

*Gershon Shafir*

## FROM OVERT TO VEILED SEGREGATION: ISRAEL'S PALESTINIAN ARAB CITIZENS IN THE GALILEE

### Abstract

This article's geographical focus is the Galilee, Israel's only region with a Palestinian Arab majority. Its sociological focus is the drive to Judaize this region, the mirror image of its de-Arabization, which I anchor in Israelis' morbid fear of settler colonial reversal. Although direct legal discrimination—restriction of movement under a military government and exclusion from publicly administered land—was banned by the government and the High Court of Justice respectively, new modes of discrimination against Israel's Arab citizens have replaced the older forms. I demonstrate how policies that limit Arab middle-class citizens' upwardly mobile migration into the Judaized spaces of communal settlements (or overlooks) and towns endure. I compare gate-keeping exercised by national-level indirect legal discrimination operating through the admission committees of communal settlements with the institutional discrimination practiced by municipalities of emerging mixed towns against new Arab residents' public presence. Finally, I highlight the linkages between instances of Judaization across the Green Line, which make the unwinding of segregation, in all of its forms, that much harder.

**Keywords:** citizenship; Israel/Palestine; minorities; settler colonialism; sociology

Between 1966 and 2000, Israel proscribed direct legal segregation, the equivalent of Jim Crow laws in the United States, against its Palestinian Arab minority by banning restrictions on freedom of movement and access to public land.<sup>1</sup> To explore what happens when segregation is made illegal in a society that has practiced it extensively, this article examines the attempts of middle-class Palestinian Arabs from the Galilee to move into Jewish-majority communal settlements and towns and the enduring obstacles they encounter.

Discrimination, I will suggest, comes in at least four forms: overt, or *direct legal*, which is narrowly aimed to constrain a given ethnic, national, or religious group; veiled, or *indirect legal*, which is defined in universalist terms but for all practical purposes still targets the self-same group; *institutional*, defined as exclusionary practices undertaken within statutory bodies without legal sanction; and *bottom up* or *spontaneous* exclusion, which is driven by and frequently enforced by segments of the majority public and, in its most extreme, takes the form of *vigilantism*.<sup>2</sup> In contemporary Israel, *direct legal* segregation is being replaced by the wink and nod of gentlemen's agreements

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that produce covert or veiled forms of segregation either through *indirect legal* discrimination adopted as Knesset legislation, or by locally conceived and implemented *institutional* discrimination. Both are commonly adopted in reaction to bottom-up pressures by Jewish residents in the locations where upwardly mobile Palestinian citizens wish to move. In general, in studying discrimination we must examine simultaneously all of its forms and their changing relationships. The replacement of one form of segregation with another, and we best not lose sight of this fact, makes evident that discrimination is being challenged by Palestinian citizens.

Palestinian Arabs, who currently make up about 20 percent of Israel's citizenry, remain on average poorer, less educated, and more concentrated at the lower rungs of the occupational hierarchy than Jewish citizens. A report by the government-appointed Or Commission published in August 2003 concluded that "Israel's Arab citizens live in a reality in which they are discriminated against as Arabs."<sup>3</sup> In addition, they remain overwhelmingly segregated from Jewish society. About 90 percent of Israel's Palestinian citizens live in Arab-only towns and villages.

However, there is also a growing portion of Arab middle-class professionals who aspire to improve their living conditions by moving out of their cramped communities, which suffer from the absence of detailed zoning plans and discrimination in the allocation of land, and cherish the prospect of urban anonymity.<sup>4</sup> This is a sizeable population. In 2010, the percentage of Arab households in Israel's middle stratum, defined as households headed by salaried workers whose income is 75 to 125 percent of the median income, was 23.4 percent, as compared with 28.5 percent of Jewish households.<sup>5</sup> In 2013, 24.3 percent of Israel's Arab population above age fifteen, as compared with 52 percent of its Jews, possessed above high school education. These two statistics converge and place roughly a quarter of Israel's Palestinian citizens in the middle class.<sup>6</sup>

Choice of living arrangements comes under the rubric of private decisions par excellence, but for Palestinian citizens of Israel, such a choice, as attested by Fatina Abreek-Zubeidat and Ronnie Ben Arie, is thoroughly saturated with political and identity-related considerations.<sup>7</sup> Two of the residential options require moving into spaces set up to be exclusively Jewish, into Judaized spaces, and, consequently, offer a particularly effective window onto majority-minority relations in Israel. One is the small, highly valued, and expensive rural hilltop communal settlement (*yishuv kehilati*), originally called an overlook (*mitspe*), the other the mixed city (*‘ir meurevet, madīna mukhtalaṭa*). In the former, after the banning of direct legal discrimination, gatekeeping has been adopted through national legislation, leading to indirect legal discrimination. In the latter, where there is no recourse to such legislation, barriers are devised by municipal institutions, continue even after the arrival of Palestinian citizens, and seek to thwart their public presence. These barriers remain an "open secret," officially unacknowledged but boasted about.

This study focuses on the Galilee and relies on a variety of sources: Knesset Committee proceedings, nongovernmental organization (NGO) reports, and national and, when possible, local newspapers. The United Nations General Assembly Partition Resolution of November 1947 allocated the central Galilee to the Arab state-to-be because it had a sizeable majority of Palestinians. Israel left their conquest to the last stage of the 1948 war. In part due to the refusal of an Israeli commander to evacuate Nazareth, and in part due the belated realization of Palestinians that flight might be irreversible, instead

of a wholesale repetition of the dynamic of war–flight–expulsion, a sizeable share of the population stayed. Consequently, the central Galilee is the only region of Israel in which Palestinian citizens—who make up 75 percent of this region’s population—form the majority and, therefore, it has been singled out for a policy of Judaization. This demographic and the corresponding policy make majority–minority dynamics particularly visible in this region.

High rates of residential segregation are rarely voluntary, let alone “natural.” They reflect policies of exclusion. In the United States, the prevalence of residential segregation is explained by the violent attempts of working-class whites to exclude northwardly migrant African Americans from the newly forming industrial labor market and new residential districts following the Civil War. In contradistinction, I will argue that both overt Jewish–Arab segregation and its covert perpetuation are best accounted for by Israel’s continued settler colonial character.

In the first section, I will demonstrate why classical residential segregation theories fall short in accounting for either the overt or the veiled residential segregation of Palestinian citizens. I will travel through the antecedents of their discrimination to highlight its roots in the settler colonial framework of the state and its institutions and in the *fear of reversal* that animated, and continues to animate, Israel’s land management policy. In the subsequent three sections, I will explore majority–minority relations in communal settlements and mixed cities. In particular, I will focus on the legal process that entrenched admission committees in communal settlements, and the many forms of institutional exclusion in mixed cities. In the conclusion, I will assess the new *landscape of segregation* in the context of Israel’s institutionalized settler colonial legacy.

#### FEAR OF REVERSAL

The social group whose residential segregation most closely parallels that of Israel’s Palestinian citizens is African Americans. Since its publication in 1993, Douglas S. Massey and Nancy A. Denton’s *American Apartheid* has been the singularly most influential study of segregation in the United States. Massey and Denton assess segregation, an urban phenomenon, along five distinct dimensions of geographical variation: *unevenness* measures the degree of a given group’s overrepresentation in a given area; *isolation* the extent to which the group shares the neighborhood with other ethnic or racial groups; *clustering* how contiguously the group’s residential areas are laid out; *concentration* how small is the area in which the group resides; and *centralization* how far out is the group in the periphery. The more dimensions of segregation that converge, the more its effects intensify. According to Massey and Denton, African Americans are hypersegregated because they are highly segregated on at least four of the five dimensions.<sup>8</sup> Whereas other US racial and ethnic groups, such as Hispanics and Asians, experience more limited and transient segregation, the situation of blacks “shows little sign of change with the passage of time or improvements in socioeconomic status.”<sup>9</sup> One of Massey and Denton’s remarkable findings is that, despite massive demographic and economic change, segregation has not abated. A more recent study by Camille Zubrinsky Charles confirms that in spite of “meaningful improvement in whites’ racial attitudes and unparalleled expansion of the black middle class . . . black–white segregation remains . . . extreme.”<sup>10</sup>

With about 90 percent of Israel's Palestinian citizens living in Arab-only towns and villages, they suffer from the hypersegregation typical of African American urban neighborhoods and its attendant deleterious consequences. This remarkable similarity, however, has different origins. Four major differences exist between the residential segregation experience of African Americans and Israel's Palestinian Arab citizens.

First, unlike Arabs and Jews in Israel, African Americans and white Americans did not always live in segregated cities. Before 1900, black servants and laborers lived in alleys and side streets near the mansion of their white employer, in a now lost world of relatively high integration in both northern and southern cities.<sup>11</sup> The segregation of black Americans began only in the late 19th century, as they moved in the wake of industrialization from rural areas into cities. Although both white and black workers were employed as strikebreakers, skilled craft unions opened their doors to Eastern European white immigrants but for the longest time kept them closed to blacks who were also repelled, often violently, by their potential white neighbors and coworkers. By contrast, except for a small number of "old mixed cities" such as Haifa, Jaffa, and Jerusalem—themselves segregated by neighborhood—there is very little history of Jewish–Arab residential integration in Palestine and no history of reversal of integration. From at least 1906, the Labor Settlement Movement (LSM) that came to predominate Palestine's Jewish community preferred separation between Jews and Arabs.

