

K. in the West Bank: Shehadeh's Palestinian 'Legal Narrative' as Kafkaesque Chain Novel

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“Who could these men be? What were they talking about? What authority could they represent? K. lived in a country with a legal constitution, there was universal peace, all the laws were in force; who dared seize him in his own dwelling?”

--Franz Kafka, *The Trial*, 4.

“[C]reative interpretation takes its formal structure from the idea of intention, not (at least not necessarily) because it aims to discover the purposes of any particular historical person or group but because *it aims to impose purpose over the text or data or tradition being interpreted.*”

--Ronald Dworkin, *Law's Empire*, 228 (my emphasis)

Introduction

In March 2019, in the midst of a brutal crackdown by Hamas on nonviolent dissenters and other opponents of the regime in Gaza and on the eve of new Prime Minister Mohammad Shtayyeh's forming a new government for Palestinians in the “State of Palestine” [sic], an Amnesty International report declared its hope that the new government would “reverse the appalling deterioration of human rights that took place under the previous administration.” The report demanded that the new government “signal a sincere commitment to respecting its international human rights obligations *by taking immediate steps to ensure that all laws and policies protect the rights and liberties of individuals under its authority.*”¹ Concerned as it should be with the amelioration of worsening conditions, the report also, perhaps unwittingly, played into a colonialist trope by decontextualizing the patterns of violence being deployed by Palestinians against Palestinians. Rightly condemning violent practices like arbitrary arrest, the use of excessive force, torture, and “ill-treatment in custody,” the condemnation nonetheless ignored the degree to which these patterns represent some very bad lessons learned very well. The report noted but otherwise paid little heed to the ongoing Israeli occupation, during which these practices were commonplace.² They were bolstered by the apparatuses of law cynically deployed by Israel and its agents to similarly violent purposes, perhaps contributing to the normalization of practices like those being engaged in by Hamas and the Palestinian Authority. The expectation that lawfulness will or should govern where it frequently comes in the guise of violence--both physical and psychological—rings hollow in the circumstances of occupation/domination. And yet, it is not at all surprising.

The disconnect between Amnesty's assumptions, demands, and expectations and the experience of Palestinians with law are telling as to the efficacy of law and its corresponding assumptions. The appeal to law is a default response to circumstances like those obtaining in the

Occupied Palestinian Territories. As Lisa Hajjar puts it, “Law is a constitutive force of life everywhere, including contexts embroiled in conflict” (2005, 247). A major part of its constitutive power is law’s capacity to make sense of social and political arrangements, in place and over time. In addition to the positivist tendency to command, law can, like other forms of narrative, explain and justify governing rules, practices, and expectations or norms. In the West, from Aristotle forward, a key feature of this narrative is that the rule of law is the rule of reason, understood variously as bringing a kind of moral faculty to bear, ordering, and bringing coherence to a community’s collective life. Moreover, there is the residual expectation that the arc of the development of Western-style rule of law is bent toward emergent conceptions of fairness and justice. Implicit in these assumptions is a kind of coherent narrative wherein these ideas—despite occasional setbacks—nonetheless carry the day and produce a more just or fair legal-political order.

With apologies to Amnesty, Palestinians may be forgiven if their own experience with this ideal is a bit more Kafka than it is Aristotle. In his novel *The Trial*, Kafka’s protagonist Joseph K finds himself subject to a legal proceeding whose procedural outlines he cannot pin down.³ The players seem familiar and their apparent titles are consistent with what he knows of the rule of law. However, the procedures and purpose of this “rule of law” remain as opaque as the charges against him. Until K’s execution in a quarry, Kafka leaves K’s faith in the rule of law in place as the clerk winds his way through a bewildering parody of the orderly coherence that is supposed to characterize a legal regime. The novel problematizes the Western conceit that the rule of law arcs in the direction of coherence, fairness, and justice. In fact, K’s experience mirrors that of colonized or colonial-adjacent peoples on the receiving end of practices of those claiming the mantle of the rule of law. For people like the Palestinians, the Israeli denial and abuse of international law means that the rule of law is already cover for the violence of law by decree or through the manipulation of its categories.⁴ Fanon suggested confronting this violence with a kind of cleansing violence, though he ultimately resists the idea that the violent response is adequate.⁵ An alternative move can be found in the self-described “legal narrative” of Palestinian human rights lawyer and activist Raja Shehadeh. His account of the Palestinian experience with the rule of law under conditions of occupation is an effort to hold “the only democracy in the Middle East” and its supporters accountable for living up to those ideals. In doing so, his account suggests a reason that Palestinians are duly skeptical about the possibilities of legal “agreements” like those of the so-called “peace process.”

Shehadeh’s self-described “legal narrative” begins with a faith in the ideals of the rule of law and articulates their betrayal in the experience of Palestinians forced to live under occupation.⁶ His account, I will argue, challenges the adequacy of a colonized people’s reliance upon the categories, tropes, and expectations of the rule of law. In three texts, covering the period 1967-1998, he attempted to bring an order consistent with Western assumptions about the rule of law to the frequently arbitrary legal experience of Palestinians under occupation.

Shehadeh's work implicitly posits the coherence of narrative as a hedge against the categories of the rule of law used to violent, exclusive ends. Armed with a human rights lawyer's faith in the rule of law, Shehadeh writes to articulate the conditions to which his people are subject and appeal to those who claim to adhere to its ideals. His narrative moves from the coherence of the expectations to their incoherence given the Palestinian experience to a renewed coherence wherein the structures and practices of the rule of law are cover for the violence of domination.

We engage Shehadeh's "legal narrative" in light of Dworkin's account of the law as a "chain novel," that is, as a coherent narrative providing resources to resolve disputes between conflicting narratives while preserving the liberal principles affirmed by them.⁷ Reading Shehadeh's legal narrative this way, however, does not yield a tale likely to enchant Palestinians with that liberal aspirational promise. Instead, Shehadeh's is a narrative wherein Palestinians are subject to Kafkaesque conditions, at the hands of both Israeli and, then, Palestinian authorities. What, then, becomes of ideas like the rule of law when a liberal chain novel yields Kafka? Shehadeh, refusing to die like a dog, chooses to temper his faith in the rule of law and those who claim to be its champions. While continuing to deploy the language, Shehadeh's resistance recognizes its shortcomings and tries to find transformative ways to resist the project of dehumanization it facilitates.

