

Palestinian Labor in West Bank Settlements

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by

Ethan William Morton-Jerome  
Spring Arbor University  
Bachelor of Arts in History, 1998  
Biola University  
Master of Arts in Intercultural Studies, 2001  
Georgetown University  
Master of Arts in Arab Studies, 2008

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University of Arkansas

This dissertation is approved for recommendation to the Graduate Council.

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Ted Swedenburg, Ph.D.  
Dissertation Director

---

Kirstin Erickson, Ph.D.  
Committee Member

---

Ram Natarajan, Ph.D.  
Committee Member

---

Steve Striffler, Ph.D.  
Ex-officio Committee Member

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## Abstract

Since the late 1970s, Palestinians have worked in West Bank settlements, with approximately 30,000 to 40,000 Palestinians currently employed in construction, factories in industrial zones, and plantations. My analysis of Palestinian labor on the settlements begins with the historical, political, legal, and economic context of Palestinian labor in three jurisdictions: in Israel, on the settlements in the West Bank, and in PA-controlled Area A. Fundamental to the analysis is to go beyond the restrictions of nationalist discourse to recognize both intranational tensions and that labor exploitation occurs in all jurisdictions. My fieldwork and analysis were conducted over three years (2013-2016) in the West Bank and are based on interviews (with Palestinian workers, lawyers, PA officials, and union and labor advocates), Israeli government documents, Knesset meeting transcripts, attending Israeli labor court hearings, and working with Palestinians in Jordan Valley settlement plantations.

The Israeli government and the Palestinian Authority ignore labor rights demands of Palestinian workers and are not serious about upholding labor laws. As noncitizens under Israeli occupation, Palestinians have turned to Israeli labor courts and unionization efforts to demand their labor rights according to Israeli labor laws. Although both working on the settlements and turning to Israel to demand labor rights undermine the goal of an independent Palestinian state, for Palestinian workers in the West Bank, the primary concerns are pragmatic ones - the economic details associated with just getting by rather than with political or national ambitions.

With increasing calls for boycotts against the settlements, Palestinian labor has become a critical issue in the debate over whether the settlements are beneficial or detrimental for Palestinians. Settlement advocates argue that they are benevolent employers of Palestinians even though there is irrefutable evidence that the settlements and the Israeli occupation are

fundamental barriers to the Palestinian economy and that, furthermore, the experience of the Palestinian workers is exploitative. Yet, increasing disillusionment with the Palestinian Authority, no prospects for an end to the occupation, and the growth of Israeli right-wing political parties that support settlements are key indicators that Palestinian labor on the settlements will continue and increase in the coming years.

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The trajectory that led to this dissertation began much earlier than my time at University of Arkansas in 2009. I first visited Palestine in 1996 during my undergraduate studies, and I am grateful to Cliff Gardner and Dr. Rick Cahill, both of whom shared their enthusiasm about the Middle East and prompted my interest in Palestine. From 2006 to 2008, the Center for Contemporary Arab Studies at Georgetown University was an important part of my education, particularly Dr. Rochelle Davis and her course on Palestine, which gave me a foundation for the work that followed.

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## **Dedication**

**To workers living under occupation**

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## Introduction

It was my second day working with Palestinian farmers in the northern West Bank, on the plains between the Jordan Valley and the cities of Jenin and Nablus. I was assigned to work in the greenhouses with two young men. The previous day I had spent most of the time by myself, weeding and clearing the areas between rows of eggplant. Today I would help cut, bundle, and stack mint. They were the largest mint leaves I had ever seen, two to three times bigger than anything I had bought in the markets of Ramallah. This superior grade mint was not going to the local market but was grown in greenhouses specifically for either sale in Israel or export to Europe and the United States, where the price of the mint is much higher and the farmers are paid more for the product.

Thankfully, it was early spring, and although the air in the greenhouse was stuffy, the stifling heat of summer had not yet arrived. It quickly became apparent that I was not very good at the work - cutting the right number of mint stalks necessary for the bundles, quickly wrapping a rubber band around the stalks, and throwing them into a pile. The two young men appreciated that I was willing to help, but they were annoyed with my clumsiness and inability to move quickly from one bundle to the next. The conversation helped to compensate for my ineffectiveness with the work; they had never met a foreigner willing to work the daily grind of agricultural labor.

I had come to visit this specific village because I had heard that several hundred Palestinian agricultural workers had left their employment on nearby settlement plantations and were now working for Palestinian farmers. With financial assistance through international aid, a water pipeline from a spring in the neighboring village brought water to the farmland, and with new technology and agricultural knowledge there was a now major increase in greenhouses and

arable land. This provided for several hundred new jobs in agricultural production for Palestinians. A couple of the farmers were even able to export their produce to Europe and the United States. It seemed like an amazing story of success, and I wanted to see it first-hand. I quickly learned that the story was much more complicated.

On my first trip to the village, one of the farmers took me on a tour of the expanded agricultural land, including hundreds of new greenhouses. He was proud of all that he and others in the village had accomplished. They had dramatically expanded the number of greenhouses and provided employment to hundreds of workers. At one point, we could see an Israeli settlement in the distance, one that had plantations next to the residential area. He told me that he had worked for settlers for over twenty years, and it was the knowledge he gained through that experience that helped him in the expansion of his farmland. At the end of the day I stopped by the cold storage room where several men were packaging various herbs. On the boxes for shipping, 'Product of Israel' was written in English. I was confused. We were in Palestinian Authority (PA)-controlled Area A, the produce grew in Area A with Palestinians doing all the work, yet the packaging said it came from Israel.<sup>1</sup> When I asked why the boxes said this, I was reminded how complicated the situation was for these farmers. They could make a much higher profit if they sent produce abroad rather than selling it in the local Palestinian market, but the only way they could export their produce was to send it through the Ben Gurion Airport in Israel, which required use of an Israeli company to transport the goods from Palestinian Area A through the checkpoints, to the airport, and on to foreign customers. The economic relationship between

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<sup>1</sup> The Palestinian Authority has full civil and security control over Area A, and Israel has full civil and security control over Area C. In Area B, the PA has civil control and both the PA and Israel are responsible for security. Areas A, B, and C comprise 18%, 22%, and 60% of the West Bank, respectively.

the PA-controlled areas and Israel was formalized with the signing of the Oslo Accords and, specifically, the Paris Protocol.<sup>2</sup> Although these products were certainly from Palestine, customers would not know that; yet what could the Palestinian farmers do? They were completely bound to the demands of the Israeli companies. Israel controlled the borders, so any export had to go through Israeli security and business mechanisms.

After five hours in the greenhouse, we stopped for a break, and a couple of workers came together to share lunch. We talked about life in the village and work on the Palestinian farms and the nearby settlements. I asked about a mansion at the edge of town that appeared very different from the other homes in the village, and they told me it was owned by a middleman who organized and transported Palestinian workers to the settlements. His ostentatious home suggested that he earned a good profit by working with the settlers. I also learned that the new arable land did provide jobs but that it did not stop Palestinians from working on the settlements; many of the workers were employed in both places. In either case, the salaries in the Palestinian farms and in the settlements were barely enough to survive, and even though the Israeli settlers did not follow the law regarding minimum wage, they did pay 10 New Israeli Shekels (NIS), or US \$2.85, more per day than Palestinian farmers.<sup>3</sup> At the end of lunch one of the young men turned to me and said, “Work for the Jews, work for the Arabs, it does not matter. It’s all shit.”<sup>4</sup>

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<sup>2</sup> The Paris Protocol, also known as the Protocol on Economic Relations, was signed on April 29, 1994, as part of the Oslo Accords. The Protocol clarified economic relations between Israel and the newly created Palestinian Authority and included specific details on customs, trade, taxes, labor, agriculture, industry, and tourism.

<sup>3</sup> The daily rate in this case was 70 NIS (\$20) for work with Palestinians and 80 NIS (\$22.86) for work on settlements. The exchange rate for NIS to the dollar ranged between 3.4-3.9 to \$1.00 between 2013 and 2015. Throughout this dissertation, the exchange rate of 3.5 NIS to \$1.00 will be used.

<sup>4</sup> April 28, 2016; translation from Arabic to English throughout the dissertation is mine.

My time in this village came near the end of three years of living in the West Bank to conduct ethnographic fieldwork on Palestinian labor in the West Bank settlements. I was disappointed, since this initiative sounded like an example of Palestinian resistance to Israeli occupation by developing farm land and providing employment for Palestinians, thereby allowing them to stop working for the settlers, but I was not surprised to learn of the complications. I had become accustomed to the contradictions and compromises that are part of everyday life in the West Bank. There was now a significant increase in Palestinian agriculture, but it was labeled as coming from Israel; the new agricultural land did provide for new jobs, but it did not end employment on the settlements. I was reminded of the Palestinian middlemen who are a necessary part of the labor apparatus, as the day-to-day face of exploitation. Work with settlers is clearly exploitative, yet the PA is also complicit in failing to protect working class Palestinians who are employed in the Palestinian economy. Most significant were the words of the young man: “It’s all shit.”

### *Palestinian Labor on Settlements*

Poor and working class Palestinians in the West Bank find themselves in an infuriating situation, subject to half a century of Israeli military occupation which has de-developed the Palestinian economy, exploited their labor, and restricted their movement and access to their land. The weak economy and harsh employment situation has similarities to the condition of millions of people across the globe living with poverty and high rates of unemployment.<sup>5</sup> In an economic environment where a race to the bottom is welcomed and implemented by Israel and

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<sup>5</sup> According to the International Monetary Fund, the West Bank had a poverty rate of 16% in 2016, and the Palestinian Central Bureau of Statistics estimated unemployment of 18.2% in 2016.

the PA, high rates of capitalist exploitation and denial of workers' basic rights are standard. Policies are embraced that squeeze the workers, demanding as much productivity as possible for minimal wages in the name of capitalism, growth, and profits. Further burdening workers are neoliberal economic policies that cut social services, constrain labor unions, and emphasize international trade and investment over issues of labor violations and environmental destruction.

Ultimately, for Palestinian workers in the West Bank, the primary concerns are pragmatic - the economic issues associated with just getting by - rather than political or national ambitions. Working on the settlements runs counter to nationalist imperatives and to desires for an independent Palestinian economy and state, yet there are limited work alternatives for Palestinians, all of which come with their own disadvantages. Work on the settlements can range from jobs where Palestinians make two to three times more than they could in Palestinian-controlled Area A to employment that is at the extreme end of the spectrum of exploitation, including child labor, extensive workplace injuries, health risks that do not receive adequate attention, and wages that are barely enough to survive on. Yet, with as many as 30,000-40,000 Palestinians employed on the settlements, such work is clearly an important part of the Palestinian economy to compensate for high unemployment rates and to provide critical income.<sup>6</sup>

Palestinians from the West Bank work in three different legal jurisdictions: inside Green Line Israel under the auspices of the Israeli government; on the settlements and Area C in the West Bank under the authority of the Israeli military; and in PA-controlled Area A. Yet officials from both civil governments and the Israeli military have ignored the demands for labor rights

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<sup>6</sup> The figures for Palestinians employed on the settlements are only estimates. The Israeli military, which issues work permits, does provide exact amounts, but there are thousands more who work without permits. Additionally, work in the agricultural and construction sectors has seasonal and contractual fluctuations. Further details are provided in this Chapter and in Chapter One.

for Palestinian workers and, for the most part, fail to uphold labor laws. Consequently, employers can treat their workers with impunity. My research focused on Palestinian labor on the settlements, which are under full Israeli jurisdiction. As non-citizens of Israel, Palestinians from the West Bank who work on the settlements lack fundamental labor protections that typically come with citizenship. Without the political ability to demand their labor rights, that is, through legislation and representation in the government, Palestinians from the West Bank have taken their complaints to Israeli labor courts to demand their labor rights according to Israeli labor laws. Although both working on the settlements and turning to Israel for legal recourse to demand labor rights undermine the goal of Palestinian independence, Palestinian workers and labor advocates in Israel have turned to the Israeli labor courts and High Court of Justice (HCJ) to demand their rights and compensation.

A historic shift concerning labor laws on the settlements occurred in 2007, when the Israeli HCJ ruled in *Worker's Hotline v. Government of Israel* that Israeli law should be used for labor relations between Israeli settler employers and Palestinian employees. Prior to the ruling, a mixture of Jordanian labor laws from 1965 and Israeli military orders were to be followed concerning labor relations for Palestinians working on the settlements. The *Worker's Hotline* case, which included appeals and decisions at the regional and national labor courts, lasted more than a decade and highlights the complicated and varying interests of those involved in the case. For financial reasons, that is, increased pay and benefits, Palestinian workers demanded the application of Israeli labor laws, even though this is akin to asking for Israeli annexation. Also for financial reasons, Israeli employers wanted the maintenance of the status quo, that is, no implementation of Israeli labor laws, so that they could more easily exploit the Palestinian workforce with lower pay and lack of benefits. This position, in turn, does not adhere to the

settler ideology which demands Israeli annexation of the West Bank. Following the HCJ ruling on the case, labor court judges at the regional and national level have interpreted it in different ways, causing confusion for all parties involved and giving the excuse to Israeli law enforcement to continue the policy of nonenforcement of labor laws. What the HCJ did was, in fact, unprecedented, arguing that Israeli civil law in the West Bank applied to Palestinians who worked on the settlements, something that the Israeli legislature and military had never done. Documenting and analyzing the Israeli government's (in)actions since 2007 concerning labor laws in the settlements provides a clear example of the Israeli policy of "permanent temporariness" in the West Bank.

The concept of permanent temporariness has increasingly come into use as a means to understand and explain the longevity and persistence of the occupation, which reached its fifty-year anniversary in June 2017.<sup>7</sup> The strategy of permanently keeping the occupied Palestinian territories (oPt) in a state of temporariness, that is, a perpetual status as "disputed territory" that is "administered" by Israel, was initially a legal strategy used to circumvent international law, and it later became a political strategy of settler colonial domination. During the past half century, the Israeli government has incrementally and systematically supported the settlement of a civilian Israeli Jewish population in the West Bank, forcing the Palestinian population into an ever-decreasing territory. This occurs in direct opposition to the globally-recognized rulings of

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<sup>7</sup> Adi Ophir writes, "The temporariness of the occupation is both the de jure state and the de facto state. The temporariness itself has acquired de jure status. Temporariness is the new law of occupation," (Ophir 2002:60). This theme has since been utilized by many academics, including Weizman (2007:103-104) and Ghanim (2016:97).

international jurists that the settlements are illegal according to international law.<sup>8</sup> Palestinian anthropologist Honaida Ghanim refers to this Israeli policy as “desertion”, meaning:

... that Israel neither withdraws from the occupied territories nor annexes them. Rather, the state embraces and promotes a situation of permanent temporariness which enables it to hold onto Palestinian land without applying its laws to the area’s Palestinian residents (Ghanim 2016:97).

Beginning in the late 1970s, Israeli settlers made a practice of hiring Palestinians to construct the settlements and, eventually, also as laborers in industrial zones (IZs), plantations, and service industries. To continue the condition of permanent temporariness, Israel needs an acquiescent and pacified population. A key means used to accomplish this is by allowing Palestinians from the oPt to work in the Israeli economy, either crossing the Green Line into Israel or entering the settlements in the West Bank and Gaza Strip.<sup>9</sup>

Finally, the employment of Palestinian labor is an essential pillar of the settler movement in the West Bank; Palestinians provide cheap labor to build the settlements, and they also work in settler IZs and plantations, generating profits and tax revenues that return to the residential areas to build and enable the expansion of settler infrastructure.<sup>10</sup> The settlers have been and continue to be dependent on the availability of easily exploitable Palestinian labor in order to ensure their success in expanding the Israeli Jewish presence in the West Bank. With growing

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<sup>8</sup> In 2004, the International Court of Justice gave an advisory opinion that the Israeli construction of a barrier in the West Bank was illegal. This ruling was in line with previous United Nations resolutions that the territory captured by Israel in the 1967 war was occupied territory and, therefore, Israel must follow international laws concerning administering occupied territory, most notably the proscription against allowing civilians from the occupier country to settle in the occupied territory.

<sup>9</sup> Work in the Gaza Strip settlements ended in 2005, when Israeli civilians and military personnel withdrew from the settlements and military bases in the Gaza Strip.

<sup>10</sup> A fundamental part of the Zionist strategy in the first half of the twentieth century, Hebrew labor, that is, a reliance on using Jewish labor in order to create the economic and political foundations for a Zionist state, was no longer important by the early 1970s.

concerns in recent years about the Boycott, Sanction and Divestment movement (BDS), supporters of colonization have emphasized in their propaganda what they perceive as benevolent settler employers – those who hire Palestinians and provide income. Meanwhile, supporters of settlements ignore and deny the negative impact of the settlements on the Palestinian economy and the fact that they are an impediment to the establishment of an independent Palestinian state. Decades of employing Palestinians on the settlements, and the current political situation, suggest that the status quo will probably continue: Palestinian labor on the settlements will increase, and Israel will continue not to enforce labor laws for Palestinian workers.

### *Arrival*

My first visit to Israel/Palestine was in the spring of 1996. I was studying in a semester abroad program in Egypt, and as part of a course on the “Israeli-Arab conflict”, I traveled through the Gaza Strip into Israel and the West Bank. During the study tour, we met with politicians and activists, many of whom were involved in the ongoing peace process. Although Prime Minister Rabin had been assassinated a few months prior to my visit, and major questions remained concerning the negotiations, there was still a strong momentum to the peace process that had built over the previous three years. The ongoing violence had not eliminated the sense of hope and optimism; the signing of the Oslo Accords, the creation of the PA, and incremental steps for a two-state solution had moved the peace process from words on paper to implementation. Benjamin Netanyahu was elected Prime Minister of Israel in June 1996, and his victory gave validation to his stated skepticism of the Oslo Process. Even with his clear antagonism toward negotiations, they continued, and agreements were signed during his time as

Prime Minister.<sup>11</sup> I did not realize it at the time, but my first exposure to Israel/Palestine, during the early years of the Oslo peace process, had a disproportionate impact on my (former) perspective that a two-state solution was attainable.

I returned briefly to Israel/Palestine on five different occasions between 2000 and 2002 and saw first-hand the destruction caused by the Israeli military invasion of the West Bank during the Second Intifada. In December 2001, prior to the Israeli military assault, I saw the development and growth of the acting capital of the PA, Ramallah, which had clearly benefited from the billions of dollars that the international community gave to the PA to establish an independent state. When I returned in April 2002, the full Israeli military assault on the oPt had begun, and I witnessed the city center of Ramallah become a war zone with buildings covered in gun shots and Israeli tanks and armored personnel vehicles patrolling the streets. I saw the siege of the PA headquarters and traveled through numerous checkpoints to visit the besieged city of Nablus and to see the complete destruction of the Jenin refugee camp. The continued violence by both sides, massive destruction by the Israeli military in the West Bank and Gaza Strip, the implosion of the Palestinian economy, and an end to the Oslo process led many to believe that a two-state solution had collapsed. But rather than end all hopes of a peace agreement, through a dissolution of the PA and a return to direct military control over the Palestinian population, the international community, by way of the Middle East Quartet consisting of the US, Russia, EU, and the United Nations, upheld the perception of an ongoing peace process.

Nearly a decade later, I returned for a pre-fieldwork visit in the summer of 2011. The atmosphere had shifted dramatically since the end of the Second Intifada. Ramallah had

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<sup>11</sup> On July 3, 1996, Netanyahu stated that he would follow previous agreements between Israel and the Palestinian Authority. The Protocol Concerning the Redeployment in Hebron was signed on January 17, 1997, and the Wye River Memorandum on October 23, 1998.

expanded and had reconstructed much of the damage incurred during the Second Intifada. Compared to the massive physical destruction and implosion of the Palestinian economy between 2000 to 2005, a new normal had settled in to the West Bank. With billions of dollars of international aid provided to the PA, banks facilitating private consumer loans, and increasing numbers of Palestinians from the West Bank working in the Israeli economy, there was a degree of stability.<sup>12</sup>

When I began my fieldwork in summer 2013, the West Bank had been relatively calm for several years, but there was clear disillusionment towards politicians and little hope of resolution and an end to Israeli military occupation. With the cancellation of the 2007 Palestinian election results, any semblance of democratic governance had disappeared. President Mahmoud Abbas, along with his allies, would continue to rule, and with the backing of foreign aid, particularly in the security sector, he was able to consolidate his power over the West Bank while losing control of the Gaza Strip to Hamas.<sup>13</sup>

Even though formal negotiations between Israel and the PA had only sporadically occurred since the 1990s, the agreements signed between the two sides as part of the Oslo process were still broadly respected.<sup>14</sup> The peace process used a strategy of incremental steps in order to, it was thought, build the confidence and trust that would be necessary for the final

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<sup>12</sup> Between 1993 and 2013, the PA received \$23 billion in international foreign aid (Tartir and Wildeman 2013). Further details and analysis on foreign aid and its impact in the oPt include Keating, Le More, and Lowe (2005), Taghdisi-Rad (2011), and Le More (2008). Harker (2017) discusses the recent phenomenon of the expansion in private consumer loans by Palestinian banks and how they impact everyday life for Palestinians in the community of el-Bireh next to Ramallah.

<sup>13</sup> As much as 32% of the PA budget went to security services (Abu Amer 2015). Alaa Tartir (2017) documents the importance of the security services and the coordination with Israel in order to stop any deterioration of security and public order in the West Bank.

<sup>14</sup> A critical part of these ongoing relations is the security coordination between the PA security services and Israeli military.

status negotiations of the most difficult issues that were left out of the initial agreements.<sup>15</sup> Even though this strategy had failed with the end of the Oslo Process, the Quartet continued to persuade the two sides to conduct further negotiations. They were invested in a successful peace process, and although the viability of a two-state solution continued to erode, it has been important for Western powers, ever since the Oslo Process agreements, to at least uphold the façade that the international community cared about what happens in Palestine. Additionally, both the Israeli government and the PA are politically and economically dedicated to the continued belief in a two-state solution.<sup>16</sup> Israel has enjoyed immense economic growth since the beginning of the peace process and desires to present itself to the international community as a peaceful democratic government.<sup>17</sup>

The PA was created as a result of the Oslo Accords, and its subsequent failure to establish an independent economy and state is unacceptable to its own people. Moreover, there are Palestinian capitalists who profit from the status quo, in particular those who facilitate economic relations with Israel as laid out in the Paris Protocol.<sup>18</sup> Because of Israel's comprehensive control over the Palestinian economy, these compradors facilitate and profit from

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<sup>15</sup> The key issues which were not part of the Oslo Accords were international borders, settlements, Jerusalem, security questions, and the right of return for Palestinian refugees.

<sup>16</sup> Further analysis on the parties and their interests in the peace process include Rolnik (2014) and White (2017).

<sup>17</sup> Israel's GDP in 1994 was \$86 billion and in 2016 was over \$317 billion. For Palestine, the GDP in 1994 was \$2.8 billion and in 2016, \$13.3 billion (World Bank 2017a).

<sup>18</sup> There has yet to be comprehensive documentation of the economic incentives given to Palestinian capitalists by the Israeli government to keep the status quo. Dana (2014) and Khalidi and Samour (2011) name former Prime Minister Salam Fayyad as a key figure for the push for neoliberal economic policies, but they only speak in vague terms, without specifics concerning the Palestinian capitalists who financially benefit from Israeli policies. Nakhleh's (2012) analysis is one of the most critical of PA economic plans and of the Palestinians who have financially benefited during the Oslo Peace Process.

the necessary import and export economy that benefits Israel and continues Palestinian dependence on the Israeli economy.

To the poor and working class Palestinians employed on the settlements that I interviewed, politics, politicians, and peace talks that declared the possible two-state solution were of little concern. These workers' interests were completely separated from the politics and negotiations; meetings that took place in international capitals were not concerned with their everyday lives. Facts on the ground, including expansion of the settlements and their infrastructure (roads, water and electrical lines, etc.), continued restrictions on movement for Palestinians in the West Bank, and the ever-present structural violence of an occupation at half a century, were indisputable and were of greater importance than the words of politicians. It took several months of listening to poor and working class Palestinians before I fully appreciated the stark difference between the fantasies of the peace process, that is, the practice of governments, international organizations, and the media speaking ad nauseum of peace and the possibility of an independent Palestinian state, and the everyday realities of life under occupation in which the Israeli government routinely sets up obstacles to a viable independent Palestinian state and economy.

### *Details of Fieldwork*

I faced many challenges in my fieldwork that required resourcefulness and flexibility. First, it was not possible for me to carry out the standard participant observation that is common to ethnographic fieldwork. I could not work on the settlements with Palestinians, although I did have a couple of opportunities, for a few days at a time, to volunteer in the settlement plantations in the Jordan Valley. My ability to interact with workers was difficult because their lives were

busy with work and family obligations. I began to meet with workers and to hear their stories by visiting union offices across the West Bank that provided legal assistance for workers in the Israeli economy, both in the settlements and inside Israel. Saturdays, the weekly day off in the Israeli economy, were the most important day each week to visit union offices; the settings were always very informal, so I could listen as Palestinian workers detailed their specific employment-related problems to the legal coordinator and would often interview them personally afterwards.

Two critical factors for my research were the time-frame, that is, living in the West Bank for three years, and owning a car. When I decided to focus on several court cases and labor disputes, it was advantageous that I was able to follow the cases from beginning to end, over the course of years. Owning a yellow-plated (Israeli) car allowed me to travel across the West Bank (including entering the settlements) and, when necessary, to travel into Israel. With a car, I was able to visit many of the Palestinian General Federation of Trade Union (PGFTU) offices as well as other unions and NGOs that focused on issues related to Palestinian labor and economy.<sup>19</sup> Having a car also allowed me to visit places where there was no public transportation or to visit at times of day and night when public transportation was not running. Visits to checkpoints at the Separation Wall where workers gathered at 4:00 AM to enter Israel, meeting people in small villages and remote areas in the Jordan Valley, and late evenings informally spending time with

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<sup>19</sup> These included PGFTU regional offices in Ramallah, Jericho, Hebron, Tulkarem, Qalqiliya, Salfit, Nablus, and Yatta. I also met with the PGFTU General Secretary, Shaher Saed, in the PGFTU headquarters in Nablus. Other organizations that provide legal assistance for Palestinian workers employed in the Israeli economy include the Israeli NGO, Worker's Hotline, and a Palestinian NGO, Democracy and Workers Rights Center (DWRC), based in Ramallah. Worker's Hotline has employees and volunteers working in Jericho and in Tulkarem in coordination with the Palestine New Confederation of Trade Unions. An Israeli union, Maan, also provides legal assistance for Palestinians, but does not have regularly scheduled meetings for workers to seek assistance; rather, they assist Palestinian workers when contacted.

workers were all possible with a car. I also frequently drove Palestinian workers to their court hearings at the regional labor court in West Jerusalem.

Having a yellow-plated car and an American passport were important privileges that I was reminded of on an almost-daily basis. Not only could I pass through checkpoints with relative ease, often the young male and female Israeli soldiers wanted to briefly practice their English with me. As a white male, I also benefited from the Israeli security apparatus that is based on racial profiling, so when driving into settlements or through checkpoints, my brown hair and light skin virtually eliminated the risk of harassment.

On the other hand, cars are easy targets for stone-throwers; green-plated Palestinian cars get hit by settlers, and yellow-plated Israeli cars get hit by Palestinians. With my light complexion and yellow-plated vehicle, I often placed a kufiyah on the dashboard or covering the passenger seat to signify that I was not a settler.<sup>20</sup> On one occasion, I planned to drive to Jericho from my home in Ramallah, and as I often did, I checked social media – Twitter and Facebook – to see up-to-date information on the roads.<sup>21</sup> Someone had tweeted that shots had been fired at vehicles near the Palestinian village of Hizma, on the road to Jericho. That day I decided to stay home.

Three examples of everyday life in the West Bank illustrate challenges related to transportation that had an impact on my fieldwork. First, I planned to visit a checkpoint where

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<sup>20</sup> The tactic of placing a kufiyah over the passenger seat was used by Ted Swedenburg and described in *Memories of Revolt* (1995:xxiv-xxv). On one occasion, I forgot that I had left the kufiyah next to me when I went to pick someone up at the Ben Gurion Airport inside Israel. At the checkpoint entering the airport, the security personnel saw the kufiyah and had me pull over. I was then questioned for an hour; they took my phone and thoroughly inspected my car.

<sup>21</sup> Tawil (2015) writes on the proliferation and use of mobile technologies, social media, and apps that are used by Palestinians, especially in order to get information on traffic patterns and back-ups because of Israeli military checkpoints that are a typical part of everyday life in the West Bank.

Palestinian workers enter Israel, starting at 5 AM, near the city of Qalqilya. I needed to arrive at 4 AM, so I stayed with a friend in Nablus, which is closer to Qalqilya than where I lived in Ramallah. When I checked social media sites before falling asleep, I saw that the Israeli military had set up “flying checkpoints” around Nablus and on the road to Qalqilya. When I woke up at 3 AM to go to Qalqilya, I rechecked the sites and saw that the check points were still up. I decided it was best not to be driving in the dark at 3 AM with the Israeli military present, so I postponed my visit. On another occasion, I planned to attend a conference in Jericho. I thought I had allowed plenty of time to make the 45-minute drive, but the Israeli military was meticulously inspecting cars at the Jaba’ Junction checkpoint. By the time I arrived in Jericho, three hours later, the conference had ended. What made the wait at the checkpoint even more infuriating was that some Palestinian cars decided to take a dirt path around the checkpoint, in full view of the soldiers. We were led to believe that the inspections of the cars was part of heightened security, but the fact that the soldiers ignored the cars driving around the checkpoint clearly indicated that the purpose of the checkpoint was not to increase security but rather to cause humiliation and frustration.<sup>22</sup> The third example is when I set up an interview south of Jerusalem near the settlement of Tekoa. During the previous week, a Palestinian had attacked settlers on the Tekoa settlement. When I drove to the interview, I initially could not enter the Palestinian village because the Israeli military had put mounds of dirt in the road as a form of collective punishment because of the attack. After driving around, I finally found a back road into the village and was able to conduct the interview. These three examples are typical of everyday life for Palestinians in the West Bank, who have been living with such obstacles, harassment, and

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<sup>22</sup> Bornstein describes a similar situation at checkpoints from his fieldwork in the West Bank during the 1990s (2002:68).

humiliations for decades. My own frustrations with the occupation were minimal compared to what Palestinians have endured.

Although I had many privileges as an American researcher, I was also an outsider; thus, everyone I encountered questioned who I was and what I was doing there. Admittedly, foreign journalists, researchers, and activists have flooded Israel/Palestine over the past twenty years, making my presence seem benign in many settings, particularly in Ramallah. However, that was much less true in rural areas and with poor and working class Palestinians employed on the settlements. Although Palestinian labor on the settlements has been part of life in the West Bank for decades, and is reluctantly accepted, it is a sensitive topic and is not viewed positively by the Palestinian public. A foreigner asking questions about the topic might be viewed suspiciously. To help alleviate suspicions, I never used a recorder in my interviews and was conscientious about taking notes; I would often write down details only after interviews were complete. I was always clear about who I was, about my affiliation with University of Arkansas, and my research.

On the settlements, I found it difficult to conduct interviews; settlers were very skeptical of outsiders and their motivations. I lived in Ramallah among Palestinians, and this was viewed by settlers with a great deal of suspicion. I do not know Hebrew, so I scheduled meetings only with English speakers. Foreign journalists and researchers have often written critically about the settlers, and settlers believe they are unfairly disparaged and demonized by researchers and academics.<sup>23</sup> I found that settlers were simultaneously skeptical of my motivations and very interested in speaking with me because they wanted to correct what they believed were unfair

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<sup>23</sup> Texts that are critical of the settlers include Gordon and Perugini (2015), Weizman (2007), Gorenberg (2007), and Eldar and Zertal (2007). Additionally, the newspaper *Ha'aretz*, the web magazine +972, and website Mondoweiss regularly have articles that are critical of settlers.

depictions of them by outsiders. This was particularly the case when it came to Palestinian labor; the settlers saw themselves as reaching out to assist Palestinians, and they wanted outsiders to know about what they believed to be their positive relationship with their Arab employees. My ability/inability to navigate these two very different communities - Palestinians working on the settlements and Israeli settlers - had a significant impact on how, and how effectively, I was able to carry out my fieldwork.

In the fall of 2013, I decided it would be best to have a Palestinian research assistant to accompany me on my initial visits to Palestinian union officials and employees in PA government ministries. Shyma Allawi was a graduate from Birzeit University with a degree in Sociology and Anthropology, which gave her familiarity with my research methodology and goals. For six months, she accompanied me on my Saturday visits to different union offices and, occasionally, to weekday interviews with various government officials and Palestinian workers.<sup>24</sup>

All of my interviews with Palestinian workers were done in Arabic. Even in cases when the person did know English, I insisted on Arabic, believing that they would be more comfortable speaking in their first language. My ability to converse and interview in Arabic was central to my ability to do my research and allowed me to conduct both formal and informal interviews with a variety of Palestinian informants. Interviews I conducted in Israel were done in English (I do not know Hebrew), unless the person was an Arabic speaker, in which case I would converse with them in Arabic.

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<sup>24</sup> As a Palestinian resident of the West Bank, she could not enter Israel without a permit and, therefore, was unable to come with me for interviews I did in Israel.

### *Notes on Fieldwork*

Before I arrived in the West Bank for my fieldwork, the issues of Palestinian labor on the settlements seemed relatively straight-forward to me: Palestinians were systematically subjugated under a military occupation that left little choice but to work for the oppressors. This simplistic narrative is a useful starting point for examining Palestinian labor on settlements, but it does not help make sense of the complications of the situation, such as everyday life choices that are not good or bad options but instead concern a host of difficult possibilities. Most important, such a framework falls into the trap of a narrow nationalist perspective, blaming one side without thoroughly examining all of the relevant factors.

Anthropologist Diana Allan witnessed similar complexities during her research in Palestinian refugee camps in Lebanon, where individual decisions, at times, ran counter to nationalist priorities. Reflecting on her fieldwork, Allan writes, “Recovering complexity, contingency, and ambivalence not only deepens our understanding of what is existentially at stake for Palestinians in Shatila [camp in Lebanon] but also introduces diversity and possibility into discussion of their case” (2013:216). In line with Allan, I came to realize that “what is existentially at stake” was complicated; arguably, Palestinians do demand freedom, an end to the occupation, and an independent state, but in the meantime, life, and its exigencies, continues. The development and expansion of settlements directly puts substantial obstacles in the way of the peace process and the possibility of establishing a Palestinian state. The exploitation of Palestinian labor has been fundamental to the construction of the settlements and the profits for settler businesses and plantations. There is a consistent tension between the imperatives of nationalism and a desire for freedom from an oppressive military occupation and the demands of survival in everyday life.

I quickly learned how complicated everyday life can be for those trying to survive under occupation. The PA maintains a security force that coordinates with the Israeli military and is accused of torturing Palestinian prisoners.<sup>25</sup> There is widespread corruption in the PA, and those with connections to the ruling elite have benefited financially while most Palestinians struggle to get by.<sup>26</sup> Palestinian labor unions that were central to nationalist organizing during the First Intifada have, by and large, lost their influence and their ability to mobilize workers to demand their rights and to hold the ruling elite accountable.<sup>27</sup> The PA has made the creation of state institutions its top priority while leaving poor and working class residents to survive on their own (Khalidi and Sobhi 2011). In the absence of strong social solidarity, networks, and unions for the working class, the neoliberal economic policies of the PA and the Israeli government have fractured the working class community and put laborers at further risk.

For a variety of reasons, Israeli settler businesses and employers and Palestinian middlemen and employees make individual choices that may appear contradictory from a purely nationalistic perspective. They have short-term interests that can include profits, personal needs,

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<sup>25</sup> Human Rights Watch has documented numerous cases of torture by the Palestinian Authority Security Services (A2010b, 2011, and 2013). Shezaf writes on the security coordination between Israel and the PA and the torture employed by both sides, stating, “Throughout 2015 the Independent Commission for Human Rights (IHCR), the Palestinian Authority’s national human rights institution, received 292 complaints of torture in its prisons and interrogation facilities across the West Bank. One can only assume that the actual number is much higher. It is also no big secret that the Shin Bet uses torture, with dozens of reports by Israeli and Palestinian organizations on the agency’s use of sleep deprivation, violence, and abuse” (2016).

<sup>26</sup> See Dana (2014 and 2015) and Nakhleh (2012) for further analysis on PA corruption and the financial profiting by Palestinian capitalists at the expense of the Palestinian working class.

<sup>27</sup> Hiltermann describes the influence of the unions prior to and during the First Intifada: “These unions have proven particularly adroit in linking the workers’ daily experience to the military occupation, thereby placing their programs within the overall nationalist framework” (1991:7). But their ability to organize around calls for national liberation during the 1980s never translated into effective efforts of class struggle and workers’ rights. When the PA was created, it coopted the unions, and they soon lost their legitimacy as organizers for national liberation and defenders of workers’ rights (Brown 2003:182).

or legal preferences. Throughout the period of my ethnographic fieldwork, I encountered choices and behaviors that did not adhere to a binary separation between two national agendas (Palestinian and Israeli) but, rather, revealed friction, resistance, contradictions, and inconsistencies that come with everyday life in the West Bank. It is often assumed that nationalist ideology is fundamental and the sole arbiter of behavior for Palestinians living under occupation, but my Palestinian informants frequently expressed individual and familial financial pressures and frustrations regarding mistreatment by Palestinian employers. If Palestinians had a settler employer who treated them well, in comparison to their experience with other Jews and Palestinians, they were open about their frustrations that a settler would be a better employer than a Palestinian one. Palestinian middlemen, who are an important part of the labor apparatus, are likewise concerned with their salary and maintaining their positions. They are subject to the directives of the Israeli employers, which requires them to exploit the Palestinian workers, and to demand that they work harder, faster, and longer for the financial benefit of the settler employer.

At times, Israeli settlement businesses were less concerned with ideology than with profits and business expansion. This could put them into contradiction with Israeli forces pushing for Israeli annexation of the West Bank, as settlement businesses preferred to maintain the status quo in order to more easily exploit the Palestinian workforce. The Israeli military also has had to deal with conflicting pressures. On the one hand, for Israel, security concerns are of the utmost importance and, therefore, it wants to restrict Palestinian movement, particularly when it comes to Israel proper and the settlements. On the other hand, the Israeli military is concerned with the pacification of the Palestinian population and maintaining a climate of calm and normalcy. Therefore, allowing Palestinians to find jobs in the Israeli economy, inside Israel

and inside settlements, has been and continues to be one of the central tenets of the colonial strategy.

Imposing the framework of a purely nationalist perspective fails to take in all of the different motivations that Palestinians consider in their daily lives. Nonetheless, exclusivist nationalist narratives continue to dominate academic and media accounts of the conflict in Israel/Palestine, using binary identities such as Israeli/Palestinian and Muslim/Jew. These labels presume essentialized identities and proscribed behaviors that do not fully represent the subtle nuances and motivations that characterize everyday life in the West Bank. Historian Zachary Lockman critiques what he calls the “dual society paradigm” that has dominated historical research on Palestine, in which Israeli and Palestinian societies are discussed as if they are distinct, unified, and “internally un-conflicted” (1996:3-4). To counter this, Lockman wrote about Arab and Jewish workers from 1906-1948, using a “relational paradigm” that shows how these communities interacted with and affected each other. Anthropologists Ted Swedenburg and Rebecca Stein incorporated this paradigm in their edited volume *Palestine, Israel, and the Politics of Popular Culture* and, further, emphasized the “intranational relationality” that recognizes the disagreements, conflicts, and divergences occurring within the national groups (2005:10).

It is the “relational paradigm” that guided my own research and analysis of Palestinian labor on the settlements, whereby the two communities affect each other and where “intranational relationality” demonstrates the internal tensions within each community. I was reminded frequently during my fieldwork of the interpersonal complexities and connections among Israeli employers, contractors and coworkers, alongside Palestinian middlemen and employees. This is not to suggest that any of these relationships were between equals. There is a

clear hierarchy, in which discrimination and exploitation are the norm. Nationalist understandings, however, are muddled by workplace relationships and business arrangements. Work on settlements relies on constant interactions between Palestinians and Israelis. As such, analyses premised on essentialized identities obfuscate what is actually happening on the ground.

Furthermore, as will be discussed in the following section, although nationalism, with its desires, demands, and burdens, is an important part of my analysis, the main point of departure is economic class and labor rights. Palestinians will not achieve their full rights (political, civil, labor etc.) until there is a government between the Mediterranean and the Jordan River that establishes such rights without distinction based on religion, ethnicity, or sex. And just as important as the affirmation of political rights that do not discriminate based on one's identity is formation of a government that will defend the basic rights of working class citizens.

### *Theoretical Frameworks and Labor Context*

My analysis incorporates a Marxist perspective concerning labor in a capitalist economy, which views the bourgeoisie's exploitation of the proletariat as fundamental to this mode of production. The utilization of Palestinian labor on the settlements is not unique or exceptional in its exploitative relationship between employer and employee but rather reflects capitalist demands of ever-expanding growth and profits. Although they are less extreme in their mistreatment of Palestinian labor, Palestinian capitalists and employers are also part of the capitalist mode of production and, therefore, exploit the workforce.

The term superexploitation is often used to describe the condition of Palestinians who work in the Israeli economy, in Israel and in the settlements. As with other exploitative work

environments, employment on the settlements generally can be described as underpaid, accompanied by hazardous workplace conditions, and by practices that push workers to be more productive even if it puts them in unsafe and hazardous situations. Settler employers also know that their exploitative labor practices will go unchecked by Israeli authorities, because Palestinians who work in the settlements, as non-citizens of Israel, do not have full political and legal rights. Despite the existence of military orders and laws that are supposed to protect Palestinian workers, their five decades of experience is one of systematic discrimination and oppression.

Superexploitation is not specific to a single type of work (agriculture, construction, factory), but rather refers to the structural mechanisms that force compliance and submission of the worker.<sup>28</sup> Outside the workplace, these practices include a permit regime, checkpoints, home invasions and arrest, and discrimination against non-citizens living under Israeli rule.<sup>29</sup> As will be described throughout the dissertation, structural and direct violence are common practices that dominate against and oppress the Palestinian population and create an environment in which demanding labor rights, for the most part, is virtually impossible. For example, settler employers know that they can leverage the Israeli military to further exploit the worker; it is well known that work permits are given to those who “talk”, that is, who share information with the Israeli secret service (Piterman 2012). Palestinians who seek to complain to the authorities about their

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<sup>28</sup> Heymann, in his description of undocumented migrant laborers in the United States who live in fear of arrest by police and immigration officials and are denied basic rights, states that, “...compared to normally exploited resourceless proletarians (day laborers, farmworkers, domestics, etc.) undocumented immigrants work faster and harder for the same pay (and less frequently, for lower pay), and struggle to avoid or limit workplace authority less often” (1998:157-158).

<sup>29</sup> Bornstein uses the term superexploitation to describe the labor context for Palestinians who cross the Green Line and work in Israel. He describes the similarities between US border policies with Mexico and Israel and the “Green Line” border with the West Bank (2002:13).

work on the settlements must meet with the military, the same people who give and revoke their work permits. Settlement employers know that it would be almost unthinkable for a Palestinian to resort to the military occupier for assistance, not least because a complaint would most likely lead to loss of their permit and job. It is well documented that the military is much more interested in the well-being of Jewish settlers than that of Palestinian residents of the West Bank.<sup>30</sup> All of these factors encourage and enable Israeli employers to further exploit their workers, with the knowledge that rarely, if ever, would the Israeli government prosecute them. Both the employer and the military gain from this arrangement, by which they accumulate and extract value from Palestinian employees (Heymann 2016:46).

In the context of Israel/Palestine, a standard Marxist analysis is essential but does not provide a complete understanding of the relationship between the Israeli economy and Palestinian labor. After the 1967 war, Palestinian labor traveling from the oPt into Israel quickly became part of the expanding Israeli economy. These workers were a useful “reserve army” that helped protect the Israeli workforce from the worst abuses of a capitalist economy (Farjoun 1980).<sup>31</sup> Israel has accumulated vast wealth through the expropriation of Palestinian land and use of Palestinian labor, but fundamentally, the expansion of Israel, from its beginning in 1948 until today, was not about the economy. To understand the role of Palestinian labor in general,

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<sup>30</sup> In a 2013 report, Israeli human rights organization B’Tselem wrote, “Israel consistently takes actions that strengthen its hold on Area C, exploit the area’s resources for the benefit of its own population and bring about a permanent situation in which Israeli settlements thrive and Palestinian presence is negligible” (Kadman 2013:102).

<sup>31</sup> Farjoun described Palestinian workers as the “reserve army” for Israeli Jewish capitalists. He also recognized the tension between capitalist necessities and Zionist nationalist ideology: “Israeli society persecutes the Arab person - and therefore hates him. It makes every attempt to conceal his very existence and even to remove him beyond the pale of its dominion...In the evening, after work, he cannot walk about unharassed in the streets of Tel-Aviv, but must huddle in a dark corner behind a locked and bolted door, or go back home to his village” (1980:107).

and specifically in the settlements, one cannot solely depend on a materialist analysis. As Sara Roy writes, “Israel’s ideological goal of creating a strong Jewish state has always superseded any need or desire to generate profit through economic exploitation of the Palestinian population, although that has occurred” (Roy 1995:128). Unlike the history of South Africa, where black African labor was central to the apartheid state, Israel has always limited the percentage of Palestinians from the oPt working in the Israeli economy, such that it was never more than 7% of the total workforce in Israel (Farsakh 2005:117).<sup>32</sup> Israel could have profited materially at a much higher level from the exploitation of Palestinian labor, but there was a central tension. Since the Zionist goal was to establish a Jewish state but it has been established, the preference is, at minimum, a separation between the two communities (Jewish and Palestinian) and, at the other extreme, for Palestinians to be eliminated either through death or mass expulsion. But, in the meantime, what to do with the Palestinian population under their authority?

“Hebrew labor”, that is, dependence on Jewish employees rather than non-Jews, was a centerpiece of the Zionist project prior to creation of Israel.<sup>33</sup> Gershon Shafir describes the priorities for the Yishuv prior to Israeli statehood as the “‘Conquest of labor’ aimed at the displacement of Arab workers by Jewish workers in all branches and skill levels” (1996:xi). But with the creation of the state of Israel in 1948, the establishment of “Hebrew labor” was no longer a priority, as the Palestinian economic threat had been eliminated with the expulsion of 740,000 Palestinians during the 1948 war, and the Jewish population became the overwhelming

<sup>32</sup> The percentage of Palestinians in certain sectors, particularly in construction, reached as high as a third of all construction workers in Israel during the 1980s, but this decreased after Israel began allowing foreign workers into the country in the 1990s (Farsakh 2005).

<sup>33</sup> After the second Aliya in 1914, Shafir argues that labor and land were the two pillars of the Zionist movement, with “...the WZO’s [World Zionist Organization] Jewish National Fund and the agricultural workers’ Histadrut [union], operating to circumvent the land and labor markets respectively. It was around them that the practices of Israeli nationalism evolved” (1996:42-43).

majority (Masalha 2012:5).<sup>34</sup> Palestinians who remained and became nominal Israeli citizens were put under military rule and restricted from the Israeli labor marketplace. By the late 1950s, these policies slowly relaxed, but military rule and institutional discrimination continued, and Palestinians were exclusively incorporated in the lower levels of employment (Shalev 1996:144-145). When Palestinians from the oPt joined the Israeli workforce after 1967, any remnants of the “Hebrew labor” ideal all but disappeared. Palestinians from the oPt became part of the bifurcated workforce, employed in manual labor, agriculture, construction, and lower status and lower paying jobs. In a developing capitalist economy, it was the Palestinians who filled the job slots on the lower end of the economic hierarchy, allowing poor working class Jews to move into managerial and administrative roles. Beginning in the late 1970s, Israeli settlers in the West Bank and Gaza Strip would turn to Palestinian labor to build the settlements and to staff businesses in the IZs and plantations. This process was a natural extension of what had started in 1967 when Palestinian West Bank and Gazan labor began to travel into Israel for work.

Ever since the signing of the Oslo Agreements (1993), another key advantage accruing to Israeli business owners and government is that they are not tasked with the financial and bureaucratic responsibility for the reproduction of labor within Palestinian communities in the West Bank. That responsibility is now with the PA.<sup>35</sup> With the establishment of the PA, Israel could benefit from the superexploitation of Palestinian labor without any serious responsibility for the everyday needs of the population. The maintenance and care required for the

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<sup>34</sup> According to the Israeli statistics, Jews were 82% of the population in 1948 after the war had ended.

<sup>35</sup> Prior to the establishment of the PA, the Israeli military was the sovereign of the entire oPt and had to manage the civil affairs for the Palestinian population. Gordon (2008) documents the strategies and shifting methods of control by the Israeli military over the Palestinian population in the oPt. International aid to the Palestinians that began in 1994 was provided to help establish government ministries and oversee civil affairs in Area A (Tartir and Wilderman 2013).

reproduction of labor has, in part, been fulfilled by the international community, which has contributed \$23 billion of aid to Palestinians in the oPt since 1993 (Tartir and Wildeman 2013).

Profits and taxes from businesses on settlements and within Israel do not accrue to the Palestinian areas; rather they are for the benefit of the Israeli state and the settlements.

Israel's turn towards neoliberal economic policies in the mid-1980s, which were embraced across the globe, further weakened the position of workers and diminished the influence of labor unions. With pressure from the international community, the PA would also eventually embrace neoliberal economic policies, which meant a clear abandonment of the working class. The exploitation of Palestinian labor in both the Israeli and Palestinian economies is similar to the experience of workers across the globe, with the slow deterioration of unions and labor power and loss of protections for workers in the face of capitalist demands for profit, and particularly for migrant workers and those who work as non-citizens.<sup>36</sup> Chapter Three details the efforts of Palestinian workers to unionize in a settlement garage; the challenges they face are reminiscent of other examples of employers who seek to undermine unionization efforts. Similar to research on Export Processing Zones (EPZs), where Third World governments allow for curtailing of worker rights in efforts to entice foreign investment, Palestinian workers in settlement IZs work in an environment where there is severe lack of government oversight and prosecution of labor violations.<sup>37</sup> Chapter Three documents factory labor abuses in a food

<sup>36</sup> Examples in the Middle East include documentation of migrant domestic labor across the region by Fernandez and De Regt (2014), in the Persian Gulf by Kamrava and Babar (2012), in Bahrain by Gardner (2010), in Lebanon by Moukarbel (2009), and in Israel by Human Rights Watch (2015).

<sup>37</sup>The reasons for the lack of enforcement of labor laws are very different for labor on settlements as compared to export processing zones in other parts of the world, but the fundamental basis of these zones is that of an "exceptional" status in order to promote industry and job creation. They are, therefore, outside the norm in terms of law and law enforcement. Examples of research done on these zones include Tunisia, by Oueslati-Porter (2011), Trinidad and Tobago, by

processing plant in one of the settlement IZs; the stories I heard from workers toiling in the repetitive, monotonous, and dangerous work in the factories are also characteristic of the experiences of millions across the globe.<sup>38</sup> Chapter Four focuses on agriculture in the Jordan Valley, where employers grant few rights and workers are subject to dreadful work experiences. A high percentage of the fruits and vegetables grown in the Jordan Valley are for export, connecting labor practices with the pressures for profit in the highly competitive transnational agribusiness. The stories of Palestinians working in the settler plantations are similar to those of migrant labor employed in agribusiness in the United States.<sup>39</sup> I site such connections not in order to minimize the experience of Palestinian workers, but rather to show the norms of abuse and exploitation across the globe of labor under capitalist demands.

To understand the role, importance, and structure of Palestinian labor on the settlements, two theoretical frameworks guided my fieldwork, analysis, and writing: apartheid and settler colonialism. These provided general historical, political, and economic perspectives that informed my analysis of the occupation and my specific focus on Palestinian labor on the settlements. Neither framework specifically addresses issues of labor and superexploitation of Palestinian employees on the settlements, but they provide the necessary contexts to explain and understand the ongoing role and experience of Palestinian labor on the settlements. Both

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Yelvington (1995), Malaysia, by Ong (1987), and the US/Mexico border maquiladoras, by Kopinak (1996).

<sup>38</sup> This particular food processing plant had clear similarities to anthropologist Steve Striffler's participant observation in poultry processing plants in Arkansas (2005). Unlike Striffler, I was unable to work in the food processing plant, but the descriptions that Striffler provides are very similar to what I heard from my informants: "No one departed from the plant in particularly good shape. The workers left poor, exhausted, and, in some cases, seriously injured" (2205:viii).

<sup>39</sup> There are many correlations between migrant farm labor in the United States and in Israel/Palestine as discussed in Bornstein (2002). Ethnographic examples from the southwest United States include Wells (1996), Holmes (2013), and Horton (2016).

frameworks have been used for decades in analysis of Israel/Palestine and have gained prominence among academic and international legal scholars as well as activists and advocates for Palestinians.<sup>40</sup>

Apartheid, an Afrikaans term meaning separateness, came specifically from the history of South Africa. There have been vigorous debates over whether it is an appropriate term for what is happening between the Mediterranean Sea and Jordan River.<sup>41</sup> There are important similarities between the two regimes, South African and Israeli, based on the fundamental structure of separateness. Similar to South Africa, Palestinians in the West Bank are physically, politically, and legally separated from Israelis who live in settlements and in Israel. On the other hand, there is a fundamental difference between the two cases when it comes to the role and importance of labor. Whereas in South Africa, the minority ruling white South African government was dependent on majority black labor, the peak rate of Palestinians from the oPt employed in Israel was only 7% (Farsakh 2005:117). The role of Palestinian labor from the oPt in the Israeli economy and the settlements has been essential, but not nearly to the extent that black African labor was in apartheid South Africa.

Although the term apartheid comes from South Africa, my use of the term is not intended to compare the Palestinian situation to what occurred in South Africa. Rather, I utilize the definition of apartheid that was developed in the Anti-Apartheid Convention of 1973 and the

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<sup>40</sup> For further analysis on the use of apartheid in Israel/Palestine, see Clarno (2017), Tilley (2012), and Pappé (2015a). For settler colonialism, see Rodinson (1973), Veracini (2006 and 2010), Pappé (2015b) and Settler Colonialism Journal Special Issue (2012 and 2015).

<sup>41</sup> Zionists and advocates of Israel strongly disagree with the applicability of the term apartheid and are always quick to argue that Israel is the sole democratic country in the region and that it legislates against discrimination and racism in any form.

Rome Statute of the International Criminal Court (ICC) of 2002, which identified apartheid as one of the crimes against humanity. The ICC defined it as:

Inhumane acts... committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime (International Criminal Court 2002:5).