Second, in contrast to the forcible segregation into ghettos of migrating blacks in the wake of American industrialization, in Israel it was the Jews who were the immigrants. They were migrants of a special type: they moved to Palestine not to lead a diasporic life but seeking land and a country for colonization and seeing it as a "homeland" and a "homecoming" even as they struggled to adjust to a very foreign environment. In Mahmood Mamdani's poignant distinction, settlers "are made by conquest, not just by immigration."<sup>12</sup> In this state-in-the-making, separation advanced by the Zionist LSM presaged the displacement of the native-born Arab population. Third, whereas there have been no attempts by white Americans to move *en masse* into areas of black residential concentrations in order to turn them "white," Israeli state policies of Judaization expressly seek to transfer Arab-owned land into Jewish hands. Fourth, whereas in the United States an advancing color line out of the ghetto extends the reach of a low-class population into higher status white areas, Palestinian Arab citizens seeking residential mobility are every bit as middle class and well educated, if not more so, than their Jewish neighbors-to-be. In sum, the segregation of Jews and Arabs within Israel is not the result of immigration or industrialization but of a settler colonial dynamic.

The "1948 Palestinians," those who did not become refugees and remained within what became the State of Israel, received citizenship rights in several steps. However, for close to two decades they were placed under a military government that instituted a pass system to control their freedom of movement. Shira Robinson's path-breaking study applies settler colonial theory to explore their status "as citizens of a formally liberal state and subjects of a colonial regime."<sup>13</sup> In her view, such a paradoxical status resulted from a combination of two contingencies: "an unprecedented colonial bargain" the Jewish community was forced to accept in order to be admitted into the UN<sup>14</sup> and Israel's exceptional status among settler colonies in becoming a majority through mass displacement rather than annihilation. To secure its wartime territorial gains, Robinson concludes, Israel had to share a measure of its political power with a portion of the very

people who would want to reverse its establishment.<sup>15</sup> Since civil and martial law cannot commonly overlap in the same territory, the result was a hybrid liberal-colonial administration of the 1948 Palestinians.<sup>16</sup> By making its Palestinians “citizen strangers,” Israel had left both a fundamental contradiction at the heart of its political-legal order and a door open to greater integration. The amalgam of liberalism and settler colonialism, as we shall see in this article, remains inherently unstable and open to challenge.

As a belated settler colonial society, the Yishuv differed from its forerunners not only in the limits of the destruction it visited on the indigenous population, but also in the constraints it had to contend with in the acquisition of land. Explaining contemporary majority–minority relations requires attention to Israel’s distinctiveness in regard to both the Palestinian people and Palestinian land. The character of Israel’s colonial land dynamic and legacy was best conceptualized by Baruch Kimmerling. Land in Palestine, he observed, was not “free” as on other colonial frontiers, but had to be acquired on a nascent land market and, consequently, required several steps to come under full Jewish control. Kimmerling distinguished between three levels of control over territory—presence, ownership, and sovereignty—the former two serving as place holders until the latter could be asserted. But even after Israel’s establishment, the Zionist fear of decolonization—the apprehension that even when territory had come under formal Jewish sovereignty it might effectively revert to Arab hands unless it was buttressed by Jewish ownership and presence—persists.<sup>17</sup> Arab presence or ownership in a settler colonial society poses a threat to Jewish sovereignty. Sovereignty in contemporary Israel, therefore, remains a performative and unfinished undertaking.

The fear that Zionism’s “territorial advent is tentative and fragile,” in Dan Rabinowitz’s words, “is crucial for a fuller understanding of the Israeli attitude to land.”<sup>18</sup> This foreboding is particularly evident, Rabinowitz suggests, in regions that have already been colonized and where reversal would be most visible,<sup>19</sup> namely where all three components of control—presence on, ownership of, and sovereignty over land—are present. For their part, Arab citizens who left Arab cities and villages to move into Jewish-majority cities and communal settlements find no small amount of satisfaction in the fact that they live on land that was once owned by Arabs. But there are few signs of irredentism or desire for reversal among the Palestinian citizens of Israel. In fact, when Israeli Foreign Minister Avigdor Lieberman suggested a territorial exchange of Jewish settlement blocs in the occupied Palestinian territories for the Triangle and its roughly 300,000 Palestinian citizens between Israel and a new Palestinian state, his proposal was angrily rejected by the region’s residents and described as a second *nakba* meant to strip them of their Israeli citizenship.<sup>20</sup>

The foundational Zionist document of land management policy is the Memorandum of Association (MOA) of the World Zionist Organization’s (WZO) Jewish National Fund (JNF). This institution was set up in 1901 and incorporated as a private company in London. The JNF was to purchase land in Palestine with the purpose of making it available for colonization by Jews, and for Jews only. This MOA has two unusual provisions: land purchased in Palestine by the JNF becomes the collective property of the Jewish people in perpetuity, and can only be leased but not sold. By assuring the *unidirectionality* of land transfer,<sup>21</sup> the JNF was established *ab ovo* in such a way as to preempt any possibility of reversal. It served as a key enabling tool of Zionist colonization and became one link in a chain of other bodies which shared its land management

policy, in particular the Jewish Agency, the operational arm of the WZO, whose Settlement Division was charged with establishing new colonies. Another layer in countering reversal was the collectivism and mutual dependence of the nuclei of LSM's pioneers, who made themselves available to fulfill national missions of colonization.

Significantly, Israel did not bookend its "colonial phase" in 1948 and abolish the preindependence colonizatory bodies, such as the JNF, that facilitated its independence. Rather, it retained and combined them with its newly established ministries and statutory bodies, sometimes in the most byzantine ways. The Israeli regime, consequently, retains settler colonial structures even today. This dualism is the institutional expression of the hybrid liberal settler state observed by Robinson. It allows Israel to enjoy the best of two worlds: a state meant to be impartial vis-à-vis all of its citizens, while working with semiprivate organizations to prioritize the interests of the worldwide "Jewish people." After independence, a new covenant placed 93 percent of Israel's land under the centralized administration of the Israel Land Administration (ILA; after 2009, Israel Land Authority), in which authority is shared between the government and the JNF. Other countries, including the United States, witnessed restrictive residential covenants, but those were local, specific to cities or neighborhoods (and, since World War II, in violation of national law),<sup>22</sup> while in Israel a restrictive covenant was deployed on a national scale and adopted by the state.

The main thrust of post-1948 Israeli land policy was expressed in the neutral term "population dispersal" (*pizur okhluṣiyah*), though its goal was to assert Jewish presence and ownership in frontier regions over which it had already acquired sovereignty during the war. The counterpart to dispersing the Jewish population into peripheral regions was the de facto concentration of the Arab population in ever smaller areas. Among the settlement initiatives and drives undertaken by the State of Israel, two were aimed at *Judaizing* the Galilee. The former was launched in the wake of the 1948 war, the latter in the context of the post-1967 war and early colonization in the occupied Palestinian territories.

Each colonization drive was preceded by large-scale expropriation and transfer of Palestinian land into Jewish ownership followed by presence to ensure sovereignty rights. The first Judaization drive led to the establishment of Nazareth Ilit (Upper Nazareth) in 1954, built on 1,200 dunams, half of which were expropriated from Nazareth,<sup>23</sup> and Karmiel built in 1962 on 5,123 dunams, expropriated from Deir al-Asad, Bi'ina, and Nahf.<sup>24</sup> In each case, small Arab towns were also incorporated into the new city. By 2013, the population of Nazareth Ilit reached 40,460 and Karmiel 44,715.<sup>25</sup> A second drive's aim was to establish several dozen outlooks as hilltop panopticons. Though this drive's demographic goals were more modest, its territorial ambitions were not, requiring the seizure of 20,000 dunams between Sakhnin and Arraba, of which 6,300 dunams were owned by Arab citizens. This drive ignited the first Palestinian national-level general strike in which six citizens were killed by police, an event now commemorated annually on 30 March as Land Day (Yawm al-Ard). Twenty-six outlooks were established between 1979 and 1981, and forty to date, incorporated under the Misgav Regional Council, whose creation "epitomizes the Judaization of the Galilee,"<sup>26</sup> and several adjacent regional councils. Altogether, the Jewish population in the communal settlements of Misgav numbers around 22,000. Each outlook was incorporated as a communal settlement run by a communal association.



In 1966, the period between the construction of the cities of Nazareth Ilit and Karmiel and the outlooks of Misgav, one of the most onerous forms of direct legal segregation against Arab citizens—a military government and movement control system—had been abolished. A second, particularly harsh form of direct legal segregation, exclusion from JNF- and most ILA-managed public land, was formally challenged in 1995, making Israel's High Court of Justice and its Knesset the main arenas where the contestation took place. In the next three sections, I will turn to the processes by which the land management system came to be revised, all the while retaining its main discriminatory features.

