlements under international law, including the Human Rights Council, the General Assembly, the Security Council and the International Court of Justice (UN Human Rights Council 2019a). Concerning the latter, with its landmark advisory opinion *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court defined the practice of populating the Occupied Territories as an act that would change their demography, and as such, that breaches international law. Furthermore, on at least six occasions since 1979 the Security Council – the organ responsible for international peace and security – has defined Israeli settlements as having "no legal validity" and as constituting "a fragrant violation under international law" (UN OHCHR 2020).

Notwithstanding these efforts, when having a look to the reality on the ground it appears clear that the international community is not doing enough: it "observes, sometimes objects, but it does not acts" – as stated by Michael Lynk, the *UN Special Rapporteur for the situation of human rights in the Palestinian Territory occupied since 1967* (UN OHCHR 2020). As an example, the Security Council never implemented a penalty against Israel in light of its multiple human rights violations, even though there is evidence coming from official sources (Hussaini 2020). Furthermore, the vision of the settlements

[37] Convention available at: https://ihl-databases.icrc.org/ihl/INTRO/380

[38] Statute available at: https://www.icc-cpi.int/nr/rdonlyres/add16852-aee9-4757-abe7-9cdc7cf02886/283503/romestatuteng1.pdf

as the major obstacle for an effective peace process between Israel and Palestine is a paradigm that the international community has not supported from the beginning, by leaving to Israel an ample room of manoeuvre for avoiding withdrawal. (Pappé 2017). In other words, an international condemnation is present but is not so strong to stop Israel, especially under Netanyahu, from devouring the land meant for the Palestinian state. The recent developments to this regard are extremely worrying: 4,948 more homes approved in October[39], a totality of more than 400, 000 settlements, and the pressing for an annexation plan that would create a Palestinian Bantustan, an archipelago of disconnected islands. Therefore, there is the urgent need to make Israel accountable for its crime, before Palestinian lands will disappear before our eyes.

Paragraph Two – The Human Cost of the Settlements

I. Economically Choked

"The Soldiers first destroyed our homes and the shelters with our flocks, uprooted all our trees, and then they wrecked our water cisterns... We struggle every day."

A resident of Susya[40]

Suffocating the economic life of a community necessarily brings enormous effects on the mere existence of that group. Through a series of measures aimed at depriving a specific group of basic necessities for preserving health and life, the living standards will be lowered in such a way to actually fight for physical survival. In other words, their development would be haltered, their dependency would be deepened, and their resilience would be curtailed. In the case of Palestinians, the economic hardships imposed by Israel

[39] Figures reported by the UN Special Rapporteur for the situation of human rights in the Palestinian Territory occupied since 1967 (UN OHCHR 2020).
[40] Quoted in Amnesty International 2017a.

has implied the most effective methods to punish people who live off the lands: taking away their lands and resources. Furthermore, it is also quite convenient that this collective punishment has met Israel's intention to have more space for Israelis settlements, by relocating all Palestinians in their enclaves outside Area C. The easiest way to achieve it: confiscation of lands, demolition of houses, and deprivation of natural resources.

Since the occupation first began, the traditional landscape of Palestinian territory shaped by centuries-old olives trees has been replaced by modern building settlements. The Palestinian population in the West Bank has been constantly forced to watch their lands being seized with official and unofficial tactics of land grabbing, which Israeli authorities have honed throughout the years. The basic assumption behind them: Palestinians landowners must be isolated from their lands (B'Tselem 2016a). Settler violence has increasingly become a vehicle for gradually taking over the land: bodily harm, slaughtering and theft of livestock, denial of access to farmlands, uprooting and cutting trees - 7,360 fruit trees in 2018, according to the *UN High Commissioner Report* (UN Human Rights Council 2019a) - has turned into a common praxis, usually accompanied by military protection. The Israeli human rights NGO Yesh Din in its research *Yitzhar - A Case Study* exposed the involvement of the military and the civilian security coordinators[41] in settler attacks that took place in 'Urif village[42] (Yesh Din 2018). Once the Palestinians farmers are prevented from entering through fear and terror, the settlers initiate new agricultural projects and establish new outposts in the dispossessed lands. These actions are increasingly backed by Israel, for instance with the retroactive legalization of unauthorized outposts (Yesh Din 2019).

Settlers' unofficial terror represents only a part of the system put in place by Israel to take over Palestinian lands: as described by the *UN Fact Finding Mission to Investigate the Implications of the Israeli Settlements on the Civil, Political, Economic, Social, and Cultural Rights of the Palestinian People*, they have lost their lands also through more "official" means, like the seizure for military purposes and the declaration of State lands (UN Human Rights Council 2013). More precisely, the military has closed off Palestinian

[41] The civilian security coordinators are usually residents of the settlements responsible for guarding the settlements and outposts on behalf of IDF. They are usually trained and armed by IDF.
[42] Among the 40 incidents happened between January 2017 and March 2018, in 23 occasions soldiers were supporting and helping assailing the settlers, and in 13 cases a civilian security coordinator was present and sometimes actively attacking (Yesh Din 2018).

farmlands and has forbidden access to the farmers, under the pretext of maintaining public order between Israeli settlers and Palestinians, and of establishing an effective "coordination mechanism"[43] (UN Human Rights Council 2019a). The consequent limited presence of Palestinians on their lands has provided the ground for the declaration of those lands as Israel-own lands: in other words, their supposed "inactivity" enables Israel to seize those lands and to use them for the expansion of settlements. Therefore, notwithstanding the plurality of the strategies implemented, what can be deduced is a constant attitude of Israel to steal Palestinian lands, and use them as its own. Moreover, it clearly seems that there is no interest in taking into account the multiple human rights violations suffered by Palestinians in relation to this phenomenon, including the right to an adequate standard of living, freedom of movement, and the right to property. So, since the land remains for many Palestinians the only possible means of subsistence, how can they economically survive without it?

Also other Palestinians' properties have shared the same faith of the lands, including houses and other communities' structures. According to the UN Office of the Humanitarian Affairs (UN OCHA), 571 Palestinian-owned structures have been demolished in 2020 with the consequently displacement of 489 Palestinians, by showing an increase compared to 2019, when the figures amounted to 489 demolitions (UN OCHA 2020c). Despite the settlers' role in facilitating the process, the destruction of houses and structures is mainly related to the discriminatory planning policy undertaken by Israel. Since it is almost impossible for Palestinians to build in East Jerusalem and Area C - they have available respectively only 13% and 1% of those lands, while the 94% of permits' applications are denied (UN Human Rights Council 2013)- they do not have any choices other than building without a permit. Consequently, the "illegal nature" of those Palestinian structures works as the ground for their systematically demolition. As well as amounting to forced evictions, and as such, contrary to international humanitarian law provisions (UN Human Rights Council 2013), those destructions have a devastating impact on Palestinians, especially on children. In particular, people affected by demolitions usually incur in mental health-related issues - such as depression, anxiety,

[43] The "coordination mechanism" sets the Palestinian access to their lands only twice a year for a limited pre-set numbers of days. Designed for protecting Palestinian land, this tool makes Palestinian unable to cultivate and maximise the potential of their lands, and to react to settlers' attacks.

and post-traumatic stress disorder - and experience a deterioration in their living conditions (UNRWA 2020). Moreover, the majority of Palestinians already living in poverty makes debts to build their houses, and because of demolitions, they find themselves even in more unstable conditions. If this may appear as inhuman, how can be considered the fact that the highest destruction rate in four years has been taking place during a pandemic (UN OCHA 2020b)? As several UN experts explain, "deliberately creating a homeless population in the midst of an international health catastrophe is a serious human rights blemish on any State authority for such acts" (UN OHCHR 2020).

More than fifty years passed from the occupation, but the situation of Palestinian water resources appears to remain the same: Israel is still implementing discrimination policies aimed at restricting Palestinians' access to water, the most crucial element for human development. By taking advantage of these restrictions, Israel was able to build a strong water infrastructure for the settlements in the West Bank. On the contrary, the few water sources left to Palestinians have been constantly subjected to damages and destruction: the construction of walls and barriers, the establishment of seam zones, the actions of settlers and Israeli armies played a major role in it (UN Human Rights Council 2013). In addition, prevented from constructing any water installations without getting a permit, Palestinians are forced to rely on external suppliers - currently they have to purchase nearly 56% of drinking water (Palestinian Hydrology Group 2019) - which is much more expensive and creates a dangerous dependency[44]. Israel is clearly maintaining control over all Palestinian water resources, and using them in favour to the Israeli settlements. Disparities in the access to water are reflected in the consumption figures: Israelis are able to consume to 183 litres per capita per day (l/c/d) - values that double when considering Israeli settlers - whereas Palestinians consume on average 73 l/c/d, well below the recommended World Bank minimum daily value of 100 litres (PASSIA 2020). In contrast with the endless water at the disposal of settlements, Palestinian population is suffering a chronic water shortage: 180 communities in rural areas are not connected to water network, and when they have access to running water the taps often run dry (UN Trade and Development Board 2019). Therefore, it seems that there is a desperate need for water

[44] Among these companies, Mekorot – an Israeli state-owned company - is responsible for managing West Bank water resources. As shown by Amnesty International, the purchase of water might cost to Palestinian from 4 to 10 USD per cubic metre (Amnesty International 2017b).

security, but Israel seems to be completely deaf. In the meantime, Palestinians are not able to enjoy their rights to water, food, health, work and an adequate standard of living whereas Israel is perpetuating its control by implementing an unfair distribution of water resources.

Lands and water are vital for the agriculture sector, the cornerstone of Palestinian economy. Destruction of lands, demolition of houses, and restricted access to water, all worsen the already volatile economic situation of several Palestinians, characterised by increasing unemployment rates and households affected by food insecurity, and decreasing monthly incomes – the latter has achieved extremely worrying levels during COVID-19 Pandemic (UNSCO 2020). What is clear is that the above-mentioned strategies put in place by Israel - that have resulted in several interrelated human rights and international humanitarian law violations - have contributed in making Palestinians' life unbearable. Therefore, the communities are at great risk of a forcible transfer.

II. Physically Threatened

"God gave us the land. I am the son of Allah and you are his slave".

A settler[45]

In the West Bank, violence has always been a constant parcel that Palestinians must pay for living in the lands "chosen by God". It materialises into a hyper-militarized environment that results in the infliction of disproportionate physical and psychological violence. Since the beginning of 2020, 21 Palestinians were killed and 2,186 were injured by Israeli forces, in conjunction with the 65 attacks carried out by Israeli settlers that resulted in casualties (OCHA 2020c). These figures are the concrete manifestation of a

[45] Quoted in Haaretz Editorial 2020.

structural violence, still present where the settlements are located and that seems not to have an epilogue.

Palestinians are the bad seeds: as such, they have to be managed with use of force. "I really want to shoot the motherfucking terrorist who will try me" (Breaking the Silence 2018: 10) is something very common to hear within the militaries. Sometimes while dispersing demonstrations, sometimes during house-searching operations, sometimes when making arrests, there is always the resort to a politicized violence against Palestinians every time the Israeli military forces are involved. Soldiers are ordered to create fear and to make their presence felt. In the middle of the nights, they aggressively break in Palestinian houses without a warrant, wake up families, make them gather in one room while turning upside downs their houses, threaten them and beat them in case of disagreement. Then, they leave and raid another house, all over again (Yesh Din, Breaking the Silence, Physicians for Human Rights in Israel 2020). They are creating a sense of persecution. They use violence to deter. Any resistance has been suppressed with excessive, sometimes lethal, use of force: live ammunitions have become increasingly commonplace, also on the lower limbs of Palestinian youth - the so-called *kneecapping* (BADIL 2017). Clashes are common at the checkpoints, which sometimes end up in killings (UK Home Office 2020)[46]. Furthermore, there is evidence of threats of violence and verbal abuse also to children, for instance with sentences like "I will make all of you disabled" (BADIL 2017: 16). Therefore, it seems that the international principles that every law enforcement around the world has to follow - respectively the principle of legality, necessity, proportionality, and accountability - has left the place to complete arbitrariness.

The daily violence Palestinians have to face derives from multiple sources. Pushed by nationalistic, religious and supremacy motivations, also the inhabitants of Israeli settlements have significantly contributed to making Palestinians lives so miserable. Sometimes the attacks takes the form of revenge: for instance, with the "price tag" practice, Israeli settlers punish Palestinians for any Israel's initiatives that might be

[46] To this regard, an extract on an interview reported by UK Home Office: "she was once passing through a checkpoint and became completely lost. … . A Palestinian driver called out to her, begging her to stop and stand still. The soldiers were giving her a last warning and were threatening to shoot but she could not understand what they were saying" (UK Home Office 2020:103).

against their interests. In other words, the violence is the price extracted from Palestinians for actions that are perceived as harming settlers or the settlement enterprise. For instance, in retaliation for the arrest of some settlers, other ones feel able to set fire to cultivated Palestinian agricultural land. Settler violence is a widespread and multidimensional phenomenon: it ranges from assault, battery, threats, stone-throwing and shooting, to damage to property, trespass, and invasion of farmland. All these actions are accompanied by a sick arrogance that make Israeli settlers believe that they are the lords of the lands, and as such, they have a right to harass every Palestinians: thus, they do not fear to intimidate during daylight hours (Haaretz Editorial 2020). Within the increasingly worrying context of settler violence, Israeli security forces and police have played a facilitator role. In almost all the clashes between Israelis and Palestinians, the military is present: not only do they refrain from protecting Palestinians, but they also take an active part in the incidents. They sometimes even prevent Palestinians from providing aid to the victims (UN Human Rights Council 2019a). In addition, the lack of supervision of the civil security coordinators by the Israeli Defence Forces let their aggressiveness to escalate into increasing daily frictions with Palestinians. In few words, a pattern is consolidating over time: on the one hand, a laissez-passer towards any unlawful actions committed by Israeli settlers; on the other hand, a lack of protection of the most vulnerable group, i.e. the Palestinians. This trend has been strengthened by the military orders, which aimed at clearly protecting the settlers: this creates a stronger connection, whereby "military people are considered as servants, as a kind of personal security detachment whose job was to obey and serves the settlers" (This is my Land Hebron 2010: 19:07).

Even if the situation already appears out of control, it becomes even more dramatic when taking into account the extreme violence that children are routinely exposed to. Palestinians children grow up between Israeli settlements, with their infrastructure and military presence, and their climate of furious anger that leaves the signs on their bodies. This includes the systematic daily harassment perpetrated by Israeli settlers: shooting and intimidation are often accompanied by physical assault, even on their way to school. Children face violence through exchanges with Israeli forces during demonstrations and military operations, which includes attacks on schools. Killing and injuries due to inhaling tear gas, live ammunition, rubber-coated metal bullets and physical assault is the treatment reserved to vulnerable people, who do not pose an imminent threat of death

(UNICEF 2018). Moreover, lots of Palestinian children has faced the Israeli military detention system: arrests during the night, handcuffed and blindfolded for hours, beaten and verbally abused, indefinite administrative detention with no evidence has become the praxis for throwing stones (Save the Children, 2020). As a proof, the figures released by the Israeli Prison Service: 194 Palestinian children were detained by the Israeli authorities at the end of March 2020, by showing that the release of vulnerable detainees in the midst of a pandemic does not apply to Palestinian children (UN OCHA 2020d). It seems therefore, that the concept "a child is a child, unless he is a Palestinians" has prevailed in the West Bank: a child is not a kid, is not a human being anymore. On the contrary, it appears as a fair treatment the impact that the occupation and settlements has on every aspect of children's lives, from their safety and development to their psychosocial wellbeing and mental health.

Therefore, the assumption that violence is an integral part in Palestinian lives, which affects their human rights in several ways, is well founded. Instead of providing "carrots" Israel has appeared to literally overuse its stick. Even more despicable, is how the suffering caused has been part of a planned strategy to extend Israeli control over the settlements jurisdiction areas (UN Human Rights Council 2019a). The more their lives are unbearable, the more they will leave their lands and homes, the more Israel will gain lands for building more settlements.

III. Locked in a Cage

"My wife was waiting behind the checkpoint. I argued for about half an hour, until I convinced one of the soldiers to let my little boy go to his mom. At the end the boy passed, but I had to make the long detour again to reach home"

Samer, a Palestinian resident of Hebron[47]

[47] Quoted in UN OCHA (2020a).

The several restrictions on the Palestinians freedom of movement are well known today. One of the most common images is long lines of people waiting at the checkpoints in order to show their permits. The justification provided by Israel to the containment of Palestinians has been more security for the settlements, more areas for the latter's expansion, and more connectivity with Israel itself (UN Human Rights Council 2013).

Palestinians freedom of movement has been completely cancelled by the introduction of two tools: a legal way to regulate all the movements, i.e. the permit regime[48] - whereby none can leave unless in possession of a permit -, and the physical obstacles such as checkpoints, walls, barriers that are needed to enforce the legal regime. Up to this day, Israel is putting in place "restrictions on movement, refused to issue access permits, set up flying and permanent checkpoints, and continued to construct the Separation Barrier and install iron gates" (Al-Haq 2020b), in this way clearly ignoring the condemnation expressed by the international community. The situation is degenerating in such a way that Palestinians in Area C are completely trapped, and "if nothing is done a Gaza type situation will happen .. – it is already starting" (UK Home Office 2020: 10). The long 708 km Separation Barrier has been built on Palestinians territories, and it has resulted in the creation of Seam Zones, closed areas that constitute 9% of the West Bank, and that includes Palestinians houses, lands, and businesses (Hamoked 2020). In addition, Israel has designed other infrastructures to contain Palestinians: the by-pass roads. The six-lane modern highways designed for settlers-only use are completely in contrast with the narrow, informal dirt-roads left for Palestinians circulation; moreover, by working as barriers they are cementing the Palestinian enclaves, more and more isolated (MA'AN Development Center 2008). In a nutshell, they are turning into apartheid roads.

Already trapped by walls, the imposition of these restrictions is totally arbitrary, based on Palestinians behaviour: for instance, due to confrontations between Palestinians and Israeli soldiers in H2[49], the checkpoint has been closed for several hours, by isolating 1,000 Palestinians in one of the most restricted areas where only one shop is available (OCHA 2020a). The adoption of curfew, the most extreme restriction on movement, has

[48] The permit regime does not allow Palestinians to move freely beyond their residential area. This regime has been tightened over the years: from being free to move with the "general exit permit", through the imposition of individual permits to enter Israel and East Jerusalem in the aftermath of the First Intifada, to restrictions of movement even within the West Bank with the Second Intifada.
[49] H2 is the Israeli-controlled area of Hebron.

been another measure implemented throughout the years as a form of collective punishment: as a result, hundreds of thousands of Palestinians have been imprisoned in their homes for months, except for short breaks. Used as a routine method of operation, full curfews have been in place sometimes for an endless duration, and enforced with firing tear-gas and recourse to live ammunition (B'tselem 2002)[50]. With all the above-mentioned limitations, Palestinians are clearly prevented from living a normal life. This comprehensive control on Palestinians' movement has impaired the enjoyment of several human rights. Due to the imposition of checkpoints, children have to walk 7-10 km to reach their schools, and the movement of patients, doctors, and other medical staff has been restricted (UN Human Rights Council 2016). Moreover, since farmers are usually limited in the access to lands, and Palestinian workers - strongly depended on work in Israel and in the settlements - have their permits denied, the unemployment rates have reached high peaks (UN Human Rights Council 2016).

Not only Palestinians have their movements denied, but also they are silenced in making their voice heard. Since the beginning of the occupation, with several military orders, Palestinian civil rights have been constantly suppressed: in particular, the right to speak out, protest and being politically active. Clearly, these restrictions do not apply to Israeli settlers but only to Palestinians: the huge disparities are measurable on a road-distance basis. Furthermore, the injustices arising from the settlement enterprise are usually the subject of Palestinian demonstrations, and even if protests are carried out with peaceful means, they can land demonstrators in jail. The common charges: imprisonment for up to 10 years for influencing public opinion in a way that could "harm public peace or public order"[51]. In addition, as shown by Human Rights Watch," the Israeli army between July 1, 2014 and June 30, 2019 prosecuted 4,590 Palestinians for entering a "closed military zone," a designation it frequently attaches on the spot to protest sites, 1,704 for "membership and activity in an unlawful association," and 358 for "incitement." (Human Rights Watch 2019a: 3). The real risk of being arrested is not the only method used by Israel to prevent Palestinians from speaking out: dispersal of demonstrations with

[50] Despite the decreasing recourse to curfew, Israel has maintained the imposition of curfew in the West Bank for Yom Kippur (Berger 2017). The recent introduction of curfew in the West Bank for COVID-related reasons, calls for assurance that it will not become again a systematic practice (Aljazeera 2020).

[51] The legal basis is Military Order 1651. Available at: http://www.militarycourtwatch.org/files/server/military_order_1651.pdf

excessive use of force, and declaring areas as "closed zones" are common scenarios that violate Palestinians' human rights (The Association for Civil Rights in Israel 2020). Therefore, peaceful protests have become riots that put in danger the area's security whereas the killings and injuries resulting from use of live-ammunitions, tear gas, and rubber bullets have turned out to be collateral damages to ensure that the daily lives of Israeli settlers continues without interruptions.

In a nutshell, Palestinians are locked in a cage, and this imprisonment is both literal and metaphorical. Certainly, it implies mass incarcerations – analysed in the next section – but more generally, results in individuals deprived of any fundamental freedoms. They are prevented from living a normal life. But even worse, Israel took the right to stand and object to these systematic injustices away from them, under the commitment of turning Palestinians into passive subjects. However, standing by and watching all their freedoms fading is not the only option left to the Palestinian population according to Israel's perspective: they can always decide to leave.

IV. Is There Any Place For Justice?

"He looked for justice, but behold, oppression".

Isaiah 5:7

The consolidation of the settlements over time has been favoured by the creation of a legal space that privileges settlers and settlements. In fact, according to each ones' national affiliation, there are two parallel legal systems in place in the Occupied Territories: some rules are only for Israelis and others for Palestinians. In other words, discrimination has become the institutionalized norm. On the one hand, Israel's legislation applies extraterritorially to include the settlers: this means that they are subject to both Israel's laws and courts, even if they are living in the West Bank. On the other hand, the situation for Palestinians is quite different: a mixture of military orders, Ottoman

British and Jordanian legislation are meant to control and discriminate Palestinian in every aspects of their life. From regulations of movement, to access to work, there is a commitment to create double standards, clearly at the expenses of the Palestinian population.

Another aspect extremely worrying is the fact that all Palestinian civilians in the West Bank[52] are tried before military courts, far more severe than the civilian legal system that applies to Israeli citizens[53]. Once there is a suspicion of an offence, Palestinians are investigated by the police, and detained up to 96 hours before seeing a military judge (The Association of Civil Rights in Israel 2014a). Not only do they have to face arbitrary arrests and detention, but also their due process guarantees, which belong to all human beings, are clearly at stake. Presumption of innocence until a definite sentence does not exist: people who have been interrogated and formally accused - not sentenced - are remanded in custody until the end of the proceedings (B'Tselem 2017). Palestinians are prevented from meeting their families and attorneys while detained: concerning the latter visits, when the offence is related to security issues – that includes nationalistic motivations -, the denial may be prolonged up to 90-days period. Since it is not often possible to prepare their own defence with a lawyer, the fact that all the documents related to the justice system are in Hebrew, and that there is no Arabic translation, makes Palestinians even unable to represent themselves (Husseini 2016). Despite the setting up of a façade with prosecutors, attorneys, and procedural rules, the military judges are always Israeli soldiers in uniform, appointed by Israel, who pursue only Israeli interests (B'Tselem 2017). In sum, the system that applies to Palestinians in the West Bank "is characterized by very wide search and detention powers, and less judicial review", and includes provisions that violate basic human rights (The Association of Civil Rights in Israel 2014a:40). Like stated by international experts, military courts are neither impartial, nor neutral, nor equal, and support the maintenance of a legal regime of segregation (UN Human Rights Council 2013).

[52] Military courts do not apply in East Jerusalem, since it was "annexed" by Israel.
[53] The fact that Israeli citizens in the West Bank are subject to Israeli civilian and criminal courts is a sort of exception authorized by the Attorney General in the early '80s. Despite the fact that military courts are officially designed to rule on everyone who commits an offence in the West Bank, it seems that Israeli settlers are totally excluded from Palestinian jurisdiction (B'Tselem 2017).

The existence of double standards has applied also to the access to justice. When facing human rights violations on such a scale, sometimes the only way to bear them is to have assured that the perpetrators would be held responsible for their crimes. Instead, it is possible to note a discrepancy that disfavours Palestinians: contrary to the proper address of cases of violence committed by Palestinians against settlers – 90/95 % of them are investigated and go to court – there is a complete lack of accountability for the settlers who are perpetrators of violence against property and persons (UN Human Rights Council 2013). These shortcomings in the justice system include also all unlawful acts committed by Israeli state agents: investigations are open only for specific incidents, mainly related to law ranking soldiers who breach superior orders or directives, and tend to consider as proof statements rather than evidence. Therefore, open investigations are unlikely to be complemented by further actions, and to meet human rights standards (B'Tselem 2016b). This failure in conducting effective investigations has been accompanied by others substantial, procedural, and practical barriers that affect the Palestinian rights to effective remedies: among these, obstacles related to the inadequacy of notifications, disproportional waiting times, language and cost related issues within the court system. As a result, the Palestinians' loss of trust in obtaining justice has been reflected into the unwillingness to fill complaints for the abuses suffered (Yesh Din 2016)[54]. In order to face the existing problems, Israel government has declared its commitment for a change. In reality, from January to June 2018 the Israeli police opened only 35 investigations concerning settlers' violence compared to the 219 incidents that occurred in the reporting periods. Despite the commitment expressed by the Israeli Ministry of Justice to enhance law enforcement, it is quite clear that the justice system supplies only a semblance of justice while a climate of impunity is still persisting (UN Human Rights Council 2019a).