Nadia Hijab and Ingrid Jaradat Gassner provide the most concise statement of how the term apartheid is applicable to Israel:

Contemporary Israeli apartheid is thus best defined as the institutionalized regime of racial discrimination whereby Israel, as state and occupying power, systematically privileges Jews and oppresses, fragments, and dominates the entire Palestinian people and colonizes the OPT, with the intent of maintaining and consolidating this regime in all of pre-1948 Palestine. Population transfer and ethnic cleansing of Palestinians, including denial of return, is an inhumane act of oppression and a pillar of Israeli apartheid.<sup>42</sup>

As will be delineated throughout the dissertation, Palestinian labor on the settlements provides specific examples of racial discrimination in the workplace and a legal system that systematically privileges Jewish workers over Palestinians workers. The examples encompass all levels, from the personal to the institutional and legal; at all levels, there is clear and explicit oppression of Palestinian workers.

Settler colonialism as a theoretical framework was not part of my analysis when I began my fieldwork. Over time, while conducting interviews, witnessing life under occupation firsthand, and reading academic studies that employ the settler colonial model in discussions of Israel/Palestine, I came to see it as an extremely helpful framework. Utilizing settler colonial theory gave me a new understanding of both the history and the present of the territory between the Mediterranean Sea and the Jordan River. Fundamentally, incorporating settler colonialism

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<sup>42</sup> Tilley (2012) and Falk and Tilley (2017) provide comprehensive analysis of the question of whether the term apartheid is applicable to Israel.

into my analysis meant the analytical erasure of political boundaries created by the Nakba in 1948 and the Naksa in 1967.<sup>43</sup> Instead I analyze the territory as one unit in which the Israeli Jewish settler colonial power came to conquer and expel the indigenous Palestinian population. This is a fundamental break from the ways in which people have described and analyzed the territory between the “sea and river”, that is, the view that the territories are separate and under different jurisdictions and, therefore, should be analyzed differently. Ariella Azoulay and Adi Ophir argue on the other hand in *The One State Condition: Occupation and Democracy in Israel/Palestine* that,

Since the conquest of the West Bank and Gaza Strip, Israel-Palestine, the land between the sea and the river, has been ruled by one system of control, one set of state apparatuses, and two distinct systems of governance (2013:19).

This perspective radically changes both the historical analysis and inquiry into the current situation. It unmasks the Israeli government’s strategy to create a separation between Israel and the oPt. This is crucially important because, by placing the oPt as external to Israel, the Israeli government can continue to argue that it is a democracy. Azoulay and Ophir continue:

Palestinians residing in the Occupied Territories were “naturalized” as noncitizens and not counted as part of the Israeli political system, despite their recruitment into the labor force and colonial expansion in their midst. The Occupied Territories have been ruled ever since as a temporary “exterior,” whose inclusion has been denied... (15)

The use of the concept of settler colonialism helps us redefine the political map such that the oPt is no longer “external”, but rather part of what now is clearly recognizable as an apartheid regime.

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<sup>43</sup> *Nakba* is an Arabic term that literally means disaster and is the term used for the war in 1948. *Naksa* is an Arabic term that means setback and is used for the war in 1967.

One of the challenges I faced in my analysis was that I focused on Palestinian labor, but settler colonialism theory specifically relegates the concerns of capital, profits, and labor exploitation as secondary to the importance of territory. Patrick Wolfe, a scholar of settler colonialism, wrote, "...settler colonies were not primarily established to extract surplus value from indigenous labor. Rather, they are premised on displacing indigenes from (or replacing them on) the land" (1999:1). To create analytical distinctions between colonialism and settler colonialism, the most fundamental distinction has been that of priorities: for settler colonialism, the priorities are obtaining territory and replacing the indigenous population, while for colonialism the extraction of natural resources and surplus value of labor hold primacy. Yet, as Veracini notes, "colonialism and settler colonial forms constantly interpenetrate each other and overlap in a variety of ways" (2010:12). My analysis recognizes the distinctions of these two concepts, as well as their inevitable intertwining, both undermining and supporting each other. Palestinian labor in the Israeli market does furnish a compliant "reserve army" that can be exploited, but the fundamental long-term goal in allowing Palestinian labor in the Israeli economy is as a strategic form of control and pacification. In the meantime, Israel moves its own Jewish citizens into the "disputed territory" in the West Bank and confines the Palestinian population into ever-diminishing territory.

Another central aspect of settler colonialism is the focus on "elimination of the native". Historical exemplars of settler colonial policies, such as Australia and the United States, provide examples of violence, genocide, and mass displacement.<sup>44</sup> Israel used these tactics during the

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<sup>44</sup> Gershon Shafir utilizes George Fredrickson's analysis for comparing settler colonial societies, focusing on the "role played by natural resources, demographic ratio vis-à-vis native population, and political self-government," in order to understand the beginnings and developments of these different settler communities, particularly "the struggle for territorial supremacy and the choice of the labor force" (1996:17).

wars of 1948 and 1967, but since 1967, genocide or mass displacement would have been extremely difficult to carry out for a state that desires to be considered a liberal modern democracy. In the case of Israel, “elimination of the native” since 1967 has been an incremental process of taking Palestinian land in the West Bank.<sup>45</sup> In other words, elimination pursues the Zionist goal of maximum security and maximum territory for Israel with a minimum number of Palestinians. The current political map specifically shows the “bantustanization”, whereby the Gaza Strip is separated, both geographically and politically, from the West Bank, and the West Bank is separated into islands of PA jurisdiction (Area A) with Israeli control surrounding them.<sup>46</sup>

To properly apply the concept of settler colonialism for Israel, one must deal with both the historical and current record. Two important plans show how Israel’s interests have been implemented on the ground and, in particular, demonstrate Israel’s policy for “elimination” of Palestinians since 1967. The Allon Plan, as proposed by Yigal Allon soon after the 1967 war, provided broad policies for what Israel should do with the newly conquered territory.<sup>47</sup> The plan was never formally adopted as government policy, but as Avram Bornstein writes, the Allon plan “became the policy de jure” (2002:41). Before the Oslo Accords were signed, while trying to get support for the peace agreement, then Prime Minister Yitzak Rabin said to the Knesset in 1993, “I am an advocate of the Allon Plan... I have not deviated from my personal commitment to the

<sup>45</sup> Notably, Patrick Wolfe described settler colonialism, “The colonizers come to stay – invasion is a structure not an event” (1999:2).

<sup>46</sup> The term “bantustanization” was used by Farsakh (2008) and Tilley (2005), connecting the experience of Bantustans in South Africa and what has happened in the oPt, that is, the processes of fragmentation, poverty, and military control by Israel.

<sup>47</sup> The Allon Plan was based on Israeli strategic security interests: annexing the Jordan Valley and creating a Palestinian autonomous region (with possible Jordanian control) where most of the Palestinian population was located. Jericho would also be part of the Palestinian area creating a corridor to Jordan.

principles of the Allon Plan” (Rabin 1993). The Oslo Accords delineated the division of the West Bank into Areas A, B, and C; these regions clearly correlate to the Allon map of 1967.<sup>48</sup>

Ariel Sharon, as Minister of Agriculture (1977-1981) and then Minister of Defense (1981-3), proposed the second notable plan for the West Bank in the late 1970s and early 1980s. It proposed that settlements be built in what was eventually called the seam zone (the area that bordered the Green Line), in the areas surrounding Jerusalem, and on strategic hilltops across the West Bank along with the necessary road networks to connect the settlements to Israel.<sup>49</sup> Eyal Weizman describes Sharon’s strategic architectural plans:

The aim of the Israeli settlement and roads was to splice and paralyze the Palestinian one (pre-existing Palestinian space). The result would be several isolated Palestinian cantons, each around a major city, with the connections controlled by Israel (2007:81).

Figure 1.1 shows the general contours of the Allon Plan while figure 1.2 is the current political map, with the light brown area under PA control. The two maps show the correlations between the plans by Allon and Sharon and the current situation.

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<sup>48</sup> The Palestinian negotiators were also complicit in the Oslo process, as de Jong argues: “The Palestinian negotiators ended up accepting de facto Israel’s Allon Plan and its intention to separate the Palestinian population of the West Bank and Gaza Strip from their territorial assets and resources” (de Jong 1998:103).

<sup>49</sup> In 1983, Sharon was forced to resign his position as Minister of Defense, but he stayed in the cabinet as a minister without portfolio.



Figure 1.1 Allon Plan  
Source: Jewish Virtual Library



Figure 1.2 West Bank Areas A, B, and C  
Source: UN OCHA (2011)

The Israeli government did not officially implement either the Allon or Sharon plans as recommended, but it is clear that both plans became part of the blueprint for the extension of a settler colonial regime in the oPt. Elimination, in the case of the West Bank, has meant enclosing and separating the Palestinian residential areas, and most importantly, gaining control of territory without allowing the Palestinian population to become citizens of Israel.

My research framework had critical limitations; I found settler colonialism helpful for considering the whole of the territory (from the Mediterranean Sea to the Jordan River), yet my focus was only on Palestinian labor on the settlements in the West Bank, and not in Israel. I did carry out some fieldwork in Israel, and there are clear connections between the conditions of Palestinian labor in the settlements and Palestinian labor in Israel. The research limitations meant that I was participating (analytically) in the separation of territory even as I argue that it is much more effective and representative to see the territory as singular. In Chapter One, in order

to understand the Palestinian labor market more comprehensively, I discuss specifics on Palestinian labor in Israel, but these are provided so as to offer context for the issue of Palestinian labor on the settlements. My focus on settlements falls under the larger category of Palestinian labor in the Israeli labor market.

### *Economic Context in the West Bank*

Between 1948 and 1967, the West Bank was under Jordanian rule and struggled economically. The population of the area of the West Bank nearly doubled after the 1948 war, due to the influx of refugees who had fled the fighting and were not allowed to return home.<sup>50</sup> With the loss of historic trade relations to the Mediterranean coast, and a Jordanian government economic policy that favored the population living east of the Jordan River, the West Bank remained a predominantly agriculturally-based economy with an insignificant industrial sector (Mansour 1988:72-73). The lives of poor and working class Palestinians in the West Bank changed yet again with the June 1967 war, which placed them under Israeli occupation. The Israeli military's most urgent concern after 1967 was to ensure that Palestinians did not revolt against the new sovereign. There was significant debate within the Israeli government regarding what to do with the newly acquired territory, particularly concerning issues of security, international law, and demography.<sup>51</sup> Israel made several fundamental decisions that continue to have major repercussions for the population in the West Bank (both Palestinian and Israeli) and

<sup>50</sup> Approximately 200,000 Palestinian refugees fled into the West Bank during the fighting and became refugees under Jordanian rule. They received Jordanian citizenship.

<sup>51</sup> Most importantly, Israel did not annex the territory and did not allow the Palestinians in the oPt to become citizens of Israel. They did eventually annex East Jerusalem and the Golan Heights, but this annexation is not internationally recognized.

the legal status of the territory.<sup>52</sup>

The Israeli government had prepared prior to the war for the possibility of acquiring new territory, but these preparations were incomplete.<sup>53</sup> Instead of outlining a comprehensive solution to the new realities after the 1967 war, Israel developed an infrastructure and policies that were in line with a fundamental slogan in the Israeli military leadership: “Give them something to lose” (Gazit 1995:179). Three fundamental policies were initiated that had a lasting impact. First, Israel expanded the borders of Jerusalem and took jurisdiction over East Jerusalem, but referred to the rest of the oPt as “disputed territory” and interpreted international law as *not* applicable to the situation for the new territory over which it exercised military control.<sup>54</sup> Second, after initially not allowing Palestinians from the oPt to enter Israel, the government opened the “border” (the Green Line) officially in 1968, so that Palestinians from the oPt could travel into Israel.<sup>55</sup> This allowed for Palestinian workers to cross the Green Line to find employment. Israel did restrict the export of Palestinian products in order to protect Israeli businesses, but Israeli products flooded the Palestinian markets, beginning the process of Palestinian economic dependence on Israel.<sup>56</sup> Third, Israel opened the border with Jordan, a

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<sup>52</sup> These decisions were only operational, not strategic. As Ranta argues, Israel did not have a comprehensive strategy, but “decided not to decide” (2015:6), delaying any comprehensive decisions. This “delay” has eventually become “permanent temporariness” whereby the status of the West Bank, according to Israel, is that of disputed territory.

<sup>53</sup> Major General Gazit wrote, “There was no advance estimate, no concerted scenario regarding anticipated developments in the West Bank. The capture of the entire area and the institution of military government within it were possibilities that weren’t foreseen” (Gazit 1995:37).

<sup>54</sup> Most important to this discussion on international law are The Hague Convention of 1907 and the Fourth Geneva Convention. Chapters Two and Three provide more details on the complexities and interpretation of laws in the oPt.

<sup>55</sup> Palestinians were crossing “illegally” into Israel immediately after the fighting ended (Gazit 1995:139-140; Rekhess 1975:393-394).

<sup>56</sup> Palestine exported \$985 million worth of goods. \$803 million worth went to Israel (82%). Imports for Palestine came to \$4.83 billion of goods, and \$2.86 billion came from Israel (59%) (The Observatory of Economic Complexity).

policy referred to as “open bridges”, so that Palestinians could travel internationally by crossing into Jordan. The policy also allowed for limited trade from the Palestinian economy with Jordan.

These Israeli policies inevitably created a distorted economy, whereby Palestinians benefited with employment in the Israeli economy, but were heavily restricted in terms of developing their own economy. Neve Gordon describes the situation as follows: “Thus, even though the Palestinian economy experienced impressive growth, the actual resource base of the economy was steadily eroding, as local investment and development remained stagnant” (Gordon 2008:56). This inertia, the prevention of development of an independent economy, and ongoing dependence on the Israeli economy was the product of purposeful and strategic government policy. Sara Roy coined the term de-development to describe how Israel “undermines or weakens the ability of an economy to grow and expand by preventing it from accessing and utilizing critical inputs needed to promote internal growth beyond a specific structural level” (1995:56).

The signing of the Oslo Agreements did not fundamentally change the economic relationship between Israel and the oPt. The economy of the oPt is still largely dependent on Israeli goods, and in order to export anything from the oPt, Palestinians must send products through Israeli procedures and mechanisms. Under these circumstances, the PA has not made it a priority to help workers find alternatives that would permit them to leave work in Israel and the settlements, but rather has assented to the economic necessity of the Palestinian labor in the Israeli economy.

Statistics illustrate the obvious difference between the two economies; in 2015, the GDP in Israel was \$299 billion (per capita, over \$35,000), and in the oPt, the GDP was \$12.67 billion (per capita, \$2,865) (World Bank 2017a; 2017b). Palestinian political scientist Leila Farsakh

wrote in 2013, "...the economic space between the river and the sea was composed of 3 divergent but militarily tied economic sectors: a besieged Gaza Strip, an anemic economy in the West Bank and a buoyant economy in Israel" (Farsakh 2013:128).

### *Selected Literature on Palestinian Labor on the Settlements*

In the fifty plus years since 1967, hundreds of thousands of Palestinians from the oPt have worked in Israel and the settlements. By 1976, over 65,000 Palestinians were working in Israel. As discussed in further detail in Chapter One, there have been several historical phases for Palestinians from the oPt working in the Israeli economy, from stability in the labor market in the 1970s and 1980s to dramatic fluctuations in the employment numbers during the 1990s and 2000s. After 2005, there was a return to stability, with a slow increase of Palestinians working in the Israeli economy that reached approximately 120,000 in 2015. A third generation of Palestinians is now coming of age whose parents and grandparents worked in the Israeli economy.

In 1976, the critically acclaimed novel *al-Sabbar* (Cactus), by author Sahar Khalifeh, directly dealt with the complexity of Palestinians working in the Israeli economy.<sup>57</sup> A few settlements had been built by the time of the book's publication, but it was during the following decade that settlement construction began in earnest. During the First Intifada, the Unified National Leadership of the Uprising (UNLU) did differentiate between work in Israel and in the settlements. Hiltermann details the UNLU's changing demands, first asking Palestinian workers to go on strike or stop working inside Israel, but then softening its demands in recognition of the importance of the income for tens of thousands of Palestinians who crossed the Green Line into

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<sup>57</sup> The novel was translated to English in 1983 with the title *Wild Thorns*.

Israel for work. Yet, the UNLU was clear and did not equivocate on the importance of boycotting the settlements: it "...urged workers to 'intensify the boycott against work in Zionist settlements and to refrain from giving any services to the settlers'" (1991:180). Hiltermann gives examples of Palestinians who worked on the settlements going on strike in the settlements of Ma'ale Adumim and Khan al-Ahmar (Hiltermann:100, 163) and examples of Palestinian workers leaving their settlement jobs in Hdar Betar and Beit Illit (Hiltermann:179).<sup>58</sup> Beyond these few examples, campaigns against Palestinian labor on the settlements never reached the level of stopping the practice; on the contrary, Palestinian labor on settlements only increased in the following decades. Furthermore, the issue did not hold enough interest in academic and political circles to inspire either research or sustained campaigns against the practice. Apart from a few strikes that occurred during the First Intifada, there never was any sustained effort to stop labor on the settlements. With the dramatic growth and development of settlements in the 1990s, the number of Palestinians working on the settlements grew.<sup>59</sup>

Not until 1999 did a comprehensive report focus on the issue. Israeli NGO B'Tselem issued the first report on labor on the settlements, titled *Builders of Zion* (Lein 1999). The following year, the Palestinian NGO LAW (The Palestinian Society for the Protection of Human Rights and the Environment) published *Palestinian Workers Under Israeli Economic Oppression: The Case of Settlement Workers* (Rettig 2000). These were the first accounts that systematically described the situation of Palestinian workers on the settlements, nearly 30 years since after it began.

<sup>58</sup> The industrial zone for Ma'ale Adumim would eventually be called Mishor Adumim, but Palestinians still refer to it by the name of the Palestinian village in the area, Khan al-Ahmar.

<sup>59</sup> According to Settlement Report, "In 1976, there were 3,176 Jewish settlers in the West Bank and Gaza; by 1979, 10,000; in 1982, over 20,000; by 1987, 57,000. By 1995, there were 147,000 Jewish settlers in the Occupied Territories (Bornstein 2002: 44).

Discussions of the topic most often subsume it under the larger issue of Palestinian labor in Israel. Key examples are the annual report done by International Labor Organization (ILO)<sup>60</sup>, Avram Bornstein's book *Crossing the Green Line* (2002), and Leila Farsakh's comprehensive text *Palestinian Labour Migration to Israel: Labour, Land and Occupation* (2005). There has also been analysis from a legal perspective such as *Law, Violence and Sovereignty Among West Bank Palestinians*, by Tobias Kelly (2006), and two articles by Amir Paz-Fuchs and Yaël Ronen (2012; 2017). In the summer of 2017, the first book solely focused on Palestinian labor on the settlements was published, *Employing the Enemy*, by Matthew Vickery.

Recently, several reports have been completed in both English and Arabic. Asem Khalil published *The Vicious Cycle of Palestinian Workers in Israeli Settlements* in 2009. The Palestine General Federation of Trade Unions (PGFTU) published *Conditions of Palestinian Workers in Israel & the Settlements* in 2009, and in 2011, the Palestinian workers' rights organization Center for Democracy and Workers Rights (DWRC) published a report based on interviews and on a survey of Palestinian workers on settlements (Sbeih). The Israeli NGO, Worker's Hotline, has published the most extensive research on the issue, with articles, reports, and the most comprehensive report in 2012 (Kadman).<sup>61</sup>

Additionally, several organizations that campaign against the settlements include

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<sup>60</sup> "Since 1978, through missions sent to Israel and the occupied territories including the Golan Heights, the International Labor Organization has been fulfilling its mandate to monitor the situation of Palestinian workers and has documented how their interests and those of Palestinian employers can be improved by the provision of adequate and appropriate technical assistance" (ILO 1998:9).

<sup>61</sup> In Hebrew, the name of the organization is Kav LaOved. When Worker's Hotline updated its website in 2013, many of their articles and reports were erased from the website. They do have hard copies in their head office in Tel Aviv. Prior to the extensive 2012 report by Kadman, Worker's Hotline fieldworker, Selwa Alenat, wrote several short reports on the issue (2010). Most of the reports done by Alenat are no longer accessible on the internet when Worker's Hotline updated their website.

information in their reports about labor violations against Palestinian workers. These organizations include the Israeli NGOs Machsom Watch, B'Tselem, and Who Profits, and the British NGO Corporate Watch.<sup>62</sup> International NGOs include Human Rights Watch, which most recently published a report focused on Palestinian child labor in the Jordan Valley settlements, *Ripe for Abuse* (Van Esveld 2015), and a report examining the relationship between settlement businesses and human rights abuses, titled *Occupation Inc.* (2016). Finally, there were numerous articles in the international press during the controversy concerning SodaStream and Scarlett Johansson during the first two months of 2014.

### *Chapter Overview*

One of the fundamental failures of much of the research and writing done on Israel/Palestine is the tendency to adhere to nationalist paradigms and to fail to acknowledge the limitations of these paradigms in that they do not account for complex everyday realities that may run counter to nationalist sentiments. In particular, the literature on Palestinian labor on the settlements falls into this trap, whereby analysis only reflects on either Palestinians working in the Israeli economy or in the Palestinian economy, but not both economies. Chapter One takes a more comprehensive view by including an examination of all three jurisdictions: work in Israel, on the settlements, and in PA-controlled Area A. By looking at the push and pull factors, in terms of employment in the three areas, one gets a more complete and complicated understanding of the reasons that Palestinians work on settlements. In addition, there is a substantial range of work experiences depending on the sector in which one is employed; there

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<sup>62</sup> Reports by these organizations include *Apartheid in the Fields: From Occupied Palestine to UK Supermarkets* by Cooper, Anderson, and Starr (2016), *Builders of Zion* by Lein (1999), and *Who Profits: Position Paper Palestinian Workers in Settlements* (2013).

are significant differences between working in agriculture in the Jordan Valley, in a settlement factory in an IZ, or in settlement construction in a residential area. I examine the Palestinian village of Jaba', bordering Jerusalem to the northeast, to show the particular ways that the Israeli occupation affects Palestinian labor on a daily basis. Fundamental to the experience of Palestinian labor in all three jurisdictions is the failure of government officials to enforce labor laws and to take a proactive stance against the abuses of employers. None of the three jurisdictions provides a thoroughly good work experience; in fact, all three present more negative elements than positive. Workers simply are looking for job situations that minimize the potential negative aspects.

Chapter Two focuses on the legal situation and the different sets of labor laws in the settlements, which include military orders, Jordanian labor law from 1965, and Israeli labor laws, yet there is complete failure to enforce any of these laws by the Israeli government. Without enforcement of labor laws, the only recourse that Palestinian workers have is to sue their (former) employers in order to get compensation. Most critical to the legal situation for Palestinian workers is the High Court of Justice's (HCJ) decision in 2007 that Israeli labor laws are to be used for labor relations with Palestinian workers on the settlements. Since the HCJ decision, both regional labor courts and the National Labor Court have decided cases that resulted in varying interpretations of the HCJ ruling. These have caused confusion and have provided the necessary excuse for the Israeli government to continue its lack of enforcement of labor laws for Palestinians. Palestinians have received financial compensation by suing their employers and entering into negotiations, but the outcomes of these lawsuits also expose the limitations of the courts. The Israeli labor courts, along with the Israeli High Court, do not fundamentally critique or challenge the structural violence against Palestinians who are

employed in the Israeli economy. The Israeli courts' participation in providing legal recourse allows the structural violence, abuse, and superexploitation to continue. Because there is almost no enforcement of labor laws for Palestinian employees, the courts decisions simply serve to provide a façade of a lawful, legitimate, and fair labor market. The courts may lessen the pain, but the law (or lack of it) and the courts work hand in hand, contributing to the sustainability and legitimacy of the occupation.

Chapter Three focuses on two different strategies used by Palestinian workers to demand their labor rights. First is the story of 25 workers from a food processing plant in a settler IZ, in which I focus on the process the workers go through in order to sue their former employer. This is the most common path that Palestinian workers take; after either being fired or leaving their job on a settlement, they try to recoup past debts from their employers by suing them in Israeli labor courts. The second story begins in the summer of 2013, when a Palestinian mechanic who worked for Tzarfati garage, located in the Mishor Adumim settlement IZ, requested the Israeli union Maan to unionize the Palestinian workers in the garage. This extraordinary story traces the three-and-a-half-year process that included negotiations between Maan and the garage, the mechanic's firing, and the resulting court cases. Maan is a small Israeli union that has taken the unusual step of supporting Israeli and Palestinian workers in Israel, occupied East Jerusalem, and the settlements. The story of Maan, the mechanic, and Tzarfati garage provides a cautionary tale of the challenges of advancing a workers' movement that is not based on religion, race, or nationality.

The worst labor violations affecting Palestinians occur in the settler plantations in the Jordan Valley. Chapter Four focuses on the horrific situation of workers in the Jordan Valley who live in poverty, are constantly confronted by the Israeli military in their villages and homes,

and are superexploited in the work place. Making the situation all the more difficult, settler employers hire Palestinian middlemen who oversee the Palestinian workforce; these middlemen become the enforcers of repression and exploitation. Although Human Rights Watch, among other organizations, has published reports on child labor, terrible abuse of the workers, and significant health problems in the Jordan Valley, there are no signs that either Israel or the PA are motivated to come to the aid of these workers.

Chapter Five focuses on the most famous and internationally recognized company (formerly) located in the settlements, SodaStream, which earned international press coverage at the beginning of 2014 when it hired Hollywood star Scarlett Johansson as a global brand ambassador. The SodaStream controversy centered on the fact that Ms. Johansson was also an ambassador for Oxfam at the time, an organization that had clearly stated its opposition to the settlements and settlement businesses. My analysis looks at what occurred at SodaStream from 2014 until the relocation of its factory inside Israel in the fall of 2015. SodaStream's CEO, Daniel Birnbaum, argues that it is an "island of peace", bringing Jews and Palestinians together in the workplace, but in fact, it is a much more complicated story. This rhetoric of the benevolent settler employer providing employment for Palestinians was used extensively by SodaStream in its PR campaigns and has become a key talking point for advocates of the settlements and their businesses. Settlement business supporters argue that in fact the settlements have a positive impact on Palestinians, providing employment for those living in areas of high unemployment (Area A). Yet the settlers and their backers fail to recognize a fundamental aspect of the labor relations, namely that Palestinians have lived under military occupation for fifty years in the West Bank. Furthermore, the settlements have restricted the

Palestinian economy and cost the Palestinian economy billions of dollars while Israel systematically dominates them and incrementally takes Palestinian land.

The concluding chapter highlights the complexity of Palestinian labor in the settlements, including the fact that efforts to unionize and demand labor rights actually make work on the settlements more appealing for Palestinians. Even though work on the settlements undermines efforts for the establishment of an independent state, I argue that Palestinian labor on the settlements will increase in the coming years. The two notable factors for the probable increase are the disillusionment towards the PA by Palestinians in the West Bank and the growth of right-wing political parties and politicians in the Israeli government who are outspoken advocates for the growth of the settlements. Poor and working class Palestinians will continue to demand their labor rights in the Palestinian and Israeli economies, but ultimately, Palestinians must gain citizenship under a government based on equal rights for all citizens and which does not discriminate by religion, ethnicity, and race.

## Chapter One: Employment in Three Legal Jurisdictions

I don't want the plant to close. It is a good job, the salary is great, and there are no jobs in my village or in Ramallah. What are the alternatives?

Mostapha, former employee at SodaStream, December 4, 2015

Near the end of 2015, I sat in the home of Mostapha, a middle-aged man with five children. SodaStream had recently fired him when it closed its factory in the Mishor Adumim settlement Industrial Zone (IZ).<sup>1</sup> We discussed his employment history and possibilities for work in the future. In between sips of tea and coffee and children distracting us as they ran through the sitting room, I learned of the difficulties he had endured over the previous three decades. Mostapha was not unlike many middle-aged, poor, working class Palestinian males who had work experience in Israel, the settlements, and Palestinian Area A. He had worked for short periods of time with Palestinian employers in Area A and in Israel for over ten years during the 1990s and early 2000s. Even though he had endured harassment and discrimination at work in Israel, he had stayed because the salary was much higher than what he could earn in the Palestinian economy. Unexpectedly, the Israeli security services had revoked his work permit, which had allowed him to enter Israel, but he had no idea why.<sup>2</sup> Mostapha was then able to get a job at SodaStream through connections with family members and friends in the village who already worked there. Even though his work permit had been revoked for work in Israel he received a permit to enter the Mishor Adumim settlement IZ to work at SodaStream, where he worked for several years until its closing in October 2015.

<sup>1</sup> Interview, December 4, 2015.

<sup>2</sup> The Israeli security services say that it is a state secret and, therefore, do not disclose why someone would have their permit revoked.

In the fall of 2014, SodaStream announced plans to close the factory in the Mishor Adumim IZ and to move to new facilities in Israel, in the city of Rahat, north of Beersheva. Over the following twelve months, Sodastream had incrementally laid off the workforce at its factory in Mishor Adumim, which had employed hundreds of Palestinians from the West Bank and East Jerusalem, along with Israeli Jews. Positions at SodaStream were arguably some of the best available to Palestinians in the West Bank. Compared to other settlement factories and to factories in Area A, the jobs paid well and upheld good labor standards.<sup>3</sup>

With the closing of the factory, Mostapha, from the village of Jaba', located 15 kilometers north of Mishor Adumim, had lost his job, along with over one hundred men from Jaba' who had been employed at SodaStream and were now looking for employment.<sup>4</sup> Mostapha mentioned to me a goods distribution center in the adjacent city of al-Ram, in Area B, where he might be able to get a job; he was going for an interview in the next week.<sup>5</sup> He emphasized to me the fact that the Palestinian owner was a good employer because he paid 2500 NIS (\$714) per month, significantly more than the Palestinian Authority (PA) minimum wage of 1450 NIS (\$414) per month. When I spoke to Mostapha a few weeks later, he had decided not to take the job in al-Ram, but through connections in the village he returned to the Mishor Adumim IZ to work in a factory where he was receiving the Israeli minimum wage of 4650 NIS (\$1328)

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<sup>3</sup> Chapter 5 will provide further details of SodaStream and instances when the company did not follow labor laws and mistreated its workers.

<sup>4</sup> There are several villages named Jaba' in Israel/Palestine. The one referred to in this dissertation is adjacent to Jerusalem to the northeast. The workers were not fired all at once, but incrementally over several months. Some workers were also hired on a seasonal basis and were not rehired at the end of their contracts.

<sup>5</sup> In Area B, the PA has control over civil affairs, and Israel is responsible for security.

per month.<sup>6</sup> Financially, Mostapha was fortunate among those who had lost their jobs at SodaStream because he had found employment at a nearby settlement factory that paid the Israeli minimum wage.

Mostapha's village, Jaba', is illustrative of the situation for many working-class Palestinians in the West Bank. They are caught between a settler colonial regime that through expropriation pushes Palestinians off the land, into smaller and smaller areas, and colonial practices of labor superexploitation. Thus, working-class Palestinians are forced to work for the very economic system that exploits them and within a political structure that does not provide them labor rights or rights as citizens, but as subjects under military occupation. Difficult decisions concerning employment, such as where to work, that is, in the Palestinian or Israeli economy, and who to work for, namely Israeli or West Bank Palestinian employers, have been required of poor, working-class Palestinians since the beginning of the occupation. Rarely, if ever, is the discourse of nationalism, or the notion that working for and with other Palestinians is a political act, part of an individual's decision regarding where to work. Or rather, a worker might consider nationalistic concerns, but numerous pragmatic calculations and decisions weigh more heavily. Even matter-of-fact calculations may also be irrelevant in the face of high unemployment rates; in the end, the final decision may come down to the familial connections, associates, and close friends who can help in finding a job.

Palestinian politicians, local and international activists, and upper-class Palestinians cringe at the idea of Palestinians working on the settlements for the occupiers. There is recognition among politicians, activists, and the upper class that the demands of daily life and

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<sup>6</sup> The Israeli minimum wage increased on April 1, 2015, from 4,200 NIS (\$1200) to 4,650 NIS (\$1328) and then to 4,825 NIS (\$1378) in July 2016. In January 2017, it increased again to 5,000 NIS (\$1428) and then 5,300 NIS in December 2017 (\$1514).

survival push many Palestinians to work for the Israeli colonizer. Yet for those who are able to find other work (that is financially adequate), either for the PA or in the private sector, there is a sense of uneasiness, discomfort, embarrassment, and shame regarding those who do work on the settlements. But Palestinian public frustrations towards those who work on settlements have never been strong enough to cause those who enjoy political and economic privilege to help create a strong alternative to work on settlements.

This chapter discusses and analyzes the details and context of why Palestinian workers, such as Mostapha, take jobs on the settlements, or in Israel, rather than within the Palestinian economy. The economic and political structures put in place by the military occupation, and the historical context that underscores current labor issues, have undergone important shifts, but the overall economic and labor structures have stayed in place. Most notably, the Oslo Process and the creation of the PA and the consequent establishment of governing authority over the economy and labor relations in Area A, did bring reorganization, but nonetheless the overall structural relationship between the Israeli economy and Palestinian labor has remained consistent. The chapter moves beyond an analysis that focuses solely on Israeli policies as the exclusive reason for why Palestinians work in Israel and on the settlements to discuss the PA's abandonment of the working class, its lack of enforcement of PA labor laws and its actions that enable Palestinian capitalists and employers to exploit their fellow Palestinians. Furthermore, I discuss the significant differences in the experience of Palestinian labor on the settlements, depending on factors such as location in the West Bank, the sector of employment, and how individual employers treat workers. These differences are important to understanding the particular reasons why Palestinians feel pushed out of the Palestinian economy to work on a settlement and/or feel pulled, or incentivized, to work on settlements.

The following begins with a historical review of the labor situation for Palestinians in the West Bank since the beginning of the Israeli occupation in 1967. There follows a description of the village of Jaba' as a representative of life for the Palestinian working class under occupation and, particularly, as an example of how Israeli policies impact the current economic and labor situation. The final section offers an overview of the three jurisdictions where Palestinians in the West Bank can be employed: Area A under the PA, inside Israel, and on the settlements in the West Bank. Examining the three options provides a better understanding of the labor structure and dynamics that restrict and/or dictate where Palestinians are employed.

### *Historical Context of Palestinian Labor in the Israeli and Palestinian Economies*

It is the outcome of the process of structural change that took place in the WBGS [West Bank and Gaza Strip] between 1967 and 2000, which made it inevitable for Palestinians to work in an occupier's economy and build its settlements. The process of structural change has been determined by Israel's concern to consolidate its holdings of Palestinian land, which prevented the Palestinian economy from standing on its own two feet, and to absorb its labour force (Farsakh 2005:7).

Although Israel did not adopt a comprehensive political strategy for the future of the occupied Palestinian territory (oPt) after the end of the 1967 war, it needed to develop policies and administrative infrastructure to manage the daily lives of close to 1 million Palestinians now under Israeli military control.<sup>7</sup> As the occupying force and new sovereign, the Israeli military was responsible for the well-being of the Palestinians in the oPt. Security concerns were the top priority for the Israeli military, and restoring economic activity and returning to day-to-day normalcy for the population were fundamental strategies to undermine any potential efforts to challenge the occupation. As the Ministry of Defense stated in 1969, "The only way to avoid a

<sup>7</sup> Ranta (2015) describes Israeli (in)action after the war as a "decision not to decide".

potential outburst of social forces is to strive continuously for the improvement of the standard of living and the services of this underprivileged society” (quoted in Gordon 2008:63). This was particularly important because the West Bank, under Jordanian rule, and the Gaza Strip, under Egyptian rule, had both been neglected economically since 1948, and were afflicted by high rates of unemployment, a stagnant economy, and little investment by the two governing authorities to assist in the development of the economies (Rekheess 389-391).<sup>8</sup> The Israeli economy was struggling prior to the 1967 war, with unemployment rates of over 10%, but by the middle of 1968, the Israeli economy began to grow again and was able to absorb tens of thousands of Palestinian workers from the oPt (Arnon, Luski, and Weinblatt 1997:3; Ginor 1979:69). The use and manipulation of the Palestinian workforce in the Israeli economy quickly became a central feature of the “matrix of control” over the occupied population.<sup>9</sup>

Although policies related to employment were initially ad hoc and lacked long-term strategic planning, after five decades, it is clear that allowing Palestinians into the Israeli labor market was and remains an important strategy of the military to control and pacify the population. There have been long periods in which consistent numbers of Palestinians were employed in the Israeli economy and also periods of major fluctuations, yet the overall policies and the structure built in order to control the flow of Palestinian labor have remained largely the same. Fundamentally, Palestinian labor provides a cheap, compliant, and superexploited workforce for a growing capitalist economy that needs a “reserve army” of unemployed and

<sup>8</sup> Rekheess writes that in the Gaza Strip unemployment was 35% for non-refugees and 83% for refugees (1975:390). Statistics are limited for the West Bank, with estimates of 12-14% unemployment. Rekheess also provides figures of 169,000 Palestinians emigrating from the West Bank between 1952-1961 (1975:390).

<sup>9</sup> Halper (2000) coined the term to describe the system of control over the territories and Palestinian population which is done in a manner that “renders the Occupation invisible”.

underemployed workers. This “reserve army” of Palestinians was ready and willing to take jobs in construction, agriculture, and factories and was a major benefit to the Israeli economy as well as enabling job advancement of lower-class Israeli Jewish citizens (Farjoun 1980; Portugali 1989). Providing employment to Palestinians from the oPt was particularly important because of the heavy restrictions put on the oPt economy. Major General Shlomo Gazit, the head of Unit for the Coordination of Activities in the Territories from 1967-1974 makes the link between the lack of Israeli investment in the oPt and the restrictive economic policies in the oPt and pacification through employment in the Israeli economy:

In light of the territories’ economic plight and severe unemployment, and as long as Israel remained unwilling to fund projects which could provide employment for residents of the territories, employment inside Israel was considered a welcome phenomenon from a security standpoint (Gazit 1995:224).

Israel thus benefits both economically and in terms of security. Superexploitation of Palestinian labor provides profits for the Israeli government and businesses; it also assists the military occupation to pacify the population by providing employment and income.

#### *Labor Transfer, Palestinians Enter the Israeli Market*

According to Major General Gazit, it was a *fait accompli* that Palestinians would work in Israel after the occupation began in 1967 (Gazit 1995:222). It was more than a year from the onset of the occupation before there was a vote in the Israeli government to create a formal process for registering Palestinian workers interested in working in Israel. Economic demand for cheap labor and security considerations pushed political decision making; it was the goals of Israeli capitalists in a growing economy, alongside high unemployment rates in the oPt, that compelled the Israeli government to allow Palestinians to work in the Israeli economy. In July 1968, the Committee for Economic Affairs voted to allow Palestinians to work in Israel, with an

important caveat: Palestinians would be permitted to work in Israel "...as long as there was a shortage of personnel [in Israel] and only insofar as it would serve to alleviate unemployment in the West Bank" (Gazit 1995:225).

In October 1970, the Israeli cabinet established the structure of labor relations for Palestinians in the Israeli economy. Palestinians would receive work permits through labor offices, and the permits would list the specific employer for each worker. The labor offices were in charge of payment to the Palestinian employees and were authorized to make all necessary deductions.<sup>10</sup> The main Israeli union, Histadrut, wanted to be sure that Israeli citizens, especially Jewish members of the union, would not be impacted negatively or displaced by the significant influx of Palestinian labor. Fundamental to the agreement between the Histadrut and Israeli government was the stipulation that Palestinian employees would be paid the same as Israeli citizens and that Palestinian labor was restricted to three sectors: construction, agriculture, and factory labor (Lein 1999; Semyonov and Lewin-Epstein 1987). In order to protect the Israeli economy and benefit the Israeli labor market, Michael Shalev writes, "territories workers [Palestinians from the oPt] occupy the least advantageous job slots and have been excluded from a proliferation of more attractive jobs" (1989:116). If unemployment in Israel were to increase, the Palestinians would be fired in order to protect Israeli citizens. It is important to note that the percentage of Palestinians from the oPt working in the Israeli economy never, during this entire period, rose above 7% of the total Israeli workforce (Farsakh 2005:87). Israel was strategic in making sure that there was never a dependency on Palestinian labor.<sup>11</sup>

<sup>10</sup> This decision was only a cabinet decision and did not become a law until 1994 when it was part of the Oslo Peace Process in the document *The Law Implementing the Agreement on the Gaza Strip and Jericho*. Deductions included income taxes, national insurance, and pension contributions.

<sup>11</sup> Palestinians represented a high percentage of the workforce within particular sectors, such as

In the first five years of the occupation, thousands of Palestinian workers were immediately absorbed into the Israeli economy, with significant annual increases such that the total reached approximately 61,000 in 1973 (Farsakh 2005:209). Palestinians from the oPt were also emigrating, particularly to the Gulf states in the wake of the oil boom of the 1970s. With so many Palestinians working outside the oPt in Israel and the Gulf states, the number of Palestinians employed in the oPt economy decreased during the 1970s (Farsakh 2005:82).<sup>12</sup> Employment outside of the oPt economy helped decrease the unemployment rates in the oPt so that they remained under 5% until 1990.<sup>13</sup>

In the 1970s, the wages paid to workers were also, comparatively, much higher in Israel than in the oPt and therefore were an important pull factor bringing Palestinians across the Green Line. The Israeli military's concern to undermine resistance to the occupation by assisting the Palestinian livelihood was therefore initially successful. In 1981, Salim Tamari wrote, "...food consumption levels, housing density, household items, and health standards—have definitely improved over standards under Jordan rule prior to Israeli occupation" (56). Between 1970 and 1987, per capita income doubled in the oPt, but this income was predominantly due to external employment in Israel, not from a developing Palestinian economy in the oPt (Farsakh 2005:37-39). Israel had created a system of dependence, whereby "Palestinian migrant workers in Israel were the main anchor of Palestinian economic growth, a growth that relied principally on access to Israel" (Farsakh 2005:388).

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construction, which reached 40% in the 1980s, but this percentage decreased when the Israeli government allowed foreign migrant workers to enter Israel in 1994.

<sup>12</sup> The one exception was in the services sector, which did have positive growth (Farsakh 2005:82). The Gulf provided jobs particularly in the 1970s during the oil boom, but opportunities leveled off with the drop of oil prices in the 1980s (Shaban 1993).

<sup>13</sup> From 1972-79 there was less than 1% unemployment (Farsakh 2005:206).

Between 1974 and 1988, the number of Palestinians working in Israel stabilized with minimal annual growth, reaching 108,900 (Farsakh 2005:209). By the mid-1980s, the wage differential for Palestinians on both sides of the Green Line had become minimal. The pull factor of a higher income if one worked in Israel was no longer in effect, but on the other hand the opt economy, with all the Israeli restrictions, could not create enough new jobs to attract workers employed in Israel. Therefore, employment in Israel was still necessary for the survival of the Palestinian working class (Farsakh 2005:94).

The increases in personal income, combined with a low unemployment rate, made work in the Israeli economy clearly beneficial for Palestinians. Although the Israeli cabinet had voted in 1970 that Palestinian workers were to be paid at the same rate as Israelis, this resolution was rarely enforced, and exploitation of the Palestinian employees was standard. The Israeli government did not enforce labor laws for Palestinian employees in the Israeli economy and allowed unconstrained exploitation. The term “slave market” started to be used within Israeli society and by researchers, referring to major road junctions where Palestinians would gather and wait for someone to hire them as day laborers.<sup>14</sup> Those doing the hiring could be Israeli or Palestinian middlemen and contractors. Humiliation, discrimination, and exploitation of Palestinians at the hands of Israeli employers was standard and normalized. In an effort to understand the frustrations that led to the First Intifada that began in December 1987, an Israeli journalist who interviewed Palestinian employees characterized labor relations thus:

...each one had his own personal story. Even those who settled comfortably in one stable workplace and had a close relationship with their employer held some grudge. The stories were all similar. Verbal abuse, occasional physical abuse,

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<sup>14</sup>Hiltermann (1991:188), Azoulay and Ophir (2013:106), and Mundlak (1998:579) refer to “slave markets” when describing areas where Palestinians wait to be picked up by Israeli employers. In two articles reproduced in MERIP Reports, they are referred to as “the market of children” (Zamir 1979; Elon 1979).

denial of wages, unreasonably difficult work, and above all, the abuse suffered at the hands of the security forces, including the military and police...The more intimate their relationship with the Israelis, the more hostility and jealousy colored their experience...Israel has provided them with the experience of denial. Some were denied their wages. Others were denied participation in the workers' committees that represent all workers. They were denied social benefits in return for the considerable sums deducted from their wages. They were denied their dignity (Mundlak 1998:580).

The Israeli military's desired outcome of an acquiescent occupied population that did not mobilize for a large-scale uprising succeeded for almost twenty years, but there were clear limitations to a policy based on improving everyday life when it came to consumption while at the same time denying basic freedoms, denying protections from exploitation, and continuing military occupation.

The problems were not just about the lack of enforcement of labor laws and employers' mistreatment of employees; they also included the Israeli government's outright stealing of money. The labor exchange offices were responsible for collecting wages from the employers and, after making required deductions, paying the Palestinian workers. The deductions included income tax, national insurance, pension fund, sick pay, and a .07% fee to the Histadrut, to which Palestinians as non-citizens were not eligible to join.<sup>15</sup> These deductions from workers' paychecks added up to approximately 30% of the salary. According to a comprehensive study of the deductions between 1970 and 2009, a majority of the deductions were not used to assist Palestinian workers, and 92.37% of the money was deposited directly to the Ministry of Finance. A report by Hanna Zohar and Shir Hever, in 2010, contended that the Israeli government should return a total of 3.082 billion NIS (\$880 million) taken as deductions from the Palestinian

<sup>15</sup> The workers would benefit, however, from any collective agreement between the Histadrut and a particular sector, such as professions within the construction industry.

workers.<sup>16</sup> They argued that, “In upholding its obligation to deduct money from the Palestinian wages, the Department [of Payments] was stringently meticulous. However, in upholding its obligation to provide workers with services and benefits in exchange for these deductions, the Department was negligent” (2010:7).

The relative stability of the Palestinian labor market that characterized the period from 1967 to 1987, and the ease with which Palestinian workers could find jobs in the Israeli economy changed dramatically with the beginning of the First Intifada. The Intifada included efforts by Palestinian unions, along with village organizations, to disrupt the Israeli economy, and several large-scale strikes of up to 100,000 Palestinians were launched (Saleh 1990:49).<sup>17</sup> In response, Israel added a security and background check as part of the process of obtaining a work permit for employment across the Green Line. In addition, beginning in 1988, Israel instituted travel restrictions and policies of closure in Palestinian villages in the oPt. A vastly expanded system of checkpoints, roadblocks, and closures became part of the “matrix of control”, restricting Palestinian movement inside the oPt and into Israel and causing an increase in unemployment rates for Palestinians in the oPt. The new restrictions on travel created significant instability after 1988, with major fluctuations in the ability of Palestinians to work inside Israel. The instability and Israeli fears about Palestinians working inside the Green Line led Israeli politicians in 1994 to allow migrant foreign workers to obtain work visas and enter Israel for employment. By the early 2000s, the population of migrant foreign workers in Israel had reached 200,000 (Kadman 2012:6).

<sup>16</sup> They also include a much higher figure of 8.350 billion NIS if a 5% interest is included in the calculations between 1970-2009. This figure also does not include unregistered workers or those who worked in the settlements.

<sup>17</sup> For the most comprehensive research of the labor movement prior to and during the Intifada, see Hiltermann (1991).

The Oslo Accords signed in 1993, which created the PA and limited autonomy in Area A, did not change substantially the labor structure for Palestinians. The Palestinian negotiators wanted Palestinians to continue to be able to enter the Israeli labor market, and Israel agreed to this, but at the same time never guaranteed access. Since the beginning of the occupation, Israel has always controlled borders and movement. The Oslo Accords upheld this control, thereby continuing Israel's domination and manipulation of the Palestinian economy and labor sector. With the creation of the Palestinian Authority (PA) and a Palestinian Ministry of Labor, Israel and the PA began coordinating directly to regulate the system of Palestinians working in Israel, ostensibly (but not in fact) creating a more just and fair system (Farsakh 2005:145).<sup>18</sup> The PA also was given civil authority over Area A and, therefore, was responsible for all aspects of the local economy, including the labor market. The PA, however, did not pass a comprehensive set of labor laws until 2000 and did not sign legislation for a minimum wage until 2012.

From 1996 to 1999 there was an increase in Palestinian labor in the Israeli economy; there were fewer Israeli travel restrictions in the oPt, and the number of Palestinians in the Israeli economy reached 145,400 – the highest number between the beginning of the occupation and the present (Farsakh 2005:150). The importance of the Israeli labor market for Palestinians in the oPt can be highlighted by looking at unemployment in the oPt. In 1996, after several years of increasing restrictions, unemployment in the oPt was 23%; over the course of the following three years, as travel restrictions decreased, unemployment in the oPt dropped to 11% (Farsakh 2009:379). With the launching of the Second Intifada in late 2000, and the reimposition of major

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<sup>18</sup> As will be discussed in Chapters Two and Three, Palestinians who work in Israel are more likely to receive the minimum wage and basic workers' rights in comparison to those who work in the settlements, where there is no coordination. Yet exploitation and ignoring the law is still standard practice for Israeli employers. For further details see Kadman (2012).

restrictions of Palestinian labor in the Israeli economy, unemployment skyrocketed in 2002 to 31% (Farsakh 2005:198). The violence and Israeli invasion of the oPt during the Second Intifada devastated the Palestinian economy. Between 2000 and 2007, Palestinian GDP shrank by 36%, real per-capita income fell by 40%, and poverty rates reached 67% (Farsakh 2009:379). Prime Minister Ariel Sharon's decision to withdraw from the Gaza Strip in 2005 and to drastically restrict movement across its borders meant that by 2007 no Gazans worked any longer in the Israeli economy.<sup>19</sup>

Since 2005, there was a return to stability, and the percentage of West Bank Palestinians working in the Israeli economy began a small annual increase, rising from a low of 10.7% in 2004 to 16.5% by 2015 (PCBS 2015: 81-83). In 2005, there were 60,000 Palestinians from the West Bank employed in the Israeli economy, a number that grew to 116,800 by 2016 (PCBS 2005; 2016). Unemployment rates in the West Bank were consistently between 17% and 20% from 2005 to 2015 (PCBS 2015).

The Palestinian economy's inability to provide enough employment for Palestinians in the West Bank remains a clear push factor in the Palestinian interest to work in the Israeli economy. Additionally, the wage differential remains an important pull factor; the Israeli economy provides a much higher wage than the Palestinian economy. Although during the mid-1980s, as discussed above, wages paid to Palestinians working inside the oPt had slowly risen to the levels paid to Palestinians working in the Israeli economy. The wage differential between the two sectors then began to increase with the First Intifada beginning in late 1987. In 1996, the Palestinian Central Bureau of Statistics (PCBS 1996:86-91) published statistics showing that

<sup>19</sup> The percentage of Gazans working in the Israeli economy dropped from a high in 1988 of 45.9% to 15.4% in 2000, and further dropped in 2004 to .4% (Farsakh 2005:209-210).

salaries in Israel were one and a half to two times higher than those in the oPt. The significant difference in the legal minimum wage is indicative of the disparity that exists to this day. As of December 2017, the Israeli minimum wage was 5300 NIS (\$1514) per month, while for Palestinians it was 1450 NIS (\$414) per month. Because wages earned in the Israeli economy are much higher than the rates earned in the Palestinian economy, these continue to have a disproportionate effect on the Palestinian economy.



Figure 2.1

Source: Farsakh (2005) and PCBS (2015).<sup>20</sup>

The Israeli military continues to view the provision of employment for Palestinians in the West Bank as a priority for reasons of security. In the spring of 2016, after several months of sporadic violence that some referred to as the “Third Intifada”, the Israeli cabinet, with the encouragement of the military, decided to increase the numbers of Palestinians working in Green Line Israel by 30,000. *Ha’aretz* commentator Amos Harel quoted the Israeli military leadership: “Both [Defense Minister] Ya’alon and Chief of Staff Lt. Gen. Gadi Eisenkot have on several occasions expressed support for the continued employment of Palestinians as a means of

<sup>20</sup> Statistics from 1970-2000 come from Leila Farsakh (2005). Statistics from 2005-2015 are from the PCBS (2015). Statistics are annual and do not show the daily, weekly, and monthly fluctuations that have occurred under military closures.

dissuading thousands of people from committing violent acts” (2016). After five decades of occupation, the Israeli military continues to hold the perspective of the first general who controlled the oPt, Major General Gazit: “give them something to lose” (Gazit 1995:179).

### *Palestinian labor on settlements*

By the time significant settlement growth began in the West Bank in the early 1980s, Palestinians had been working inside Israel for over a decade and had become an important part of the construction sector in Israel. This meant that many Palestinian workers had experience and skills in construction, and many had learned Hebrew in the workplace. A labor apparatus had also developed of Palestinian middlemen and contractors who could connect with Palestinians searching for employment. Settlers could easily recruit and hire cheap Palestinian labor to construct the settlements and to work in the IZs and the plantations. This move to employ Palestinians in settlement construction was a natural extension of the processes set in place when Palestinian labor from the oPt began to enter Israel in 1967.