#### COMMUNAL SETTLEMENTS AND THEIR ADMISSION COMMITTEES

It is known that the occupation and early colonization of the West Bank and the Judaization of the Galilee after the 1967 war were related, but the nature of the connection has remained opaque. Ra'anán Weitz, director of Settlement Division of the Jewish Agency, claimed that his division undertook a drive to Judaize the Galilee in 1978 in order to counter the initiative of the newly elected Likud government to redirect colonization into the West Bank.<sup>27</sup> A recent historical survey in the Misgav Regional Council's weekly, *À la Gush* (On the Bloc), however, demonstrates that the Settlement Division stalled exurban communal bedroom settlement projects in the Galilee because they departed from the collectivist models of the Labor Settlement Movement. In contrast with the collectivism of the LSM's kibbutz in both the economic and social spheres, and of the moshav in the economic sphere, communal settlements express the aspirations of middle-class families and professionals who seek to cooperate only in the social sphere: they celebrate holidays together, plant collective gardens, and engage in other shared projects.

This new type of settlement within the Green Line was initiated by a nucleus of technicians, engineers, and researchers at Rafael, one of Israel's prominent defense technology companies, who were employed north of Haifa. They sought out the help of the Settlement Division to establish a “socially pure,” that is, homogenous middle-class, ecologically minded, and well-tended rural settlement in Segev, a Galilean location where the Settlement Division had repeatedly tried and failed to establish a permanent community.<sup>28</sup>

After being rebuffed by the Settlement Division, the Segev nucleus joined forces, through the facility of the Joint Planning Department of the Ministry of Defense and the Israeli Defense Forces, with the settlers of Ofra, the first colony of the messianic religious-Zionist Gush Emunim movement in the heart of the West Bank, and the settlers of Allon Shvut, another Gush Emunim colony closer to the Green Line. The two “jointly . . . developed the conception of the communal settlement.”<sup>29</sup> It was at this stage, in April 1979, that the Joint Settlement Committee of the Israeli government and the WZO resolved to establish Jewish overlooks in the Galilee. By 1983, these outlooks had come to be called communal settlements.<sup>30</sup> Not only do the communal settlements within the Green Line and the occupied Palestinian territories have a common origin, but they also share a neoliberal character, itself part of the new direction of political and economic life under the Likud.<sup>31</sup>

The combination of the settlers' middle-class community-lite and the institutions' Judaizing objectives in an era of political transition left in place older motivations, discourses, and languages of justification, which created a specious sense of social continuity that could be, and was, used as a legal cover for the transition from overt to veiled forms of discrimination against Palestinian citizens. In particular, the LSM's collective settlements' admission committee, which had historically screened and selected new members, was held over and served as a historical bridge between older and newer forms of settlement communities.

In 1995, 'Adil and Iman Qa'dan, a professional Palestinian couple from Baqa al-Gharbiyya, a Palestinian village with poor roads, underfunded schools, and a neglected sewage system, petitioned the High Court of Justice (HCJ) through the Association for Civil Rights in Israel (ACRI) and Adalah, the Legal Center for Arab Minority Rights in Israel, to overturn the refusal of the ILA and five other governmental and quasigovernmental bodies to lease them land in Katzir, a community settlement being established by the Jewish Agency in the Triangle area near the Green Line between Israel and the occupied West Bank.

The HCJ, under Chief Justice Aharon Barak, in the court's most liberal phase during the hopeful post-Oslo Accord days, ruled that the ILA violated the state's duty to equality even when it acted through a third party, such as the Jewish Agency, which discriminates on the basis of nationality and religion.<sup>32</sup> By the time of the March 2000 court ruling, indirect segregation was no more acceptable than direct segregation.

By affirming the rights of liberal citizenship over the historical practices of settler-colonialism, the court, to use Robinson's argo, made the Palestinian more a citizen and less a stranger. This was a ruling of historical dimensions but, even so, the court emphasized that it was "primarily forward-looking." The Court's ruling was only "the first step on a difficult and sensitive path . . . [and the justices will] advance carefully from case to case," and therefore only asked the state to reexamine the Qa'dan's petition.<sup>33</sup> The ruling, in other words, was adopted within the framework of, and anticipated and preempted, the potential for reversal.

Although the court's ruling was cautious, it put on notice not only the ILA, but also the communal settlements whose admission committees implemented the ILA's land management guidelines. The requirement that prospective applicants had either concluded compulsory military service—a proxy for determining Jewishness given that most Arab citizens are not called up for active duty—or were Jewish, would have to be abandoned.

It took about thirteen years for segregation to be restored, this time in a veiled fashion, that is, for a well-oiled and well-honed Israeli parliamentary practice—with its own sobriquet, the "High Court of Justice bypass" (*okef bagats*), or legal bypass—to run its full course. The last phase of the veiling, ironically, was the HCJ's adoption of the Knesset's legal bypass as its new position, either due to its changed composition or to placate political criticism.

There were several stages in the response to the HCJ's ruling. Initially, in compliance, the rules were loosened, propelling the communal settlements "go on strike," so to speak, by refusing to admit any new members.<sup>34</sup> In response to this bottom-up refusal, the admissions process was tightened again and, for all practical purposes, replaced direct-legal with veiled, or indirect, legal discrimination. The general framework



for what was to be presented as a change was set in a meeting of the representatives of the JNF, ILA, Ministry of Finance, and State Attorney in September 2004, in which the ILA's director general Yacov Efrati suggested that "if the JNF cannot contribute to the [communal settlements'] Jewish character, then the structure of the settlement admission committees [shall]." <sup>35</sup> In March 2010, <sup>36</sup> the ILA had adopted a new policy that the Knesset enshrined in an amendment to the Communal Associations Law shortly thereafter. Though bottom-up communal defiance drove the new form of segregation, the whole gamut of relevant state and quasistate institutions played a crucial role in its implementation.

Under the new March 2011 law, the five admission committee members, including a representative of the Jewish Agency, are authorized to operate in communal settlements, kibbutzim, and moshavim and their satellites (*harhavot*) with up to 400 households. The geographical reach of the committees was restricted to the Galilee and the Negev, but those are two of three regions (the third is the Triangle) where Arab citizens make up either the majority or a high share of Israel's population. Although the committee was now forbidden to turn down candidates on the basis of race, gender, nationality, family status, sexual orientation, and country of origin, candidates were required to undergo psychological evaluation and could be rejected if they "do not fit the community's socio-cultural fabric." <sup>37</sup>

The revised Admission Committees Law was backed by a coalition of two groups—as can be seen through an examination of the deliberations of the Knesset's Constitution, Law, and Justice Committee. Each claimed to preserve a different historical continuity, one (Kadima Party) the collectivism of the LSM, and the other Zionist colonization.

Yisrael Hasson and Shai Hermes, members of Knesset (MK) from the centrist Kadima Party and witnesses representing settlement bodies, especially the Moshavot Movement, <sup>38</sup> supported, sometimes apologetically, the desire of communal settlements to maintain their distinction and selectiveness but, for all practical purposes, underwrote their current members' desire to retain their exclusivity. They pointed out that LSM settlements always had admission committees and hailed the "internal bond" (*zikhah pnimit*) and "mutual guarantee" of contemporary communal settlements. For good measure, they also expressed support for the balancing of market principles and individual rights with communal considerations. Even so, they found it difficult to present the communal settlements as the legitimate heirs of the LSM's kibbutzim and moshavim because such continuity was explicitly repudiated by Ophir Pines-Paz, the only Labor Party MK, while an MK from an Ethiopian Jewish background, Shlomo Molla, called the settlements elitist communities for millionaires. A religious Zionist MK, Uri Orbach, actually reversed the causal connection by suggesting that the main characteristic of a communal settlement was its admission committee. <sup>39</sup>

MKs from the right-of-center Likud and Yisrael Beitenu parties presented a unified and full-throated affirmation of the Judaization process in the Galilee and argued that admission committees were required to ensure the continuity of Israel's settlement project. A Likud MK, Tzipi Hotovely, asserted that she was not ashamed to own up to the fact that "we wish to give priority to Jews who will reside in the Galilee and the Negev because we are a Jewish state." Deputy Foreign Minister Danny Ayalon emphasized that the aim of the legislation was to promote, using the LSM's old trademark term,

“conquest of land” in its updated iteration as the dispersion of population to the country’s peripheries, and baited one of the Arab MKs by telling him that “maybe you don’t like to hear this but that is the whole point.” He argued that settlement is just as important now as in the past, because both internal and external forces wish to dispossess Jews from both the Galilee and the Negev.<sup>40</sup>

Whereas the right-of-center Jewish MKs offered lessons in the history of Zionism, the Arab MKs responded by lecturing about citizenship rights. Ahmad Tibi, a veteran parliamentarian from the Arab Movement for Change, objected to the use of the Zionist justification by pointing out that Israeli “national resources belong only to those who fall within the definition of the state . . . whereas Arabs are not equal citizens [nor enjoy] equal citizenship” and, therefore, their needs are ignored. Hanna Sweid, from the Arab-Jewish list Hadash, was particularly vocal in pointing out that the protection of group identity is customarily reserved for minorities, whereas communal settlers in Israel were not a minority population. He objected to the private appropriation of public land for the benefit of small groups.<sup>41</sup>

It is difficult to find out the reaction of Palestinian citizens to their neighbors who either tried and failed or were ultimately able to move to Jewish communal settlements because they are so few in number. There are, however, several reasons to assume that the response was not particularly harsh and the upwardly mobile are certainly not viewed as “traitors.” Everyone is familiar with the awful circumstances of “piling up” that leads to congestion and absence of services in Arab towns and villages that serve as push factors. Furthermore, those who successfully make the move maintain strong ties with their prior villages and towns, if for no other reason than the fact that they cannot provide Arabic-language education to their children in Jewish-majority communal settlements and towns and continue driving them to their previous schools. In addition, Arab residents who move away are viewed not solely as individuals abandoning their communities but also as participants in a territorial conflict who by moving to Jewish communities will be living on land that used to be owned by Palestinians. The settler colonial context infuses such moves with a collective meaning that attenuates any stigma that might be attached to it.