When examining the shortcomings of the justice and legal system that apply in the West Bank, it is fundamental to highlight the role of the Israel Supreme Court, i.e. the highest court in Israel[55]. Despite its role in determining whether a policy is lawful or not, it is possible to note a trend in protecting the image and position of Israel no matter the costs, even when its representatives engage in Palestinians' human rights violations. In other

[54] In details, 30% of the victims of offences documented between 2013 and 2015 were not interest in pressing charges (Yesh Din 2016).

[55] . It is the final court of appeals this means that all the appeals to civil and criminal decisions in the West Bank's judicial system have to be brought before the Israeli High Court (Husseini 2016)

words, when it comes to cases submitted by Palestinians, or even better related to "land and demography" issues, the common pattern consists in justifying in any ways their dismissal while rejecting all the Palestinians' petitions (White 2019). For instance, the Israel Supreme Court rejected the appeal lodged by Wadi-al-Humos residents[56] against the demolition of 44 housing units built near the barrier but in Area A, with permits issued by PA. In sum, the security reasons based on the risk of possible terrorists crossing the barrier to enter Jerusalem have prevailed on the displacement of Palestinians, left poor without a house (B'Tselem 2019). Despite the landmark decision of June 2020 to struck down the law on the retroactive legalization of unauthorized outposts built on Palestinian lands, the fact that the Court is not legally bounded by the "precedent" and that the government is committed to re-enacting the normative, has snuffed out the hope for a positive change[57] (Middle East Eye 2020).

From the above analysis, it can be deduced that Palestinians and Israeli settlers in the West Bank are separate and unequal in the eyes of the law. The hyper-incarceration and sentencing of Palestinians have been complemented by a de facto denial of their access to justice. Making Israelis accountable would have the merits to bring people to justice, but also deter the re-occurrence of human rights violations, which are already taking place on a large scale. Therefore, providing a safe and non-discriminatory environment while establishing legal liability for perpetrators of abuses is urgently needed for a brighter future for all Palestinians.

Conclusion

Israeli occupation of Palestine has entered history as the longest existing military occupation. However, following the analysis carried out in this chapter, it is possible to

[56] It is a neighbourhood of an enclave near the Jerusalem municipality.

[57] This law was approved in 2017 and led to the retroactive legalization of more than 50 outposts and 4,000 settlers' homes. In response to the judgement, Likud party stated that they would work to re-enact the law since it is crucial for Israel's future. A similar line was adopted by Tzipi Hotoveli, the minister dealing with settlements, who called for a continuation of construction as a response to the Supreme Court's declaration of war "on the right of Jews to settle in the land of Israel" (Middle East Eye 2020).

deduce that “occupation” is perhaps not the proper term to refer to the Israel/Palestine context. The reality on the grounds clearly deviates from the temporary nature that the occupation should have as a means of securing a territory after a conflict, and from the partiality of control that the occupier should own in the aftermath of the occupation’s early days (Pappé 2017). Israel has carried out and it still implementing measures aimed at achieving an absolute control, which are having highly destructive social, physical, economic impacts on the lives of Palestinian people. The continuous demolitions of houses, deprivation of land and natural resources, disproportionate physical and psychological violence, restrictions of movements, appear all part of a discriminatory system and a longstanding strategy deliberately inflicted to create a coercive environment that puts Palestinians at risk of forcible transfer.

With this regard, the occasions to peacefully normalize Israeli and Palestinian relations have never been translated into concrete improvements in the situation on the ground. Maintaining control over Palestinians through their isolation in a mega prison is thus the solution to balance the trade-off between geography, demography, and not granting citizenship, which clearly Israel is not willing to renounce. This Palestinian segregation is physically delimited by Israeli settlements, which have become the expression of a national value – the Jewishness –, of gaining more lands, and of the tactic to eliminate and replace Palestinians. Sadly, Israeli settlement expansion in the West Bank remains a pressing concern nowadays, and allows the transfer of the Occupier’s population, which amounts to a war crime. Furthermore, it is an unequal game: it devours the land that is meant for an independent Palestinian state, while at the same time it increases Israeli power and opens the door to external profits. Therefore, it is crucial to frame the related historical and contemporary events through an analytical lens, which will be delineated in the next chapter and will lay the groundwork for the analysis of the big business behind Israeli settlements.

CHAPTER TWO – Business Presence in Israeli Settlements: Explaining the Phenomenon and Analysing the Applicable Normative Framework

In the collective imagination, the age of colonialism appears to be a tragic page of our history, but completely behind us. Instead, the constant grievance for more lands and the obsession to settle Jews in the OPT, which characterized the 53 years of Israeli occupation, have suggested the idea of an Israel's settler colonialism project. On a parallel line, neoliberalism has made its entry into Israel's political, economic and social choices, and together with globalization has offered new opportunities for business enterprises, including the unstable environment of the OPT. Within this context, the Occupation and Israeli settlements have become profitable for some actors, at the clear expenses of Palestinians' human rights. Specifically, Israeli and foreign multinational corporations have taken the opportunity to operate in the OPT, by making profit out of Palestinians' suffering and deprivation of basic rights, and, as such, by becoming complicit of Israel in breaching international law norms. Thus, the contribution of businesses to the maintenance and growth of Israel's unlawful settlement enterprise is well recognized and documented up to now, and is so widespread to become a matter of international concern (UN Human Rights Council 2013).

Therefore, the purpose of this chapter is to highlight the nexus between the Israeli experience of settler colonialism and neoliberalism, which has enabled the proliferation of companies operating, profiting from, and contributing to the unlawful occupation of Palestine. The chapter will start by framing the settlement enterprise as the intersection between these two processes, both in their logics and in their realization on the ground. The second paragraph will then provide an overview of the business's presence in the OPT, with a particular focus on the main areas of involvement. With this regard, how companies are benefiting from the systematic discriminatory policies against Palestinians and how they are contributing to worsening the life's conditions of the local population will be deeply discussed. Furthermore, in order to understand how much these behaviours deviate from human standards, the third paragraph will critically analyse the business' obligations established by the international normative framework. The chapter will

conclude with a consideration about the need to transform the bold pronouncements into concrete actions in order to make the involved businesses accountable for their breach of international law.

Paragraph One - Framing the Settlements' Phenomenon: Combining Settler Colonialism with Neoliberalism

I. Israeli Settler Colonial Project

Settler colonialism is still disseminating its legacies all around the world. In its commitment to establish permanently a society dominated by settlers, this form of colonization displaces local populations and expropriates their lands (Clarno 2017). In contrast to the colonizer that seeks to exploit the natives, the settler colonizer strives for getting rid of them. In other words, settler colonialism implies a system of displacement and subsequently replacement, by adopting the logic of elimination (Wolfe 2006). Using the settler colonial paradigm to analyse Israel policy towards Palestine, and consequently Palestinians, has been quite accepted by scholars and activists worldwide; by contrast, Israel has always received with repugnance this accusation, by portraying this framing as an attack and evidence of anti- Semitism (Busbridge 2018). The idea of Israel as a settler state emerged only with the establishment of the occupation in the OPT, following the 1967 War. Nevertheless, settler colonialism cannot be reduced to a single event, but is rather a structure that existed and developed through time (Wolfe 2006). Despite the occupation was meant to facilitate the settlements, the Israel settler colonial project is dynamic, and continuous, made up of several stages: as explained by the Israeli historian Pappé, "it began in 1882, reached a certain peak in 1948, continued with vehemence in 1967 and is still alive and kicking today" (Pappé 2017: 4).

In order to better understand this process, it is important to analyse its original driver: the Zionism ideology, a form of nationalism imbued with traditions of messianism. Inspired

by the prevailing European nationalism of that time, a Jewish cultural enlightenment movement developed. Zionism wished to build an ideal life where Jews were entitled to have a sovereign safe place, with Judaism as its nationality (Kimmerling 2001). The desire of a permanent homeland was based on the assumption that Jews had the natural right to fulfil their destiny, i.e. the miraculous return from the Diaspora to *Zion*[58]. Being the *Chosen Ones* led to their constant isolation and persecution within societies, and to the awareness that assimilation would never be a possible option[59]; at the same time, this consciousness allowed them to develop spiritual greatness and collective narcissism (Kovel 2007). A narcissism that usually resulted in "an apocalyptic strain of divinely-sanctioned destructive violence whose counterpart is the over-wrought conviction that every conflict involves an existential threat that might spell not the end of times but the end of Israel" (Llyod 2012: 64).

Resorting to violence was a necessary evil, because Jews were meant to reside in Palestine. It was in fact the territorialisation, the designation of Palestine as *Eretz Israel* that turned the national project into a colonialist one. Zionism, in fact, was a national movement as much as it was a colonial one, legitimized by the paradigm "we were here from time immemorial". The only way to solve the problem of a nation without a land was through a colonial strategy, which would eventually gain lands for supporting Jews immigration and for establishing an immigrant settler society. Hence, the reflection of Manachem Ussishkin[60]:

"In order to establish autonomous Jewish community life— or, to be more precise, a Jewish state— in Eretz Israel, it is necessary, first of all, that all, or at least most, of Eretz Israel's land will be the property of the Jewish people. .. But, as the ways of the world go, how does one acquire landed property? By one of the following three methods: by force— that is, by conquest in war, or in other words, by robbing land of its owner; by forceful

[58] Zion is a biblical terms used to refer to Jerusalem, and the Holy Land, promised by Yahweh to Abraham. The Zionist fidelity to Zion can be revealed by Palm 137, the passage of the Bible that most inform the Zionist cause. "By the rivers of Babylon – there we sat down and there we wept when we remembered Zion. [..]. How could we sing the Lords's song in a foreign land? If I forget you, O Jerusalem, let my right hand wither! […] Remember, O Lord, against the Edomites the day of Jerusalem's fall, how they said, "Tear it down! Tear it down! Down to its foundations!" O daughter Babylon, you devastator! Happy shall they be who pay you back what you have done to us!". (Kovel 2007).

[59] Hertz in his manifesto Der Judenstaat argued that assimilation was not a cure, but rather a disease (Kimmerling 2011).

[60] He was one of the central-eastern European Zionist leaders.

acquisition, that is, by expropriation via governmental authority; and by purchase with the owner's consent" (Shafir 2005: 42).

Possessing the Promised Land might have been a national/religious priority, but it was achieved through a double colonial enterprise: the constant grabbing of land, and moving the settlers into new colonies (Pappé 2017). The territory is the "settler colonialism's specific, irreducible element", and its centrality is explained by the insatiable need for more land (Wolfe 2006: 388). The grievance for more land has remained unchanged in Israel history, from its beginning with the purchase of land[61], to the later conquest by sword (Kimmerling 2011). Within the settler colonialism model, dispossessions, expropriations became the main methods to establish control by the settler state. In the Israeli case, dispossessing Palestinians from their lands was crucial for establishing Jews settlements that, in turn, enabled Israel to deliver a message: the land is now part of the inheritance of Jewish collectivity, and as such the settlements cannot be uprooted. The way to legitimize the – still ongoing – expropriations? The inferiority of Palestinians people. Developing a racial hierarchy between the colonizer and the colonized is an integral part of colonialism, and the belief that "we live in the twentieth century, they in the fifteenth" (Avi Shlaim 2012: 86) clearly expressed the point. They are "indigenous", not civilised or moral actors; therefore, their lands are expropriable because they have to be redeemed. Without racism, the management of Palestinian as labour force and their gradual elimination – the only two possible relations with the subordinated natives- would have not been possible (Lloyd 2012).

Therefore, it is crucial not to forget that the local inhabitants have to be replaced. The demography is a common obsession for settler colonies, and so it became for Israel: as such, there was never a plan to assimilate Palestinians, but only to separate them and eliminate them. The logic of elimination of the natives, explained by Wolfe as a "sustained institutionalized tendency" can be perfectly expressed by Zangwill's famous statement "a land without a people, for a people without a land" (Rashed and Short 2012: 1148)[62]. Furthermore, this logic has been implemented through several methods within

[61] The purchase of lands allowed by Jewish National Fund, was never meant to be sold or cultivated by non-Jews.

[62] Following the same line, the statement by Golda Meir "there were no such thing as Palestinians. . .It is not as though there was a Palestinian people in Palestine considering itself as a Palestinian people and we

the Israel/Palestine context that does not necessarily imply physical elimination (Busbridge 2018). To this regard, Israeli settlements do not represent only a way to expand into the rest of Palestine, but also a tool to confine Palestinian space and to downsize their population (Pappé 2017). Furthermore, expulsion is the other mean at Israel's disposal: whether is more evident – like the 700,000 forced displacement occurred during the Nakba – or more hidden – such as the silent transfer that we are experiencing today - Israel was able to get rid of Palestinians whilst slowly killing the essential foundations of their life. A destruction that may sound genocidal to some academics, by embracing the position that genocide is "intrinsically colonial" (Rashed and Short 2012).

As analysed before, settler societies are soaked by a racism that is permanently in place to protect the settlers while destroying the natives' world (Elkins and Pederson 2005). The division between colonizer and colonized is marked by extreme inequalities, that are institutionalised in the economy, legal, and political system. This separation has increased more and more over time:

"Precisely as the coloniser becomes more established, the rigor of the divisions, the state of apartheid, between the settler and the colonised becomes deeper, to the extent, as we know, of the construction of walls and barriers, separate areas for residence and movement, and tightly controlled bantustans. The 'iron wall' that was for Ze'ev Vladimir Jabotinsky a metaphor becomes eventually realised in concrete form" (Llyod 2012: 67).

The differences within the Israeli settler colonial enterprise have not materialised only into the existence of double standards, but have extended further to include the mere rule of law. More specifically, in the OPT the law is manifested in its permanent suspension, whose outcomes are massive and arbitrary human rights violations (Shenhav and Berda 2009). The resulting state of exception – common feature in the overall settler colonialism realizations - is like a permanent state of emergency, where its exceptionality turned into normality, and applies to every relationship with the natives. In a nutshell, the suspension of the rule of law is based on the "present/absentee" paradigm, whereby Palestinians are treated like absent and thus excluded even if they are physically present (Lloyd 2012).

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came and threw them out and took their country away from them. They didn't exist' (Rashed and Short 2012: 1148)

Israel settler colonialism represents a sui generis reality. It is still ongoing, by defining its failure. Given that the occupation, and consequently the settlements, are based on the separation between settlers and indigenous, the normalization of settlers as natives is far from occurring. Being no longer settler colonial, is the only way for the settler colonial project to terminate (Veracini 2013). Furthermore, the combination between nationalism, messianism, and settler colonialism created a unique situation on the ground. On the one hand, Israel has claimed to be recognized by the international community in light of its ordinariness – as a normal state, Israel was committed to achieve a homeland -; on the other hand, it has demanded to be excluded from accountability for its settler colonialist project on the basis of the religious prophecy that characterize its peculiar destiny (Llyod 2012).

II. Neoliberal Realization in Israel

Neoliberalism is the invisible ideology that is shaping our world nowadays. The original idea was dismantling the Keynesian welfare state in the name of free market, privatization, and deregulation. To do so, the state should have refrained from any interventions in the economy, but at the same time, it must have intervened to build the infrastructures that support the neoliberal unregulated global market. If these economic principles were designed to achieve in the long term a situation that would have lifted all boats, in reality they have contributed to increased mass unemployment, economic insecurity, and de-proletarization, as well as generating 'new poverty' and rising inequality (Wacquant 2008). Started in the UK and USA during the 1970's as a mere economic strategy, it turns out to be so pervasive to imply consequences in all aspects of everyday life, to exert leverage on our deepest values – such as freedom, dignity and choice -, and to replicate its composition all around the world. Israel included.

Supported by the United States, Israel began to restructure its economy according to neoliberalism principles during the '80s, in order to face the national economic and political crisis that was hitting the country. Like a "sick man needing surgery", Israel in

1985 decided to turn its economy from socialist to capitalist, or even better "from a state-led, worker-centered economy focused on domestic consumption to a corporate-driven, profit-centered economy integrated into the circuits of global capital" (Clarno 2017: 39). Therefore, as for many other states, the adoption of domestic legislation – for instance the Economic Stabilization Programme - and the signing of international free trade agreements – initially with the USA superpower and later on also with Egypt and Jordan - has marked the "blind" faith to neoliberal structural adjustments policies. Privatization of state owned enterprises, open economy, free economic channels with other countries, dismantling of the welfare state have become the axioms of the new economic order (Peretz 2018).

If on the one hand neoliberalist policies have achieved economic growth and strong middle / upper class - with loads of profits for high tech and finance industries, and Jewish Israeli Business elite, mostly *Ashkenazim* - on the other hand, its limitation to stimulate upward mobility has worsened the disparities in wealth, mainly at the expenses of the *Mizrahim* – the "Oriental" Jews, part of the lower classes. The World Bank Database has revealed an incredible economic growth in the years of the neoliberal turn: the GDP pro capita in 1985 amounted to 6,498$ (current); it has risen to 18,104$ in 1995, 20,567$ in 2005, and 35,777$ in 2015 (The World Bank Data 2020a). However, at the same time Israel still has to face widespread poverty and high level of inequality (Kristal and Cohen 2007): according to the estimates of the World Bank, the Gini index from amounting to 36.3 in 1979 grew in such a way to achieve its maximum value in 2010 with 42,5 (The World Bank Data 2020b)[63]. These figures reflect the idea affirmed by Gill whereby "the neoliberal shift in government policies has tended to subject the majority of the population to the power of market forces whilst preserving social protection for the strong." (Brenner and Theodore 2002: 352). The reduction in social spending has negatively affected the Israeli working class that has joined the lower classes within the umbrella term "precariat". In the attempt to solve the poverty plague within the Jewish society while obtaining political consensus, the Israeli Right has offered some alternatives of welfare to the expansive privatized services: first with the sectoral substitute and then through the

[63] The Gini Index is a value used to measure the level of inequality of a society. Furthermore, according to the Adva Center, between 1988 and 1997, the percentage of total income earned by the wealthiest 30% of Israelis rose from 52% to 55.4%. whereas the share of the bottom 30% of Israelis dropped from 13% to 11.8% (Yoav Kapshuk 2020)

Loyalty Regime[64] (Gutwein 2017). Especially with the latter, Jewishness has become the criterion for the access to housing, education, labour and any other benefits.

On the contrary, the real losers of the Israeli neoliberal restructuring are someone else, someone left to themselves and cut off from any benefits: Palestinians. They fall within the so-called "surplus population", a typical feature of the neoliberal architecture: the mass who, by exceeding the markets, being unemployed or unable to fit the economic and social order, has found itself excluded and marginalized (Wacquant 2001). Neoliberalism enabled Israel to reduce its dependency on Palestinians' labour force. More specifically, the less need of manual workers due to development of high tech[65], the possibility of delocalising businesses abroad thanks to free trade agreements[66], and the larger pool of immigrant workers has all decreased the Palestinians' competitiveness and thus their value as a workforce. (Ram 2005). In other words, this group has remained out of options, other than being involved in the building of Israeli settlements and being employed within the PA security forces – activities that both sustain the occupation. The persistence in maintaining this group at the bottom of the hierarchical system has revealed another dark side of neoliberalism: the combination among different identifying traits within the framework of poverty and inequality. Therefore, it is possible to refer to the neoliberal phenomenon of racialized poverty (Clarno 2017) – broadly discussed by academia – and contextualise it by taking into account other features as grounds for exclusion. In this case, respectively class and ethnicity, or even better nationality. As poor and as Palestinians, these people are constantly exploited and marginalized, in the sense both of lack of opportunities and of physical segregation.

Neoliberalism has produced an uneven geographical development (Brenner and Theodore 2002). Specific places are meant for specific people. Moreover, by adopting the logic of capital accumulation, there is the willingness of governments to favour the flourishing of

[64] The sectors were hybrid organizations developed in the '80s, which provided to their electorate social palliatives that otherwise could not afford. The Loyalty Regime is the most recent compensatory mechanism, whereby the loyalty to the Right has become the criterion for government employment, subsidies and so on (Gutwein 2017).

[65] For example, following the privatization of the chemical industry and its transfer of ownership to the Eisenberg family between 1992 and 1995, labors' share in the chemical industry has declined (Yoav Kapshuk 2020).

[66] For example, traditional manufacturing industries like the textile factories, located mostly near Israel's peripheral development towns, were moved to East Asian and neighboring Arab countries, where salaries were significantly lower than in Israel (Yoav Kapshuk 2020).

spaces of economic interest in order to attract investments. Completely in contrast, there are the degraded and abandoned settlements, ghettos, enclaves, favelas, that represent the homes for the surplus population, and as such not worthy of any development (Wacquant 2001). This production of different kinds of spaces can be easily found within the Israel/Palestine context. On the one hand, there are the Israeli settlements, which as a synonym of Jewishness and outcome of Judaization of land, are deserving of the government's attention. On the other hand, the Palestinian population are segregated in enclaves, managed by checkpoints and permits. Moreover, the scattered West Bank enclaves should be considered as "not spaces of concentrated poverty but spaces of concentrated inequality where the rich and poor live side by side" (Clarno 2017). Thus, although a small portion of Palestinians have benefitted from the neoliberal path adopted also by the PA[67], they are still subject to Israeli rule, and they are still concentrated within the enclaves, where the administration of the racially excluded population has opted for the "letting die" technique, i.e. abandonment (Plasse-Couture 2013).

Another phenomenon that is accompanying the dominant group physically and geographically shielding itself from the marginalized is the stigmatization of the latter as emblematic incarnation of "urban danger"[68]. The "urban poor", or in the case of Israel the Palestinian population, has become the favourite target of growing security concerns. Thus, in order to address the increasing anxieties of the powerful about their status quo, due to the more frequent episode of anger and frustration by the most excluded segments of the population, Israel has put in place a strategy to transform Palestinians into sources of violence, disorder, and insecurity (Clarno 2017). In other words, not only Palestinians are segregated into hyper-concentrated enclaves with absence of services but also, through racialized discourse, they have become the terrorists, the enemy within to be dealt with systematic use of force. Thus, "perfecting the politics of fear, separation, seclusion and visual control, the settlements, checkpoints, walls and other security measures are also the last gesture in the hardening of enclaves, and the physical and virtual extension of borders in the context of the more recent global "war on terror" (Weizman 2017: 9).

[67] As in every economic of the world, neoliberal restructuring in the PA has led to wealth for the Palestinian capitalists – especially those who owns business in the tourist and stonecutting sector – and the deepening of Palestinian poor's suffering .

[68] According to Wacquant, this labelling should be understood "in the sense of social decay and physical insecurity as well as in the more politically charged sense that they threaten to unravel the fabric of urban society in toto" (Wacquant 2008:203).

The high level of Israel's military expenditure has funded through the years the Iron Wall policy, the national security's approach that has meant massive use of force to address any threatening acts, no matter how limited. Therefore, what can be deduced is that the general nexus between neoliberalism and securitization – the latter referring to how a certain issue is transformed into a matter of security - (Lloyd and Wolfe 2015), which lies on the necessity of managing crisis caused by neoliberal restructuring, applies also to the Israel/Palestine context.

Even if uneven development, new forms of social polarization, increasing securitization, and the production of different kinds of spaces may be considered common effects of the neoliberal doctrine, it is crucial to take into account the historical, political, economic and sociocultural context – all previously analysed. Israel/Palestine's realization of the neoliberal project is quite distinctive, especially concerning the intersectionality of ethnicity/nationality with class in the definition of marginalization. Moreover, it is crucial not to forget that even if Palestinians are the clear victims of this new ideology, their vulnerable position should be contextualised in the already existing settler colonialism paradigm, by shaping in this way new forms of domination.

III. Israel and the Neo-Settler Colonialism Paradigm

Even if settler colonialism and neoliberalism might appear two distinct phenomena, with their own rationale, realizations and implications, global institutions like the World Bank and the International Monetary Fund believed in their interrelatedness. Specifically, the adoption of structural adjustments policies would have led to peace for Palestine, free from the boulder of the occupation (Clarno 2017). Far from being true, neoliberal restructuring in Israel/Palestine was able to intersect with the settler colonial project, to reshape its relations of power and domination, and to provide with a new set of tools that may work as façade to hide the old colonial logic (Clarno 2017; Yacobi and Tzfadia 2019).

In order to understand the effects on the ground arising from the combination between settler colonialism and neoliberal turn, it is crucial to investigate the intersectionality in their logics. From the analysis previously provided, it is possible to recognize a common exigency: the management of surplus population (Lloyd and Wolfe 2015). Whether this unwanted mass are the Natives, like in settler colonial societies, or people exceeding the market, like in the new political and economic order, they have to be dealt as obstacles in the realization of each project. The latter might present as its main aim either the accumulation of more land or the maintenance of the neoliberal economy regime, but the strategy to "eliminate" the unwanted surplus remains the same: spatial segregation and confinement, and their incarnation as the enemy within (Wolfe 2006; Lloyd 2012; Wacquant 2001). As a matter of fact, urban hyper-concentrated neighbourhood has substituted the previous territorial adjacencies – places where the indigenous population was allocated – and the unemployed have become the new threat to combat in an internal war. Both the settler colonialism and neoliberal logic are based on the state of exception, i.e. a line where the excluded are incorporated inside and where there is a permanent suspension of the state of law (Lloyd 2012; Lloyd and Wolfe 2015).