I. Law, Narrativity, and Coherence

Between 1980 and 1998, Shehadeh published three book-length commentaries on the legal conditions of Palestinians in the West Bank covering the period from the beginning of the Occupation in 1967 through the Interim Agreements at Oslo.⁸ In the last of these, in a moment of self-reflection tinged with despair, he recalled how he had intended these texts as a "legal narrative" of the Palestinian experience with the rule of law under occupation. The work was to have reflected

the way a people tell the story of their right to a land using the symbolic language of law. It is a constructed narrative which must have consistency and its own internal logic if it is to have currency. It must also relate to reference points outside of it which others can understand, and it must be communicable.⁹

The purpose of the narrative was not only to demonstrate but to persuade others committed to the rule of law that the occupation and its structures were unjust and ought to be changed. But by the publication of this third text in 1998, this simple but rich mission statement had lost its character as a declaration of intent and become a concession of failure. Shehadeh himself called the third text "a postmortem."¹⁰ The failure of his project, however, lay not in his aspiration to put together the narrative. Rather, the source of Shehadeh's despair could be found in the way the story had ended—with Oslo, with a capitulation the reverberations of which are still being felt. Shehadeh's aspiration to appeal to liberal consciences both within Israel and without, and to do so in terms of the promises of the rule of law, had "ended" with the grievances of Palestinians papered over in a series of legal agreements.¹¹

This unhappy ending undercut basic assumptions Shehadeh made about the “rule of law,” assumptions we can glean from the description of his project. First, by putting pen to paper, he embraces the idea—apparently shared by Amnesty, among others—that the development of the rule of law is essential to a people’s self-determination.¹² The story of that development, he suggests, is generally coherent and arcs toward fairness and justice. His narrative aspirations, arguing for his people’s “right to a land,” hinge upon these assumptions. Second, as a human rights lawyer, Shehadeh is putting together an argument, a “constructed narrative,” staking a claim not only to Palestinian presence on the land, but also to an interlocutor amenable both to the demonstration of evidence and to being persuaded. Persuading that audience requires a broad appeal to principles, that is, “reference points outside of it that others can understand,” that he hopes his audience will recognize and embrace. Shehadeh’s legal narrative is predicated on the assumption that those committed to the normative values associated with the rule of law will respond in a constructive way when abuses and misrepresentations of it are demonstrated. Third, this narrated argument should have “consistency and its own internal logic.” His appeal to “rights” not only asserts the humanity of Palestinians, but also assumes that the rule of law contains “rational” and what Rawls called “reasonable” dimensions.¹³ (Rawls, Dworkin cite) Finally, his legal narrative, inasmuch as it must be “communicable” takes the form of both testimony/witnessing and of argument. Most legal disputes are couched in adversarial terms in which two narratives compete in order to win the argument. Shehadeh knows that this zero-sum dynamic is not constructive in the circumstance of Palestine/Israel where, despite efforts to the contrary, one narrative has dominated the other.¹⁴ Yet, instead of rejecting the Western construct of the rule of law, Shehadeh seeks to use what Achebe calls “the master’s tools” to do “unheard of” things with it, in this case, turn it on itself.¹⁵

While Shehadeh is most certainly engaged in legal argumentation with the object of persuasion, etc., he nonetheless insists upon calling his work a legal *narrative*. He might have chosen a different term or form. For instance, he might have offered up his work as a series of analyses (they are most assuredly that). Instead, he chose the term “narrative,” describing the work as a “story” told in the “symbolic language of law.” Embracing the form of narrative or story signals a desire for coherence, properly understood as a discernible relationship among events over time that, drawn together, suggests a larger unfolding significance. This coherence is often affiliated with the rule of law, suggesting as it does law and its structures functioning in service to justice and fairness in a progressive development over time. Shehadeh’s work is interesting precisely because he shares these expectations. Owing to these commitments, his legal narrative measures the frequently arbitrary legal experience of Palestinians under occupation against expectations consistent with them. The result is, in fact, a coherent narrative. However, as we will see, the coherence that Shehadeh’s narrative provides is not the one we might expect of the rule of law and therein lies the value of the work. He deploys the coherence of narrative as a hedge against what he considers abuses of the categories of law in the West Bank and, ultimately, at Oslo. Rather than moving in the direction of fairness or justice, the

“abuse” of these categories means their use to violent, exclusive ends, separating out those who will be subject to the rule of law and those who will be merely subject. The narrative form allows Shehadeh to retain his faith in the rule of law while tracking the ways it is challenged by events unfolding on the ground.

Thinking law as narrative is not original to Shehadeh. In *Law's Empire*, Ronald Dworkin uses the image of the “chain novel” to suggest the role that narrative might play in evaluating purportedly liberal legal regimes.¹⁶ To be clear at the outset, Dworkin does not assume that narrative coherence and fairness or justice are necessarily related. They remain aspirations and subject to the purposes of particular judges. His notion of the chain novel, however, does suggest that there ought to be a relationship. It is here that his project and Shehadeh's may be said to cohere. Dworkin suggests that thinking of a liberal legal regime's development as a narrative offers a way of making sense of what should be the moral development of the rule of law as well as providing resources for a critique from within. Judges, Dworkin argues, in making decisions and, especially, in explaining those decisions, should consider the law as a “chain novel” of which the judge is only the latest contributing author. On this much-discussed account (cite discussions), legal decisions should be self-consciously made and articulable as elements of a community's unfolding legal and political narrative, that is, its self-understanding over time. This approach has the virtue of seeing the development of a legal system as something both coherent and bound by norms and expectations intrinsic to it. Thinking law as narrative, in other words, keeps it flexible enough to meet changes in circumstances and expectations and accommodate the emergence of influences on the margins or entirely outside of otherwise intrinsic expectations.