There are no estimates for the number of Palestinians that worked on the settlements in the 1980s and very few estimates for the 1990s. There are also significant disparities in the estimated numbers of workers, due to three important factors. First, just like those employed inside Israel, thousands of Palestinians work in the settlements without a permit, and it is impossible to verify how many do so.<sup>21</sup> Second, work in the Jordan Valley plantations is seasonal, meaning that numbers fluctuate depending on the time of year. Third, construction work depends on the number of new homes being built, which also varies significantly from year

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<sup>21</sup> The Israeli military, which gives the permits, do give statistics on the exact number of permits given to Palestinian workers.

to year. During the 1990s, with the increase of construction in the settlements and the creation and growth of IZs, we can assume that the numbers of Palestinian workers on the settlements increased dramatically from the 1980s. For example, in 1991 alone, close to 8,000 new homes were built on the settlements.<sup>22</sup> In 1998, B'Tselem estimated that 16,000 Palestinians were employed on settlements; the Palestinian Central Bureau of Statistics for its part estimated 9,507; and Shaher Sa'ed of the PGFTU believed there were approximately 13,500 Palestinians working on settlements (Rettig 2000:23). Worker's Hotline reported that, in 2006, 15,000 Palestinians had permits to work in the settlements (Kadman 2012:37). Current estimates of Palestinians working on settlements range from 25,000-40,000.<sup>23</sup>

### *Statistics*

Although Israel created work permit procedures and employment offices in 1970 that established a basis for "official" employment relations between Israeli employers and Palestinian employees, there have always been Palestinians who have crossed the Green Line or entered settlements without permits. This makes it impossible to give exact figures for the number of Palestinians that work in the Israeli economy across the Green Line, and all statistics on Palestinian labor in the Israeli economy are estimates. In 1999, B'Tselem estimated that only 40-60% of all Palestinians who worked in the Israeli economy during the 1970s and 1980s had official work permits (Lein 1999:16). In 1981, Salim Tamari wrote that official estimates were

<sup>22</sup> Between 1993 and 2000 there were between 1,000-5,000 homes built annually on the settlements (Farsakh 2005:65)

<sup>23</sup> In 2012, Worker's Hotline used the figure of 25,000 in their major report on Palestinian labor in the settlements (Kadman 2012:6). They also give a figure of 26,831 for Palestinians who have permits, including for East Jerusalem in the Atarot industrial zone, and they mention that "another 10,000 Palestinians work in the settlements without permits" (Kadman 2012:37). The figure of workers employed without a permit is an estimate.

that 70% of Palestinians who worked in Israel had permits; however, he also reported that, in the village where he conducted fieldwork, Ras al-Tin, 120-140 residents worked in Israel, but not one person he interviewed worked with a permit (45). In 1989, the *Jerusalem Post* cited the figure of 110,000 total Palestinian workers in Israel, of whom 33,700 had permits (Black 1989).<sup>24</sup> In 1998, the *Jerusalem Post* wrote that approximately 40,000-42,000 workers had valid permits while an additional 30,000-40,000 worked without them (Harris 1998). In 2016, estimates given to the Knesset by the Israeli Defense Forces Chief of Staff, Lt. Gen. Gadi Eisenkot, were that, of the 110,000 total West Bank Palestinians who were working in the Israeli economy, approximately 50,000 worked without a permit (Lis 2016).

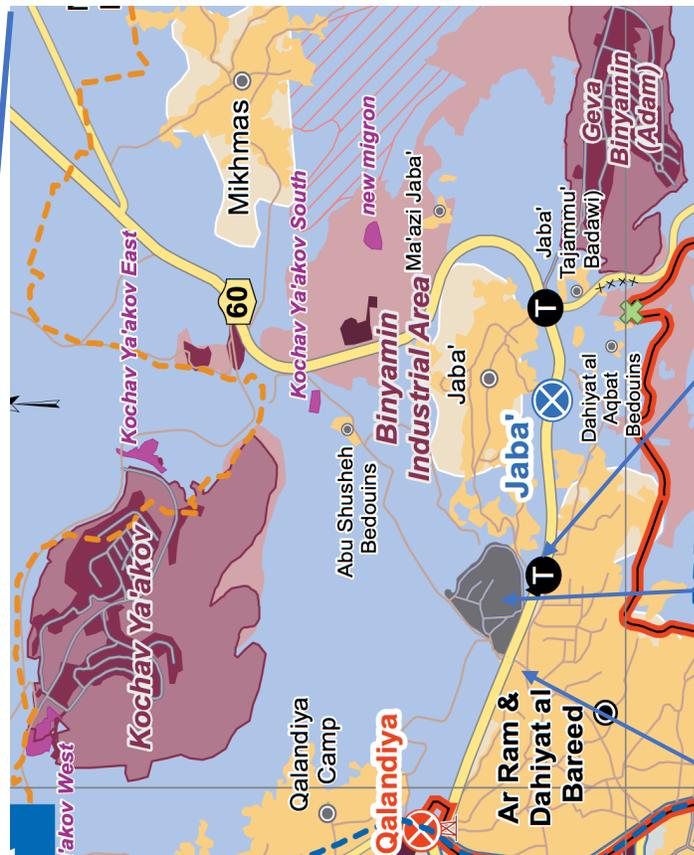
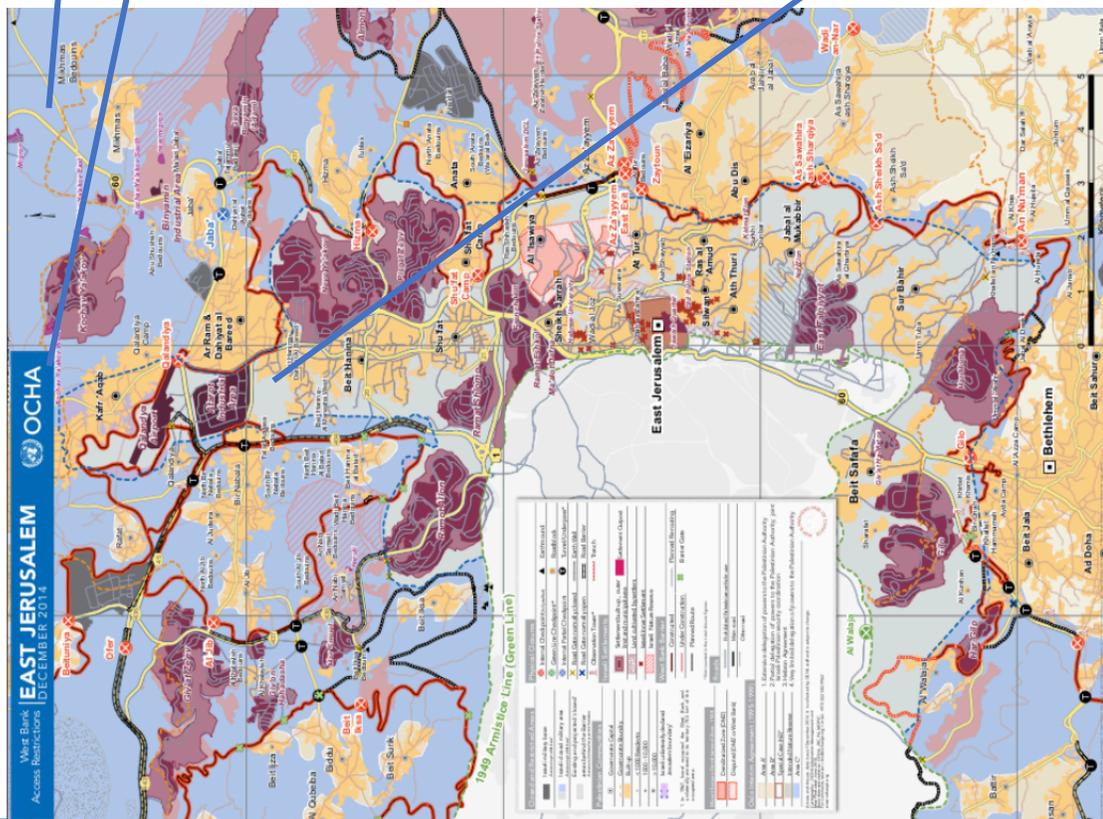
Statistics also vary between Israeli (Israel Central Bureau of Statistics, ICBS) and Palestinian sources (Palestinian Central Bureau of Statistics, PCBS), because these two bureaus define the population and delineate territory differently.<sup>25</sup> Israeli statistics include East Jerusalem as part of Israel, whereas the PCBS includes East Jerusalem as part of the West Bank. The PCBS often combines statistics of Palestinian labor in the settlements and in Israel, whereas Israeli statistics separate these into two different categories (Farsakh 2005:10-11).

After fifty years of occupation, the importance of Palestinian labor for the Israeli economy is clear. First, as Portugali writes, "...the Palestinian reserve army possesses all the properties of the ideal army of workers in a capitalist labour market", and the Israeli economy has reaped huge benefits by exploiting Palestinian labor (1989:218). Second, the Israeli military has relied on the availability of the Israeli economy for Palestinian employment as a coercive

<sup>24</sup> During 1989, the Israel Central Bureau of Statistics, as cited by the *Jerusalem Post*, had a high of 44,300 permits in January, which dropped to 37,000 in April and 33,700 in July (Black 1989).

<sup>25</sup> The Israel Central Bureau of Statistics has figures from the beginning of the state of Israel, and the Palestinian Central Bureau of Statistics began in 1994.

strategy in order to control the Palestinian population; this has been of fundamental importance to continued Israeli expansion in the West Bank. Employment opportunities in the Israeli labor market remain all the more important with the continuation of Israeli policies that serve to restrict the development of an independent Palestinian economy. Additionally, the strategy of allowing Palestinians to work in the Israeli economy furthers the integration and dependence of the West Bank economy on the Israeli economy. Providing employment in the Israeli economy is one of several strategies that support the continuation of a West Bank status of permanent temporariness, providing just enough stability in the economy to maintain the status quo. For the West Bank, this means the ongoing displacement of the Palestinian population and development and growth of the Israeli settlements.



Entrance to Al Ram Base  
 Israeli Military Base  
 Entrance to Jaba'

Figure 2.2a

Source: UN OCHA, oPt (2015b:14)

Figure 2.2

### *Jaba'*

On a summer evening in July 2014, I had come to spend *iftar* (breaking the fast) with a family in the village of Jaba'. Tensions were high, the war against Gaza had begun, and there were violent clashes in the West Bank between Palestinian protesters and the Israeli military. Most Palestinians in the West Bank were not participating in the clashes, but they were all directly affected by the increase in checkpoints and daily military incursions into Area A. Palestinians in the West Bank were trying to carry on as normally as possible even with the increasing military presence and violence.

After the meal, I was relaxing and enjoying the moment when I mentioned to one of the sons in the family what a beautiful evening it was. After another hot summer day, the cool breeze coming through the window felt very refreshing. A moment later, I felt bad for drawing attention to the open window; one of the sons responded that they would soon need to close it as teargas would be in the air when protests began at the circle separating the neighboring city of al-Ram, located north of Jerusalem, from a military base on the other side of the road. Jaba' is east of al-Ram and the military base and downwind from where the clashes would take place, so the teargas typically blows into the village. For a few moments at *iftar* we could enjoy conversation and food, but every night during Ramadan there were clashes, and residents of Jaba' were forced to inhale the tear gas, cough, and tear up. It was yet another physical reminder of the occupation and the ongoing violence. The family wanted me to return to Ramallah before the clashes, shooting, and tear gas commenced in order to permit me to take the normal route out through the main entrance of al-Ram. But as we spoke, we heard the gunfire start, so one of the sons drove his car in front of mine to guide me through back roads in al-Ram to an alternative exit. These alternative roads are a basic part of everyday logistics in the West Bank; several times during my

fieldwork the Israeli military put up huge boulders at the entrance of al-Ram, and I had to learn the other routes in and out of Jaba’.



Figure 2.3 Entrance to al-Ram

Source: Ethan Morton-Jerome, Nov. 24, 2014

The events of this evening were just another reminder of life under occupation, emblematic of the current situation in the West Bank. The village of Jaba’ is essentially an island surrounded by Area C, which is under full Israeli jurisdiction. When I first visited Jaba’, I had not planned to do further visits and fieldwork there; I had only come for an interview with Palestinians who worked at SodaStream in the Mishor Adumim IZ. After the first visit, I knew I would be returning many times. I had passed by the village every time I drove south from Ramallah headed to the Jordan Valley, Hebron, or Jerusalem, but had never previously noted its representative location among several examples of Israeli intrusion in the landscape: the separation wall, a military checkpoint, a military base, the settlements of Geva Benyamin and

Kochav Ya'akov on the hilltops above the village, and the Sha'ar Binyamin IZ in the valley below it. On my first visit, I entered through the only road possible, a circuitous route through the main entrance of al-Ram and use of an overpass over Route 60 (the black circle with white T is the overpass over Route 60 from al-Ram to Jaba' on Figure 2.1a). The western edge of the village is elevated and has a lovely view of the surrounding area. I stopped my car and, as I viewed the Israeli military and civilian structures, immediately saw how Jaba' is representative of what occurs in the West Bank regarding the occupation and the complex questions related to Palestinian labor on the settlements. These structures (the settlements, the military base, the checkpoints) were all built on confiscated Palestinian farmland, and resulted in the economic strangulation of the village, and the squeezing and diminution of the area in which Palestinians can reside and from which they can draw a livelihood. At least 55% of the residents of Jaba' who are regularly employed work in the Israeli economy, either in the surrounding settlements or across the Green Line in Israel (ARIJ Village Profile 2012:9). The village was attacked by settlers and the military; the Israeli military had demolished homes in the village; the Israeli government had confiscated land; and displaced Bedouins live in Area C in makeshift tents outside the residential limits for the residents of Jaba'. My fieldwork was conducted across the West Bank, but I frequently visited Jaba' in order to hear the stories of young men trying to figure out how to survive, which often meant working for Israelis. This sort of employment included work cleaning the streets of the neighboring settlement, established on land confiscated from Jaba' in 1982, and in a grocery store in the nearby IZ, also on land that was previously part of Jaba'.

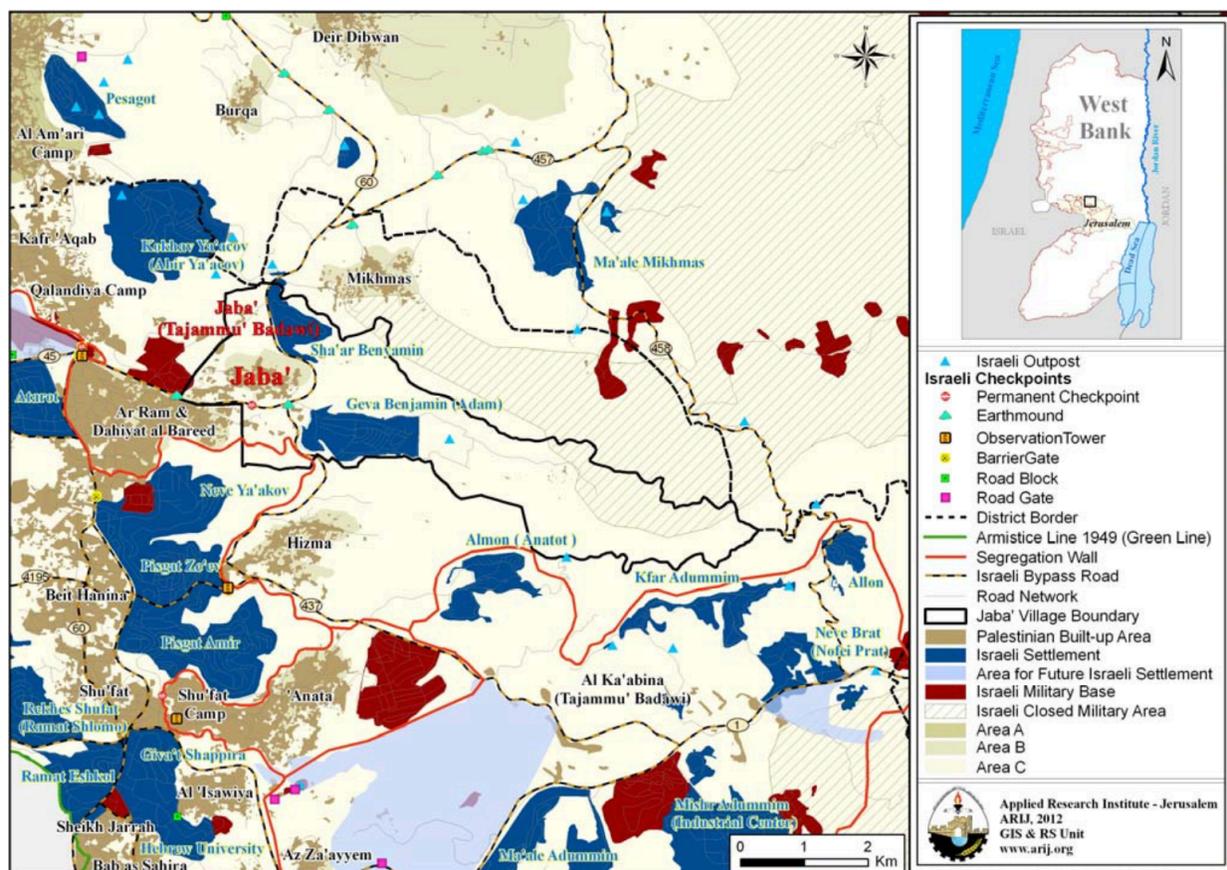


Figure 2.3 Jaba' and surrounding area Source: Applied Research Institute- Jerusalem (2012:4)

Jaba' is a small village of approximately 4,000 residents.<sup>26</sup> It is located on the edge of Jerusalem, and one can see the separation wall from the eastern edge of the village. Two settlements, Geva Benjamin (Adam) and Kochav Ya'akov, as mentioned above, are in view of the village.<sup>27</sup> Not far from the eastern edge of the Adam settlement is a “settlement outpost”, where settlers live “illegally” by Israeli law (light blue triangle, Map 2.3). Just down from the village on Route 60 is a small settlement IZ, Sha'ar Binyamin, and west of Jaba' is an Israeli military base. A watchtower and checkpoint are also visible on the main road, Route 60, which passes by Jaba' (marked with a blue and white X on Map 2.2a). The military checkpoint on

<sup>26</sup> For detailed information on the history, people and land of Jaba' see Basharat (2004).

<sup>27</sup> The settlement is officially named Geva Benjamin but is usually referred to as Adam, named after Yekutiel Adam, a member of the Israeli Defense Forces who was killed in 1982 in southern Lebanon. Geva Binyamin refers to a biblical site believed to be nearby.

Route 60 is not manned all the time, but cameras are positioned on the watchtower. When the Israeli military does decide to man the checkpoint on Route 60, for the purpose of inspections of cars and individuals, the traffic can be backed up for hours. The road is the main route south from Ramallah to Bethlehem and Jericho and is heavily traveled. Setting a checkpoint there allows the Israeli military to strategically cause major delays and stop traffic headed south without impacting Israeli drivers who can use a portion of the road that is just to the south of the checkpoint.

West of the village, and upwind, is a large stone quarry which has been a significant health hazard for the residents of Jaba', the local environment, and village crops, due to the tiny stone particles being blown into the village by the westerly winds. The land around the village is Area C, under Israeli jurisdiction, and some of it is allocated for settlement growth. A tunnel that was built under Route 60 used to provide direct access to Jaba' from Route 437, but the Israeli military filled the tunnel with large rocks and dirt in 2000 at the beginning of the Second Intifada (see Figure 2.4, and on Figure 2.2a, this tunnel is represented by the black circle with white T at the intersection of Route 60). More than fifteen years after the launch of the Second Intifada, the tunnel is still blocked. Within the village, there is a palpable feeling of being surrounded and besieged. Indeed, the elevated entrance at the west of the village provides a panoramic view showcasing these reminders of military occupation, namely settlements and a military base.



Figure 2.4 Blocked tunnel to the entrance of Jaba' Source: Callie Maidhof, Feb. 28, 2014 <sup>28</sup>

Historically, Jaba' relied on an agricultural economy that was linked to the city of Jerusalem. The village has been drastically reshaped and reduced by the Israeli state's expropriation of much of the village agricultural lands for the settlement of Adam. Map 2.3 shows the historic boundaries of the village, a rectangular shape from east to west, but with the settlement of Adam bisecting the boundaries, access to the western side of the historic village boundaries is difficult.

<sup>28</sup> The red sign in the upper right corner says, "This road leads to Area "A" under the Palestinian Authority The entrance for Israeli citizens is Forbidden, Dangerous to Your Lives And is Against the Israeli Law".

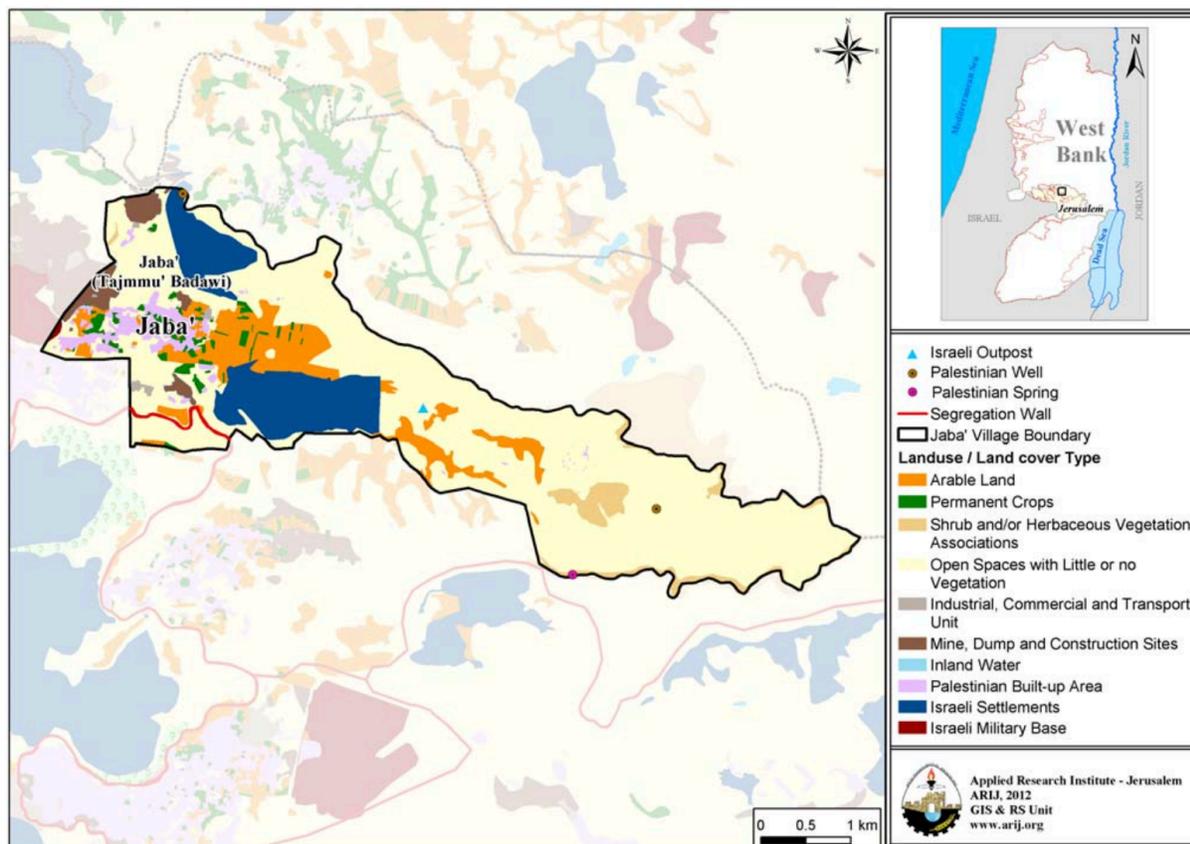


Figure 2.5 Land use in Jaba' Source: Applied Research Institute- Jerusalem (2012:11)

The historic village boundaries hold a total area of 13,624 dunums (3,366 acres), and none of the area is under PA jurisdiction, Area A. Only 6% of the village is within Area B, and this where most of the villagers live; the rest of the historic land of the village, 94%, is under full Israeli control, in Area C (ARIJ Village Profile 16). There are 11 Palestinian homes built in Area C that are under demolition orders because they do not have the required building permits, and in 2012, two of these homes were demolished (ARIJ Village Profile 2012:18-19). The Israeli government has confiscated a total of 1,684 dunums (416 acres) of land from Jaba' for the settlement of Adam and Sha'ar Binyamin IZ. The separation wall in red on the map (Figure 2.5) crosses through village land, and so 322 dunums (80 acres) are now located on the Jerusalem side of the wall with no way for villagers to access them (ARIJ Village Profile 2012:8).

Most of the territory of the village, 8,856 dunums (2188 acres), is considered open space and in Area C, but Palestinians are not allowed to develop, build, or use the land without the necessary permits from the Israeli authorities, and therefore, it is left empty and unused because permits are rarely, if ever, given. Empty spaces like these across the West Bank are where Israeli settler infiltration and presence, with construction of “illegal” settlements, occur.<sup>29</sup> Settlers have illegally built homes east of Adam and further east in an “illegal settlement” known as Bnei Adam. In 2015, Peace Now reported eleven new home constructions in Bnei Adam (Peace Now 2016). Peace Now also reported in 2015, with evidence obtained by court order from the Ministry of Housing, that there were detailed plans to build an additional 4,900 housing units in Adam (there are currently 1,000), to make Bnei Adam “legal”, and to build another 1,500 housing units there (Peace Now 2015).<sup>30</sup>



Figure 2. 6

Adam settlement

settlement outpost

Bnei Adam

Source: Google Maps (March 10, 2017)

<sup>29</sup> According to the Israeli Civil Administration (military), Israel only granted 33 building permits out of 2,020 applications submitted by Palestinians between 2010 and 2014 (UN OCHA 2015a:4).

<sup>30</sup> The report was written in 2015 and comes from documents released from the Ministry of Housing through a court order as requested by Peace Now. The plans for Adam have yet to be implemented.

The settlement of Adam, which was established in 1984, resulted in the confiscation of large areas of the agricultural land from Jaba' and the restriction of access to arable farmland that was once part of Jaba' village land.<sup>31</sup> The settlement now has over 5,000 residents, and its atmosphere is that of a gated suburban community, with a shopping center and parks. Down the hill from Adam is a small IZ, Sha'ar Benyamin, built in 1999, that has several shops, including the grocery chain of Rami Levy.<sup>32</sup> On the hillside facing Jaba' is the settlement of Kokhav Ya'akov, with 5,000 residents. All of the surrounding settlements provide employment for residents of Jaba', including work in construction of new homes, positions in grocery stores and small businesses, and cleaning and gardening jobs for the settlement municipality.

Jaba' also includes several Bedouin families who are not originally from the area but reside on village land in tents and makeshift structures. The land they live on is in Area C, and therefore, given the fact that they possess no building permits, their homes can be, and sometimes are, destroyed by the military. In 2015 and 2016, the Israeli military tore down several homes and structures to house animals (Wafa 2015; IMEMC 2016; B'Tselem 2016).<sup>33</sup> A demolition order was also issued for a school built with EU funds; that order has been stopped temporarily, but the fears of destruction by the Israeli military are always present.<sup>34</sup>

The village has experienced a number of attacks by Jewish settlers, including a so-called "price tag" attack in June 2012 in which the main mosque was set on fire. Spray-painted on the

<sup>31</sup> Settlement residents have not stopped trying to take more land and Israeli NGO Yesh Din went to court for the residents of Jaba' demanding that a fence be taken down in order to stop further confiscation of land by the settlers (Yesh Din 2009).

<sup>32</sup> The settlement's website with additional information is <http://www.geva-binyamin.org.il>.

<sup>33</sup> The B'Tselem blog provides updates of the ongoing demolitions in Area C. [https://www.btselem.org/communities\\_facing\\_expulsion](https://www.btselem.org/communities_facing_expulsion)

<sup>34</sup> For further details on the situation of the school, a member of the Ecumenical Accompaniment Programme in Palestine and Israel (EAPPI) wrote a blog post about the school. <https://blog.eappi.org/tag/jaba/>

walls in Hebrew were ‘Ulpana war’ and ‘price tag’ (Figure 2.7). Ulpana refers to a neighborhood near the Bet El settlement that was under demolition order by the Israeli military. The settlers were angry that five households had to be relocated because according to the Israeli government the homes were built on private Palestinian land (Rudoren and Abu Aker 2012). The settlers retaliated against Palestinians because they were angry at the Israeli government.



Figure 2.7 Hebrew graffiti on Jaba’ mosque Source: Mohamad Torokman

The military often patrols the village in jeeps, as it is adjacent to Jaba’ junction, a major intersection for those traveling north and south, and if there are any problems or disturbances there, the military quickly comes into the village. Jaba’ junction witnesses daily traffic backups, and so in 2015, a road was created only for settlers so that they could bypass some of the traffic heading north. In the spring of 2016, the Israeli government began a major construction project that enlarged the roads near the Jaba’ junction, taking even more land from the village (Khoury and Levinson 2014).

Given the amount of agricultural land confiscated, and that there are only a few small businesses in the village, most residents must leave the village to find employment. The unemployment rate in Jaba’ is approximately 15%, similar to the 15-20% unemployment rate of

other villages in the Ramallah district (ARIJ Village Profile 2012; PCBS 2015). Options are few, and employment is often found through familial connections and friends. The context and circumstances in Jaba' are typical of conditions in communities throughout the West Bank and, specifically, for working class Palestinians. In the face of land confiscation, high unemployment, and a dismal local economy, many of the Palestinian working class are left with little or no option but to turn to Israel for employment, which at the same time is actively taking their land and restricting the economy. For those who work in the Israeli economy, salaries are comparatively much higher than in the Palestinian economy, regardless of whether the employer observes the Israeli minimum wage law or not.

In the home I visited for iftar, one of the sons worked at SodaStream in the Mishor Adumim IZ, 30 minutes south of Jaba'. Another son worked on the nearby settlement of Adam doing maintenance, gardening, and cleaning. The young man's father worked in Atarot, an IZ just across the separation wall in occupied East Jerusalem. With ten children in the family, the father and elder sons were under immense pressure to provide for the family. The income earned from their jobs on the settlements was much higher than it would have been if they were working in areas under PA control, but nonetheless they were still just getting by. They were able to manage basic needs for the family but not much more.

### *Employment in Area A*

“Abu Amin, I have been here seven years in your carpentry business, and I have never done less than what is expected...and I have a big family and commitments...where will I go to work at this time?”<sup>35</sup> These were Abu Safi's desperate words when he was fired from his job.

<sup>35</sup> I have a transcript of the play, in Arabic, and I completed the translation.

The owner, Abu Amin, said that they needed to restructure the company and reduce the number of workers, but it was clear that Abu Amin wanted younger workers who would work harder. In addition, Abu Safi was causing unrest among the workers because of his frustration over Abu Amin's poor treatment of his workers.

This exchange occurred in the opening act of a play produced by Ashtar Theatre in Ramallah called *Makineh wa Shakush* (Machine and Hammer) (Muallem 2016). In the following scene, Abu Safi laments his family's terrible situation. The family does not have the money to pay rent, the local supermarket, the gas man, the vegetable seller, or the electric company. Abu Safi hires a lawyer to sue the carpentry business for unlawful firing, but when the lawyer stops by his house, he tells Abu Safi there was another court delay and the case won't come up for at least another six months. The lawyer does suggest that for a fee of 500 NIS (\$143) he can try to have the case heard earlier. But Abu Safi does not have the money and is frustrated by the corruption. The lawyer then suggests that he go to the union to ask for help, and Abu Safi says, "The union, those people will give nothing. Have you ever heard someone benefit from the union? They are useless!" He then asks, "What is this disaster... what is this life... What is this terrible country...? Nothing is working... What to do?... Shall I work as a beggar? Sell Kleenex on the street? I have to sit and get drunk on my situation (Muallem 2016)."<sup>36</sup>

Abu Safi's fictional lament is one that is familiar for many fathers and their families across the West Bank. They are frequently fired from their jobs without cause, they wait for a slow court system to take action, they depend on corrupt lawyers, and are frustrated with

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<sup>36</sup> He does not mean to literally get drunk from alcohol, but that the situation is so dire and overwhelming that he will be overcome with sadness.

incompetent unions that leave Palestinians in desperate situations. Abu Safi's story is the first of three acts that highlight the frustrations and anger about the injustices that Palestinians face when working in Area A. The playwright and director, Edward Muallem, spent months interviewing workers, government officials, union organizers, and labor advocates to gather material for the play about the everyday realities and struggles of Palestinian workers in Area A. In the second act, a construction worker is injured on the job, suffers a lifelong disability, and doesn't receive any disability benefits from his employer. The play then goes on to portray a lawyer and labor union as corrupt, dishonest, and unsympathetic to the difficulties of the disabled worker. The third act deals with the lack of enforcement of labor law and the fact that labor law essentially is nonexistent, leaving employees completely dependent on the altruism of the employer, who does not need to worry about the oversight of authorities or fines for labor violations.

I saw the play in the spring of 2016, near the end of my fieldwork in the West Bank, after I already had heard many times from Palestinian workers that they would rather work in the Israeli economy, that is, in Israel or in the settlements, than work in Area A, under control of the PA. Such expressions obviously undermined a nationalist sentiment that opposes work in the Israeli economy, especially in the settlements. These workers knew first-hand the exploitation and abuse of their Israeli employers, so their statements in favor of Israeli employment held a degree of dissonance and were conflicted. The real issue was money; the minimum wage of 1,450 NIS (\$414) per month for Area A was not put into effect until 2012, and even so, it is not a livable wage.<sup>37</sup> The issue was also about their rights, treatment and respect in the workplace, their personal experience of exploitation by fellow Palestinians, the lack of enforcement of labor

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<sup>37</sup> The PA had passed legislation in 2000 for the establishment of a minimum wage, but the specific law did not pass until 2012.

laws by the authorities, the absence of an effective justice system, and the lack of support from labor unions.

The PA adopted a comprehensive set of labor laws in 2000 and has added bylaws since then that cover an extensive range of labor-related regulations, including workplace injuries, unionization, and conditions of work such as work hours, holidays, and safety and health. But labor laws are not enforced, and if there are problems in the workplace, taking an employer to court is costly, time-consuming, and not viewed as a viable or effective option. Labor unions are weak and have failed to push effectively for the enforcement of laws protecting the rights of Palestinian workers. Poor wages and workplace safety were not the only complaints that I heard frequently; there was also strong resentment towards Palestinian employers who mistreated and disrespected their workers.

Prior to establishment of the minimum wage in 2012 (1450 NIS, \$414 per month) no minimum wage law was in effect in the areas under PA authority.<sup>38</sup> And in addition, many Palestinians and labor unions were of the opinion that the 2012 minimum wage was set at a level that was too low, as the poverty line established by the PA is 2,300 NIS (\$657) per month. But many believed at the time that the PA would not even be able to enforce the law. These fears have subsequently been realized; a 2014 study showed that one-third of workers in Area A do not receive the minimum wage and that one-half of women workers do not receive it (Al-Falah 2014).<sup>39</sup> In addition to non-compliance with the minimum wage law, the general atmosphere in

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<sup>38</sup> The Palestine Economic Policy Research Institute (MAS) has published several reports that document the minimum wage policy and degree of compliance Fallah (2016), Al-Falah (2014) Missaglia, Capelli, and Amer (2010), Abu Hantash and Salah (2010).

<sup>39</sup> In a report published in 2014, reasons for noncompliance included: “ineffective inspection procedures and scarcity of inspection resources available at the Ministry of Labor, laxity in the implementation of the labor law and in the application of penalties for violation of the minimum

the private sector is one of disregard for the law. In 2010, the Palestine Economic Policy Research Institute conducted research on the level of adherence to the labor laws. In its executive summary it wrote,

The study showed that the level of compliance to the law by Palestine establishments is generally below average. The law is violated in many areas including those relating to over-time end of service benefits, injury compensations, and delays in the payment of salaries... the judicial system faces many difficulties that limit its efficiency in settling disputes emerging from the enforcement of law. Additional contributing factors [for noncompliance] include the dispersion of labor unions, and the weak representation of the working class in unions (Abu Hantash and Salah 2010:2).

According to the US State Department's Human Rights Report for the oPt in 2013, "The [PA] government did not effectively enforce labor laws and subjected procedures to lengthy delays and appeals. Penalties and enforcement were insufficient to deter violations" (2013:91). The estimated waiting period for a labor dispute in the Palestinian court system was 5-6 years, and a labor court had not been established (US State Department 2013:91). In 2015, the US State Department again wrote that the PA "did not effectively enforce labor laws". The PA stated that they needed approximately 300 inspectors in order to adequately enforce labor laws, whereas they had only 42 (US State Department 2015:119, 123). Positive changes have occurred with the establishment of a labor court by the PA, and with additional training of judges, the wait for a labor suit was reduced to one year, a period which is still too long (US State Department 2015:119).

Approximately 83% of Palestinians employed in the West Bank are employed in Area A, especially in the Palestinian urban centers of Hebron, Ramallah, and Nablus.<sup>40</sup> Work in PA areas

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wage regulations, and lack of voluntary compliance among employers given the high financial returns of non-compliance" (Al-Falah 2014:4).

<sup>40</sup> In 2015, 16% were employed in the public sector in the West Bank and 67.5% in the private sector, according to the PCBS (2015).

is logistically simpler for several reasons: workers do not need permits either to enter the workplace or to travel between home and work; it is more straightforward to work with one's compatriots; and the workplace is linguistically, as well as culturally, familiar. These benefits are particularly accentuated in times of violence and tension between Palestinians and Israelis; both the work itself, and travel to and from work, are much easier and safer for Palestinians who stay within Area A and do not work on the settlements or in Israel.<sup>41</sup> While I was living in the West Bank, war broke out in Gaza in the summer of 2014. Although the West Bank did not experience a full military assault during that time, nonetheless there was the constant reminder that the same military force occupying the West Bank was killing Palestinians in the Gaza Strip. In October 2015, with an outbreak of increased violence in the West Bank and in Israel, Israel increased its military presence in the West Bank and tensions were extremely high. Work in Area A therefore clearly has advantages under such conditions as compared with work in the Israeli economy where one must deal with checkpoints into Israel and security checks to get into the settlements; with fear for one's physical safety at the workplace and traveling to and from work; and with tensions in the workplace due to the ongoing violence.

Given the lack of good local employment opportunities, wages that do not keep up with inflation, and lack of enforcement of labor laws, there is constant pressure to do whatever is necessary to get by. Throughout the period of my fieldwork, I repeatedly heard discussions about basic survival and the fundamental question: how much longer can people tolerate living under these circumstances? It was a political question of life under military occupation, but it was also a day-to-day financial question about making ends meet. The mistreatment, injustice,

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<sup>41</sup> If one needs to travel through Area B or C in order to get to work, he may have to pass through an Israeli checkpoint, so he still has to deal with the Israeli military going to and from work.

and exploitation of workers by Palestinian employers is the everyday experience for many working-class Palestinians in the West Bank. The play produced by Ashtar Theatre was not providing information or commentary that was unfamiliar to the Palestinian audience, but it did require the audience to engage with the actors and the issues of labor exploitation and lack of justice in Palestinian society. After each Act, the troupe organized a discussion pertaining to the problems and possible solutions to the injustices against working-class Palestinians. Of course, in such cases, the Israeli occupation is always in the background and it is important for understanding context, but these discussions at the theatre were focused on intra-national disputes. The tensions are clearly evident, particularly in Ramallah where, as the seat of the PA, many Palestinians have benefitted over the past twenty years from the billions of dollars in international aid, and many Palestinian capitalists and business leaders have profited by taking advantage of business relations with Israeli capitalists, from corruption within the PA, and from exploitation of Palestinian labor. Yet, these financial benefits have accrued to only a small percentage of people, resulting in increased inequality between the upper and working classes. In the absence of a government that is willing to defend the rights of Palestinian workers in the Palestinian economy, and in the absence of any robust, organized, and motivated unions, it is unlikely that any positive change will come anytime soon.

### *Employment in Israel*

Suddenly the men pushed forward; the calm and order had ended. I had not expected the abrupt change; for the previous hour, Palestinian men had lined up in an orderly fashion and quietly moved forward in the long line towards the checkpoint into Israel. But as hundreds of men arrived at the al-Tayba checkpoint in Tulkarem, the pressure was building, and impatience

had taken over. It was dark, chaotic, and dangerous, but the men were used to this; it happened every work day. I was only an observer, standing close to a union activist who had come with me to witness the early morning transit on a very cold January day as Palestinian workers made their way into Israel. A few weeks prior to my visit, a Palestinian man had died, crushed due to the overcrowding at the checkpoint (Maan 2014).<sup>42</sup> Enduring the very early mornings; the long security lines; no protection from the rain, wind, and near freezing temperatures; and harassment by border guards were all part of the daily transit required for Palestinians who work in Israel.

My alarm sounded at 3:30 am, and I grabbed a quick bite to eat before taking the short car ride to the checkpoint. I arrived by 4:00 am and walked past stalls that sold coffee and food to the workers before they went to stand in line and pass through the checkpoint. Initially, there were not many workers, but with thousands that had to make their way through the checkpoint in a short period of time, the line entering the border security facility got longer, and eventually the orderly lines broke down, and a surge of men pushed forward. This was the daily ritual, in which the workers were degraded and reminded of the power of the Israeli military: an 18-year-old Israeli conscript had the right to humiliate the workers by imposing full body searches and by ordering men to wait for long periods of time with no stated reason.

I was visiting the checkpoint with Muhammad Biladi, a union leader and activist. I had met with him several times on Saturday mornings in a union office in Tulkarem, where the organization provided legal assistance in coordination with the Israeli NGO, Worker's Hotline, for Palestinians employed in the Israeli economy. I wanted to witness this part of the difficult journey that Palestinian workers had to experience to get to their jobs on the other side of the

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<sup>42</sup> He was the second worker to die at the Tulkarem (al-Tayba) checkpoint in 2014.

separation wall. Thousands of workers go through this checkpoint daily in the early morning hours, and because of the security restrictions, lack of organization, and lack of adequate Israeli security guards at the checkpoint, in addition to the fact that no Palestinian police are posted on the Palestinian side, it was common for workers to get impatient and for order to break down. The daily pressure on the Palestinian workers was immense. They did not work near the checkpoint, but would be taking transportation, coordinated by middlemen and employers, to workplaces across Israel. If they did not get to the other side of the checkpoint in time, they would not be able to get to their jobs.

When the work day finishes, the workers have two options. First, they can return to their homes by using Israeli public transportation that takes Israeli settlers into the West Bank, and they can get off before the bus enters the settlement. In 2012, settlers challenged this practice, demanding that the Israeli government stop allowing Palestinians to ride the buses. The government initially implemented restrictions denying Palestinians entry on buses, removing those who managed to get on, but after local and international pressure to end the discriminatory law, Palestinians were allowed to continue using the “settler buses”.<sup>43</sup> The second option is to not return home, spending the night inside Israel “illegally” and returning home on the weekends. There are no statistics of how many Palestinian workers use the latter option, but with the consequent savings on transportation costs and the avoidance of the early hours of crossing the checkpoints, it can be an appealing, if possibly dangerous, alternative.

Palestinians from the West Bank can only legally participate in four sectors of the Israeli economy: construction, agriculture, industry, and services.<sup>44</sup> A quota system restricts the number

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<sup>43</sup> For more details on what happened with the buses, see Levinson (2012, 2013, 2014) and Gross (2013).

<sup>44</sup> For a more extensive description of Palestinian labor in Israel, see Kadman (2012).

of Palestinians who can work in these sectors, and decisions regarding quotas rest solely in the hands of Israel.<sup>45</sup> Furthermore, there are also criteria restricting who can receive a work permit; these include a minimum age and family status of being married and having children. The age requirements are frequently changed; in 2011, the minimum age dropped from 35 to 28 (Kadman 2012:12).<sup>46</sup> In order to request a permit, workers first must find an Israeli employer who is willing to hire them, and the name of the employer is included on the permit.<sup>47</sup> Labor rights organizations object to this system, in Israel and across the globe, because it serves to tie the employee to the employer, creating an environment where exploitation is the norm, such as when employers falsify payment slips that state how much work was done (Kadman 2012:41). Furthermore, permits can be revoked on the basis of security considerations, and the evidence for revocation is a state secret; therefore, the worker will probably never know why the permit was taken away. The permit system also encourages other types of corruption, such as employers who demand bribes from workers in order for them to keep their jobs. The current rate of the bribe that Palestinians pay for a permit can range between 1,500 and 2,500 NIS (\$428-\$714) per month.<sup>48</sup> If an employee does not pay the bribe, he loses his permit and, consequently, his job. Although the requirement of such bribes is illegal, it is common to hear about the payment of such fees, and the Israeli government has not taken any actions to stop this practice.

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<sup>45</sup> These regulations were initially Israeli decisions and then became part of the Oslo Process in the Protocol on Economic Relations between the Government of the State of Israel and the PLO.

<sup>46</sup> The minimum age fluctuates and is lowered when there is less violence and often increases when there are more security concerns.

<sup>47</sup> The Israeli government has said it is looking to change the permit system, but it has yet to do so. For further details, see Worker's Hotline (2016).

<sup>48</sup> Throughout my fieldwork, Palestinian workers told me figures within this range in order to obtain a permit from an Israeli employer. In 2016, Worker's Hotline also reported these same figures (2016).

Israel knows full well the financial benefits that come with a permit and employment in the Israeli economy, and the Israeli domestic security services, Shabak, take advantage of the situation. As Israeli NGO Machsom [Checkpoint] Watch describes in an extensive report on Shabak and security checks for Palestinian workers, reobtaining a permit after it was revoked by Shabak often involves this conversation: “Help us and we will help you: if you do not help us, there will be no entry permits to Israel at any time” (Piterman 2012). The passing of information on to Shabak is a very sensitive topic in Palestinian society, but Palestinians do acknowledge that this occurs regularly: Palestinians spy on and provide information about each other in order to obtain work in the Israeli economy.<sup>49</sup>

One of the important changes that accompanied the Oslo Agreement was coordination between the Israeli government and the PA in order to manage the permits and salaries of Palestinians working in Israel. This coordination increased the prospects of Israeli adherence to labor laws, especially pertaining to health insurance and workplace injuries. Yet, because of the real fear of losing work in Israel, Palestinian workers are hesitant to demand their rights when it comes to these issues, and they mostly learn to live with an atmosphere of workplace harassment, exploitation, and abuse by their employers. But despite the harsh conditions, many Palestinians want to work in Israel, not least because the minimum wage is 5,300 NIS (\$1514) per month. There is no comparable work at that pay rate in the Palestinian areas.

There are estimates that 50,000 Palestinians work in Israel without a permit (Lis 2016).<sup>50</sup> Working without a permit can be advantageous for both the employer and employee; because

<sup>49</sup> I regularly heard of this occurring for those who worked in the settlements and in Israel. The Machsom Watch Report, written by Piterman (2012), provides one of the most extensive reports on this issue.

<sup>50</sup> IDF Chief of Staff Lt. Gen. Gadi Eisenkot testified to a Knesset committee that between 50,000-60,000 Palestinians work in Israel without a permit.

there is no official documentation, both parties can avoid paying taxes and other required deductions. Of course, exploitation can be severe in such cases, and the Israeli employers know that the Palestinian employees without permits have no recourse for justice. The employers are basically free to do whatever they want with the employees. Israel does, occasionally, try to crack down on the “illegal” workers, but such efforts are limited and are not meant to stop the practice, but rather to increase fear and anxiety among Palestinian workers, ensuring further exploitation.

### *Employment in the Settlements*

Mohammad is from the village of Jaba'. He is twenty and, therefore, too young to get a permit to work in Israel. Instead of getting a job working for a Palestinian employer in Area A, he makes more than three times as much working at the Rami Levy grocery store where he receives the Israeli minimum wage, and if he gets overtime hours, he makes even more. The store is located in the Sha'ar Binyamin IZ, and the IZ includes a few other small stores that are part of the IZ. Another important advantage for Mohammad is that the Rami Levy store is just a few minutes' walk down the road, and he does not need to worry about checkpoints or the separation wall when he goes to his job. Just outside of Jerusalem on north-south Route 60, the discount grocery store is conveniently located for settlers who commute between Jerusalem and the settlements north of Jerusalem. Although the main clientele are Jewish settlers, it is not unusual to see Palestinians shopping in the Rami Levy store.<sup>51</sup> The IZ is built on land that was formerly part of the village of Jaba' but is now under full Israeli control. Compared to other

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<sup>51</sup> The IZ does not have any Israeli residents, only shops and businesses, and therefore security allows for Palestinian cars to enter in order to shop and work.

employment prospects, work at Rami Levy is financially a very good option for a young male in Jaba'.<sup>52</sup> Although outsiders want to focus on the fact that he is working in a settler store on land that was once part of Jaba', there is nothing Mohammad can do to change the political situation or to stop the settlers from continuing to expand their presence. He simply wants to save enough money to get married and move out of his parents' home, and working at Rami Levy will likely be the fastest path to attaining those goals.

The following details on Palestinian labor on settlements are not meant to discount the contradictions and conflicts that are a fundamental part of the labor relations in these areas. With nearly five decades of occupation and nearly four decades of employment on the settlements, the incremental growth of the settler population and decreasing space for the lives of Palestinians have become normalized characteristics parts of life in the West Bank.

Settlements are often very close to where the workers live, making the trip to and from work much easier than employment inside Israel. Moreover, entering a settlement is simpler than crossing into Israel, and the security checks are less invasive than those at checkpoints for entrance into Israel. Permits are required for employment on the settlements, but the requirements are different from those necessary to work in Israel. The permits are only for the purpose of entering a settlement where the employment is located. There are no quotas for permits, and those who are as young as 18, single, and without children can obtain a permit. Given the lower age restrictions for permits on settlements, obtaining employment on a

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<sup>52</sup> During one of my visits to his home, he complained that Rami Levy was hiring more Palestinians in order to make sure that the workers did not ever work overtime, and this made Mohammad upset. He wanted the extras hours and pay, but the new policy ensured no further overtime.

settlement can be extremely important for young unmarried males who need to save enough money to be able to make a marriage proposal and start a family.

Unlike work in Israel, there is no coordination between the PA and the Israeli military or government concerning Palestinian workers on settlements. There are no employment offices or agencies that oversee payment to Palestinian employees and legally required deductions. The 2010 PA Presidential edict that forbids all economic relations with the settlements makes such work illegal, but no Palestinian has ever been arrested for being employed on the settlements. At the same time, the PA does not provide any assistance to Palestinian workers who work on the settlements. For any legal assistance, help with medical claims from a workplace injury, or complaints of unenforced labor laws, Palestinian workers must seek help from Israeli and Palestinian workers' rights organizations and unions.<sup>53</sup>

The most significant problem for workers on the settlements is that there is no enforcement of labor laws, and so work conditions are left to the sole discretion of an employer. Since 1982, according to Israeli military orders, Palestinians working on settlements must be paid according to the Israeli minimum wage, but the military does not enforce this military order. With no enforcement and no pressure on Israeli business owners, farmers, and construction companies to follow the law, Palestinian employees witness a wide range of work experiences, yet all are predominantly exploitative. Although military orders stipulate that Israeli settlers who employ Palestinians must purchase private insurance, the order is not enforced, and so Israeli settlers do not purchase insurance. Some settler employers are willing to pay initial medical bills of Palestinians injured on the job, but the majority who have work mishaps must pay out of

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<sup>53</sup> Not all Palestinian unions are willing to help Palestinians employed on the settlements because they oppose Palestinians working on the settlements. The largest Israeli union, Histadrut, does not assist Palestinian workers on the settlements.

pocket. Palestinian workers employed on settlements are permitted to go to Israeli clinics and hospitals to be treated when injured, but in practice this almost never happens. Instead they usually go to Palestinian hospitals, where they must deal with the fact that the PA has outlawed work on the settlements and, therefore, government hospitals will not help the patients financially. Complaining to the authorities (in this case the Israeli military) and filing suit against a settler employer in Israeli regional labor courts are options, but the fear of being “blacklisted” tends to mitigate against taking such a path. Workers know that if they cause any problems, such as going to the authorities or to court, that can be the end of any work on the settlements for them and for their family members.

The main sectors in which Palestinians work on the settlements are construction, agriculture, factories in the IZs, and services for settlement municipalities. The differences in labor experiences for Palestinians in each of these sectors mean that generalizations about labor relations on the settlements can be misleading. During my fieldwork, the best employment situation that I observed was at SodaStream, where workers could make over 6,000 NIS (\$1714) per month with benefits, including transportation to and from work provided by the company and meals at reduced cost during work shifts. In the worst labor situations, Palestinians work for 60 NIS (\$17) per day, which equals 1,800 NIS (\$514) if they work 30 days in a month. Such is the pay for the harvest season, under horrible conditions, on the settlement plantations in the Jordan Valley. These workers in the Jordan Valley receive no benefits and no compensation for work-related injuries. Many of them ultimately quit because of injuries and health problems resulting from pesticides and stress to fingers, hands, and back caused by repetitive work activities.<sup>54</sup>

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<sup>54</sup> Chapter Four will give further details and analysis on labor in settlement plantations in the Jordan Valley, and Chapter Five details the experience of employees at Sodastream.

Between these two ends of the spectrum, work at SodaStream and on the plantations, there are multiple other experiences.<sup>55</sup>

For example, wages are higher in construction than in agriculture, from 150-250 NIS (\$43-\$71) per day depending on one's expertise, but if a worker is injured at the workplace, he must pay for the medical bills. Among businesses and factories in the IZs, there is significant variation in Palestinian labor employment. As detailed in Chapter Three, there are IZ factories where terrible labor violations occur, including salaries that are only half of the required minimum wage, overtime with no additional pay, and harsh health and safety violations. There are also cases where Israeli employers do treat the Palestinian workers well, following at least some of the basic requirements of Israeli labor law, and most importantly the Israeli minimum wage. As will be analyzed in Chapter Five, such "benevolent" companies and business owners, including SodaStream, are routinely featured in *hasbara*, Israeli propaganda.

Another important factor affecting conditions of Palestinian labor on the settlements is the use of Palestinian middlemen who are hired by Israeli businesses, construction companies, and plantation owners. For businesses operating in the IZs, the middlemen are often contracting or human resource companies that oversee the hiring of Palestinian workers and payment of their salaries. In the construction sector, Palestinian contractors have authority over a project, and they hire the necessary qualified Palestinian workers. In the Jordan Valley, Palestinian middlemen hire workers and are often in charge of transportation to and from work. Here the middlemen also act as supervisors on the job site, making sure the Palestinian workers keep at their tasks, often without necessary protections from pesticides, heat and sun, or dangers in

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<sup>55</sup> The SodaStream factory in Mishor Adumim factory closed in October 2015. Chapter Five provides further details on the factory and its closure.

working with cutting tools. The Palestinian middlemen are an essential part of the labor apparatus, separating Israeli settler employers from the majority of the Palestinians they employ. Thus, it is the Palestinian middlemen who become the direct face of exploitation.

Another important factor that affects the nature of Palestinian work conditions is the 2007 Israeli High Court of Justice (HCJ) ruling that Palestinians who work in Israeli settlements are entitled to the same rights as their Israeli co-workers. Before that time, the courts generally had followed official Israeli government policy with regard to labor laws, which was to maintain the local laws that existed prior to the occupation, in this case Jordanian law. If a Palestinian worker takes an employer to court, the case most often ends with a negotiated financial settlement that ensures no legal acknowledgement of any fault by the employer.<sup>56</sup> Most workers are not employed with a contract, and if there is a contract, ever since the 2007 HCJ ruling, many settlement companies insist that the contract stipulate that Jordanian labor laws will govern labor relations so that they will not be obligated to follow Israeli law.

In examining the various push and pull factors for labor options in the three jurisdictions I do not mean to imply that Palestinians are able to choose what they believe is the best employment for them personally and then pick exactly what they want to do. Rather, the military regime has created a system that incentivizes exploitative labor. By restricting the development and growth of the Palestinian economy, Palestinian employment in the Israeli economy becomes more attractive and necessary.