Therefore, it is clear that there is a continuity in the logic of settler colonialism and neoliberal state, which includes " the kind of legal and psychic "state of siege" that, as Carr suggests, informs the settler colony's legal and military posture and legitimates the spatially differentiated policing of populations within the neoliberal state and of its 'foreign and domestic enemies', where the 'terrorist' stands in for the 'Native' (Llyod and Wolfe 2015: 8). To this regard, the situation in Israel/Palestine not only is perfectly able to capture how neoliberalism shares the same tactics of settler colonialism to manage the surplus population, but also reveals how the two of them are connected to and supporting each other. As clarified by Clarno, "although colonial settlements in the West Bank are driven by political and ideological motives, the dynamics are shaped by the articulation between colonialism and capitalism" (Clarno 2017: 13).

In this sense, Israeli settlements in the West Bank represent a meeting point between the two above-mentioned paradigms. Thus, when dealing with the settlements it is impossible not to take into account the neoliberalism's socio-economic impacts: as the purest realization of the occupation, they have been used to counterbalance the negative effects of neoliberal restructuring (Pappé 2017). As reported in the previous paragraph, the

neoliberalist turn has provoked high levels of disparities and a deterioration of the Israeli lower class's conditions. In order to face these drawbacks, the Israeli Right has been proposing the settlements as a way for the lower classes to redeem themselves economically, thanks to the huge benefits that the government is providing in those areas, and socially, by acquiring a power position and being finally part of elite (Gutwein 2017).

Settlements as a compensating mechanism lies on a very simple reasoning: the more the government's policies hit the population, the more disadvantaged people rely on alternative forms of support kindly provided by the Right, the more that political wing obtains electoral consensus, the more the Israel Right maintains the settlements and an endless occupation. Moreover, the Israeli lower classes have gained some advantages also within the labour market. From being less favoured in comparison with the more profitable labour of Palestinians, the architecture of occupation together with privatization and its role in decreasing the defence for low-wage workers, has enabled them to counteract their structural disadvantage (Clarno 2017). Nevertheless, even if the settlements as a compensating mechanism might be a well-founded explanation of the reality, it is only partial. According to the UN Fact-Finding Mission of 2013, only the 25% of the total settlers have moved for economic reasons (UN Human Rights Council 2013); on the other hand, many settlers are pushed to move in Palestinian lands by their nationalistic ideology of Grater Israel[69]. Even if the idea that "just as the occupation created the settlements, privatization created the settler" (Gutwein 2017:25) may be misleading, there is a nexus between neoliberalism and the settlements. It is part of the possible explanations to the huge increase in the settler population in the West Bank from 46,100 in 1985 – starting year of neoliberalism in Israel – to 441,600 in 2019 (Peace Now 2020).

The connection between settler colonialism and neoliberalism cannot be properly analysed without highlighting the role of the Oslo Accords. In this case, it was the idea of a possible termination of the occupation that have triggered Israel's integration within the global economy. Israeli business community believed that the prolonged occupation

[69] As a settler explains "we are here because of our patriarchs, because God promised them a land, that's the land belongs to us" (This is My Land Hebron 2010).

would have hampered this integration (Ben-Porat 2005)[70]. Therefore, adopting a peace discourse would have been a necessary evil when compared to the opening of several lucrative opportunities for Israel[71]. This belief turned out to be accurate. Among the immediate economic benefits: after two days from the announcement of Oslo the stock market broke all records (Ben-Porat 2005); the Accords drove up the foreign direct investments, which increased from 304 USD million in 1992 to 1,9 USD billion in 1997 (UNCTAD Stat 2020); multinational companies, such as McDonalds and Unilever, up to that moment refrained from making business with Israel entered the market (Rosemberg 2018). The latter positive development has paved the way for corporate interests in the Israeli occupation in general, and in the settlement industry in particular. Nevertheless, with the election of Netanyahu in 1996, the failure of Camp David, and the outbreak of Intifada in 2000, the Oslo system collapsed, but not the economy that took off under the premises of decolonization.

Furthermore, another side of the Oslo agreement that should not be forgotten in light of its direct effects on Israeli settlements, is the additional fragmentation of West Bank Palestinians in area A, B, and C. This subdivision enabled Israel to implement a sustained process of colonization in Area C. In other words, an "endless settlements expansion" (Eylon 2020) in a zone that was designed to include most of the Palestinian village lands. Therefore, the question turns out to be how neoliberal restructuring has contributed to such a project. Firstly, the economic crisis hitting the West Bank and the limited space where Palestinians are allowed to build have led to a rapid urbanization of the villages, which has reached a level of hyper-concentration and has experienced a vertical expansion (State of Palestine Ministry of Local Government, UN Habitat 2016). Here, other plagues of neoliberalism – such as the growing unemployment, manufactured farm crisis, high rates of inequalities – combined to the violence of settlers, have produced the conditions for another Israeli strategy: the indirect forcible transfer towards Palestinian urban enclaves (Clarno 2017), which has been translated into more lands to colonize.

[70] As an Israel businessman argued "I strongly believe in the peace process. I don't believe a country can exist without a strong economy and peace is a part of it" (Ben-Porat 2005: 335).
[71] For instance Dan Proper, president of the Manufacturers Association of Israel, in an interview few days after the revealing of the Accords predicted "a brilliant economic future for Israel due to the agreement with the Palestinians (Ben-Porat 2005:340).

Strictly connected to these issues, it might be interesting to analyse the evolution of Israel's spatial policy under neoliberalism, since land is the key in a settler colonial enterprise. In the first three decades from the birth of the State of Israel, the government's modus operandi could be summarized as followed: implementing a massive Jewish settlement project while nationalising all the dispossessed Palestinians lands and privatizing them following the Jewishness criteria (Yiftachel 2006). Later on, the exigency of pursuing an economic logic in territorial management was addressed by the introduction of neoliberalist policies: consequently, reforms on property and planning rights were designed and implemented. If on the one hand these new policies were supposed to liberate and streamline the planning system, on the other hand they actually "form a spatial and political regime that articulates territorial dominance" (Yacobi and Tzfadia 2019:15). Concerning the property rights' reform, it resulted in maintaining the same old colonial logic, for instance by transferring the lands to urban leaseholders, mainly Jews of the middle-upper class (Tzfadia and Yacobi 2011). The same destiny applied to the decentralization of planning rights: the few local authorities that benefitted from decentralization were the municipalities stronger at the beginning, i.e. those favoured by the Judaization of space (Yacobi and Tzfadia 2019). This selective decentralization is reflected also in the different allocation of governmental budget: according to a research of the Adva Center, in the 1997-2017 period the largest amount of government subsidies were granted to settlements (Switski and Konor-Attias 2019). In sum, it is possible to deduce that the neoliberal introductions have led to the preservation of the idea of denying spatial rights to minorities, while favouring the Judaization of space.

In conclusion, Israel represents a unique contemporary realization of the interconnection between neoliberalism and settler colonialism. If on the one hand it is a winning neoliberal state, who can count on increasing economic growth and international investments, on the other hand it also succeeded in gaining control over more and more lands. When combined together, these two phenomena result in strengthening the already existing Israeli dominance over Palestinians with the settlement enterprise. Therefore, it is important to highlight the paradox behind this nexus: if during Oslo the premise of decolonization – and consequently, of a slowdown in the settlements' development - was crucial for being integrated in the world's economy, now the same settlements are needed

in order to obtain more investments. As explained by Clarno, "settlement construction creates tremendous opportunities for capital accumulation due to free land, low-wage construction workers from nearby villages, inexpensive stones and cement from West Bank quarries, and export-oriented agricultural and industrial zones that exploit Palestinian and migrant workers"(Clarno 2017: 121). Hence, neo-settler colonialism in Israel has enabled the commodification of Palestinians 'sufferings.

Paragraph Two – An Overview of Business Involvement in Israeli Settlements

Since the beginning of the Occupation, "Israeli and international businesses have helped to build, finance, service, and market settlements communities" by becoming in this way "settlers themselves" (Human Rights Watch 2016: 1). Before proceeding with an analysis of the impact of business enterprises' actions, it is crucial to briefly reiterate what the development of Israeli settlements has meant for Palestinians. In a nutshell, systematic seizure of lands, demolishment of houses, restriction of planning rights, and other several human rights abuses. These direct effects have been accompanied by other consequences that are indirectly affecting the lives of the Palestinian population and preventing them from enjoying basic rights. The above mentioned policies implemented by Israel in the OPT, which are clearly reflecting an institutionalized discrimination, are aimed on the one hand to transfer Israeli settlers to those territories, and on the other hand, to create a coercive environment that would result in a "voluntary" displacement of Palestinians. Both actions are unlawful under international humanitarian and human rights law, and amount to international crimes.

In this scenario, business enterprises have played a role of facilitator in reaching Israel's objectives of expansion, annexation, and control, while at the same time benefiting from the systematic discriminatory policies against Palestinians in the OPT (Farah and Abdallah 2018). Their fingerprints have been verified by their prominent geographic presence. Whilst the area of residential settlements is estimated to be around 6,000 hectares, the magnitude of the commercial activities in the OPT is far more exceeding.

Thus, Israel has under its administration 20 industrial zones that amounts to 1,365 hectares in the West Bank, Israeli settlers have at their disposal agricultural land covering 9,300 hectares, and settlement businesses own 187 shopping centres inside the settlements as well as 11 quarries (Human Rights Watch 2016). The huge amount of hectares that businesses have at their disposal depends on the unlawful confiscation of Palestinians' lands and resources. Corporations have shown their complicity in several ways, ranging from the unlawful exploitation of Palestinian natural resources for business purposes, to the normalization of settlers' presence by providing them a job (Abdallah and De Leeyw 2020). The allocation of land, together with financial incentives, access to infrastructures, and cheap Palestinians 'labour are all making more profitable companies' operations in the settlements. Pushed by the goal of achieving a competitive advantage, companies have focused their interests in the OPT mainly in three areas: settlement industry; control of population; and exploitation (Baum 2011).

I. How Businesses Benefit From and To What They Contribute

One of the most common justification argued by Israeli and international companies as a response to criticisms owing to their operations in the OPT, is the claim to provide labour to Palestinian workers (Who Profits 2013b). The political reality of the occupation has refrained Palestinians from making a free and informed choice: working in the settlements represents one of very few viable options for earning a livelihood in the OPT (Who Profits 2013b; Clarno 2017). The 23,000 Palestinians that are employed in Israeli settlements (PCBS 2020b)[72] are experiencing significant decent work deficits, which includes "long wait and crowded conditions at the crossings; an abusive permit regime in which brokers and employers have undue power over the worker; a lack of comprehensive social protection ...; often inadequate working conditions" (International Labour Conference 2020). Specifically, a survey published by the Democracy and Workers' Rights Center

[72] This figure referred to 2019 and was released by the Palestinian Central Bureau of Statistics. Available at http://www.pcbs.gov.ps/portals/_pcbs/PressRelease/Press_En_13-2-2020-LF2019-en.pdf.

Palestine[73] in 2011 revealed even more worrying features. Accordingly, Palestinian wage workers employed in the settlements are mainly recruited by Palestinian work contractors[74]: this means usually working without written contracts, and without the representation and support of workers 'committees (Democracy and Workers 'Rights Center Palestine 2011)[75]. As a result, companies are less compelled to pay important workers' rights guaranteed by their own countries 'regulations and by international standards.

A proof of the lack of regulations' enforcement is provided by the recourse to child labour, as reported by a Human Rights Watch's research. Precisely, up to 1,000 Palestinians children have worked during the summer season in the Israeli agricultural settlements (Human Rights Watch 2015a). Common to both child and adult labour, another huge benefit that companies are enjoying when operating in the settlements is Palestinians' cheap labour. According to Kav LaOved – an Israeli organization devoted to the defence of workers' rights – the vast majority of Palestinians workers' wages in the settlements do not reach the minimum wage, in many cases they are withheld, and usually do not includes holidays, convalescence, sick, overtime, and vacation pay (Kadman 2012). All the above-mentioned phenomena related to the use of Palestinians workforce have been translated into minor costs for business enterprises; however, "a business that operates illegitimately cannot demand legitimacy on behalf of the workers and at their expense" (Who Profits 2013b: 2).

Business and companies are also attracted by all the incentives provided by Israel's administration. To this regard, the designation of the settlements as Israel National Priority Areas (NPAs) is crucial in order to get access to governmental subsidies. At the moment, 90 settlements – which includes all the industrial settlements and the majority of agricultural settlements – are enjoying benefits that include "reductions in the price of land, preferential loans and grants for purchasing homes, grants for investors and for the development of infrastructure for industrial zones, indemnification for loss of income resulting from custom duties imposed by European Union countries, and reductions in

[73] The Democracy and Workers' Rights Center Palestine is a no-profit organization aimed at defending Palestinian workers' rights.
[74] In this way, the responsibility to ensure fair guarantees would lie on the contractor, and not on the employer.
[75] The survey is based on questionnaires with a 485 workers basis.

income tax for individuals and companies" (Human Rights Watch 2016: 33). As an example, the monthly rent in Barkan settlement's industrial zone was about $4.6-6.9 per square meter, compared to $10.15 in West of Jerusalem (Al-Haq 2020a). Moreover, Israel is committed to implement a permit and licensing regime that encourages the presence of business enterprises in the settlements. Companies that are operating in or servicing the settlements are benefited by readily accessible permits, which are hardly granted to businesses that provide services to Palestinians (UN Human Rights Council 2018).

Business enterprises have also exploited the so-called environmental governance gaps existing in the West Bank. The increasing degradation and weak governance related to natural resources scarcity has enabled companies to carry out environmentally degrading and polluting activities (World Bank 2019). These misbehaviours are triggered also by the lack of enforcement of environmental laws, which exist – including the 1999 Palestinian Law of Natural Resources, whose effectiveness will not be discussed here – but cannot be applied in Area C, where Israel exercise its total authority (Abdallah and De Leeuw 2020). Within this zone, the applicable provisions are those enshrined in the Order regarding the Administration of Local Councils (Judea and Samaria) (No. 892) of 1981, whereby Israel has implemented less rigorous environmental standards compared to those applied to the other side of the Green Line. Thus, recent developments in environmental legislation have never been incorporated into the above-mentioned Order, including those concerning air pollution: as a result, polluting plants in Israeli settlements are under no restrictions and their offences cannot be enforced (B'Tselem 2017). This is one of the main reasons behind the greater competitiveness of business operating in the West Bank, gained by taking advantage of the underdeveloped environmental regulations at the expenses of the local ecosystem, irreparably damaged without obtaining any previous consent by the local population (B'Tselem 2017). Hence, a substantive environmental injustice, understood as "a situation where environmental "goods" (e.g. clean land, air, and water) and "bads" (polluted land etc.) are unfairly distributed along lines of existing social, economic, ethnic, or even national inequality" (Al-Haq 2015: 7).

As noted by the UN Office of the High Commissioner for Human Rights (OHCHR) business enterprises are not only benefitting from the advantages related to Israel's policies and violations, but they are also playing "a key role in facilitating the overall settlement enterprise, contributing to Israel's confiscation of land and the transfer of its

population through commercial development" (UN Human Rights Council 2018: 12). Furthermore, their involvement is not serving the interests of the Palestinian economy. The disproportionate diversion of economic opportunities in favour of the Israeli and multinational companies' side has resulted in a structural subordination. By having denied most of the possibility to grow, PA economy is suffering from a strong dependence on Israel, foreign aid, and humanitarian assistance, as well as of a continued state of captivity and de-development (Abdallah and De Leeuw 2020). A steady deterioration is in fact occurring in economic and development indicators, which should be added to the chronic fiscal and trade deficit (UNCTAD 2019). According to the World Bank estimates, the missing revenues arising from the occupation has resulted in the loss of USD 3,4 billion each year, and in the denial of increasing the PA's GDP by about a third (Abdallah and De Leeuw 2020). The Palestinian economy is slowly growing - the GDP's increase of 2019 remained steady at 0.9 per cent (PCBS 2020a) - but not in a relevant manner to boost employment, which has to rely on the job opportunities provided by the settlements (Clarno 2017).

By actually building settlements, demolishing Palestinians' structures, and providing services, some of the involved companies have a direct and more visible role in perpetuating their existence. However, this is only a partial representation of the phenomenon. Therefore, even those with a more marginal role are still making their own contribution, for instance, with the payment of taxes to settlements' regional councils and with jobs offered to settlers (Human Rights Watch 2016; UN Human Rights Council 2018). According to the Israel Central Bureau of Statistics, 77,700 Israelis were employed in Judea and Samaria in 2018 (CBS 2018); even if there is no distinction between public and private sector, it can still be deduced that businesses are providing employment opportunities, regardless of what measure. Some figures concerning Ariel settlement reported by Human Rights Watch give an estimate of the annual business taxes: they amount to $29.75-$40 per square meters (p.s.m) for business offices, to $13/$18.75 p.s.m. for industrial buildings, and to $128/$211.50 p.s.m. for banks, financial institutions, and insurance companies (Human Rights Watch 2016)[76]. Moreover, the physical location of companies and their disproportionate consumption often automatically implies Israel's

[76] The taxes range according to the areas.

unlawful confiscation of Palestinian land and natural resources, the foundation of the Occupation's long history of dispossession.

In other words, by reducing their costs – especially the social and environmental ones – companies operating in the settlements are achieving a great advantage over their competitors in Israeli and international markets. However, these cutbacks are implying concrete and dramatic consequences. For instance, by taking advantage of less rigorous environmental standards, businesses are contributing in making the West Bank a sacrifice zone, irrevocably impaired by environmental damage or economic neglect (B'Tselem 2017). Nevertheless, even if they acknowledge the possible risks, companies are keeping incentivising the transfer of new settlers, and ensuring the continued presence of the pre-existing ones. In a nutshell, they are facilitating a "financial annexation", as part of the broader aim of annexing formally and *de facto* the Occupied Territories.

II. The Main Activities Carried Out by Business Enterprises

Israeli settlements in the West Bank serve also an important economic function. They in fact are hosting several business activities that range in functions, nationality, and sizes. An enormous contribution to the recognition of the role that companies have in a high-risk conflict-affected business environment, such as the OPT, has been provided by the *UN OHCHR Database of all Business Enterprises involved in Israeli Settlements*[77]. By listing all the business enterprises involved in the settlements, the UN Database has succeeded in officially exposing this nexus, and its implications within an illicit environment that generates human rights violations (Azarova 2018). Accordingly, the UN initiative has identified 112 business enterprises that meet the reasonable grounds to believe they both are explicitly linked to the settlements - also geographically - and are enabling and supporting the establishment, expansion and maintenance of Israeli

[77] The whole official name of the database is "Database of all business enterprises involved in the activities detailed in paragraph 96 of the report of the Independent International Fact-Finding Mission to Investigate the Implications of the Israeli Settlements on the Civil, Political, Economic, Social and Cultural Rights of the Palestinian People throughout the Occupied Palestinian Territory, including East Jerusalem".

residential communities beyond the Green Line (UN Human Rights. Specifically, the main activities that fall into the mandate of the database are the following (UN Human Rights Council 2013: 20):

a) The supply of equipment and materials facilitating the construction and the expansion of settlements and the wall, and associated infrastructures;
b) The supply of surveillance and identification equipment for settlements, the wall and checkpoints directly linked with settlements;
c) The supply of equipment for the demolition of housing and property, the destruction of agricultural farms, greenhouses, olive groves and crops;
d) The supply of security services, equipment and materials to enterprises operating in settlements;
e) The provision of services and utilities supporting the maintenance and existence of settlements, including transport;
f) Banking and financial operations helping to develop, expand or maintain settlements and their activities, including loans for housing and the development of businesses;
g) The use of natural resources, in particular water and land, for business purposes;
h) Pollution, and the dumping of waste in or its transfer to Palestinian villages;
i) Captivity of the Palestinian financial and economic markets, as well as practices that disadvantage Palestinian enterprises, including through restrictions on movement, administrative and legal constraints;
j) Use of benefits and reinvestments of enterprises owned totally or partially by settlers for developing, expanding and maintaining the settlements.

Even if the United Nations has recognized that the listed involvements are not comprehensive and do not cover all the business activities related to Israeli settlements (UN Human Rights Council 2020), the published Database is still a valid starting point. However, due to the multiplicity of the listed areas of activity, which more than often tend to overlap, it is more clear and effective to use another type of categorisation. Therefore, by following the logic provided by "Who Profit From the Occupation" - an independent research centre aimed at exposing corporate interest in Israeli Occupation - which has become a useful tool for researchers and activists (Baum 2011), the list of activities promoted by the UN can be grouped into three macro-categories, strictly

connected to each other: "Settlement Enterprise"; "Control of Population"; "Exploitation".

The term "Settlement Enterprise" encompasses all the entire economic sustenance of the settlements (Who Profits 2020). Its main foundation lies on the physical existence of the settlements, i.e. Israeli civilian construction. To this regard, a multitude of companies - both Israeli and foreign – have become complicit in the annexation of more lands and resources to Israel while cutting off the Palestinian population, by taking an active part in the construction of housings and infrastructures for the exclusive use of the settlers. This type of involvement does not include only the Israeli construction industry per se, but also other businesses strictly connected to it, such as real estate dealers, contractors, suppliers of materials (Who Profits 2020a). Specifically, an example is provided by the heavy equipment companies, whose equipment is used to clear the land, demolish Palestinians' buildings, and construct settlements (Amnesty 2019). The US-based multinational Caterpillar[78], for instance, has been selling its products to Israel since 1948, which have been used to demolish Palestinians' houses, to kill individuals like those murdered in "Pressure Cooker' operations"[79], and to construct colonies, the Separation Barrier, and other projects like the industrial zones (Who Profit 2014; Who Profits 2020b).

The industrial zones are the core of the settlements' economic production. There, hundreds of companies are taking advantage of governmental benefits and cheap labour, in order to serve the local settler population or to export their products worldwide (Who Profits 2020c). In order to exist and keep existing, the Israeli neighbourhoods in the OPT are counting on the development of their own network, both industrial and agricultural. With its $128 million of estimated goods in the Jordan Valley region, agriculture remains one of the main incomes that support the settlements in that area (Jabarin 2016). Agricultural and food companies are benefiting from the dispossession of Palestinians' lands, and unequal water allocation in such a way to grow and market their goods internally and internationally (Amnesty 2019). As their industrial counterpart, the products sold abroad are frequently subjected to mislabelling: settlement businesses are

[78] It is a world's leading company for the manufacturing of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives (BADIL 2015).

[7979] These operations have been conducted against Palestinians suspected to barricade themselves in buildings that needed to be demolished. In cases the suspects refused to leave and remained alive inside, Israeli military destroyed the house with bulldozers (Who Profits 2014; Who Profits 2020b).

intentionally labelling their products as "Made in Israel" in order to have access to the preferential treatment reserved to Israeli goods by many countries (Human Rights Watch 2016). In this sense, a paradigmatic case has been the Ahava Dead Sea Laboratories, a private Israeli cosmetic company whose products are made of mud and minerals extracted from the occupied section of the Dead Sea, and whose main manufacturing plant is based in Mitzpe Shalem's settlement (Karmi-Ayyoub 2011; Who Profits 2012).

In addition, the term "settlement industry" should be widened in a way to include all the services around the existence of Israeli settlements, which have a crucial role in increasing their attractiveness. Ranging from real-estate agency, financial services, public transportation to utilities, waste management, security and telecommunications, companies are providing these kind of services to the settlements, by following a policy of systematic discrimination that has become "a facet of the ethnic segregation between Palestinians and Jews in the occupied West Bank" (Baum 2011: 54). For instance, banks and other financial institutions are those responsible for setting the financial infrastructure of the settlement enterprise: they are providing not only loans to homebuyers, but also capital to businesses, building projects, and local authorities of the Israeli settlements (Human Rights Watch 2018). Even if it is illegal to deny their services to Israeli settlers, these companies intentionally decide to invest in projects related to the settlement economy, and that facilitate their expansion (Amnesty 2019). Bank Hapoalim has been identified to be one of the involved business enterprises. As the largest bank in Israel by managed assets, it has achieved strong international relationships: as such, it has several foreign subsidiaries – specifically in Switzerland, Luxemburg, United Kingdom, Turkey, and United States – and it can count on several investors, including those with their headquarters in EU (Kuepper and Warmerdam 2018). By financing the Israeli bank, its whole network is contributing to the construction project of settlements, whereby the most recent includes Beitar Illit, Efrat and Ma'ale Adumim in the West Bank (Who Profits 2017).