The relationship between narrativity and coherence in Dworkin is critical, suggesting as it does an implicit direction. In Dworkin, the participants or authors identify and, sometimes, generate categories of evaluation called “principles.”¹⁷ On this reading, legal decisions become interpretative judgments that utilize principles of justness or fairness which are found either explicitly or implicitly functioning in the community's legal/political system. The fact of the presence of these principles makes a demand of legal judgments: they must fit within and contribute to the generation of the community's unfolding political self-understanding. The resulting narrative's internal coherence, therefore, derives from the connectivity between legal judgments and articulated legal principles (e.g., that “one should not profit from one's crimes”). It is this very connectivity that limits and disciplines actors in the legal drama. New claims or judgments are bound to being internally-consistent additions to the community's unfolding narrative. The appeal to and use of principles in legal decision-making provide justifications for legal actions in what Dworkin describes as a “story worth telling,” which is to say, one driven by the gradual realization of the requirements of justice or fairness. The complex claim made by Dworkin's model is, he writes, “that present practice can be organized by and justified in principles sufficiently attractive to provide an honorable future.”¹⁸

What's at stake in Shehadeh's legal narrative is precisely this "honorable future," for both Palestinians and Israelis. To this end, situating Shehadeh in Dworkin's model, while difficult, is worth doing. Shehadeh's choice of narrative suggests the aspiration to coherence that Dworkin argues should characterize the development of a just legal regime. While Dworkin's notion of the "chain" novel demands multiple authors writing as if in a single authorial voice over time and circumstance, in our case, Shehadeh is the single authorial voice, speaking over time, in the succession of texts, out of a singular commitment to the fairness and flexibility of the rule of law. As with Dworkin's judges who are "authors as well as critics,"¹⁹ Shehadeh must judge in an environment governed by the inherent tension between the expectations of the rule of law and the community's circumstances, that is, the occupation's legal institutions and the judgments that issue from them.

As we will see, the result is a legal narrative that stands as a kind of rebuke to any notion that mere coherence guarantees fairness or justice. Still, the goals of Shehadeh's legal narrative reflect Dworkin's aspiration to coherence in the form of best-ness and fit-ness. In Shehadeh, the assumptions of the rule of law serve as evaluative criteria whereby what Dworkin calls "the pre-interpretative data"—existing laws, legal structures, their actions and effects—are judged. Like Dworkin, Shehadeh embraces the assumption that a commitment to the standards of the rule of law should precede and, thereby, inform legal judgments or actions. Shadowing Shehadeh's expectation that life under the rule of law should provide an ongoing tutelage in free, self-determining political life is a legal narrative in which the bifurcation of "law" into two regimes, permanently sorting residents of the OPT into two classes of human being. As Shehadeh's narrative proceeds, the "rule of law" makes of Israelis full human beings, while rule by the "occupier's law" makes Palestinians less so.

II. Shehadeh's Legal Narrative

Shehadeh assumes that the chief function of the rule of law is to provide for and guarantee the conditions of self-determination. "As long as [the occupation] continues," Shehadeh writes at the beginning of *The West Bank and the Rule of Law* (1980), "all essential requirements of a society under the rule of law, such as the right to self-determination, representative government, and an independent judiciary will continue to be denied."²⁰ In this, the first of his three "legal narrative" texts, Shehadeh embraces the Tocquevillian truism that the rule of law is a school of self-government for a free people. Indeed, the second section's chapter titles establish a narrative itinerary that reads like a blueprint for the familiar conditions that must be established and guaranteed for there to be rule of law. Chapters on "Property Rights,"²¹ the "Right to Development and Adequate Government Services,"²² "Freedom of Movement,"²³ "Freedom of Assembly,"²⁴ "Freedom of Speech and Expression,"²⁵ and "Academic Freedom"²⁶ reflect Shehadeh's understanding of the conditions required by the rule of law as well as his broader commitment to self-government. Implicit in his analysis is the assumption that these rights should be guaranteed and underwritten by principles like the equality of persons before the

law and both procedural and substantive guarantees of due process, including access to the right of appeal. But, in the midst of this run of chapter titles, the appearance of a chapter on “Collective Punishment”²⁷ signals the real direction of the narrative. Read positively, this list of rights and freedoms ghosts the conditions in which Palestinians find themselves under occupation. These chapters, it turns out, are detailed accounts of how these rights and freedoms are denied by Israeli military and civilian authorities in the West Bank. The very point of this first text in Shehadeh’s legal narrative is to show how these commitments are undercut by a new legal, legislative, and judicial order of occupation. Occupation structures, supposedly temporary, harden into a new legal reality, one difficult to square with any expectations Palestinians might have of the rule of law.²⁸

With the end of the Six-Day War, Israeli military authorities set up structures of occupation which functioned to supplant both established Palestinian/Jordanian structures and practices and Palestinians’ general expectations of law and legal order. The emerging military regime committed itself to a public order that prioritized the physical security of the occupier, while merely managing and “pacifying” the occupied in their own spaces. Shehadeh recognizes that international law provides for these measures by an occupying power in the aftermath of a conflict where territory has been seized. However, international law also assumes that these measures—like the occupation itself—are temporary and forbid the occupier settling the seized territory.²⁹ Shehadeh’s narrative, however, is made necessary by Israel’s early denial that it was an occupying power. “As early as December 17, 1967,” Shehadeh writes, “almost six months after the occupation, the area came to be designated by Israel as Judea and Samaria.” This was followed in a matter of two months by the Ministry of the Interior’s regulation decreeing that the occupied territories “would no longer be considered as enemy territory.”³⁰ Within this denial, Shehadeh’s legal narrative finds its twin storylines. First, from the end of the war until Oslo (and beyond), “temporary” military measures harden into permanent legal structures. Second, the result is a bifurcated legal environment wherein the Israeli presence is permanent, growing, and governed according to the expectations of the rule of law, while the Palestinian population is governed by military decree and then by legal structures imbued with a corresponding violence reflective of those decrees. This new occupation regime promises Palestinians none of the expectations of equality before the law, fairness, etc. Instead, they lose the capacity to name their own legal environment and are subject to a regime wherein legal norms are skirted via redefinition or outright denial by governing Israeli authorities and their agents.³¹ Shehadeh’s work is an effort to reclaim Palestinian power to name their legal conditions.