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<sup>56</sup> Chapters Three and Four provide in-depth details of the legal situation and the importance of Regional Labor Courts in Israel.

### *Conclusion*

In 1976, Palestinian author Sahar Khalifeh published *al-Sabbar* (Cactus)<sup>57</sup>. It is a fictional story of a Palestinian who returns to the West Bank full of nationalist energy and is confronted with the complexity of life under occupation. Khalifeh brings to life the hard realities of resistance and compromise, of idealism and survival. She recognized the impossible choices that confront Palestinians and the nature of everyday life that is full of contradictions. Her uncompromising honesty depicts the suffering and miseries of life under Israeli military occupation, as one of the Palestinian characters says in frustration: “They [Israel] suck our blood and make our lives hell so we’ll emigrate” (1991:18). The competing priorities, exposed in the novel, inevitably lead to intra-national disputes centered around patriotism and class conflict. By the mid-1970s, when Khalifeh wrote her novel, over 75,000 Palestinians were traveling into Israel to work in the Israeli economy; they were abandoning their agricultural land and dramatically increasing their personal income by working in Israel. Khalifeh’s perceptive analysis came from what she witnessed in the first years of the occupation, and particularly the tensions surrounding Palestinian labor in the Israeli economy. In spite of the gradual normalization of Palestinian labor in the Israeli economy, such tensions will remain as long as the occupation continues. Although Khalifeh published her book only nine years after the beginning of the occupation, the novel remains relevant as the occupation passes half a century.

The chapter’s analysis of labor options for poor, working class Palestinians provides a better understanding of the numerous push and pull factors that lead Palestinians to work on the settlements, including the intra-national frustrations that Palestinians have about employment in Area A. Such sentiments that do not accord with nationalist imperatives are not novel but have

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<sup>57</sup> The novel was translated to English in 1983 with the title *Wild Thorns*.

been an intrinsic part of the labor structure for decades. Salim Tamari wrote in 1981 that many of the Palestinians he interviewed would rather work in the Israeli economy, even when salaries were roughly equal to those in the West Bank; workers mentioned punctual payment of wages and a more relaxed work atmosphere as compared to West Bank employment as two reasons given for their partiality towards employment in Israel (1981:49-50). One of the important lacuna in understanding the Palestinian labor market is the continued resentment that working class Palestinians hold towards Palestinian employers who mistreat, disrespect, and exploit their fellow compatriots and towards the PA for not enforcing labor laws and defending workers. In 2013, the Palestinian General Federation of Trade Unions (PGFTU) funded and published a study of the Palestinian workforce. The report stated that 46% of those who participated in the study said they did not trust the Israeli Ministry of Labor and the same percentage did not trust Israeli trade unions to “safeguard and protect their rights” (AWRAD 2013:47). But just as important is the fact that a nearly identical percentage, 45% of the workers, said that they also did not trust the Palestinian Ministry of Labor, and 43% did not trust Palestinian trade unions (AWRAD 2013:47). It is only when all these figures are brought together that one gets a more complete picture of the perspectives of the working class (AWRAD 2013:47). The PGFTU is the largest Palestinian union, and it is apparent how out of touch it is with the Palestinian working class when the union’s study states, “It is strange that the results revealed the same level of mistrust by workers in both Palestinian and Israeli workers’ institutions” (AWRAD 2013:47).

Journalists and academics often ask Palestinians who work on settlements whether they would be willing to leave their work and take a job in Area A if there were alternative employment opportunities. Responses are almost unanimous that Palestinians would leave their

jobs on the settlements.<sup>58</sup> What this question fundamentally overlooks is that the Palestinian economy and the PA would have to undergo a drastic transformation, one that is unrealistic at this time, in order to make this option viable, particularly for poor and working class Palestinians. The PA has never made it a priority to assist working class Palestinians or made a serious effort to create opportunities so that Palestinians would stop working on the settlements. Additionally, the choices made by workers are not solely a matter of the economics of alternative employment opportunities and higher wages; the PA's lack of enforcement of labor laws and failure to defend and protect all workers in the workplace create an environment where Palestinians are exploited without recourse.

I was not surprised when Mostapha, who was fired from his job at SodaStream, told me that he had started work in a factory in Mishor Adumim. It would pay him double the amount (5,000 NIS, \$1,428) he would have received from the Palestinian business in al-Ram, and that company already was paying substantially more (2,500 NIS, \$714) than the Palestinian minimum wage (1,500 NIS, \$428). After fifty years of occupation in the West Bank, poor and working class Palestinians generally regard work on the settlements with a resigned shrug. They see the economic benefits of working in the Israeli economy and, therefore, continue to participate in it. All of the employment options before them are appalling, and the day-to-day realities mean one must take whatever one can get. Mostapha lived in a village where more than half of those employed work in settlements and Israel, and it was because of these connections that he was able to find another job working on a settlement. The factory was paying the Israeli minimum wage, which was a significant financial benefit for him. The history and situation of Jaba',

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<sup>58</sup> The most cited statistic comes from the survey done by the DWRC in 2011; this gives the figure that 82% of workers said they would leave their work on the settlements if given alternative employment (Sbeih 2011:57).

which include the impact of land confiscation, a geographic position surrounded by Israeli settlements and a military base, and subsequent obstacles to the development of a local economy, have pushed many residents into employment in the Israeli economy. The village is quite representative of the challenges that face many Palestinians. Without adequate employment alternatives, and with a military occupation regime that limits economic growth and strangles villages such as Jaba', Palestinians will continue to depend on employment opportunities in the Israeli economy.

In the spring of 2016, when there were still fears of a possible Third Intifada, the Israeli military requested additional work permits for Palestinians from the West Bank to enter Israel. The Israeli military continues to believe in the policy that providing employment helps to stifle dissent. Over the past decade, the number of Palestinians working in the Israeli economy has slowly increased, and with the growing pressures of unemployment and a stagnant economy, in addition to failed negotiations and Palestinian dissatisfaction towards the PA leadership, it would be in keeping with historical precedent that the Israeli military will increase employment in the Israeli economy for Palestinians in the West Bank. The relative stability over the past decade, in part buttressed by employment in the Israeli economy, has allowed Israel to continue its ongoing settler colonial policies of removal and enclosure of the Palestinian population in the West Bank and replacement with a settlement population that is over 800,000 by 2015 (including East Jerusalem) (Katz 2016). With a history of three generations of Palestinians working in the Israeli economy, a shrug of the shoulders and acceptance of employment for the occupiers will continue for the foreseeable future.

## Chapter Two: Labor Law in the Settlements

Many [Israeli] employers take advantage of their Palestinian employees' weak position, denying the full pay and rights they lawfully deserve and failing to provide them with a safe working environment. This is made possible and exacerbated by the poor performance of the authorities that are responsible for enforcing the law on employers, thereby criminally breaching their duty (2012:53).

Noga Kadman, Worker's Hotline  
Employment of Palestinians in Israel  
and the Settlements

Even now, after almost half a century of Israeli rule in the Occupied Territories, nearly everyone continues to speak—in everyday political discourse, as well as in legal and academic discourse—of this rule as one of a temporary control, a state of affairs incidental to the Israeli regime and not a structural element of it (2013:12).

Ariella Azoulay & Adi Ophir  
The One-State Condition

On May 27, 2014, the Knesset's Labor, Welfare, and Health Committee met to discuss the lack of enforcement of labor laws, especially the minimum wage, by both the Israeli military and Ministry of Economy, for Palestinian employees in Jordan Valley settlement plantations. Military order no. 967, from 1982, states that the Israeli minimum wage applies for Palestinian workers who are employed on the settlements. An article published in the Israeli daily *Haaretz* on May 14, 2014, highlighted the lack of enforcement of the minimum wage and the clearly exploitative practices of Israeli settlers employing Palestinians in the Jordan Valley (Heruti-Sover 2014a). As Knesset members (MKs) questioned relevant government officials, MK Dov Khenin of the leftwing Hadash party addressed the following to the representative from the Ministry of Economy, who was responsible for enforcement of military order no. 967:<sup>1</sup>

<sup>1</sup> The Hadash party is the Communist party in Israel. Dov Khenin has advocated for the rights of workers and supported legislation for the increase of the minimum wage in 2014.

I have a practical suggestion: Take three vehicles, and every day comb the Jordan Valley from the north to the south, and ask the workers about their work, without registering any complaints or anything. I promise you that within two weeks you will have so much material you will need two teams to deal with all of it (Labor, Welfare and Health Committee 2014:22).<sup>2</sup>

This suggestion was MK Khenin's way of ridiculing the enforcement officer by stating the obvious: if the officer were to drive less than an hour away, he would find thousands of Palestinian workers on settlement plantations in the Jordan Valley who are not paid the minimum wage. The lack of enforcement of labor laws for Palestinian employees in the settlements was not a new problem in 2014, but instead was systemic and well documented (Kadman 2012, Van Esveld 2015, Rettig 2000, Lein 1999). An Israeli State Comptroller report from 2012 made clear that there was little to no enforcement of labor laws in settlement industrial zones (IZs). In a December 2013 Knesset committee meeting chaired by Adi Cole, the chair mentioned a statistic from Israeli NGO Worker's Hotline indicating that possibly 50% of settlement businesses paid the minimum wage.<sup>3</sup> Another guest at the 2014 committee hearing, *Haaretz* journalist Tali Heruti-Sover, recommended that the officials read the newspaper to learn more about the abuses by settler employers. She had written a *Haaretz* story after visiting with some Palestinians employed in settler agricultural plantations in the Jordan Valley. These two simplistic suggestions by MK Khenin and Tali Heruti-Sover were motivated by the frustration about the clear lack of commitment to law enforcement and the continued obfuscation and excuses that are

<sup>2</sup> A copy of the Hebrew transcription of this committee meeting is with me. Translation of the document was done by Tali Shapira.

<sup>3</sup> Chairwoman Adi Cole mentioned this statistic in her opening remarks during the December 2013 Public Petitions Committee (2013:2). She noted that there had been an increase in the percentage of businesses that followed the law in relation to the minimum wage since the 2007 High Court of Justice ruling on labor laws in the settlements.

typical of Israeli authorities when they deal with exploitation of Palestinian labor in the settlements.

During the course of my fieldwork, I traveled more than thirty times to the Jordan Valley to meet with Palestinians employed in the settlement plantations, to work with them, and to stay in villages in order to experience everyday life.<sup>4</sup> Child labor, horrific workplace injuries with no assistance or compensation from employers, exploitative practices that included daily wages of only one-third of the legal minimum, and a lack of adherence to health and safety regulations: all these were standard practices encountered by Palestinians working for Israeli settler employers. The terrible work conditions and treatment of Palestinian employees in the Jordan Valley were by far the worst of all the West Bank settlements, but similar conditions also prevailed in the settlement factories, construction, and services sectors. All of these abuses were quite blatant and would take little effort to uncover, expose, and prosecute. Yet those who were charged with enforcing the law paid little attention and gave numerous excuses for the lack of enforcement.

Chapter Two focuses on labor law that applies to Palestinians from the West Bank who work in the Israeli economy, with particular focus on the situation in the settlements. The historical legal analysis begins with the aftermath of the 1967 war. The Israeli government made legal and political decisions within the first year of occupation that continue to have major repercussions for Palestinians who work in the Israeli economy, that is, within Green Line Israel and on the settlements. After nearly five decades under occupation, the underlying structural and legal relationship between the Israeli employers and Palestinian employees who come from the West Bank has not changed. Initially, Palestinians seeking employment crossed the Green Line

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<sup>4</sup> Several times I stayed overnight with Palestinians families, and on one occasion I stayed overnight on a settlement.

for work, and subsequently, with the growth of the settlement movement in the 1970s, Palestinians began working for Israeli settler employers, especially in construction. In doing so, they became a central element in the expansion of Israeli settlements.

The Israeli NGO Worker's Hotline was established in 1991 in part to assist Palestinian workers who were exploited by Israeli employers, and also in response to the lack of enforcement of labor laws on both sides of the Green Line. Worker's Hotline helped workers take their cases to Israeli Regional Labor Courts, and the courts have been receptive to the Palestinian workers' complaints. The labor courts became the one avenue through which Palestinian workers could demand their rights and negotiate financial settlements. One legal case of particular importance was launched in 1995, when Palestinian workers sued the settlement of Givat Zeev, located five kilometers northwest of Jerusalem, to demand that Palestinians working in the settlement be employed under Israeli labor law, rather than military orders and Jordanian law. Nearly twelve years later, in 2007, the Israeli High Court of Justice (HCJ) ruled in favor of the Palestinian workers, stating that Israeli labor law did apply to them (Israeli HCJ 5666/03). In the following years, various Regional Labor Court judges interpreted the 2007 HCJ ruling in various ways, causing confusion and frustration for employees, employers, and officials in charge of labor law enforcement. The lack of clarity regarding the ruling is exemplified by the National Labor Court's (NLC) ruling in summer 2014 on a case involving Palestinian workers on the Nitzanei Shalom IZ.<sup>5</sup> The 2007 HCJ ruling, along with Regional Labor Court and NLC interpretations of it, are fundamental to an understanding of the legal situation of Palestinian workers in the settlements.

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<sup>5</sup> Nitzanei Shalom IZ, which translates as Buds of Peace, is located near Tulkarem, right on the Green Line. It is located east of the Green Line and, therefore, is in occupied Palestinian territory.

The chapter then analyzes a section of the 2012 Israeli Comptroller Annual Report, which focuses on the absence of any enforcement of labor laws in the settlement IZs. The section also analyzes two Knesset committee meetings that centered on the lack of labor law enforcement regarding Palestinian labor in the Israeli economy. Knesset members questioned government and military officials as to why there were no substantial efforts to prosecute those who continued to avoid labor laws for Palestinian employees in the Israeli economy. The left-leaning Knesset members who participated in these committee meetings do not want Israeli labor laws applied in the West Bank, but they do want the military orders to be enforced. The officials in charge of ensuring compliance with labor laws gave excuses and obfuscated, making it evident that, ultimately, the labor abuses would not stop. The lack of enforcement of labor law exemplifies the arbitrariness of the military occupation, a central strategy of control over the Palestinian population (Gordon 2006:24). The chapter concludes with an example of the Israeli government's policies to maintain the temporary status of the West Bank and the government's duplicity in responding to labor complaints, as exemplified in a military order written specifically out of concern for Jewish female settler employees.

In spite of the existence of labor laws and military orders, the everyday experience for Palestinians is that of employers' noncompliance with the law and a lack of governmental prosecution of employer violations. As a liberal democratic state, Israel possesses all the requisite institutions with which to create and uphold the rule of law – a legislature, courts, officials to enforce the law, and a state comptroller to inspect and evaluate the work of the government. This might lead one to believe that, with all of these personnel, institutions, and government bureaucracy, blatant exploitation of workers would be curtailed. After nearly five

decades of occupation, however, there is no indication that the structural and individual exploitation of Palestinian workers in the Israeli economy will come to an end.

*Labor Law Governing Palestinian Residents of the oPt Who Work in the Israeli Economy*

Labor law governing labor relations for Palestinians who work in the Israeli economy varies from one side of the Green Line to the other. In 1970, the Israeli Ministerial Committee for Security Matters ruled that Palestinians working in Green Line Israel would receive wages and social benefits equal to those of Israeli employees.<sup>6</sup> Labor exchange offices were created to help connect Israeli employers and Palestinian employees. Palestinian workers registered and received work permits that linked them to specific Israeli employers.

Palestinians working for Israeli employers in the West Bank and the Gaza Strip, however, were not governed by Israeli law.<sup>7</sup> Israel did not annex these territories that it gained jurisdiction over during the 1967 war (with the exception of East Jerusalem and Golan Heights), and it has always handled decisions regarding that territory through the military rather than through the Knesset. The United Nations and most of the world's countries assert that the territory is occupied and, therefore, Israel must follow specific international law. In 2004, the International Court of Justice reiterated, in a ruling on the separation wall that Israel was building in the West Bank, what had already been interpreted by international law, that is, that the West Bank is under military occupation, and therefore, Israel is obligated to govern the territory according to

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<sup>6</sup> A translated copy of this order is in the Appendix of *Builders of Zion* (Lein 1999). It states, "An employee from the Territories is entitled to the social benefits that every other worker in Israel with identical particulars is entitled to by law and the collective labor agreements" (Lein 1999:88).

<sup>7</sup> Employment of Gazan Palestinians in Israel ended in 2005 when Israel pulled out of the Gaza Strip. Work was no longer available on the settlements or IZ in Gaza, as those were also abandoned at that time.

international law, including The Hague Convention and Regulations of 1907 and the Fourth Geneva Convention. Israel disagrees with this interpretation and insists that the oPt is “disputed territory”. According to its interpretation of international law, its control of the territory allows it to use a variety of laws, which include military orders and laws predating the Israeli occupation, such as legal orders dating from the Jordanian, British, and Ottoman periods.<sup>8</sup> In principle, Israel applied one aspect of the Hague Convention of 1907 and Article 64 of the Fourth Geneva Convention, according to which the law that existed prior to the occupation was to be preserved and followed. A central feature of the legal administration of the oPt is the arbitrary manner in which laws are selected and applied. Furthermore, the sovereign in charge of security and public order in the oPt is not a democratically elected government, but rather the Israeli military, meaning that traditional processes of legislation do not apply. Palestinians who worked for Israeli employers inside the West Bank were therefore to be subject to Jordanian labor law of 1960 (amended in 1965), and for those who worked for Israelis in the Gaza Strip, Egyptian labor law applied.

In 1976, Israel began to use military orders to amend Jordanian and Egyptian labor law. Military orders no. 662 and 663 dealt with work accident insurance and work accidents. As non-citizens of Israel, Palestinians in the oPt were not eligible for insurance benefits through Israeli national insurance. As a consequence, Israeli settler employers were required to buy private insurance before hiring Palestinian workers. In 1982, order no. 967, Employment of Workers in Certain Locations (Judea and Samaria), stipulated that Israeli minimum wage law was to be

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<sup>8</sup> Kretzmer states, “The official position of the government became that while Geneva Convention IV did not formally apply, the IDF would abide by its humanitarian provisions” (2002:33). The “humanitarian provisions” have never been clearly defined, and therefore, Israel arbitrarily chooses what provisions it applies.

applied inside the settlements. Military order no. 967 has been amended periodically by other military orders as the minimum wage in Israel has increased.<sup>9</sup> In 2007, the geographic area in which Israeli employers were required to pay the Israeli minimum wage was expanded beyond specific settlement borders to include all of Area C.<sup>10</sup>

In addition to the differences in labor law on either side of the Green Line, there were other important structural differences. In Israel, a quota limits the number of Palestinian workers who can obtain permits and there are official labor exchange offices that workers could go to for assistance, whereas employment on the settlements has never had quotas or labor exchange offices. Work permits also functioned differently in the two areas. Initially, work permits for those employed across the Green Line were used solely to keep track of how many Palestinian workers were employed in Israel. These permits also connected workers with their employers, and most importantly, allowed the labor exchange offices to keep records of wages paid to Palestinian workers, including taxes and other government-mandated deductions. In 1988, the government mandated that a security check was part of the process to obtain a work permit. In contrast, in order for a Palestinian to work on a settlement, the Israeli employer was required to request a permit from the military. Similarly, because the military has jurisdiction in the oPt, Palestinian workers there are required to take any labor complaints to military officials. Palestinian workers from the oPt with permits to work in Israel on the other hand could take their grievances to Israel's labor exchange offices and to the Ministry of Industry, Trade and Labour.<sup>11</sup>

<sup>9</sup> This includes amendments on Nov. 19, 1987 and Nov. 7, 2007 (Benvenisti 2012:238).

<sup>10</sup> Area C is about 61% of the West Bank. One of the key employment opportunities for Palestinians employed by Israelis outside of the settlements and IZs, but within Area C, is jobs at "about 10 Israeli-owned [rock] quarries" (Rinat 2016).

<sup>11</sup> From 2003-2013 the Ministry of Economy was called the Ministry of Industry, Trade and Labor, and in 2013 the name changed to the Ministry of Economy.

Although there are important legal differences, and different governing authorities, for Palestinians employed by Israelis in Israel and in the oPt, there is an overriding similarity between the two work contexts: that Israeli authorities rarely investigate and prosecute employers for not following the law. As documented in Chapter One, superexploitation is the normal experience for Palestinians in the Israeli economy.<sup>12</sup> Employers know that they do not have to worry about government officials or the military intervening on behalf of the Palestinian workers, and so, they treat their employees as they choose.

It was in this environment – that of no government enforcement of labor laws for Palestinians and no concern for Palestinian workers in the Israeli economy – that Israeli Jewish labor rights activists established Worker’s Hotline in 1991, with the purpose of helping exploited and disadvantaged workers in the Israeli economy. Besides documenting labor abuses and advocating on behalf of Palestinian workers, the organization helped educate Palestinians about their legal rights, and it coordinated with Israeli lawyers who represented the workers in Israeli labor courts.<sup>13</sup> In many cases, Palestinian workers have received negotiated financial settlements and have won labor disputes in the labor courts with the support of Worker’s Hotline.

In 1995, Worker’s Hotline was involved in launching one of most important cases dealing with Palestinians working in the settlements. The central question was whether Israeli labor law should apply to Palestinians who work either in Israeli settler companies or for Israeli

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<sup>12</sup> As mentioned in Chapter One, Palestinians do generally enjoy more labor rights when they have work permits and cross the Green Line into Israel, as compared to Palestinians who work in the settlements. This is particularly the case since the signing of the Oslo Accords, and there is ongoing coordination between Israel and the PA relating to Palestinians employed in Israel from the West Bank.

<sup>13</sup> The organization initially focused on Palestinian workers, but with the significant increase of foreign workers that began in 1994, the organization has expanded its work assisting Palestinians and foreign migrant workers.

settler municipalities. Palestinian workers employed by the settlement municipality of Givat Zeev initiated the case on the premise that Israeli employers should adhere to Israeli labor law, not Jordanian labor law and military orders.<sup>14</sup>

Fundamental to the case was the fact that, in the settlements, different laws applied to Palestinian workers from the West Bank and to Israeli workers. Jordanian law and military orders were used for Palestinian workers, while the Israeli workers were covered by a very different legal regime. As Tobias Kelly writes, “The Israeli state envisaged the coverage of Israeli citizens in the West Bank by Israeli law as an extension of personal rather than territorial jurisdiction” (2006:59). Labor laws as applied to Israeli workers in settlements include military orders, legislation that applies on a personal basis to Israeli residents of the settlements, and collective labor agreements that govern employment relations for Israeli employees (Paz-Fuchs and Ronen 2012:599).<sup>15</sup> Most important, although problematic, is the consensual understanding between Israeli employees and employers that Israeli law applies to them. As Paz-Fuchs and Ronen observe, “...the settlements and their adjacent industrial areas are socially and politically perceived by many Israelis as incorporated within Israel” (2017:173). This consensual agreement, however, holds no legal status because Israeli civil law is not applied beyond the 1967 borders unless stipulated by military orders. This detail is particularly important when an Israeli employee is involved in a labor dispute on a settlement.

<sup>14</sup> For further details on this case, see Kelly (2006) and Paz-Fuchs and Ronen (2012, 2017).

<sup>15</sup> These regulations were created in 1981 with Military order 892, The Order on Administration of Municipal Councils. Most important is the fact that Annex 6 within the order makes clear that “the Code applies Israeli legislation (listed in the annexes) only in the settlements and only with respect to Israeli residents of the settlements.” Since Palestinians can’t be residents of the settlements, they are excluded (Paz-Fuchs and Ronen 2012:601).

The Givat Zeev case was not just about labor law, but it also had important political ramifications. Implementing and enforcing civil law in occupied territory is against international law. In keeping with the official policy of regarding the oPt as temporary and disputed territory, Israel has abided by this interpretation of international law and has not legislated or implemented Israeli civil law beyond its pre-1967 borders.<sup>16</sup> As part of the Givat Zeev case, the State Attorney General wrote in a brief to the court: “Israelis have a different law that applies to their legal person, this does not affect territorial jurisdiction, as Israel has never annexed the territory and Israel has never applied law outside the official boundaries...the Israeli legislator has made no extraterritoriality determination of Israeli law” (Kelly 2006:59). To demand the application of Israeli labor law in the settlements for Palestinians from the West Bank would, if implemented, lead to a dramatic change in Israeli policy. It would suggest a significant step towards Israel’s full annexation of the settlements, one which would likely draw widespread international condemnation because it would be done unilaterally and not as part of a negotiated settlement. Yet as anthropologist Tobias Kelly wrote, during his fieldwork in 2000-2002, of an interaction with one of the workers who initiated the Givat Zeev suit, “When I raised with him the political issues at stake, Bashir told me that ‘It is not important which law they use as long as I get my rights’” (2006:72). Why consider political ramifications, many Palestinian workers felt, if there is no hope in the political process?

Many Palestinians however also oppose the application of Israeli labor law for Palestinians employed in the settlements for the same reason: fear of one more step towards annexation. During his fieldwork, Kelly also spoke with union activists and lawyers who were

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<sup>16</sup> Both East Jerusalem and Golan Heights are the exception; Israeli civil law is used in these territories, contrary to international law.

Palestinian citizens of Israel and were against the idea of demanding the application of Israeli labor law in the settlements. Kelly wrote of one interaction with a Palestinian lawyer who has Israeli citizenship, who said, “I do not want to get a ruling that Israeli law applies, as this will recognize the annexation of the West Bank to Israel” (2006:73). A report in 2000 by the Palestinian human rights organization, LAW, stated, “Under no circumstances should Israeli law be applied in Israeli settlements” (Rettig 2000:45). During the early 2000s, many still believed in the possibility of a successful negotiated settlement between Israel and the Palestinian Authority (PA). Consequently, advocates for an independent Palestinian state saw demands for the application of Israeli labor law for Palestinian employees in the settlements as undermining the ongoing negotiations. The PA position was that all of the West Bank (including East Jerusalem) and the Gaza Strip would become part of Palestine, yet the Palestinian workers demanding labor rights under Israeli law were, effectively, pushing for Israeli jurisdiction in the settlements. They were interested in exercising their full rights as employees of Israeli settlement businesses and settlement municipalities. They worked for Israeli companies, paid Israeli taxes and had Israeli bosses and coworkers, so why did Israeli labor law not apply? Worker’s Hotline, which assisted the Palestinian workers in suing (former) employers, was most concerned with the rights of the workers, and although it was fully aware of the significant political implications of its work, it continued to help Palestinians take their cases to Regional Labor Courts and eventually to the High Court of Justice (HCJ).

The Jerusalem Regional Court judge’s first decision concerning the Givat Zeev case came in December 1997, and it ruled that Israeli labor law should apply to Palestinian employees in the settlements. The settlement municipality appealed the decision, with four Israeli settler

companies joining the appeal. These companies had been involved in earlier cases where the Regional Labor Court judges had ruled similarly to the Givat Zeev case.

The appeal, which now included five respondents, moved from the Regional Labor Courts to the National Labor Court (NLC), and the ruling came in 2003.<sup>17</sup> Prior to the NLC decision, the Israeli Attorney General submitted a brief arguing that the major linkage between employer and employee was the residence of the Palestinian workers and that, therefore, Jordanian law and military orders were to apply (Kelly 2006:74-77). With this statement, the Attorney General advocated for continuation of the government policy that Israeli civil law does not apply in the oPt. Alternatively, the court could consider “points of contact” in determining “choice of law”, including national identity of the employer and employee, work calendar and religious or national holidays observed, currency used for paying salaries, Israeli tax payments deducted from salary, and use of Arabic or Hebrew in the workplace (Paz-Fuchs and Ronen 2012:591). The 2003 NLC ruling vacated the Regional Labor Court’s ruling and, rather than underscore uniformity of law in the workplace, stated that the most important factors in assessing the cases were the location of employment and the residency of the employees, both of which were the West Bank. The NLC did add that, in some cases, it was possible that “certain Israeli law provisions could be applied if public policy considerations deem such application necessary” (Karayanni 2009:56). The NLC ruling meant that all of the cases needed to return to the Regional Labor Courts and for each judge to rule according to the specifics of the case, keeping in mind “public policy considerations” (Karayanni 2009:56).

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<sup>17</sup> The National Labor Court acts as the court of appeals for the Regional Labor Court. A National Labor Court decision can be appealed to the High Court of Justice.

Worker's Hotline decided to appeal the NLC's decision to the High Court of Justice (HCJ) rather than return to the Regional Labor Courts. In October 2007, the HCJ ruled that Palestinians who work in Israeli settlements are entitled to the same rights as their Israeli co-workers. In contrast to the NLC, and in keeping with the Regional Labor Court decisions, the HCJ used the principle of equality in the workplace to justify the application of Israeli law. The HCJ attempted to clarify the ruling by noting that a key provision in Israeli law is that terms of employment cannot be discriminatory, and therefore, different terms of employment are prohibited (Israeli HCJ 5666/03:278).

By the time I arrived in the West Bank in February 2013, any hesitance or outright opposition towards use of the courts to enforce Israeli labor law in the settlements had disappeared among Palestinians and their allies. In numerous interviews with union officials, lawyers, and Palestinian workers, no one questioned the legitimacy of the HCJ's 2007 decision or the fact that its ignoring of international law could, in a sense, be regarded as a victory for supporters of the settlements. Since the collapse of any substantive negotiations, Palestinians I met expressed increased skepticism regarding the future of a negotiated settlement. Moreover, foreign aid that came because of the Oslo Peace Process did not benefit poor working class Palestinians; for many of them, under Oslo, life had only become more difficult. Without the prospect of a political solution on the horizon, there was no reason for workers on the settlements to be concerned with anything other than their day-to-day livelihood. In contrast to the atmosphere that prevailed when Kelly did his fieldwork in 2000-2002, a time where political ramifications of the legal framework of labor disputes were significant, today lawyers and advocates can no longer reasonably point to ongoing political negotiations as a reason for

resisting application of Israeli labor law. Whereas workers were, by and large, not concerned with the nationalistic argument during the 1990s, these carry even less relevance for them today.

Although the ruling was seen as a victory for workers and for the workers' rights organizations, it has not, in fact, significantly mitigated the exploitation experienced by Palestinian workers. Worker's Hotline believes that more companies have begun to follow the minimum wage and that possibly up to 50% of the factories in settlement IZs are now paying the minimum wage, but it is extremely difficult to get accurate information.<sup>18</sup> Of course, Israeli labor law involves much more than minimum wage, and there are no available statistics regarding whether Palestinian workers receive benefits from settler employers. All indications, however, are that only a few settler employers provide these benefits.<sup>19</sup> Palestinian workers, therefore, continue taking their cases to Israeli labor court, but almost all cases end in negotiated financial settlements, which award the workers only a fraction of what they are owed. Most importantly, the courts can only respond to specific cases that they hear; they do not have oversight of enforcement of the law. As the following section details, there is almost no enforcement, specifically because the Israeli government does not apply Israeli labor laws to Palestinians beyond the Green Line. Outside of labor courts, the HCJ ruling has no authority, and the confusion over what laws are to be applied is examined in the next section.

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<sup>18</sup> Worker's Hotline employs fieldworkers who work in Jericho and Tulkarem, but their work in the West Bank is not comprehensive. These figures do not include agricultural labor, where the rate of compliance with the law is close to 0%, or for the construction sector, which is unknown.

<sup>19</sup> One company that was an exception in providing benefits was Sodastream; the company's benefits to employees are discussed in Chapter Five.

*Interpreting the 2007 HCJ Givat Zeev Ruling*

Regional Labor Court interpretations of the 2007 HCJ ruling have ensured continued confusion and discrepancies regarding what laws apply to Palestinian workers in the settlements. Depending on the specific details of a labor context, judges have issued differing interpretations concerning which law – Israeli or Jordanian – is most connected to, or most closely aligned with, the issue in question, which creates an atmosphere of uncertainty for all parties. Israeli settler employers do not want the application of Israeli labor law and utilize a number of tactics to ensure that labor relations are governed by Jordanian law. The following example highlights how the Regional Labor Court and the NLC ruled in favor of an Israeli employer who insisted on the application of Jordanian law.

On May 27, 2015, I met with a group of Palestinian workers in Tulkarem who worked for an Israeli company, Yamit Filtration & Water. The company had a factory in the Nitzanei Shalom IZ, located adjacent to Tulkarem and the Green Line and inside the West Bank.<sup>20</sup> The workers had come to discuss their legal case with an Israeli journalist writing for *Haaretz*, Tali Heruti-Sover. The three workers were fired in 2010 because they had petitioned the Israeli labor court, demanding labor rights according to Israeli labor law. The Yamit company, which paid Israeli taxes and followed Israeli manufacturing standards, argued that Jordanian labor law with Israeli military orders should be applied. The company, moreover, had required all the Palestinian workers to sign a contract that stated that Jordanian law applied to them. The Regional Labor Court ruled in 2013 that the factory did not have to follow Israeli law because of its location inside the West Bank, meaning that it was outside Israeli civil jurisdiction. The Nitzanei Shalom IZ was created in 1995, during the Oslo Peace Process, with the aim of creating

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<sup>20</sup> Nitzanei Shalom translates to Buds of Peace.

economic ties between Israelis and Palestinians. The Regional Labor Court said that the workers' reasons for the suit were illegitimate and that, therefore, they were required to pay a fine of 20,000 NIS (\$5714) to the factory for the court fees incurred because of the suit. The workers appealed the case to the NLC, and at the time of the interview with *Haaretz*, in May 2015, the decision was expected to be released shortly.



Figure 3.1 Nitzanei Shalom industrial zone

Source: Natsheh (2016)

The two-hour discussion at the offices of the Palestine New Federation of Trade Unions included the workers, *Haaretz* journalist Tali Heruti-Sover, and the head of the Israeli union Maan, Assaf Adiv. Debate revolved primarily around the specifics of Jordanian labor law and what that meant for the workers. Those present retold the stories of the many labor disputes that occurred in the IZ, including labor strikes in the 1990s, 2008, and 2010. They also discussed environmental laws that Israel does not enforce, as in the case of pollution from the agrochemical

company, Geshuri, that affected the soil and the air.<sup>21</sup> Although this IZ had provided several hundred jobs to Palestinians, it was clear that, rather than creating an environment for positive interactions between Palestinians and Israelis, the IZ was, in reality, a place in which Israeli companies exploited Palestinians and disregarded health, safety, and environmental concerns. The workers were clearly nervous about the impending decision, since the Regional Labor Court had already ruled against them; yet, based on the facts of the case it seemed impossible that the NLC wouldn't rule in their favor. As the title for the *Haaretz* article published soon after the interviews put it, *In West Bank Industrial Zone, Everything Is Israeli Except the Harsh Labor Laws* (Heruti-Sover 2015b). It seemed logical that, since the workers were paying Israeli taxes and obtaining Israeli permits to enter the IZ, and because the companies were following Israeli manufacturing laws, the workers, too, should be governed by Israeli law.

On July 10, the NLC ruled in favor of the Israeli company, stating that Jordanian labor law and military orders applied to the Palestinian workers. The NLC gave several reasons for upholding the Regional Labor Court's decision. First, it argued that jurisdiction over the land of the IZ was unclear, but that the company was located in the West Bank. The "territorial linkage" was the West Bank, and because the Palestinian workers came from the West Bank, Israeli law should not apply. The IZ was created under unique circumstances during the Oslo peace process and was meant to be an element of the economic cooperation between Israel and the PA. Unlike other Israeli IZs, which fall under the jurisdiction of Israeli municipalities, the Nitzanei Shalom IZ was not connected with an Israeli municipality. Consequently, the judges ruled that the

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<sup>21</sup> A study published in *The Lancet* in 2013 stated, "...residents of Tulkarm have among the highest rates of cancer, asthma, and eye and respiratory health anomalies compared with residents in other districts" (Qato and Nagra 2013).

company was not subject to Israeli labor law. Second, many of the workers (but not all of them) had signed an agreement in 1998 stating that Jordanian law applied to them. The judge did not take into account the unequal relationship between the two parties, that is, that the workers were forced to sign a contract referencing Jordanian law. Third, the judge noted that of the 100 workers employed at the factory, ninety-seven were Palestinians, and the three Israelis employed there did not work directly with the Palestinians. One of the Israeli employees was a security guard, and the other two worked in the maintenance department. From the judges' perspective, it was not discriminatory to apply Jordanian labor law to the Palestinians and Israeli labor law to the Israelis because the Palestinian and Israeli employees did not work together.

The ruling showed how interpretations of the 2007 HCJ ruling could vary widely. The Israeli lawyers who had filed the appeal on behalf of the Palestinian workers against Yamit adamantly disagreed with the ruling and believed the judges in the NLC had misinterpreted the HCJ ruling. The court ignored the fact that the space was regulated as if it were in Israel. The entrance on the Israeli side had only a gate, as do all IZs, with no additional barrier or particular ID required for entrance, whereas on the West Bank side the IZ was surrounded by a wall. In order to enter the IZ, Palestinian workers had to show their permits at a small doorway in the IZ wall. The court's interpretation that the workers were not discriminated against in the application of different labor laws, because they did not work together with or in the same capacity as Israeli workers, has major implications in that there are many other Palestinians working in the settlements under similar circumstances. The most important implication for other cases is the fact that the workers had signed a contract to follow Jordanian law. Prior to 2007, Israeli employers rarely had Palestinian employees work under signed contracts. After 2007, however, employers realized that by forcing workers to sign contracts that stipulate

Jordanian law, the employers could avoid the application of Israeli labor laws as the law that governed labor relations. It is up to the judge to decide whether to consider the clear power disparities between employer and employee when an employee is forced to sign a document that does not serve his economic and labor rights interests. The different interpretations of the HCJ ruling clearly add further complications for those in charge of enforcement of labor laws and for Palestinians demanding their labor rights in the settlements.

*Israeli State Comptroller Report of 2012 and Knesset Committee Meetings from December 2013 and May 2014*

The following section examines in detail a chapter from a 2012 Israeli State Comptroller Report, as well as two Knesset committee meetings - the Public Petitions Committee from December 3, 2013, and the Labor, Welfare, and Health Committee on May 27, 2014.<sup>22</sup> The Comptroller Report and Knesset committee meetings provide useful examples of how various government branches that are involved with oversight and enforcement of labor laws in the settlements typically interact. On the one hand, advocates of labor law enforcement are frustrated by the lack of initiative and outright disregard for enforcement on the part of those who are given the authority and responsibility to ensure that the law is adhered to. On the other hand, those who are responsible for enforcement point to confusion regarding law and questions of jurisdiction in the West Bank as excuses for their inability to carry out their duties.

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<sup>22</sup> I did not attend the Knesset meetings but obtained the publicly available transcripts and spoke with two individuals who attended the meetings. Chapter Seven of the 2012 State Comptroller report, *Industrial Zones in Judea and Samaria and the Rural Sector*, was translated to English by Connie Hackbarth.

The Comptroller Report focuses on the lack of oversight over the settlement IZs, particularly concerning minimum wage, health and safety, security, and insurance for the workers. Both Knesset meetings focused on Palestinian labor in the Israeli economy and included discussions of the differences in law and enforcement between those who work in Israel and those who work in the West Bank settlements. The State Comptroller report and the Knesset committee meetings featured testimony from government officials, members of the Israeli military, business owners, and activists involved with labor issues, but the most important people concerned with this issue, the Palestinian workers, did not provide any testimony.

### *2012 State Comptroller Report*

The State Comptroller was established in 1949. It is responsible for writing an annual report and, according to its principles, “is part of the system of checks and balances in a democratic state.”<sup>23</sup> In 2011, as part of the annual report, the State Comptroller undertook an audit of the settlement IZs in the West Bank. One chapter of the audit focused on security, enforcement of labor laws, and safety and hygiene laws in the settlement workplace. Participants in the audit included the Coordination of Government Activities in the Territories (COGAT), the Israeli Defense Force (IDF), and the Ministry of Industry, Trade and Employment (Comptroller 2012b:2).<sup>24</sup> The report provides details of systematic violations and outright disregard for Israeli and military law and states in its findings “...that enforcement of the law in the industrial zones

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<sup>23</sup> From the website for the State Comptroller: “The State Comptroller is to oversee and inspect the executive branch of Israel’s governing administration”. It is to audit “the economy, the property, the finances, the obligations and the administration of the State, of Government Ministries, of all enterprises, institutions, or corporations of the State, of Local Authorities...” (State Comptroller 2012a).

<sup>24</sup> From 2003-2013, the Ministry of Economy was called the Ministry of Industry, Trade and Labor, and in 2013 the name changed to the Ministry of Economy.

under Israeli administration in Judea and Samaria in all of the areas examined is not at all sufficient” (Comptroller 2012b:9).

As previously noted, in 1982, military order no. 976, Concerning Employment of Workers in Certain Areas (Judea and Samaria), stated that Palestinians working in the Israeli settlements are to be paid the Israeli minimum wage. The Civil Administration (Israeli military) was the sovereign and, therefore, was responsible for enforcing the order. The audit cites a meeting in 2006 in which the Employment Staff Officer of the Civil Administration claims that they are “...not able to enforce the statutory provisions of the Order concerning Employment of Workers and the obligation to pay minimum wage” (Comptroller 2012b:18). Furthermore, the Employment Staff Officer states that “...he has not the necessary personnel to conduct enforcement in this subject” (Comptroller 2012b:18).<sup>25</sup> Two months later, in April 2006, the obligation to enforce the minimum wage was transferred from the Civil Administration to the Ministry of Industry, Trade and Labor, specifically in the Enforcement Department of the Support Unit for Foreign Workers. Two years later, the government then changed the authorization to the Ministry of Interior and created a new division called the Population, Migration and Border Passage Authority (Comptroller 2012b:19). Two months after that, however, the authorization reverted to the Ministry of Industry, Trade and Labor. This back and forth, starting with the military and then shuffling between the Ministry of Industry, Trade and Labor and the Ministry of Interior, in the end had no effect on the actual enforcement of the minimum wage order. As the auditor writes, “In the period April 2006 and until June 2010, the

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<sup>25</sup> Kelly writes on his fieldwork, from 2000-2002, “While Israeli military orders had made a minimum wage and injury insurance compulsory in the settlements, these remained unenforced” (2006:68). From my fieldwork, interviews, and research, I never found evidence of military enforcement concerning these military orders.

Ministry of Industry, Trade and Labor conducted an audit in only four industrial zones out of twenty, and from June 2010 and until June 2011 no ongoing audits were conducted; the bulk of its actions were conducted following complaints” (Comptroller 2012b:6). The audit also mentions that all Palestinian workers must obtain a work permit in order to enter the settlement IZ. The employer must submit an application for the work permit, which includes an agreement to abide by all laws and orders and acknowledgment that “non-compliance” will result in the “annulment of the permit (employment) or its non-renewal” (Comptroller 2012b:18). In spite of this paperwork and clear delineation of law, government officials do not prosecute employers who disregard the law. Therefore, settler employers do not fear the consequences of non-compliance.

Concerning safety and hygiene laws in the workplace, the auditor wrote, “...the situation is most terrible and borders on total lawlessness” (Comptroller 2012b:22). Those who are responsible for enforcement mentioned that they do enforce the safety and hygiene laws in Israel, but that “there is no activity by us (in Judea and Samaria) on an organized and ongoing basis due to a lack of resources and indecisiveness in the matter” (Comptroller 2012b:22). More importantly, they also reminded the auditor that Israeli labor laws do not apply in the settlements. Though the enforcement officers did not specify this, the understanding is that only military orders could establish standards for safety and hygiene in the settlements that could then be enforced.

The Report looked at one other aspect of the experience of Palestinians workers in the settlements, and that concerned insurance. A military order from 1976 required that all employers hold a valid insurance policy to provide for the workers in case of a workplace injury. Yet, again, the audit found that the military “did not appoint an ‘authority’ for the purposes of

insurance matters, did not enforce the order's directives on Israeli employers and did not conduct supervision so that Israeli employers would indeed acquire insurance policies for the Palestinian workers" (Comptroller 2012b:26). This is a major issue for Palestinians injured in the workplace on settlements and whose employers do not provide any insurance or financial compensation. This is particularly important because of the 2010 Palestinian Authority law that prohibits Palestinians from work on the settlements, thereby making it extremely difficult for Palestinians who do work on settlements to receive medical coverage for a work-related injury. The only recourse is to sue employers in the Regional Labor Courts in hopes of receiving compensation to help pay for medical bills.<sup>26</sup> Again, there is a military order addressing this issue; yet, without any enforcement, the order is worthless.

Of particular concern in the Comptroller Report was the 2007 HCJ ruling, which stated that labor laws for Palestinian workers in the settlements changed from Jordanian law to Israeli law. However, Israel has always had the policy of not legislating or applying Israeli civil law in the West Bank because that would be a step towards annexation, which has never been part of a peace agreement, and would change the legal status of the oPt. The only way around this situation is to create military orders that mirror Israeli labor laws, thereby allowing for enforcement. In July 2008, Knesset Member Ran Cohen wrote:

...in light of the High Court of Justice ruling... the committee calls on the Government Legal Advisor, the Central Command Commander, and Coordinator of (Government) Actions in the Territories, to quickly reach an arrangement in the matter and a summary of the means for applying and enforcing all the labour laws including the safety and hygiene laws, on the Palestinian workers employed by Israeli employers in Judea and Samaria. As Chairperson of the Committee I expect that in ten months following the High Court of Justice ruling on the

<sup>26</sup> As will be detailed in Chapter Four, a Palestinian was hurt at the workplace and went to an Israeli hospital, but the employer denied even knowing the employee, forcing the worker to pay the medical bills.

subject, that the necessary steps will be taken to implement the decision (Comptroller 2012b:15).

The Comptroller Report mentions that in 2011, there still had been no resolution to this problem and, therefore, enforcement was not possible (Comptroller 2012b:23). An inter-ministerial team was formed not long before the Comptroller Report was published to work on amending necessary Israeli labor laws into military orders. This was four years after the HCJ ruling and three years after MK Ran Cohen had “expected...necessary steps” would be taken. The report states that, “due to the importance of the matter, its sensitivity and attendant political and economic meanings,” (Comptroller 2012b:8) the military and relevant ministries should expedite the process, but as of December 2017, there was still no resolution and no new military orders had been issued that reflected Israeli labor law.<sup>27</sup>

The Comptroller Report is unequivocal in its criticism of the lack of law enforcement in the settlement IZs. The State Comptroller did its duty, within a democratic liberal government, to act as a “check and balance” against the actions and inactions of the government, yet there is no evidence that anything has changed in the six years since the report’s release. In the two sectors where enforcement is possible, minimum wage and insurance for workplace injuries, the authorities have clearly shown little to no interest in ensuring compliance. As for all other labor laws, without the military orders and serious enforcement, no change is expected. Arguably, the laws and military orders concerning Palestinian workers have been issued for the benefit of the workers, but instead serve the illusion that the ideals of a liberal, democratic state are being upheld. Citizens and the government can point to both the laws and to the State Comptroller as evidence that the state is defending the “rule of law”.

<sup>27</sup> There is one exception: military order No. 1730, Women’s Labor Law, which was issued into a military order in the fall of 2013.

### *Knesset Committee Meetings*

On December 3, 2013, the Knesset's Public Petitions Committee met to discuss the conditions of employment for Palestinians who work in the Israeli economy. Four members of the Knesset were present: Chairperson Adi Cole (Yesh Atid); Jamal Zahalka (Balad); Tamar Zandberg (Meretz); and Dov Khenin (Hadash). The platforms of all four parties represented oppose the occupation and the settler movement.<sup>28</sup> Those invited to testify included government officials from the Ministries of Economy, Justice, and Defense, the Immigration Authority, a representative of Worker's Hotline, and a member of Maan labor union.

In her opening comment, MK Cole mentioned that the committee had received many complaints about the violation of the rights of Palestinian workers employed in the Israeli economy. She made it clear that, from her perspective, even though the discussion would concern Palestinian labor both in Israel and in the settlements, the inclusion of the settlements in the discussion "does not constitute recognition of them as territories of the state of Israel" (Public Petitions Committee 2). The legal separation between Israel and the West Bank would become an important part of the give-and-take between the Knesset members and those charged with enforcement. The Knesset members had received statistics from Worker's Hotline indicating that the percentage of employers paying the minimum wage had slowly increased since the 2007 HCJ ruling; Worker's Hotline estimated that approximately 50% of companies did pay the minimum wage. MK Cole was clear in her assessment: "In my view this is not an achievement; it's kind of a disgrace" (Public Petitions Committee 2013: 2).

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<sup>28</sup> Yesh Atid considers itself a centrist political party and was part of the coalition government at the time. The three other parties (Hadash, Balad, and Meretz) were part of the opposition and considered left-wing parties.

During the 90-minute meeting, several issues were discussed. My discussion here focuses on three issues directly related to employment on the settlements.<sup>29</sup> MK Dov Khenin asked the Coordination of Government Activities in the Territories (COGAT) head of economy about enforcement of minimum wage law in the settlements. His response was that COGAT had given the Ministry of Economy (in 2006) the authority to ensure compliance in the West Bank settlements. The representative from the Ministry of Economy, Hila Raanan, clarified that the Ministry only responds to complaints and “they do not do proactive enforcement” (Public Petitions Committee 2013:8). In frustration, MK Cole asked, “Why are you not doing proactive enforcement? What are you waiting for?” (Public Petitions Committee 2013:11). Cole recognized the vulnerability of Palestinian workers; complaints about work conditions have to be brought to the military, which provides the permits, an action which would, in all likelihood, cause them to lose their permit or be fired. MK Cole was clearly irritated that although everyone knows that settlement businesses do not follow the military order, the government was not taking any steps to ensure that Palestinians were paid the minimum wage. Why were the authorities not responding to the settlement companies’ clear disregard for the law?

At this point, the absurdity of the excuses became clear. The representative from the Ministry of Economy stated that enforcement would be difficult, because what if an enforcement official went to a workplace and found that many laws were being broken, and yet s/he could only enforce the minimum wage law? “We don’t have the option,” he added, “to do proactive enforcement of a single law” (Public Petitions Committee 2013:17). In other words, what were they supposed to do? Should the officer ignore all laws except for the minimum wage? MK

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<sup>29</sup> The committee also spent a significant amount of time discussing problems for Palestinians who work inside Israel, including fees the workers pay in order to get a permit and non-payment of insurance and social security.

Cole responded, “Do you understand what you’re saying? You say that because there are so many violations, you will not check the violation that you have the authority to inspect” (Public Petitions Committee 2013:17). MK Cole pushed those with the authority to enforce the minimum wage law to do their job. At the end of the discussion, she stated, “...you have the power to enforce minimum wage and do not do it. People get 10 shekels an hour because you do not want to enforce the rest. This is not the answer, it is not acceptable. It is a disgrace in my opinion” (Public Petitions Committee 2013:18).<sup>30</sup>

A second topic came up when Captain Eli Bartov, representing the Military Prosecutor’s office, from the Ministry of Defense, mentioned that the 2007 HCJ ruling is interpreted in different ways by various labor court judges. The HCJ had ruled that the connections between the settlement employer and employee were such that Israeli labor law was to be used, but the Military Prosecutor asserted that these connections can be interpreted in different ways. The labor courts have taken many court cases, and in each case, the judge must decide whether the connections are strongest with Israeli law or Jordanian law. Advocates for Palestinian worker rights typically assert that “Israeli law applies now,” because of the 2007 HCJ ruling, whereas Captain Bartov indicated that, in reality, every situation is analyzed by the judge on a case-by-case basis (Public Petitions Committee 2013:21). Consequently, there have been cases where the judge has ruled that there are stronger linkages to Jordanian law, such as the case with the Palestinian workers at the Yamit Filtration & Water Company. This issue would make enforcement all the more difficult, because how can one ensure compliance when one is unsure what law should be applied? How can one enforce when one is not sure whether the workers are under Israeli law or Jordanian law? None of the participants in the committee meeting

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<sup>30</sup> The hourly minimum wage rate when the committee met was 23.12 NIS (\$6.60).

mentioned the fact that, concerning the minimum wage for the Palestinian workers, it did not matter what the HCJ ruled because the minimum wage was regulated by an Israeli military order. Captain Bartov tried to complicate the situation by diverting attention from the simple fact that he and the rest of the military are not interested in enforcing the minimum wage!

The third topic, which could possibly help clarify labor relations for Palestinians on settlements and enforcement of law, dealt with the writing of the necessary military orders that mirror Israeli labor law and take into account necessary distinctions from Israeli law based on the fact that Palestinians in the West Bank are not Israeli citizens. Several of those giving testimony indicated that it is very complicated to take Israeli labor laws and rewrite them as military orders (Public Petitions Committee 2013:25). The representative from the Ministry of Justice admitted that they knew by 2009 that something had to be done, that is, that military orders had to be written (Public Petitions Committee 2013:30).<sup>31</sup> Discussions about this process had happened, but regular meetings of the inter-ministerial team did not occur until September 2013 (Public Petitions Committee 2013:23). There was a clear consensus of the four MKs that creating military orders was of utmost importance to assist in enforcement, to clarify the legal situation, and to keep Israeli civil law from being implemented in the oPt. These orders have yet to be made.

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<sup>31</sup> It is unclear why it took more than a year after the HCJ ruling for officials to realize the political complications with the enforcement of Israeli labor laws in the settlements. A decade later, the government has yet to issue the military orders that mirror Israeli labor laws.

*Labor, Welfare, and Health Committee*<sup>32</sup>

On May 11, 2014, journalist Tali Heruti-Sover's investigative article appeared in *The Marker*, the financial supplement of *Haaretz*, on the non-enforcement of labor laws for Palestinians employed in the Jordan Valley agricultural settlements.<sup>33</sup> Heruti-Sover wrote about Jamal Fukhah, from the village of Ein al-Bida, who had lost his job after three years of work as a security guard on a banana plantation, and about Muhib Dararma, from Ein al-Hilweh, who had sued his employer for not paying the minimum wage. A short film was also produced that chronicled Heruti-Sover's visit to the Jordan Valley (2014b). The film, *Modern Slavery*, opened the meeting of the Labor, Welfare, and Health Committee on May 27, 2014. Members of the committee were Adi Cole (Yesh Atid), Michal Biran (Labor), Mickey Rosenthal (Labor), Basel Ghattas (Balad), Dov Khenin (Hadash), and Afu Agbaria (Hadash). Those providing testimony included representatives of the Ministries of Economy, Finance, Defense and Population, Immigration and Border, Heruti-Sover, and an employee of Worker's Hotline, among others.