Eliyahu Stern, a representative of Atid Misgav (Misgav’s Future), an activist coterie of Misgav residents, opposed the admission committee legislation, and all claims of historical continuity, by arguing that the Misgav settlements are not in fact communal but are definitely discriminatory.<sup>42</sup> He rejected the portrayal of these communities as based on social solidarity and shared ideology, depicting them instead as akin to urban neighborhoods. He also asserted that a more diverse composition, in terms of both socioeconomic status and national origins, is not likely to cause damage to the settlements. Furthermore, Stern highlighted the contradiction between the law’s national and communal justifications. Over three decades, most Jewish applicants, among them singles, single-parent families, the elderly, the disabled, Haredim, and immigrants, have been rejected by admission committees while only a handful of Arab families have even applied. The law that seeks to protect the Jewish character of the settlements and allow their expansion in reality accomplishes its opposite.<sup>43</sup>

Although Atid Misgav, and another civil society association, the Alternative Voice in the Galilee,<sup>44</sup> represent a radical fringe, the residents of Misgav have consistently given most of their votes to the Labor and Meretz parties on the left side of the

Israeli political spectrum.<sup>45</sup> The Misgav Regional Council initiated many cooperative projects with surrounding Arab and Bedouin villages and cities, in particular Sakhnin, after the “October Events” of 2000—the killing of twelve Israeli Palestinian and one Jewish citizen during solidarity demonstrations with the Palestinians of the occupied Palestinian territories at the beginning of the Second Intifada. These initiatives seeking to reduce the gap between the communal settlements’ liberal outlooks and exclusionary practices include the Galilee Yad Beyad (Hand in Hand) bilingual school, Museum of Contemporary Art, a joint college for sport coaches, Children of Peace, as well as joint civil society associations such as Neighbors for Joint Planning. Nevertheless, most of these are educational and cultural initiatives and rarely address discrimination in access to housing, planning, and employment. Thus, they fail to attract many Arab volunteers.

The communal-Zionist coalition disregarded its opponents’ objection to the enactment of a legal bypass and hid the policy of veiled segregation by upholding admission committees in communal settlements. In September 2014, the HCJ, in a close five to four vote, ignored both the shaky continuity argument in favor of communal lifestyles and the explicit rationale in favor of continued Judaization that were put forth during Knesset debate. The court chose to reject the appeal of the ACRI, the Abraham Fund, and Atid Misgav, on the grounds of the ripeness doctrine, namely that so far there has not been a sufficient volume of appeals to allow the HCJ to pass judgment on the law’s effectiveness.<sup>46</sup>

Has the HCJ effectively closed the door on further legal redress? The new law’s indirect formulation and universal language very likely have veiled its discriminatory impact sufficiently to preclude the legal case from ever ripening. In a study of applicants rejected by admission commissions, it was found that side by side with the formal selection process there are also “veiled arrangements” (*hesderim smuyim*) and “informal selection,” such as collusion between the communal settlement’s leaders and the psychological assessment institution, that bring about a lack of uniformity in outcomes.<sup>47</sup> The combination of pushing discrimination underground and the inadmissibility of statistical evidence of color blind laws’ disparate impact as *prima facie* evidence of discrimination (which is accepted as evidence by US courts under the Fair Housing Act of the 1968 Civil Rights Act), greatly reduce the likelihood of successful appeals under the new Admission Committee Law.

In fact, it took the Qa’dan family seven more years of appeals after the HCJ’s historical ruling to be admitted to Katzir and they moved into their home only after another decade. We don’t know the number of Palestinian families who have successfully gained access to communal settlements, but it remains miniscule. Neta Ziv, one of the attorneys of the Qa’dans who also represented dozens of families and individuals who have been rejected by admission committees, concluded that “there is no reason to continue the legal struggle—at least on the principled level—against the selection processes of communal settlements and communal expansions. What can, has been accomplished, and what has not is not likely to be.”<sup>48</sup>

Communal settlements and their supporters were able to rely on the indirect legal method to maintain their effective segregation. To find out what happens when neither a direct nor an indirect legal path is available to thwart the entry of Arab citizens, we will turn to Israel’s mixed cities.

## MIXED, DIVIDED, OR POLARIZED CITIES

The terminology commonly used to describe a majority-Jewish Israeli city with a significant percentage of Palestinian citizens is *mixed city*.<sup>49</sup> This term, however, is more wishful than apt. It would be far more accurate to describe such cities as falling between a *divided city* and a *polarized city*, terms used by scholars of urban studies. A divided city is characterized by a frequently acrimonious contestation, though within a sanctioned, sometimes only tacitly accepted, legal framework, over what constitutes the public good. Participation in municipal elections and frequent appeals to the HCJ for legal remedy by Palestinian citizens and NGOs suggest that Israeli mixed cities fall within the category of divided cities. Yet they lack one of this category's crucial characteristics, the ability to form effective cross-ethnic or cross-national municipal coalitions. As in other polarized cities around the globe, Arab citizens "deeply mistrust their city-government's willingness and capacity to respond to calls for equal or groups-based treatment." But in contrast to polarized cities, with their deep-seated discontent, Israeli mixed cities have not turned into sites of "enduring and consistent inter-ethnic violence laden with political meaning."<sup>50</sup>

Israel has both old and new, or emerging, mixed cities. (Notwithstanding my reservations, I will use this appellation because it remains the term of choice among the public and scholars.) Three of the five old mixed cities, Lod, Ramla, and Acre, had been Arab cities, the vast majority of whose inhabitants were expelled and/or fled during the 1948 war and were subsequently repopulated by newly arrived Jewish immigrants. Jaffa and Haifa were already mixed during the Mandate period.<sup>51</sup> These five cities also served as refuge for Palestinians displaced from surrounding villages during the 1948 war and as a dumping ground after the war. Their percentage of Arab citizens ranges from 33.3 percent in Jaffa to 30.8 percent in Acre, 28.7 percent in Lod, 22.6 percent in Ramla, and 10.6 percent in Haifa. Altogether, they make up over 97,000 individuals in 2013.<sup>52</sup>

In the old mixed towns, many of the Arab citizens live in rundown historic city centers and the older neighborhoods surrounding them. The cities themselves are among the least desired in the country. Lod, Ramla, and Acre are in the four lowest of the ten socioeconomic clusters of Israeli municipalities. Both their Jewish and Arab populations fall into low socioeconomic categories, but their Arab residents face the particular predicament of living mostly in properties of other Arab inhabitants who became refugees in 1948 and, consequently, can neither claim legal ownership over their homes nor renovate their residences. Lack of recognized title makes it difficult to take out equity loans or mortgages; and they also have no access to public housing.<sup>53</sup> Some of these Arab neighborhoods, such as Ajami in Jaffa and Jawarish in Ramla, were, and sometimes still are, called "ghetto" by their residents and officials alike.<sup>54</sup>

The emergence of new mixed cities is an unexpected by-product of a variety of push factors: obstruction to urban development, severe housing shortage, and poor public services and employment options in Arab cities and villages. It is exceedingly difficult to find rigorous statistics on the size of the Arab population in the new mixed cities in the publications of the Israeli Central Bureau of Statistics, which is notorious for the use of such negative and ambiguous categories as "non-Jews" or "Jews and Others." The numbers often must be estimated or calculated indirectly. In 2009, the Abraham Fund very likely underestimated the number of Palestinian citizens in Jewish-

majority towns and cities by putting it at 50,000.<sup>55</sup> An examination of the Central Bureau of Statistics's population statistics led Aziz Haidar to discover a gap of 60,000 individuals between Israel's overall Arab population and the sum of those listed as living in Arab municipalities and old mixed cities. Even Haidar's number underestimates the full size of this population since many Arab families that live in Jewish-majority cities never changed their official address in order to be able to send their children to Arabic-language schools in nearby Arab cities. These Palestinian citizens live in about fifteen Jewish-majority cities, including Nahariya, Safed, Hadera, Afula, Kfar Sava, Tel Aviv, Netanya, Givatayim,<sup>56</sup> West Jerusalem, Bat Yam,<sup>57</sup> Beit-Shean, Atlit, Beer Sheba, and Kiryat Shmona.<sup>58</sup> In this article the focus is on two cities, both built as part of the Judaization of the Galilee: Upper Nazareth, the largest new mixed city where Arabs make up 20.4 percent of the population, and Karmiel, where about 2.5 percent of the population is of Arab nationality, though estimates have reached as high as 5 to 6 percent.<sup>59</sup>