What Shehadeh later calls “the occupier’s law” works a systematic undoing of what a Palestinian might expect of life governed by the rule of law. For example, the familiar Western-style legal structures and expectations of Jordanian law were replaced immediately by a military regime under the direction of an Area Commander.³² The sweeping executive and legislative powers granted the Area Commander very quickly abrogated the first principle of the rule of law,

a principle dating back to Aristotle: the rule of law means the rule of reason and not of a particularly powerful individual. The Area Commander, in addition to his vast executive power, assumed legislative authority to issue regulations, appoint commissions, and, ultimately, replace mayors and other Palestinian officials with persons of his own choosing. In addition, military orders issued by the Area Commander or his appointed officials routinely denied Palestinians access to a variety of legal protections, including the basics of due process, professional legal representation, open courts, access to court records, and both the right and the means of appealing decisions made by the military tribunals that had replaced civilian (Palestinian) courts.³³ The occupier's law, oriented as it was to "order"—rather than fairness or justice—quickly became a regime governed by the logic of collective punishment where Palestinians were concerned. Whole groups of people, including families, villages, and towns, could be and were punished for the transgressions and supposed transgressions of individuals.³⁴

Collective punishment marks an incipient dehumanization that comes to characterize Palestinian life under the occupation legal regime. In the second text, *Occupier's Law* (1985), Shehadeh demonstrates how, once the regime of collective punishment domesticates the Palestinian presence, the legal regime develops with the sole purpose of accommodating the influx of Israeli settlers and normalizing their presence in the OPT.³⁵ One of the central puzzles for this new regime was how to guarantee the protections of Israeli law ("the rule of law") to settlers and other Israeli personnel while denying them to occupied Palestinians. As the occupation wore on--by the time of this second text it is 18-years-old—Israeli authorities had worked it out. Shehadeh writes:

Israeli [legal] norms have been introduced in the West Bank on a personal, not territorial basis. That is, they relate to the Israeli population in the whole region and are not restricted to the Israeli settlements This...has been done in two ways: (i) by enacting Israeli legislation which extended territorial laws of the state to the Israeli population residing outside the borders of Israel; (ii) through Military Orders."³⁶

The strategy of having the law work on persons (distinguished by status—Israeli or non-Israeli) rather than territory meant that legal protections and therefore full legal personhood was meted out differently to the two populations. The doubleness of this practice manifest itself in the regime's unwillingness to treat Israeli offenses against Palestinians in the same punitive way Palestinian transgressions were treated. Shehadeh's legal narrative, by bringing coherence to the Palestinian experience under this legal regime, reveals the incoherence of any expectations Palestinians might have of the promise of the rule of law. Any pretense to law having a relationship to a principle other than the political expediency of reclaiming the land is already lost.

Shehadeh's account of the law's development links the political expediency of "reclaiming" or "liberating" Palestinian land for Israeli Jews to the project of denying Palestinians the space for exercising self-determination. *Occupier's Law* lays bare the purposes

and effects of the emerging legal regime. On Shehadeh's account, the occupier's law in the West Bank had two related purposes and each had everything to do with "reclamation" and "liberation" and little to do with the more abstract commitments to justice or fairness. The first of these purposes was the alienation of the land from Palestinians in the West Bank.³⁷ This process of alienation moves along two tracks. The first is the acquisition and administration of the land for Israeli settlers.³⁸ To this end, several tactics were deployed, including declaring the land to be "State" land, acquiring property by declaring it to be abandoned, and requisitioning and closing land for military purposes, and expropriating land for a variety of other public (i.e., "non-Palestinian") purposes. With only the most circumscribed possibility of appeal, Palestinians had little or no recourse. Shehadeh notes that:

The acquisition of land by Jews in the West Bank has not always proceeded without opposition. Many Palestinians use the legal methods available to them—even though the standards and procedures imposed are unfair, and successful cases have been rare. Others do not become aware that their land is being seized...until they see the bulldozer working on their land. There have been instances where the landowner, in an attempt to protect his land, has prostrated himself before the bulldozer, thereby losing his life."³⁹

Beyond these methods of seizure, Shehadeh also confronts the longstanding practice of acquiring land for Jewish settlement through purchase, often at much less than its actual value. These purchases are facilitated through law as well as by a variety of other pressure tactics. Even paying for the land, Shehadeh writes, does not "legalize the practice" of dispossessing an occupied people.⁴⁰ Key to his legal narrative where coherence reveals incoherence is that these policies and practices are all perfectly legal according to Israeli law while denying or ignoring the norms of international law. In other words, purpose outweighs any larger concerns about justice or legality. "The Palestinian nation," Shehadeh writes, "is being deprived of its basic right which it shares with all other nations, the right to self-determination."⁴¹

Even where Palestinians managed to hang on to their land, the second tack the legal regime used in alienating them from their land was by placing restrictions on their use of it. Here, too, the rationale was obvious and had little to do with any loftier aspirations of the rule of law. The "Palestinian population and Palestinian land use," Shehadeh writes, "are regarded as constraints [upon Israeli reclamation]." The overall strategy involves a legal process whereby "Palestinian areas are encircled in the first stage and are then penetrated and fragmented."⁴² Long before the isolation of Gaza or the "Security Barrier" cut off the West Bank, alienating Palestinians from their land was accomplished in a variety of ways. Designating land to preclude non-Israeli use of it was—and still is—particularly efficient. Shehadeh details how it became common practice to deem Palestinian lands as "agricultural areas," "special areas," "natural reserves," or "areas for future planning."⁴³ These measures were supplemented by the practice of putting in Israeli-only roads (e.g., Road Plan No. 50),⁴⁴ connecting settlements with one another while bypassing and isolating Palestinian population areas. These practices—accomplished through military orders functioning as law—managed to cement the Israeli presence while

preventing both the development of Palestinian infrastructure and their integration into regional political and economic structures. Finally, the Israeli takeover of “town-planning” involved replacing Palestinian mayors and public officials with Israeli mayors willing to facilitate Israeli planning in spaces that had been Palestinian.⁴⁵ Management of town planning later morphed into the establishment of the Village Leagues, made up of Palestinians, usually rural, appointed by the Area Commander, who facilitated Israeli plans for both territory and the Palestinian population.⁴⁶ Together, these processes and the further establishment of legal and administrative structures in the West Bank worked what Shehadeh called an “operation of de facto annexation” of the land for Israelis.⁴⁷

In the final text of Shehadeh’s legal narrative, the bifurcated legal regime on the West Bank finds larger expression and validation in the so-called Oslo peace process. In *From Occupation to Interim Accords* (1998), Shehadeh moves out from the specifics of the legal regime in the West Bank and “concludes” his legal narrative by penning an account of the Oslo “peace process” governed by the disconnect between ideal and practice. In what Edward Said characterized as both a necessary and “tragic” book,⁴⁸ Shehadeh revisits the emergence of the legal apparatus of occupation from the first two texts before offering an account of how the Oslo process made that apparatus more or less permanent. More importantly, however, he gives a comprehensive overview not only of the negotiations and their processes, but also of the motivations of the negotiators and the implications of the outcome of the negotiations for people on the ground in the newly-divided OPT.⁴⁹ In these negotiations, the rule of law and its norms and standards become weapons to be wielded by experienced Israeli and American negotiators over against a Palestinian delegation led by the politically-ambitious, the naïve, and the bull-headed.⁵⁰ It is not that the Palestinians lacked experts of their own. Shehadeh himself was one. But these voices tended to be marginalized by those with more overtly political ambitions. As a participant in the initial and, by his own account, more open negotiations in Washington, D.C., Shehadeh had seen an opportunity to redeem the two sides’ apparent commitment (as well as his own) to the rule of law. His optimism proved to be unfounded. The lack of a Palestinian legal strategy and the priority of the tellingly secret negotiations at Oslo undermined his faith and denied that possibility. Like Said, who washed his own hands of the PLO and its focus upon mere political recognition during the “negotiations,” Shehadeh also walked away from his direct if unwanted participation.⁵¹