The film begins with Heruti-Sover trying to interview an irritated settler employer in the Jordan Valley. The settler demands that she stop filming when she begins to question him about the treatment of Palestinian workers. Heruti-Sover then interviews Jamal Fukhah and several other Palestinian workers about how much they get paid; all indicate salaries that are less than half of the minimum wage. Then Dror Etkes, an anti-settlement Israeli activist, is interviewed. He describes settlers as "endlessly greedy" and the situation of Palestinian labor on the settlements as "classic exploitative colonialism". The film ends with an official statement from

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<sup>32</sup> A copy of the Hebrew transcript for this committee meeting is with me. Translation was done by Tali Shapira.

<sup>33</sup> The article was first published in Hebrew on May 11, 2014, and then translated into English on May 14, 2014.

Ginosar, the kibbutz responsible for the banana plantation. The statement denies all the allegations but declines to provide further comment, a denial that is difficult to take seriously in light of the evidence that Heruti-Sover reports.

When the film finished, MK Ghattas interjected, “It’s like *12 Years a Slave*,” referring to the Academy Award-winning film from 2013 and its depiction of slavery in the United States. He reminded everyone that the Public Petitions Committee had met six months ago and that, since then, nothing had changed in the treatment of Palestinian workers in the settlements and enforcement of the minimum wage military order (Labor, Welfare and Health Committee 2014:2). After MK Ghattas finished speaking, MK Khenin brought up three additional problems related to Palestinian employment on the settlement plantations in the Jordan Valley. First, most workers in the Jordan Valley are hired through a Palestinian contractor, and the settler farmers have little direct contact with the employees. Second, there is a tremendous amount of reluctance among workers to sue their employers, knowing that as a result they would be “blacklisted” and no longer be able to work in Jordan Valley settlements. Third, without pay stubs and permits, there is little to no evidence to present in court, and therefore it is almost impossible to demand labor rights from employers. MK Khenin then suggested that the Minister of Economy, Naftali Bennett, and Minister of Defense, Moshe Yaalon, should be prosecuted for not doing anything (Labor, Welfare, and Health Committee 2014:4).

As in the Public Petitions Committee meeting in December, those present expressed frustration over the lack of enforcement of labor laws in the settlements. MK Cole stated “...this is my question: We know the data, we had the previous discussion - most of the (same) people are here. The question is: why have things not changed?” (Labor, Welfare, and Health Committee 2014:11). The enforcement official responded with more excuses:

Today the tools at our disposal do not allow for effective enforcement in the territories-- And I'll tell you: if I go to those workers discussed in the article, and I try to implement enforcement, and I question them, I promise they will say things and their testimony will be different from what they said in the article, and then it makes it difficult to enforce (Labor, Welfare, and Health Committee 2014:11).

Although there was undeniable evidence of widespread exploitation of Palestinian workers and outright flouting of the law by settler employers, the official argued that a major obstacle to enforcing the law is that Palestinian workers can't be trusted. He went on to complain that prosecuting a criminal case against employers who do not pay the minimum wage was impossible because, "the level of proof required is intolerable" (Labor, Welfare, and Health Committee 2014:11). He mentioned that "...the worker's fear, a desire to remain at work, no paystubs, and no reports of hours" made it difficult to use testimony from Palestinian employees to build a case against an employer (Labor, Welfare, and Health Committee 2014:11). As discussed in Chapters 3 and 4 of this dissertation, the fact that settler employers often do not submit pay stubs and that there are no physical records becomes an important strategy in undermining opportunities for cases against them. Knowing that the lack of documentation limits the prospects for their cases, lawyers are hesitant to take cases on behalf of the Palestinian workers.

A few minutes later, journalist Heruti-Sover joined the conversation, asking why enforcement officers don't just ask the employers for the payment slips. Rather than the employment officer answering the question, MK Cole reminded Heruti-Sover that the payment slips are not required by law; the only requirement is payment of the minimum wage. Therefore, enforcement officers can't demand payment slips (Labor, Welfare, and Health Committee 2014:23). Cynically, Cole reminded everyone of the argument made in the previous Knesset meeting – that the employment officers were afraid to go to the workplace because they might

find other labor violations; they can't do anything about violations other than the minimum wage; and ignoring other violations would compromise their integrity as enforcers of the law.

It is clear from this public hearing that everyone knows the problems and yet nothing will change. The Ministry of Economy, in charge of enforcement of the military order for the minimum wage, is not proactive in enforcement, even though adherence to the order is, at most, 50% in the settlement IZs and is not followed at all in the agricultural sector in the Jordan Valley. If and when the military orders are written, there is still no guarantee that they will be enforced. Decades of experience of Palestinian workers on settlements suggests that enforcement will not happen.

The four Knesset members who attended the Public Petitions committee did raise the issue, to varying degrees, that they opposed settlements and *did not* want Israeli labor law to be implemented in the settlements. MK Khenin recommended that all laws connected to labor be enforced through military orders (Labor, Welfare, and Health Committee 2014:34). Members of the inter-ministerial team working on the new military orders did, in fact, fulfill their promise to provide a comprehensive update three months after the Labor, Welfare, and Health committee meeting. The document they provided in August 2014, however, only gave details of the work they still had left to complete, that is, writing military orders that mirrored Israeli labor law and the complexities of the changes necessary to adapt Israeli labor law to jurisdiction in the settlements with non-citizen Palestinians.<sup>34</sup> By the end of 2017, there were no new military orders concerning labor laws (with one exception, which will be detailed in the following section). In closing the Labor, Welfare, and Health committee meeting MK Cole said:

... I think that the situation is intolerable. - - - We're talking about a very long period of limbo, people are deprived of basic social rights, and people who live

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<sup>34</sup> A copy of this letter is with me.

with us are employed by Israelis, and employed in appalling conditions. Slavery was said here, and occupation and very, very harsh words. I think we are fundamentally violating human dignity and that's unacceptable. We will forward a request on our behalf, on behalf of the committee, ...to speed up the process and to reach a solution to ensure the basic rights of workers (2014:31-32).

The committee met, asked questions, and demanded answers about the lack of enforcement. They demanded changes. Nothing has changed. When I left the West Bank in June 2016, no serious effort had been undertaken, despite all the concern expressed within the Knesset to stop or even limit the violations of human dignity, the denial of basic social rights, and the continued exploitation of Palestinians employed on the settlements.

### *Women's Labor Law*

Both Knesset meetings briefly discussed a military order, written in October 2013, that related specifically to women's labor law in the settlements. A leading supporter for the settlement movement in the West Bank, MK Orit Struck, of the right-wing party, The Jewish Home (Bayit Yehudi), had advocated for a law to protect female employees in the settlements. She was upset to find out that a Jewish woman who had been employed on a settlement was fired for being pregnant. The pregnant woman could not demand protection through Israeli labor laws because her employment was in a settlement and protection for the rights of women had never become a military order. Military order No. 892 from 1981 includes some labor laws that *only* apply to residents of the settlements, but it does not include the laws related to women's rights.<sup>35</sup> MK Struck quickly moved to add legislation for the Knesset to vote specifically to apply women's labor law for all women who work in the settlements. The law passed necessary steps through the Knesset and was headed to the Prime Minister and the Cabinet for final approval in

<sup>35</sup> For further details on this military order, see Paz-Fuchs and Ronen (2012).

the fall of 2013. Of course, this was politically problematic; the Israeli Knesset has never legislated Israeli civil law beyond its borders. As Attorney General Yehuda Weinstein wrote, “From the legal standpoint, the extension of Israeli legislation of a territorial nature to the [oPt] could have ramifications at the level of international law” (Lis and Hovel 2013). A joint statement by Justice Minister Tzipi Livni and Science and Technology Minister Jacob Perry said, “The bill proposed by MK Orit Struck is an attempt to annex the territories from the legal standpoint and to harm Israel’s international standing under the guise of a mechanism for protecting the rights of Israeli and Palestinian women working in the territories” (Lis and Hovel 2013). The proposed law created a conflicting situation in which those demanding justice for women in the workplace would have to vote in favor of a right-wing plot to annex the settlements.<sup>36</sup> In order to sidestep the political schism, military order no. 1730 was quickly created in order to apply women’s labor law in the settlements, thus solving the issue without finalizing the legislation. A crisis was averted, and Israel’s policy of keeping the West Bank in a permanent temporary status continued.

MK Cole acknowledged in the May Knesset committee meeting that, because of MK Struck’s efforts, a military order was created from the women’s labor law, but she also said that they “do not necessarily agree on that drive” (Labor, Welfare and Health Committee 2014:17). The disagreement in strategies stems from MK Cole’s interest in a negotiated peace agreement with Palestinians, while MK Struck advocates annexation of the West Bank. MK Cole appreciated the efforts to push for women’s labor rights and forcing those responsible to quickly

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<sup>36</sup> Struck said, “I believe that MKs from every faction will support this bill, which puts women’s rights above diplomatic differences” (Harkov 2013). She clearly was trying to manipulate the issues of women’s rights for her own interests to promote the settlements.

write military order no. 1730. Yet, the obvious question was whether MK Struck was really interested in supporting women's rights or whether she was manipulating the legislative process by using feminist arguments to push for annexation.

This is also a clear example of the discriminatory structure of the occupation and of the arbitrary policies of the Israeli government. MK Struck was quick to act on behalf of an Israeli Jewish woman who had been fired. The Knesset's quick action during the spring and summer of 2013, including passing the law through the various committees and then quickly writing a military order, stands in direct contrast to the rest of the labor laws that still have not been written into military orders. The Comptroller Report of 2011 recommended that the military "act expediently with the Ministry of Justice to examine the need to amend security legislation [military orders] concerning labour laws in Judea and Samaria" (2012:17). Both Knesset meetings also brought up the importance of writing the military orders that mirror Israeli labor law, thereby adhering to the 2007 HCJ ruling and to Israel's policy of not applying civil law beyond its borders. Yet, when concerned with a Jewish female resident of a settlement, the matter was pressing, and action took place promptly.

### *Conclusion*

Compared internationally, Israel has strong labor laws and protections for employees. Israeli citizens and international observers consider it to be a country with high labor standards, with more than 26 labor laws guaranteeing many benefits and protecting all citizens from discrimination. Yet it is clear that Israel is not interested in enforcing labor laws for Palestinian workers in the Israeli economy, particularly in the settlements. For example, the State Comptroller Report of 2011 is unequivocal in its criticism of the lack of enforcement of labor

laws and weak health and safety standards in the settlement IZs. Of course, there has been comprehensive documentation of the labor abuses on the settlements by Israeli NGOs, such as B'Tselem and Worker's Hotline; by Palestinian NGOs, such as LAW, Democracy and Workers' Rights Center and Palestinian unions; and in annual reports from the United Nations and International Labor Organization. It is the Israeli settlers who have the most to gain financially by employing Palestinians and by not following the law. Their businesses are considered to be Israeli companies even though their factories and plantations are located in the West Bank. Still, they obviously ignore Israeli labor laws to their own benefit. After decades without any enforcement or any action from the Israeli government and military to end settler employer non-compliance, it was Israeli labor courts and the HCJ that stepped in to demand that employers follow the law for Palestinian employees.

By applying Israeli labor law beyond Israeli borders and in the settlements, the HCJ made a decision that both the Israeli Knesset and military had resisted since the beginning of the occupation. The HCJ argued that there must not be discrimination in terms of law governing work relations, thereby necessitating equality and uniformity of labor law. Arguably, the HCJ was concerned with the Palestinian employees and wanted to correct the clear exploitation by settlers. Karayanni argues that the HCJ ruling came because the Palestinian workers "opted for a choice-of-law resolution designed to maximize each one's own interests, irrespective of the political implications, and the application of Israeli law left the Palestinian plaintiffs better off financially than if they were governed by West Bank law" (Karayanni 2009:6). Since the HCJ ruling in 2007, Palestinian workers have won many court cases and others have received financial settlements based on Israeli law, yet for a vast majority of Palestinians employed in the settlements, the 2007 HCJ ruling has done little to change the everyday work experience, apart

from a higher proportion of workers in the IZs receiving the minimum wage. The ruling is not enforced except for in the labor courts, and therefore, a majority of employers continue to resist following the law. In 2012, Worker's Hotline wrote, in a comprehensive report on Palestinian workers in Israel and the settlements, "The vast majority of workers earn less than the minimum wage, their wages are withheld from time to time, their social rights are denied and they are exposed to dangers in the workplaces" (Kadman 2012:37-38).

Beyond the fact that the HCJ ruling has had marginal impact on labor conditions for Palestinians employed on settlements, there are also serious concerns regarding the ruling itself. Most notable in the 2007 HCJ ruling was the court's avoidance of international law and, subsequently, the political ramifications of its ruling. The West Bank is recognized internationally as occupied territory, and therefore, it is illegal, according to international law, to apply Israeli civil law in the area. Additionally, the court was concerned with discrimination in terms of what law applied to workers, but the ruling did not consider the national rights of Palestinians, whereby application of Israeli labor law was a clear step towards annexation and a further detriment to the creation of an independent state of Palestine. Actually, the ruling favors interests of Israel in that it brings more legitimacy to the settlements; focusing on equality and uniformity of law in the workplace gives legitimacy to the workplace and labor relations even though the businesses themselves are still illegal in occupied territory. In addition, the ruling further expands Israeli influence over the lives of Palestinians who are not citizens of Israel (Paz Fuchs and Ronen 2017). Although settler businesses, construction companies, and plantations would lose some profits if the HCJ ruling were enforced, the fact remains that there is no enforcement. Furthermore, the HCJ judges did not question why some Israeli laws that were part of military order No. 892 applied only to residents of settlements and not to Palestinians. This

military order, in fact, is where differences in labor laws are manifested between Palestinian and Israelis working on settlements. Rather than have Palestinian workers be governed by Israeli law, in fact the Israelis working in occupied territory should work under the labor regulations of Jordanian law, at least according to international law.

The HCJ ruling, one that benefits some Palestinian workers, plays an important role in furthering Israeli control and influence in the West Bank. Israeli sociologist Baruch Kimmerling has argued that the Israeli courts bestow “on the occupation an enlightened face, a kind of legitimacy anchored in the modern concept of ‘law and order’,” which can also be viewed as “judicial annexation” (Kimmerling 2002:1121). Daniel Kretzmer, in his historical analysis of the HCJ, writes that the court often took the role of ensuring that Israel was a “benevolent occupant”, that is, the court at times ruled in favor of Palestinian humanitarian concerns in order to blunt the most extreme military policies.<sup>37</sup> Furthermore, Kretzmer writes,

it may be argued that the main function of the Court [HCJ] has been to legitimize government actions in the Territories. By clothing acts of military authorities in a cloak of legality, the Court justifies and rationalizes these acts. Even if this has not produced legitimization in the eyes of residents of the Occupied Territories themselves, it has done so both for the Israeli public, in whose name the military authorities are acting, and for foreign observers sympathetic to Israel’s basic position (Kretzmer 2002:2).

Kretzmer’s argument supports the idea that the HCJ ruling serves the benefit of the Israeli public and the international community. There is no question that the ruling also serves Palestinians in terms of their labor rights, yet it simultaneously undermines their claim for an independent state in the oPt. The examples of the State Comptroller Report and the Knesset meetings fall in line

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<sup>37</sup> Sultany (2014) provides an extensive list (pp. 6-7) of the HCJ court decisions that directly harmed Palestinians.

with this analysis. All of these different government bodies convince Israelis that the HCJ is concerned with the wellbeing of Palestinians; that the State Comptroller is transparent, going so far as to criticize the lack of enforcement of labor regulations on the settlement IZs; and that the Knesset can demand change and denounce the exploitation. The façade of the “rule of law” continues, and advocates for Israel can continue saying that “it is the only democracy in the region”.

The controversy over the women’s labor law discussed at the end of the chapter is an important case for understanding future actions by the Israeli government. Even as the law made its way through the various committees in the Knesset, and eventually to the cabinet and Prime Minister, the Attorney General stated clearly that this would be unprecedented for the Israeli government. MK Struck wanted Israeli law legislated for the settlements and cynically used a feminist argument for women’s labor law in order to try to push the government closer to annexation of at least parts of the West Bank. What happened with the women’s labor law exemplifies the role of temporariness and arbitrariness in controlling the West Bank. It was only out of concern for an Israeli Jewish woman who was fired that the women’s labor law became such an important issue, eventually leading to a new military order. The debate regarding the question of the Knesset legislating beyond its borders showed how Israeli policy continues to be one of keeping the West Bank in a temporary status. Here, again, it is arguably the settlers that benefit. Continuation of the temporary status allows continued expansion of the settlements and exploitation of Palestinian labor.

Moreover, it is simple to point out Struck’s duplicity because of her political commitments to annexation of the West Bank, yet in terms of pushing for policies that change the status of the West Bank, the assistance that Worker’s Hotline provides to help Palestinian

workers fight for their labor rights in the settlements actually works towards the same goal, that is, applying Israeli civil law in occupied territory. For Struck, it was a feminist argument, and for Worker's Hotline, it was a labor rights argument. In both cases, individual workers benefit, but in both cases, the ultimate policy implication is annexation.

There are no easy solutions for the Palestinian workers; if they demand rights according to Israeli labor law they undermine Palestinian nationalist goals and, in a perverse way, help the advocates of the settlers. With the assistance of Worker's Hotline and Israeli lawyers who specialize in labor laws, Palestinian workers on the settlements have demanded their labor rights. These demands in the labor courts led to the HCJ ruling in 2007 and an increase in the number of settler employers who pay the minimum wage and other benefits as stipulated by Israeli labor law, but they also expose the importance for the Israeli government for the continuation of the permanent temporariness of the occupation.

### Chapter Three: Palestinians Demand their Labor Rights

This is not about the law or your rights. This is about money. This is about money.<sup>1</sup>

Israeli lawyer speaking with a Palestinian worker discussing their lawsuit against an Israeli settler company

Am I nothing but a collaborator to this huge mechanism, which needs me to occasionally soften the sharp edges of the military domination and hence enable the occupation to operate (2005:167)?

Michael Sfard, Israeli human rights lawyer

In December 2013, I participated in a legal training workshop at a hotel in Jericho together with regional legal coordinators of the Palestinian General Federation of Trade Unions (PGFTU). The two-day workshop was led by a lawyer, a Palestinian citizen of Israel who specializes in Israeli labor law. During the workshop, the lawyer provided details regarding Israeli labor law, and the legal coordinators asked questions related to the particularities that they encounter when trying to help Palestinian workers employed in the Israeli economy. The PGFTU is the largest union for Palestinians in the OPT. It provides legal assistance for Palestinians who work in the Israeli economy on both sides of the Green Line, but it cannot organize workers or provide services in areas that are under Israeli jurisdiction.<sup>2</sup> The union does organize and provide services in the PA-controlled Area A. The workshops it organizes for legal

<sup>1</sup> April 5, 2014, at the Ramallah offices of the PGFTU. A Palestinian Israeli lawyer met with a group of Palestinian workers to discuss what the lawsuit against an Israeli settler company would require over the coming months and years. This statement was made frequently to the workers to remind them what the case really was about.

<sup>2</sup> It does have an official relationship with the Israeli union, Histadrut. The Palestinian workers who are employed in Israel must pay .07% of their salary to the Histadrut. As part of the agreement between the PGFTU and the Histadrut, half of the .07% is then given to the PGFTU. This official relationship between the two unions is extremely sensitive and controversial in the Palestinian community.

coordinators, such as the one in Jericho, are important because of the complexities they encounter when trying to assist Palestinian workers who work under three different legal jurisdictions: Israel, Area A under PA jurisdiction, and the settlements in the West Bank under Israeli military control.

I had met several of the legal coordinators during the first several months of my fieldwork, when I visited PGFTU regional offices across the West Bank. One of the best ways to meet those employed in the settlements is to visit the PGFTU offices on Saturday mornings, the day the workers who are employed in the Israeli economy are usually off work.<sup>3</sup> Palestinian workers can stop by the offices during the week, but it is on Saturday mornings that the legal coordinator and, possibly, an Israeli lawyer set aside time specifically to meet those who work in the Israeli economy.<sup>4</sup> The legal coordinators for the PGFTU are not Israeli citizens and are not licensed to practice law in Israel; therefore, they are not allowed to participate in legal proceedings in Israeli labor courts. However, they are typically the first point of contact for Palestinians who are looking for legal assistance. In order to support Palestinian workers who are employed in different legal jurisdictions, it is important for the legal coordinators to be familiar with both Israeli and Palestinian labor laws as well as with the Jordanian labor law of 1960 (amended in 1965) and Israeli military orders.

Some coordinators are more active than others, making connections with trade unions abroad, leading educational tours, and giving lectures for foreign visitors. They take a proactive approach to helping Palestinian workers, especially through organizing educational workshops

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<sup>3</sup> In Israel and the settlements Saturday is the day off, and in the Palestinian areas Friday is the day off.

<sup>4</sup> The majority of lawyers who work on cases for Palestinian workers in the Israeli economy are Palestinian citizens of Israel; there are a few Israeli Jews who also take cases to the labor courts.

that provide information on Israeli labor laws and by publishing and distributing informational pamphlets. Labor coordinators also perform the important role of listening to the many workers who come to the union offices devastated, injured, and desperate for help. Their ability to offer any assistance to the workers beyond education and advice is extremely limited, and I witnessed on numerous occasions the frustration of workers who felt abandoned. The Israeli labor courts provide the only mechanism for Palestinians working on settlements to demand their legal rights, but the combination of confusion of what law is used in the settlements, a lack of financial resources to resist exploitation, the absence of political and social support from either the PA or Palestinian NGOs, as well as the workers' precarious position as non-citizens of Israel, all add up to an extremely difficult legal process that, in the end, *might* award them *part* of the labor rights that they are legally due.

Chapter 3 focuses on two cases that provide insights into the many challenges that Palestinian workers face in the labor courts. The cases demonstrate different strategies – one representative and one exceptional – both in terms of how the workers choose to pursue their labor rights and in the legal processes that follow those choices. The first case, which included multiple lawsuits, involves a group of 25 Palestinian workers employed in a food processing plant in a settlement IZ, all of whom sued their employer after either being fired or choosing to leave the plant.<sup>5</sup> The case highlights the difficulties the workers face and the incentives to close the case through a financial settlement. The story of these workers is representative of most

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<sup>5</sup> The names of the workers have been changed, and details such as the name of the company, Israeli lawyer, and settlement are not included to protect the workers.

cases brought by Palestinian workers to the Israeli labor courts, where as many as 90% of the cases end with a financial settlement.<sup>6</sup>

In the second case, Hatem Abu Ziadeh pursued an atypical course of action. He was employed at Tzarfati Garage in Mishor Adumim IZ, and after working there for sixteen years, he wanted an improvement in his labor situation, that is, to obtain his rights as stipulated in Israeli labor law, but he did not want to be fired.<sup>7</sup> He took the unusual step of organizing the Palestinian workers in the garage to become members of the Israeli union Maan. Hatem did not want to sue his employer and go to labor court, but after a year of positive labor negotiations had passed, the garage attempted to fire him. This launched a long court battle over the basic question of whether Maan was the legal representative of the Palestinian workers in the garage and whether Hatem could return to work. His journey through the Regional Labor Court, National Labor Court (NLC), and High Court of Justice (HCJ) illuminates the many obstacles Palestinian workers face both from their employers and in the courts.

### *Workers are Fed Up*

When I walked into the small meeting room at the PGFTU offices in Ramallah on January 25, 2014, I was surprised to see so many young men who had come to talk about their employment situations. The room was full, with more than twenty young men occupying all the chairs and some standing. A Palestinian lawyer from Jerusalem, along with the PGFTU legal coordinator, sat and listened to their horrifying stories. The young men were excitable, talking

<sup>6</sup> This figure is from an interview with Khaled Dukhi on Nov. 4, 2015, who is the legal coordinator and oversees the lawyers at the Israeli NGO Worker's Hotline.

<sup>7</sup> Mishor Adumim is under the jurisdiction of Israeli settlement municipality Ma'ale Adumim. It is east of Jerusalem and one of the largest settlement IZs in the West Bank.

over each other and pulling out their phones to show pictures of where they worked during the day and slept at night. There was a mixture of uneasy laughter and anger as they described their appalling living situations and work. The laughter covered up the pain and agony; many of them were still working at the plant and would return to work later that day.

The young men worked in a food processing plant in a settlement IZ and slept in shipping containers next to the plant, which was an unusual occurrence on a settlement IZ. The containers were full of rodents, had limited sanitation and inadequate water, and were overcrowded.

Workers slept crammed into a small space and used small burners to make meals on weeknights, although they returned home on the weekend. Admittedly, the provision of sleeping quarters was beneficial for the workers because it meant that they did not have to pay for transportation to and from work every day. Technically, under Israeli labor law, the company was responsible for covering some transportation expenses, but it had never done so; therefore, the expense fell to the workers. The young men worked long hours but did not receive the minimum wage, overtime pay, or any benefits. Of course, staying overnight in a settlement IZ was illegal, and the police knew this was occurring; sometimes they would come and harass the workers as they slept. But ultimately, the police did nothing regarding the workers' illegal presence. They were Palestinian workers employed by settlers, and as long as they kept quiet and did their work, the police looked the other way.

These workers had become fed-up and weary of the work. They knew they were being exploited, but they were unaware of the law and their rights. They were unsure what to do and what steps they could take. These young men all had worked at the plant for different periods of time - some for less than a year and one for as long as seven and a half years. Ahmed had been there the longest time and was the group 'leader'. Over the next two and a half years he took on

the responsibility of making sure the young men did what they were supposed to do in order to go through the legal processes of suing the employer - getting their permits from the District Coordination Office (DCO), staying aware of the court dates, meeting the lawyer on Saturdays at the PGFTU offices, and coordinating travel to the Jerusalem Regional Court. He would come to the office, even when it was not necessary for his own sake, to accompany his former coworkers and make sure everything went smoothly. I frequently met with Ahmed at the PGFTU office; I also went to his home and met with several of the workers in local coffee shops.

By mid-March of 2014, over 50 of the workers had quit their jobs at the food processing plant, and approximately 25 of them were retaining a lawyer, with the help of the PGFTU office, to sue the company for their labor rights according to Israeli labor law.<sup>8</sup> Ahmed was one of the last to quit, and he left after the factory ignored his demands for improved labor rights. The lawyer who met with the workers in the PGFTU offices was very clear with the workers from the beginning: going to court was not about rights or justice, it was simply about money. The most likely outcome would be a negotiated financial settlement, but it would take many months, and possibly years, before the young men would receive any money. It was essentially a game of who could hold out the longest, and the Palestinian workers were the weaker of the two parties. In almost every meeting with the workers, the lawyer reminded them: forget about dignity, rights, and justice; this is just about money.

From my discussions with the Palestinian lawyer with Israeli citizenship, and watching his interactions with the young men, it was obvious to me that he was reluctant to take their cases. He did not trust them and thought they were irresponsible and undependable. Over the course of the next two years, the lawyer frequently complained to me about the workers'

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<sup>8</sup> Many of the other workers had also retained other lawyers in order to sue the employer.

immaturity and lack of trustworthiness. The workers had kept their permits that allowed them to enter the IZ and therefore had proof of employment with the factory. However, they did not have pay slips and often were confused or unsure about the amount of pay they had received and number of hours they had worked. Payments and work shifts were not necessarily consistent, so the fact that the young men frequently gave different figures and facts was reasonable. But for the lawyer, who needed to provide exact figures and consistent stories in a courtroom, this was very frustrating.

### *Interests of the Parties*

Lawyers who specialize in labor law and represent Palestinian workers are very busy. The cases they take can last from several months to years, and they usually afford the lawyers a relatively small amount of income. Rather than take a set fee, the lawyers take a percentage, usually around 17% of any financial settlement in the case. Of course, a higher settlement would mean more money for the lawyer. The workers are usually interested in receiving money as quickly as possible; they may or may not have found new employment and more than likely are living in financial distress. Their demand is for money that should have been paid while they were employed and, therefore, they reasonably have an expectation to get the money owed them quickly.<sup>9</sup> This expectation of receiving their due, specifically financial compensation through the courts, is now also based on precedent; other workers have received settlements in their favor. The workers are interested in receiving the largest amount possible and, depending on their individual financial situation, will decide how much time they can afford to wait through

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<sup>9</sup> Khaled Dukhi stated in an interview with me that he believed that less than 10% of the cases end with a ruling by the judge, and in approximately 50% of the cases that do go through the entire process, the Palestinian clients get a verdict against the employer.

negotiations. A negotiated financial settlement is also viewed as a guarantee of some money, and many workers are not willing to take the chance of receiving less – or nothing at all – based on a judge’s decision.

The owners of the settlement companies, factories, and plantations do not want to admit any wrongdoing when it comes to labor law. A negotiated settlement allows them to avoid admitting guilt, although they still want to pay the least amount possible. They also must pay high fees for their lawyers, so they feel pressure to end the cases quickly rather than deal with protracted court cases, although they know that a longer case might ultimately allow them to pay out less to the workers. Moreover, they know that the Palestinian workers are desperate and in a weak position, and therefore, will often take a quick financial settlement even though it is a fraction of what they are owed by law. Another tactic that settler employers use is to threaten that the company will go bankrupt if workers demand a large payment. The food processing plant in question made this threat because so many workers brought simultaneous lawsuits. Whether the risk of bankruptcy is legitimate or not, the Palestinian workers and their lawyers usually take the threat into account, because it becomes all the more difficult for them to receive a financial settlement if a company goes belly up.<sup>10</sup>

### *Suspicion and Distrust*

The relationships between Israeli lawyers (Jewish and Palestinian) and their West Bank Palestinian clients were complex ones often characterized by tension, misunderstanding,

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<sup>10</sup> In the Yamit case described in Chapter Two, “the Regional Labor Tribunal accepted a defendant employer’s argument that Israeli law should not be applied to the employment of the Palestinian claimants, among other reasons because that would lead the employer into financial crisis and possibly even to bankruptcy” (Paz-Fuchs and Ronen 2017:175).

suspicion, and mistrust. Throughout my fieldwork, Palestinian workers would tell me stories of lawyers stealing money, either by taking most of a negotiated financial settlement or just taking money at the initial meeting with the worker and then disappearing. These stories came from workers who did not go to the PGFTU offices to work with the legal coordinator, but who, instead, met with a lawyer privately. Although I never could confirm these allegations, the fact that I heard them several times illustrates the lack of confidence that some workers feel toward Israeli lawyers. The following are examples of the suspicions that defined the relationship between Palestinian workers and Israeli lawyers.<sup>11</sup>

It is common for there to be lengthy waiting periods between court hearings, time in which there was little to no contact between the worker and the lawyer, particularly since workers cannot meet a lawyer in Israel without a permit to travel into Israel. As a result, workers often get nervous and impatient. For this reason, the legal coordinators employed by unions are vital; they often participate in meetings and mediate between the lawyers and workers. They can intercede to make sure the relationship is cordial and that the lawyer is properly handling the case. The legal coordinator serves as a facilitator, since the workers could always stop by the office to check in with the legal coordinator in lieu of speaking directly with the lawyer. Often, these visits served to reassure the workers that everything was okay, and the coordinator would speak with the lawyer to check on the status of the case. Furthermore, there have been many cases in which Palestinians did receive tens of thousands of shekels at the conclusion of a case. Rumors spread about these cases, and workers have come to believe that they are entitled to

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<sup>11</sup> Lawyers who worked on cases for Palestinian workers in the Israeli economy are Israeli citizens, either Jewish or Palestinian. I met with and interviewed lawyers who were associated with Israeli and Palestinian unions or NGOs. The accusations made by Palestinian workers were against lawyers who work independently and are not in an agreement with an NGO or union.

receive huge payments. If that does not happen, the workers could blame the lawyer, whether or not it was the lawyer's fault. The legal coordinators help to temper the workers' demands and mediate relations between the workers and lawyer. Also, workers normally are not part of the negotiation process between lawyers, so they depend on the lawyer to do what is best for them. With these potential tensions, the legal coordinator's job is very stressful. There is a clear power imbalance between the lawyer and client, and part of the legal coordinator's job is to ensure that lawyers do not abuse their power.

From the lawyers' perspective, frustration can arise because the workers often do not have the *ithbat* (physical evidence) that can help the lawyer win the case. I sat in dozens of meetings between lawyers and workers, and sometimes I witnessed cases where it was difficult for workers to recall much of the specific information that the lawyer requested. The most important pieces of evidence are contracts, payment slips, and permits to enter the settlements. Written contracts are rare, especially if a Palestinian middleman hired, organized, and paid Palestinian workers. Workers often did not receive payment slips, especially if they were paid in cash or if they worked in a setting such as a factory or plantation where the level of work varied from week to week or month to month. Many workers don't even have a work permit, especially in settlement agriculture in the Jordan Valley. Without these pieces of evidence, or if a worker either forgot or gave inconsistent details regarding salary and number of hours worked, it was extremely difficult to prove a worker's story in court. It is possible for co-workers to provide supporting testimony when physical evidence is limited, but again, many laborers fear making public accusations about settlement employers. This feeling of apprehension was magnified by rumors of the existence of a blacklist used by settler employers to share the names of Palestinian employees who, they believed, might cause trouble.

There was also the issue of language; some of the lawyers only speak Hebrew, and some speak both Hebrew and Arabic. The Israeli NGO Worker's Hotline has a policy of only hiring Palestinian lawyers (Arabic speakers) for cases with Palestinian workers. In situations where an Arabic-speaking lawyer is not available, the necessity of an interpreter further complicates both the preparation for a case and the maintenance of trust and confidence in the lawyer-client relationship. Although many Palestinians who work in the settlements speak some Hebrew, they mostly are not able to read legal documents or understand the language used during court proceedings. The court proceedings are in Hebrew, and when the workers testify there is an interpreter. This state of affairs leaves workers completely dependent on the lawyers, thus leaving open the possibility of abuses.

### *Going to Court*

In November 2014, a day before a hearing in their case, two young men who had sued the food processing plant came to the PGFTU offices to meet with the lawyer and prepare for the hearing. The meeting began with the lawyer asking the two young men if they had gone to the Israeli military District Coordination Offices (DCO) to pick up the permits that they would need for the next day. The lawyer already knew the answer; they had not gone, and he also knew that it would be difficult for them to pick up the permits the next morning prior to the 11 AM hearing. He then asked one of them to leave the room, stating that he would prepare them individually. He had already taken their testimonies months earlier and sent the court a brief with all of the evidence, but it was quickly apparent that the first young man had forgotten the evidence he had previously given, and the lawyer had to remind him of the exact details regarding salary and work hours that he had previously provided. The lawyer frequently looked at me with an

exasperated expression that implied that these guys were young, clueless, and irresponsible. The lawyer knew that the young men were being exploited, but if they could not get their stories straight, it would undermine their case. This was the first hearing in which the workers, from the group of twenty-five plaintiffs the lawyer was representing, would give testimony in court, and it was important that it start well for them. These two particular workers had spent less than a year working in the plant, so they could not expect a large payment and, quite possibly, would not receive any money.

While the lawyer reviewed the evidence with the workers, I volunteered to drive them to the courthouse in the neighborhood of Givat Shaul in West Jerusalem. I owned a car with Israeli license plates and, therefore, could drive into Israel without restrictions. Throughout my fieldwork, I frequently volunteered to drive workers to the regional labor court in West Jerusalem. This gave time for me to talk with them in the car and to sit in the court hearings, and I knew that driving them would make the trip much less stressful for them. During the course of my fieldwork, there was sporadic violence, and the situation in Jerusalem frequently was tense. On November 18, 2014, five Israelis were killed by two Palestinian men at the Kehilat Bnei Toray synagogue in Har Nof, the neighborhood next to Givat Shaul, which made me concerned for retaliation against Palestinians if they if they traveled on their own to the Jerusalem Regional Labor Court.<sup>12</sup>

The plan was to meet at the Qalandia checkpoint at 10 AM on the Israeli side. The workers could only cross the checkpoint with their permits; permit holders had to walk through the checkpoint and were not allowed to cross in a vehicle. As a US passport holder, I was able to

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<sup>12</sup> From the spring of 2014 through spring of 2016 there was sporadic violence in the West Bank and Jerusalem, including attacks against Palestinians walking in Jerusalem by right-wing Jewish nationalist groups.

drive my car through the checkpoint, which is much simpler and more convenient.<sup>13</sup> The two men had to first get their permits before going to the checkpoint. There was a delay with picking up their permits at the DCO, and they did not cross the checkpoint and arrive at my car until 10:50 AM, ten minutes before the hearing was supposed to begin. I drove as fast as I could, and we were about halfway to the court when one of the workers got a phone call from their lawyer. The lawyer for the food processing plant was willing to give the two men 4,000 NIS (\$1,143) each, and the lawyer for the plaintiffs wanted to know what the workers wanted to do. When he got off the phone, the worker turned to me, asking what I thought they should do. Workers were always asking me for advice, and most of the time I did not know what to suggest. I also realized that in this case the workers had no idea what amount of money they should have received, including both the minimum wage and benefits that they had not received while employed at the plant. No one, including the lawyer, had explained to them the details and exact amount of money they should expect if they were to be compensated according to the law. I only knew that 4,000 NIS (\$1,143) was a fraction of the total amount owed to them. I heard later that the lawyer started negotiations at 15,000 NIS (\$4,286).

Because of the workers' uncertainty about what to do, we continued driving to the court. When we arrived a few minutes late, although the hearing had not yet begun, the young men took the lawyer's advice to go ahead to the hearing and provide the testimony. Because the workers were giving testimony, an interpreter was present, but there still were long interactions

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<sup>13</sup> Whenever I planned to go through the Qalandia checkpoint, I would check a Facebook group where people posted updates on the situation at Qalandia. This was necessary because there were often long delays at the checkpoint. But I also learned that even with the best planning, one could never know how long the wait would be, particularly for those required to cross on foot.

between the lawyers and judge that were in Hebrew and were not interpreted, so it was clear how vulnerable the workers were.

The complications that would plague the cases between the young men and this particular plant also became apparent. Over the previous eight years, the company had hired a couple of Palestinian middlemen who were responsible for recruiting and paying the workers. The company said it believed it was innocent of any gaps in wages or benefits and that the fault was with the middleman. In the courtroom, it was the Palestinian middleman who had to defend himself. He had his own lawyer, a Palestinian citizen of Israel, and a lawyer for the plant was also present (an Israeli Jew). Outside the hearing, the lawyer representing the Palestinian middleman and the lawyer representing the two Palestinian workers spoke in Arabic, but in the courtroom, everything was communicated in Hebrew. Although the Palestinian workers were suing the Israeli settler plant, the parties in the courtroom included Palestinians on both sides of the case. The Palestinian middleman, who had oversight of the workers, had a degree of responsibility in the exploitation of the Palestinian workers.<sup>14</sup>

Although the workers and the lawyer had meticulously reviewed all the evidence already provided to the judge, both the workers cited in their court testimony salary amounts that differed from the statements provided earlier, a mistake that the lawyer was trying to avoid through the previous day's meeting to prepare testimony. However, neither the judge nor the other lawyers seemed to care about the discrepancies, and the judge recommended that each worker receive 6,000 NIS (\$1,714). The judge called for a recess so that the two parties could think through the offer. The lawyer for the workers recommended that they take the 6,000 NIS (\$1,714) and be

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<sup>14</sup> Chapter Four discusses the phenomenon of Palestinian middlemen and the central role they hold in the labor relations and ongoing exploitation.

done with the case. Otherwise, the case could continue, allowing the workers to try to push for a higher amount, but they would also risk losing even the current offer. The workers kept looking at me, hoping that I could give advice, but I had no idea what was the right thing to do. The lawyer's recommendation to the two workers to accept the settlement was based on the limited time of their employment, that is, that with less than a year of work, they could not expect to receive much more. It was best to take the offer and close the case. The workers agreed; after sorting through the details, each worker received three payments over a period of three months, and the case was closed. Afterwards, the lawyer told me that, from his perspective, the judge was a "good judge", that is, he had shown concern for Palestinian workers' rights in the past. Through additional conversations with lawyers and watching court proceedings, it became apparent that a significant variable in the outcome of each case was the judge assigned.

As we drove back to Ramallah, the two men kept asking me for my opinion. I reminded them of what the lawyer had said to them in previous meetings: going to labor court was not about justice or the law; it was about money. They would receive 6,000 NIS (\$1,714) each. Meanwhile, the horrific treatment in the workplace, sleeping in cramped quarters without proper sanitation, long hours often in violation of labor standards - none of this mattered.

Over the following year and a half, I drove many of the young men to court. It was clear that both the Palestinian middleman and the plant were trying to extend the individual cases as long as possible. They knew they would have to make payments to the workers, but extending the negotiations provided them enough time to make the payments, since they could avoid paying large lump sums in a short period of time.

It was not until May of 2016 that Ahmed's turn came in court, two years and two months after he had quit his job and launched the case against the plant. He had had an initial hearing to

open the case, but this was the hearing in which he would provide testimony in court. He had expended a lot of effort helping the other workers, coordinating and meeting with the lawyer, and often advising the others about whether to take the negotiated settlements. Of the group of 25 workers, Ahmed had been at the plant the longest – over seven years – and in conversations prior to the court date he told me that he was hoping for 60,000 NIS (\$17,142). The day we went to court there was a miscommunication with the lawyer of the middleman, who had decided not to come to the court hearing. There were several frantic phone calls, and Ahmed was offered a total of 32,000 NIS (\$9,143). He took the offer. Ahmed was only compensated for the years he had worked at the food processing plant during which he held a permit to enter the IZ. However, he initially started working in the plant without a permit; without that piece of evidence, that portion of his work was not included in his compensation.

In the car, returning to Ramallah, I asked him if he knew of anyone who was working at the plant currently, and he said that he knew several young men from his village who were working there. When I asked if he knew what the work situation was, he told me it was the same. The company had paid the negotiated settlements to those who were fired or had left the factory in the winter of 2014, but nothing had changed at the plant. The company knew that it could continue flouting the law, and that many exploited workers would simply quit or be fired without suing the factory. When some workers did choose to sue, it remained more profitable for the factory to pay for a lawyer and negotiate settlements than to follow the law. While one group of workers had had enough of the factory, there were thousands more who were willing to take their place.

*Hatem Abu Ziadeh and the Tzarfati Garage*

It was hot on the morning of July 22, 2014, in front of the Tzarfati Garage located in Mishor Adumim, one of the largest settlement IZs in the West Bank. Assaf Adiv, the head of the Israeli union, Maan, gave an inspired and emotional speech to the Palestinian workers of the garage. Yearlong labor negotiations had stopped, and now the garage was in the process of firing the leader of the workers' committee, Hatem Abu Ziadeh. During the thirty-minute work break, the workers intently listened to Assaf, the sun beating down as they crowded into a few shaded spots on the sidewalk. It was Ramadan, and because they were fasting they needed to preserve their energy for a long day. Assaf discussed the many positive changes that had come during the previous year, describing how Maan had continued to negotiate with the garage and how the workers had begun to receive more benefits, in accordance with Israeli labor laws. But negotiations during the previous month had stalled, over compensation for past failures to give workers the benefits and pay required by law, and the garage's refusal to pay more than the minimum wage or to raise pay based on work experience and expertise. Now, with the garage trying to fire Hatem, these gains could be lost, and those who had decided to become members of Maan likely would face continued harassment. With Maan as their representative, the workers were in a much stronger position to stand up to the intimidation, coercion, and exploitation that the garage practiced against the workers. Assaf provided details of what would be necessary to carry out a strike. He asked whether they wanted to stand together in solidarity with Hatem and begin the strike. All of them stood and raised their hands in a moment of workers' solidarity.



Figure 4.1

Source: Ethan Morton-Jerome, July 22, 2014

For Palestinians who work on Israeli settlements, taking the step of going on strike is a risky one. There are uncertainties regarding the outcome, and of course, there are children and families who depend on the salaries lost during a strike. Moreover, one of the defining characteristics of work on the settlements is fear. There are many ways that settler employers can intimidate, threaten, and terrorize the workers into submission.

The following details the challenges workers at the Tzarfati Garage faced in their attempt to unionize and the efforts of the garage to break the union. Although the focus is on Hatem Abu Ziadeh's case, what makes this story exceptional is the presence of an Israeli union defending the rights of Palestinian workers on the settlements. It was clear that the garage had fired Hatem in hopes of breaking the union and stopping the negotiation process with Maan. It is also important to detail the strategies utilized by the garage, both those that are similar to other tactics used to break unions, and those that are unique because the garage is located in a settlement.

Throughout the labor dispute, the owners of the garage and its lawyer moved between strategies

of intimidation and aggression and arguments that they were the victims both of an individual, Hatem Abu Ziadeh, and a union, Maan, which were trying to irrevocably damage the garage. The ordeal imposed incredible burdens on Hatem; his fight was not just about him returning to work, but for the union to continue negotiating so that workers would receive their rights and back pay owed by the garage.

Without Maan's assistance, it would not have been possible for Hatem to go through the long legal process of fighting the loss of his job. The union took on major financial responsibility by hiring several lawyers and making many trips to court. Maan is a relatively small union, and so it had to raise additional funds for his case through international campaigns, a challenging task since assisting Palestinians who work on settlements can be understood as inherently contradictory.

Palestinians who work on the settlements are in a particularly vulnerable position. Settlements are in Area C, under full Israeli jurisdiction, and Palestinian unions are not allowed to do any advocacy or work in Area C. Additionally, because of the PA law stating that labor on the settlements is illegal, the PA essentially ignores the 30,000-40,000 Palestinians who do such work. The largest Israeli union, Histadrut, does not admit non-citizen Palestinians members.<sup>15</sup> Israelis who work in the settlements are covered by collective agreements established in Israel for various sectors. The Israeli citizens who work in the garage are members of the Histadrut and are covered by a collective agreement.

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<sup>15</sup> Workers do benefit from sectoral negotiations, particularly in the construction sector, where Palestinian workers hypothetically receive the same rights as Israeli citizens, but the Histadrut has done little to advocate for Palestinians from the oPt who work in the Israeli economy.

Maan is an exception in that it is willing to accept Palestinian workers employed in settlements if they ask to join.<sup>16</sup> Given all the complications and perceived contradictions of unionizing Palestinian workers in the settlements, Maan takes a unique position in Israel:

WAC-MAAN [Workers Advice Center] insists on its right to represent workers and on their right to organize, we will not allow threats and bullying to deter us from protecting the right to make a living with dignity, regardless of religion, race, and nationality (2014e).

Established in the late 1990s as “an independent Representative Workers Organization” it has organized Israeli and Palestinian workers in Israel and, now, Palestinians in the settlements. Members of the Daam Workers Party, a socialist party advocating for “principles of integration, equality, and social justice”, created the union. It also describes itself as having a “strong bond” with the bi-monthly magazine, *Challenge*, which often discusses the difficulties of Palestinian workers in Israel and has taken political stands against both the Israeli government and the Palestinian Authority, such as highlighting flaws of the Oslo peace process. The union also is connected with Sindyanina of Galilee, a fair trade organization run by Palestinian and Jewish women in Israel.<sup>17</sup>

Maan is clearly a unique and alternative voice within Israeli society. With a socialist background, it fights against the global capitalist policies that have destroyed organized labor and the rights of workers; it also takes a political stand fighting for the rights of all people between the Mediterranean Sea and Jordan River. Given the fact that the occupation has lasted half a century and that the West Bank remains in a permanently temporary political status, Maan has chosen to respond to the needs of workers, whether Palestinian or Israeli. Without any

<sup>16</sup> Maan does not actively recruit Palestinian workers on the settlements. They do organize and assist workers when Palestinians approach them and ask for assistance.

<sup>17</sup> For further details on the union see: <http://eng.wac-maan.org.il/>.

concrete political steps that would change the political status of the West Bank, particularly with regards to the large settlement blocs of which Mishor Adumim is part, Maan's decision to confront exploitation of Palestinian workers is more about everyday economic realities of workers than it is about larger, national political decisions.

### *Hatem's Story and Workers of the Tzarfati Garage*

In 2013, Hatem had worked for Tzarfati Garage in Mishor Adumim for a total of 16 years. Although the 2007 HCJ ruling stated that Palestinian workers employed on the settlements fall under Israeli labor law, Tzarfati Garage was not following the law, and Hatem, along with other Palestinians employed there, was not receiving the legal minimum salary and benefits. The garage is one of over 300 businesses located in the Mishor Adumim IZ, next to Ma'ale Adumim. As part of the Israeli economic development plan, the IZ is listed as a National Priority "A", meaning that there are significant benefits for businesses interested in moving to the IZ or for investors planning to start a business there. These benefits include grants for purchasing equipment, tax breaks, and competitive land prices. Although the Mishor Adumim IZ does not advertise the fact that companies can take advantage of hiring from a large labor pool of Palestinians coming from areas with high unemployment rates, it is assumed that everyone is aware of this fact. Furthermore, it is common knowledge that in IZ's there is little to no enforcement of labor laws. Thus, companies know that, if they start a business in the Mishor Adumim IZ, they can pay salaries below the Israeli minimum wage and withhold benefits from

Palestinian workers, thereby making higher profits compared to what they might make inside Israel.<sup>18</sup>

Hatem is one of approximately 3,000 Palestinians who work in Mishor Adumim, a majority of whom are not paid the salaries and benefits required by Israeli labor law. There have been gains since the 2007 HCJ ruling in workers receiving the minimum wage, although it is estimated that approximately half of workers on IZs do not. Those companies that have begun implementing the minimum wage are often large, multi-national companies such as SodaStream and Extol, both of which are sensitive to reputation and international media scrutiny and want to avoid bad press regarding poor treatment of workers. In contrast, the majority of companies in the IZ are small, serve the local Israeli economy, and have less concern for media attention; these have been much less responsive on the matters of paying minimum wage or extending benefits.

Maan and Hatem's labor dispute with the garage was not the first time the garage was forced to deal with the labor courts. In the 1990s, when an employee had demanded the benefits stipulated by Israeli law, the garage had argued that Jordanian law was in effect. After the Regional Labor Court ruled that the worker should be treated according to Israeli law, the garage joined an appeal, together with four other employers that had received similar rulings (Paz-Fuchs 2012:588). Tzarfati was one of the parties in the 2007 HCJ ruling, but in 2013, it was still not abiding by Israeli law.

In the spring of 2013, Hatem contacted several lawyers to see if anything could be done to help the Palestinian workers at the garage who were not members of the Histadrut, which

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<sup>18</sup> This was even admitted by one Israeli settler business owner in Israeli court: "As one employer candidly argued before the HCJ in *Worker's Hotline* (in an effort to convince that his reasonable expectation was to rely on, and benefit from, cheap labor), private businesses relocated to the West Bank in order to benefit from the lower standard of living, the captive labor market, and water and land resources" (Paz Fuchs and Ronen 2017:175).

represented the Israeli employees. He also contacted Maan and spoke with the head of the union, Assaf Adiv. After some initial conversations, Assaf met with several of the Palestinian workers and suggested they join Maan so that the union would represent them in negotiations with the garage. In June 2013, 39 workers signed up with the union. This was a very different strategy than the usual methods employed by Palestinian settlement workers. In almost all cases, workers retain a lawyer after they have lost their jobs and take their case to court in order to receive back pay and benefits, as in the case of the food processing plant workers discussed above. There is a great level of fear among the workers. Since their work options are very few, they worry that they will lose their jobs if they take an employer to court. By asking for negotiations instead of going to court, the workers at Tzarfati Garage clearly indicated that they wanted to keep their jobs, but they also wanted to ensure that the garage followed the law.

The pressure on workers to keep their employment, even as they are clearly exploited, is immense. Hatem had long experience of the garage's discrimination and outright exploitation. He was not paid the minimum wage and received no benefits, either those stipulated by Jordanian law and military orders prior to 2007 or those required by Israeli law after the HCJ ruling. In 1997, Hatem was injured while working on a car and was taken by an Israeli ambulance to a hospital in Jerusalem. The garage denied that they knew who Hatem was and that he worked at the garage. The garage held no health insurance for him and did not want to be held accountable for his medical bills. Hatem was left on his own and was responsible for all of the medical bills. When Hatem returned to the garage two days later, the garage said that he could not return to the job until he received a doctor's note stating he was fit for work. He obtained the note from a Palestinian doctor in Jericho and returned to work, but the company never offered any compensation for the workplace injury.

In another incident in 2011, an employee of a nearby garage asked Hatem to take a car part home to deliver to another friend. Hatem picked up the part from the nearby garage, but a supervisor at the Tzarfati Garage saw Hatem with the part and accused him of stealing it. The owner refused to believe Hatem's story, and only allowed him to return to work when the employee from the other garage told the management at Tzarfati what had happened. Although Hatem was cleared of any wrongdoing, the garage would later use this story to try to demonstrate that Hatem was untrustworthy and deceitful.

### *The Union Begins*

The garage heard about the discussions among workers interested in signing with a union, and in response it improved payment slips in hopes that this would deter workers from joining. These pay slips, *talush*, are fundamental in the employer-employee relationship, as they are the key evidence with all details of the salary and benefits. Maan accused the garage of trying to manipulate workers either to not sign up for the union or to end their relationship with the union by offering money and promises that things would change. The garage, in response, held meetings with individual workers and told them they would receive benefits if they quit the union. This would become a significant issue when the courts became involved in the labor dispute because it is illegal under Israeli law for any company to try to stop unionization efforts. A company can be fined up to 200,000 NIS (\$57,143) if found guilty of doing so. Although Maan continued to provide support for the workers, the Palestinian workers experienced a great deal of fear and anxiety throughout the labor dispute due to the garage's intimidation efforts.

On June 25, 2013, Maan sent a letter to the garage officially declaring that 39 workers had joined the union and that it would represent them in collective bargaining (WAC-Maan

2013a; 2013b). The garage initially rejected the letter and ignored Maan's demands. On July 11, Maan demanded that if the garage did not begin negotiations, the workers would begin a strike on July 29.<sup>19</sup> With pressure mounting, the garage responded to Maan two days before the strike was to begin and agreed to start negotiations (WAC-Maan 2013b). Owners of the garage and Maan representatives met seven times during the following eleven months, and the workers began to receive the benefits stipulated by Israeli law such as minimum wage, insurance, vacation pay, pension, and compensation for transportation to and from work. Maan demanded simply that the workers receive the labor rights due them according to Israeli law, but negotiations were difficult even though the demands were quite basic. In June 2014, two main issues remained unresolved. First, there were the past debts, that is, all the years that the workers were not paid the minimum wage in addition to all the other benefits provided for by Israeli law. Second, the garage was only paying the minimum wage; Maan argued that workers should receive increased salaries according to the number of years of work, experience, seniority, and expertise. Negotiations stalled, and it was unclear what would happen next.