Although the absolute number of Arab citizens who move into Jewish-majority towns is still low, falling between 1 and 4 percent in most new mixed cities, such migration is an ongoing and accelerating process that poses a concrete challenge to the pattern of residential separation of Jews and Arabs in Israel. A report by the Abraham Fund, a joint Jewish–Arab NGO devoted to “Building a Shared Future for Israel’s Jewish and Arab Citizens,” finds that it is hard to point to “a region or city in Israel that doesn’t show mixing in housing, employment or business.” The report suggests that “the transformation of the Arab society into an integral part of the public and general space of these cities demonstrates the blurring of their sharp and long-lasting lines of division,” and concludes that such mixing is “the future face of Israel.”<sup>60</sup> Many of the residents as well as the municipal leaders of mixed cities in the Galilee, whose *raison d’être* is to keep their cities Jewish, oppose such a future, which to them portends demographic reversal and, therefore, amounts to a territorial threat to Israeli sovereignty.

It is not particularly difficult to construe Arab mobility as reversal because it is at once a process of mixing and population replacement, both on the city and neighborhood levels, though it is no different from ethnic replacement in non-settler colonial contexts. Frequently, Arab citizens replace the first waves of Eastern European, North African, and Middle Eastern Jewish immigrants who were directed by the Israeli settlement bodies in the 1950s and 1960s to peripheral and development towns or the Jewish immigrants from the former USSR who arrived in the 1980s and 1990s. Jewish citizens from these peripheral regions, for their part, in particular the young, move to the economically most attractive part of the country—the narrow sixty-mile-long coastal stretch, colloquially branded “from Gedera (in the south) to Hedera (in the north),” or even to the smaller metropolitan “Tel Aviv State.”

Studies of residential distribution patterns in mixed cities confirm the urban succession model. Following the initial purchase of homes by members of the minority population, the majority population finds the neighborhood less attractive, thus accelerating its turnover rate until it becomes identified with the minority group.<sup>61</sup> The consequence is that mixing per se appears to be a transitory phenomenon culminating in a return to the kind of separation that preceded it, though now within, rather than without, the mixed cities. This pattern of separation is strengthened by several characteristics of Arab

citizens' residential migration: mostly local or regional reach, succession of migrating family members, and continued ties with the village of origin. Palestinian residents in old mixed cities are congregated into distinct neighborhoods, whereas in new mixed cities they form distinct enclaves, distinguished by strong family and communal ties.<sup>62</sup> And yet, the belief of the majority of Arab residents that Arabs and Jews can get along if they live in the same building, as well as their preference for receiving educational and cultural services in Upper Nazareth,<sup>63</sup> indicates that not all of the congregation of Arab citizens is voluntary.

#### VEILED DISCRIMINATION IN OLD AND NEW MIXED CITIES

Probably the most important contrast between the populations of old and new mixed cities is that in the historic mixed towns. Arab residents commonly fall into low socioeconomic categories whereas Arab citizens who move into the new mixed cities are usually upwardly mobile. Upper Nazareth and emerging mixed cities attract mostly professional middle-class people seeking to improve their living conditions or to take up attractive job opportunities. The educational level of Palestinians and Jews in Upper Nazareth is about the same and is considerably above that of the rest of the Arab population.<sup>64</sup>

This new socioeconomic dynamic, when combined with the old and new mixed cities' diverging historical trajectories, leads to new expectations, most passionately articulated in regard to Upper Nazareth by journalists Lily Galili and Uri Nir, in 2001:

This is a mixed city that doesn't have the history of [the war of] 1948, has no memories of battles and expulsion as do Lod and Ramla, does not possess the wretchedness and poverty of Jews and Arabs alike in Acre, and has no religious tensions. From all that is absent, and from the pattern that is formed, a new recipe can be created for a normal life that may be copied to other cities that are potentially mixed cities, like Beer Sheba and Afula.<sup>65</sup>

The municipal leadership of old and new mixed towns alike opposes the arrival of Arab homeowners, even though they are usually professionals who instead of depressing the housing market contribute to the rise in housing prices. Opposition to mixing is not lesser in Upper Nazareth and Karmiel than in old mixed cities but at least of equal intensity, and is frequently justified much more vocally and openly. There are also close parallels between the reaction to the arrival of Arab citizens in the new mixed cities, in which Lily Galili and Uri Nir reposed their hope of a new dawn in majority–minority relations, and that in communal settlements of the Galilee; after all, both types of settlements were established with the aim of Judaizing the Galilee. What distinguishes the two are the practices of discrimination available to them.

Discrimination against Arab citizens is widespread in mixed cities, even when it does not take the form of direct or indirect legal discrimination. I identify at least six distinct methods of *institutional discrimination* in the new mixed cities (some of which they share with the old mixed cities) that seek to arrest further mixing by fostering continued segregation. One mixed city, Upper Nazareth, tried them all. While the mayor and most members of the city council claim to be operating within the legal boundaries of equal protection, the forms of discrimination they practice are either veiled or open secrets. In fact, it is the veiled, rather than fully hidden, character of institutional discrimina-



tion that allows continued, but at the same time rarely effective, legal challenges to its implementation.

The first response of Jewish municipal leaders to the phenomenon of in-migration of Palestinians has been denial. When the Supreme Follow-Up Committee of the Arab Citizens in Israel decided in 2001 to include representatives from the Arab community of Upper Nazareth, the city's mayor of twenty-five years, Menachem Ariav, angrily denounced the decision, insisting that the size of the city's Arab population did not merit its designation as a mixed city.<sup>66</sup> In October 2010, in a symbolic gesture, the Upper Nazareth's Municipal Council voted to sever its association with its Arab neighboring city by renaming itself Hod ha-Galil, though this decision has not yet been implemented.<sup>67</sup>

A second response has been to counter the process of mixing cum replacement by setting up in some neighborhoods either an informal "only Jews" sale policy or operate unofficial admission committees. Developers in the Ganey Aviv neighborhood of Lod, in the Ajami neighborhood of Jaffa, and in the planned Kiryat Belz compound in the Har Yona Gimel neighborhood of Upper Nazareth, employ unofficial admission committees to let in only Jews or, respectively, only Haredim.<sup>68</sup> An investigative program on Channel 10, which sent pairs of prospective Arab and Jewish buyers to new developments in the mixed cities of Acre, Ma'alot-Tarshiha, and Jaffa in 2012 and again in 2015, reported that whereas Arab buyers were rejected, Jewish ones were accommodated. A sales person informed the prospective Jewish "buyer" that "I am not allowed to talk about it . . . but we don't sell to Arabs . . . If they express interest, we just happen to be very busy and just don't have time to meet them."<sup>69</sup>

Their third response was to turn existing institutions, such as the municipality itself, into barriers on the path to home purchases by Arab citizens. In the 1998 elections, the Tsomet-Gesher-Moledet list under mayoral candidate Zeev Hartman sought to compete in the municipal elections in Upper Nazareth but was disqualified by the Supreme Court due to its racist propaganda. This was the only time such a ban was imposed on the municipal level. In the 2008 elections, local lists ran in Karmiel on the platform of forbidding the sale of homes to Arab buyers.<sup>70</sup> In 2004, the ILA froze a public tender for forty-three lots for self-construction in the Givat Makosh neighborhood of Karmiel following protests by Jewish buyers and Karmiel's mayor, Adi Eldar, to the allocation of six lots to Arab families. Eventually a swap of JNF and ILA land, for this and similar future cases, was worked out to keep the tender in line with the HCJ's Qa'dan decision.<sup>71</sup> The deputy mayor of Karmiel, Oren Milstein, called on its Jewish residents to report neighbors whose homes were in the process of being sold to Arab villagers to a restricted e-mail address.<sup>72</sup> When Milstein instructed the local civil guard (*mishmar ezrahi*) to keep Arabs out of the city during evening hours, Mayor Eldar, more moderate than his Upper Nazareth counterpart, demoted him.<sup>73</sup>

The mayor of Upper Nazareth, Shimon Gafsou, has chosen as the main plank of his electoral platform the preservation of the city's Jewish identity. In a flier distributed before the January 2013 elections, he promised that there would be no more closing of eyes and clinging to laws that allowed every citizen to choose to live wherever he wishes. Instead, he argued that through operations that are best kept under wraps (*ma'asim she-shtika yafah la-hem*), he successfully arrested Jewish demographic withdrawal (*nesigah*).<sup>74</sup> Although unable to place legal obstacles in the path of Palestinian

citizens seeking to move into Karmiel and Upper Nazareth, both cities' municipal leaders publicized the "open secret" that they regularly employ covert methods for the same purpose.