In this third text, Shehadeh paints a picture that implicates the Palestinian leadership, especially the PLO, in failing to make the Palestinian argument. Shehadeh describes, in some detail, the “new” legal structures that emerged from Oslo and the “interim agreements.”⁵² In public accounts, these structures were to provide legal and political autonomy for Palestinians. However, as Shehadeh demonstrates and subsequent events have borne out, these structures were often mere reiterations of existing structures. The detailed and well-documented narrative demonstrates the degree to which Palestinian aspirations to legal and political autonomy were

stillborn, lost to the combination of skillful legal maneuverings of Israeli negotiators and the puerile and self-absorbed political ambitions of the PLO leadership.⁵³ On Shehadeh's account, the Oslo negotiations played out in a context largely defined by the Israelis and their American sponsors. Israeli negotiators established the rules of the encounter by being meticulously prepared, providing the maps used and other critical documents.⁵⁴ Having already mastered the language of the "rule of law," they were able to effectively pursue and achieve a well-established set of goals. With a handshake on the White House lawn between Arafat and Rabin, a handshake sealing a binding legal agreement, the "rule of law" had prevailed.

Seeking only political recognition from Israel and the United States, the PLO's negotiators could not and did not assert more specific aims, either in terms of the rule of law or political autonomy. When Shehadeh laments that this last text is a postmortem, he surely refers to the end of Palestinian hopes for that autonomy and perhaps even a state. Even the "State of Palestine" referred to in the Amnesty report cited earlier is at best a paper one. More to our present point, however, this last entry in his "legal narrative" is also a requiem for the possibility of justice for Palestinians under the banner of the rule of law where this term is understood as a bulwark against the machinations of politics and political power. Shehadeh is clear: Palestinian negotiators were active participants in their own marginalization.

In Shehadeh's legal narrative, the "rule of law" as it emerges from Oslo and after, while it may seem to offer a set of procedural opportunities to acquire and exercise power and perhaps even a certain measure of control, guarantees neither autonomy nor real political agency. In fact, it subjects the aspiration to autonomy to political power exercised in the name of Israeli security. This concern for the security of the Israeli regime is gradually supplemented by Hamas and the PA being concerned with their own regimes' internal security leading to the abuses to which the Amnesty report refers. The structures agreed to at Oslo, Shehadeh contends, legitimized the occupation and domesticated Palestinian political authority. While many of the elder structures and assumptions remained in place (e.g., the primacy of Israeli "security"),⁵⁵ the fundamental difference was that now those priorities and interests were being served also by Palestinians. In the eyes of those not looking very closely, the "new" legal structures were and are under the apparent direction of Palestinian leadership. As the work of Neve Gordon among others has shown, what has not changed is the Damoclean sword of Israeli oversight and the persistence of rule in the name of Israeli security. In other words, from the perspective of Palestinians on the ground, including Shehadeh, the rule of law was and is rule *by* someone else's law to someone else's ends. The violence of the measures authorized or tolerated by law is largely the same whether their purpose is Israeli expansion or the mere survival of governing authority in Gaza (Hamas) or the West Bank (the Palestinian Authority).

III. Caught in Kafka's Paradox

As a chronicle of failure, we could consign Shehadeh's "legal narrative" to the proverbial dustbin of history and these texts are, in fact, long out-of-print. But that would be to miss the point of their production and the role of narrative in suggesting a way forward in an increasingly hopeless circumstance for Palestinians. What interests us here is *the act* of telling the tale which we are reading as an act of resistance. Shehadeh's legal narrative performs the work of what Edward Said called "democratic criticism" wherein the critic offers a counternarrative to the prevailing one.⁵⁶ Shehadeh's legal narrative both articulates and traces the fate of liberal assumptions about the rule of law in the context of occupied Palestine. Their absence or perversion reveals how assumptions about law are transformed from aspirational ideals, bound to be realized when liberal consciences are awakened to what is happening, into weapons of critique, tracing their shortcomings in practice and, ultimately, calling his own commitment to them into question.

Inevitably, then, Shehadeh works in a paradox. On the one hand, he holds to his expectations of and commitment to the standards of the rule of law. This commitment is both implicit and explicit in the stated purposes and execution of his legal narrative. On the other, this commitment cannot overcome the (extra-) legal conditions to which Palestinians are subject. As the account plays out, occupied Palestinians are subject not to a regime of the rule of law that guarantees an "honorable future." Whether we characterize Palestinian legal circumstances as functions of Foucauldian governmentality (Gordon) or as an Agambenian regime of indeterminacy, for Palestinians, the regime that emerges (beginning with the occupation in 1967 and continuing through Oslo and beyond) introduces and facilitates an experience with legal structures that may well undermine Palestinian faith in the assumptions associated with the rule of law. Dworkin knew—and Shehadeh's work reminds us—that the coherence of narrative or story is no guarantor of the substantive or, one might say, moral (i.e., its "justness" and "fairness") content of legal development. However, while it can make no such guarantee, the perspectival flexibility or playfulness of story or narrative offers the possibility of a critique of assumptions like those commonly associated with terms like the "rule of law."

The paradox in which Shehadeh finds himself is one with which Kafka would be intimately familiar. On the one hand, Shehadeh's training as a lawyer in a liberal tradition brings with it expectations that law is the appropriate and more or less nonviolent way to confront the Palestinian circumstance of occupation. On the other, that very regime of occupation, inasmuch as it manifests a zone of indeterminacy, undermines those expectations. The ideals and language of the tradition of the rule of law can just as readily be used as weapons of oppression and domination. In his novel *The Trial*, Kafka poses the central problem for any commitment to Western-style rule of law: the tension between the mere instrumentality of rule *by* law and the normative commitments suggested by the rule *of* law. On its face, the experience of having faith in legal norms even as they are being deployed against one and to ends one may not have

expected is characteristic Kafka, who, in the novel offers a narrative critique of the Western conceit of the rule of law both from within and outside of the tradition itself.