On July 21, 2014, the management sent a letter to Hatem informing him of a meeting to take place two days later for the purpose of firing him, ostensibly because reorganization at the garage meant that his work would no longer be needed. The letter was not sent to Maan, as required by law since Hatem was a member of the union, and Hatem quickly contacted Assaf wondering what to do. Maan responded by arguing that the garage was unfairly targeting Hatem because of his leadership position as head of the workers' committee and demanded that the company retract its letter. The following day, the garage again requested that Hatem attend a

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<sup>19</sup> According to Israeli labor laws, a union must give a fifteen-day notice to the company before beginning a strike.

meeting to be held on July 23 with the owners of the garage. In response to what Maan perceived as a clear threat that Hatem would be fired, Assaf met with the workers on July 22 at 11:00 AM during their morning break. It was obvious to the workers that if Hatem, who had worked at the garage for 17 years, could be fired, then all of them were vulnerable; thus, the workers unanimously agreed to begin the strike. The garage, caught off guard, demanded that the workers return to their stations at 11:30 when their break ended, and it called the police. When the police arrived, they demanded that the workers either return to work or leave the premises on the basis of a military order for the West Bank stating that no more than 10 people can gather together.<sup>20</sup> At that point, most of the workers left for home, and nine stayed back to stand as strikers outside the garage. The following day, nine workers returned to protest outside of the garage along with an employee of Maan. Members of the Manufacturers Committee for Mishor Adumim arrived, carrying Israeli flags, and began verbally threatening the workers and the Maan representative. The labor rep called the police, but when they arrived, instead of protecting the workers, the police arrested the union representative for inciting the workers. He was taken to the police station and was only released when he signed a statement saying that he would not enter Mishor Adumim for two weeks (WAC-Maan 2014a).<sup>21</sup>

The following day, July 24, the same thing happened; this time, it was Assaf Adiv who was detained for incitement of the workers. When Assaf demanded evidence of the illegality of his actions and that he be afforded his legal rights, the police released him as they had no

<sup>20</sup> Military order 101 says that ten or more people can't assemble for political purposes. Assaf Adiv reminded the police that this was not a political gathering but had to do with a labor dispute, and therefore, the order was not relevant. The police still demanded that the workers leave or return to work. Nine could stay back and continue to strike outside the garage.

<sup>21</sup> I also discussed all the events concerning Hatem's case with Assaf Adiv on July 30, 2014, and with Maan employee Yoav Tamir on Feb 10, 2015.

evidence against him. On both days, Maan had contacted police for protection when threatened by members of the Manufacturers Committee of Mishor Adumim. These men showed up carrying Israeli flags in a clear effort to intimidate the garage workers, but the police arrested the union representatives who were peacefully protesting outside of the garage alongside the workers (WAC-Maan 2014a). Maan sent a letter to the Jerusalem Regional Labor Court asking for a hearing and arguing that the garage was trying to fire Hatem in order to break the union and stop negotiations.

The Maan workers strike took place at a time of much broader conflict. Violence in the West Bank had been increasing since May 2014, and two major incidents eventually led to a war against the Gaza Strip that began on July 7. First, on June 12, three Israeli teenagers were kidnapped in the West Bank and killed. Israel sent thousands of soldiers to search for the teenagers, invading several Palestinian cities and putting up roadblocks especially in and around Hebron. Throughout the month of June there was an increase in tension and violence between the Israeli military and Palestinians in the West Bank. Second, on July 2, Palestinian teenager Muhammad Abu Khdeir was kidnapped by Israeli Jews and burned to death in East Jerusalem. Israel blamed Hamas for the kidnapping and killing of the Israeli teenagers that occurred in June and launched a military operation against the Gaza Strip on July 7. The main objectives of the Israeli military were focused on the Gaza Strip. The West Bank saw a major increase in Israeli military presence but not the bombing and full-scale assault that occurred in Gaza. Tensions were extremely high in the West Bank, and this impacted the environment at settlement workplaces.

As a licensed garage for the Israel Defense Forces (IDF), Tzarfati's largest customer is the Israeli military. Given the increase in military activity, the garage was particularly busy

during the summer of 2014. The co-owner and day manager, Morris Tzarfati, is a high-ranking reservist in the military, and he was called up for service during that time. The garage was under pressure with all of the work, and it was especially upset that the workers would threaten a strike in the middle of a war. Throughout the period of the labor dispute, the garage argued that it was the victim of an illegal action by the union in that, by starting a strike and taking advantage of the war in Gaza and the increased tensions, it was attempting to harm the garage.

Maan filed a complaint against Tzarfati Garage with the Jerusalem Regional Labor Court, and as the case headed to the labor court, the other workers returned to their jobs on July 27. At the hearing, the garage brought a major accusation against Hatem that surprised both him and Maan. The garage accused Hatem of sabotaging a military vehicle on July 10, and it argued that Hatem had participated in political protests and was a security threat.<sup>22</sup> During peaceful times these already would have been major accusations, but because they were brought during wartime, the court had to take the allegations very seriously. Yet when the judge asked whether the garage had reported the sabotage incident to the police, it indicated that it had not done so. The garage also admitted that Hatem had continued to work at the garage until July 22, when the strike had started. The judge demanded evidence of the sabotage and a police complaint within 24 hours. The next day, July 28, the garage submitted the complaint to the police. Of course, the delay in reporting the alleged incident raised serious questions regarding the legitimacy of the complaint against Hatem. Why had the garage allowed Hatem to continue working for more than two weeks after the supposed incident of sabotage? Why had the garage not mentioned the incident in the letter sent to Hatem on July 21? Why had the garage not gone to the police with a complaint until after the judge demanded some form of proof?

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<sup>22</sup> For further details and analysis, see Hachlili (2015).

In response to the July 28 complaint given to the police, Hatem was summoned to the Mishor Adumim police station for questioning. The police took away his permit, without which he could no longer enter Mishor Adumim, thereby preventing him from going to work. A hearing for the accusations of sabotage of a military vehicle was scheduled for nine months later, in April 2015. Hatem was released from the police station only after payment of a 1,000 NIS bail. Although the garage could provide no physical evidence that Hatem had sabotaged the vehicle, the accusation alone was enough for the permit to be revoked.

On August 5, police went to the garage to interview workers regarding additional accusations made by the garage that Hatem had threatened the workers if they did not join the union and participate in the strike. Workers denied the accusations and stated that Maan represented them (WAC Maan 2014a). Meanwhile, Maan began an international campaign asking unions to send emails to the garage and to the Ministry of Labor in support of Hatem and Maan and in opposition to the garage's actions. According to Maan, 7,000 emails were sent during the following months (WAC Maan 2014b). Maan also campaigned for financial support in order to hire another lawyer to petition that Hatem's permit to enter Mishor Adumim be returned (WAC Maan 2014c). It was unclear who had ordered that the permit be revoked – the garage or the police – and so Maan filed a petition with the Israeli High Court of Justice in order to rectify the situation. More than three months later, on November 30, the Attorney General ruled that it was not clear why the permit had been revoked and that it should be returned. Furthermore, in December 2014, the Israeli police ruled that there was no evidence that Hatem had sabotaged a military vehicle, so the case against him was closed.<sup>23</sup>

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<sup>23</sup> Interview with Assaf Adiv and Yoav Tamir, December 7, 2014.

*Dec. 7, 2014 Hearing*

On December 7, 2014, Hatem's case was heard in the Jerusalem Regional Labor Court.<sup>24</sup> The judge appointed to Hatem's case, Sarah Breuner Israzda, was relatively new to the labor court, and her inexperience was evident during the hearing. The four-hour proceedings were dominated by the garage's lawyer as the judge sat passively. The lawyer used his imposing physical presence, along with his loud, dramatic voice, to try to intimidate Hatem and Assaf. His facial expressions, body language, and tone when addressing the judge, Hatem's lawyer, and the witnesses were variously racist, misogynist, and dismissive. Afterwards, I learned from several others in attendance that the lawyer's performance was completely normal for such cases. The consensus was that the lawyer's arrogant attitude and behaviors were a typical part of the settler persona (he was representing a settlement business) and that it was rare for anyone to openly question such posturing.

The garage's strategy was clearly to try to intimidate and discredit Hatem and Assaf. Most importantly, the lawyer for the garage argued that its letter to Hatem on July 21 concerned the reorganization of the garage, and therefore, his firing was not connected to his leadership position with the Maan workers' committee. The garage's lawyer argued that, from its perspective, Maan started an illegal strike in the middle of a war to take advantage of the vulnerability of the garage because the military was its largest client. Furthermore, the garage had been inundated by emails from international unions and activists, which they believed was unjustified harassment. They also argued that, within the Mishor Adumim IZ, they had some of the best relations with Palestinians and were a great example of coexistence.

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<sup>24</sup> Protocol of the December 7, 2014, hearing is with me.

The garage also brought new evidence in the form of two letters from an IDF officer that stated that the military did not want Hatem to work in the garage because of security concerns.<sup>25</sup> The letters were used to add to the garage's argument that Hatem was a security threat and was a dangerous activist who could not be allowed back in the garage. As evidence of the danger Hatem presented to the garage, they provided a picture of Hatem wearing a kufiya, a symbol of Palestinian identity, at a demonstration in Tel Aviv. The garage used the picture to show that Hatem was a political activist and was a threat to Israel, as they interpreted the kufiya as an accessory worn by terrorists. The lawyer for Tzarfati also argued that Maan was a discriminatory organization because it only worked for Palestinians. He maintained that Maan was a political organization, not a legitimate union, and that it tried to cause conflict in the settlements, attempting to take advantage of Palestinian workers to serve its own nefarious goals. The garage did not agree that Maan was the legal representative of the workers, and therefore, the garage claimed that it did not need to negotiate with the union. It would talk directly with the workers and did not need Maan's interference.

Assaf and Maan's lawyer reminded the judge that the Attorney General had stated on November 30th, "Hatem Abu Ziadeh will be permitted to enter the Mishor Adumim Industrial Area for employment at the Zarfati Garage," and that "the temporary restraining order keeping him from entering the areas of Israeli settlement in Judea and Samaria has been rescinded" (WAC Maan 2014d). They also clarified that the picture of Hatem wearing a kufiya was posted on the Maan website, and that Hatem had received a permit to join other workers on a May 1 Labor Day march, the event at which the photo was taken. Additionally, the accusation that the

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<sup>25</sup> It was later clarified that the letters were written in response to a report submitted by the garage and, therefore, were not valid. The police had dropped the vehicle sabotage case, and the Attorney General said that Hatem should receive his permit back.

union was discriminatory was easily refuted since Maan represents both Israeli Jews and Palestinians in Israel and Palestinians in the West Bank who work on settlements. Maan, the lawyer concluded, was the legal representative of the workers who had joined the union by signing an official legal agreement.

Two weeks later, the judge's decision was very critical of Maan and Hatem. The judge argued that Hatem should have attended the hearing that the garage requested in the July 21 letter. She blamed Maan for telling Hatem not to attend the meeting and for starting a strike without attending the meeting. Second, she agreed with the garage that the potential firing was not connected with Hatem's leadership position in the union. She further blamed Maan for causing a crisis during the war and stated her belief that Maan was using Hatem to start a union in the garage. Although the case concerning the accusation of sabotage had been closed, she said of Hatem, "His testimony was unreliable in our eyes" (Israzda 2014:8).<sup>26</sup> Critical to the future of the case, the judge did confirm that Maan was the legal representative for the workers who had signed up to join the union. By stating that Maan was the legal representative, it could continue to represent the workers in negotiations that had stalled back in June 2014. Finally, the judge wrote that, legally, Hatem had not been fired, as he did not attend the meeting with the garage on July 23 which was expected to include his firing. She wrote that the courtroom was not the proper place to adjudicate the dispute, and therefore, before any other negotiations could occur, the two sides needed to have the meeting originally scheduled for July 23, 2014.

Soon after Judge Israzda's decision, Maan submitted an appeal, which meant that the case would go to the National Labor Court (NLC). The garage and Hatem, along with the

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<sup>26</sup> A copy of the decision by the judge is with me. Translation of the document from Hebrew done by Tali Shapira.

lawyers for each side, finally met on January 26, 2015, and the process of Hatem's firing was completed. Now that Hatem was officially fired, Maan filed another petition in the Jerusalem Regional Labor Court to protest what the union believed was Hatem's illegal firing. Two other workers were part of the suit, one who had been fired and another who had been out of work for medical reasons and now wanted to return to work but was not medically cleared.

### *A New Judge*

The judge for the new suit, Eyal Avrahami, was completely different from Judge Israzda, both in terms of familiarity with workers' issues and in courtroom presence. He had many years of experience in the labor court. When Hatem's case began, he was the Vice President of the Jerusalem Regional Labor Court, and in December 2015, he became the President. The judge clearly managed the atmosphere and direction of courtroom proceedings, and the lawyer for the garage behaved in a completely different manner from the outbursts and drama that he displayed in the December 7 hearing. It was clear that Avrahami's goal from the beginning was for the two parties to come to a negotiated settlement. He was also clear about the law and the importance of unions; in the first hearing, he told the lawyers for both sides that he believed strongly in the right of workers to unionize.<sup>27</sup> In each of three successive court hearings presided over by the new judge, within the first five minutes of the hearing, he asked either the lawyers or Assaf and the owner of the garage to meet privately in his office. The hope was that through discussions with the judge, in his office and without court record, the two sides would be able to

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<sup>27</sup> I discussed the proceedings with Maan's lawyers, Moran Svorai and Amir Basha, after the hearing had ended.

come to an agreement. Maan's lawyers did not budge; they asserted that Hatem should return to work, while the garage held that "no force on earth" could make them accept Hatem back.<sup>28</sup>

After the first hearing with the new judge, there was a high level of excitement among Hatem's supporters. They believed that the facts were on their side and that, as long as the judge remained unintimidated by the garage, recognized the lack of evidence regarding accusations that Hatem was a security threat, and was not swayed by the garage's connection to the Israeli military, then justice would prevail and Hatem would eventually return to work at the garage. From Maan's perspective, the garage was not telling the truth and was using tactics of intimidation to force Hatem out of work and delegitimize Maan. But despite the enthusiasm about the new judge and certainty about the strength of Hatem's case, it was never clear what the outcome would be for Hatem throughout the legal process. Until the very end, the garage would not budge on its position that Hatem could not return to the garage. It had accused Hatem of being both a security threat and a political activist, charges that carry a great deal of significance in Israeli courts.

During a hearing in March 2015, there was a small breakthrough: the other worker who was wrongfully fired, Nidal Rustum, was permitted to return to the garage, but the garage still refused to allow Hatem to return. Judge Avrahami wanted a negotiated settlement, yet there was no middle position: either Hatem would be allowed to return to his job or not. A financial settlement that was the focus of almost all other labor disputes was not going to work in this instance. Even after hours of negotiations in the judge's private office that involved the lawyers, Assaf Adiv, and Morris Tzarfati, there was no resolution. Although both Morris Tzarfati and the

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<sup>28</sup> Assaf Adiv and the lawyers for the case reported this quote to me from the negotiations that took place before the judge with the garage.

garage lawyer's tone and courtroom behavior changed with the new judge, they continued their strategy of trying to delegitimize Maan as the legal representative of the workers and maintained that Hatem was a security threat and a danger to the work of the garage. Both accusations had been discredited, but the lawyer continued this line of argument.

In the meantime, Hatem found work in Palestinian Area A as a shared taxi driver between Ramallah and Birzeit. He earned up to 2,000 NIS a month, higher than the minimum wage in Area A, but less than half of what he had earned at the garage. His demand to return to the garage was motivated by financial reasons, but the case also had become a much larger issue. As the leader of the workers' committee, he had helped start the union in the garage and had become the person the workers contacted about questions dealing with their pay slips, clarification about the legal matters, and whether the garage was following the law. Hatem's firing was both symbolic and practical; his charisma and growing knowledge of labor law meant that his absence from the garage both interrupted the momentum of the year-long negotiations and added to the tension between the Palestinian workers and the garage management.

Judge Israzda's ruling had come on December 28, 2014, and the NLC decision in the appeal was delivered on April 21, 2015.<sup>29</sup> In a stunning rebuke, the NLC ruled that Judge Israzda's decision was to be vacated. The NLC did agree with her ruling that Maan was the legal representative of the workers, but the rest of her decision was no longer applicable. The NLC wrote that the labor dispute, including Hatem's firing, was to continue in Judge Avrahami's court. It was a major victory for Maan and Hatem.

A few days later, during the May Day events organized by Maan, Assaf gave an inspired speech to the workers from Tzarfati Garage who came to participate in the events. Permits were

<sup>29</sup> A copy of the NLC decision is with me.

obtained, and many of the workers who were in the garage's union took a bus from Jerusalem to the Palestinian town Baqa al-Gharbiyye in Israel. After lunch, Assaf spoke to the workers about the many challenges remaining, but also of how important it was for each of them to stand up and demand their rights. Assaf is an excellent organizer, but the most important factor in his effectiveness is the fact that he is fluent in Arabic and he speaks directly to the workers in their own language. His passion for the rights of all workers and his ability to communicate in Hebrew and Arabic give him legitimacy and genuineness that both Israelis and Palestinians recognize and respect.

May 12, 2015, would be the last hearing before Judge Avrahami would write his decision. Both sides gave testimony as lawyers questioned several witnesses. The garage did not waver from its previous strategies even though their main arguments had already been either disproven or discredited. In an attempt to demonstrate that Maan was a discriminatory union, the garage's lawyer questioned Assaf as to why he did not help eight Israeli workers who had left the garage. Assaf reminded him that the workers resigned because they no longer wanted to work at the garage; they were not fired (Jerusalem Regional Labor Court 2015:8-9).<sup>30</sup> This was characteristic of most of the arguments that the garage tried to use: accusations that were false and easily debunked. The garage's lawyer brought up the accusation that Hatem had stolen a car part back in 2011, and again, Hatem quickly explained what happened and that it was clearly a misunderstanding that had been resolved (Jerusalem Regional Labor Court 2015:6).

A couple of garage workers were to come to the court and testify, but they did not appear in court. The garage's lawyer claimed that they did not come because Assaf had harassed them.

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<sup>30</sup> A copy of the protocol is with me. Translation of the document from Hebrew done by Tali Shapira.

Assaf's response was that he believed the workers were afraid of Morris Tzarfati and did not want to testify in front of the owners. Assaf asked the garage owners, "Why are you creating a situation of terror?" (Jerusalem Regional Labor Court 2015:12). The garage also brought up the fact that Assaf had spent time in an Israeli jail in 1988-1989 for his involvement in publishing a newspaper that the government ruled was illegal. Maan's lawyer was quick to stand up and demand that the judge strike the question from the record because it was not relevant to the proceedings. Assaf admitted to the fact that he had gone to jail on charges related to the newspaper, but he reiterated that this had nothing to do with Hatem or with the legitimacy of Maan. In what seemed like a final, desperate argument, the lawyer asked Hatem if he made a threatening gesture, before the hearing began, towards one of the Jewish employees who came to testify. We had all been standing together outside of the courtroom and had not seen Hatem make any such gesture. The question clearly was another effort to portray Hatem as a dangerous individual.

The judge was supposed to give a ruling on the labor dispute within three months of the May 12 hearing, but nothing came during the summer of 2015. In the fall, there was an increase in violence in the West Bank and in Israel, and there were fears of a Third Intifada. As everyone waited for the ruling, it was natural to wonder if and how current events would affect the judge. I met with Hatem frequently during the fall of 2015 as we awaited the judge's decision. It was anyone's guess how the judge would view all the evidence provided to the court. Although the central argument that Hatem was a security threat had been discredited, the garage continued to bring it up in every single hearing. Furthermore, the garage had changed its reason for firing Hatem several times, suggesting the dubious nature of his firing. Yet, with the increase in violence in the West Bank and Jerusalem and almost daily headlines of uncoordinated attacks by

Palestinians, would the judge have the temperament to demand that the garage allow Hatem to return to work? The role of security concerns in Israeli society cannot be overstated, regardless of the context.<sup>31</sup> Would a judge rule against a settler business in favor of a Palestinian worker?

After nine months, Judge Avrahami gave his ruling on February 17, 2016. It was a complete repudiation of the garage. He systematically dismantled the garage's arguments, stating that the garage had changed its accusations against Hatem several times, undermining its legitimacy in the eyes of the court.<sup>32</sup> Throughout the process, Hatem was accused of being late to work, lazy, a security threat, and an agent of the Palestinian Authority who was trying to cause trouble, threatened other workers, and sabotaged a military vehicle. Avrahami wrote of the accusations against Hatem, "...justifications changed several times, and there was no legitimacy to them. This opens up questions as to the real reasons for the basis of calling for a hearing and the basis for the termination" (Avrahami 2016:6). Most important the judge wrote, "Because of the determination to harm him in his work in the union, *he must return* [emphasis added] to his initial role (job). This demand is in light of the importance of the right to organize for all of workers and the need to protect workers" (Avrahami 2016:8).

The garage, of course, appealed the decision, and therefore, Hatem still did not go back to work. On April 5, 2016, an appeal hearing was held at the NLC in Jerusalem. Again, the garage would not budge; Hatem was not going to return to work. When the hearing ended, I overheard the lawyer for the garage comment to a journalist, "We will go bankrupt before we allow Hatem to return." The NLC had received all of the evidence and court protocol, and therefore, the

<sup>31</sup> David Kretzmer (2002) discusses the challenges faced by the Israeli HCJ, particularly when issues of security are central to court cases. See also Hajjar (2005).

<sup>32</sup> A copy of the judge's decision is with me. Translation of the court document from Hebrew was done by Tali Shapira.

hearing with the panel of three judges did not take long. Again, as we left the courthouse there was uncertainty regarding what the outcome would be or when it would come. Thus, I was completely surprised to receive a phone call that same evening. The NLC had made an immediate decision that Judge Avrahami's ruling stood and that there was no reason for them to change any part of his decision. The two parties needed to return to court and finalize the case. Once again, the garage was repudiated for its actions against Hatem and Maan and criticized for the shoddy arguments it had given in court.

On April 18, 2016, the parties returned to the Jerusalem Regional Labor Court to finalize the case, and the lawyer for the garage, as well as Morris Tzarfati, behaved completely differently. They politely said hello to Hatem and shook his hand; it was as if the nearly two years of accusations that Hatem was a security threat were gone. It was agreed that Hatem would return to work on May 12 and negotiations with the union would begin again on May 17. Soon after he returned to work at the garage, I met with Hatem. One of the questions I asked him was which section of the garage he was working in. He turned and looked at me with discomfort, answering, "The military vehicle section."<sup>33</sup>

The courts had ruled in Hatem's favor and brought legitimacy to Maan's efforts. Hatem's return to work was a victory both for himself and for the union. The judge also wanted to hear back from the two parties concerning the negotiations. Those negotiations were not going well six months later, and there was still no resolution to the issue of back pay and increasing salaries based on seniority and expertise. After nearly a year of negotiations, Maan and Tzarfati garage signed a comprehensive labor agreement on February 14, 2017. The

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<sup>33</sup> There are five sections in the garage, including military vehicles, private vehicles, and trucks. Interview done on May 22, 2016.

Palestinian workers received financial compensation for the previous period when they did not receive their full rights. The Palestinian workers would also receive annual wage increases, and the agreement created mechanisms for settling future disputes between the ownership and the workers. It was a major victory for Maan and the Palestinian workers at the garage (WAC Maan 2017a).

### *Conclusion*

Poor, working class Palestinians who are superexploited on the settlements do have one place to turn in order to try to obtain some financial compensation. Yet hiring Israeli lawyers and going to Israeli labor court to sue a (previous) employer is only a means of trying to get what they were owed in the first place. A majority of these cases end with a financial agreement that is a fraction of what the Palestinian worker is owed. Meanwhile, the settler employer is free to continue the exploitative practices without any regard for major consequences. In this environment, the small victories for these workers provide important monetary compensation, but the labor courts only respond to individual cases and do not threaten the structural violence that is part of labor relations in the settlements. As the lawyer always reminded the workers, “This is not about the law or your rights. This is about money. This is about money.”

The case of the workers from the food processing plant demonstrates the extremely weak position of such workers. They are up against a structure that exploits them, does not trust them, and uses them as disposable labor. Even faced with many lawsuits, the plant did not change how it treated its workers. The overall benefits that accrued to the owners by ignoring the law were far greater than any potential losses from lawsuits, and it was unlikely that enforcement was going to happen anytime soon.

The case of Hatem Abu Ziadeh and the Tzarfati Garage workers was very unusual in that these settlement workers tried to negotiate with the garage through a union rather than to take their employer directly to court. They still ended up going through legal processes, but by having a union support Hatem and his co-workers that process was very different from that of individual cases. It was also important that Hatem did not want financial compensation, which forced the judge to make a judgement. Although Maan won the case and Hatem returned to work, it was a long, difficult process. While it appeared, from the union's perspective, that the evidence clearly showed the garage's guilt, throughout the whole process it was difficult to imagine, based on past experience, that Judge Avrahami would stand up to the garage and rule that Hatem must return to work. It was a stunning victory when Judge Avrahami rebuked the garage and Hatem returned to his job. It must have been a shock to the owners of the garage and their lawyer that a judge ruled in favor of a Palestinian, one whom they had called a security threat.

Yet, similar to the 2007 HCJ ruling, Judge Avrahami recognized the garage as a legitimate business which, by international law, is illegal in occupied territory. By forcing the garage to allow Hatem to return to his job, the rule of law of Israel was upheld. The Palestinian workers would receive their labor rights, even as they fixed military vehicles for use at checkpoints, during Israeli military incursions into Area A, and to help carry out the continued oppression of the occupied Palestinian population.

Maan, like other human rights organizations in Israel that try to assist Palestinians, is in a difficult position that makes it subject to criticism from many directions. In writing about the dilemmas that Israeli human rights NGOs face, Golan and Orr write,

This difficult and extremely complex position stems, among other things, from a situation in which the activists are seen by many Israelis as disloyal citizens who

are “helping the enemy”, and by some Palestinian victims as people who are, after all, citizens of the oppressive state and therefore should not so easily be embraced (2012:789).

The owners of the garage explicitly called Maan a union that discriminates against Israelis and an organization that had reprehensible political goals. They argued that Maan cynically used the war in Gaza to undermine and hurt the garage and its main client, the Israeli military. The garage stated that it believed that Maan was defending a terrorist who committed sabotage to a military vehicle and was clear in arguing that the union was acting as a “disloyal citizen”.

Advocates for Palestinians and a Palestinian state, on the other hand, question why Maan was willing to negotiate for better labor rights with a garage that is located on a settlement and that fixes vehicles for the Israeli military. How could Palestinians support a union that legitimized a settler business by entering into labor negotiations with it? Hatem was returning to fix military vehicles that contribute to the oppression of and violence against Palestinians.<sup>34</sup> Was helping Hatem return to his job good for the rest of the West Bank Palestinians who face regular military incursions into their villages and cities?

The organizing and work that Maan undertakes is obviously full of complexity and, some would argue, is contradictory. In defending the work of Maan in the settlements, Assaf Adiv wrote,

the more such worker organizations expose the exploitation of Palestinians in Israeli businesses, the more they expose the character of the occupation. Thus they show the Israeli public the significance and implications of the occupation, raising awareness about these workers as they struggle for their basic rights. Palestinians who receive support in their demands for a fair wage become an active factor in the struggle to change reality and create the basis for an active, dynamic civil society in the future Palestinian state (2014).

<sup>34</sup> It is very possible that a vehicle that Hatem fixed in the morning could later stop him at a checkpoint on his way home.

The political stand that Maan takes is unique and radical in the context of Israel/Palestine, that is, to advocate for workers “regardless of religion, race, and nationality”. Without a permanent political solution likely anytime in the near future, Maan will continue its work of defending workers who come to their door, including those who work on the settlements.

The comprehensive agreement between Maan and the Tzarfati Garage resolved the demands that prompted Hatem and his colleagues to join the union back in June of 2013. This success is an important example for other Palestinian workers in Mishor Adumim, and there is growing interest and knowledge among the workers of their labor rights and the work of Maan, but the level of fear still outweighs the demands for their rights. To date, the Palestinian workers who joined the Maan union are the only workers in the West Bank to successfully unionize and to continue working for their settler employer.<sup>35</sup> With the Israeli government’s continued lack of enforcement for labor laws as delineated in military orders, unionization is the only real prospect for comprehensive improvements in labor rights for Palestinian workers on the settlements. Currently, Maan is the only union assisting Palestinian workers on the settlements, and unionization allows Palestinian workers to demand their labor rights and gain a degree of bargaining power in the settlement workplace.

This story and its success could be viewed as a model for other Palestinian workers on the settlements, but there are many obstacles to the success of unionization. Maan is a very small union, and the Palestinian workers are in an extremely weak position. Both Maan and the Palestinian workers are also in politically sensitive positions. International unions and other possible advocates for Maan may be hesitant to support an Israeli union that organizes on

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<sup>35</sup> On May 23, 2017, 18 Palestinian workers at the Hayei Adam carpentry in the Mishor Adumim (IZ) joined the Maan union. Maan has hired a lawyer in hopes of negotiating with the carpentry to ensure that the workers receive all of their rights (WAC Maan 2017b).

settlements that are illegal by international law. Of course, the Palestinian workers are breaking Palestinian law by working on the settlements and would have difficulty gaining support within their own communities. It would be a major benefit for the Palestinians who work on the settlements to organize, unionize, and demand their legal rights, but it is difficult to foresee this happening on any significant scale given the challenges created by the Israeli military and government. The example of the workers from the food processing plant suing their former employer will continue to be the standard tactic for Palestinians to try to receive financial compensation.

This chapter opened with a quote from one of the most well-known Israeli human rights lawyers, Michael Sfard. As a lawyer, he has been one of the most dedicated defenders of rights for Palestinians living under occupation. He has won many cases, which, as he states, serves to “soften the sharp edges of the military domination” (2005:167). But he is also self-critical, asking if he is just a “collaborator”. He could be exhibit A of Israeli propaganda to show its own citizens and the world that Israel is a democracy and that, through proper legal mechanisms, Palestinians can defend themselves in court. Sfard writes that, “Palestinian limited success perfects the occupation and makes it sustainable; moreover, by lodging petitions to the Israeli court, human rights lawyers act as PRs of occupation: they promote the notion that Palestinian residents have a resort to justice” (2005:168). Even as Sfard acknowledges the complexity of his work and the perception of collusion with the occupation, Palestinians continue to ask for his assistance and for assistance from other human rights and labor rights lawyers. Without any hope for the political process or confidence in the PA’s political leadership, the question of whether bringing a legal case legitimizes the courts, either the HCJ or the labor courts, is of little concern to Palestinian workers. Going to labor court to sue a (previous) employer is only a

means of trying to get what they were owed in the first place. The short-term benefits are far more important to workers' everyday survival than are the possible negative long-term consequences of using the Israeli court system to demand their rights. Sfar's article was written over a decade ago, but even given his concerns that his work helps the occupation "tick", he and many other human rights and labor rights lawyers continue to fight for the rights of Palestinians in Israeli courtrooms.<sup>36</sup>

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<sup>36</sup> The entire sentence from Sfar reads as follows: "The human rights lawyer demands to know whether in winning he or she is actually losing and whether the petitioner successes is, in fact, what makes the occupation tick" (Sfar 2005:168).

## Chapter Four: Jordan Valley

The Jordan Valley is not isolated. Everything that is west of the Jordan [River] will be in Israel's hands. There is not a situation in which someone will uproot its settlements, or do anything else that would mean destruction (Lazaroff 2014).

Minister of Construction and Housing Uri Ariel, May 9, 2014

The individual shall know that *he has something to lose* (emphasis added), that his house can be demolished, that his bus license can be confiscated, that he can be deported from the area; and on the other hand, that he can support himself with dignity, make money, *exploit other Arabs* [emphasis added], and ride a bus (Gazit 1995:247).

Moshe Dayan, November 10, 1967

Shyma, my research assistant, leaned over and whispered in my ear, “A woman just told me that the middlemen in the village warned all villagers that they should not attend the workshop.” In spite of the middlemen’s threats, over twenty women and a couple of men from the village in the Jordan Valley attended the workshop to learn about Israeli labor law and their labor rights as Palestinians employed on the settlements.<sup>1</sup> Most of the village residents who were employed worked on nearby Israeli settlements that had large plantations growing a variety of fruits, vegetables, and herbs. Superexploitation, abuse, and horrific treatment of Palestinians on the settler plantations is the norm, but the economic situation for Palestinians in the Jordan Valley is among the worst in the West Bank. There are almost no local employment options besides working for the settlers. Palestinian middlemen are employed by the settlers to hire Palestinians and supervise all aspects of the labor, from planting to harvesting and packaging. Palestinian workers live in fear of both the Palestinian middlemen and the settlers; if workers complain or cause any problems, the settlers will blacklist them, and they will no longer be able

<sup>1</sup> The workshop took place on March 15, 2014.

to work on the plantations. Fear of settlers and Palestinian middlemen and a complete lack of hope that anything can change are driving characteristics of life in the Jordan Valley.

Throughout the workshop women walked up to the front of the room, where the lawyer and I sat, to show us scars from surgeries on their hands. The women struggled to open and close their hands without feeling pain. They had worked for years cutting herbs and vegetables and needed surgery to alleviate the pain and allow them to continue working. The settler employers did not provide health insurance or any compensation for the work hours lost while the women were at home recovering from the surgeries. Many of them said that they had to stop work completely because their injuries caused too much pain and discomfort. The women also complained that they had to work at all, leaving their young children at home without proper care. Although they worked under horrific conditions, they also lived in fear of losing their jobs, as this was their only option to care for their families. I witnessed fear, distress, and anxiety again and again when speaking with Palestinians employed in Jordan Valley plantations. They had been warned by the middlemen not to attend the workshop, but they took the chance and came to share their stories. Yet, over the course of the two-hour workshop, any hope they might have had for change in their work conditions disappeared.

A Palestinian lawyer with Israeli citizenship led the workshop in coordination with a Palestinian NGO. The lawyer had given these presentations to other Palestinians who worked in the Israeli economy, so he came prepared with details on Israeli labor laws that he believed were most important to discuss. It quickly became apparent that the lawyer and the women attending the workshop had different priorities. The lawyer wanted to give his presentation in an orderly fashion without interruptions. The women quickly began speaking up, interrupting him and sharing their experiences. There was zero correlation between Israeli labor law and the

experience of the women. Nothing. The women's experience was that no labor laws were observed in their workplaces, and the settlers made no effort to follow the law because they knew that Israeli authorities would not prosecute them. The women grew frustrated with the lawyer. What good was it to learn about laws that were not enforced or followed in any manner? The lawyer kept trying to provide the technical details of minimum wage, health insurance, vacation pay, etc. But from the women's perspective, why discuss vacation pay? One woman shared that she had returned to work one week after giving birth! What minimum wage? They received 90 NIS (\$25.71) per day and 10 NIS (\$2.85) for each extra hour, that is, less than half the amount required by law. The women thought the workshop would be an opportunity for them to share their stories with the lawyer and learn about how things could be changed. In fact, there was no reason for these workers to familiarize themselves with the law because, in reality, the law does not exist for Palestinian workers in settlements in the Jordan Valley.

One of the key points of discussion dealt with how to file a lawsuit in Israeli Regional Labor Courts and against whom to file a lawsuit. First, the fact that the Palestinian middlemen from the village had almost all authority over the workers complicated the question of who would be the target of the suit. Second, the workers usually do not have any physical evidence of their employment; they have no contract, no pay slip (the middlemen pay them in cash), and no permit to enter the settlement plantation. Many of the women did not even know who the settler employer was because the middleman took responsibility for all logistics. They might have briefly seen the settler(s) who owned the land, but they would have no contact with the settler owner unless the settler came to visit their fields.

The lawyer was frustrated; he could not file suit against the Palestinian middlemen in Israeli labor court, and it would be very difficult to lodge a complaint against settler employers

and receive compensation or win a case if there was no physical evidence. When the workshop ended, everyone in the room was frustrated. The women had come hoping for tangible assistance regarding their situation, and this was not going to happen. As in the case of many similar workshops I attended during my fieldwork, the participants walked away with some information on Israeli labor law, but without concrete suggestions for change and for organizing workers. The new information, therefore, was of little practical use. The lawyer also was exasperated because he realized how complicated and terrible the situation was.

The workshop in the village was the second one I had attended that day with the lawyer and the Palestinian NGO sponsor; the first was in Jericho. In a small room in the offices of an NGO, approximately twenty men and women witnessed the same presentation by the lawyer. Tension between the lawyer and the participants characterized both workshops. At the first workshop, most participants were not employed on the settlements; they were either employed by an NGO or were members of the media or individuals interested in learning about Israeli labor law. They were all from Jericho, so they knew what was happening to those who worked on the settlements; it was almost impossible for the lawyer to give his presentation because, as in the case described earlier, there was no correlation between the law and the stories shared by the attendees. In particular, one woman and man frequently interrupted the lawyer to provide clarifications and further details of the situation in the Jordan Valley. The information that they gave was precise and detailed. After the workshop ended, I introduced myself and was shocked to learn that they worked in the Ministry of Labor in Jericho. My previous discussions with PA officials and my reading of their official statements had made clear that the PA had nothing to do with assisting or gathering information on Palestinian labor on the settlements. The PA has always said that the settlements are illegal, and the 2010 law forbids all economic relations and

services with the settlements. Thus, by design, the PA does not help those who “illegally” work on the settlements. These two PA officials, however, knew exactly what was going on – the child labor, horrific workplace injuries, and fear that was so pervasive in relation to both settlers and Palestinian middlemen. These two were in an impossible situation: they were government officials but were constrained in what they could do in their bureaucratic positions for settlement workers beyond gathering information. The PA does lodge complaints to the Israeli government about what is happening on the settlements, but it has no power to do anything when it comes to areas under full Israeli jurisdiction. Where the PA does have jurisdiction, Area A, it does nothing to protect workers (who leave Area A to work on Israeli settlements) from predatory and exploitative Palestinian middlemen. The atmosphere of fear that reigns among workers coincides with their frustrations regarding the PA and international community’s abandonment of these workers. No one within a structure of authority – the PA, the Palestinian labor unions, the Israeli government and military – was taking action to change the situation in a way that would benefit workers. The one avenue for recourse for individual workers occurred only after injuries or losing their job; that course of action is to obtain a lawyer and hope for some financial compensation either through negotiations or a judge’s decision. Even though the settler employers might have to pay a negotiated settlement, that has not prompted them to change labor practices.

The most horrific examples of superexploitation that I witnessed on the settlements were in the Jordan Valley. Although the settlers comprise only 15% percent of the total population of the Valley, the Israeli military controls 87.5% percent of the territory. The settlers profit from Palestinian labor and steal Palestinian resources. Home demolitions, destruction of local water pipelines, and regular military training that requires Palestinians to evacuate certain areas are all

everyday occurrences. Palestinians are permitted to develop and build in less than 6% of the total area of the Jordan Valley, because 87% of the territory is Area C, with complete Israeli control.<sup>2</sup> With few resources, the possibility for the Palestinian economy to develop or grow is minimal; almost the only employment available is work on settlements.

As will be detailed throughout the chapter, there are several reasons why Palestinians who work in Jordan Valley plantations experience the worst superexploitation among those employed in the West Bank settlements. First, the largest number of Palestinians employed in the Jordan Valley settlements work in plantation-style commercial farming that is profit-driven. Like the experience of workers both historically and currently employed in large-scale agriculture that is dependent on migrant or “foreign” labor, the working conditions are extremely harsh, and poverty and lack of resources are part of community and home life. The manual farm labor is extremely difficult, repetitive, and hazardous to one’s health. Workers are subject to long hours, exposure to pesticides without proper protection, and the insatiable drive to push the workers harder and harder to maximize profits. Additionally, produce from Jordan Valley plantations is largely for export and competes on the international market, driving down prices. For the produce to be profitable, the owners must extract as much labor from the workers as possible, at the lowest cost possible.

Second, although the Jordan Valley is not far from major cities such as Ramallah, Jerusalem, and Nablus, it is geographically and, to a large extent, socially separated from the West Bank and Israel. The long, narrow strip of the valley is surrounded, with the Jordanian border to the east, hills to the west, the Dead Sea to the south, and the Green Line into Israel to

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<sup>2</sup> As part of an agreement with Israel, 7% of land in the Jordan Valley and Northern Dead Sea region became a Palestinian nature reserve, and therefore, Palestinians can’t develop or build in this area.

the north. Palestinians commute between Jericho and Bethlehem and Ramallah, and Israeli settlers in the Jordan Valley can easily get to Jerusalem in less than an hour. Yet the Jordan Valley feels isolated, in part because of geography and climate, particularly the extreme heat in the summer, and because the primary industry is agriculture as compared to the businesses of the more urban areas. In other words, there is little, if any, reason for those who do not live and work in the Jordan Valley to spend time there at all, let alone in such a way that they would observe working conditions or hear directly from those employed on the settlements.<sup>3</sup>

Third, Israeli policies introduced immediately after the 1967 war, and then further solidified in the Oslo Peace Process, delineated that Israel currently has complete authority over 87.5% (Area C) of the territory in the Jordan Valley. The PA has no jurisdiction in Area C, and its authority is limited to civilian jurisdiction in Area B. Most of the territory in Area A is in Jericho and the village of Auja.<sup>4</sup> Israeli settler colonial policies in the Jordan Valley center on ensuring that Palestinians do not settle and build in Area C; this restricts Palestinian space to less than 6% of the territory. Palestinians residing in Area C, under direct military control, are on their own and enjoy no protection from the PA. Limited access to farmland and restrictions on water usage are important factors leading to local unemployment and outmigration.

Finally, the labor structure is set up for abuse, particularly when it comes to Palestinian middlemen who are hired by the settlers to oversee and pay the Palestinian workers. Middlemen are part of the labor structure in settlement industrial zones (IZs) and construction in other settlements in the West Bank, but Palestinian middlemen's treatment of Palestinian workers is

<sup>3</sup> This is particularly the case for thousands of tourists that travel between the Sea of Galilee and Jerusalem and use the main road through the Jordan Valley, Route 90.

<sup>4</sup> There are five isolated villages in the Northern Jordan Valley with PA jurisdiction: Bardala, Ein al Beida, Lower Fasaiel, Marj Naajeh, and Zubeidat.

especially insidious in the Jordan Valley. As will be discussed, Palestinian workers are very open about their animosity toward the middlemen, yet given their few options, they must tolerate the middlemen, who are members of their own communities. When it comes to labor laws on the Jordan Valley settlements, it is like the “wild west”; anything goes and those with the authority, that is, the Israeli military and Ministry of Economy, to stop the predatory employers and middlemen who exploit the workers take no measures to protect the workers.<sup>5</sup> The impoverished and desperate Palestinians who have remained in the Jordan Valley have no choice but to work for those who have stolen their livelihoods. These factors create an environment of fear, hopelessness, and isolation, both geographic and political. Recognition of this context is essential for an understanding of the experience of Palestinians living in the Jordan Valley.

This chapter provides a brief historical and economic background of the Jordan Valley, highlighting the settler colonial policies of displacement and removal of Palestinians, restrictions on development in the areas where they live, and the PA’s failure to assist the Palestinians in any meaningful way. Next, there are descriptions of labor on the settler plantations, with a focus on the role and importance of Palestinian middlemen as a medium of control and exploitation. The third section highlights a major development in agricultural production in the Jordan Valley, that is, significant investment by Israelis in date palm trees. The final two sections look at the settler response to a Human Rights Watch report on child labor in the Jordan Valley and the Minister of Justice’s new requirements regarding Palestinian lawsuits filed in Israeli Regional Labor Courts against settler employers.

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<sup>5</sup> *Haaretz* journalist Tali Heruti-Sover (2015a) used the term “Wild West” in referring to the lack of enforcement by Israeli authorities.

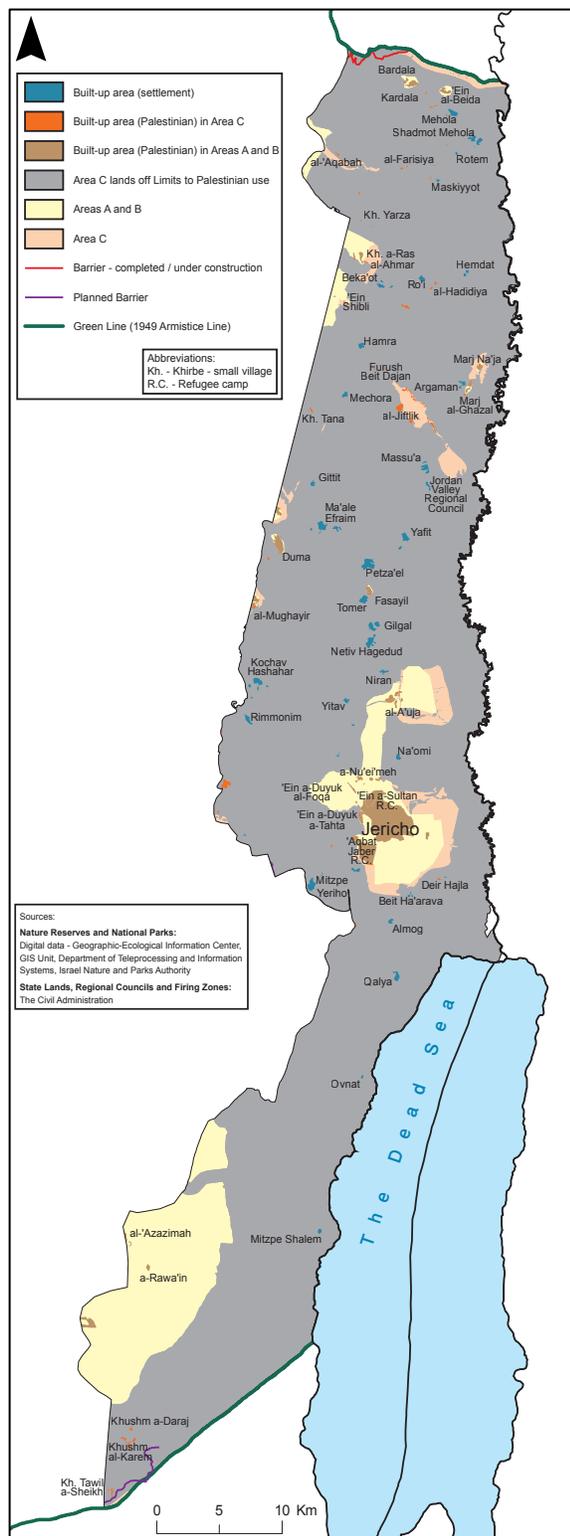
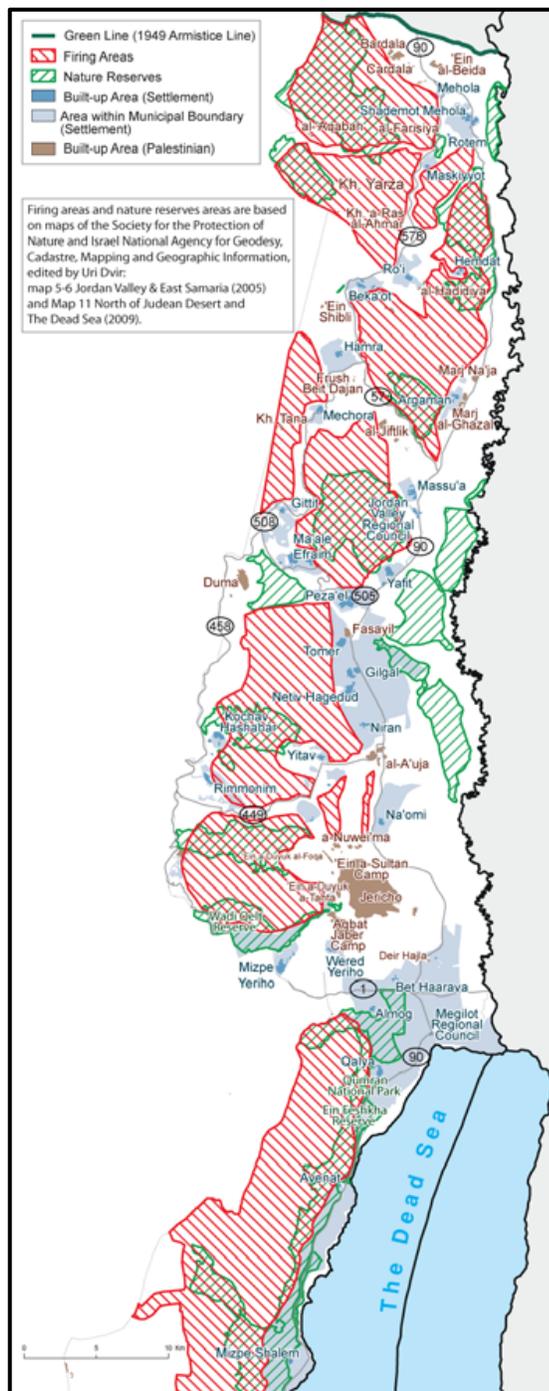


Figure 5.1 Source: Kadman (2013:58)



The maps include the Jordan Valley and the northern Dead Sea. Four Palestinian governorates (Tubas, Jericho, Jerusalem and Bethlehem) and four Israeli regional councils (Jordan Valley, Mizpe Yeriho, Mate Binyamin, and Ma'ale Adumim) have territory on these maps.

Figure 5.2 Source: Hareuveni (2011:51)

*The Israeli presence in the Jordan Valley*<sup>6</sup>

There are no official figures for the number of Palestinians living in the Jordan Valley prior to the 1967 war, but estimates are between 100,000 and 200,000.<sup>7</sup> During the 1967 war, most of the residents of the Jordan Valley, both refugees from the 1948 war and those who had lived there prior, fled across the Jordan River to escape the fighting with “no more than 15,000” Palestinians remaining (Efrat 2006:25).<sup>8</sup> With the ceasefire, the new border along the Jordan River was closed, and Palestinians who had fled into Jordan (East Bank) were not allowed to return to their homes in the newly occupied West Bank. The Jordan Valley became a central focus of Israeli military strategic planning, and several military bases were built in the Jordan Valley as part of the “eastern front” to protect Israel. Although the Allon Plan never was officially accepted as Israeli policy, it clearly influenced the initial placement of Israeli settlements in the Jordan Valley. During the following decades, many of the military bases became civilian settlements as part of the Nahal paramilitary force that brought together military service and the creation of agricultural settlements. Twenty of the thirty-eight settlements in the Jordan Valley were part of the Nahal Brigade and are now civilian areas referred to as Nahal settlements. Another eleven settlements began either as residential, agricultural, or military bases (not associated with the Nahal Brigade). Of these settlements, nineteen were built (or

<sup>6</sup> These statistics include the Northern Dead Sea area on the West Bank side of the Green Line and the Jordan Valley. This territory covers approximately one-third of the West Bank. For further details on the Jordan Valley and the settlements, see Hareuveni (2011), Kadman (2013), Maan Development Center (2012; 2013a; 2013b), Who Profits (2014), and Etkes (2013).

<sup>7</sup> Hareuveni gives two estimates, one of 100,000 by Palestinian lawyer Raja Shehadeh and an Israeli source of 200,000 (2011:8).

<sup>8</sup> This was a census taken by the Israelis and 5,000 inhabitants were counted in Jericho (Efrat 2006:25-26).

transitioned from military to civilian areas) between 1967 and 1977, and an additional eleven settlements were built from 1978 to 1992 (Hareuveni 2011:5).

There are currently thirty-eight settlements in the Jordan Valley; thirty-one are “official”, and seven are “outposts” or illegal.<sup>9</sup> Another important distinction among the settlements is the type of social organization established in each. There are six kibbutzim in the Jordan Valley; these communities emphasize communal sharing, equality among the residents, and a socialist perspective. Fourteen of the settlements are moshavim, where there is some agreed-upon communal sharing and cooperation, but the farms are private.<sup>1011</sup>

Some of the approximately 12,000 settlers in the Jordan Valley commute to work in Israel, but the economic base of the settlements is predominantly agricultural plantations.<sup>12</sup> The value of agricultural production in the Valley is estimated at 500 million NIS (\$143 million) annually (Research and Development). With the use of irrigation, greenhouses, and technological advances in agriculture, along with warm winters, the Jordan Valley can produce

<sup>9</sup> All settlements are considered illegal by international law; the outposts are considered illegal by Israeli law. *Nahal*: Almog, Argaman, Beit HaArava, Gilgal, Gittit, Hamra, Maskiot, Massu’a, Mechora, Mehola, Mitzpe Shalem, Niran, Ovanat, Petza’el, Qalia, Rimmonim, Ro’I, Rotem, Shadmot Mehola, and Yitav. *Other*: Beka’ot, Givat Saalit, Hemedat, Kochav Hashhar, Ma’ale Ephraim, Mitzpe Yericho, Na’ama, Netiv HaGedud, Tomer, Vered Yericho, and Yafit. *Outposts*: Ahavat Hayyim, Mitzpe Keramim, Ma’ale Shlomo, Givat Barkay, Beit Halga, Einot Kedem, Mevoa’ot Yericho.

<sup>10</sup> Superexploitation of Palestinian labor occurs in all the settlement plantations, but there was consensus among Palestinians I met that working on a kibbutz was much better than working on the moshavim. The pay was not different, but the treatment by employers from the kibbutzim was generally better.

<sup>11</sup> Both of these types of communities have origins tied with communal labor, with Hebrew labor as the foundation of the communities, but they have become much more dependent on Palestinian and foreign labor.

<sup>12</sup> According to Maan Development Center, “approximately 60% of settlers [in the Jordan Valley] work in the agricultural sector” (2012:13).

fruits, vegetables, and herbs year-round.<sup>13</sup> The higher winter temperatures in the Jordan Valley allow for a winter season that gives it a distinct seasonal advantage for exporting fruits and vegetables. Over the past twenty years, much of the agricultural production has centered on date palm trees, and 1,600 hectares, or approximately half of all plantation land, is devoted to dates. Israel has become a global leader in the production and export of high quality, and high-priced, medjool dates. The dates grown in the Jordan Valley account for 60% of the dates consumed in Israel and 40% of the dates that Israel exports (World Bank 2013:10).<sup>14</sup>

Israel has used a variety of strategies to exercise control over the land in the Jordan Valley, to displace Palestinians, and to encourage settlement of Israeli Jews.<sup>15</sup> Israeli settlement in the Jordan Valley began almost immediately after the end of the 1967 war. The military seized land for military bases and created “closed areas” for military exercises and training. They have also declared 53.4% of the territory to be “state land”. Jordan previously designated some of this as government territory, and Israel claimed it as state land at the beginning of the occupation. Israel claimed additional “state land”, according to B’Tselem researcher Eyal Hareuveni, “...by relying on a tendentious interpretation of sections of the Ottoman Land Law of 1868” (2011:13). Israel created fifteen nature reserves in the Valley, only two of which are accessible to visitors. There are no signs marking the boundaries of the other thirteen reserves, but if Palestinian shepherds take their flocks into the area, the Israeli military forces them to leave. Israel also created minefields, and although the peace agreement with Jordan means they

<sup>13</sup> The produce is not meant to compete with Israeli farmers inside Israel proper but is meant to utilize the comparative advantage of the Jordan Valley for the benefit of the settlers. As such, 95% of agricultural goods grown in the agricultural settlements in the Jordan Valley are sold to the European Union and to a lesser extent, to the United States (Maan 2013a:3).