A fourth form of discrimination by Jewish municipal leaders against their city's rising Arab population targets them as a group. Mayor Gafsou put it this way:

Every Arab who comes to Upper Nazareth is happily welcome. . . . But everyone who arrives . . . needs to know that it is a Jewish and democratic city, first of all Jewish and only then democratic.<sup>75</sup>

In contrast to the legal rights that formally allow every individual, Jew and Arab alike, to choose his residence, Mayor Gafsou refuses to recognize the legitimacy of the Arab population's collective needs, such as Arabic-language schools, mosques, cemeteries, Christmas displays, and the like, which he views as conduits to the cultural Arabization of the city. In 2012, the parents of the 1,900 Arab students who live in Upper Nazareth demanded that the municipality, jointly with the Ministry of Education, establish an Arabic-language elementary school for their children so they will no longer have to commute to Nazareth's public or Christian schools, most of which are private. As long as he serves as mayor, Gafsou warned the parents, there would be no Arabic school in Upper Nazareth, a city that was established to Judaize the Galilee.<sup>76</sup>

In contrast to Upper Nazareth, old mixed cities have both Hebrew- and Arabic-language schools, mostly elementary, but also a few middle and high schools. There also exist five parent-initiated bilingual schools, one each in Jerusalem, Jaffa, and Lod. There is only one in the new mixed city of Beer Sheva, a university city, and another, the Galilee School, in the Misgav area Kibbutz Ashbal, near the Arab city of Sakhnin.<sup>77</sup>

A fifth form of discrimination intends to reverse the potential demographic reversal by actively promoting the settlement of new Jewish residents, in some mixed towns Russian-speaking immigrants, in other places Haredim. Mayor Gafsou placed his faith in the recruitment of Hasidic Haredim into his predominantly secular city.<sup>78</sup> His flagship project, now underway, is the creation of the Kiryat Belz enclave of up to 3,050 Haredi families in the Har Yona neighborhood. This urban development project is unusual for several reasons. Unlike new Arab residents, who are likely to be professionals or middle class, Haredim have above-average unemployment rates. Their emphasis on modesty and hostility to Sabbath activities in the public domain frequently lead to conflicts with secular Jewish neighbors, driving the latter out and property values down.<sup>79</sup> But, Haredim offer the advantage of being less likely to leave the city than secular Jewish residents. They effectively form closed homogenous communities centered on rabbinic institutions that run their own admission committee.<sup>80</sup> There is also less likelihood that individual Haredim will sell their home to Palestinians, because by leaving town they would also be leaving their community.

While it is unusual to outsource to Haredim the task of redressing the "demographic imbalance" in mixed cities, there is a pool of available and willing Jewish citizens, many of them military cohorts and/or settlers from the occupied Palestinian territories—each organized as a Torah nucleus (*gar'in torani*)—to undertake such a task. Composed of families of religious-Zionist Jews, military-bound yeshiva students (*yeshivat hesder*), or religious women who substitute civic for military service, such nuclei view themselves as ambassadors whose goal is to create favorable attitudes to Jewish settlement in the occupied Palestinian territory. There exist several dozen Torah nuclei, and while they are

spread out in cities throughout Israel, one of their pronounced preferences is to settle in mixed cities. The largest Torah nucleus, consisting of 500 individuals, is found in Lod, and others are located in Acre, Jaffa, and elsewhere. Since 2009, Upper Nazareth has had two small Torah nuclei: Orot Elit (Topmost Lights) of national service recruits, and Torat ha-Haim (Torah of Life) from the evacuated settlement of Neve Dekalim in the Gaza Strip. Although the impact of Torah nuclei on Jewish–Arab demographic ratios is small, the goal of these groups is to empower the Jewish population, in particular new immigrants, young women, and children, by strengthening their religious identity and family structure through education and charity, and thus stem Jewish outmigration.<sup>81</sup> The existence of these nuclei, as well as of Palestinian collaborators (*sayanim*) from the occupied Palestinian territories who outlived their usefulness and were moved to mixed cities, raises tensions between Jews and Arabs in mixed cities.<sup>82</sup>

A sixth and significant form of institutional discrimination is in the area of municipal employment. Here the differences between old and new mixed cities are the sharpest. The share of Arab employees in 2010 in Acre was 29 percent, in Ma'alot 19.7 percent, in Haifa 14.2 percent, in Lod 11.2 percent, and in Ramla 9.4 percent. In Upper Nazareth it was only 5 percent, and in fact has fallen from 5.8 percent in 2008. Its welfare department and legal departments have no Arab employees, and none are in management position.<sup>83</sup>

In mixed towns—unlike in the communal settlements of the Misgav Regional Council, where exclusion of Arab citizens can be justified as forming a new link in the chain of continuity with the collectivism of the LSM, while exclusion through direct legal discrimination is no longer available—opposition to further mixing is expressed through much harsher, more vocal, many-headed institutional forms of discrimination. Where the lines of exclusion are drawn within the city, attempts at cooperation, such as we have seen in Misgav, remain few and far between.

## CONCLUSION

Israel's Palestinian Arabs remain as hypersegregated from Jewish citizens as African Americans are from whites in the United States. At the same time, the aspiration of middle-class professional Palestinian citizens of Israel to move into Jewish-majority localities is viewed not as social mobility or even as ethnic succession common to many multiethnic societies, but as the reversal of Zionist settler colonization in the Galilee. Opposition to Arab residential mobility varies in method, but shares the same goal. The gate-keeping function of communal settlements' admission committees has been restored through indirect nationally legislated discrimination, under the guise of the protection of the LSM's long-gone communal life and values. Out of mixed cities, which cannot hide behind such legal barriers or claims of continuity with pioneering, flows a cornucopia of local institutional forms of discrimination, semicovert all the same, to keep Palestinian Arab neighbors at bay and roll back their presence.

Four additional conclusions may be drawn from the comparison between communal settlements and mixed cities for the large framework of majority–minority relations. First, the “privilege” of indirect legal discrimination is that the well-off and upper middle-class Jewish residents of Misgav are in a position to take a much more generous approach toward the surrounding Arab villages and cities by engaging them in

cooperative, though admittedly not particularly effective, efforts. From behind the walls of admission committees, they can oppose both Arabs as next-door neighbors and anti-Arab racism. In contrast, the Jewish leadership and the majority of residents of Upper Nazareth and Karmiel, whose towns have become mixed, are outright hostile to mixing, integration, and cooperation.

There appears to be a trade-off between separation and interethnic hostility. The stronger the former, the weaker the latter, thus seeming to enforce the adage that good fences make for good neighbors and, maybe, mixing is not to be wished for. We already know that the obvious defect with this approach is that the purportedly “separate but equal” approach of Jim Crow laws is inherently discriminatory. Nor can segregation provide equal protection, and it becomes even more discriminatory in Israel where a “separate and unequal” model prevails; this is itself the main push factor for the aspiration of many Palestinian citizens to move into Jewish-majority cities.

Second, practically all Israeli mixed cities are engaged in institutional discrimination against new Palestinian Arab renters and homeowners, but new mixed cities, especially Upper Nazareth, which is the largest new mixed city, appear to be even more determined to justify the preservation of their Jewish majority and character than the old mixed cities. In some of the old mixed cities there are unofficial admission committees run by developers, but in both Karmiel and Upper Nazareth city leaders engage in systematic city-wide covert operations to prevent individual Arab citizens from becoming neighbors and from benefitting from Arabic-language cultural and religious institutions and municipal employment commensurate with their share of the population. By treating Arab cultural institutions as illegitimate, the Jewish municipal authorities treat the city’s Arab residents as interlopers.

Third, clearly the hybrid Israeli liberal-settler-colonial framework, and in particular the Jewish fear of reversal in the Galilee (and the Negev) that nourishes its colonial dimension, is an unstable construct. On the one hand, it encounters challenges from greater Jewish–Arab mixing due to the ongoing replacement of Jewish with Arab citizens and to the changing demographic ratios between these two groups in favor of the latter. The upward social mobility among a section of Palestinian citizens, and the corresponding vibrant civil society they have generated, have led to repeated legal challenges at the HCJ against the discrimination rooted in settler colonial motives. On the other hand, the veiling of segregation and the repeated efforts of Zionist internal settlement, from Judaizing cities, to communal settlements, to Haredi neighborhoods and *gar’inim toranyinim* stand as proof of a continued attempt to retain the settler colonial approach. There is a multiphased cycle in which the liberal and colonial social and legal constructs battle each other. A hybrid liberal-colonial framework cannot ease Jewish fears of reversal because it structures a part of the citizenry as strangers.