In the novel, Joseph K. is suddenly and mysteriously arrested and subjected to a puzzling and often bewildering set of experiences pursuant to the prosecution of his “case.” Without knowing the charges brought against him, he is thrown into a mix of “officials” whose behavior is anything but “official.” The norms and expectations of legal procedure—expectations that K. has from the outset—are cast to the wind and the novel plays out a narrative in which he chases those expectations in a frustrating odyssey culminating in his execution wherein he dies “Like a dog!”⁵⁷ From K’s first-person perspective, the legal environment is wholly dysfunctional and, consequently, he loses any respect he’d had for its officers and what he can glean of its “rules” and “procedures.” Yet, the novel depicts him chasing the expectations that one has for a legal system wherein the “rule of law” governs. His dogged persistence—until the final scene, there is plenty of misdirection but little or no overt coercion from “officials” after his initial “arrest”—speaks to his implicit faith in the rule of law despite his experience with it. As we watch K. chase the justice supposed to be inherent in a just legal system, Kafka unmoors us from any expectation that a legal system grounded in law is necessarily just or even fair. We are reminded that procedure is not necessarily related to substance and that, in practice, law itself is a tool that is not bound by moral or other requirements that we might associate with expectations of fairness or justice.

It is critical that Shehadeh has Joseph K’s faith in the rule of law—if not its agents--and hopes that his “legal narrative” will call the architects of the legal regime in the OPT home to the expectations of the rule of law in a liberal political environment. Joseph K’s pursuit of justice ends in a quarry with his execution by two men with knives. Setting aside the intimate violence suggested by this form of execution—it mirrors that of Israeli Jews and Palestinians in the tiny space of Palestine/Israel--and Joseph K’s dying “like a dog,” the narrative, via what Butler calls “the poetics of non-arrival,” nonetheless keeps alive his demand for a just prosecution. His “punishment,” his physical death, is not the outcome of a known and established set of rational procedures nor is it dispositive of the issues raised by his “case.” Rather, the removal of his person says more about the “justice” available in his environment than it does about him or the nature of his unknown “crime.” Even in death, Joseph K embodies the fundamental tension between rule by law and the rule of law that Shehadeh is working through in his legal narrative.

Shehadeh, as a member of a population that others would rather just disappear (behind walls, “settled” off their land, from newscasts, etc.), nonetheless remains committed to the ideal of the rule of law, an ideal more affiliated with those others (perhaps, wrongly) than with his own people. His work partakes of its liberal assumptions, attempts to make a coherent argument, and, in so doing, uses its terms in order to demonstrate the injustice of the regime in the hope that others will recognize and intervene on behalf of the oppressed/occupied. In other words,

Shehadeh's narrative partakes of Dworkin's demind for coherence, but he is sanguine about the relationship between that coherence and larger normative expectations of the rule of law. In this way, he is less Dworkin than Kafka. As in Joseph K's adventure, Shehadeh's narrative is certainly coherent, that is to say, orderly, logical, and driven by evidence and reasonable expectations. However, also like Joseph K, the ends of the governing regime to which he is subject are someone else's ends and they obscure or occlude his own (i.e., the Palestinian) aspiration to justice or legal order. The regime of law—whether administered by the Israeli government (directly or indirectly) or Hamas or the PA—emerges as a product of this cynical deployment of the categories of the rule of law to ends that are not consonant with the associated conceit.

Shehadeh's legal narrative demonstrates that as the experience of Palestinians with law diverges from that of Israelis (settlers), the effort to use the expectations and language of the rule of law as a means to express, let alone remedy, the difficulties faced by Palestinians becomes less efficacious. This very failure, however, reveals the multivalent possibilities of the project of the legal narrative. At its most fundamental level, the use of narrative or story is an effort to counterbalance the asymmetry of the Palestinian experience with the existing and dominant Jewish *cum* Israeli narrative.⁵⁸ If we read Shehadeh's narrative in a strictly adversarial or countering mode, we must confront the degree to which the deck is stacked against it from the outset. As with Socrates in *The Apology*, Shehadeh's jurors already "know" the story and it is one in which Palestinians, at best, do not exist fully as a legal or moral concern. This discursive reality means that, any adversarial encounter, i.e., counternarrative, attempting to get the Palestinian experience articulated, has been a losing proposition and, despite recent gains, remains a "beginning from behind." Like a kind of public defender, however, Shehadeh recognizes the obstacle, but refuses to concede to it, such is his faith in the promise of the rule of law.

By offering this counternarrative, one that describes the legal structures that make up the occupation and their evolution along with the Palestinian experience with those structures, Shehadeh nonetheless engages in an adversarial form of discourse—reminiscent of what he does in the courtroom. The object of adversarial discourse in court, of course, is to persuade a neutral party of one's position in order to overcome the opponent's argument. The desired outcome is to have one's position recognized and, where successful, one's grievance redressed. Yet, there must be more to our encounter with Shehadeh's efforts than his telling the story in order that others might be persuaded and intervene. As an intervention itself, Shehadeh's "legal narrative" as "counternarrative" gestures at a deconstruction-unto-resistance wherein ideas like the "rule of law" are revealed as potentially empty of any but the most basic and instrumental meaning. They are not invulnerable to becoming mere cover for any one of a number of illiberal practices involved in a colonial occupation. In this recognition, we have moved no further than the critique offered by Fanon or, before him, Albert Memmi.⁵⁹ Shehadeh's invocation of narrative, however,

does more than simply “counter” or expose the dominant discourse. Much as K’s execution demands the critique of the rule of law, Shehadeh’s own faith in the rule of law challenges us to see its structures and their effects more clearly. Shehadeh narratively moves beyond the adversarial nature of the structures of law in particular and the “conflict” in general and confronts the underlying inadequacy of legal discourse and its adversarial structure. If we focus on the narrative part of Shehadeh’s work, we find that it offers the opportunity of explanation, of reframing the legal environment of occupation, stripping it of its pretensions and holding it to the requirements of something more fundamental than law itself: the requirements of mere human being.