The settlement industry does not exhaust the way corporations are involved in the Occupation, but there are two more categories: "Exploitation" (Who Profits 2020d) - related to all those activities that exploit Palestinian land, resources, and labour – and "Population Control" (Who Profits 2020e) - which encompasses businesses that are connected to Israel's system of control over Palestinians. Even if these umbrella terms

can refer to other realities of the occupation, they can also be applied to the reality of Israeli residential zones in the OPT. Nahal Raba stone quarry, ran by the subsidiary Hanson Israel, owned by the German Multinational HeidelbergCement, in the Occupied Palestinian Territory (OPT) offers an exhaustive illustration. By unlawfully extracting Palestinians' natural resources and transferring its construction materials to Israeli settlements, HeidelbergCement has benefited the Israeli economy, and in particular the settlement enterprise (Abdallah and De Leeuw 2020). Within the realm of surveilling Palestinians, a recent and worrying trend has involved the outsourcing of security within the occupation context. Israel's security authorities have been hiring private security companies to guard settlements and, with their guns and with the allowance to use force, are acting like a *de facto* police to the benefit of the settlers and of the companies operating in those zones (The Association of Civil Rights in Israel 2014b). G4S Israel – part of the Danish international corporation G4S - has appeared to fall within this category: as well as being actively involved in the management of the checkpoints, this company has provided security equipment and personnel to the settlements of Modi'in Illit, Ma'ale Adumim and Har Ada (Who Profits 2016).

All the above-mentioned examples show how this phenomenon – very well and clearly documented over the years – has become so widespread to touch several economic activities, whose borders are becoming more and more blurred. Companies – both Israeli and foreign – are helping Israel to unilaterally create irreversible facts on the grounds, at the expenses of the Palestinian population. In this sense, the UN Database gives to individuals the tools and the transparency to understand what companies are involved in the violation of applicable international humanitarian law and human rights norms – whose have been given detailed consideration in the next paragraph.

Paragraph Three – The Applicable Legal Framework for Business Enterprises

The growth in numbers and power of transnational corporations operating across several countries has raised the question about how international law should address the actions

of these entities. (McCorquodale and Simons 2008). Corporations as legal persons have been an assumption subjected to a heated debate within the scholarly world: their capability to harm has never been under discussion, contrary to the extent of their legal obligations. (Bismuth 2010). If globalization on the one hand has been translated in more constrained states 'intervention, on the other hand it has increased the power of corporations: as a consequence, the resulting "governance gaps" have led big companies to commit abuses without being noticed or challenged (Human Rights Council 2008). Their right to operate globally was well protected by investment treaties and free trade agreements, whereas their responsibility for the increasing human rights and humanitarian abuses lagged behind (Ruggie and Nelson 2015). That is how the latter has begun to raise concerns and attract international attention, as an issue (Ouazraf 2011). Thus, whether direct perpetrators or only accomplices and beneficiaries, whether physically present or only operating remotely, corporations have been increasingly involved in breaches of human rights and international humanitarian norms. Despite business enterprises are not the worst perpetrators in conflicts and occupations, a normative framework to regulate the conduct of businesses was needed.

Although businesses are a mere product of domestic legal orders, when analysing their impact on Palestinian communities, it is crucial to refer to the international obligations that address their responsibility, in order to understand how much their actions deviate from human standards. It should be noted that concerning the activities of companies in the context of occupation, there is a lack of specificity: thus, "the law and practice concerning the responsibilities of business and the obligations of their homes states in relation to private dealing in occupied territory are underdeveloped" (Azarova 2018: 187). However, it is possible to examine their responsibilities by taking into account the more general trend to improve standards that regulate the conduct of business enterprises at the international level, even in situations of armed conflict (Bishmuth 2010). Accordingly, international humanitarian law (IHL) – codified in the 1907 Hague Regulations (HR), the 1949 Fourth Geneva Convention (IV GC), and in the 1977 First Additional Protocol to the GC (AP I) - does not bound only states to their respect, but also all the "actors whose activities are closely link to an armed conflict". Since these instruments have not specified the nature of their subjects, the idea of business enterprises as duty bearers of IHL cannot be excluded (Bishmuth 2010). Furthermore, as explained by the UN Secretary General's

Special Representative on Business and Human Rights, John Ruggie, corporations have a responsibility to respect human rights obligations (Human Rights Council 2008). Therefore, also the human rights normative framework has considered companies as duty bearers for the uphold of human rights, mainly under the UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises (OECD Guidelines).

I. International Humanitarian Law

Notwithstanding the ultimate responsibility of the state that owns effective control on the territories, the rules of international humanitarian law apply also to non-state actors in cases where there is a nexus between their operations and the conflict. Despite the less familiarity that business companies have with IHL – compared to human rights law – the latter has been specifically elaborated to impose standards in armed-conflict situations, including occupation[80]. If on the one hand this corpus of norms provides some kind of protection for the facilities and assets of companies, on the other hand it also places liability for possible violations – or merely contribution – of humanitarian provisions (ICRC 2006), including international criminal accountability. To this regard, in order to hold the enterprise responsible there is no need to show the intent element of supporting a party of the conflict, but only the linkage of their activities to the conflict itself (ICRC 2006), no matter if directly committing the act or acting as accomplices.

As previously analysed and well condemned by international bodies like the UN Security Council, UN General Assembly and International Court of Justice, the development of Israeli settlements in the OPT is unlawful under international law. The basic assumption behind its illegality is that sovereignty should remain in the hands of the Occupied Population, whereas the Occupying Power should own only temporary responsibilities for governmental functions (Ouazraf 2011). Therefore, since the Occupying Power

[80] Occupation is considered as a conflict situation, even if the hostilities have ceased or occurred sporadically.

cannot acquire legal sovereignty, it must refrain from depleting the territory itself in light of its eventual return. By following this logic, the transfer of the Occupying Power's civilian population into an Occupied Territory is completely in contrast to Article 49 of the IV GC, and as such, constitutes a grave breach of international law and amounts to a war crime (ICRC 1949)[81]. The same destiny applies to the extensive destruction and appropriation of properties that is not justified by military necessity, according to Article 53 of the IV GC (ICRC 1949). Furthermore, pillage as the expropriation and exploitation of natural resources in favour of the Occupying Power amounts to a war crime and to international humanitarian law breaches. Articles 46, 52, and 55 of the 1907 HR establishes that the appropriation of private and public property is unlawful under international humanitarian law, and the systematic confiscations of Palestinian lands clearly fall into this category (The Hague 1907)[82].

Therefore, once established the unlawfulness of the implications arising from the activities of businesses on the ground, it is crucial to analyse their obligations under international humanitarian law. Although businesses are not bound *per se* by IHL at the international level, IHL is binding on their managers and employees as individuals (Gillard 2006). Moreover, even if none of the above-mentioned international instruments specifically addresses companies' acts, as argued by the International Committee of the Red Cross – a prominent body for the interpretation of humanitarian provisions – with its *Report on Business and International Humanitarian Law* (ICRC 2006)[83], it is still possible to deduce some obligations. Accordingly, a business enterprise has to be careful about how it acquires assets: whether taking private property of the Occupied Population by force, or having an agreement based on threat, intimidation, pressure or power position, the company can be held responsible for pillage. Furthermore, according to IHL none of the civilian population of OPT should be compelled to carry out uncompensated or abusive work especially by private actors, who are constrained to assure listed minimum working conditions. Business enterprises have also some obligations

[81] Convention available at: https://www.refworld.org/docid/3ae6b36d2.html. See Art. 8 of the Rome Statute, available at: https://www.refworld.org/docid/3ae6b3a84.html.
[82] Convention available at https://www.refworld.org/docid/4374cae64.html.
[83] See *Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law*. Available at: https://www.icrc.org/en/publication/0882-business-and-international-humanitarian-law-introduction-rights-and-obligations

concerning the absolute nature of the prohibition to forcibly transfer the civilian population: the displacement carried out by the Occupying Power in order to promote the company's interest is not justified, and as such, punishable by law. In addition, the environment is fundamental to the development of human kind, and thus, is protected in times of conflicts and occupation: to this regard, business enterprises must refrain from providing any services that may cause a widespread, long-term and severe damage to the environment (ICRC 2006).

With more certainty compared to businesses, it is possible to assert that states are responsible for breaches of IHL, even when carried out by other actors. Thus, it is well established the international responsibility of states for acts committed by agents that are officially attributable to the state itself – also known as *the jure* organs of the state - , and by other actors who act like *de facto* state organs, i.e. privately (Longobardo 2016)[84]. Therefore, the question turns out to be whether international humanitarian law violations committed by private actors - individuals who do not have any links with the State, and as such, do not fall into the category of state organs- may invoke state responsibility. The answer provided by international humanitarian law is quite uncertain. However, Article 146 of the IV GC establishes the duty of the High Contracting Parties "to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches" and to "search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and . . . bring such persons, regardless of their nationality, before its own courts" (ICRC 1949)[85]. In other words, states are compelled to ensure liability for any persons who breach international humanitarian law provisions, including businesses.

After the previous analysis, it is possible to deduce that a legal framework against corporate complicity in international law violations exists. However, the extension of such phenomenon within the context of OPT has clearly reflected a culture of impunity benefitted by the involved companies. Unsurprisingly, there is a gap in accountability: the latter have tried to escape liability arising from the whole corpus of humanitarian and

[84] Usually a wrongful act is attributable to a state when is committed by de facto state organs, i.e. "Individuals directed or controlled by the state, and individuals whose conduct is acknowledged and adopted by a state as its own" (Longobardo 2016: 257).
[85] These obligations are enshrined also in Art. 49 GC (I), Art. 50 GC (II); Art. 129 GC (III).

human rights norms, which lack enforcement. Given that the instruments of IHL have not embraced any specific mechanisms for the implementation of their principles, the only possible ways to determine the responsibility of companies are before national courts – when the state has passed a legislation that permits so – and before the ICC for abetting and, in the worst scenario, committing a war crime (Bismuth 2010)[86]. When international obligations have been integrated into the domestic legal system – the offence for violations of IHL and their applicability to legal persons must exist within the national legal order – they can expose corporations to civil and criminal liability: however, as it will be analysed later, the inadequacy of national legislations and courts may jeopardize this enforcement (Bismuth 2010; O'Connor 2012). In order to circumnavigate these shortcomings, when not properly addressed by national systems, the ICC can intervene with its jurisdiction on the commission of international crimes. Therefore, the companies that decide to stay and operate in the West Bank and East Jerusalem are risking facing indictment for complicity in clear breaches of international humanitarian law, and this is not a common misconception (Schaeffer Omer-Man 2020).

II. Business and Human Rights: the UN Guiding Principles and the OECD Guidelines for Multinational Enterprises

In a phase that is experiencing the escalation of charges in business-related human rights abuses, it is crucial to implement a framework that takes into account complementary responsibilities owned by different actors. Not only "business should make sure that they are not complicit in human rights abuses" (UN Global Compact 2020) – as enshrined in Principle 2 of the 1999 UN Global Compact - but in order to achieve sustainability other principles should inform this framework. Specifically, "the State duty to protect against human rights abuses by third parties, including businesses; the corporate responsibility to respect human rights; the need for more access to remedies (Human Rights Council 2008:

[86] It is worth noting that international criminal liability does not apply to legal persons as abstract entities, but to "men" that that entity is made up of.

4). This tripartite system is the core of the global standard related to upholding human rights while conducting business (UN OHCHR 2014). In addition, companies are finally equally responsible, since there is no hierarchy between state and corporate obligations. However, despite the recognition of business enterprises as human rights duty-bearers, there is still a lack of legally binding regulations upon them. To this regard, the concept of corporate social responsibility (CSR) is useful, as a "voluntary commitment" undertaken by corporations to private standards of human rights respect and environmental protection, which encompass ethical and sustainable behaviour. Clearly a step forward but still among the soft law initiatives, the UN Guiding Principles on Business and Human Rights (UNGPs)[87] and the OECD Guidelines on Multinational Enterprises (OECD Guidelines)[88] both mark a recent development of international human rights law concerning the conduct of businesses.

Endorsed by the UN Human Rights Council in 2011, the UNGPs are a set of guidelines crucial to prevent, address, and remedy human rights abuses related to business operations, where the due diligence principle has become more and more central. Discharging the responsibility to respect requires, in fact, due diligence, understood as "the steps a company must take to become aware of, prevent and address adverse human rights impacts" (UN Human Rights Council 2008: par 56). When a business enterprise is directly linked or causes an adverse impact – both as a direct perpetrator or simply accomplice -, the due diligence principle requires the company to undertake systematic, proactive and reactive steps (UN OHCHR 2011). Specifically, impact assessment, appropriate action" to deal with the impacts, tracking performance, and communicating it publicly, are all the actions needed, which are enshrined respectively in Guiding Principle 18, 19, 20, and 21 (UN OHCHR 2011). When companies realize that there is a risk of causing or contributing to an adverse human rights impact, and their analysis has shown that that impact cannot be prevented, the UNGPs require them to disengage from those operations. In a nutshell, a company should always avoid an involvement, and when that is not possible and when other nodes of their business relations are involved, the impact should be mitigated and addressed.

[87] Available at: https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf
[88] Available at: http://www.oecd.org/daf/inv/mne/48004323.pdf

An enhanced human rights due diligence process is required in conflict-affected zones, where, according to Principle 7, corporations are more likely to commit gross human rights violations due to the home states' lack of effective control and inability to protect human rights adequately (UN OHCHR 2011). Occupation falls under the category of conflict-affected areas covered by the UNGPs, as proved by the UN Working Group's report to analyse the applicability of the Guiding Principles in the context of Israeli settlements (UN OHCHR 2014). The innovativeness of the UNGPs lies also on specifically addressing the involvement of business in these extremely-volatile situations, by establishing measures to undertake in order to strengthen the due diligence process. Those measures may include, for instance, more frequent monitoring and assessment of human rights impacts, being particularly conscious of the methods of acquiring assets, and modify all the contracts in order to integrate human rights provisions (UN OHCHR 2014).

The corporate responsibility to respect should be complemented by the state responsibility to protect and provide redress. States are still compelled to uphold human rights, including those one converged in the UNGPs. The "host state" – i.e. the territory where the companies are operating- , must protect everyone within the territory or jurisdiction against human rights abuses that may arise from business enterprises (UN OHCHR 2011). Furthermore, their actions must be devoted to prevent, investigate, punish, and address such violations (UN OHCHR 2011). Even if host states may appear as the most relevant duty-bearers, also the "home states" of corporations are not exempt from assuming responsibilities. Despite the inexistence of a requirement under the UNGPs, in light of the relevant role that home states have in situations of armed conflict, they should take reasonable steps to prevent and address human rights abuses committed by the companies domiciled in their territories (UN OHCHR 2011). For instance, through disinvestment from business enterprises where there is a risk of involvement in human rights abuses. The peculiarity of the OPT, which would be better examined in the fourth chapter, lies in the fact that Israel is still the owner of effective control over the territories, and as such, has the obligations of a "host state", but also as a "home state" of its businesses.

Another cornerstone in the paradigm of business and human rights are the *OECD Guidelines for Multinational Enterprises* ("Guidelines") (Ruggie and Nelson 2015).

Promulgated by the by the Organization for Economic Cooperation and Development, OECD states elaborated a series of principles and standards of good practice that reflects the already applicable laws. This time, contrary to the UNGDs, is up to governments to address recommendations to multinationals. Subjected to a series of releases, under the current version the commitment towards the Guidelines remains on a voluntary basis, but is open to adhesions by non-OECD states, and even more importantly, human rights are dealt in a deeper way. Thus, a further step towards the enhancement of human rights responsibilities has been advanced by incorporating the UNGPs in the 2011 OECD Guidelines. Accordingly, the already covered thematic of transparency of the information, the recognition of a supply chain responsibility, the elimination of child labour as a phenomenon, and environmental protection, have been accompanied by human rights due diligence requirements for the MNEs (Ruggie and Nelson 2015). Specifically, corporations should avoid infringing or contributing to violations of human rights with their activities, whereby activities refers both to actions and omissions; when this occurs, they should take the necessary steps to cease or prevent the impact (OECD 2011). Furthermore, when the adverse impact of human rights is not directly linked to the business enterprise but to another entity of its business relations, the company should use its leverage to mitigate as much as possible the negative implications (OECD 2011). In other words, all the measures that multinationals should carry out are all based on the identification of the risks, made it possible by a process that "entails assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses as well as communicating how impacts are addressed" (OECD 2011: 34).

Thanks to the 2011 Guidelines version, a greater range of human rights issues appears to be addressed, but even more, the mechanism that is making the Guidelines unique is strengthened and boosted. Formally agreed in 1984, the National Contact Point (NCP) is the body designed to receive and resolve individual complaints about alleged violations of the Guidelines, by in this way operationalising the framework as a non-judicial mechanism. For the first time, there is an international forum where individuals can bring complaints against MNEs directly and where to provide a venue for people who have been affected and who seek effective remedies (Oldenziel, Wilde-Ramsing and Feenay 2010). Once a complaint is received, the NCP has the duty to determine whether the issue requires to be further analysed and, if so, to offer good offices in order to reach an

agreement between the parties, and to issue final statements and reports in order to explain all the steps undertaken (OECD 2018). However, the fact that there is not a binding commitment to include in the reports the assessment on whether a possible breach of the Guideline occurs, may impair the effectiveness of this mechanism (Maheandiran 2015); nevertheless, the public nature of the NCP's final statements means a lot in the business field, where profits highly depend on reputation (Ochoa-Sanchez 2015).

By asserting responsibilities for all companies, to uphold human rights is not anymore so voluntary as a commitment for businesses. However, the main weakness of both the UNGPs and the OECD Guidelines are related to the fact that they are not legally binding. Or even better, it is left to the discretion of governmental will to decide whether to incorporate those responsibilities in the national legislation, and thus convert them in binding laws (Wettstein 2015). Nevertheless, notwithstanding their no-legally binding nature, the UNGPs and the Guidelines have been well received, with companies and states that have gradually endorsed them (Amnesty 2019; Maheandiran 2015). Therefore, even if there are still some weak points that need to be strengthened, these instruments are making headway towards an "authoritative, comprehensive and foundational treatment for the field of business and human rights" (Mares 2014). Thus, they "mark the end of the beginning: by establishing common global platform for action, on which cumulative process can be built, step-by-step, without foreclosing any other promising longer-term developments" (UN Human Rights Council 2011:5).

III. Towards a Legally Binding Treaty?

As said before, up to now businesses have decided as "voluntary actions" to accept the obligation of upholding human rights while carrying out its operations (Gillard 2006). In order to overcome the lacunae affecting the UNGPs and the OECD Guidelines, in June 2014 the UN Human Rights Council adopted a resolution to establish an intergovernmental working group (IGWG) with the task to elaborate an international legally binding on transnational corporations and other business enterprises with respect

to human rights (UN Human Rights Council 2014b). Sponsored by Ecuador and South Africa, and strongly opposed by established economic powers like the USA and UE, the resolution opened a process that would eventually lead to the adoption of a treaty (Bilchtz 2016).

The resolution has been however highly debated, and the 20 votes in favour compared to the 14 ones against clearly provide a proof. Despite the argument that reserving all the legal obligations to states would affect the obtainment of remedies - if a state cannot be held liable for whatever reasons, no one will be accountable for the corporations' harm - , with a binding instrument the accountability gaps are more likely to find a solution, especially in weak governance contexts where accessing a remedy is almost impossible (De Shutter 2016). To begin with, an international treaty would express an important normative and authoritative position: by establishing that international human rights law produces binding obligations on businesses, doubts and confusion would make way for clarity (Bilchtz 2016). Moreover, at the current moment, the obligations imposed on businesses are mainly negative, i.e. refraining from harming; however, elaborating a new instrument could be the perfect occasion to boost and strengthen the positive contributions that companies may make to realize rights, in light of their growing power (Wood 2012). Furthermore, the objections raised against the longer timelines that elaborating a convention would require, and the consequent concern for the temporary lack of protection of people affected by corporations (Ruggie 2014)[89] can be easily overcome by the complementarity between the UNGPs, the OECD Guidelines and the eventual convention. These instruments are not mutually exclusive, and while waiting for the new binding treaty the other mechanisms in place could be strengthened (ICJ 2014).

More than six years have passed and the meetings of the Working Group are still ongoing, even if little by little and not without problems. The Sixth Session, which took place in October 2020, concluded without clear negotiated reforms on the Second Revised Draft, and with the opposition of some states to some key and necessary provisions (Business and Human Rights Resource Centre 2020). Overall, the six meetings of the Working Groups have been quite confrontational and have not resulted in concrete outcomes, by

[89] Accordingly, Ruggie argued that engaging in the elaboration of an international convention might be a strategy carried out by those countries who have not yet implemented the UNGPs and OECD Guidelines.

revealing how the path to advance in the realm of fundamental rights is never an easy one. However, despite the growing polarisation of state positions, there is a general understanding that corporations should address their impact, a solid basis for the years to come. In order to face the imperious power of corporations, that are becoming more and more "quasi-governmental" institutions, there is the need of the authority and persuasiveness of a treaty rather than a soft law instrument. Otherwise, companies will continue maximizing their profits because they do not fear any legal consequences. Businesses have to respect fundamental rights, with the auspice that a treaty that engraves this obligation would be soon at an adoption-basis distance.

Conclusion

In order to counterbalance its negative effects, the Israeli neoliberalist experience has included the continued expansion of the settlement enterprise, which is the one of the main tools to "eliminate" and replace the local population used by Israel's settler colonialism project. In the attempt to explain the nexus between settler colonialism and neoliberalism, this chapter seeks to underline its main paradox. Accordingly, adopting decolonization talks was crucial for Israel to enter into the global economy, but now enhancing settlements' development is necessary to obtain foreign investments. It is no accident that the proliferation of companies profiting from the settlements is taking place in an era characterized by neoliberalism triumph, which has enabled the commodification of Palestinians' sufferings through a series of incentives, such as tax breaks, low-wage workers, and access to infrastructures. Within this context, companies have been attracted by Israeli's benefits in order to achieve an advantage over their competitors, and in this way, they have become settler themselves.

Business enterprises have a crucial role in building, financing, servicing and marketing settlement communities, which in turn have implied Palestinians' systematic seizure of lands, demolishment of houses, and restrictions of planning rights. Companies have benefitted from Israeli systematic discriminatory policies against Palestinians and this

cost reduction has resulted in dramatic consequences. Far from being beneficial to Palestinians, business enterprises have sustained the transfer of new settlers, while aggravating social, economic, and environmental implications for the local population. To this regard, an international normative framework has developed in order to regulate the conduct of businesses and to enhance their responsibility for the commission of human rights and humanitarian abuses. Even if the improvement of these standards is following a positive trend, it is crucial that they are accompanied by effective business accountability, especially in a context like the OPT where impunity seems prevailing. Therefore, the next chapter will analyse the possible solutions to make companies answerable for their involvement in Israeli settlements.

CHAPTER THREE - A Multi-Level Analysis of the Solutions for Business Accountability Involved in Israeli Settlements

As explored in the previous chapter, Israeli settlements in the West Bank serve an economic function, by hosting several companies that are contributing to Israel's violations of international law and Palestinians' human rights. In light of the concerning scale of the phenomenon, it becomes urgent to make those businesses accountable, where accountability is a wide and loose concept that entails the need of being answerable for the consequences of each own actions. This idea does not imply only corporate liability for a legal obligation, but also encompasses "non-legal risks of loss of reputation, denial of access to foreign markets, and shareholder dissent" (Bernaz 2013). Furthermore, within a context where a state is not fulfilling its human rights obligations, outside parties have the responsibility to become involved and exert pressures on norm compliance (Forsythe 2017). Demands for enhanced corporate accountability is a journey that is not complete, but in the meantime, they have been translated in an array of measures promoted by a variety of actors. Therefore, the aim of this chapter is to explore the major initiatives aimed at fostering corporate accountability for their illicit involvement in the OPT, undertaken by several stakeholders, with the attempt to critically uncover the factors that hamper this process.

Thus, when thinking about securing human rights generally and business human rights specifically, three key categories of actors come into play at different levels: international organisations, states, and civil society. The first paragraph will analyse the solutions proposed at the international level: the UN Database of all Business Enterprises involved in Israeli Settlements - with its function of naming and shaming the companies involved – and the possibility of resorting to the International Criminal Court jurisdiction to prosecute corporate executives for their role of aiding and abetting international crimes. Moreover, an analysis of the measures adopted by home states to ensure extraterritoriality over corporates' illicit acts committed overseas will be provided in the second paragraph, with a particular focus on the potential role of the National Contact Points and of domestic judicial mechanisms in ensuring corporate accountability. The third paragraph will

examine the role of the Boycott, Divestment, and Sanctions (BDS) Movement as an incisive campaign coming from civil society, its main successes and criticisms, and its strong opposition. The chapter will then conclude with a reflection on the role of politics and the misapplication of the concept of Anti-Semitism in haltering the path towards corporate accountability for their involvement in the OPT.

Paragraph One – Solutions for Business Accountability Advanced at the International Level

I. Moving Away from the UN Impasse? The UN Database

"Yet another stain on the already blemished record of the United Nations' reflexive bias against Israel. Commissioner Bachelet, if your focus is truly advancing human rights, you have gotten this exactly wrong!"

David Friedman, 2020[90]

The protection of human rights is not considered anymore exclusively a matter reserved to domestic jurisdiction of states. By their own consent, states find themselves enmeshed in a global governance, whose international legal regimes generate diplomatic pressures to comply with human rights standards (Forsythe 2017). To this regard, the United Nations is the supranational entity that presents the promotion of human rights among its main purposes, as enshrined in Article 1 of the UN Charter. As such, the UN system is deploying its principal organs, human rights bodies, and other agencies, in the attempt to implement the human rights framework, including the one related to business and human rights that has gradually been integrated within the international agenda. However, as explained by the *UN Special Rapporteur for the situation of human rights in the*

[90] U.S. Ambassador to Israel, quoted in Ahren and Staff 2020.