Fourth, although the status of Israel’s Palestinian Arab citizens makes their experience vastly different from that of their fellow Palestinians who live under Israeli military government, we witnessed the spillover of settlement practices and justifications, as well as settlers, from the occupied Palestinian territories into Israel. The acceptance of upwardly mobile “lifestyle” colonization as performing legitimate Zionist goals by official settlement institutions came about in the wake of cooperation between the earliest Gush Emunim and the Segev settlement nuclei in the late 1970s. Their initiative led

to the establishment of the communal settlements of the Regional Council of Misgav as well as of Ofra and Allon Shvut in the occupied Palestinian territories, which share the same purpose of Judaizing Palestinian space. Later, when the social and national exclusivity of the communal settlement was challenged by the HCJ's Qa'dan ruling in 2000, the leaders of Misgav turned again to their erstwhile partners and allied themselves with the Likud and Israel Beitenu, the contemporary patrons of the colonization in the occupied Palestinian territories, to pass legislation that allowed them to retain their admission committees. Similarly, Israeli mixed towns have become home to Torah nuclei settlers and Palestinian collaborators from the occupied Palestinian territories.

It should not be surprising that settlement patterns developed in the occupied Palestinian territories and the defense of the Judaization of the Galilee should affect Israel's Arab citizens because Israeli colonization continues on both sides of the Green Line, in the West Bank as much as in the Galilee and the Negev. The codependence of settler colonialism within and without the Green Line has a particularly potent inflammatory effect on fears of reversal within Israel itself since the Jewish and Palestinian Arab populations edge toward parity. Colonization in the occupied Palestinian territories also overshadows the potentially integrative effects of democratic inclusion, and thus serves as a major obstacle to the attainment of effective civic equality by Israel's Palestinian Arab citizens.

The price paid for enshrining Israel's settler colonial formation in its regime and perpetuating it past the country's independence is the persistent fear of the reversal of Zionist colonization. Although the 1948 Green Line along Israel's southern and eastern borders is now recognized in treaties with Jordan and Egypt as the Israeli boundary, the fear of loss of sovereignty within Israel persists. This fear is cultivated not just by Israel's preindependence colonizatory bodies that were held over into the era of independence, and the continued settler colonization in the occupied Palestinian territories that forestalls the stabilization of Israel's sovereign borders, but also through the ongoing bonds between colonization in the occupied Palestinian territories and within the Galilee (and the Negev). This neo-Zionist continuity accounts for repeated veiling of segregation that is launched by bottom-up pressure from members of communal settlements, the Knesset, and municipalities when yet another facet of direct legal segregation is banned, so as to change the rules while leaving discriminatory practices as they were. The result is Israel's new and veiled landscape of segregation.

#### NOTES

*Author's note:* I thank Hean Zeidner-Kaspi for her invaluable help as my research assistant and for being my partner in interpreting the findings, as well as Rawan Arar, Naama Blatman-Thomas, Roddey Reid, Areej Sabbagh-Khoury, and Haim Yacobi for their thoughtful comments.

<sup>1</sup>Altogether Adalah's database lists more than fifty additional Israeli discriminatory laws, some adopted very recently. See Adalah, accessed 19 December 2016, <http://www.adalah.org/en/law/index>.

<sup>2</sup>This classification is based on distinctions proposed by Mohammad Zeidan, Director of the Arab Association for Human Rights, Nazareth.

<sup>3</sup>Or Commission, "Va'adat Hakira Mamlakhtit le-Birur Hitnagshuyot ben Kohot ha-Bitahon le-ben Ezrahim Yisraeliyim be-Hodesh Oktober 2000," Jerusalem, August 2003, par. 9, accessed 19 December 2016, <http://uri.mitkadem.co.il/vaadat-or/>.

<sup>4</sup>*Ha'aretz*, 22 December 2014; David B. Green, "The Arabs Next Door," *Tablet*, 17 April 2012.

<sup>5</sup>Noga Dagan-Buzaglo and Etty Konor-Attias, *Israel's Middle Class 1992–2010: Who Are We Talking About?* (report for the Adva Center, Tel Aviv, Israel, January 2013), accessed 19 December 2016, <http://adva.org/wp-content/uploads/2015/01/middle-class12.pdf>, 3–4.

<sup>6</sup>*Statistical Abstract of Israel 2014*, Table 8.72, Jerusalem, Central Bureau of Statistics, 2015.

<sup>7</sup>Fatima Abreek-Zubeidat and Ronnen Ben Arie, “To Be at Home: Spaces of Citizenship in the Community Settlements of the Galilee,” in *The Politics of Nihilism: From the Nineteenth Century to Contemporary Israel*, ed. Nitzan Lebovic and Roy Ben-Shai (London: Bloomsbury, 2014), 221.

<sup>8</sup>Douglas S. Massey and Nancy A. Denton, *American Apartheid: Segregation and the Making of the Underclass* (Cambridge, Mass.: Harvard University Press, 1993), 74.

<sup>9</sup>*Ibid.*, 2.

<sup>10</sup>Camille Zubrinsky Charles, “The Dynamics of Racial Residential Segregation,” *Annual Review of Sociology* 29 (2003): 202.

<sup>11</sup>Massey and Denton, *American Apartheid*, 10, 17.

<sup>12</sup>Mahmood Mamdani, “When Does a Settler Become a Native?” (lecture at the University of Cape Town, Cape Town, South Africa, 13 May 1998), accessed 19 December 2016, <http://citizenshiprightsafrika.org/wp-content/uploads/1998/05/mamdani-1998-inaugural-lecture.pdf>.

<sup>13</sup>Shira Robinson, *Citizen Strangers: Palestinians and the Birth of Israel's Liberal Settler State* (Stanford, Calif.: Stanford University Press, 2013), 3.

<sup>14</sup>*Ibid.*, 9, 98.

<sup>15</sup>*Ibid.*, 10.

<sup>16</sup>*Ibid.*, 58.

<sup>17</sup>Baruch Kimmerling, *Zionism and Territory* (Berkeley, Calif.: Institute of International Studies, 1983), 27, 134, 139, 146.

<sup>18</sup>Dan Rabinowitz, *Overlooking Nazareth: The Ethnography of Exclusion in Galilee* (Cambridge: Cambridge University Press, 1997), 77.

<sup>19</sup>*Ibid.*, 79–81.

<sup>20</sup>*Mondoweiss*, 1 July 2014.

<sup>21</sup>Oren Yiftachel, *Ethnocracy: Land and Identity Politics in Israel/Palestine* (Philadelphia, Pa.: University of Pennsylvania Press, 2006), 96–97, 109–10, 139–40.

<sup>22</sup>Stephen Richard Higley, *Privilege, Power, and Place: The Geography of the American Upper Class* (Boston: Rowman & Littlefield, 1995).

<sup>23</sup>Jeremy Forman, “Military Rule, Political Manipulation, and Jewish Settlement: Israeli Mechanisms for Controlling Nazareth in the 1950s,” *Journal of Israeli History* 25 (2006): 351.

<sup>24</sup>Abraham Fund Initiatives, ha-Hevrah ha-‘Aravit be-Yisra’el: Ogdan Meid’a, 2nd ed., 2013, chap. 5, p. 10 (Hebrew).

<sup>25</sup>Central Bureau of Statistics, “ha-Rashuyot ha-Makomiyot be-Yisrael (Pirsum #1609).” For Karmiel, see [http://www.cbs.gov.il/publications15/local\\_authorities13\\_1609/pdf/233\\_1139.pdf](http://www.cbs.gov.il/publications15/local_authorities13_1609/pdf/233_1139.pdf); for Upper Nazareth, see [http://www.cbs.gov.il/publications15/local\\_authorities13\\_1609/pdf/263\\_1061.pdf](http://www.cbs.gov.il/publications15/local_authorities13_1609/pdf/263_1061.pdf). Both accessed 13 September 2017.

<sup>26</sup>Marcelo Svirsky, *Arab-Jewish Activism in Israel-Palestine* (Farnham: Ashgate, 2012), 99.

<sup>27</sup>Arnon Sofer and Rachel Finkel, *ha-Mitzpim ba-Galil: Matarot, Hesegim, Lekachim* (Rechovot: The Center for the Study of Rural and Urban Settlement, 1988), 11; David Newman, ed., *The Impact of Gush Emunim: Politics and Settlement in the West Bank* (London: Croom Helm, 1985), 10.

<sup>28</sup>Israel Ben Dor, “Segev ve-Atzmon,” *À la Gush*, December 2013–March 2014, nos. 475–86.

<sup>29</sup>*Ibid.*

<sup>30</sup>Sofer and Finkel, *ha-Mitzpim ba-Galil*, 15.

<sup>31</sup>Yinnon Geva, “Mikhtav Patuah le-Havrei ‘Atsmon li-kra’t ha-Hatsba’a ‘al ha-Takanon ha-Hadas,” *Activismos*, 16 December 2010, accessed 13 September 2017, <http://www.activismos.com/?p=172>; Abreek-Zubeidat and Ben Arie, “To Be at Home,” 214; Gershon Shafir and Yoav Peled, *Being Israeli: The Dynamics of Multiple Citizenship* (Cambridge: Cambridge University Press, 2002), 172–78.

<sup>32</sup>H CJ 6698/95 Adil Qa’dan vs. Israel Land Administration, par. 39, p. 15.