Shehadeh continues to embrace the idea of the rule of law despite his experience. He retains this allegiance in spite of charting one example of the history of peoples on the receiving end of practices affiliated with this ideal, especially the colonized or colonial-adjacent. The stated if not institutionalized ideals of the rule of law, supposedly oriented to justice and fairness generate a set of experiences with the rule of law in which those expectations are either ignored or cynically deployed against the colonized, revealing them as mere prejudices, as functions of naked power. In other words, implicit in the colonized experience with the rule of law is the violence of incoherence which, as Fanon reminds us, covers actual violence and is underwritten by the assumption of the inferiority of such people and/or their incapacity to understand or live up to these ideals. The bifurcated occupation legal regime charted by Shehadeh underscores the point. Further, where these racist assumptions are not explicit (here, thinly obscured by the historical vulnerability of Jewish people), they find expression in the assumption that the colonized have a predilection for violence that precludes their embracing, let alone being governed by, the rule of law. The Amnesty report with which we began does not intend to embrace these assumptions, but, obscuring the context of contemporary violence is not helpful in putting them to the lie. As Benjamin reminds us, even implicit subjection to these assumptions reveals the violence of law itself rather than the “natural” violence of its subjects.⁶⁰ The colonized, subject to a rule of law that naturalizes their violence, experience legal structures as violent in-and-of themselves and succumb to the temptation to respond accordingly. In circumstances of “conflict,” then, the Hajjar’s “life constituted by law” necessarily intersects with violence and the supposed coherence of the connection between law and life correspondingly suffers.

Shehadeh’s legal narrative refuses to concede to this suffering. The conclusions suggested by his narrative are difficult and necessarily preliminary. First, coherence, like rule of law itself, promises nothing. Logic, fit, consistency can, do, and often have served to instantiate and justify the most cruel and abusive legal, political, and economic regimes. Dworkin did not assume that coherence guaranteed justice or fairness, but he did hope that this would be the case. Second, therefore, justice or fairness is not necessarily a function of coherence. The coherence of judicial decisions and legal actions is, as Jerome Frank pointed out, more of a convention than

anything else. Asking the new Palestinian government to bring its actions into line with international law while it must submit to an Israeli regime that refuses to do so is shortsighted at best and cynical at worst. Shehadeh's struggle is that, having to make the Palestinian case to a resistant outside world, he is bound to the hope that there might be some causal connection guided by basic recognition of the parties as human beings qua human beings. Third, law itself, even as "rule of law," is a profoundly effective instrument of undermining that recognition. Voices as diverse as Benjamin and Fanon remind us that law is an effective means of creating and enforcing conditions of dehumanization and deracination. They can harden circumstances in which ideas of innate inferiority, through legal and other forms of enforcement, become self-fulfilling. Transformation is both the creation and the perception of others, imposed upon one's self and even embraced by one's fellows and always against the assumptions of "ordinary" politics.

That law can be used to unjust ends is hardly a profound conclusion. In the Palestinian case, Shehadeh's legal narrative points to a reality in which the peace process, run through with legal agreements and their unqualified "legitimacy," lack the very legitimacy they try to claim via the language and orderly procedures of the rule of law, that is, of formal and informal legal agreements. The very legal foundation upon which these agreements are supposed to be made—the assumption that law and legal agreements have some binding normativity—are undone before they are begun and then further undone by the violence of the processes of making and then enforcing them. Nonetheless, Shehadeh clings to the idea/logic/narrative of the rule of law. He comes to realize that his legal narrative aspired to conditions of peace, where both parties wished it and were willing to work at it. It is the kind of peace, he thinks, that characterizes an environment in which the normative assumptions of the rule of law govern. It is an environment reminiscent of the kind to which Dworkin aspired, one in which disagreement and legal judgment rendered decisions that are binding while the statuses of the adversarial parties returned to relative equality when the trial was done. Instead, Shehadeh finds himself in a context of war in which he is overmatched, where law cuts, divides, and kills rather than mediates and reconciles. In spite of all this, or perhaps because of it, Shehadeh refuses the metamorphosis to a second-class human, to become only an enemy combatant, locked in a circumstance wherein one inevitably must "die like a dog." He chooses instead to prolong K's search for what justice there is to be had by insisting that law should be about making space to be human, a space for human dignity and respect.

NOTES

¹ Amnesty International, “Palestine: New Government Must Reverse Human Rights Decline,” <https://www.amnesty.org/en/latest/news/2019/03/palestine-new-government-must-reverse-human-rights-decline/> Accessed March 28, 2019.

² An Amnesty spokesman, Saleh Higazi, did note “Palestinians, whose rights have already been routinely crushed by Israel’s occupation, must not be brutalized and repressed by their own government. The new government must take effective measures to improve the human rights of all its people.”

³ Franz Kafka, *The Trial* (New York: Schocken Books, 1984).

⁴ See, for example, Neve Gordon, *Israel’s Occupation* (Berkeley: University of California Press, 2008).

⁵ Frantz Fanon, *Wretched of the Earth* (New York: Grove Press, 2004). See also Richard Bernstein, *Violence: Thinking Without Banisters* (Cambridge: Polity Press, 2013), 105-127.

⁶ “Legal narrative,” as we will see, is a term that Shehadeh gave to his work on the law of occupation. This work consisted of three texts: Raja Shehadeh and Jonathan Kuttab, *The West Bank and the Rule of Law* (Geneva: International Commission of Jurists, 1980); Shehadeh, *Occupier’s Law: Israel and the West Bank* (Washington, D.C.: Institute for Palestine Studies, 1985); and Shehadeh, *From Occupation to Interim Accords: Israel and the Palestinian Territories* (London: Kluger Law International, 1997).

⁷ Ronald Dworkin, *Law’s Empire* (Cambridge, MA: The Belknap Press of Harvard University Press, 1986), especially pp. 228ff.

⁸ Shehadeh is a forerunner to the work of other scholars who have examined the legal structures of the occupation. John Quigley in *The Case for Palestine* (Durham: Duke University Press, 2005 [1990]) argued that international law contained mechanisms for resolving the Israeli-Palestinian conflict, but that those mechanisms had been ignored in favor of Zionism and then the Israelis. Lisa Hajjar in *Courting Conflict: The Israeli Military Court System in the West Bank and Gaza* (Berkeley: University of California Press, 2005) traces the evolution and functioning of the military court system and showing how the many “layers” of the law “affected the course of the conflict, including the military and emergency laws made and used by the Israeli state to govern and punish Palestinians residing in the West Bank and Gaza and the various bodies of international law that have been deployed and referenced by state officials, lawyers, human rights activists, and others to legitimize, contest, and redress violence” (248). Finally, Neve Gordon’s *Israel’s Occupation* deploys a Foucauldian analysis of Israeli “means of control,” including legal mechanisms, which “circumscribe and influence people’s behavior, these same mechanisms not only presuppose but also help produce the resistance of the people they are employed to manage.” (3)

⁹ Shehadeh, *From Occupation to Interim Accords*, 160.