<sup>14</sup> The Arava Valley south of the West Bank is the other area with extensive date plantations.

<sup>15</sup> See Maan, for specifics of incentives provided for settlers in the Jordan Valley (2012:8-13).

are no longer necessary, the military is only now beginning to remove them (Hareuveni 2011:16). As agreed upon in the Oslo Accords, 87.5% of the Jordan Valley became part of Area C, and another 7% became part of a Palestinian nature reserve<sup>16</sup>, leaving less than 6% of the land in the Jordan Valley as Areas A and B in which Palestinians could develop and build their communities. Settlers reside in only a tiny fraction (0.0041%) of the total area of the Jordan Valley; the municipal boundaries of the settlements, which include the plantations, make up 11.8% of the Jordan Valley (Hareuveni 2011:9). Yet with 87.5% of the Valley territory designated as Area C, Israeli presence and control is overwhelming.

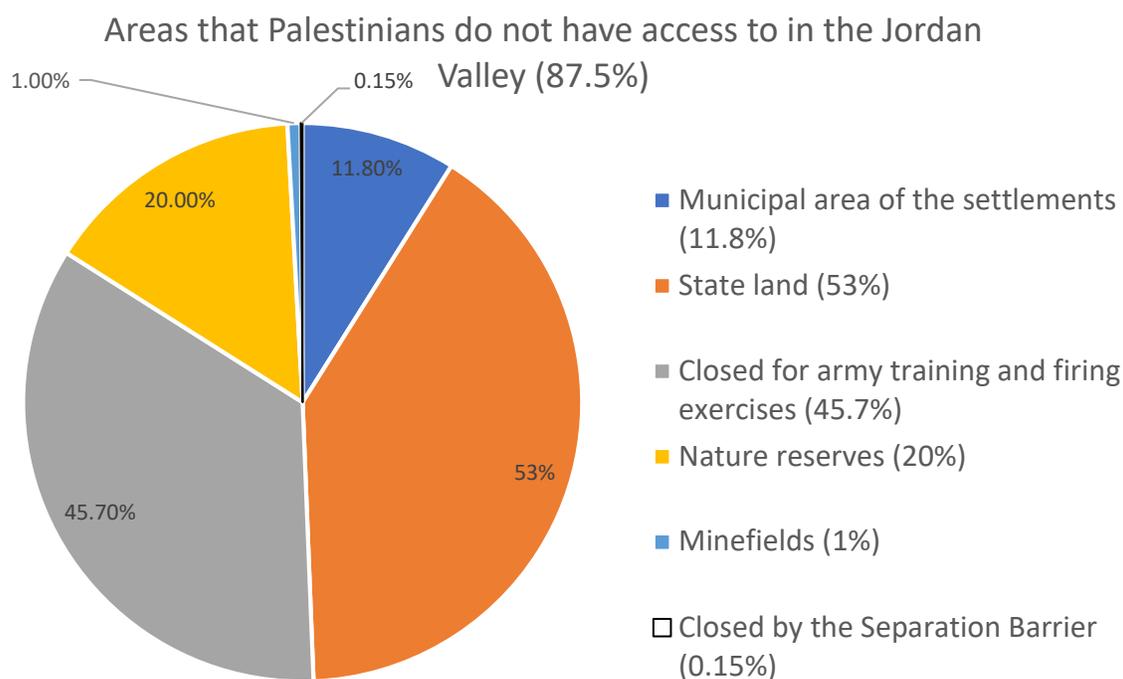


Figure 5.3

Source: Hareuveni (2011:9-10)

The most important resource in the Jordan Valley is water, and Israel took control over the underground water supply immediately after the 1967 war. Military Order No. 92, in 1967,

<sup>16</sup> Because they are nature reserves, the PA agreed that no development would occur in this territory.

gave authority over all water resources in the West Bank to Israel and required Palestinians to get permission from the military to use any water.<sup>17</sup> Palestinians lost the right to pump water from many of their wells when Israel took control of large areas of territory, so whereas Palestinians had as many as 209 wells in the Jordan Valley before 1967, they currently have only 89 (Hareuveni 2011:21). The Oslo Accords also required that Palestinians not increase their water usage without Israeli coordination, and this coordination has been sporadic and inconsistent.<sup>18</sup> With 87.5% of the Jordan Valley under Israeli jurisdiction, the Israeli national water company, Mekorot, drills wells across the Jordan Valley. An important factor for pumping the groundwater from the wells is their depth, and with levels of groundwater decreasing, the ability to drill further and further underground is paramount. Palestinian wells are restricted to a depth of 150 meters, while Israeli drills go “hundreds of meters” (Hareuveni 2011:22). When these deeper wells are built near Palestinian wells, the amount that Palestinian wells can extract decreases as water is diverted to the deeper Israeli wells (Hareuveni 2011:22). In the limited area that they are allowed to farm, it is difficult for Palestinian farmers to get enough usable water because of restrictions on the depth of their wells.

Settler access to water is fundamental to the existence of the plantations. 97.5% of settler water usage in the Jordan Valley is for agricultural use (Hareuveni 2011:24). Settler households in the Jordan Valley also use significant amounts of water. As Figure 5.4 below shows, the small overall percentage of household water usage by the settlers in the Jordan Valley is significantly higher than what is used by Palestinians in the Jordan Valley and for Israelis in Israel. Most

<sup>17</sup> In 1979, Mekorot, the Israeli water company, was given authority over water usage in the oPt.

<sup>18</sup> According to the Oslo agreements, any change to water allocation must be done through negotiations. This means that, for any increase in Palestinian water usage, Israel can demand an increase in settlement water usage.

notable is the fact that there are Palestinian villages in the central and northern area that have less than 100 liters per capita per day, which is the minimum consumption recommended by the World Health Organization (Hareuveni 2011:24).

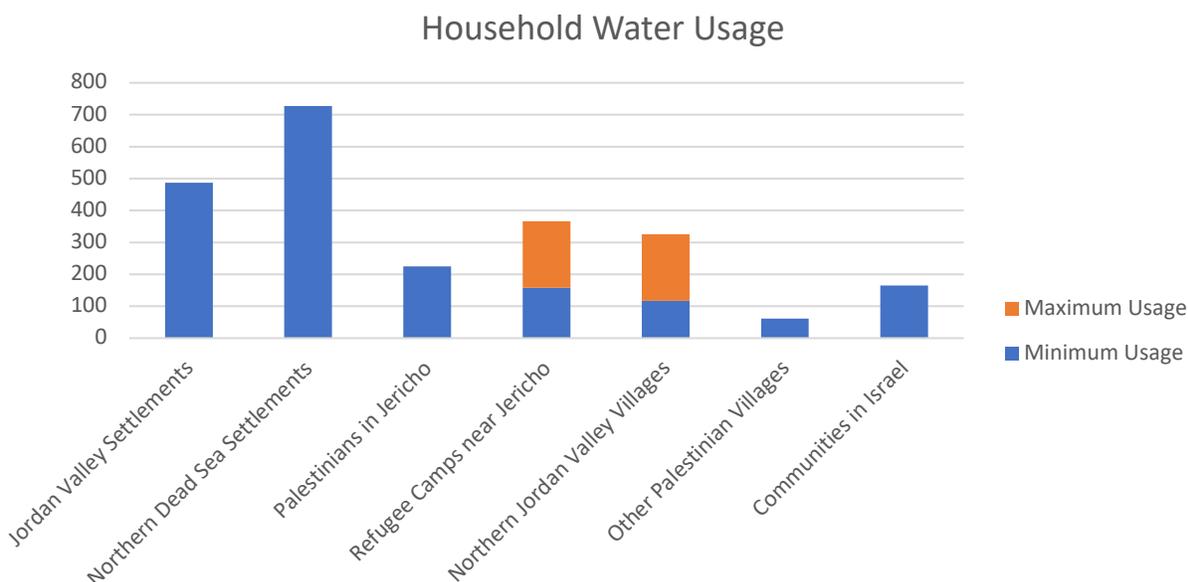


Figure 5.4

Source: Hareuveni (2011:24-26)

### *The Palestinian Population in the Jordan Valley*

The Jordan Valley makes up about 30% of the territory of the West Bank, but it holds less than 3% of the Palestinian population. Approximately 70,000 Palestinians live in the Valley, and Jericho is the main city, with about 25,000 residents (Hareuveni 2011:7). With all the restrictions on land and water resources, it is extremely difficult for Palestinian farmers to sustain agriculture and maintain their livelihood. A 2013 World Bank study stated that if Palestinians had access to Area C and to the necessary water resources, the “total additional [agricultural] production thus amounts to USD 896 million per year” (2013:11). Area C includes other areas of the West Bank, but with 87.5% of the Jordan Valley designated as Area C, and given the obvious agricultural opportunities that settlers monopolize in the Jordan Valley, it is clear that Palestinians would benefit by having access to this land and water.

Palestinians cannot build anything in Area C without permits. The Israeli military rarely grants these permits,<sup>19</sup> and it destroys anything built without a permit. Demolition orders are followed by complete destruction of any and all structures, including homes, animal shelters, water pipes, and anything else the Israeli military decides is “illegal”. Such demolitions are part of everyday life in Area C, and in 2016, Palestinians experienced a significant increase in these demolition orders.<sup>20</sup>

The PA is limited in its ability to respond to the needs of Palestinians in Area C, but it is also negligent in assisting Palestinians in Area A, particularly in the agricultural sector. The problems that farmers face are not just the results of Israeli occupation, but they also include the PA’s lack of institutional guidance or planning and failure to provide financial support. In a report detailing the problems facing Palestinian agriculture, George Kurzom writes, “The Palestinian agricultural sector in the West Bank and Gaza Strip has been characterized by its lack of planning and an inefficient distribution of its local production over a lengthy period of time” (Kurzom 2001:19). One of the statistics most often cited in discussions regarding the weakness of the Palestinian agricultural sector, particularly in relation to the absence of PA support, is the fact that up to one third of the PA budget goes to security services, while less than 1% is allocated for the agricultural sector. The miniscule PA budget for agriculture, moreover, does not go to assist the farmers, as 85% goes to pay salaries within the ministry (Tartir, Zurayk,

<sup>19</sup> B’Tselem provided statistics on the denial of building applications by the Civil Administration: from 2000 to 2012, 5.6% of the applications were approved (211 out of 3,750), and 2.3% were approved (37 out of 1,640) just between 2009 and 2012 (Kadman 2013).

<sup>20</sup> Between 2006 and Feb. 28, 2017, Israel destroyed 1,256 housing units in Area C. 2016 saw, by far, the highest number of demolitions with 274; the next highest was in 2013 with 175. In contrast, between 2006 and 2009, the highest number was 49 (B’Tselem 2017b).

Abdelnour 2012). When the PA released its 2015 budget, the Arab Organization for Human Rights in the UK wrote,

These figures demonstrate that the Palestinian Authority neglected and overlooked other important sectors such as agriculture. It is well known that the Palestinian Territories are fertile and suitable for farming, especially in the Jordan Valley. However, the PA did not develop appropriate plans to support Palestinian farmers who complain that they are always being undercut by the PA (2015).

In contrast to the lack of planning, financial assistance, and political interest in helping the farmers in the Jordan Valley, the PA has committed both financially and politically to the construction and implementation of the Jericho-Agro-Industrial Park. With the Japanese government leading the way with financial assistance and technical expertise, the industrial zone (IZ) was opened in 2015 after years of delays. Tens of millions of dollars have been spent and earmarked for the future of the IZ, yet it is large corporations that will be the main beneficiaries, not Palestinian farmers.<sup>21</sup> Researcher Abdul Sattar Sherida compiled a comprehensive report on the situation of Palestinian farmers in the Jordan Valley. His analysis was that, even though the PA tried to create the perception that creation of the IZ would help the farmers, the reality was that the IZ would take advantage of the farmers and would actually only help large Palestinian agribusinesses. Furthermore, he called on the Palestinian unions and the Ministry of Labor to revisit issues of the minimum wage and other labor rights. He stated what everyone knows in the Jordan Valley, that is, that abuse and exploitation of Palestinian workers is part of everyday life (Sherida 2012:56).

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<sup>21</sup> Bisan Center for Research & Development carried out extensive research on the IZs in Jericho, Jenin, and Bethlehem. This research was part of a series of papers on development in the Palestinian economy. See more at <http://www.bisan.org/>.

*Employment on the Settlements*

In the spring of 2015, Ashtar Theater produced *A Court (Mahkama)*, a play written and produced by Ayman Aoun. The play was performed across the West Bank including in the Jordan Valley. In the following scene from Act 2 a father discusses with his two sons, Muhammad and Ayoub, Ayoub's desire to join his brother in employment on a settlement plantation in the Jordan Valley.<sup>22</sup>

- Muhammad: Hey dad, you have to convince Ayoub not to work in the settlements.  
 Father: Is it true, Ayoub?  
 Ayoub: Yes, it's true; just like everyone else.  
 Father: Look at me; I worked 15 years in the settlements. When I fell and got hurt they did not take care of me, and here I am lying in the house with no insurance and no health.  
 Ayoub: Dad, my brother studied in university, and he still works in the settlement because he could not find a job...Dad, in this country you can't get anything without *wastat* (connections).  
 Muhammad: I had to work on the settlement so that I could make money for the family, to pay for you and your sisters' education.  
 Ayoub: You want me to waste another 3 years in school for nothing. The *simsar* (middleman) will take care of me and find work for me. He will pay me 80 NIS.  
 Muhammad: Of course, he will take care of you because you will do as he wants.  
 Father: Ayoub, this guy (the middleman) is trouble. It has been a month, and I have been calling him for my papers (proof of employment). He told me, "I have nothing for you" ...and now your brother is doing his best to help you. He is working so that you have food and water.  
 Ayoub: Are we supposed to only think about food and drink? The people around here ride jeeps, and we go to school walking...I want to work so that I can get a car, so that I can take you for treatment.  
 Father: You know Muhammad, your brother's idea is good. A car would be really useful for us.  
 Muhammad: But after one year I can save money and get a car in a year.  
 Father: But my son, you don't have money and barely enough for living, and you are getting older and you need to get married.  
 Muhammad: I am not thinking of marriage now.  
 Ayoub: At least let me work on Friday and Saturday so that I can help you and the family.  
 Father: Yes, I agree for you to work on Friday and Saturday, but take care of yourself and be careful of the people around you...keep to yourself...you are still young and someone could cheat and lie to you easily.

<sup>22</sup> My translation of the scene comes from the script, not a live production. The full play is available to view: <https://www.youtube.com/watch?v=0GwS5Vsudmc&t=2864s>.

Ayoub: Oh Dad, you don't trust me. I will impress you; just try me.  
 Muhammad: If you want to work on the settlement, I am leaving you and the family.

This scene depicts familial tensions that erupt when the younger son wants to begin work on the settlements. His older brother Muhammad ended up working on the settlement plantation even though he went to university. The father was injured while working on a settlement, and without insurance, the middleman ignoring calls for some compensation, and the settler employer not taking any responsibility, the financial stress adds to the pressure on the younger son to make money. The father relents; everyone knows that finishing high school or even going to university does not necessarily lead to employment associated with the field one studied or that would deliver an income more than what one can earn on the settlements. The argument is that with a high school diploma or even a university degree Ayoub will end up working in the settlement, so why not start early and make money rather than waste time in school? The older brother understands these dynamics but also fears for his younger brother and what might happen to him when he begins to work on the plantation. This prompts his dramatic declaration that he will leave the family if his younger brother goes through with this plan.

The play presents stories of the challenges that Palestinians face in the Jordan Valley.<sup>23</sup> As part of the theater's outreach and training program, it prepared six individuals from the Jordan Valley to act in the play. It is a play that does not flinch in the face of very difficult issues, including sexual harassment by Palestinian middlemen, pressures on children to work on the settlements, and lack of support from the PA for adequate schools and clinics. It shows the stark reality of exploitation both on the part of settler employers and Palestinian middlemen.

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<sup>23</sup> I did not see the play in person but discussed the play with the writer and producer. I also viewed the play online (see footnote 23), which includes an interview at the end of the play with an activist and politician discussing the play and the labor situation in the Jordan Valley.

One of the scenes also deals with the sensitive topic of spies and collaborators. Everyone knows that the Israeli military offers Palestinians employment on settlements and permits in return for giving sensitive information to the Israeli military and secret police. There are no settlers in the play, which is focused on internal Palestinian divisions and struggles. As with other Ashtar productions, the audience is asked to participate. After each scene, the actors hold a brief “court hearing”, asking audience members what they believe should be done in the midst of the harsh realities of life in the Jordan Valley. The audience is confronted with impossible situations that rarely have clear solutions.

One of the more vigorous complaints I heard from Palestinians working on settlement plantations was anger and frustration towards the Palestinian middlemen, and the play was very critical of these men and the role they play in the exploitation of workers.<sup>24</sup> Although this problem is recognized across Palestinian society, it is an extremely sensitive topic. The middlemen hold authority over extended family members and others in the community and surrounding villages, an authority that is often abusive and based on threats. The middlemen in turn also live under the pressures, burdens, and anxieties of losing power if they do not fulfill the wishes of the settler employer.

It is telling that the play, *A Court*, uses the term *simsar* to refer to the middleman who manages employment of Palestinians on the settlements. When I first visited the Jordan Valley, I heard the term *simsar* used for Palestinian middlemen who were hired by Israeli settlers. These men had responsibility to hire, transport, oversee, pay, and fire Palestinians for work on the settlement plantations. However, the term *simsar* most often has been associated not with employment but with a broker who manages land sales. In *Memories of Revolt*, Ted Swedenburg

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<sup>24</sup> There are some Palestinian middlewomen, but most of those in this position are men.

describes recollections, both popular and concealed, of the sensitive issue of land sales to Jews during the 1930s and the role of the *simsar* in facilitating the land sales. Selling land to the immigrant Jewish population ran counter to nationalist sentiments, and as Swedenburg writes,

The growing number of real estate sales by Palestinians explains why this issue was of such major concern to the national movement in the thirties, so serious in fact that the Mufti launched vigorous public campaigns against the notorious Palestinian *samasira*, or land agents, and branded them as heretics (1995:99).

The term *simsar* has since held very negative connotations, associated with traitorous and greedy actions.

During my fieldwork, I heard seven different words used to refer to middlemen: *ra'is* (president, boss); *waseet* (mediator, broker); *mushaghal* (employer); *muqawil* (contractor); *mu'alim* (teacher, guide); *qablan* (Hebrew word for contractor); and *simsar* (broker, middleman). *Muqawil* and *qablan* typically are used mostly in the construction sector, but otherwise, the first six terms are largely interchangeable. They are all neutral in tone and do not necessarily have a positive or negative connotation. The exception is the word *simsar*, which has a clearly negative connotation; it was used only in the context of labor on the settlements, but more specifically, it referenced the middlemen's terrible treatment of fellow Palestinians. It was linked unmistakably to the perceived traitorous actions of the *simsar* related to land sales going back to the 1930s. In instances where a middleman treated fellow Palestinians in a relatively fair manner, one of the other six terms would be used. However, it was obvious that when someone was emphasizing the terrible work conditions, the interviewee would use the term *simsar*. In the Jordan Valley, where some of the worst labor abuses occur, the term *simsar* was more prominent than any of the other six terms.<sup>25</sup>

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<sup>25</sup> In numerous formal and informal interviews with Palestinians from the West Bank, but not from the Jordan Valley, I asked about the term *simsar*. In almost all cases, they knew the term as

Palestinian workers did not hesitate to discuss the ways in which middlemen abused them or their anger and frustration regarding the lack of PA or union support or concern about these abuses. When I watched the play, *A Court*, I initially was surprised at the use of the term *simsar* because it is a particularly sensitive word. Yet, the writer's choice of *simsar* made sense since one purpose of the play and, more generally, of Ashtar Theatre, is to push Palestinians to evaluate controversial issues within their own society. In this case, the controversial element was Palestinian middlemen who exploit Palestinian workers.

The Palestinian middlemen are a fundamental and indispensable part of the labor relations between the settlers and the Palestinian population. They hire as many Palestinians as requested by the settler employers and transport them from their homes to the plantations. In coordination with the settlers, the middlemen take care of all the necessary details, from planting to harvesting and packaging and all the work done in between, such as pruning and weeding. They also receive money from the settler employers and pay each worker. A key point of information that I was unable to verify is the amount of money that the middlemen receive to pay the workers and how much the middlemen keep for their own salaries. Cash was used for all transactions, so it was impossible to verify what the actual amounts were. Most workers received between 70 and 90 NIS (\$20-25.71) per day and could receive more if the settler and the middleman were willing to pay extra for overtime at a rate of 10 NIS (\$2.85) per hour. Depending on the distance involved in transportation between home and plantation, the workers had to pay between 10-25 (\$2.85-7.14) NIS per person per day.

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it is associated with land sales and other types of financial exchanges, but not as part of labor relations.

Journalist Shireen al-Far produced a short documentary about female Palestinian workers in the Jordan Valley exploited by Palestinian middlemen (al-Far 2013). Based on her conversations with middlemen, al-Far estimated that a *simsar*'s salary might amount to 21,000 NIS (\$6000) in one month, a shockingly large amount of money for one person in the local economy. Her calculations were as follows: the middleman took 15 NIS (\$4.28) per worker from the total given by the settler. He then took an additional 20 NIS (\$5.71) per worker for transportation, and there were a total of 20 workers under his supervision. This amounts to 35 NIS (\$10) per day per 20 workers, or a total of 700 NIS (\$200) per day. During harvest season, when there are no days off, the middleman could take in this amount for a full 30 days per month, thus making a total of 21,000 NIS (\$6000) in one month. These figures were her estimates, and it is unlikely that the figures would be consistent from one month to the next. However, the total also could be dramatically higher if a middleman employed more than 20 workers. As al-Far says, "You can imagine the real profits if the number of daily workers is 50-100 per day under the supervision of one middleman." She interviewed Wael Nazif, a leading union organizer in Jericho. His frustration with the situation was clear, acknowledging the huge income that the middlemen receive, "...all from the exploitation of workers over many years" (al-Far 2013).

There is a wide range in the possible income the middlemen receive; irrespective of the range, it is clear that middlemen make considerably more than the average worker. They have significant financial incentive to follow the directives of the settler employers and to participate in the exploitation of their compatriots. Middlemen hold a great deal of power within their communities since they provide employment where there are few options. The salaries of workers were relatively consistent across the Jordan Valley, suggesting at least some level of

coordination between the settler employers and the middlemen. It is also not a coincidence that the amount of money paid to workers on settlements was just a bit higher than what Palestinians receive for work on Palestinian farms, which is approximately 60 NIS (\$17.14) per day. Even though the amount was only 10-20 NIS (\$2.85-5.71) more per day on the settlements, Palestinian workers frequently mentioned to me that the settlements did pay more than Palestinian employers did. Of course, these rates are far lower than what is required by military order; the Israeli minimum wage, as of December 2017, is 5,300 NIS (\$1,514) per month and 28.5 NIS (\$8.14) per hour or 228 NIS (\$65) per day. The Palestinian workers should be receiving, at minimum, 2.5 times the rate they are currently receiving.

There are variations in how middlemen treat their workers. Some allow for bathroom breaks and are lenient about the amount of work completed, especially during the months of extreme heat, whereas others abuse their power and are accused of sexual harassment and of driving the workers to work harder and faster, which leads to injuries and eventually the employee's inability to do any work due to health problems. In some cases, a "good" middleman would give some money to help if there was an injury or need for surgery, but this was completely at his discretion.

The labor structure and the role of the middlemen are also important in that they serve to protect the settlers from litigation. Because the work is done in fields, meaning that workers do not undergo security checks in order to enter the work area, a work permit may not be requested by the settler at all, or if a work permit is requested, the settler keeps the permit and does not give it directly to the workers.<sup>26</sup> This system leaves the workers without proof of employment, which

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<sup>26</sup> Permits are necessary for entrance into settler residential areas and IZs.

in turn makes it extremely difficult for them to sue settler employers.<sup>27</sup> The settlers rely on Palestinian middlemen to manage paperwork such as contracts and pay slips, but the middlemen don't use any of this documentation. The one way to prove employment is to have colleagues from the workplace come as witnesses to verify employment, but that means convincing people to travel to the Regional Labor Court, losing a day of work, paying for transportation, and getting the necessary permit to enter Israel. It is also in the interest of the middlemen that there be no lawsuits against the settlers because the middlemen would also be implicated in the abuses of workers.

The middlemen are part of village life and hold immense power over the workers, even though they themselves are under the control of settlers. One of the reasons they hold such authority is that those who are employed know that they can easily be replaced by the reserve army of unemployed Palestinians living in villages on the rolling hills between Nablus and Jenin. Thus, people are too scared to confront the middlemen. It is not a surprise that the middlemen continue to evade prosecution since cases brought in the Israeli labor courts are filed against the Israeli employers, not the middlemen. The settlers need middlemen in order to reap profits from the superexploitation of labor, and it would be a huge loss to the settlers' profits if anything were to change the labor structure. It is here that the real importance of Palestinian middlemen becomes so apparent, as the middlemen want to keep the status quo in which they gain financially, but their role creates an atmosphere of discord and dissension within the community.

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<sup>27</sup> One of the central points of debate in the 2007 High Court of Justice (HCJ) ruling that Israeli labor laws were to be used for Palestinians employed in the settlements was the importance of "points of contact", that is, the various connections among the employee, the employer, and the place of work. The HCJ ruling was based on the idea that the workers held more "connections" to Israeli law than to Jordanian law even though the work was conducted outside the borders of Israel. The use of Palestinian middlemen means that there is less "connection" between the Palestinian workers and the settler employer, or at least that is what could be argued in court.

The greatest fear of the settler employers is that Palestinians could organize and work together to demand their rights, but without the support of unions or the PA, and with dominant presence of middlemen who discourage any organizing, it is virtually impossible for workers to come together. The opening vignette of this chapter mentions the fact that the middlemen told workers not to attend the workshop with the lawyer. It is obvious that the middlemen are heavily implicated in the ongoing exploitation and that they don't want the workers to become educated or to mobilize against the current labor practices. Furthermore, the PA has not taken adequate steps to stop the middlemen's abuse and exploitation of workers. When questioned about this, PA officials usually give two answers. First, they state that the settlements are illegal under international law; since 2010, the PA has declared all relations with the settlements illegal, and therefore, the PA can't legally address the situation in any way. Second, the PA is quick to mention that the settlements are in Area C and under complete Israeli control; therefore, the PA has no authority over activity in the settlements. Of course, these arguments ignore the fact that, although the work takes place on settlements, the middlemen have Palestinian identification and live in Area A, where the PA has security jurisdiction.

Even so, the PA's official position on the settlements makes it politically untenable for them to get involved since the workers are, technically, doing work that the PA considers illegal. Unions could also get involved in efforts to mobilize, organize, and rally the workers against the middlemen, but this has not been done. Because of the sensitivity of the issue of work on the settlements, unions or other organizations are not willing to take an institutional stand on the matter. Unless external forces come in, such as the PA to prosecute the middlemen, or the unions to mobilize, it is difficult to imagine any significant change in work conditions occurring.

The video recording of *A Court* includes interviews with the mayor of Jericho and an activist from the Jordan Valley Solidarity Campaign about the many issues that were presented.<sup>28</sup> Near the end of the interview, the mayor of Jericho remarks that the problem with Palestinians who work on the settlements is that they lack the necessary national convictions (*qanaat*) for the Palestinian cause and another problem is their [lack of] morals (*'akhalaqia*). He asks Palestinians to take less money, that is, to work in other positions that are not on settlements, as a symbol of resistance. His insensitivity to the plight of the workers is on full display; rather than discuss the PA's inability to protect its own citizens and to provide alternative employment, he blames the workers for their lack of convictions and morals.

### *Working in the Date Trees*

On the morning of April 13, 2015, I was pruning medjool date palm trees on a plantation in a Jordan Valley settlement. I was about fifteen feet off the ground on a lift that allows workers to carry out the meticulous cutting and trimming necessary to prepare the trees for the highest quality harvest. It was spring, at a time of year when it is necessary to cut away the hard, fibrous cover that protects the fruit and then to trim the fruit stalks and tie them together. It is very labor-intensive work, and production of the highest quality medjool dates involves several stages of care each year.<sup>29</sup> I was working with three Palestinian men, and we each had long cutters to prune the cover over the fruit stalks and different colored ties hung around our belts that we used to wrap the stalks of dates together. The most efficient way to do the work usually

<sup>28</sup> The Jordan Valley Solidarity Campaign brings together several NGOs who work specifically in the Jordan Valley to advocate, bring awareness, and support local communities.

<sup>29</sup> For more information on the harvesting of date trees and the exploitation and dangerous work involved with the harvest, see Ginat (2006).

meant balancing both feet on the palm branches. The palms would bend under our weight but were strong enough to hold us; still, the work was extremely dangerous as we had to balance on palm branches fifteen feet off the ground while working with very sharp cutters. Earlier in the year, very long and dangerous thorns were cut off the tree so that the work would be safer in later stages. However, not all thorns were cut, and one had to be extremely careful not to get stabbed by the thorns that were sharp as knives. There was supposed to be another Palestinian man working in our group, but he was home for several weeks after accidentally slicing open his arm with his cutters while working up in the palm trees.



Figure 5.5 Source: Ethan Morton-Jerome date, April 14, 2015

I had volunteered to work in a unique settlement plantation. It was the only one in the Jordan Valley that followed Israeli labor law. The plantation owners had even gone so far as to contact the Israeli NGO Workers Hotline for assistance to make sure they were following the law. The Palestinian workers I was with clocked in at the beginning of the work day and clocked

out when finished. They were given monthly pay slips, and Israeli labor laws were strictly followed. The workers were hired directly by the settler employer without the use of a middleman. All of this was *extremely* exceptional; I did not hear of another instance in the Jordan Valley that in any way resembled conditions on this settlement. The Palestinians I worked with on the plantation were very happy with their overall treatment; they knew that they were in an exceptional situation compared to others in the Jordan Valley. They were receiving more than double the salary of others who worked on the plantations.<sup>30</sup> The worker who was injured on the job was even getting paid while he was home recovering – unheard of for Palestinian workers on the settlements!

I had started with the team at 6:00 AM moving from treetop to treetop with the use of a large lift. All morning I could smell the putrid odor coming from the treated wastewater that was used to irrigate the trees.<sup>31</sup> I also heard the frequent sounds of bombs being detonated and low-flying planes that were part of military training exercises, sounds that I did not hear in Ramallah but that are part of the everyday sonic atmosphere in the Jordan Valley. After we finished cutting, trimming, and tying together the date stalks, the lift would be lowered, then moved to the next tree, and placed just underneath the lowest branch. The four of us would then spread out among the branches and begin again the cutting, clipping, and binding. Most of the time we worked in silence; it took a great deal of concentration on my part to balance on palm branches while using sharp cutters, avoiding the occasional long thorns, and periodically looking down fifteen feet below.<sup>32</sup> In brief conversations at the tops of the trees and while relaxing during our

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<sup>30</sup> At the time I worked on this settlement, the Israeli minimum wage was 4,200 NIS (\$1,200), but it has since risen, and as of December 2017, it is 5,300 NIS (\$1,514).

<sup>31</sup> Another advantage of the date trees, besides producing high quality medjool dates, is that they can be irrigated with treated wastewater and brackish water rather than purified drinking water.

<sup>32</sup> I was also warned about snakes and scorpions; thankfully, I never saw either of them.

breaks, I learned that the four men came from the same extended family and that their grandfather had a good relationship with the settlement dating back three decades. It was hard work and extremely dangerous, but they also knew that they were in an enviable situation compared to what occurred in the other settlement plantations.

As the date trees grow taller, lifts are necessary for work with date palm branches and fruit stalks. The lifts are very expensive; the large ones can cost over \$125,000 (Ginat 2006). *Ha'aretz* journalist Gitit Ginat interviewed workers who had been dispersed into a group of trees with the lift and then left there for hours, a process called “distributing monkeys” which maximizes the amount of work that can be done when only one lift is available. At break times and at the end of the day, the lift would return to retrieve them from the tops of the trees. Obviously, without the lift it was extremely dangerous, and the workers had no means of taking a break or going to the bathroom. There is pressure to complete work in a limited amount of time for each stage of the annual production process, which leads to practices that are dangerous for workers. Dates are the most profitable produce for the settlers, and they have become the major focus for agriculture in the Jordan Valley, taking up at least 50% of the land used by settler plantations (Research and Development of the Jordan Valley). Over 16 square kilometers in the Jordan Valley are planted with date trees (Who Profits 2014:14). The settlers view dates as very profitable for the future, and they continue to expand the number of new date trees.

There are many varieties of dates, but for the Jordan Valley, medjool dates are the predominant variety, “...considered the king of dates all over the world” (Coren 2016). Israel produces between 65-75% of the global market of medjool dates (Coren 2016). The quality, taste, and health benefits all add to the value of medjool dates, making it the most profitable date variety. With optimal annual weather and the geography of the Jordan Valley, the need for much

less water than other agricultural products, and high profit margins, the date trees have become a major part of the Jordan Valley economy. The profits, however, depend on labor that is highly intensive, difficult, and dangerous. The settlers are completely dependent on Palestinians who are willing to work in the dangerous conditions involved with date production, and they exploit Palestinian labor to gain huge benefits.

### *The Human Rights Watch Report and Settler Response*

After several hours of work, the lift was lowered to the ground, and I shared tea and snacks with my three Palestinian colleagues. I glanced down at my phone to see if I had any emails, and I saw that the Human Rights Watch (HRW) report on child labor in the Jordan Valley had just been published (Van Esveld 2015). I did not have time to read the report during the break, but I knew the report was going to bring plenty of controversy and put a negative spotlight on the Jordan Valley settlements.

At lunch, when I sat down with several of the settlers, I mentioned the publication of the HRW Report and that there would be stories in the international media in the coming week highlighting the exploitation of Palestinian workers and child labor. The settlers told me that they had previously complained to the head of the Jordan Valley Regional Council, David Elhayani, about the common disregard for labor law, including child labor, on settlement plantations. Although these settlers lived on occupied Palestinian land, they were concerned with the general wellbeing of the Palestinians they hired and treated them as they were required to under the law. They knew that the problems of child labor and lack of adherence to labor law for Palestinian workers in the Jordan Valley were not new but had existed for decades. These settlers were well aware that Palestinian middlemen would hire children and that settler

employers did not know this or knowingly stayed ignorant about who was working in their fields. These settlers' complaints to David Elhayani were ignored, and nothing had changed.

HRW researcher Bill Van Esveld interviewed 38 children and 12 adults as part of his research documenting the dangerous conditions for children working on the settlements. Accusations included: long hours with low wages, exposure to chemicals, work in extreme temperatures, and work injuries without adequate medical care. I had heard similar accounts in my own interviews and time spent in the Jordan Valley. I also knew that obtaining this information was not difficult. Everyone in the Jordan Valley knows what is going on; it is part of everyday life.

David Elhayani's response, and that of others who support the settlements, was immediate and unequivocal: the HRW was biased and politically motivated to tarnish Israel, and the report was fraudulent. In an interview with the Israel Army Radio soon after the report was published, Elhayani said, "It is a horrific lie. There is no justification for employing children, not just morally and legally but financially as well" (Associated Press 2015). The organization NGO Monitor, a pro-Israel advocacy organization, quickly came out with a rebuttal to the HRW report. They criticized the methodology, saying that the report relied on interviews but gave no physical documentation, and they stated, "... the allegations are inherently unverifiable, since there are no permits, pay slips, paperwork, or other documentation for the supposed child workers" (NGO Monitor 2015). NGO Monitor fails to mention that settler employers do not give physical evidence to Palestinian employees specifically in order to hide the fact that they do not follow the law. Their rebuttal also used a racist argument, blaming Palestinian parents for allowing the children to work: "any exploitation is enabled, if not encouraged by parents." This claim, of course, ignores the severe poverty that the Israeli occupation has created in the Jordan

Valley. The NGO Monitor rebuttal also points the finger at Palestinian middlemen as the real problem behind the use of child labor. They are correct, insofar as it is Palestinian middlemen who bring the children to work, but this claim also wrongly absolves the settlers of any responsibility. Elhayani did admit the possibility of child labor but put all the responsibility with the Palestinian middlemen, stating, “Palestinian contractors who come for very specific jobs for a short period of time, when increased manpower is needed...if some child infiltrates (works on a farm through [these] contractor[s]), I have no way of knowing” (Arutz Sheva Staff 2015). He even went so far as to state that there would be clear repercussions if farmers were found to employ children: “If they’d show me a farmer employing a child, I’d report it to police immediately,” and, “A farmer would also lose his exporting license if he were caught employing a minor” (Arutz Sheva Staff 2015). Of course, he could easily make these statements with the knowledge that there was in fact no enforcement of labor laws and that no one in authority would actually look into the accusations of child labor.

The HRW Report was very important in highlighting the child labor in the Jordan Valley, but the settlers knew that they could deny everything, call HRW a “bunch of liars” and survive a week of international media scrutiny. After that, the attention would disappear. As it turns out, they were correct.

### *New Jordan Valley Regulation*

In the summer of 2016, the Minister of Justice Ayelat Shaked signed a new regulation that gave judges in the Regional Labor Courts the authority to demand that the plaintiff pay a financial deposit at the start of a legal suit as a guarantee, so that if the plaintiff lost the case the

sum would help pay the defender (employer's) court fees.<sup>33</sup> This regulation applied only to non-Israeli residents, so it was clearly targeted at Palestinians in the West Bank.<sup>34</sup> The new regulations were also referred to as the “Jordan Valley Regulation”, because the settler plantation farmers had lobbied for it. It makes sense that the farmers would want this added barrier to lawsuits against them because it is estimated that between 6,000 and 10,000 Palestinians workers in the Jordan Valley settlements have experienced labor violations that would entitle them to file cases against their employers. Member of the Knesset (MK) Moalem-Refaeli (Jewish Home Party) said that “...farm owners are being swamped by frivolous claims and must cope with a methodical effort to impoverish them and destroy Jewish agriculture in the Jordan Valley” (Heruti-Sover 2016). She referred to the lawsuits against the settlers as a “legal intifada” and stated,

Most of the lawsuits end in some ridiculous settlement and in some cases the workers demand wages for times of the year when there is no need or reason to work on the farm. A significant portion of the claims against the farmers come from PA residents who never even worked for that farmer. It's worth trying [to sue] since there's nothing to lose (Heruti-Sover 2016).

It is true that Palestinians who file suits may not have physical evidence to prove that they worked for a settler employer, and so a case without physical evidence might, in fact, seem frivolous. But of course, as discussed above, the settler employers do not give pay slips or permits, and they rely on the Palestinian middlemen to take care of all necessary arrangements with Palestinian employees. The regulation is clearly another tactic that the farmers are using to

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<sup>33</sup> Abed Dari, legal coordinator at Worker's Hotline, said “that he was aware of a handful of cases similar...where judges had ordered guarantees of 2,500 to 3,000 shekels (\$650 to \$775) for workers who lacked evidence that they were employed on Israeli settlements. Those cases were then settled without going through the court” (Wilson 2016).

<sup>34</sup> The regulation refers to “non-Israeli residents”, so any foreign migrant employee is also affected by this new regulation.

enable them to continue flouting the law and make sure they don't have to deal with any lawsuits in the Israeli labor courts. The fact that the Minister of Justice signed this regulation simply confirms that Israeli government authorities provide no protections for Palestinians in the West Bank who work in the Israeli economy and side with the predatory and exploitative employers.

Three Israeli NGOs, Adalah, Worker's Hotline, and the Association for Civil Rights in Israel, petitioned the High Court of Justice (HCJ) to cancel the regulation immediately. The HCJ rejected the request for immediate cancellation, but it will rule on the legality of regulation in the future. According to Minister of Justice Shaked, "The regulation does not require the approval of the Knesset Constitution and Justice Committee" (Heruti-Sover 2016). Therefore, the regulation went into effect upon her signature, and it is now up to the HCJ to decide if the regulation is discriminatory. As the lawyer for Adalah, Sawsan Zaher, writes, "Shaked adopted the regulation in a breathtakingly arbitrary fashion, without any public consultation or debate... This regulation usurps the legislature's role and unreasonably eliminates judicial discretion only in order to obstruct access to court for foreign workers, especially Palestinians" (Zaher 2016). It is not known when the HCJ will rule on the regulation. Until then Palestinians face yet another obstacle if they want to try to sue their employers. As described in Chapters Two and Three, many lawsuits are only filed after the Palestinian employee is fired, and the lawsuit is a final act of desperation in an attempt to receive some financial compensation for rights withheld. The requirement of a deposit at the outset of a case is all the more challenging if the worker is unemployed, and, of course, the deposit might be lost entirely if the worker receives a negative judgment. This is a clear example of government collusion with the settlers in order to continue the exploitation of Palestinian workers.

### *Conclusion*

The intentions of Israel for the Jordan Valley became clear soon after the beginning of the occupation. The tens of thousands of Palestinians who fled across the Jordan River during the war were not allowed to return. The remaining Palestinians who did not flee in 1967 were restricted in their access to land and water resources, with Israel taking control over most of the territory in the Jordan Valley. The creation of Nahal military bases, initially for security and subsequently transformed into civilian agricultural settlements, began the incorporation of the Jordan Valley into Israel.

With the development and growth of the settlements, particularly the agricultural plantations, the settlers turned to unemployed and poor Palestinians who could be exploited easily to take on the difficult work of large-scale agricultural production with minimal salaries. In order to facilitate the labor process, the settlers hired middlemen to be in charge of the thousands of workers they employed. Palestinian middlemen are fundamental to the labor apparatus; their role allows settler farmers to continue their dominance and manipulation over Palestinian employees. It is not coincidental that these middlemen are referred to as *simsar*; within the Palestinian community they are hated, yet tolerated, because they facilitate access to jobs that Palestinians are desperate for. Until government authorities, either Israeli or Palestinian, prosecute the settlers and middlemen and enforce the law, it will be impossible to change the appalling work environment.

On top of all the difficulties the Palestinian workers face from settler employers and Palestinian middlemen, the response by the mayor of Jericho that the workers lacked national conviction and morals exemplifies how Palestinian society views the workers. There is recognition of the poverty and hardship created by the occupation, but the workers on the

settlements know that they will not receive any help from the PA, Palestinian NGOs, or unions. The workers must either help themselves or turn to Israeli NGOs or Maan for assistance.

Amid restrictions on land and water, the settlers have exploited Palestinian labor for their profit and benefit. The settlers take full advantage of the lack of enforcement of labor laws and now have taken the further step of lobbying the Minister of Justice to create the “Jordan Valley Regulation”, making it even more difficult for Palestinians to sue their employers. The absurdity of the new regulation mirrors the frustrations of Palestinian workers who attend the workshops, as described in the opening of the chapter, in that the law is entirely removed from the realities of the workers. If the Minister of Justice were serious about enforcing the law and protecting workers from predatory practices of employers, then she would not create additional barriers for workers to demand their rights. Her interests are aligned with assisting the settlers.

In the short-term (and possibly the long-term), the status of the Jordan Valley is unlikely to change. This chapter’s opening quote from the Israeli Minister of Housing and Construction emphasizes that the settlers in the Valley will not be removed. Furthermore, Israeli leaders frequently mention the Jordan Valley as a strategic and military asset in order to safeguard Israel. If that is the case, and Israeli occupation will continue, then the best way to improve the lives of the Palestinians in the Jordan Valley is to organize and unionize the workers with the goal of forcing Israeli settlers to adhere to the law. One of the questions I often asked Palestinian workers in the Jordan Valley was, “What would your life would be like if you were paid according to the military order for the Israeli minimum wage and if Israeli labor laws were followed and enforced?” Instead of receiving 70 or 80 NIS (\$20-\$22.85) per day, they would get more than 220 NIS (\$62.85) per day plus many benefits, including health insurance and transportation costs that are required by law. Of course, the added income and benefits would

dramatically impact their everyday life and alleviate pressures such as the felt need to send their children to work. However, unionizing or other forms of organizing to pursue these rights requires a public admission that work on the settlements will continue for the foreseeable future. Such an admission would undermine nationalist imperatives of an independent Palestinian economy and state.

Finally, the response of David Elhayani and supporters of the settlements to the HRW report on child labor in the Jordan Valley is a striking example of how settlers continue the superexploitation of Palestinian labor. Their efforts to immediately and comprehensively discredit the report and the organization were successful, at least in making sure that the status quo in the Jordan Valley did not change. There is no enforcement of labor laws; no one is following up on accusations of child labor. Desperate, under military occupation, and abandoned by the PA, men continue to toil in the fields and in dangerous work with date palm trees; women with severe pain in their hands and wrists keep cutting herbs; and children work in extreme conditions of heat and unprotected from pesticides, under the supervision of Palestinian middlemen, all for the profit of the settler plantation employers.

## Chapter Five: SodaStream and Debates over Palestinian Labor on the Settlements

I think we just found the solution for the Middle East  
 They will have our land  
 But we have salaries in our bank  
 And Scarlett Johansson, well she has gas (DAMb)

Tamer Nafar, rap artist member of DAM

Tamer Nafar, a Palestinian citizen of Israel, is a member of the rap group Da Arabian MC's (DAM). Their music is a mixture of "Arabic percussion rhythms, Middle Eastern melodies, and urban hip hop" accompanied by lyrics charged with social and political commentary (DAMa). The lyrics above come from Nafar's song, *Scarlett Has Gas*. The sarcastic song made fun of Scarlett Johansson's decision to shill for SodaStream, a company which was breaking international law by having a factory in the illegal settlement industrial zone (IZ), Mishor Adumim. The lyrics juxtapose the horrors of the occupation with the reality of Palestinian workers earning a salary from the settlers: "Instead of pointing at them checkpoints ama point at my checks", and an Israeli soldier may "hit me in the groin, but nothing will take all them coins that I'll spend" (DAMb). The song is a microcosm of the debate on Palestinian labor on the settlements. Advocates for Palestinians emphasize the lack of freedom, high unemployment among Palestinians in the West Bank because of Israeli policies, and the brutality and duration of the occupation while proponents of the settlements and their businesses underscore the jobs and salaries that settlement businesses provide, together with opportunities to advance peaceful relations in a workplace that employs Palestinians and Jews. Johansson's hiring as Global Brand Ambassador for SodaStream brought the debate concerning Palestinian labor in the settlements into international headlines during the first two months of 2014. Nafar's

song was one response, among many contending perspectives, to the debate on Johansson's decision and on SodaStream itself.

SodaStream announced Johansson's appointment on January 11, 2014. To market its product, which injects gas into still water so that consumers can create carbonated beverages at home, the company purchased air time during the American Super Bowl for a commercial starring Johansson. SodaStream wanted to get as much publicity as possible, hiring a Hollywood star and advertising on one of the most-watched televised events.<sup>1</sup> Controversy quickly overtook the commercial campaign, stemming from the facts that SodaStream's factory in the Mishor Adumim IZ was illegal according to international law, and that Johansson was, at the time, an Oxfam Global Ambassador. Over the next eighteen days, international headlines and op-ed pieces pointed to Johansson's duplicity. Could one promote SodaStream, which was breaking international law, and be an ambassador for an international NGO that both states that the settlements are illegal and assists displaced Palestinians who are in poverty as a direct result of the occupation? Oxfam was clear on its position, stating:

We deeply value [Ms. Johansson's] support. Oxfam respects the independence of our ambassadors. However, Oxfam believes that businesses that operate in settlements further the ongoing poverty and the denial of rights of the Palestinian communities that we work to support. Oxfam is opposed to all trade from Israeli settlements, which are illegal under international law. We have made our concerns known to Ms. Johansson, and we are now engaged in a dialogue on these important issues (Oxfam 2014).

But Oxfam did not publicly demand that Johansson either end her contract with SodaStream or stop working with Oxfam. On January 24, Johansson tried to "clear the air" and, through her publicist, stated:

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<sup>1</sup> Sodastream had purchased advertising time the previous year during the Super Bowl and also created controversy when the commercial was critical of two major sponsors, Coke and Pepsi. Sodastream was forced to edit the commercial, but it placed the unedited version on the internet.

I remain a supporter of economic cooperation and social cooperation between a democratic Israel and Palestine. SodaStream is a company that is not only committed to the environment but to building a bridge to peace between Israel and Palestine supporting neighbors working alongside each other, receiving equal pay, equal benefits and equal rights. That is what is happening in the Ma'ale Adumim factory every working day (Makarechi 2014)

But her efforts to try and placate those who believed her decision was contradictory were a failure. On January 29, Johansson capitulated under the pressure. Her spokesperson wrote, “Scarlett Johansson has respectfully decided to end her ambassador role with Oxfam after eight years. She and Oxfam have a fundamental difference of opinion in regards to the boycott, divestment and sanctions movement” (Selby 2014). Advocates of the settlements and SodaStream were ecstatic; the Hollywood starlet chose to give up her position at Oxfam and promote what they believed was peaceful coexistence exemplified by a benevolent multinational corporation. Activists for the Boycott, Divestment, and Sanctions (BDS) movement were incredulous; how could someone who had spent years representing an organization that supported programs against poverty promote a business that was part of the systematic abuse and exploitation of Palestinians?

The idea of boycotting products from the settlements grew out of the BDS movement, which was launched in 2005 and has gained momentum both locally and internationally. While BDS calls for a comprehensive boycott of Israeli businesses and institutions, many individuals and organizations have opted for a targeted boycott of the settlements only. Advocates on both sides of the controversy had several years to practice their arguments and were well prepared when SodaStream announced Johansson’s hiring. During the eighteen days between SodaStream’s announcement of Johansson’s contract and her resignation from Oxfam, the two sides made their cases through international press and social media. Figure 6.1 shows Johansson sipping water in front of Palestinian workers crossing at an Israeli checkpoint. Photos shared on

social media used sarcasm to point to Johansson's duplicity in the SodaStream commercial campaign (Figures 6.2 and 6.3).



Figure 6.1 Source: Westbrook (2014a)



Figure 6.2 Source: Westbrook (2014b)



Figure 6.3 Source: Westbrook (2014c)

There were also those who supported Johansson, arguing that SodaStream was an example of the coexistence for which Israelis and Palestinians should be striving. Advocates for the settlements argue that to oppose SodaStream is to oppose peace, and that support for SodaStream constitutes a positive political step towards negotiations. Figure 6.4 portrays Johansson bringing Israeli Prime Minister Benjamin Netanyahu and Palestinian President Mahmoud Abbas over a beverage carbonated by a SodaStream machine. Figure 6.5 features a

fake tattoo on Johansson's shoulder that includes doves and the Palestinian and Israeli flags.



Figure 6.4

Scarlett, you're our  
Super Bowl MVP.



Figure 6.5

Source: 'Zonszein'(2014)

This chapter examines the SodaStream case to further illustrate the complexity of Palestinian labor on the settlements. Arguably, SodaStream provided some of the best jobs in terms of pay and benefits for working class Palestinians in the West Bank. Yet, even though SodaStream presented itself as an “island of peace”, several examples, discussed below, will demonstrate otherwise. The Johansson controversy was another opportunity to present well-rehearsed Zionist propaganda: Israel is a benevolent authority that provides essential employment for Palestinians. For proponents of the settlements, this argument becomes a central feature for justifying their existence in the West Bank. Furthermore, the workplace becomes the key arena in which peaceful relations grow and develop. These arguments for “economic peace” have been used for decades and continue to convince many to support the settlements. Yet as Oxfam's statement in response to Johannsson's work with SodaStream made clear, the settlements are illegal according to international law and they actually harm Palestinians. The chapter ends with an overview of several comprehensive studies that show there is no doubt that the settlements and the ongoing occupation have a massive detrimental impact on the daily lives of Palestinians and cause overwhelming damage to the West Bank economy.

### *SodaStream*

By December 2013, after several months of fieldwork during which I attended office hours on Saturday mornings at several union offices across the West Bank, I had met, at those offices, many Palestinians who worked on settlements. On one occasion in Jericho, I met a Palestinian who worked at the SodaStream factory, and I scheduled a follow-up meeting to talk to him and other workers from his village, Jaba'. During the first interview, I learned that over one hundred young men from Jaba' had worked or were currently working at SodaStream. I then began to set up further formal and informal interviews in the village. At the time, I had no idea that in just a couple of weeks the company and its workers were to be in international headlines.

In my time spent with those who had either worked at SodaStream or were currently working at the factory, I heard two very different perspectives. Workers who were no longer with the company were very critical and focused on the negative aspects of their employment. These workers had nothing to lose when complaining about the company and could speak their minds freely. Several of them had worked at the company on seasonal contracts which were not renewed. The company was taking advantage of them, a precariat workforce, through use of short-term contracts, depending on the demands of the market. When demand for the product decreased, the workers were let go, and when demand went up they would rehire them on short-term contracts. The workers complained about the long hours and difficult work schedule. They would have day shifts of up to twelve hours for four days, then two days off, followed by night shifts of up to twelve hours for four nights and, again, two days off. Moving back and forth between work during the day and then during the night was extremely difficult. The actual length of the shift would depend on demand for the product, so work shifts sometimes were

shorter, and when work shifts did last for the full twelve hours, workers would receive overtime pay for a portion of the shift. The factory labor was repetitious and exhausting. Some of the workers told me they would never go back even if given a chance, while others said that they would grudgingly return. Electronic Intifada published a piece, in May 2013, that expressed similar sentiments, most notably a quote from an anonymous former SodaStream employee: “They treat us like slaves” (Westbrook 2013). The international press used this quote frequently during the Johansson controversy and afterwards, whenever a journalist wanted to illustrate negative perceptions of Palestinian workers toward the company.<sup>2</sup>

The workers I met who were still working at the factory emphasized the positives that came with employment at SodaStream. They, of course, had everything to lose if SodaStream found out that workers were complaining about the company to a foreign researcher or journalist. They showed me their pay slips, some for over 7,000 NIS (\$2,000) for a month, substantially more than the salaries at any other factory jobs within the Mishor Adumim IZ, in Israel, or in Area A. A couple of times I witnessed the early morning pick-up by a private bus at the Jaba’ junction. This transportation was a major benefit for SodaStream workers. They also talked about the subsidized food provided for meals. Instead of complaining about the number of hours of work, they wanted the extra hours and overtime; it meant a much larger paycheck at the end of the month. The company hired workers with a variety of backgrounds, so the Palestinian workers from the West Bank would tell me about Palestinians from Jerusalem, Russians, and Israeli Jewish citizens.<sup>3</sup> I did not hear any complaints about the diversity of the workforce from

<sup>2</sup> Examples include Mackey (2014), *Daily Mail* (2014), Team (2015), and Moore (2014).