Palestinian Territory occupied since 1967, when it comes to Israel this entity seems to have adopted an approach whereby it "observes, sometimes objects, but it does not acts" (UN OHCHR 2020).

Specifically, the UN Security Council, the only body that under Chapter VII of the UN Charter can issue resolutions that bind member states, has been criticized for being highly politicized, since its actions "are always the offspring of power and policy (Harris 2008: 149). With respect to the OPT, the Security Council could intervene in a number of ways, especially by clarifying Israel's international obligations and by adopting enforcement measures[91]. However, the significant discrepancies in the Council members' perception of the Israeli-Palestine conflict, has led to the political paralysis of the body and to most of the resolutions adopted under Chapter VI of the Charter[92] (Harris 2008). In a nutshell, when dealing with the situation in the OPT the Security Council seems to follow the pattern "the more contentious the issue, the lower the likelihood of Security Council actions"[93] (Harris 2008: 150). A different discourse should be undertaken with regard to the Human Rights Council, the General Assembly's subsidiary body created *ad hoc* for promoting the universal respect and protection of human rights. Thus, this body was able to break the said deadlock by requesting a database for businesses that directly and indirectly enable, facilitate and profit from the construction and growth of Israeli settlements in the Occupied Palestinian Territory (UN Human Rights Council 2016).

Following the recommendations of the 2013 *UN Independent Fact-Finding Mission on the implications of the settlements for the ability of the Palestinian people to enjoy their basic human right*, the Human Rights Council with its Resolution 31/36 gave the Office of the High Commissioner for Human Rights (OHCHR) the mandate to produce the Database (UN Human Rights Council 2016). This document should map out the business activities in the OPT, by listing all the companies with business ties to Israeli settlements,

[91] It could for instance apply sanctions with regard to Israel policy on settlements, deportations, and the status of East Jerusalem, and also enact measures to enforce ICJ Advisory Opinion.
[92] The chapter relates to pacific resolutions of disputes.
[93] Specifically, "States that are somewhat powerful in the international system, be they permanent members or other member states, and that have an interest in preventing international attention to a particular issue, are often capable of doing so. Through diplomatic and political means they may be able to block Council deliberations on these issues."(Wallensteen and Johansson quoted in Harris 2008:150).

engaged in specific activities that raise particular human rights concerns. However, it should be kept in mind that the Database

"is neither an exhaustive list nor a normative basis for determining the wrongful character of a particular transactional relationship. Nor does it define the scope and nature of the substantive international law violations that arise from the existence and maintenance of settlements, or clarify the ways in which businesses can 'enable, facilitate, and profit from' these violations and hence contribute to the likelihood, frequency and severity of human rights abuses" (Azarova 2018: 190).

Still of a great significance, the Database must follow a strict methodology. Accordingly, the OHCHR contacts directly all the screened companies, further analyses the business enterprises that need additional considerations – those who are not set aside because of insufficient factual basis -, who in turn are requested to provide any clarification or update of the information, and to respond to the OHCHR's queries on their activities (UN Human Rights Council 2020). The content of the database, which must be updated on an annual basis, revealed the involvement of 95 Israeli companies, and 17 international firms, headquartered mainly in the U.S., UK, France and Netherlands (UN Human Rights Council 2020).

The release of the Database has been highly controversial, subjected to several political pressures since the adoption of the resolution establishing the mandate in 2016. Its supposed release in March 2017 has in fact been repeatedly delayed (Human Rights Watch and Others 2019). Contrary to the duty of the OHCHR to execute its mandate without interference, politics appears to have played a significant part in the postponement of the release date. Specifically, Israeli and its allies feared a blacklist resulting in the penalization of Israeli economy, whereas some companies were concerned about the dangerous precedent the Database would set in holding companies accountable (Cumming-Bruce 2019). These criticisms have maintained even after its publication. Thus, Israel, the U.S. and others continue to argue how this database is a concrete representation of the Human Rights Council's bias against Israel (Ahren and Staff 2020). Hence, another accusation on the politicization of the United Nations's activities, based on the fact that other similar situations – for instance the Morocco's presence in Western

Sahara and its negative implications on Saharawi people – should deserve the same attention and concerns (Van Ho 2020).

Moreover, other organizations like the Israeli NGO Monitor – well known to be pro-Israel – accused the UN agency to have joined the ranks of the Boycott Divestment Sanction groups, to falsely accuse Israeli companies to commit human rights violations, and to have released a blacklist that is anti-Semitic in intent and effect (NGO Monitor 2020). However, none of the criticisms – mainly related to the political science sphere and not to the instrument itself - keeps in mind the inactivity of the United Nations towards Israel, expressed by the fact that in 53 years of occupation it has never issued sanctions against the country, alleged to carry out apartheid regime against Palestinians both inside the Green Line and in the OPT. However, the UN OHCHR decided to ignore the accusations and to address business involvement in the Israeli settlements, as all objective legal issues. As a response, since the publication of the Database Israel has frozen its ties with the UN agency, and the recent refusal to extend OHCHR staff's visa by forcing them in this way to leave the country perfectly works as an example (Dyke 2020).

By challenging some criticisms stating that the Database is relying on sources from BDS groups and only aims to blacklist Israeli companies that would maximise the economic harm to Israel's economy, the UN database narrowed its initial 307 business enterprises to 112 (UN Human Rights Council 2020). Through screenings and the adoption of clear and transparent criteria, the OHCHR ensured all the due process guarantees and the well-founded evidence of the companies' involvement. Among the Palestine-supporters' side, some exponents even complained about the limited list of business practices, which allowed some noteworthy absences (Van Ho 2020). Therefore, in light of this shortcoming it is crucial not to consider the database as all-encompassing, since some businesses excluded from the list may still have ties with Israeli settlements and continue to contribute to abuses.

Furthermore, the Database fails in excluding legal implications for the involved companies, and by omitting the possibility of being civilly and criminally sued it could undermine the deterring nature of the initiative. Furthermore, another main limitation is not addressing the business responsibility to provide remedies to those harmed by their operations – which is one of the three pillars of the business and human rights paradigm

- that should be granted independently from any liability (Van Ho 2020). In other words, all the above annotations reveal the partial scope of the database. However, an official list released by a UN body has the potential to enhance pressures on governments, consumers, and investors, to boycott the involved businesses (Holmes 2020a). Even if this initiative targets Israeli settlements, it establishes a model that recognizes the need for business enterprises to ensure human rights due diligence, and as such, that can apply in other similar situations (Van Ho 2020).

Clearly, the "publication of that list is a timely reminder that settlements are illegal and must never be normalized. Listed businesses have no excuse – to continue their involvement in Israeli settlements is to knowingly breach their international obligations" (Hizagi quoted in Amnesty 2020). Nevertheless, it must not be a one-time initiative: the UN system should be committed more than ever to continue the work in spite of the constant opposition and political pressure, and as such, it should release other versions every year. In this way, by comparing all the following versions and analysing how many companies are still involved or have dropped out, the effectiveness of such a tool can be evaluated. If businesses continue to be listed, the Database will fail its objective to deter illicit actions, a key element of ensuring corporate accountability. Therefore, it is necessary to wait a bit more in order to understand whether this solution goes beyond drawing attention and critics, to actually break the apparent UN impasse – which is not a synonym of inaction[94] - over Israel-related issues, business activities included.

II. Business' Leaders Responsibility before the International Criminal Court

"The international court was established to prevent horrors such as those that were perpetrated by the Nazis against the Jewish people. Instead, it is persecuting the state of the Jewish people"

Benjamin Netanyahu, 2021[95]

[94] In this sense, the term "impasse" has been used to explain that although generally UN bodies have tried to be active, their actions have always had little success because of the political nature of the issue.
[95] Quoted in Staff 2021a.

Usually national courts are the supposed avenue where to prosecute international crimes committed by business enterprises. However, when domestic prosecutions have been vitiated by the unwillingness or inability to genuinely carry them out, the International Criminal Court may intervene (Wisner 2017). Since the Rome Statute confers personal jurisdiction over natural persons, corporate officers responsible for the company's perpetration of genocide, crimes against humanity and war crimes can be investigated and prosecuted before the International Criminal Court (Scheffer 2016). However, the corporate illegal conduct will be subjected to ICC scrutiny only if the isolated commission is part of a situation of atrocity crimes being officially investigated by the court at that time (Scheffer 2016). Therefore, since Palestine falls within the Prosecutor's investigation (ICC 2021a), corporate officials could be held liable for international crimes.

In 2015, the Government of Palestine issued a declaration accepting the jurisdiction of over alleged crimes committed "in the occupied Palestinian territory, including East Jerusalem, since June 13, 2014, and became a State Party of the Rome Statute (ICC 2021). Consequently, following a referral by Palestine's government, the Prosecutor of the ICC opened a preliminary examination in order to assess whether all the statutory criteria for opening an investigation were met, which concluded with a positive outcome (ICC 2021). However, in light of the legal and factual issues attaching to the Palestinian situation, the Prosecutor requested a ruling on the court's territorial jurisdiction in Palestine (Office of the Prosecutor 2020). Specifically, the Pre-Trial Chamber was requested to rule on the scope of the ICC's territorial jurisdiction, and to confirm that the Court may exercise jurisdiction over the West Bank, East Jerusalem and Gaza (ICC- Office of the Prosecutor 2020).

As a response, among the *amici curiae* that presented their opinions to the court, the Czech Republic, Austria, Australia, Hungary, Germany, Brazil and Uganda all have argued that the conditions for the ICC's jurisdiction have not been fulfilled (ICC – Pre Trial Chamber I 2021). These countries generally have contended that Palestine does not constitute a state under international law, and it is not a valid state party of the Rome Statute, On the other hand, it is interesting to note how no country has supported the ICC's

jurisdiction in the Palestine situation (ICC – Pre Trial Chamber I 2021). However, despite the opposition, the Pre-Trial Chamber I of the ICC confirmed that "Palestine has the right to exercise its prerogatives under the Statute and be treated as any other State Party would" (ICC – Pre Trial Chamber I 2021: 50), and that the Court's "territorial jurisdiction extends to the territories occupied by Israel since 1967" (ICC – Pre Trial Chamber I 2021: 51). Therefore, even if Israel is not a member of the ICC – it signed but not ratified the Rome Statute - the Office of Prosecutor can now proceed with opening a formal investigation. Nevertheless, it is important to highlight how immediately after the decision Netanyahu framed the ICC's ruling as purely anti-Semitic and it has ordered several embassies to persuade their home states to deliver a "discreet message" to the Prosecutor (Staff 2021a; Staff 2021b). In the meantime, Israel is apparently preparing a legislation that would prohibit any cooperation with the Court with a maximum punishment of five years in prison, and that would impose penalties on the Court and those working for it (Middle East Monitor 2021).

Since the Israeli settlement enterprise is supported and aided by business enterprises, this case could be the occasion to implement the Prosecutor's *2016 Policy Paper on Case Selection and Prioritisation*, which seems to open the door for corporate accountability (Bernaz 2017). The Office of the Prosecutor committed itself to "giving particular consideration to prosecuting Rome Statute crimes that are committed by means of, or that result in, inter alia, the destruction of the environment, the illegal exploitation of natural resources, or the illegal dispossession of lands", and those illicit actions are mainly related to businesses' operations, also in the OPT (ICC 2016: 14). In light of their facilitator role in Israel's unlawful transfer of the Occupier's population to the Occupied Territories, businesses' leaders can face charges before the ICC for aiding and abetting an international crime (Wisner 2017). Thus, through this mode of liability, an indirect perpetrator would be subjected to the same liability of the direct perpetrator. According to Article 25(3)(c) of the Rome Statute, " a person shall be criminally responsible and liable for punishment … if that person for the purpose of facilitating the commission of such a crime, aids, abets, or otherwise assists in its commission or its attempted commission, including providing the means for its commission" (ICC 1998). Following Rwanda Tribunal's definition, aiding means giving assistance to someone, whereas abetting involves facilitating the commission of an act (ICTR 1998). In order to be held

responsible, both the material and mental element of the accomplice's involvement have to be satisfied: respectively, the contribution to the perpetration of a crime, and the knowledge that the persons being assisted are committing in international crimes (Shabas 2001). When applied to the Israeli/Palestine context, the knowledge requirement is more likely to be met, given the intense publicity of Israeli occupation and settlements.

In other words, the unlawful activities of companies in the OPT fall within the broader investigation of the ICC Prosecutor, and is additionally supported by well-founded evidence on their contribution to Israel's crimes and on the satisfaction of the mental element. Therefore, it can be deduced that there is a well-established possibility of holding corporate officials accountable. However, this path is not so straightforward. Thus, the fact that international courts should prosecute only those individuals who bear the greatest responsibility for a crime might deter prosecuting actors whose involvement appear too remote, including companies' officers (Wisner 2017). This remoteness appears to increase when considering the complicity cascade, i.e. how all the nodes of a supply chain may pass the buck to one another. Furthermore, this limitation should be added to the lack of willingness to prosecute, since "there has been little stomach for aggressive pursuit of accomplices precisely because the trail may reach so far into the realm of ordinary and legitimate commercial activity" (Shabas 2001: 451).

If prosecuting company's executors may appear challenging, holding liable the company itself is impossible. Since the ICC has jurisdiction only over natural persons, corporations as juridical persons are excluded from liability. Given that at the time of the drafting of the Rome Statute several states did not include corporate criminal responsibility within their national legislation – and this would have raised several problems of complementarity with the ICC - this option was refused (Saland 1999). Nowadays, there is a completely different picture: nations by nations are in fact incorporating criminal liability for corporations within their domestic system (Scheffer 2016). Therefore, an amendment of the Rome Statute would be needed. However, restructuring the ICC in order to hold responsible corporations would prove quite daunting to realize, both politically and legally. Bringing a legal person into the jurisdiction of the ICC, and consequently, applying provisions meant for individuals to entities is a laborious process and a complex formula that states are not ready to implement. In light of this impediment, it is important to focus the actions on the viable options, namely enhancing the

development of national legislation in matters of corporate accountability and strengthening the understanding over the risk of corporate officers' exposure to the ICC (Scheffer 2016).

Even if in theory there is nothing to prevent the ICC to assert jurisdiction over business leaders committing international criminal activity, the currently opened investigation over the OPT – which is already problematic - is focused on the Israeli government, and does not mention business involvement yet. Furthermore, this difficulty should be added to the strong opposition to the general possibility of trying Israeli personnel before the Court. In this context, successful prosecutions of corporate nature may prove challenging but not impossible. Furthermore, the fact that it may take a long time before the ICC reaches a final agreement is not completely unfavourable. It could give the international community time to rethink international corporate criminal liability as the most effective method to send a message to companies not only in the OPT but all around the world.

Paragraph Two - Extra Territoriality as a Solution at the State-level?

"When Jews live in our homeland, this is a war crime"

Benjamin Netanyahu, 2021[96]

This assertion of Israel's Prime Minister Netanyahu reveals one of the main problems related to the Israel/Palestine situation: when a country perpetrator of international law wants to masquerade as not committing any wrongdoings, it is highly unlikely that it will work efficiently to put a stop to misbehaviours. Therefore, the issue is not dealing with a country where weak governance and corruption reign, but where its own political and ideological belief makes collaboration quite challenging. Hence, the role of other states in enhancing human rights protection. Thus, individual states can bring violations to the international attention and stimulate positive developments related to compliance with

[96] Quoted in Staff 2021c.

human rights standards. The same happens in the field of business and human rights. As it will be analysed in the next chapter, the State of Israel is not implementing policies that would protect Palestinians from businesses' human rights abuses but rather it is encouraging the presence of companies in the OPT and their profit off the occupation. Specifically, when host countries are unable or unwilling to implement a rigorous legislation to prevent and redress human rights violations committed by companies and in light of the low probability of obtaining redress, it is crucial that home states ensure the concept of extraterritoriality. As explained by the Special Representative Ruggie,

"Extraterritoriality is not a binary matter: it comprises a range of measures. Indeed, one can imagine a matrix, with two rows and three columns. Its rows would be domestic measures with extraterritorial implications; and direct extraterritorial jurisdiction over actors or activities abroad. Its columns would be public policies for companies (such as CSR and public procurement policies, export credit agency criteria, or consular support); regulation (through corporate law, for instance); and enforcement actions (adjudicating alleged breaches and enforcing judicial and executive decisions). Their combination yields six types of "extraterritorial" form, each in turn offering a range of options. Not all are equally likely to trigger objections under all circumstances" (UN Human Rights Council 2010: 11).

Thus, either adopting measures with extraterritorial implications or exercising extraterritorial jurisdiction over corporates' illicit acts committed overseas have become a popular way to enhance the control of the companies by their country of registration (Bernaz 2013). Even if there may be no international obligations for home states already, states are acting in this area, even in the Israel/Palestine context. In light of this trend aimed at implementing domestic measures with extraterritorial reach, some countries have included warnings about the legal, commercial, and reputational risks associated with the business involvement in Israeli settlements in their business advisory notes (Amnesty International 2019). As an example, the UK government guidelines are very clear and overt: accordingly,

"There are therefore clear risks related to economic and financial activities in the settlements, and we do not encourage or offer support to such activity. Financial transactions, investments, purchases, procurements as well as other economic activities

(including in services like tourism) in Israeli settlements or benefiting Israeli settlements, entail legal and economic risks stemming from the fact that the Israeli settlements, according to international law, are built on occupied land and are not recognised as a legitimate part of Israel's territory" (Foreign & Commonwealth Office 2021).

Up to 2016, other 15 EU member states and other governments such as Japan and Brazil undertook similar warnings (Lovatt 2016). In addition to guidelines, countries like Ireland and Chile have translated the recognition of the unlawfulness of Israeli settlements into legislative initiatives (Landau 2018). In 2018, the Chilean Congress approved a resolution calling on the President to adopt several measures, including a review of all Chilean-Israeli agreements in a way to exclude Israeli settlements, and to forbid the entry of products coming from those places (Landau 2018). A more recent version adopted by the Senate in 2020, seems to have included also the exclusion from tax benefits of all those entities involved in Palestinian occupation (Middle East Monitor 2020).

When dealing with the extraterritorial reach of corporate acts committed overseas, it is interesting to analyse the work of each National Contact Point. Every state that has adhered to the OECD Guidelines for Multinational Enterprises must set up this body, which is a forum for addressing allegations of non-observance of the Guidelines through a complaints process (Umlas 2016). Far from being a substitute for judicial remedies, the NCPs is a tool that may provide remedies to claimants, also in contexts where corporate liability is not so accessible (Umlas 2016). In other words, the NCP is a state-based non-judicial mechanism that, additionally, may provide fast resolutions – the Procedural Guidelines set an indicative timeframe for dealing with instances that amounts to 12 months[97] – and may pave the path for extraterritorial accountability. Thus, given that NCPs have competency over all the subjects covered by the Guidelines, they are entitled to handle complaints related to operations abroad of transnational corporations (Ochoa Sanchez 2015). However, although the NCPs are theoretically valuable tools in making corporations accountable, it seems that concretely they fail in meeting that potential. According to an OECD Watch research - an international network of over 100 civil society organisations promoting corporate accountability - of the totality of complaints

[97] See *Structure and Procedures of National Contact Points for the OECD Guidelines for Multinational Enterprises*, available at: https://mneguidelines.oecd.org/Structures-and-procedures-of-NCPs-for-the-OECD-guidelines-for-multinational-enterprises.pdf

filed in 2012-2015, 52% has been rejected, 12% has been concluded with a NCP statement, and only 6% has resulted in a joint agreement (OECD Watch 2015). NCPs have commonly rejected cases mainly because of inconsistency with the definition of multinational enterprise, ongoing judicial proceedings, and unreasonably high burden of proof (FIDH 2016).

Despite these shortcomings, the NCP could still be a useful tool to make corporations accountable for their unlawful activities in the OPT. To date, the UK NCPs is the only body that have dealt with the two cases presenting Israel/Palestine as host country (OECD 2021): the instance submitted by Lawyers for Palestinian Human Rights (LPHR) against the UK security services company G4S in 2013, and another instance submitted by the same organization against the UK-headquartered construction equipment company JCB in 2020 and still ongoing. The latter case is particular relevant since it claims specifically the use of JCB's products for settlement-related construction and for the demolition of Palestinian property. Currently, the NCP has discharged the allegation of human rights abuses but it is further examining the JCB's human rights due diligence process, its business relationship, and its human rights policy commitments (UK National Contact Point 2020). The complaint issued against G4S and its contribution to human rights abuses through its subsidiaries has been successfully been pursued, since the NCP asserted that the "company's actions are technically inconsistent with its obligations under Chapter II, Paragraph 2 to respect human rights" (UK National Contact Point 2015: 3) and as such it has to address impacts. Even if the final decision did not lead to compensation or any other legal obligations, the company announced in 2017 the completion of the sale of its Israeli subsidiary (LPHR 2021)[98].

However, the efficiency of the overall NCP system to deal with complaints related to the OPT is affected by the inequality among the NCPs, since some may be much weaker and less independent than others (FIDH 2016). There is in fact a huge discrepancy between the 72 complaints received by UK NCP in the period 2001-2015 and less than 12 complaints received by Israel NCP in the same period (OECD Watch 2015). Furthermore, different conceptions of their roles may lead to diverse results and outcomes. For instance,

[98] Even if the sale was described as related to commercial considerations, the decision came after less than a year after the UK NCP decision (Amnesty 2019).

the USA NCP is only offering good offices when no agreement is reached, whereas the UK one additionally has the power to issue final statements, to conduct examinations of the facts and to make conclusions on possible breaches (Ochoa Sanchez 2015). Moreover, another weakness lies in the partiality and non-binding nature of the NCP's final decisions. Thus, usually the mediated agreements imply only a commitment to develop and improve human rights due diligence policies – by excluding in this way other important components of the right to remedy like cessation of violations and reparation of harm - and generally, a company can simply decide to ignore to address the allegations (OECD Watch 2015). As a proof, the 105 complaints received by the totality of NCPs between 2012 and 2015 have resulted in: 4 statements acknowledging wrongdoing; 6 cases of improvement in corporate policy; 4 directly improved conditions for the victims; and 0 cases of compensation for harms (OECD Watch 2015). Nevertheless, the publicity of NCPs' conclusions has still influence on the conduct of the parties – like demonstrated by the G4S case – , and even if few, there are still beneficial results that need to be strengthened through reforms. In short, the NCP system remains a potentially powerful instrument, especially when considering its extraterritoriality scope.

Not only non-judicial mechanisms like NCPs are open to extraterritorial activities of corporations, but also some domestic judicial systems. When incorporated into national legislation, companies that are operating abroad and harming people may risk facing either criminal prosecution or private lawsuits for damages and other remedies (Amnesty 2019). Thus, corporate liability for violations of international criminal law has become an emerging norm, which may be attached to the company itself or to its directors (De Vos 2017). Although businesses usually are not the main actors behind genocide, war crimes, or crimes against humanity, their eventual complicity is a well-established concept now. As such, if on the one hand a number of corporate accountability cases had been initiated, on the other hand, not so many resulted in court or with a verdict (De Vos 2017). Furthermore, another main issue is related to the heterogeneity in the standards for criminal responsibility of corporations within national jurisdictions (ICJ 2013). For instance, the Appeal Court of Netherlands convicted in 2017 Dutch national Kouwenhoven for aiding and abetting war crimes in Liberia, in his capacity as director and president of two companies (De Vos 2017). On the other hand, the legislation of countries like Canada and Australia, which recognizes international criminal

responsibility for corporations as legal entities, has been hardly enforced in concrete cases (ICJ 2013).

Nevertheless, although discrepancy in states' practice is still present, there is evidence that the involvement in Israeli Occupation is starting to fall within the jurisdiction of corporate extraterritorial liability. As an example, in March 2010 a criminal complaint was submitted to the Dutch public prosecutor alleging that the Dutch company Lima Holding B.V. was involved in the construction of the Separation Barrier and Israeli settlements in the West Bank (Amnesty 2019). The Netherlands through its International Crimes Act criminalises the commission of and the complicity in international crimes. However, after three years of investigations, the Prosecutor decided not to move forward in light of the company's "minor" contribution to the entire settlement enterprise, already counterbalanced by the far-reaching steps undertaken by Lima Holding to halt its activities in the OPT (Business & Human Rights Resource Centre 2021). Subsequently, the Israeli Foreign Ministry spokesman Paul Hirschson commented the Dutch decision as unsurprising since "there is nothing illegal in Israeli behaviour", by clearly missing the point of the dismissal (Corder 2013). Thus, the Dutch access to justice for Palestinian victims in the OPT has been hampered by the political context: specifically, obtaining the necessary evidence for a conviction would have required collaborations from the Israeli authorities. This factor clearly contributed to the dismissal of the case (ICJ 2013).

Also French Courts dealt with an extraterritorial case of companies with business interests in the OPT, this time of a civil nature. In 2007, Association France Palestine Solidarité (AFPS) and the Palestinian Liberation Organization (PLO) filed a lawsuit in French courts against French-based multinationals Alstom and Veolia (Amnesty 2019). Specifically, their role in the construction of a railway through Jerusalem was under investigation. The plaintiffs in fact argued the complicity of the said companies in Israel's international humanitarian law violations and their breach of French Civil Code, since the project would have entrenched the unlawful occupation of the OPT, would have implied the destruction of Palestinian property, and would have facilitated Israeli settlements (Rubins and Stephens-Chu 2013). Based on these allegations, the claimants sought the annulment of the concession concluded with the State of Israel, an injunction prohibiting the performance of the contract and damages. The litigation continued until 2013, when the *Cour d'appel de Versailles* issued a final decision. Accordingly, the suit was

inadmissible given that the invoked international humanitarian law conventions did not create enforceable obligations for corporations (Business and Human Rights Center 2013). However, the Court did not address the issue of whether the companies conduct would constitute international crimes under French law (ICJ 2013).