<sup>33</sup>*Ibid.*

<sup>34</sup>Knesset (18th), Protokol Mispar 125 and Protokol Mispar 160 me-Yeshivat Va’adat ha-Hukah, Hok, ve-Misphat, 22 December 2009 and 10 February 2010.



<sup>35</sup>Tzafadia Erez, "Abusing Multiculturalism: The Politics of Recognition and Land Allocation in Israel," *Environment and Planning D: Society and Space* 26 (2008): 1124, retranslated.

<sup>36</sup>Svirsky, *Arab-Jewish Activism*, 103–8.

<sup>37</sup>Adalah, "Israeli Supreme Court upholds 'Admissions Committees Law' that allows Israeli Jewish communities to exclude Palestinian Arab citizens," 17 September 2014, accessed 13 September 2017, <https://www.adalah.org/en/content/view/8327>.

<sup>38</sup>*Globes*, 25 July 2010.

<sup>39</sup>Knesset, *Protocols*.

<sup>40</sup>Ibid.

<sup>41</sup>Ibid.

<sup>42</sup>Svirsky, *Arab-Jewish Activism*, 136–39.

<sup>43</sup>Knesset, *Protocols*.

<sup>44</sup>Svirsky, *Arab-Jewish Activism*, 95–98.

<sup>45</sup>Ibid., 106.

<sup>46</sup>"Court-Sanctioned Discrimination Committees," *Ha'aretz*, accessed 19 December 2016, <http://www.haaretz.com/misc/article-print-page/1.616656?trailingPath=2.169%2C2.223%2C>; "Ishur Hok Va'adot ha-Kabalah Mesig le-Achor et ha-Ma'avak be-Aflayah ba-Diyur, 17 September 2014, accessed 13 September 2017, <http://www.acri.org.il/he/32799>.

<sup>47</sup>Adi Nir-Benjamini and Tal Ganor, "Me-tachat ha-Radar: Manganonei Hadarah Smuyim be-Halihei Miyun le-Megurim be-Yisrael," *Ma'asei Mishpat* 5 (2013): 46, 156.

<sup>48</sup>Neta Ziv, "Hanihu le-Va'adot ha-Kabala: (Be-karov) Esrin Shanah le-Qa'adan," *Mivzakei Hearot Psika*, no. 35, November 2014.

<sup>49</sup>Israel doesn't distinguish between towns and cities.

<sup>50</sup>Scott A. Bollens, *On Narrow Ground: Urban Policy and Ethnic Conflict in Jerusalem and Belfast* (Albany, N.Y.: State University of New York Press, 2000), 9–10.

<sup>51</sup>Rassem Khamaisi, "ha-Ukhlusiyah ha-Aravit be-'Arim Me'uravot be-Yisrael: Ba'ayot, Khasamim, ve-Etgarim li-krat Medinyut 'Ironit Hilufit" (policy paper for Shatil, Kfar Kana, 2008), 15.

<sup>52</sup>Assembled from Central Bureau of Statistics, "Local Authorities in Israel, 2013," released 19 July 2015, accessed 19 December 2016, [http://www.cbs.gov.il/webpub/pub/text\\_page.html?publ=58&CYear=2013&Cmonth=1#2a](http://www.cbs.gov.il/webpub/pub/text_page.html?publ=58&CYear=2013&Cmonth=1#2a).

<sup>53</sup>Khamaisi, ha-Ukhlusiyah ha-Aravit, 45; *Ha'aretz*, 22 December 2014.

<sup>54</sup>*Ha'aretz*, 2 October 2015.

<sup>55</sup>Amnon Beeri-Sulitzeanu and Uri Gopher, "'Arim ve-Ezorim Me'uravim: Pnei ha-Machar shel Medinat Yisrael" (paper for the Abraham Fund Initiatives, Jerusalem, 6 May 2009).

<sup>56</sup>Green, "Arabs Next Door," 2–3.

<sup>57</sup>UK Task Force, "Briefing: Arab Populations in 'Mixed Cities,'" 2 January 2012, accessed 19 December 2016, <http://uktaskforce.org/docs/uktf-briefing-arab-populations-in-mixed-cities-2-january-2012.pdf>.

<sup>58</sup>Beeri-Sulitzeanu and Gopher, "'Arim ve-Ezorim Me'uravim," 7.

<sup>59</sup>Knesset (17th), Protokol Mispar 394 me-Yeshivat Va'adat ha-Pnim ve-Haganat ha-Svivah, 1 July 2008, 8.

<sup>60</sup>Beeri-Sulitzeanu and Gopher, "'Arim ve-Ezorim Me'uravim," 5–7.

<sup>61</sup>Hana Hamdan, "Natrat 'Ilit ke-'Ir Me'urevet," in *'Ir Yisraelit o 'Ir be-Yisrael?*, ed. Tovi Fenster and Haim Yacobi (Jerusalem: van Leer, 2006), 121.

<sup>62</sup>Ibid., 121–222.

<sup>63</sup>Hamdan, "Natrat 'Ilit," 120–23.

<sup>64</sup>Ibid., 118.

<sup>65</sup>*Ha'aretz*, 22 December 2001.

<sup>66</sup>Ibid.

<sup>67</sup>Shlomit Tsur, "Rak ha-Haredim Yavtihu she-Natrat 'Ilit Tisha'er Yehudit," *NRG*, 26 October 2012, accessed 19 December 2016, <http://www.nrg.co.il/online/16/ART2/411/391.html>.

<sup>68</sup>Haim Yacobi, *The Jewish-Arab City: Spatio-Politics in a Mixed Community* (London: Routledge, 2009), 80–81; The Association for Civil Rights in Israel, "Beit ha-Mishpat ha-'Aliyon Isher: Yukam ha-Proyekti li-Yehudim bi-Lvad bi-Lav Ajami," accessed 19 December 2016, <http://www.acri.org.il/he/2611>; *Ynet*, 25 February 2013.

<sup>69</sup>The Association for Civil Rights in Israel, "Aflayat 'Aravim be-Rekhishat Dirot be-Proyekt Nadlan be-'Ako," 12 June 2013, accessed 13 September 2017, <http://www.acri.org.il/he/24770>; Nana, "'Le-Yehudim bi-Lvad': Kach Po'el Proyekt Diyur be-Yafo le-'Yaes' Mit'anyenim Aravism," accessed 13 September 2017, <http://m.nana10.co.il/Article/?ArticleID=1141750&sid=126&pid=120&service=news>.

<sup>70</sup>*Ha'aretz*, 3 March 2010.

<sup>71</sup>Tzfadia, "Abusing Multiculturalism," 1123–24.

<sup>72</sup>*Ynet*, 21 October 2011.

<sup>73</sup>*Jerusalem Post*, 4 November 2010.

<sup>74</sup>*Ha'aretz*, 15 April 2013.

<sup>75</sup>"Rosh 'Iriyat Natzeret: Banu le-Yahed et ha-Galil," *NRG*, accessed 13 September 2017, <http://www.nrg.co.il/online/12/ART2/434/223.html>.

<sup>76</sup>*Ha'aretz*, 17 January 2013, 25 July 2003; Abraham Fund Initiates, "Diyun be-Va'adat ha-Hinuch shel ha-Kneset: Haim Yukam Beit Safer 'Aravi be-Nazrat 'Ilit?," 23 July 2013, accessed 19 December 2016, <http://www.abrahamfund.org/5931>.

<sup>77</sup>Uri Shwed et al., "Integration of Arab Israelis and Jews in School in Israel," in "State of the Nation Report: Society, Economy and Policy in Israel 2014," ed. Dan Ben-David (report for the Taub Center, Jerusalem, 2014), 330–31, 340.

<sup>78</sup>*Ha'aretz*, 22 December 2001.

<sup>79</sup>Green, "Arabs Next Door," 4.

<sup>80</sup>*Ynet*, 25 February 2013.

<sup>81</sup>Aminadav, "Mi Anahnu?," accessed 13 September 2017, [http://www.aminadav.org.il/index.php?option=com\\_sobi2&catid=77&Itemid=68](http://www.aminadav.org.il/index.php?option=com_sobi2&catid=77&Itemid=68); Torat Chayim, "Gar'in 'Torat ha-Hayim Natzrat 'Ilit: Te'udat Zehut," accessed 13 September 2017, <http://www.thc.org.il/SUB.asp?id=83>; *Ynet*, 25 May 2015.

<sup>82</sup>Beeri-Sulitzeanu and Gopher, "'Arim ve-Ezorum Me'uravim," 20–21.

<sup>83</sup>*Ha'aretz*, 3 July 2011 and 21 October 2014; Knesset, "Va'adat ha-Hakira ha-Parlamentarit be-Nose Klitit 'Ovdim 'Aravim be-Sherut ha-Tzibur," Interim Report, February 2008–December 2008, accessed 13 September 2017, [http://www.knesset.gov.il/committees/heb/docs/arab\\_workers17.pdf](http://www.knesset.gov.il/committees/heb/docs/arab_workers17.pdf).