¹⁰ Shehadeh, *From Occupation to Interim Accords*, 2.

¹¹ Edward Said was among the first to understand that the celebrated Oslo Accords were cause for lament rather than celebration. See Edward W. Said, *The End of the Peace Process: Oslo and After* (New York: Vintage Books, 2001) and *From Oslo to Iraq and the Road Map: Essays* (New York: Pantheon Books, 2004). In addition to Said and analyses like Gordon’s cited above, for accounts of what has become of the so-called “peace process” see also Padraig O’Malley’s *Two-State Delusion: Israel and Palestine—A Tale of Two Narratives* (New York: Penguin Books, 2015), As’ad Ghanem, *Palestinian Politics after Arafat: A Failed National Movement*

(Bloomington: Indiana University Press, 2010), and Ariella Azoulay and Adi Ophir, *The One-State Condition* (Stanford: Stanford University Press, 2013).

¹² Shehadeh, *West Bank and the Rule of Law*, 11.

¹³ Dworkin's work in *Law's Empire* makes this assumption though he, of course, does not assume that reasonableness will carry the day. John Rawls, *Justice as Fairness: A Restatement*, edited by Erin Kelly (Cambridge, MA: Belknap-Harvard University Press, 2003), 6-7 distinguishes between the rational and the reasonable. The latter has to do with an orientation to agreement with others on fair terms of cooperation.

¹⁴ See Said's essay "Permission to Narrate" in *The Politics of Dispossession* (New York: Vintage, 1994), 247-268. See also O'Malley, *Two-State Delusion* and Azoulay and Ophir, *The One-State Condition*.

¹⁵ Chinua Achebe, *Hopes and Impediments: Selected Essays* (New York: Anchor/Doubleday, 1988).

¹⁶ Dworkin, *Law's Empire*, 228-232; 239.

¹⁷ Dworkin, *Law's Empire*, 247-48.

¹⁸ Dworkin, *Law's Empire*, 227-228.

¹⁹ Dworkin, *Law's Empire*, 229.

²⁰ Shehadeh, *West Bank*, 11.

²¹ Shehadeh, *West Bank*, 59-63.

²² Shehadeh, *West Bank*, 64-70.

²³ Shehadeh, *West Bank*, 71-76.

²⁴ Shehadeh, *West Bank*, 82-83.

²⁵ Shehadeh, *West Bank*, 84-88.

²⁶ Shehadeh, *West Bank*, 89-95.

²⁷ Shehadeh, *West Bank*, 77-81.

²⁸ See also Hajjar, *Courting Conflict*, especially Chapter 1 and Gordon, *Israel's Occupation*, Chapters 1 and 2.

²⁹ Shehadeh, *West Bank*, 7-8. See also Quigley, *The Case for Palestine* and Hajjar, *Courting Conflict*.

³⁰ Shehadeh, *West Bank*, 10.

³¹ Shehadeh, *West Bank*, 10.

³² Shehadeh, *West Bank*, 18-23.

³³ Shehadeh, *West Bank*, 13-50.

³⁴ Shehadeh, *West Bank*, 77-81.

³⁵ Shehadeh, *Occupier's Law*, 4-5, sets out the Israeli strategy that plays out in the rest of the text.

³⁶ Shehadeh, *Occupier's Law*, 94.

³⁷ Shehadeh, *Occupier's Law*, 15-50.

³⁸ Shehadeh, *Occupier's Law*, 17-47.

³⁹ Shehadeh, *Occupier's Law*, 47.

⁴⁰ Shehadeh, *Occupier's Law*, 48.

⁴¹ Shehadeh, *Occupier's Law*, 49.

⁴² This and preceding quote, Shehadeh, *Occupier's Law*, 51.

⁴³ Shehadeh, *Occupier's Law*, 22-38.

⁴⁴ Shehadeh, *Occupier's Law*, 54.

⁴⁵ Shehadeh, *Occupier's Law*, 55-57.

⁴⁶ Shehadeh, *Occupier's Law*, 174-181. See also Gordon, *Israel's Occupation*, 111-114.

⁴⁷ Shehadeh, *Occupier's Law*, 61-103, lays out the apparatus and functioning of the “de facto annexation.”

⁴⁸ Said's “Foreword” to Shehadeh, *From Occupation to Interim Accords*, xiv.

⁴⁹ Shehadeh, *From Occupation to Interim Accords*, begins with an account of the “Declaration of Principles” before proceeding to chapters on the “The Interim Agreement” “The Changes in the Occupied Territories Prior to the Interim Agreement,” “The Israeli-Palestinian Negotiations,” and “Post-Agreements Legislation.” Nineteen Appendices provide the texts of key documents in the process from UN Resolution 181 in 1947 through Oslo, the Interim Agreements to the Hebron “Redeployment” in 1997. The details of the chapters are too intricate to include here, but they gibe with accounts given by Said, Gordon, and O'Malley among others.

⁵⁰ See, for instance, Ghanem, *Palestinian Politics After Arafat*.

⁵¹ Shehadeh, *From Occupation to Interim Accords*, 2.

⁵² Shehadeh, *From Occupation to Interim Accords*, 31-69.

⁵³ Shehadeh, *From Occupation to Interim Accords*, 122-127.

⁵⁴ See also Said, *The End of the Peace Process*.

⁵⁵ The dimensions of security “cooperation” between Israeli and the new Palestinian authorities is described in detail in Shehadeh, *From Occupation to Interim Accords*, 52-70.

⁵⁶ Edward W. Said, *Humanism and Democratic Criticism* (New York: Columbia University Press, 2004), 47.

⁵⁷ Kafka, *The Trial*, 229.

⁵⁸ See O'Malley, *Two-State Delusion*.

⁵⁹ Albert Memmi, *The Colonized and the Colonizer* (Boston: Beacon Press, 1991 [1965]).

⁶⁰ See Walter Benjamin, “Critique of Violence” in *Reflections: Essays, Aphorisms, Autobiographical Writings*, edited by Peter Demetz (Boston: Mariner Books, 2019), 291-316.