The above-mentioned cases did not ultimately result in criminal or civil liability. Nevertheless, they still had huge impacts from the financial, commercial, and reputational point of view just as dangerous for companies. Several factors may play a role in the judicial decisions, including the political context, the national legislation, and the resources and evidence available. Furthermore, cases of successful prosecution imply a wide array of legal consequences, ranging from prison sentences to compensation, restitution and other administrative actions (Amnesty 2019). Whether the outcome is favourable or not, the mere fact that proceedings have been initiated shows that home states prosecutions of companies for their involvement in Israeli occupation and in the settlements is not anymore a remote possibility. Furthermore, even if there are no formal obligations, it is useful to remind that it is in the best interests of states to reach out corporate activities abroad, especially when those states are clearly supporting those businesses (Bernaz 2013). "While extraterritoriality is by no means a panacea, the exercise of direct extraterritorial jurisdiction as well as the adoption of measures with extraterritorial implications may have a positive impact on corporate human rights records and generally enhance corporate accountability" (Bernaz 2013: 510).

Paragraph Three – A Civil Society Initiative: the Boycott, Divestment, and Sanctions (BDS) Movement

"Just as the antisemites of yesteryear sought to prepare the ground for the expulsion and murder of Jews, the leaders of the BDS movement seek to use the ancient tools of demonization, delegitimization and double standards to put in place the foundations for a world without Israel"

Natan Sharansky, 2019[99]

Civil society plays a crucial role in advancing human rights. Global citizens are becoming more and more aware of the global challenges and are integrating themselves to make their voice heard and to provoke actions. When a state severely violates human rights, civil society organizations are crucial in raising awareness through the dissemination of information, and to make the issue a matter of international concern (Forsythe 2017). This is particularly true also in the field of corporate accountability, even more when governments and the international legal regime are unable to meet their responsibility to address the increasingly pressing corporate power. In light of their enhanced responsiveness, flexibility and networking, CSOs have emerged as key actors in the business and human rights tripartite system of ensuring the protection and respect for human rights, and the access to remedies (Birchall 2020). As such, these key players have adopted "a wide array of tactics, from quasi-legalistic regulation to internet-enabled flashmob-style campaigning, while also holding corporations to account through collaboration, capacity building, lobbying, victim support, investigating, benchmarking, protesting, legal assistance and much more" (Birchall 2020: 423). Furthermore, it is interesting to note how especially in contexts where social injustices are reigning like the OPT, with a clear separation between privileged people and the oppressed ones, non-violent ways to fight human rights empower the latter in a way to strengthen their pride and sense of community (Chaitin, Steinberg and Steinberg 2017).

Therefore, in light of the continuous Palestinian oppression, the failure of governments to hold Israel accountable, and the persistence of businesses supporting and profiting from these injustices, in 2005 several Palestinian civil society organisations as last resort joined to pressure Israel in a non-violent way (BDS Movement 2021). Since then, the new-born movement has called on global citizens to express solidarity to the Palestinians' cause mainly through three actions: boycotts, divestments, and sanctions. *Boycott* implies withdrawing support from Israel's apartheid regime, in the economic, cultural, and academic arena. *Divestment* is a strategy that ensures the investments are not used to

[99] He is the current Chair of the Institute for the Study of Global Antisemitism and Policy. Quoted in State of Israel - Ministry of Strategic Affairs and Public Diplomacy 2019: 5.

finance companies that are complicit in Palestinians' human rights violations. *Sanctions* mainly addresses governments and how they should refrain from aiding or assisting the maintenance of Israeli apartheid (BDS Movement 2021). This tripartite strategy at the heart of the campaign should be in place until three main clear demands will be satisfied, which are the final aims of the BDS movement and reflected each major component of Palestinian people. Firstly, ending the occupation and colonisation of Arab lands and dismantling the Separation Wall; secondly, ensuring full equality for Arab-Palestinian citizens of Israel; and thirdly, respecting Palestinian refugee's right to return to their homes and properties (BDS Movement 2021).

In order to evaluate the effectiveness of BDS movement, it is crucial to analyse the tactics used while carrying out the campaign. The campaign does not focus its actions only in the economic sphere, but has extended the boycott of Israel in other fields, including academia and culture. Furthermore, by leveraging global solidarity it succeeded in creating a global network - made up of diversified organisations such as trade unions, church organisations, local councils and universities - and in reaching out people who have never been involved in a formal political organization (Hatuel-Radoshitzky 2017). The choice to use boycott as a strategy to end Israel's violations of international law has been considered effective, especially when taking into account the socioeconomic and political context. Specifically, "the reason the BDS strategy should be tried against Israel is practical: in a country so small and trade-dependent, it could actually work" (Klein 2009 quoted in Yi and Philips 2015: 306). The BDS campaign reflects the dominant tactic used by the diversity of CSOs when dealing with business and human rights, i.e. "naming and shaming". Accordingly, "naming and shaming typifies the outsider protest movement, focusing on identifying violations and creating public pressure against them" (Birchall 2020: 425). Therefore, by drawing attention and targeting corporations assisting Israel in its unlawful endeavours, and consequently, by creating bad press through these negative associations, the BDS movement aims to lead individuals and institutions divesting from these companies (Morrison 2015).

In recent years, the shaming campaign of BDS has grown and spread considerably, by achieving numerous victories (Thrall 2018; Ahmad, White and Bennis 2018). According to BDS's website, 2020 has appeared to be a really prolific year. Thus, the giant Microsoft corporations decided to divest from AnyVision, an Israeli company that came under

scrutiny for the use of its facial recognition technology in surveilling Palestinians in the West Bank (Palestinian BDS National Committee 2020; Dastin 2020). Moreover, the same fate has reached also Puma - which saw two Championship League football clubs dropping their support - and the well-known security contractor G4s that is losing more and more contracts, including with the United Nations Development Program (UNDP) (Palestinian BDS National Committee 2020). The divestment campaign has continued to gain traction among a variety of financial institutions, investors and pension funds: the Dutch Pension fund ABP and the Norway's Storebrand's divestments from, respectively, two Israeli banks financing settlements and four companies complicit in the occupation (Palestinian BDS National Committee 2020) perfectly work as examples. Particularly connected and relevant to these developments, is the UK' Supreme Court landmark ruling stating that local pension schemes are now able to divest from companies involved in Israeli occupation, by reversing and declaring unlawful a previous UK government guidance prohibiting local pension funds from pursuing policies contrary to UK's foreign policy (Middle East Eye 2020). These recent favourable developments should be added to the endorsement of the boycott campaign within university students in Western Europe and North America, which voted to divest from Israeli occupation. In short, it is possible to deduce that as a response to boycott pressures, and in light of the increasing loss of contracts and reputational damages for being involved in Israeli occupation and settlements, a growing number of Israeli companies operating in the settlements are moving their facilities within the Green Line (Maltz 2018).

The BDS movement clearly succeeded in constructing an alternative way to frame the Israel/Palestine context, especially through its ability to conceptually focus on specific issues, like corporate complicity in Israel's occupation (Morrison 2015). Nevertheless, the campaign has been criticized for lacking clarity with regard to its desired outcome: by not proposing a concrete political solution, it weakens the movement's moral groundings (Hatuel-Radoshitzky 2017). Furthermore, every "name and shaming" campaign meets some shortcomings. Overall, it is unlikely that businesses who are not so interested in their brand reputation will be affected by such a tactic. As such, engaging in a less confrontational and more constructivist approach could be a step forward for the BDS movement, like the so-called "knowing and showing" method. The foundations of this tactic lie in the willingness of companies to "investigate their own impacts; with

external, including civil society, assistance to internalize the problems; and become willing and able to address those problems" (Birchall 2020: 426). Although this could seem a naïve strategy, it could be a suitable way to address one of the main criticisms of the BDS campaign as a whole, and thus, not strictly related only to the economic arena: the lack of humanization of Israel as partner with legitimate concerns (Yi and Phillips 2015)[100]. By focusing its efforts against Israeli occupation, it is predictable to gain more and more opponents over time.

Boycotts, divestments and sanctions all fall within the category of non-violent struggles (Sharp 2013). However, by bringing such a turmoil, the movement has met and acquired more and more enemies during its path, without any distinction if pro-Israel or coming from the Arab World. It has ashamed the Arab World, by revealing its increasingly willingness to cooperate with Israel, the Palestinian Authority by criticizing its collaboration with Israeli military administration, and the Palestinian Liberation Organization, by placing itself as the organization representing Palestinian worldwide (Thrall 2018). The movement was in fact challenging the old national struggle – characterised by an excessive concessionary attitude, clearly visible during the Oslo Accords – and proposing a new one, more suitable to shake the dominant immobility. But, even more importantly, it has infuriated the Israeli government, which in turn began to take the boycotting seriously and to prepare an offensive to combat them (Ravid 2015). A war conducted through a campaign so anti-democratic to risk shaking the very base of Israeli democracy (Thrall 2018). Completely contrary to what the BDS claims (BDS Movement 2021), the movement has been perceived as a strategic threat, completely inherently anti-Semitic[101], and that denies Israel's right to exist (Chaitin, Steinberg and Steinberg 2017; Ahmad, White and Bennis 2018).

The Israeli offensive against the BDS movement has reached the highest point with the emanation of legislation – which will be better analysed in the next chapter - aimed at

[100] This tactic was followed by the South African anti-apartheid movement, which is the inspiration of BDS Movement. Specifically, "pivotal contenders in South Africa moved from a discourse of oppression—by communists or white racists—to one that humanized one another as partners with legitimate concerns for security and dignity" (Yi and Phillips 2015:307).

[101] The association of BDS with antisemitism has been endorsed also by other countries. For instance, the Czech Parliament issued a non binding resolution on "growing anti-semitism", which condemns "all activities and statements by groups calling for a boycott of the State of Israel, its goods, services or citizens" (Ahren 2019).

outlawing the movement and penalizing its participants. Furthermore, the State of Israel has designated a body ad hoc to lead the international efforts to censure, censor, and even criminalize BDS activists: i.e. the Strategic Affairs Ministry. Under its guidance, the Israeli fight against BDS has heated in such a way to threaten the independence of the press. Thus, in exchange of over NIS 100,000 provided by the Strategic Affairs Ministry, the Israeli newspaper Jerusalem Post published a special supplement titled *Unmasking BDS* aimed at delegitimizing the movement, without revealing to the public the use of public funds and that was part of government propaganda (Benzaquen and The Seventh Eye, 2020). In addition, corporate social responsibility, as a tool to promote responsible and human rights-oriented business conduct, has been manipulated by Israel to turn it into a campaign to undermine and de-legitimise the BDS movement. Specifically, it is interesting to note how three annual international CRC conferences that took place in Israel – organized by Maala, which is an organization funded by Ministry of Strategic Affairs - were used as a platform for networking the association between the issue of corporations and human rights violations in the OPT and the anti-semitic agenda of the BDS (Barkay and Shamir 2020). This strategy conducted by Israel has resulted in installing the idea that "assessing the operations of corporations in the OPT in light of CRS may be branded as anti-Semite (or at least suffering from anti-Israel political biases)" (Barkay and Shamir 2020: 699), which clearly may hinder the usefulness of CRC as a tool for respecting human rights.

In other words, the movement has to deal with an opposition block who is seeking to shrink its space for actions, whose attacks are escalating and not decreasing (Ahmad, White and Bennis 2018). A clear example has been provided by the 2019 Germany Parliament's resolution stating that "argumentation patterns and methods of the BDS Movement are anti-Semitic" (Knight 2019). Civil disobedience has always been part of history, including that one of Israel/Palestine relationship, and every movement challenging an unequal status quo had to face a shift and harsh response from those in power. However, framing the whole BDS campaign as inherently anti-Semitic cannot undermine its increasing significance. By being a new form of transnational activism in the Palestinian struggle, the BDS movement remains one the most effective initiatives in making companies involved in the occupation accountable. Furthermore, "it has compelled Israel's more critical supporters to justify their opposition to non-violent forms

of pressure on Israel, when the absence of real pressure has done nothing to bring occupation or settlement expansion to an end" (Thrall 2018: 2). Therefore, it is possible to deduce that "so far, despite the efforts of powerful opponents to shrink it out of existence, the BDS movement's space survives, .., it's thriving" (Ahmad, White and Bennis 2018: 14).

Conclusion

As illustrated throughout this chapter, there is a range of mechanisms that are available to hold business enterprises accountable for their abuses in the OPT. From exposing the nexus between companies' operations and human rights violations, to bringing corporate liability before domestic courts, non-judicial mechanisms such as the NCPs and possibly the International Criminal Court, accountability tools may take various forms and lead to different results. Even if there is a prevailing conception of these solutions as not living up to the potential expectations, they are still leading to some positive outcomes that should not be underestimated. For instance, the great publicity raised around companies and their contribution to Israeli settlements is causing such reputational, financial and commercial damages to lead some businesses to disengage from their operations and investors to divest. Even if each initiative here presented may be impaired by some shortcomings, they could eventually be overcome. To this regard, it is crucial to integrate the solutions provided at the civil society, national, and international level into a comprehensive system aimed at embedding human rights into business activities.

On the other hand, when analysing some of the possible tactics for holding companies accountable for their involvement and contribution to Israeli settlements, due note should be taken of politics as the major force that is hampering their successful paths. When powerful states have interests in preventing an issue to reach a solution they are often capable of doing so. Thus, when it comes to Israeli-Palestinian question "few issues in international politics rouse as potent and divisive passions ..., and, as a direct consequence, virtually every aspect of the occupation is fraught with political sensitivity"

(Harris 2012: 151). This concept has extended to cover also the business involvement in Israeli Occupation. Like examined in the previous paragraphs, the UN Database official release date was postponed because of political pressures, the ICC's decision to investigate alleged Israel's war crimes was strongly opposed, and the BDS movement has been constantly discredited. Furthermore, these steps towards accountability have bene constantly targeted by the political weaponization of Anti-Semitism, whose concept "cross the line into the realm of politics and is used to score political scores .., and to quash legitimate criticism" (Americans for Peace Now 2020). The interference of politics into viable solutions for corporate accountability within the Israeli/Palestinian context will be analysed in the next chapter, which will focus on the reception of international obligations in matter of business and human rights by two longstanding political allies: Israel and the United States.

CHAPTER FOUR – A Case Study: The Surveillance Industry

We are living in a global digital environment. This blind faith in digital communication technologies may certainly be translated into more freedom of expression, and thus, enhanced respect for human rights and democratic participation. Nevertheless, it is crucial not to overlook the dark page of these developments: the boosted "capacity of government, enterprises and individuals to conduct surveillance", matter of concern for the UN High Commissioner for Human Rights (UN Human Rights Council 2014c: 3). Israel has been one of those countries able to profit out of these new opportunities, and to place itself – together with its home-based companies – as an economic leader in the field of surveillance (Kane 2016). Thus, the continued state of war with Palestinians in the OPT has enabled the growth of sophisticated Israeli surveillance technologies, eventually sold to governments around the world interested in spying on their citizens.

The purpose of this chapter is therefore is to analyse the surveillance industry's operations in the OPT, by following the same *modus operandi* enshrined in the previous chapters. As such, after discussing the increasing human rights implications of conducting mass surveillance, the first paragraph will proceed with an analysis of the Israeli experience. Specifically, the long-standing role that surveillance has in Israel's politics and economy will be analysed, with a concluding focus on how the country is testing surveillance products on Palestinians in the OPT. The following paragraph will then refer to Motorola Solutions Israel and its U.S. Mother Company as a case study, by explaining the reasons behind its listing within the UN Database and how it works as an example of U.S. and Israel's integration of their surveillance sectors. In the third and fourth paragraph the reception of international obligations by Israel – as host/home country – and by the United States – as home country – will be provided. The chapter will conclude with a reflection on the urgency of a change of direction in the U.S. policies, possible only with the existence of a strong solidarity movement.

Paragraph One – The Israeli Surveillance Lab: Palestinians in the OPT

If surveillance was carried out in accordance with strict criteria, such as necessity, legitimacy, proportionality and non-discrimination, it would not have been considered so dangerous. On the contrary, what the practice of countries across the globe reveals is governmental mass surveillance as a habit more than an exception, as an outcome of threats to telecommunications companies, and in some cases as a tool for targeting political opposition (Human Rights Council 2014). The potential of mass surveillance to harm people lies not only on the intentional or accidental misuse of the information collected, but in all the stages of the process where privacy is invaded: gathering of data, automated analysis of data, and human examination of the results (Bernal 2016). Furthermore, the current capacity to collect massive amounts of data, combined to the increase in surveillance's attractiveness[102], has made its impact more extensive, more multifaceted, and greater on the people subjected to it" (Bernal 2016: 247).

Therefore, it would be misleading and insufficient to assume that the only right at stake will be the individual right to privacy. There are other collateral damages of surveillance, just as dangerous. Not only the right to privacy and family life is affected, but also the profiling of people – based on an analysis of preferences and habits - may enable discrimination: specific profiles might have their access to certain options denied, and might worth the attention of the authorities (UN Human Rights Council 2019b). Moreover, surveillance may interfere even with justice: the right to a fair trial can be affected in several ways, including through the correspondence's interception between lawyers and clients (UN Human Rights Council 2019b). In a nutshell, because of this practice, the most intimate data, related to both the personal and the familiar sphere, are not private anymore. One more risk is the limitation and chilling effect on other universally recognized human rights: respectively freedom of thought, conscience and religion, freedom of expression, freedom of association and assembly (Bauman and Others 2014). For the fear of being targeted, prosecuted and persecuted, people are discouraged to express freely their opinion, by affecting in this way also the freedom to impart information without interference. Furthermore, specific categories of people may

[102] Specifically, lower costs compared to the effectiveness of data obtained

be easily identified, and their meetings be intercepted and blocked (Munro 2018). In other words, the mere acknowledgement of the existence of any kinds of surveillance will trigger self-censor and lead to a conformist behaviour, a barrier between people and the exercise of their own rights.

Considering that the human rights implications of surveillance are massive, it becomes crucial to find a more appropriate balance "between people's rights and liberties and the duties of state both to provide security and to protect freedom for their citizens" (Bernal 2016: 245). This approach has proven particularly imperative in the midst of a global pandemic. The collection and use of personal details on a mass basis has become a price worth paying, due to the role that technology and data have in the fight against COVID-19. As a matter of fact, tools to trace contagion and to enforce quarantine have been at the centre of COVID responses, with the consequent usage of surveillance and data exploitation reaching unprecedented levels (Privacy International 2021). Hence, the greater difficulty in separating "ambition from necessary response, desirable graphing from social graphing, health surveillance from policing surveillance, health safety from workplace surveillance" (Privacy International 2020). When comparing how countries are dealing with COVID-19, Israel turns out to have adopted a line so unusual to risk becoming a "surveillance democracy" (Mitnick 2020).

Specifically, it seems that Israel has been put in place invasive surveillance measures concretized by the choice to use the Shin Bet as the body in charge to decode and analyse data gathered for tracking carriers and people supposedly in contact with them – a role that public health authorities should own (Altshuler and Hershkowitz 2020)[103]. In addition to COVID-19's contribution towards the normalization of surveillance, this global virus has offered economic opportunities for Israel. Specifically, the Director of SIBAT Yair Kulas has stated that they are "working to turn this crisis into an opportunity for our defense industries" (Israel's Ministry of Defence 2020) [104]. These recent developments should be added to the long-standing role that surveillance has had in Israel's policies and economy. There is a huge business behind national security, with a growing role of the

[103] In other words, In short, Israeli intelligence agency is deploying its digital tools to surveil its citizens for purposes other than counterterrorism.
[104] SIBAT is the acronym for the Directorate of International Defense Cooperation. The Israel defence exports include also surveillance equipment, such as intelligence information and cyber systems

private sector in developing and selling surveillance technologies, unsupervised and with something close to impunity (UN Human Rights Council 2019b). By being among the top five countries in which surveillance companies are headquartered, Israel is one of the main leaders in this field (Privacy International 2016). Selling military and security equipment has enabled Israel to count on several investors into its surveillance industry, while at the same time strengthening its diplomatic ties with the recipient countries (Dagoni 2011). On the other hand, by developing this kind of industrial sector the risk of contributing to human rights violations - including the targeting of human rights, journalists, opponents, and other vulnerable violations – is notably increasing (Shazaf and Jacobson 2018).

Israel enjoys an enormous advantage compared to the other competitors, due the "combat-proven" status of its products (Graham 2011; John 2011; Zureik 2020). In other words, the OPT has become a "lab and a showroom" whereas Israel conceives itself as an expert in the field of weapon and surveillance technologies (Al-Haq 2019). During the Operation Defensive Shield[105] for instance, the introduction of high tech surveillance within urban warfare was considered global exemplars "of a new kind of "asymmetric" war pitting high-tech state militaries against insurgents, and surrounding civilians, within closely built, urban terrain" (Evans 2007 quoted in Graham 2011: 133). As such, the Israeli experience was and still is an example to follow for many countries. In order to maintain the occupation endless, Israel has put in place an institutionalised system in order to harass, intensively surveil, and control the Palestinian population (Al-Haq 2019). The OPT has become a hyper-militarized legal and geographical grey zone, where international law is suspended, and consequently, where it is possible to carry out abusive and unjustified surveillance (Graham 2011). Surveillance, in fact, is crucial in order "to induce fear among the surveilled and eventually to create a self-surveilled population" (Zureik 2020: 222). This practice is paradoxical: thus, monitoring Palestinians is at the same time discriminatory and undiscriminating. It applies with no boundaries on the population as a whole – proved by the fact the targets are usually normative people (The Guardian 2014) -, but it is based on their different nationality.

[105] This term refers to major military operations undertaken by Israel against Palestinian cities in 2002 during the Second Intifada. It is considered the most extensive Israeli military incursions since the 1967 War.

Unsurprisingly, since the beginning of Arab national activity in Palestine, privacy is an option denied to many Palestinians. Multiple systems of surveillance have been used throughout the years: specifically, phone and internet monitoring and interception, CCTV, voice and facial recognition, recording of telephone conversations are all the core tools at the basis of the surveillance apparatus over the Occupied Population (Nadim and Fatafta 2017). It is an invasive surveillance. According to some testimonies of the Israeli elite intelligence unit 8200, several personal details of innocent Palestinians civilians, such as sexual orientation and illness, were used to extort information and turn them into collaborators (Levy 2014). Suspects are identified through computer algorithms, which is a method that has been favoured over evidence (7amleh 2018). As a result of this computerized programs applied to social media's contents, the Israeli and PA security forces arrested 800 Palestinians in 2017: among these, 300 were Palestinians residing in the OPT charged with offences related to Facebook posts (Zureik 2020). Furthermore, Palestinians' undiscriminating surveillance is a phenomenon manifesting itself even within the Israeli settlements reality. As a proof, the UN Database listed among the companies involved in Israeli settlements those who "supply surveillance and identification equipment for settlements" (UN Human Rights Council 2020). This abusive attitude might easily degenerate after the recent decision of the Settlement Affairs Ministry to devote $6 million in order to extend the power of state surveillance to its settler population. With this new funding, local councils in the Area C of West Bank will have at their disposal patrolmen, vehicles, drones, fencing and electronic measures to monitor "the Palestinian hostile takeover of the land" (Staff 2021).

In other words, surveillance in the OPT has manifested through a gamut of discursive, corporeal, and material tools, which are at the same time quotidian and formal, low-tech and hi-tech (Tawil-Souri 2016). Within this system, Palestinians are categorically suspected under the excuse of containing them as "security threats". Surveillance is so minutely focused, routinized and systematic to allow the State of Israel to achieve the long desired control over the OPT. As such, this practice has become an integral part of Israel's management of Palestinian territory and population (Tawil-Souri 2016). Therefore, the surveillance's capability of achieving territorial control makes it the key tool to carry out the Israeli settler colonialist project. Or even better, the neo-settler colonialist project, considering how businesses and the Israeli government are

collaborating to get as many profits as possible out of the sublime practice of surveilling Palestinians. In a nutshell, surveillance is the meeting point where the exigencies of neoliberalism and settler colonialism are both satisfied.

Paragraph Two – The Motorola Solutions Israel and its U.S. Mother Company's Case

"Hello Moto here's a photo

This is me not buying your phone

Not because of the recession

But because of Palestinian dispossession

Your communications know-how

Has turned suffering to a cash cow

Helping settlers squash a nation

How I'm hoping you will help with its cessation"

"Hello Moto" Song, Adalah NY[106]

It is common knowledge that the United States and Israel have a long-standing friendly relationship, both political and economic. The surveillance industry has been the perfect combination to strengthen both their economic and political ties. As such, an integration of their sectors has been supported by the two nations, mainly through the proliferation of cross-investments and ownership between the surveillance industries in the U.S. and Israel (Graham 2011). With this regard, the case study of Motorola Solutions Israel and its U.S. Mother Company perfectly falls within this integration.

[106] Campaign available at: https://adalahny.org/motorola-nycbi

Founded in 1928 as a start-up in Chicago, Motorola Solutions grew in such a way to achieve in 2019 $7,9 billions in annual sales, and 13,000 networks across the globe, by becoming in this way a multinational leader in communication and electronics industries (Motorola Solutions 2020a). This company was in fact one of the first foreign multinational corporations to immediately understand the potential of Israeli human capital, and by 1964 it already opened an Research & Development (R&D) branch in Israel (Gordon 2009). Attracted by the advantage of Israeli R&D, Motorola Solutions did not move in order to open a manufacturing plant but firstly to open a R&D branch. As noted in the following reported financial records released by Motorola Solutions, Motorola Solutions Israel is not registered as a direct subsidiary, by making it more difficult to find out the relationship between the two entities.

MOTOROLA SOLUTIONS SUBSIDIARIES

Details of Motorola Solutions, Inc.'s subsidiaries, registered offices, place of registration/incorporation, registered company numbers and VAT identification numbers for companies in the European Union/European Economic Area are provided below.

Location	Legal Entity Name	Reg. No. / Place of Incorporation/Registration / VAT Numbers / Legal Form of Company	Registered Office Address
Austria	Motorola Solutions Austria GmbH	Reg No: FN 115026g - Austria VAT No: ATU46080404 Limited Liability Company	EURO PLAZA Gebäude F Technologiestraße 5 / Stiege 2 / 3. Stock A-1120 Vienna Austria
	TETRON Sicherheitsnetz Einrichtungs- und BetriebsgmbH	Reg No: FN 247706z - Austria VAT No: ATU61195628 Joint Venture	Hohenbergstraße 1 / Objekt 3 A-1120 Vienna, Austria HG Wien
Belgium	Motorola Solutions Belgium SA	RPM Brussels Reg No: 0413562567 - Belgium VAT No: BE0413562567 Limited Liability Company	De Kleetlaan 12A 1831 Diegem Belgium
Czech Republic	Motorola Solutions Czech Republic s.r.o.	Reg. No.: 033 40 686 - Czech Republic VAT No.: CZ03340686 Legal form of company: Limited Liability Company Commercial Register administered by the Municipal Court in Prague, Section C, insert 230303	Na Příkopě 988/31 110 00 Prague 1 – Staré Město Czech Republic
Denmark	Motorola Solutions Danmark A/S	CVR No. 10 29 08 13- Denmark VAT No: DK10290813 Limited Liability Company	Sydvestvej 15 DK-2600 Glostrup Denmark
	Dansk Beredskabskommunikation A/S	CVR No: 26 21 08 95 - Denmark VAT No: DK26210895 Limited Liability Company	Sydvestvej 21 DK-2600 Glostrup, Denmark
France	Motorola Solutions France SAS	SAS au capital de 3 999 990 € 712 030 113 RCS Evry VAT No: FR01712030113 Limited Liability Company	Parc Les Algorithmes Saint-Aubin 91193 Gif sur Yvette Cedex France

Germany	Motorola Solutions Germany GmbH	HRB 16024 - Germany VAT DE- 113866163 Limited Liability Company	Telco Kreisel 1, 65510 Idstein, Germany Geschäftsführung: Jörg Lorenz, Oscar Henken Amtsgericht: Wiesbaden Sitz: Idstein
Greece	Motorola Solutions Hellas A.E.	Reg No: 39691/01AT/B/98/02- Greece VAT No: EL094501040	90 Kifissias Avenue, Maroussi 151 25 Athens, Greece
Italy	Motorola Solutions Italia S.r.l.	Registro delle Imprese di Milano/Companies Registry of Milan no. 00743110157 - Italy P. IVA/VAT number no. IT00743110157, Cap.Soc Euro 4.000.000 Euro Società soggetta alla direzione e coordinamento di Motorola Solutions Inc., ai sensi dell'articolo 2497 bis del codice civile	Largo Francesco Richini 6 20122 Milano Italy
Netherlands	Motorola Solutions Netherlands B.V.	Reg No: 17068204- Netherlands VAT No: NL001545668B01 Limited Liability Company	Gustav Mahlerplein 2 1082MA Amsterdam Netherlands
Norway	Motorola Solutions Norway AS	Reg No: 931 249 789- Norway VAT No: 931 249 789MVA	Kabelgata 34 0580 Oslo Norway
Poland	Motorola Solutions Polska Sp.z.o.o.	KRS 113098- Poland VAT No: PL5261025421 share capital: 3 541 200 PLN Limited Liability Company	ul. Wołoska 5 02-675 Warsaw Poland
	Motorola Solutions Systems Polska Sp.z.o.o.	KRS 146875- Poland VAT No: PL6772135826 share capital: 4,600,000 PLN Limited Liability Company	Ul.Czerwone Maki 82 30-392 Krakow, Poland
Portugal	Motorola Solutions Portugal, Lda	Reg No. 503038083 Lisbon- Portugal VAT No: PT503038083 Private limited company Share capital: 260,000 €	Avenida José Malhoa, Edifício Europa, No. 16-B, 3rd floor, 1070-158 Lisbon, Portugal
Romania	Motorola Solutions Romania S.R.L.	Reg No: J40/4183/04- Romania VAT No: RO16241790 Limited Liability Company	26-28 Stirbei Voda, Union International Business Center II, 4th Floor, Bucharest - Sector 1
Spain	Motorola Solutions España S.A.	(NIF) A-78/109592- Spain VAT No: ESA78109592 Limited Liability Company	Martinez Villergas, 52 - Bloque 3, 28027 Madrid
Sweden	Motorola Solutions Sweden AB	Reg No: 556043-6064 - Sweden VAT No: SE556043606401 Limited Liability Company	Motorola Solutions Sweden AB Byängsgränd 20, 7tr SE-120 40 Årsta. Sweden Box 90315 SE-120 25 Stockholm. Sweden
United Kingdom	Motorola Solutions UK Limited	Reg No: 912182- England VAT No. GB260311213 Private Limited Company	Nova South, 160 Victoria Street, London, SW1E 5LB
	Airwave Solutions Limited	Reg. No. 03985643 - England VAT No. 904 4405 52 Private Limited Company	Nova South, 160 Victoria Street, London, SW1E 5LB
	Airwave Application Services Limited	Reg. No. SC230448 - Scotland VAT No. 904 4405 52 Private Limited Company	3 Melville Street. Edinburgh EH3 7PE, Scotland

Fig. 4.1.: Motorola Solutions' Subsidiaries (Motorola Solutions 2021a).

However, Motorola Solutions indirectly controls Motorola Solutions Israel via its fully owned subsidiary Motorola Solutions UK Limited (Who Profits 2021b). Nowadays, Motorola Solutions Israel aims to create "innovative, mission-critical communication solutions and services for commercial, federal and public safety consumers" (Motorola Solutions Israel 2021). The several business groups and subsidiaries that are part of Motorola Solutions Israel corporate family – at the moment 694 (Dun & Bradstreet 2021) are in charge to develop and manufacture communication components, products, systems and networks that allowed the parent company to earn in 2006 about $923 million of sales turnover, including $383 million of exports (Epicos 2018). With this regard, in an interview of 2004 with Globes, the joint general manager of Motorola Communications Nathan Gidron explained perfectly the role of Motorola Israel: "Over the years, we've initiated development of products that were first used in Israel, but which were subsequently introduced into the parent company… Today, we sell most of our command and control equipment through the parent company" (Levi 2004). This engagement in development, manufacturing and distribution has extended to cover also military surveillance.

In its 2020 Investor Overview, Motorola Solutions clarified the relevance of its video security equipment in helping governments create safer cities. Specifically, the company referred to some high-priority situations, such as "protect ingress & egress points at a hospital" or "finding a missing child at a theme park" (Motorola Solutions 2020b: 13). However, the use of surveillance systems placed outside the settlements in order to identify Palestinians was never mentioned in the leaflet. Motorola Solutions and its Israeli subsidiary, in fact, have been listed in the UN Database among those business enterprises whose activities are related to "the supply of surveillance and identification equipment for settlements, the wall, and checkpoint directly linked with settlements" (UN Human Rights Council 2020). Thus, Motorola Solutions Israel won a tender of $93million from the Israeli Ministry of Defense to provide virtual fences to Israeli settlements that refused to provide fences for themselves (Who Profits 2021b; American Friends Service Committee - Investigate 2021). As a result, since 2005 the company has been providing a radar detection system, commonly known as MotoEagle, whose radars and cameras are able to detect human movement outside the settlements. In short, whenever movement is detected near this area, including Palestinians working their land, the settlement security

would be alerted and, most likely, would start violent clashes with Palestinians. Israel has implemented this Wide Area Surveillance System (WASS) in over 20 Israeli settlements, in several outposts in the West Bank, at the illegal Separation Barrier, and around military bases (Who Profits 2021b). Contrary to the Motorola's advertisement of this system as "a total security concept intended to provide automated regional and perimeter protection for airports, strategic installations, populated areas, encampments and other high value permanent or temporary sites" (Kuepper and Kroes 2017:26), the WASS reinforces settlement infrastructures and Palestinians' dispossession while constricting even more Palestinians 'freedom of movement (BDS Movement 2011).

The MotoEagle WASS is not the only way the company is serving Israeli settlements. According to the findings of Who Profit, Motorola has provided communication systems - including the radio system- to local councils and to civilian guard squads in order to protect the security of the settlements, and its automatic irrigation system to the municipality of Ariel settlement (Who Profits 2021b). Furthermore, the company owns 49% of Taldor Communications, specialized in manufacturing products such as watchtowers, motion sensors, military surveillance and communications systems, public announcement systems, and x-rays used by the checkpoints and illegal settlements (BDS Movement 2011). Motorola Solutions Israel has been providing control systems for the Mekorot National Water Company, an Israeli state-owned company responsible for managing West Bank water resources (Levy 2004); the company is also known for exploiting Palestinian water sources, supplying the settlements and transferring Palestinian water across the Green Line (Who Profits 2013a). The crucial role of the two Motorola enterprises in facilitating and consolidating the existence of Israeli settlements should be contextualised in their broader cooperation and support to IDF and Israeli police. Thus, several telecommunication technology tools - respectively, the Mountain Rose communication system for the army, and the Astro25 communication system for the police - were developed to increase the effectiveness of Israeli security forces' operations within the OPT (VBDO 2014). The success of these products has been confirmed by the fact that in 2014 the Israeli Ministry of Defense signed a USD 100 million, 15-year contract with Motorola Solutions Israel to provide encrypted smartphones, without winning any tender (Who Profit 2021). Even if the role of Motorola Solutions may appear really marginal in the OPT occupation, it should be kept in mind

how Israeli military are receiving orders via a Motorola system while committing violence in making arrests, dispersing demonstrations, and during house-searching operations.

Clearly in light of the long-standing business relationship with the Israeli government, concretized in the provision of systems and services to the Israeli Ministry of Defense, the Israeli army and Israeli settlements, Motorola Solutions received the highest possible tribute ever awarded by Israel. Thus, in 1998 Israeli Prime Minister Netanyahu granted the Jubilee Award to Motorola as an organization that through its investments and trade relationship has benefitted and strengthened the Israeli economy (Feller 2011). Governmental support has extended also to designate the company as an entity deserving funding. Therefore, among the projects approved in 2016 for the funding granted by the Israel-US Binational Industrial Research and Development Foundation (BIRD)[107], there was the joint project of Motorola Solutions Israel and Eclipse Identity Recognition Corporation on the development of distributed enhanced video analysis (Jewish Business News 2016). Furthermore, Motorola Solutions Israel is among the four participants in EU's research programs that have been listed in the UN Database. Specifically, the FP7 granted more than one million euros (€ 1,010,957) for taking part in two projects, whereas Horizon 2020 allocated to the company almost three millions euro and a half (€ 3,380,321) for participating in four projects (ECC 2020). As a result, with its four million and a half euros the European Union is financing the very companies that are helping maintain the settlements, contrary to its condemnation of Israeli policy of annexation.

The Motorola Solutions' activities in the OPT clearly reveal how the code of business conduct adopted by the company and its extensive corporate responsibility might be only a façade. The business enterprise was classified in 2019 among Barron's 100 Most Sustainable Companies for its ESG investing - E" for environmental factors, "S" for social factors, and "G" for corporate governance – and its human rights policy must have played a huge part in the award (Motorola Solutions 2020a). Accordingly, its commitment to norms of fairness and human decency is based on "long-standing key beliefs of uncompromising integrity and constant respect for people, and is consistent with the core

[107] This initiative is aimed at enhancing cooperation between U.S. and Israeli private high tech industries, in light to possible mutual benefits.

tenets of the International Labour Organization's fundamental conventions and the United Nations Universal Declaration of Human Rights as well as the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises and informed by other internationally recognized standards including the Code of the Responsible Business Alliance (RBA)" (Motorola Solutions 2021b). Furthermore, in its 2011 annual corporate responsibility report the corporation highlighted its willingness to work with the NGO community as a "key stakeholder" and has a policy for the implementation of due diligence (UN General Assembly 2012). However, within the section "Working with Governments" of Motorola's Code of Conduct, the duty of the company to assure that the customer is not involved in international law violations has never been mentioned (Motorola Solutions 2018), by violating in this way the businesses' duty to mitigate any adverse impact.

Completely in contrast with the adopted policies, the analysis of Motorola's operations reveals how the company is involved generally in the existence and maintenance of Israeli settlements in the OPT, and specifically, in Palestinians' human rights violations. Thus, the use of Motorola's products are affecting, for instances, Palestinians' physical integrity, freedom of movement, right to privacy, and access to natural resources. Moreover, the fact that the company has already been criticized for its support to South African apartheid regime shows its recidivism in being accomplices of human rights abuses (Adalah NY 2021). This clash between Motorola Solutions' supposed commitments and the reality of the situation has been recognized by the BDS movement, which has been targeting the company in its boycott campaign. As a result, several entities that include Sampension – a Danish pension fund - and some U.S. colleges and universities, have decided to divest from Motorola Solutions (American Friends Service Committee - Investigate 2021). These recent developments, together with the company's listing within the UN Database, should mark the turning point for Motorola Solutions to depart from Israeli's human rights abuses and to stop turning sufferings into a source of profits.

Paragraph Three – How Israel Has Implemented Its Obligations as Home/Host State

With regard to business and human rights framework, Israel has a unique situation: it is at the same time, host state and home state. On the one hand, despite its several attempts to avoid liability for the several human rights violations occurring in the OPT, Israel should be held responsible since it is still owning effective control over the territories– notwithstanding the presence of Palestinian Authority (Meron 2017). As such, the State of Israel has the obligation to respect and fulfil the human rights of all the individuals under its jurisdiction. In other words, Israel has a duty to "protect Palestinians living the OPT against human rights infringements by the state of Israel itself and by Israeli corporations and foreign MNCs operating in the OPT" (Cefo 2016: 820). On the other hand, it incurs in the duties reserved to the home states, in light of the several Israeli businesses operating in those territories. Specifically, as explained by the *UN Working Group on the Issue of Human Rights and Transnational Corporations*, given the duplicity of its position, the State of Israel must help business enterprises to identify, prevent and mitigate the risks; to provide assistance to companies in assessing and addressing the risks; denying state's support to the businesses involved who do not want to engage in cooperation; and ensure the effectiveness of its policies, legislations, and enforcement measures to tackle this problem (UN OHCHR 2014).

Therefore, it is interesting to note how Israel appears not to follow the above-mentioned recommendations, and to analyse how it is actually supporting companies involved in Israeli settlements, especially in the field of surveillance. The Motorola Solutions' case study shows how Israel's surveillance industry is trying to package and sell the country own experience to someone else, and how the latter is perceived as valuable and attractive because of its ability to "connect between a hyper-militaristic existence, a neoliberal economic agenda, and democracy" (Gordon 2009:4). As said before, Israel is a surveillance state *par excellence* (Tawil-Souri 2016) and it is seeking to turn Palestinian villages into closed enclaves, controlled at distance through the massive use of surveillance (Graham 2011). Developing a strong surveillance industry where to create products, provide services, and carry out R&D aimed at surveilling individual subjects

serves this final purpose. Despite it is not possible to have clear data about the exact size and revenues of Israeli surveillance industry – according to Israel's statistics it is usually associated to the broader ICT sector (CBS 2020), but it is also made up of companies that are not included in this field – it is possible to assume, though, "that the high esteem that Israel's surveillance industry enjoys translates directly into economic profit" (Gordon 2009:12). An economic profit that is clearly highly desired, and as such, supported, and incentivised by the state of Israel, even if surveillance may involve human rights violations, especially those of Palestinians.

Over time, by designating its surveillance industry – especially the section for military purposes – as a national priority sector, Israel has channelled large amounts of money to this sector (Neve Gordon 2009). Among this funding, there is the government's effort to facilitate in this field trade opportunities, joint ventures, and collaboration between Israeli and foreign companies through the governmental funded Israel Export Institute (IEI). In order to sponsor such a cooperation, this organization published an independent study on Israel's Corporate Social Responsibility standards. According to the findings, Israel was able to achieve progress in ensuring high standards of transparency, and in assessing socially responsible investments (BDO, ARISE, and MAALA 2019). Completely in contrast with these premises, the CMer Group is among the companies advertised in the IEI's Homeland security section. However, the listing of the company within the UN Database for offering technology-based solutions used in the OPT - which includes the installation of CCTV cameras in East Jerusalem, in the Beit Iba and Sha'ar Efrayim checkpoints – has not been mentioned, by affecting in this way the transparency that should enable responsible investments (IEI 2021; Who Profits 2021a; UN Human Rights Council 2020).

The Israeli support to C. Mer Group through the IEI, is only one of a broader range of financial benefits granted in order to incentivise the transfer of businesses into Israeli settlements, which may include grants and subsidies to cover start-up costs, rent payments and operational costs (Azarova 2018). Particularly relevant to the success of the surveillance industry are the investments in R&D: Israel is in fact one of the world's leading innovators, rather than a imitator (Dyduch and Olsezewska 2018). Consequently, the government is implementing a policy to encourage industrial research and development through the Office of the Chief Scientist (OCS) of the Ministry of Industry,

Trade and Labor – also known as Innovation Authority (Israel Business Connection 2021). Specifically, surveillance companies who are committed to develop new products or to significantly improve an existing one may have access to two instruments, among the others available: the R&D Fund, and the MEIMAD. MEIMAD – Leveraging R&D for Dual Use Technologies – is a joint venture of the Innovation Authority, Ministry of Finance and the Ministry of Defense that supports new technologies that can benefit the State's national security and, at the same time, that can form a basis for potential global civilian and military marketing. This program is funding 50%-90% of the related expenditure[108] (Israel Innovation Authrority 2021a). The R&D Fund, instead, is open also to other industrial sectors, but the approved programs may receive 20-50 % of the R&D costs. However, the grants depend on the place where the activities are located: thus, they may cover up to 75% of the expenditure in the area surrounding the Gaza Strip and up to 60% of the expenses in Priority Areas A (Deloitte 2020; Innovation Israel 2021b) . At the moment, 90 settlements are included in these zones (Human Rights Watch 2016). Therefore, by ensuring that domestic companies and any Israeli subsidiaries of a corporation are granted the same benefits (State of Israel Ministry of Economy and Industry 2018) , the State of Israel is supporting foreign and Israeli companies to operate in Israeli settlements in the OPT through R&D funding. Settlements are in fact more than land grabs; they are also about government's incentives.

Israel not only should avoid any kind of support to companies that are infringing international law but, when business enterprises cause and contribute to human rights abuses, the state should ensure civil, administrative, criminal liability for those domiciled or operating in their territory and/or jurisdiction (UN OHCHR 2014). The British mandatory rule has left a deep mark on Israeli law, including the branch who applies to corporations. Therefore, by following the influence of British corporate criminal law, corporations in Israel are held liable both directly – for *mens rea* and negligence acts – and as vicarious - for public welfare violations, production offences, violations of workplace regulations, violation of sanitation regulations, environment offences, etc (Leiderman 2017). However, in response to today's economy where corporations have become more aggressive, powerful, and more inclined to misbehaviour and negligence,

[108] The amount of the grant depends on type and nature of the activity.

generally criminal law is expanding the scope of corporate criminal accountability, Israeli included. However, it should be noted that notwithstanding the favourable steps in improving liability for a series of corruption and white-collar related offences – and the *Proposed Draft on Criminal Liability of Legal Persons* works as an example (Leiderman 2017) - human rights accountability appears to have been left behind. One of the main forms to make businesses responsible for human rights abuses is through the incorporation of human rights liability into domestic law (Weiss and Shamir 2011). Nevertheless, Israel is not making available enough data to deduce comprehensive, organic, and clear provisions and judicial mechanisms for business and human rights. Among the justifications provided by Israel to explain the government's impediment to advance this framework it should be noted the "lack of resources for enforcement, monitoring and prosecution", "opposition within the government and by economic interest groups and other influential people and groups", "concern about deterring foreign investment", and "lack of understanding of business and human rights" (Business & Human Rights Resource Centre 2015).

To this regard, it is crucial to take into account the *Government Action Survey* of the Business and Human Rights Resource Centre – a crucial watchdog in the field of business and human rights. According to Israel's response, since the adoption of the UNGPs Israel has undertaken initiatives to strengthen legislation and judicial measures mainly concerning forced labour and trafficking, discrimination, sexual harassment, other core labour rights – including freedom of association – freedom of expression and right to privacy (Business & Human Rights Resource Centre 2015). The above-mentioned fields are all covered by the Labour Courts, which are the main judicial bodies developing labour and social security law, as well as dealing with labour disputes and issues – both civil and criminal (ILO 2021) . However, when referring to other human rights abuses committed by companies, the liability seems less enforced. The case against the Modi'in Ezrachi Group Ltd – the largest security contractor employed by Israel – works perfectly as an example. Specifically, the Israeli State Prosecutor decided to drop the charges against the civilian guards and their company, alleged to have killed two Palestinians at a checkpoint: despite the possibility to gather evidence through the release of the incident's footage, Israel refused to do so (Farah and Abdallah 2018). This case clearly strengthens the idea that even in the case criminal human rights liability for legal persons

will be well established, that would not be a valid option for Palestinians looking for redress, since "business operations and economic benefits to Israel in its prolonged occupation demonstrate the absence of remedy for the occupied population within Israel's judicial system" (Farah and Abdallah 2018: 26).

Even when discussing the existing non-judicial mechanisms, obtaining justice for Palestinians' human rights violations committed by business enterprises seems an unviable scenario. The Israeli efforts to enhance the OECD framework of business and human rights – previously endorsed by the state - appears not to be enough. Up to now, Israel is among the 13[109] countries out of the 50 who adhered to the *OECD Declaration and Decisions on International Investment and Multinational Enterprises*, and did not enact, nor develop, nor commit to produce a National Action Plan in order to promote responsible business conduct (OECD 2017; UN OHCHR 2021). The same disappointing outcome extends to include the National Contact Point, a body where people affected and seeking effective remedies can directly bring cases against MNEs (Oldenziel, Wilde-Ramsing and Feenay 2010). The Israeli NCP dealt only with two complaints, one concluded and the other one withdrawn. The latter was brought against a US MNE for its mining and quarrying in Israel (OECD Watch 2020). However, due to the confidentiality policy of the NCP (Ministry of Economy and Industry 2020), the parties' identities are not available and thus it is not possible to know the exact location of the unlawful activities, whether in the OPT or not. Nevertheless, overall the Israeli NCP appears not to be so effective in dealing with complaints, in light of the few cases accepted by this body. One of the main obstacles could be related to a criteria that need to be fulfilled for the examination of the request, which specifies the "existence and application of local laws and regulations as the case may be, including court rulings" as a precondition for acceptance (Ministry of Economy and Industry 2020). In other words, the fact that there are not domestic norms that apply to the case means that there is not sufficient proof of breach of the Guidelines. Which in turn might mean that if the common trend is not to protect Palestinians' of OPT in the normative and judicial framework, the NCP is likely not to work as an effective forum to provide redress for Palestinians victims.

[109] Specifically, the OECD countries who adhered to the Declaration are Austria, Canada, Estonia, Hungary, Iceland, Israel, New Zealand, Slovak Republic, and Turkey. Among the 13 non-OECD countries who do not subscribe the Declaration, there are Costa Rica, Croatia, Egypt, Romania, Tunisia.

To date, no corporate actor has been held liable in Israel for violating international law, and , in addition, Israel is not even setting the suitable conditions to enhance business human rights due diligence when referring to Israeli settlements. The possibility of facing lawsuits is very concrete for companies who refuse to provide products and services to the settlements (Schaeffer 2020). Endorsing such a behaviour would be considered as being part of the Boycott Divestment and Sanctions (BDS) movement[110]. In order to put an end to the aversive position of the BDS, Israel has started a war against this campaign, which includes the *Anti-Boycott* law. Enacted in 2011 and upheld also by the High Court in 2015, this legislation foresees that individuals or entities who call for an economic, cultural or academic boycott of Israel or "areas under its control" – i.e. the West Bank settlements – may be suited for damages (Hovel 2015). In other words, NGOs are refrained from advocating for businesses to respect international law – otherwise, their tax-exempt status would be revoked – and companies cannot publicly commit themselves to the "divestment" call (Human Rights Watch 2015b). Furthermore, whatever business enterprise is entitled to sue any organizations and individuals for giving out information about its illicit operations, even if they are obviously true and well founded (Baum 2011). As a result, punitive damages have been implemented as a tool in the Israel fight to silence any positions opposing the existence of Israeli settlements in the OPT.

Another initiative of Israeli strategy to discourage companies to disengage from Israeli settlements, is the legal pressures that arise from the *Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*. According to this legislation, individuals – including the private sector - when supplying a product or a service to the public or managing a public place, they must not carry out discrimination based on race, religion, nationality, origin, gender and sexual orientation (The National Anti-Racism Coordinator's Office 2021). If this version could appear as fair in a democratic society, the 2017 amendment, which included the "place of residence" as grounds for discrimination, is the legal basis to sue companies for refusing to serve Israeli settlements (Adalah 2021; Lazaroff 2018). One of the most noticeable enforcement of this law is the sue against the US company Airbnb for withdrawing listing Israeli

[110] Like analysed in the previous chapter, the BDS is the central internationalist non-violent movement against Israel's illegal military occupation of Palestinian territory and continuous defiance of international law (Bakan and Abu-Laban 2009).

settlements in the occupied West Bank (Lazaroff 2018); unfortunately, in order to avoid repercussions it decided to reverse its decision (Williams and Pierson 2021). Therefore, it seems clear that Israeli settlements and their residents are entitled to receive an equal commercial treatment, on pain of free choice to avoid accomplice of their unlawfulness under international law. However, on the other hand, the common trend in courts when dealing with Palestinians harmed by the settlements is their discharge as a political issue (Van Esmeld 2014), which unsurprisingly reflects uneven treatment.

Even if it is important to treat companies as rational entities enabled to make their own choices, the analysis carried out above contextualises their operations within the Israel strategy to encourage businesses to profit off from West Bank and Israeli settlements. Furthermore, the fact that Israeli settlements are constantly treated as political issues, and as such, not competent to a judge, progresses in ensuring accountability for human rights abuses will not be translated into more protection for Palestinians. Sadly, despite these clear obligations, it is high unlikely the U.N. Framework endorsed by Israel would lead the nation to voluntarily abide by its international obligations. However, when such domestic opposition is met to implement human rights' obligations, it is crucial to leverage on the common sense of the other countries playing as home states.

Paragraph Four – How the United States Are Acting as Home State

Clearly a vital partner in the Middle East region, Israel has been the largest cumulative recipient of U.S. foreign assistance (Congressional Research Service 2016). The surveillance industry has played a huge part in this flow of funds. Cooperation and integration between US and Israeli security companies has consolidated over time, with complex joint ventures emerging (Graham 2011). To this regard, the Binational Industrial Research and Development Foundation (BIRD) has been an initiative aimed at enhancing cooperation between U.S. and Israeli private high tech industries, in light to possible mutual benefits (BIRD 2020). Projects are supported in several areas, including homeland security: among the products useful in military settings, it is worth noting the Aircraft

Enhanced Vision System (EVS) camera, and the Through-Wall Location and Sensing System (Congressional Research Service 2016). Furthermore, the BIRD Foundation financed in 2017 a joint project between Eclipse Identity Recognition Corporation and the above-mentioned Motorola Solutions Israel Ltd – the latter listed within the UN Database – aimed at developing a Distributed Enhanced Video Analytics (BIRD 2017)[111]. As stated by Israeli Ministry of Public Security, "positive economic effects in both states, is a major goal of the act, as is developing new security products for US and Israeli markets (Graham 2011: 147). Hence, a US-Israel security-industrial bubble has been built over the surveillance over Palestinians in the OPT.

In order to analyse the role of the U.S. government in its home-based companies profiting from the Israeli settlement context, it is crucial to take into account its commitment to advance the business and human rights paradigm. The United States falls within those countries who strongly oppose the elaboration of a UN binding treaty on business and human rights. Specifically, the US government believes in the pointlessness of this instruments since "the work being done by companies, governments, civil society, and others—including through partnerships, multi-stakeholder initiatives, National Action Plans, standard-setting, rankings, consumer education, and procurement—is innovative, constructive, and continues to bear practical fruit" (US Mission to International Organizations in Geneva 2019). This statement becomes a bit controversial when considering how the UN Database related to Israeli settlements listed three U.S. companies as fully involved and other three acting as parent companies (UN Human Rights Council 2020). Nevertheless, by endorsing the OECD Guidelines for Multinational Enterprises, the United States agreed on the establishment of a National Contact Point. Up to now, among the 49 cases that have been brought before the NCP since 2001, 24 claims have been rejected, 17 cases have been concluded, and only in three cases, an agreement was reached (OECD Watch 2020). However, despite the U.S. NCP is the second most utilized NCP in the world according to the information released by OECD Watch, not even one case was related to US corporations' involvement in Israeli settlement enterprise (OECD Watch 2020; U.S. NCP 2019). Consequently, it may

[111] No further information of the project is provided in the BIRD Foundation's website.

become reasonable to argue how the NCP may have lost its original scope to turn into a political instrument.

Ideally, with the publication of the policy document *U.S Government Approach on Business and Human Rights*, the state has committed itself to officially support the UN Guiding Principles of Business and Human Rights (U.S. Department of State 2021). By focusing the efforts on the external implications of the corporate activities, the document is a step forwards towards the regulations of the global influence that U.S. business entities own. However, it is the opinion of the UN Working Group on Business and Human Rights that the scope of the above-mentioned text remains limited (UN Human Rights Council 2014a). Furthermore, another initiative particularly relevant to the field of surveillance has been the issuing of US Department of State's human rights guidance relating to the export of surveillance technologies. This document calls every company selling surveillance services and products for the evaluation of some considerations and the assessment of possible human rights impacts, before engaging in such activities. The final aim should be the avoidance of any possible reputational and operational risks, as well as the eventual misuse of the products to infringe the right of the others (U.S. Department 2020). However, the fact that the U.S. government actively supports the collaboration between U.S. and Israeli surveillance companies means that the businesses' promotion of foreign policy has been prioritized over human rights impacts, by resulting in governmental incoherent actions.

This alleged incoherence extends also to the domestic accountability of companies. In general terms, corporations may be held criminally liable for unlawful acts in the United States, both under federal and state law (Nanda 2010). Thus, several cases of corporate misconduct have been satisfied through the imposition of penalties, mostly financial. One of the main basis behind corporate criminal liability is the *respondeat superior* principle, which makes the U.S. system unique. Accordingly, "if an employee or agent of the corporation commits an offense by an act, commission, or failure, while acting within the scope and nature of his or her employment, and acting, at least in part, to benefit the corporation, the corporation is criminally liable" (Nanda 2010: 607). However, for the purpose of this dissertation, it is crucial to analyse whether US corporations are liable before US courts for crimes committed abroad. The US Congress is the body in charge of the power to enforce a law extraterritorially, and it is left to the discretion of the court

to interpret Congress' willingness. Within the corporate context, it can be stated that courts have allowed extraterritorial jurisdiction only over certain corporate crimes, such as economic sanctions, antitrust and corruption (Jerierski 2021). For instance, the *Racketeer Influenced and Corrupt Organizations* (RICO) Act – which punishes the engagement in a pattern of racketeering activity connected to an enterprise – can apply extraterritorially, on the condition that "sufficient effect in the United States" is proved (Cefo 2016).

Even if the RICO Act can cover human rights issues, among the domestic law instruments there is nothing quite like the Alien Tort Statute (ATS) to strengthen corporate liability in terms of human rights abuses (Kinley and Tadaki 2004). According to this act, "any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States" may fall within the jurisdiction of US federal courts (Dodge 2018: 132). The main issue that arises when dealing with the ATS is related to the broader debate on whether corporations can be held accountable for violations of international law, a question that has not been solved yet by the US Supreme Court (Dodge 2018)[112]. Furthermore, it is worth noting that despite Israeli corporations could be suited through the ATS, the extraterritoriality may apply only when the claim "touches and concern [s]" the United States with "sufficient force" (Cefo 2016). The Alien Tort Statute was one of the legal instruments used in the *Corrie et al. v Caterpillar, Inc* case, whereby Caterpillar was sued for providing equipment to the IDF to destroy Palestinians' houses. Specifically, the charges brought against the company included war crimes and extrajudicial killings, through the Alien Tort Statue (ATS) and the Torture Victim Protection Act (TVPA). However, since the US government financed the purchase of the bulldozers, the case was dismissed on the basis of the political question doctrine. Accordingly, when the dispute's subject matter belongs to a political branch of the government, the court is deprived of jurisdiction (Cefo 2016). Therefore, the court could not proceed with the case, due also to the "potential of causing international embarrassment were a federal Court to

[112] At the moment, the Supreme Court has to rule on the Nestle v. John Doe I, et al. case., and whether an American corporation can be held liable under the Alien Tort Statute (ATS) for child slavery in cocoa plantations in the Ivory Coast. More details available at: https://www.jurist.org/news/2020/12/supreme-court-hears-arguments-on-corporate-liability-for-human-rights-abuses-overseas-enjoining-irs/

undermine foreign policy decisions in the sensitive context of the Israeli-Palestinian conflict"(United States Court of Appeals 2007).

Therefore, it seems that avoiding any situations that would imply a position against Israel has become a common trend. Unsurprisingly, the U.S. endless support to Israel does not concretize only in abstention but also in actively taking a side, especially with the emanation of anti-boycott laws. Several US states have put in place laws or policies that penalize all those individuals and companies that refuse to have business ties with Israel and their settlements, and thus, join the boycott movement (Human Rights Watch 2019b). Specifically, among the 29 states – more than a half of the 50 states comprising the USA – that have enacted an anti-boycott law, 17 have specifically addressed the boycott of Israel and its settlements (Foundation for Middle East Peace 2020a). For instance, the Georgia Code §50-5-85 ""Boycott of Israel" means engaging in refusals to deal with, terminating business activities with, or other actions that are intended to limit commercial relations with Israel or individuals or companies doing business in Israel or in Israeli-controlled territories" (Foundation for Middle East Peace 2020a). Among the anti-boycott laws, there are some regulations that require state contractors (both individuals – including professors at university- and companies – who won a contract for garbage disposal and local municipalities) to certify that – at the moment and for the duration of the contract - they are not participating in a boycott of Israel (Foundation for Middle East Peace 2020b). According to the UN Guiding Principles, companies have the responsibility to disengage from their operations, when they cannot prevent or mitigate the harm arising from their operations. Not only is the USA not supporting businesses that do not want to get involved with the crimes committed by Israel in the OPT, but by imposing repercussions is also hindering their freedom to choose to participate in political boycotts. As a result, Americans have to give up political expression and association rights –all enshrined in the First Amendment of the US Constitution – in order to work for the state.

Furthermore, in spite U.S. states were the first ones to move towards this direction, other similar initiatives are taking place at the federal level as well. To this regard, the Israel Anti-Boycott Act appears to be the most debated. Introduced in the Senate and in the House in 2017 the bill was drafted in response to the UN Human Rights Council call for the establishment of a Database that would list all the companies involved in Israeli

settlements, considered as " actions to boycott, divest from, or sanction Israel" (U.S. Congress 2017). In order to protect a country friendly to the United States, all the U.S. persons and companies that are violating the prohibition and so are engaging in boycott, would risk facing a minimum civil penalty of $250,000 and a maximum criminal penalty of $1 million and 20 years in prison (Greenwald and Grim 2017)[113]. Therefore, individuals and companies are prohibited from "adhering to the U.N.'s request to cease business relationships with a company operating in Israel; providing information to the U.N. about whether it does business with Israel; requesting information about whether any person is doing business in Israel" (ACLU 2017). This bill was subsequently revised in order not to include imprisonment, but still enshrined the possibility of civil and criminal financial penalties. In the meantime, the Senate adopted in 2019 another bill known as S. 1[114], with the intention to give a legal blessing to states that are willing to enact legislation banning business with Israel boycott's supporters (Essayli 2020)[115]. In other words, despite these and other similar acts have not yet become law, there is the legislative attempt to support Israel against the boycott campaign, whose main victims appear to be the free speech of U.S. individuals and companies (Essayli 2020).

In other words, notwithstanding the bold pronouncements undertaken at the international level in matters of business and human rights, when it comes to Israel-related issues the mechanisms and instruments available are not working in the United States. In this sense, the US NCP and the Alien Tort Statute provide some examples. Instead, a punishment is awaiting companies that decide to disengage from any businesses with Israel and its settlements, unlawful under international law. The fact that there is no commitment to "prosecute" is due to the generalization and normalization of Israeli of hyper-militarism within the US and around the world, which are sources of Palestinians' human rights violations. The statements of the U.S. Secretary of State – of the Trump Administration – are clear to this regard: Israeli settlements are consistent with international law, and

[113] The bill refers to the penalties laid out in Section 206 of the International Emergency Economic Powers Act in order to fine the violators.
[114] Text available at: https://www.congress.gov/bill/116th-congress/senate-bill/1/text
[115]Accordingly, Senator Marco Rubio supported and justified the initiative as follows: "My bill doesn't punish any political activity. It protects the right of local & state governments that decide to no longer do business with those who boycott Israel. So boycotting Israel is a constitutional right, but boycotting those participating in BDS isn't?". Available at: https://twitter.com/marcorubio/status/1082270848025853954

they would advance Israeli-Palestinians peace (Ayyub 2020). Until Israel will be treated only as a political matter, there is no hope for the US to undertake viable solutions in order to stop the Occupation and all its collateral damages.

Conclusion

The case study of Motorola Solutions Israel and its U.S. mother company reported in this chapter shows how companies are enabling and profiting from abusive surveillance carried out against Palestinians generally in the OPT and specifically in Israeli settlements. Furthermore, this case reveals also how surveillance is a tool to strengthen mutual political interests among countries. Israel needs U.S. support, funding, and economic investments whereas the United States wants to count on a strong ally in the Middle East while learning Israeli tactics of dealing with Palestinian "terrorists". Consequently, "the US-Israeli security industrial bubble ... is based firmly on the generalization and imitation of doctrines and technologies of security forged during the long-standing lockdown and repression of Palestinian cities", which includes civilian surveillance (Graham 2011: 149). In light of these developments, the two nations through the grant of benefits are encouraging the businesses to develop surveillance technologies, which are eventually sold to Israeli settlements.

Israel and the United States do not only have ties in the surveillance sector but they also implement the same approach when dealing with human rights abuses connected to the existence of settlements, including companies' violations: they treat them as political issues. As analysed by this chapter, the political nature of Israeli settlements in these two countries blocks most of the instruments aimed at ensuring accountability for corporate abuses. Furthermore, by purposely ignoring the Palestinian human rights implications arising from the settlements, Israel and the U.S. risks losing international credibility. Whilst they ironically use the human rights language in such a way to become their spokesmen, they clearly pursue the opposite. Therefore, in order to put an end to corporate abuse and to Israel's unlawful occupation it is crucial a change of direction in the U.S.

administration. However, “Ten presidents, 53 years: The occupation is at the height of its power and the chances of ending it are slimmer than ever, be it with Biden or Trump” (Levy 2020). In other words, the situation is unlikely to change unless activist groups move to a U.S.-Israeli genuine solidarity movement with Palestinians, which would work on pushing the United States to exert its leverage to stop Israel’s unlawful acts (Chomsky in Lilach 2021).

CONCLUSION

The occupation of the West Bank has been the final realization of Israeli nationalism and of its aim to achieve Eretz Israel, a territory comprising Judea and Samaria in light of their historical and religious importance. As widely analysed in the first chapter, Israel in fact sought several opportunities to enlarge its territory, which concretized in 1967. More than 50 years have passed from the occupation, and the establishment of settlements has revealed crucial in order to distinguish what was Jewish – vast strategical areas – from what was Palestinian – "irrelevant" segregated and highly populated spaces. Because of this relevancy, from the historical analysis it is possible to delineate a constant political support – adopted by the entire Israeli political spectrum – to the preservation of Israeli settlements' natural right to grow and prosper. Thus, these Israeli residential zones have been the main beneficiary of the collective punishments imposed to Palestinians in the OPT. Making Palestinian lives unbearable would have meant eventually gaining more space for the settlement, and to this regard, the chapter sough to highlight this aim in every occurred human rights violations.

There was the opportunity for a different reality to develop, but Israel made clear its intentions: make the occupation endless until the de facto annexation of the OPT will eventually become de jure. In order to prevent this from happening and to achieve plausible solutions for this long-standing conflict, it is crucial to frame the Occupation as part of a settler colonialism project. As analysed in the second chapter, the totality of control affecting Palestinians, the Israeli grievance for more land, the suspension of law concerning the local population, the displacement and replacement of Palestinians with Israeli settlements, all suggest the said conception. However, it should be highlighted that Israel's realization of settler colonialism will later interconnect with the country's neoliberalist turn. Due to this interrelatedness, phenomena like the settlements and Oslo Accords have gained an additional connotation. Thus, Israeli settlements have turned out to be compensating mechanisms granted to Israeli lower classes, the Jewish losers of neoliberalism. Moreover, the premises of decolonization undertaken during the Oslo Accords have resulted actually in the normalization of the occupation, in the enhancement of settlements' growth, in the additional Palestinian encystation into Bantustans – through

the division of West Bank in Area A, B, and C – and in the opening of several lucrative opportunities. In other words, by intersecting with settler colonialism, Israel's neoliberalism has reshaped the power relations, and has provided new tools of domination. Therefore, additional research should be advanced on Israel's realization of the neo-settler colonialism paradigm, which up to now is still quite limited and which could be a suitable lens to analyse the events and therefore to advance more effective solutions.

As previously analysed, the peace charade of Oslo opened the door to foreign multinationals investing in the occupation and Israeli settlements. According to the results of the investigation provided in the second chapter, the businesses involved in the settlements are aggravating the already precarious situation of Palestinians. In short, their physical presence on the territory has implied the unlawful confiscations and demolitions of Palestinian properties; the consequent disproportionate diversion of economic opportunities has led to a deterioration of Palestinian economy; the job opportunities they have provided to settlers and the taxes they have paid to settlements' councils have helped maintaining the settlement enterprise; and their use of Palestinian cheap labour force has worsened the social protection of the workers. Additional negative effects on Palestinians' human rights have occurred according to the area of involvement, which are mainly "settlement enterprise", "control of population", and "exploitation".

The companies' capability to harm has never been under discussion, contrary to the extent of their international legal obligations. To this regard, the second chapter sought to analyse the international normative framework applicable to businesses operating in the OPT. According to the results, even if the international obligations that specifically address the conduct of business enterprises in the context of occupation are underdeveloped, it is possible to refer to the broader normative framework provided by international humanitarian law and international human rights law. IHL prohibits the commission of war crimes that includes unlawful acts like transfer and pillage, and since this corpus of norms apply to all the actors whose activities are related to the conflict companies cannot be excluded as subjects. The human rights framework is clearer in considering businesses as human rights duty bearers: specifically, the UNGPs advance the concept of human rights due diligence also in conflict-affected areas, and the OECD Guidelines boost the obligations for the home states and establish the NCPs as tools for

implementing the access to remedies. However, despite the positive trend the development of a normative framework should be treated as the end of the beginning. Therefore, it becomes crucial to improve international legislation that set clear obligations for business, host states, and home states and that overcome the uncertainty of IHL and the non-binding nature of human rights norms.

Starting from the assumption that companies should respect human rights and international humanitarian provisions while conducting their activities, it is important to evaluate how these have been translated in concrete accountability. Therefore, the third chapter sought to analyse the main solutions proposed at different levels to make companies answerable for their operations in Israeli settlements. The main findings revealed that:

- At the international level, the UN Database is a valid tool to break the UN impasse on all questions related to Israel/Palestine, is an authoritative source to enhance transparency and accountability. Even if it does not provide a comprehensive list and does not include legal implications, more efforts are required to update the database annually, and if effective, to extend it to other illicit situations around the world. Another initiative at the international level is the prosecution of corporate officials before the ICC, which could be an effective way to deter companies from engaging in international crimes. However, since this path is not so straightforward due to the unwillingness to prosecute companies – as actors whose involvement is too remote –, supporting ICC role with additional literature appears crucial to strengthen this idea among the most skeptics.

- At the state level, ensuring extraterritoriality is the ideal solution to undertake as a singular state in contexts where there is a low probability of obtaining redress, and where Israel is masquerading its innocence and it is not willing to cooperate. The research revealed that both non-judicial mechanisms like the NCPs and judicial tools like criminal prosecution and civil lawsuits are including in their cases businesses involved in Israeli occupation. Although they rarely result in verdicts, in light of their financial, commercial and reputational impacts, these tools need to be strengthened.

- At the civil society level, the BDS movement is an effective response to raise awareness and provoke actions when Israel is continuing perpetrating Palestinian oppression. The chapter has in fact reported evidence of how due to the successful

divestment campaign – aimed at ensuring that investments are not used to finance complicit companies – involved businesses are increasingly losing contracts and experiencing huge reputational damages. Therefore, the BDS campaign appears to be the ideal solution for pressuring a country so trade-dependent like Israel; however, in order to face the excessive criticisms that seek to shrink its space of actions, the movement should consider undertaking a less confrontational and more constructivist approach.

In order to narrow the focus of the dissertation, the case study presented in the fourth chapter sought to contextualise all the previous findings within the surveillance industrial sector. Surveillance has played an important role in Israel's policies and economy, in light of its capacity to attract foreign investments while maintaining the regime of control implemented against Palestinians. The several businesses that are developing and selling surveillance technologies have allowed the discriminatory and undiscriminating surveillance of Palestinians, by being actually involved in this way in the "settlement industry" and in the "population control" areas. With this regard, the case of the multinational leader in communication and electronics Motorola Solutions Ltd and its Israeli subsidiary works well as an example. According to the research's findings – partially affected by the limited availability of data, especially on the misuse of surveillance products -, among the various ways these companies are serving Israeli settlements, there is the Motorola radar detection system placed outside these residential areas in order to detect Palestinian movement. Supplying these products has thus resulted in the reinforcement of settlements' infrastructure, in Palestinian dispossession and restriction of movement. Furthermore, the companies' attempt to hide their involvement and their listing within the UN Database has suggested additional violations related to the human rights due diligence's requirement to mitigate possible adverse impacts.

As in the case of Motorola, the companies operating in the surveillance sector are often recipients of Israel and U.S. benefits. Therefore, the fourth chapter took the opportunity to analyse the role of these two countries as host and home states. Even if the research was partially limited by the lack of English translation for several official documents, it is possible to deduce that Israel, instead of denying its support, is actually encouraging the presence of surveillance companies in the settlements by granting benefits and funding, and sponsoring their products abroad. Concerning the implementation of effective legislation and enforcement measures, Israel is not making available enough

data to deduce comprehensive, organic, and clear provisions and judicial mechanisms for business and human rights, and is not willing to prosecute companies involved in Palestinian human rights violations. On the other hand, the United States are actually taking a side in the Israeli/Palestinian conflict by advancing initiatives in the business and human rights field that are marked by incoherency. As deeply detailed in the chapter, even if the U.S. NCP is the second NCP most utilized in the world, this body has never dealt with U.S. companies involved in Israeli settlements. The same modus operandi occurred in relation to domestic accountability: thus, although instruments that allow the prosecution of corporate illicit acts committed overseas exist, when it comes to Israel the cases are discharged on the basis of the political question doctrine. In other words, the dissertation argued how Israel and the United States clearly fail in meeting their potential as host and home countries by favouring politics.

Reasoning motivated by political interests are in fact affecting generally viable pacific resolutions of the Israeli/Palestinian conflict, and specifically possible solutions to make business accountable for their profiting from that dramatic situation. As shown in the previous chapters, all the actions of the UN bodies failed to succeed and to bring changes because of political opposition, mainly coming from the U.S. The ICC decision to have jurisdiction over the alleged Israel's international crimes has met several objections from states that may use legal arguments to hide political interests. The Israeli and U.S. experience with the NCPs and with judicial proceedings reveal how these tools may betray their original purposes to turn into political instruments. Furthermore, these steps towards accountability have bene constantly targeted by the political weaponization of Anti-Semitism. This concept has been constantly misused in order to silence any positions opposing the existence of Israeli settlements in the OPT. With this regard, it is crucial to keep in mind what reported by the Israeli journalist Gideon Levy in an interview,

"We become a society which care only about itself, and even this less and less. And all the rest, we have this wonderful excuse of security; if this does not work we can always bring up the Holocaust. Citing Golda Meir who said that "after the Holocaust the Jews have the right to do whatever they want" and that's the way of thinking. Human rights is really something for Europeans salons but not for our reality, we are not dealing with it" (This Is My Land Hebron 2010: 50:23).

Therefore, it is crucial not to let the misuse of such a dramatic and significant concept that is "anti-Semitism" to hamper all the non-violent forms of pressure on Israel. It is unfair to brand each initiative towards business accountability as racist and "anti-semitist": the Palestinian human rights implications arising from companies' operations are objectively existing. It is unlikely that ensuring corporate accountability will lead to a pacific resolution of this longstanding conflict, but it definitely would be a good start. Unfortunately, the reality on the ground suggests that Israel's relations with Palestinians are still marked by the former uncompromising attitude towards any kind of retreat and by the Iron Wall policy – in other terms, the resort to force in order to achieve a strong power position. Since Israel already achieved that desired position, the fact that this policy is still ongoing means that its final aim to live in peace as good neighbours has been betrayed. Therefore, it is urgently needed the development of a strong solidarity movement that will lead Israel to leave all those advantages arising from its supremacy position in the name of fairness, peace, and humanity. No political excuses allowed.

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