<sup>3</sup> The Palestinian workers frequently differentiated between the Russians and the Jewish workers, regardless of the fact that the Russians are also Jewish.

the Palestinian workers; it was clear that as long as everyone did their work according to the necessities of the shift managers, relations among the employees were good.

Advocates on both sides, pro-settler and pro-Palestinian, had the opportunity to express their perspectives on the company to eager international journalists when Johansson was hired. Although SodaStream's efforts to garner international publicity had not intended to bring scrutiny of its factory in Mishor Adumim, the company's telegenic CEO Daniel Birnbaum was prepared for the line of questioning concerned with the legality of the factory's location and the use of a captive Palestinian workforce. According to Birnbaum, SodaStream is an oasis of peace, prosperity, and coexistence in a conflict zone. Employing Jews and Palestinians side by side, SodaStream offers a high standard of employment in a pluralistic environment that respects its employees. Birnbaum frequently is quoted talking about the factory as an "island of peace". From Birnbaum's perspective, he was the leader who was really interested in peace and coexistence; he could point to the failures of politicians and the peace process and ask what they have done to help. Meanwhile, SodaStream provided employment and a salary that could support many family members.<sup>4</sup>

A year prior to the Johansson controversy, SodaStream had released a video, titled *Building Bridges, Not Walls*, that gave a very positive portrayal of the company (SodaStream 2013). Quotes from Palestinian workers in the video include, "We are like brothers", referring to the employees at the company. Another worker mentions that Muslims, Christians, Jews, and Druze all work together peacefully. There is a brief interview with an Israeli Palestinian who is a shift manager; he supervises 400 workers, an example of what the company wants to portray,

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<sup>4</sup> In the short film *Building Bridges, Not Walls*, one worker says that the salary from SodaStream can feed 10 family members.

that is, a nondiscriminatory workplace where a Palestinian has authority and is not just a factory hand. Of course, the video also highlights the salaries that SodaStream provides to Palestinians, accurately describing them as, "...a very high pay scale that they could never achieve in the West Bank" (SodaStream 2013).

As a multinational corporation and member of Nasdaq Stock Exchange, maintaining positive public relations is a major focus for SodaStream, a company selling a niche product. Whether through short documentaries such as *Building Bridges, Not Walls*, commercial campaigns, or Birnbaum's personal efforts, the company wants to project the image of an ethical company that is both environmentally friendly and promotes peace by hiring both Palestinians and Jews in its workforce.<sup>5</sup> As the Johansson controversy continued, Birnbaum finally admitted that it was causing problems for him and his company. As journalist Nathan Jeffay (2014) wrote, "If he could turn back the clock, SodaStream CEO Daniel Birnbaum would never have established a production plant on an Israeli Jewish settlement in the occupied West Bank. In fact, he said Tuesday, its location has turned out to be "a pain in the ass"."<sup>6</sup>

Yet, even beyond the fact that the factory was breaking international law, there were several ways in which the factory in Mishor Adumim behaved that ran contrary to the propaganda of the "island of peace" image and illustrate the complicated reality of the business, in spite of Birnbaum's attempts to distance business from the political context. In April 2008, SodaStream fired a group of seventeen Palestinian workers who protested their work conditions and low wages. It was only after the Swedish press published the workers' story that they were

<sup>5</sup> Another film was produced by Stateless Films titled, *The Factory*, in May 2014. <https://www.youtube.com/watch?v=7jgehf9zw50&t=336s>

<sup>6</sup> The Mishor Adumim factory was built in 1998, and Birnbaum joined the company in 2007.

rehired under better conditions.<sup>7</sup> Palestinian employees filed several legal suits against SodaStream between 2008 and 2010 because they were not paid on time and did not receive the correct salary amounts.<sup>8</sup> SodaStream had hired a human resources company to handle payroll; the company received money from SodaStream and then paid the Palestinian workers from the West Bank. The problem was that this company was not paying the workers the correct amount and, consequently, the workers filed suit. The judge ruled that SodaStream was not responsible for the nonpayment to the workers; nonetheless, after another suit, SodaStream stopped using the human resources company and began paying the workers directly. It is possible that SodaStream's growing concern for public perception, especially at the international level, did impact the company's policies towards its workers.<sup>9</sup>

A more recent incident occurred in the summer of 2014 when tensions were extremely high in the West Bank during the Israeli war against Gaza. One of the workers at the Mishor Adumim factory, who was from the city of al Ram (next to the village of Jaba'), was killed by Israeli military forces during clashes. SodaStream responded by sending the family condolences, something many workers mentioned to me as an important gesture of the company's kindness. The brother of the man who was killed was also an employee at SodaStream. The following day, when the brother arrived at the factory for work, the Israeli police were there. They took him in for questioning and revoked his permit, effectively firing him from the job since he could not enter the settlement IZ without a permit. The Israeli police and military often use this tactic, that

<sup>7</sup> Interview with Hanna Zohar, former director of Worker's Hotline, Feb. 24, 2014.

<sup>8</sup> Interviews with Salwa Alenat, Worker's Hotline field worker, Nov. 9, 2013, and Hanna Zohar, Feb. 24, 2014. Copies of the court documents are with me.

<sup>9</sup> Salwa Alenat, a field worker with Worker's Hotline, was interviewed by Swedish media. She believed SodaStream did make changes because of the media attention on the situation of the Palestinian workers employed in the factory. In 2015, Euromonitor International reported that Sweden was SodaStream's number one market.

is, they revoke the permits that allow Palestinians to enter either Israel or the settlements when Israeli security services designate a family member as a security threat or if a family member is jailed or killed. This case was an obvious reminder that no matter what SodaStream says or does, the factory is located in occupied territory under the sovereignty of the Israeli military. In this instance, the company could send gifts as condolence to the family, but the ultimate authority, the Israeli military, made sure that the brother was punished and had his permit revoked.

The company had another controversial incident with Palestinian workers in July 2014. Although Birnbaum frequently used the tagline that the factory was an “island of peace”, the narrative of peaceful coexistence fell apart on the night of July 2. A dispute broke out between the Palestinian workers and the management, and the next day, SodaStream fired the entire shift. A few weeks later, several of the workers met with a lawyer and an employee from the Israeli union Maan. The workers provided details of what happened on the night of July 2, so that the lawyer could file suit against the company. The lawyer did not speak Arabic, so a Maan employee and I helped with translation as the workers described what had happened.

Workers arrived for the night shift and worked for approximately an hour before they could take a break for the *iftar* meal, since Ramadan had begun earlier in the week. When the workers arrived at the dining hall, they found that there was much less food and less variety than normally provided, and they demanded more. They had fasted all day and had just started the night shift; therefore, they needed food for the long night ahead of them. Additionally, the workers are not allowed to bring their own food to eat in the dining hall in order to observe kosher laws. Arguments started, and without adequate food, the workers decided to leave their shift and go home soon afterwards. The following morning, all of the workers from the shift

received phone calls notifying them of their termination. Rather than try to resolve the dispute, the company wanted all the workers to know that questioning the management, no matter what the disagreement was, would result in immediate termination. The company touts itself as an “island of peace”, yet they could not even work through a dispute over something as simple as the food necessary for workers during their shift. Some workers were allowed to return to the factory after signing a document that included an apology and acknowledgment that the company was not at fault. Why the workers should apologize for the fact that the company did not provide the food that it normally provided is puzzling, to say the least. SodaStream provided the following statement on the situation:

The entire termination process was done legally, there was a hearing, and the workers were not deprived of compensation payments. SodaStream treats all its workers with respect, and therefore a special hot meal to break the fast was provided for its Muslim workers. Nevertheless, the workers chose – without relation to the quality of the food or to the quantity of the food – to not enter the cafeteria at all, and afterwards they stopped work on the assembly lines. SodaStream cannot accept a situation in which workers who don’t think the food is appropriate stop work on the assembly lines and manifestly ignore the orders of supervisors (Hachlili 2015).

The company argued that it followed the law in firing the employees. Yet even if one were to agree that the workers should not have left the shift, it is hypocritical for the management to tout their support for coexistence and yet to allow a simple dispute over food during Ramadan to lead to the firing of an entire shift. There were no negotiations or efforts to restore harmony and peaceful relations. This incident was particularly important because, within a week, Israel would begin a full-scale assault on Gaza and it had already deployed a significant military presence in the West Bank in search of the three Israelis who were kidnapped on June 12. Here, SodaStream had an opportunity to defuse tension within the factory at a time of ongoing violence in the oPt.

Instead, the Palestinian workers received the message clearly: never challenge the management, or you will be fired.

### *Closing the Factory and Moving to Rahat*

For those employed at SodaStream and those familiar with the company, it came as no surprise when SodaStream announced, in October 2014, that it would be closing the factory in Mishor Adumim and moving into a new facility inside Israel. The construction on the new factory had started years earlier in a new IZ in Rahat, a Palestinian Israeli town 20 kilometers north of Beer Sheva. Advocates of a targeted boycott against the settlements were ecstatic; they believed that their campaign, particularly the press on the Johansson controversy, had put pressure on the company to close its factory. The attitude among Boycott, Divestment, and Sanctions (BDS) advocates was a bit more tempered; spokesperson Rafeef Ziadeh wrote, in a press release:

Even if this announced closure goes ahead, SodaStream will remain implicated in the displacement of Palestinians. Its new Lehavim factory is close to Rahat, a planned township in the Naqab [Negev] desert, where Palestinian Bedouins are being forcefully transferred against their will. SodaStream, as a beneficiary of this plan, is complicit with this violation of human rights (Palestinian BDS National Committee 2014).

Moreover, the BDS movement calls for a comprehensive boycott of Israel, so moving the factory out of the West Bank and into Israel would not impact the movement's call to boycott SodaStream.

Whether the closure of the factory was a result of the BDS campaign, or of a boycott campaign specifically against the settlements, is debatable.<sup>10</sup> Those opposed to the company

<sup>10</sup> In an interview with journalist Kate Shuttleworth, Birnbaum "...admitted BDS had played some role in the move, though he claims it was 'minimal'" (Shuttleworth 2015).

pointed out that its profits decreased 42% in 2014; BDS subsequently released a statement reading, “SodaStream’s announcement today shows that the boycott, divestment and sanctions (BDS) movement is increasingly capable of holding corporate criminals to account for their participation in Israeli apartheid and colonialism” (2014).<sup>11</sup> Yet, the decision to build the new factory had been made as early as 2011, years before the major ad campaigns and international attention on the Mishor Adumim factory. Birnbaum was adamant that the move was initiated for financial reasons to “improve the operational efficiency”. The company had received major tax breaks and benefits, including a 25 million NIS (approximately \$7 million) grant, to build the new factory (Azulai 2012). It is common practice for companies to look for government subsidies and tax breaks to build new facilities, and this is exactly what happened in the case of SodaStream. Their revenues and net income dropped significantly in 2014 and 2015, and that *may* have led to an early closure of the Mishor Adumim factory. It can be argued that BDS played a role in the timeline of the closure, but regardless of the impact the boycotters may have had in 2014 and 2015, SodaStream sales rose by 15% in 2016. SodaStream joined Nasdaq in November 2010, with stock opening at \$31.88. Stock decreased throughout 2014 and 2015, hitting an all-time low of \$12.67 by January 2016, but since that time the stock has risen to over \$90.00 by March 2018.<sup>12</sup> In 2017, rather than hide from the fact that it is an Israeli company and is, therefore, targeted by the BDS campaign, SodaStream decided to draw attention to its status as an Israeli company. It began placing an Israeli flag, with the caption “This product is made by

<sup>11</sup> Al Jazeera produced a short video on the departure of SodaStream from the West Bank, [https://www.youtube.com/watch?v=ztjdJAexAdU\\_](https://www.youtube.com/watch?v=ztjdJAexAdU_)

<sup>12</sup> There were frequent rumors that either Coke or Pepsi would purchase the company; whenever these rumors looked to be true, it would impact the price of the stock positively, but a purchase by either company never came.

Arabs and Jews working side by side in peace and harmony”, inside each of its products produced in the factory in Rahat (Willig 2017).



Figure 6.6 Source: Marcelo Svirsky, December 2, 2017

The SodaStream factory in Mishor Adumim closed its doors in October 2015, but prior to the closure, Palestinian employees from the West Bank had trained new employees for the new factory in Rahat. Birnbaum obtained 74 work permits for Palestinians to continue working at the new factory. Of course, those workers had a very long commute, which included getting transportation from their home to a checkpoint to enter Israel, going through the checkpoint, and then taking a company bus to the factory, which was an additional drive of at least one hour. On their return home, they would have another long bus ride, but thankfully, there would be no checkpoint delays to enter the West Bank. One of the workers from Jaba' made the long commute to and from the Rahat factory. Work days were extremely long and tiring, and time to spend with family and friends was extremely limited. Yet he reminded me that the money was, comparatively, very good.

In an unexpected move, the Israeli government did not renew the permits for the 74 workers when the previous permits expired in February 2016. Birnbaum, extremely upset,

faulted Prime Minister Netanyahu and the government for causing disruption to the factory and no longer allowing Palestinians from the West Bank to work at the new factory. He even went so far as to threaten to close the factory if the government did not renew the permits. Birnbaum was quoted as saying,

Most of these employees have been with us for six years, and I've been begging the government to let me keep them [permits]. These are ambassadors of peace, whom we bus in every day, and it's been a long, terrible fight with the government to get them to keep their work permits, even though there are more than 100,000 Palestinians working inside Israel every day. But they won't let my 74 continue to work. It's just unbelievable (Brinn 2016).

Birnbaum then mimicked the Israeli government's reason for allowing Palestinians to work in the Israeli economy: "...I'm doing everything I can to minimize the chances of a conflict in the West Bank. I hope this intifada doesn't escalate further" (referring to what some believed was the beginning of the Third Intifada in fall 2015). The government did not renew the permits, but Birnbaum did not close the factory. He did, however, make sure that cameras were rolling for a farewell ceremony for the workers. The short video clearly is meant to evoke pity for the Palestinian workers as well as admiration for SodaStream's claim of advocacy for peace. The final shot is an aerial view of the workers standing in the shape of a peace symbol.<sup>13</sup> Birnbaum's continued lobbying for the permits eventually did result in the government's renewal of the permits in May 2017, more than a year after the workers lost their jobs.

For the most part, SodaStream was an exception to the norm of how settler employers treat Palestinians, that is, it paid the minimum wage and overtime and provided extra benefits. Even if one accounts for the examples of the mistreatment of Palestinian workers as described, comparatively, the company treated its workers far better than other companies do. This is not

<sup>13</sup> The video can be viewed at [https://www.youtube.com/watch?v=-8j\\_o-7rosU](https://www.youtube.com/watch?v=-8j_o-7rosU).

intended to commend SodaStream, but it does help explain why many Palestinians who worked at SodaStream were very complimentary towards the company. Furthermore, this meant that SodaStream was the perfect example for settler advocates when Johansson's hire and the Super Bowl advertising brought intense international attention. Activists for settlements could use SodaStream to demonstrate what was possible, that is, economic peace, employment for Palestinians, and positive examples of coexistence. While the major international focus was on SodaStream, the vast majority of settler employers could continue to break the law and exploit their Palestinian employees.

### *Defending the Settlements*

When you boycott the settlements you create hunger and poverty among Palestinians. But what's worse - when you're boycotting the settlements produce you undermine peace and coexistence in the region (2015).

Karni Eldad, settler resident of Tekoa

In the 2013 documentary film *Thank God it's Friday*, a middle-aged Jewish woman reminisces about when she first came to the settlement of Halamish, established in 1977.<sup>14</sup> At one point, she comments, "You know there were no birds before we came. Only after we came there were birds. It was very funny, it was so quiet and then suddenly... I heard some birds" (Beddegenoodts 2013). Of course, her claim is absurd and overstated, but the sentiment in this comment is more important than fact. The idea is that Jewish settlement in Palestine has benefited the region, and both literally and figuratively, it brought the return of the birds. For religious settlers, it is a return to the biblical land, but it is not just a religious story of redemption and return. For Zionists, it is also a modern story of bringing development to a backward land -

<sup>14</sup> Halamish is located northwest of Ramallah.

a modern industrial economy, environmentalism and care for the land, and making the “desert bloom”. This is all part of the story that Zionists have told themselves and the international community over the past century.

The Israeli settlers in the West Bank come from a variety of ideological, political, and economic backgrounds, but they generally are united in the perspective that they are legally residing in the West Bank and believe that their presence there is positive. Notably, as demonstrated in historical surveys and research done on the settlers, it is incorrect to label them all religious fanatics.<sup>15</sup> Many of the settlers are there for economic reasons, particularly because of the financial incentives that the Israeli government provides for residential life and businesses.

It is easy to see how the perspective on making the desert bloom links to settler Karni Eldad’s belief, as quoted above, that boycotting settlements hurts Palestinians. To validate their presence and reassure themselves that they not only belong in the West Bank but that they are necessary there, settlers continually remind themselves and the international community that they bring with them a modern industrial economy. As the settlers argue, it is their benevolence in creating jobs for Palestinians that provides an important salary for the poor and impoverished Palestinian community. With settlement advocates increasingly concerned about the impact of the BDS movement, employment of Palestinians on settlements has become a central feature in countering the BDS message.

The idea that Palestinians benefit from the presence of the settlements is deeply rooted in Zionist views that were born out of European colonial mentalities. The British Peel Commission from 1937 observed what they felt to be sincerity of the Jewish leadership, writing, “the

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<sup>15</sup> Examples of historical and political analysis include Gorenberg (2006), Handel, Allegra and Maggor (2017), Dalsheim (2011), Lustick (1988), and Zertal and Eldar (2007).

establishment of the National Home [Israel] has been and will continue to be a positive economic advantage to the Arabs” (Palestine Royal Commission 1937:119). This colonial mentality of the Zionist movement as benevolent overlord prior to the creation of Israel was then incorporated as a central feature of Israeli rule over the Palestinian citizens of Israel after 1948. Shira Robinson writes a detailed history of Israeli rule between 1948 and 1967, during which the Palestinian citizens were under military rule. Robinson describes an incident in which a foreign journalist questions the continued military control of Palestinian citizens of Israel. The Israeli Foreign Ministry official responds, “Lifting the regime now would be “premature,” because it was the state’s primary tool to modernize the “backward areas” and “educate its residents in self-rule” (2013:50). Here the benevolent state takes on the responsibility of assisting and transforming the backward into the modern. The Israeli military then used this same justification as governing policy of the occupied territories after the 1967 war. Neve Gordon writes,

...Israel’s actions in the OT [occupied territories] were presented as moral. The resources Israel allocated to improve the Palestinian inhabitants’ living conditions in the OT were continuously highlighted and publicized, and investment in health care, education, social services, and religious affairs was underscored... Thus, Israel portrayed itself as bringing progress to the uncivilized Palestinians (2008:8).

As described in Chapter One, among Palestinians from the oPt, individual salaries nearly doubled during the first twenty years of occupation, and by the mid-1980s salaries for Palestinians from the West Bank who were employed on both sides of the Green Line were relatively close. The increased personal income for Palestinians came in the context of restrictions on economic development in the oPt and growing Palestinian dependence on Israel. These restrictions ensured that Palestinians had to continue working in the Israeli economy because not enough jobs were available within the Palestinian economy. With the First Intifada, however, the imbalance of salary rates on either side of the Green Line quickly returned and

continued over the next twenty-five years. A state of affairs where there are high unemployment rates in the Palestinian economy and the possibility of finding employment and making more money working in the Israeli economy, means that Israel can continue to present itself as the generous and benevolent occupier. These positions have become one of the central arguments against BDS and in support of the settlements.

As documented in the previous section, SodaStream had anticipated possible criticism for having a factory in a settlement. The company was a perfect example for the pro-settler propaganda. SodaStream had the advantages of a telegenic American-Israeli Jew as CEO, a sympathetic documentary produced prior to the Johansson controversy, officials and celebrities who came to see the “model factory” and could speak from “firsthand” experience of the wonders of the workplace coexistence there, and Palestinians who could share their personal stories of employment and high salary with SodaStream. One of the most notable visitors to the Mishor Adumim factory was former US Senator George Mitchell, famous for his negotiating efforts to bring peace in Northern Ireland. He visited SodaStream in 2013 and remarked positively on the factory as demonstrating “some glimmers of Israel-Palestinian cooperation” (Shamah 2013). In July 2015, SodaStream CEO Birnbaum gave testimony to the US Congress during a House of Representatives Committee on Oversight and Government Reform that focused on the BDS movement. His testimony included these prepared remarks as follows:

Personally, I felt that I am defending not only the employment and wellbeing of thousands of Palestinians but also that I am bearing together with my team a sort of crusade to retain hope that peace and justice will prevail. We opened our factory doors for the world to see... our Mishor Adumim facility in the West Bank has been an island of peace. A place where Palestinian Arabs, Israeli Arabs and Israeli Jews work together in harmony under the principles of equal pay, equal benefits and equal opportunity. We respect each other, break bread together in our cafeteria, celebrate each-others’ holidays, and even become friends. We like to say that we build bridges, not walls. In fact, within this factory, we proved that peace can happen and will happen among our peoples (2015:9).

Birnbaum's words and sentiment obviously are appealing. What SodaStream offered seemed like the perfect answer to ongoing violence and seemingly intractable conflict.

An incident much less-publicized than the SodaStream controversy occurred in August 2016, when Brussels Airlines decided that it would no longer serve a halva sesame snack produced by an Israeli company with headquarters located in the Barkan settlement IZ. An article in the Israeli website *ynet news* described a "Palestinian solidarity movement activist" complaining to the airline when the "activist" noticed that the snack was offered on a flight (Blumental 2016). The article states, "The official reason given by the airline regarding the decision not to serve the product is because the product is produced on illegally occupied land in the West Bank." Yaakov Malach, owner of the Ahva factory which produces the halva, responded to the airline's move, saying "(our factory) is an ingathering of the exiles. Palestinians, Israeli-Arabs, Jews, Samaritans, and settlers all work here. Peace begins here, not from airlines. Peace comes from places where people work shoulder to shoulder. It's true co-existence" (Blumental 2016). Less than a week later, after pressure from the Israeli government and advocates of Israel, Brussels Airlines retracted its decision and said that it would not boycott the product. Predictably, advocates of Israel and Israeli government officials stressed that the plant employs many Palestinian workers who would be hurt by boycotts against settler businesses (Keinon 2016).

A third example of Israeli rhetoric to promote the settlements and their businesses uses statements by Palestinians who are critical of Palestinian labor laws and labor rights. A pro-Israel website, Palestinian Media Watch, focuses on translating statements in Arab media that are critical of Arab governments. The website posted two short video clips, with English translation, from a Palestinian television show called *Sha'un Amaliah*, Workers' Affairs. In the first video

clip, a Palestinian citizen of Israel, who works as a lawyer with Worker's Hotline, discusses the fact that Israeli labor law is very good, but there is a major problem with Palestinian middlemen who steal wages from their Palestinian employees, possibly up to 70%. In the second video, a Palestinian man complains about the PA's lack of enforcement and the many labor violations and exploitation that are the norm within Area A under the PA's jurisdiction. He goes so far as to say, "What motivates the workers, as we said, to go [to work in] the interior (i.e. Israel) or to the settlements is the exploitation that takes place [in Area A] and the low income." It is assumed in these two clips that, in contrast to the labor conditions under the PA described in these statements, settler employers are benevolent and adhere to labor laws. These claims are in fact accurate; during my fieldwork, I repeatedly heard similar sentiments of disgust from Palestinian workers against Palestinian middlemen who abused, stole from, and exploited their compatriots. However, the website only chose particular statements, and of course failed to note that what was translated were only brief excerpts of *Sha'un Amaliah* programs, each of which ran almost an hour and also included extensive details of the non-enforcement of Israeli law and severe exploitation by Israeli employers (Palestine TV 2016a, 2016b).

### *Peace and Prosperity for Whom?*

Although advocates of the settlements continue to argue that these bring prosperity for Palestinians and enhance coexistence between Palestinians and Israelis, this stance simply is irreconcilable with the economic facts in the West Bank. Recent reports from the World Bank (2013), United Nations Conference on Trade and Development (2016), International Monetary Fund (2017), Human Rights Watch (2010a and 2016), Israeli NGO B'Tselem (Kadman 2013 and Hareuveni 2011), and the Palestinian government, in addition to NGOs such as Applied

Research Institute – Jerusalem (2011) and Palestine Economic Policy Research Institute (Kanafani and Ghaith 2012) detail the systematic exploitation by Israel of the natural resources in the West Bank. The settlements, the infrastructure and security necessary for the settlements, and the ongoing occupation also clearly place major restrictions on the ability of Palestinians to develop an independent economy.

As detailed in Chapter Two of this dissertation, the settlements are illegal under international law, and Israel continues to disregard international law that sets out how an occupying power should act toward the people and the land it occupies. Most important of the expectations required by international law is that the occupying power must act on “only two considerations in exercising its authority: the welfare of the local population and its own legitimate security interests” (Hareuveni 2011:45).<sup>16</sup> Encouraging the civilian population of the occupier, that is, Israeli citizens, to settle in the West Bank obviously undermines these basic legal considerations. Israel’s insistence that they “administer” the “disputed” territory and do not recognize it as occupied serves as justification for it to act with impunity in the West Bank. According to Israel, the territory lingers in a state of permanent temporariness, meaning that Israel can create its own rules, allowing for the “legal” theft of natural resources. Israel’s actions are clearly not beneficial for the welfare of the local Palestinian population but rather are favorable to the settlements and to Israeli citizens who live in the West Bank.

According to B’Tselem, the “total built areas in settlements” take up only approximately 1% of the West Bank, and yet the “total area controlled by the settlements” is 42.8% of the West Bank (Hareuveni 2010:11). Additionally, Israel continues to have full control of Area C, which

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<sup>16</sup> The key international laws are The Hague Convention of the Law and Customs of War on Land from 1907 and the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949) with additional Protocols to the Geneva Conventions (1977).

encompasses 60% of the territory. The settlements are scattered across the West Bank which means that, in order to protect them, the Israeli military controls Palestinian movement within the West Bank. Checkpoints, both permanent and temporary, roads that are only for settlers, and restrictions in and around the settlements all add up to significant constraints on Palestinians. An IMF report in the spring of 2017 stated what many have said for decades: settlement expansion in the West Bank continues to cause geographic fragmentation of the Palestinian population which “shrink the productive resources available to the Palestinian economy” (2017:26).

As Kanafani and Ghaith detail (2012), the settlements benefit from four sectors: “exploitation of ground and surface water; exploitation of quarries and the resources from the Dead Sea, exploitation of touristic and natural sites; and confiscation and use of land for residential and agricultural purposes.” In 2013, al-Haq published *Water for One People Only: Discriminatory Access and ‘Water-Apartheid’ in the OPT*. The report describes how

Israel’s policies and practices in the OPT have created a situation of occupation in which natural resources are unlawfully exploited and appropriated. Israel’s water policies represent only one element of an irreversible structural process that can only be described as colonial (Koek 2013:19).

The report estimated that “more than 500,000 Israeli settlers in the West Bank consume approximately six times the amount of water used by a Palestinian population of almost 2.6 million” (Koek 2013:51). Israeli control over area C means that Palestinians on the other hand must obtain a permit in order to do any type of work in the area, including digging wells and fixing any infrastructure, and these permits are “virtually impossible to obtain” (Koek 2013:17). Conversely, settlers are able to build wells and use as much water as they want. Chapter Four provided details of the importance of water for the agricultural sector in the Jordan Valley. The fruits and vegetables harvested on the settler plantations and exported to European countries had an estimated value, in 2011, of 500 million NIS (\$142 million). Israeli restrictions on Palestinian

water use and farm land in Area C mean that, according to World Bank estimates, the Palestinian agricultural sector loses \$704 million annually (2013:11).

In a similar manner, Israel illegally pillages minerals and rocks through private Israeli mining companies in the West Bank. In 2011, the Israeli Supreme Court dismissed a petition by Israeli NGO Yesh Din that argued that this mining was illegal. Yesh Din published a report in 2017 with details regarding ten Israeli-owned quarries in the West Bank. Theft of natural resources has “grown significantly” in recent years, from approximately 7.5 million tons of raw material in 2008, to 17 million tons in 2015 (Kanonich 2017:6, 7). The sovereign of Area C, the Israeli military, provides Israeli mining companies with licenses, and it collects royalties from the companies, a benefit that goes directly to the Israeli government. Again, the statistics provide a clear example of increasing levels of mining by Israeli companies, with fees and royalties collected in 2009 totaling 28 million NIS (\$8 million), and fees and royalties reaching 74 million NIS (\$21 million) in 2015 (Kanonich 2017:9)! Conversely, if Palestinian companies had access to quarries and stone in Area C, the World Bank projects that these would produce an additional \$241 million annually for the Palestinian economy (Kanonich 2013:ix).

Besides mining, another important sector of natural resources comes from the Dead Sea. To demonstrate the importance of the Dead Sea minerals, the World Bank quoted the annual report of an Israeli chemicals company: “The Dead Sea is a vast (practically inexhaustible) and highly concentrated source of reserves of potash, bromine, magnesium and salt” (2013:11). This “practically inexhaustible” source provides Israeli companies with approximately \$3 billion annually in sales. The northern section of the Dead Sea is part of the West Bank, and if Palestinian companies had access to it, the financial gain, according to the World Bank, would be “conservatively estimated at USD 918 million per annum” (2013:13).

The West Bank has many important religious, archaeological, and sites of natural beauty that tourists would like to visit, but Israeli restrictions have limited the levels of tourism in the area, particularly in areas under control of the PA or where there are concentrations of Palestinians. It is impossible to estimate how much is lost financially and in employment because of the restrictions, but estimates are in the hundreds of millions of dollars and thousands of jobs. The World Bank report, which focused only on Area C, stated that if Palestinians could open hotels in the northern section of the Dead Sea it could provide annual revenue of \$290 million (2013:24).

Although the built-up area in settlements constitutes only approximately 1% of the entire West Bank, this statistic is not helpful in understanding how invasive the settlements are to the landscape of the West Bank. Along with every settlement inevitably comes infrastructure of roads, sewage, electricity, and military supervision of surrounding areas. Figure 6.7 uses purple and orange dots to represent where authorized and unauthorized settlements are located and the population of each.<sup>17</sup> Even with only 1% actual land coverage in the West Bank, it becomes obvious how prominent the settlement presence is.

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<sup>17</sup> All settlements are illegal under international law. The Israeli government officially recognizes 127 settlements and there are about 100 settlements built without government authorization (B'Tselem 2017).



Figure 6.7

Source: Lutz (2016)

Another way the settlements have expanded their territory around the fenced-in, built-up areas is through expansion of agricultural land. Israeli researcher Dror Etkes has documented the expansion and processes that settlers use to intrude on Palestinian land and increase their own agricultural control. In his comprehensive report, Etkes estimates that in 1997 there were 69,106 dunams of settler agricultural land in the West Bank and that, during the following 15 years, it increased to 92,979 dunams.<sup>18</sup> His research “shows that one of the factors behind the drastic drop in the agricultural area cultivated by Palestinians in the West Bank is the ongoing expansion of Israeli agricultural areas” (2013:12).

The theft of resources and land, alongside the restrictions placed on Palestinians, adds up to billions of dollars. In 2013, the World Bank estimated that the Palestinian economy loses \$3.4

<sup>18</sup> One dunam equals 1000 square meters.

billion annually because it does not have access to Area C, which is under complete Israeli control and where the settlements are located. The Palestinian Minister of Economy and the Applied Research Institute - Jerusalem (ARIJ) estimated that, in 2010, the occupation *cost* the Palestinian economy \$6.8 billion. That year, the GDP for Palestine was \$8.1 billion, but without Israeli restrictions and settlements, it would have been \$15 billion (2011:1). In a similar report, the United Nations Conference on Trade and Development (UNCTAD) stated in 2016, “The economy of the Occupied Palestinian Territory could easily produce twice the gross domestic product (GDP) it generates now, while unemployment and poverty could recede significantly” (UNCTAD 2016a and 2016b).

Any discussion on the labor situation for Palestinians on the settlements must include the above statistics and analysis. These figures show how ridiculous it is to argue that the existence of the settlements and the jobs that they offer Palestinians actually benefit the Palestinian community in the West Bank. Settler employers point to salaries that are higher in the settlements than in the Palestinian economy and how beneficial this is for tens of thousands of Palestinians, but of course, the employers can pay salaries that are higher because they are part of an economy that is significantly larger and more developed. The GDP per capita in the West Bank and Gaza Strip in 2015 was under \$3,000, while in Israel it is over \$35,000 (World Bank 2017b). Israeli minimum wage, 5,300 NIS (\$1,514), is barely enough to live on within the Israeli economy, but it is still more than triple the Palestinian minimum wage of 1,450 NIS (\$414). Furthermore, settler advocates never mention the fact that the Palestinian workers on the settlements are rarely treated according to the law and that superexploitation of the workers is standard. Settler employers mention the high unemployment rates in the Palestinian community

to further justify their existence in the West Bank, with no sense of irony that it is the settlements that restrict the Palestinian economy and cause the unemployment.

In 2013, the United Nations Human Rights Council wrote succinctly that the settlements were not a benefit to Palestinians but a central feature of the “matrix of control”,

The settlements are established for the exclusive benefit of Israeli Jews, and are being maintained and developed through a system of total segregation between the settlers and the rest of the population living in the Occupied Palestinian Territory. This system of segregation is supported and facilitated by a strict military and law enforcement control to the detriment of the rights of the Palestinian population... The existence of the settlements has had a heavy toll on the rights of the Palestinians. Their rights to freedom of self-determination, non-discrimination, freedom of movement, equality, due process, fair trial, not to be arbitrarily detained, liberty and security of person, freedom of expression, freedom of access to places of worship, education, water, housing, adequate standard of living, property, access to natural resources and effective remedy are being violated consistently and on a daily basis (2013:21-22).

### *Conclusion*

The story of SodaStream highlights the dilemma of Palestinian labor on the settlements. The appeal of the company is clear for individual Palestinians; with unemployment rates over 15% in surrounding Palestinian villages and low wages for those who do have employment, SodaStream was, comparatively speaking, a good job. The fact that SodaStream provided benefits of transportation and subsidized food for meals, along with the minimum wage and overtime pay, made it all the more appealing to Palestinians. Furthermore, for those interested in a peace agreement between the two sides, or at least in better relations, SodaStream’s claims were embraced by many, including Scarlett Johansson. The attractiveness of Daniel Birnbaum’s rhetoric of an “island of peace” can’t be underestimated. Oxfam Chief Executive Mark Goldring admitted in late 2016 that “literally thousands” of donors in the US were lost due to the Johansson controversy. Goldring said, “The judgment was when to be proactive, when to be

forceful, and when to be balanced and reflective. We got that wrong” (Brindle 2016). His comments focused on the complications of public relations when it comes to Israel and the BDS movement. The organization was unequivocal in its statement that the location of the SodaStream factory in the Mishor Adumim factory was illegal and that companies such as SodaStream “further the ongoing poverty and the denial of rights” of Palestinians. This statement stands in direct opposition to the public image that SodaStream has constructed for itself, yet many of Oxfam’s donors preferred SodaStream’s position and withdrew their financial support for Oxfam.

The fact is that, for many, whether supporters of the settlements or not, there is great appeal to the message that SodaStream promotes, particularly because the factory, for the most part, followed the law. Yet for all the allure that the company holds for Palestinian workers, that attraction can only be understood within a context where most Palestinians who work on the settlements are not treated with any semblance of adherence to the law. SodaStream was the exception. As Maidhof and Fin correctly point out, “Coexistence is little more than a euphemism for worker acquiescence to a system that makes minimum-wage jobs seem like luxuries” (2014).

The story of SodaStream points to another tension, one within the Israeli settler community. Arguably, if settler companies were more like SodaStream, in very basic terms, that is, if they followed Israeli labor laws, jobs on the settlements would be even more appealing to the Palestinian community. Advocates for the settlements would have an even stronger argument for their presence in the West Bank. But that is not the way they behave. As described throughout this dissertation, the norm for Palestinian workers is superexploitation. Advocates for settlements will continue to emphasize the employment opportunities for Palestinians and

argue that the settlers are the true example of coexistence. Benevolent employers are the centerpiece of this rhetoric. Yet, the main concern of settler construction companies, plantation owners, and factories is still profit margins, and they know they can get away with breaking the law. If settler advocates were actually interested in the well-being of the Palestinians, they would, at a minimum, be involved in demanding fair and equal treatment of the Palestinians who work on the settlements. As I show here, clearly, they are not.

A clear-cut example of the tensions between ideological demands by settlers and capitalist demands of profit was apparent in the summer of 2015 when the right-wing and settler advocate party, The Jewish Home, withdrew a bill in the Knesset that would require Israel to apply labor laws in the settlements. Journalist Chaim Levinson wrote, “Sources told *Haaretz* that Jordan Valley [settler] farmers put heavy pressure on Bennett [head of The Jewish Home] to drop the issue, saying the increased wages and benefits they would have to pay their Palestinian workers would drive them out of business” (2015). The plantations owners were admitting that they don’t want to treat the Palestinian workers according to Israeli law! They were focused on profit in their plantations, and advancement of settler colonial plans needed to wait. Enforcement of Israeli civil labor laws would have brought an end to the permanent temporariness that governs the legal status of the West Bank according to the Israeli government. And so, the politicians decided to back down.

Finally, the example of SodaStream makes clear that individual Palestinians can benefit by working on the settlements while, simultaneously, the settlements hurt the overall Palestinian economy. The final section in this chapter makes clear that the infrastructure of roads, checkpoints, and settlements divide the Palestinian community and render it impossible to develop an independent economy, costing the Palestinian economy billions of dollars annually.

At the same time the Israeli government, Israeli private companies, and settlements benefit by stealing land, water and natural resources. Tamer Nafar's lyrics in response to the SodaStream, Oxfam, and Johannson dispute are a reminder of what is at stake: "They will have our land/ But we have salaries in our bank" (DAMb).

## Conclusion

Palestinians in the Occupied Territories have actually been living in a state of protracted war for many decades; the ubiquitous state of being on an emergency footing may wax or wane, but it is always there, and the awareness that Palestinian existence and identity in the land are under threat is very much part of the dominant Palestinian ethos (2006: xxx).

Lisa Taraki, *Living Palestine: Family Survival, Resistance, and Mobility under Occupation*

The bottom line is you have to do what is in your interest, for you as an individual. You can't think about things like boycott—no, to do that I need another option. I may not want to work where I work, but if I'm going to leave, I need somewhere else to go. I need to keep living. My life is not going to stop. It's like we suffer from our own existence (Stateless 2014).<sup>1</sup>

Palestinian employed at SodaStream in Mishor Adumim settlement, 2014

As I drove away from the Tzarfati Garage on July 22, 2014, and made my way out of the Mishor Adumim settlement industrial zone (IZ), I was filled with mixed emotions. I had just witnessed one of the most intense moments during my fieldwork, as Palestinian workers at the garage stood in unison, raising their arms in agreement that they would go on strike in solidarity with the head of the workers' committee, Hatem Abu Ziadeh, who the garage was trying to fire.<sup>2</sup> It was a year into my fieldwork, and it was the only time I saw workers come together and use their collective power to demand their rights. These workers were putting their livelihoods at risk - food on the table and necessities for their children and families. It was a powerful moment and one filled, simultaneously, with solidarity and uncertainty. At that time, no one knew what to expect. Could the Palestinian workers trust the Israeli union, Maan, to defend them against the exploitation of the employers and the violence that could be used against them by the

<sup>1</sup> From the film *The Factory* (Stateless Films 2014).

<sup>2</sup> See photo Chapter Three p. 155.

military? For myself, I also felt the tension between wanting what was best for the workers and understanding that their participation in the strike, and working with the Israeli union, Maan, could have ramifications that would undermine the political rights of the workers. These Palestinian workers were fixing Israeli military vehicles, ones that would be posted at the checkpoints they would pass as they returned to their homes. Taxes that the garage paid would go to expansion and development of the IZ infrastructure and of the neighboring residential settlement of Ma'ale Adumim. These workers were demanding rights according to Israeli law, even though the settlement IZ is not in Israel.

Nearly two years later, Hatem finally returned to his job at the garage, and the union succeeded in winning a collective bargaining agreement, a contract that would be a significant benefit to the Palestinian workers. Israeli labor courts had ruled in favor of the applicability of Israeli labor law and the permissibility of an Israeli union to unionize Palestinian workers outside of Israel, inside an illegal settlement. The demand for Israeli labor law, and use of an Israeli union to represent the workers, is also at the same time, arguably, a move that ideological settlers would cheer. With this decision, the “creeping annexation” that has gone on for decades took one more step in favor of Israeli settler colonial expansion. Yet, here were workers that came together to fight for their rights, for themselves, and for their families in a precarious situation in hopes that they would receive what they were owed. They wanted to be treated with equity (with their Israeli co-workers), yet their demands concurrently undermined the possibility for an independent Palestinian state.

Although this was the most intense moment I experienced, these same complex questions were constantly part of my fieldwork. The underlying themes of labor rights, demands of nationalism, demands of survival, and complicity with the occupation surfaced repeatedly over

cups of tea and coffee in the homes of Palestinians who worked on the settlements; in the courtrooms of Israeli labor courts as Palestinians demanded their labor rights according to Israeli labor law; during breaks while working in date trees and greenhouses in the Jordan Valley settlement plantations as workers complained about the terrible treatment by Palestinian middlemen towards fellow Palestinians; and in stories of desperation at Palestinian union offices when workers came to ask for help from legal advisors on Saturday mornings. These exchanges exposed not only political, economic, and legal opinions; they also got to the heart of how one survives under a military occupation in the West Bank that has now reached half a century.

The fact of the matter is that Palestinian labor on the settlements, however one wants to describe it (contradictory, treasonous, desperate, paradoxical, illogical, incompatible), has been part of everyday life in the West Bank for going on four decades and three generations. There is no doubt that Israel has systematically and purposefully de-developed and restricted the Palestinian economy in the West Bank, pushing Palestinians to work in the Israeli economy on both sides of the Green Line. Yet Palestinian workers are also well aware that the Palestinian Authority (PA) abandoned the workers decades ago. Advocates for Palestinian rights and against the Israeli occupation would prefer that these workers quit their settlement employment, but no one is interested enough to actually act upon these preferences, that is, to help those Palestinians leave their jobs and try to survive outside of settlement employment. Edward Said wrote in 2000, in frustration with the PA's lack of serious effort to end Palestinian labor on the settlements, "After 33 years of building Israeli settlements, Palestinian workers should immediately be provided by the Authority with alternative employment" (Said 2000). Seventeen years later, and now at 50 years of occupation of the West Bank, Palestinian employment on settlements continues to increase.

The PA's abandonment of Palestinian workers is most cogently understood in relation to the present-day nostalgia and memories of the First Intifada. As Palestinian anthropologist Alaa Al-Azzeh wrote in 2015, "Among activists today, there is a strong anxiety about the lack of popular participation and an attendant nostalgia for and desire to reproduce the ethos of the first intifada" (2015:264). Labor unions, women's organizations, local councils, and grassroots unity were central to the uprising of Palestinians against the occupation leading up to and during the First Intifada. The activists of the 1980s have now been replaced by bureaucrats, research institutes, and professionally trained NGO workers.<sup>3</sup> All are interested in an independent Palestine, but they lack connection to the vast majority of Palestinians who are part of the poor and working class. The trust and conviction that is necessary in order to organize and then mobilize the population does not exist.

The most noticeable disparity is what many refer to as the "bubble" of Ramallah, where PA bureaucrats, capitalists, and those who have jobs and direct access to the billions of dollars in international aid can protect themselves from the worst of the occupation.<sup>4</sup> At its worst, these individuals and institutions work to keep alive the status quo, that is, one in which a few individuals gain financially and the upper class live in a "bantustan" where "reality is suspended; national fates deferred; a solution postponed" (Abourahme 2009). The western coffee shops and restaurants, mansions, and fancy cars that are now ubiquitous parts of everyday life in Ramallah stand in stark contrast to the livelihoods of most of the Palestinian population in the West Bank. Palestinians seek protection from the capitalist workplace in Area A, in an environment that

<sup>3</sup> Analysis of transition to the "NGOization" in Palestinian society was done by Hammami (1995; 2000) and Hanafi and Tabar (2005).

<sup>4</sup> See Abourahme (2009) for a description of changes undergone in the "de facto capital" of the PA.

fosters the exploitation of the workforce and in which employers act with impunity in the knowledge that the PA will not protect workers from the ongoing abuses and exploitation. The opening quote of this chapter is a reminder of what many working class Palestinians have come to believe: “The bottom line is you have to do what is in your interest, for you as an individual” (Stateless 2014).

Chapter One detailed the frustrations of workers employed in the three legal jurisdictions: Israel, the settlements, and Area A. Fundamental to my understanding and analysis of the situation for Palestinians working on the settlements was to not be bound solely by nationalist rhetoric and to include the intranational conflicts and disagreements. My decision to emphasize the importance of writing about these intranational conflicts was a specific choice, it was also one that was supported by the workers I met throughout my fieldwork. The workers I interviewed and spent time with did not hesitate to point to both Israeli policies and Palestinian policies that allowed for and encouraged the exploitation of the Palestinian workforce. Of course, the occupation and the superexploitation by settler employers was the focus of most conversations, but the stories and opinions shared with me did not stop there. They continued, to include anger toward Palestinian employers exploiting them and the PA for not enforcing labor laws and protecting the workers against unchecked labor abuses. Particularly notable was the anger towards the *simasira*, the middlemen in the Jordan Valley settlements, who facilitate the superexploitation in the settlement plantations.

I am also aware of the fact that writing about the tensions, criticisms, and cynicism within the Palestinian community can be (and is) used by settler advocates as validation for their presence in the West Bank. Diana Allan describes a similar situation from her fieldwork with

Palestinian refugees in Lebanon who expressed their disillusionment with the PA and the national movement,

While I have reservations about the way my work may be interpreted and used, as an anthropologist, my first duty is to represent the concerns and experiences of my interlocutors and friends, as they have described them to me (2013:223).

Of course, criticism of what is happening with Palestinian workers in Area A, poor treatment by Palestinian employers, and the failures of the PA to protect workers does not translate to local support for or justification of the settlements. These critiques by Palestinians of employment in Area A does, however, help in understanding why thousands of Palestinians continue to look for employment on the settlements and why they keep working on them.

It is only by recognizing the injustices in all three jurisdictions that one can have a comprehensive and empathetic understanding of why Palestinians continue to work in the settlements. The everyday experiences for Palestinians involved discussions that tried to make the best of whatever jurisdiction they work in, with the acknowledgement that they are all bad, that there are no good options, and no one who had authority to act to protect workers was doing anything to uphold the law or even pretending to care for their well-being.

Furthermore, it is important to recognize the existence of different employment sectors and geographic locations of settlement employment in order to understand the dynamics that keep Palestinians employed on the settlements. There are a variety of both push and pull factors that have influenced Palestinians to continue working for the settlers. There are major differences in the experiences of Palestinian workers between the agricultural labor in the Jordan Valley settlement plantations, in settler home construction, and in factory labor in the IZs. Furthermore, and most important, is how individual settler employers decide to treat their Palestinian workers.

The details on the village of Jaba' provide concrete examples of the step-by-step processes of settler colonialism, as land is confiscated, and settlers slowly build homes, businesses, and whole communities over decades. Understanding this specific historical context of Jaba' helps explain why over one hundred men from the village had worked at SodaStream, the nearby settler factory. Chapter Five detailed some of the inconsistencies and abuses by SodaStream, but it is also reasonable to argue that, for the young men of Jaba', a job at SodaStream was comparatively one of the best jobs for working class Palestinians in the West Bank.

The fact that Palestinian workers decided to turn to Israeli labor courts in Israel, with the assistance of an Israeli labor rights organization, Worker's Hotline, must be understood within the context of the options available to the workers. The PA has no jurisdiction in the settlements, and the sovereign in the settlements, that is, the Israeli military, does not protect the workers from settler employers. The decision to resort to Israeli labor advocates at Worker's Hotline, to retain Israeli lawyers, and to sue in labor courts in Israel was the only real option for workers demanding their labor rights. The lawsuits that were launched in the 1990's, which led to the Israeli High Court decision in 2007 that Israeli law was to be applied in order that there not be discrimination in the workplace, have had some effect, particularly in inducing more companies to pay the required minimum wage. Yet, without adequate enforcement, the ruling does not have the effect that it should. The obfuscation and arguments of denial and refusal by authorities who are responsible for enforcing labor laws for Palestinians in the settlements, as documented in Chapter Two, are not surprising but they are part of a long history of structural and institutional discrimination and violence against Palestinians in the West Bank. The clear double standard of treatment towards Palestinians and Israelis is epitomized by the quick action to write a military

order that would protect women against discrimination in the workplace, which was initiated because a Jewish woman was fired for being pregnant, by contrast with the military orders for Palestinian workers which have yet to be written and signed. In July 2008, Knesset Member Ran Cohen commented that, ten months after the 2007 High Court ruling, implementation of the decision, that is, written military orders to apply and enforce labor laws, had not yet been completed (Comptroller 2011:15). At the time of writing, in 2018, this still has yet to be done. Still, it hardly matters whether the military orders are written, for labor laws are typically not implemented, as evidenced by the military order, written in 1982, establishing the minimum wage, which is not enforced.

The treatment of Palestinian workers on the settlements is one example of apartheid, defined as,

Inhumane acts... committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime (International Criminal Court 2002: 5).

The fact that Palestinians are able to sue in Israeli labor courts does not undermine the argument for the existence of apartheid, an “institutionalized regime of systematic oppression and domination”, but rather, as argued in Chapters Two and Three, use of the Israeli legal system helps maintain the military occupation. As Kimmerling asserts, the courts bestow “on the occupation an enlightened face, a kind of legitimacy anchored in the modern concept of ‘law and order’” (2002:1121). Some Palestinian individuals have benefited from suing their settler employers and, in most instances, negotiating a financial settlement, but these cases have not changed the behavior of a majority of settler employers who continue to act with impunity. Worker’s Hotline has documented an increase in IZ factories paying the minimum wage, but no available statistics exist for work in the fields of construction and in agriculture. My fieldwork

experience suggests that adherence to the minimum wage and other legal requirements is an anomaly and that the general standard is complete disregard for the law.

In the Jordan Valley, there has been no change in the treatment of Palestinian workers; there, the impunity of settlers is appalling. Their blatant disregard for the health and well-being of Palestinian workers, including children, is shocking, but they know that no one will enforce the law. Furthermore, Palestinian middlemen are a critical part of the labor apparatus in the Jordan Valley. Their presence further protects the settler employers in that the middlemen are the direct manifestation of the exploitation that occurs. The facts that the PA does not protect Palestinians from the abuses of Palestinian middlemen and that the Israeli military refuses to confront the settler employers mean that there is no reason to expect change to the situation in the Jordan Valley.

#### *Disillusionment with the PA and the Rise of the Israeli Right*

Concerning Palestinian labor on the settlements, there are two essential political factors that were in place prior to the beginning of my fieldwork in the summer of 2013 and that have continued to intensify and strengthen, both of which point to the fact that Palestinian labor on the settlements not only will continue but that it will increase in the coming years. The first factor is the disillusionment towards the PA. The PA has always stated that the settlements are illegal and a major deterrent to a peace agreement, but the PA allowed for economic trade between Palestinians and the settlers up until 2010. Since then, a Presidential decree made all economic relations with the settlers illegal, but the PA has not enforced it. The second political factor is the increasing strength of right-wing politics in Israel and growing confidence among supporters of the settlements, particularly when it comes to demands to increase construction of the

settlements and to publicly advocate for steps that would eventually lead to Israeli annexation of the settlements.

On April 26, 2010, President Abbas passed a decree that put into law the prohibition of all economic relations with the settlements and the formal creation of the National Empowerment Fund (NEF) in the Ministry of Economy, which would educate the public on settlement products and oversee enforcement of eliminating settlement products from Palestinian areas.<sup>5</sup> But within months, it was apparent that these efforts were not serious and that there were major problems that undermined the campaign and enforcement of the law. The most problematic element of the decree is that it included fines of up to \$13,000 and five years of imprisonment for those who worked on the settlements. Given that up to 40,000 Palestinians are working on the settlements, this section of the law would be impossible to enforce. The situation made abundantly clear the PA's weakness and its ineffectiveness and unwillingness to end Palestinian employment on the settlements.<sup>6</sup>

The goal of the NEF was to rid the West Bank Palestinian economy of settlement products, but after a successful campaign in the spring of 2011 to educate Palestinians about settlement products and begin enforcement of the Presidential decree, most of the NEF staff were fired.<sup>7</sup> Al-Monitor reported in July 2013 that only nine people had been convicted with breaking the anti-settlement law, and that people from the Customs Authority “all agree that there is an

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<sup>5</sup> The Palestinian Legislature has not met since 2007 so the law had to be signed through Presidential decree.

<sup>6</sup> This part of the law was never enforced, and NEF Director Haitham Kayali and the Minister of the Economy at the time, Dr. Hasan Abu Libdeh, admit that they should not have included outlawing employment on the settlements in the Presidential decree (Kayali 2016:311-312).

<sup>7</sup> Two staff members were kept until the complete closure of the organization in early 2012. In an interview with me on March 22, 2016, Kayali discussed the disappointment and surprise when the staff were fired so quickly.

important lapse in the enforcement of the settlement boycott law” (Khalil 2013). Complicating the matter is the fact that access into the Palestinian market is very easy for settlement companies; roads crisscross the West Bank in and out of Palestinian areas and Israeli settlements. Personally, there were several instances in which I found settlement products in Area A, and I heard of several other instances in which people found settlement produce and products in the Palestinian market. In one instance, a Palestinian trader was caught with settlement products, but the judge ordered that the confiscated goods be given back to the trader (Khalil 2013)! Without serious efforts by the PA to pursue education regarding settlement products and prosecution of those who trade with the settlements, it is fair to assume that settlement products have returned to the Palestinian marketplace.

In discussing the failures of the PA concerning the boycott of the settlements, Palestinian activist Jamal Juma says, “We are not talking about a political movement; we are talking about a bureaucratic authority that places its interests above all else” (Kayali 2016:216). Those interests, which most notably are financial, are gained in the imports and exports with Israel and the settlements, a relationship managed by the Paris Protocol. The PA and its most important Palestinian supporters gain financially from the ongoing economic structure. As former NEF Director, Haitham Kayali, writes, “...developing a coherent approach to boycotts is continually undermined by corruption and lack of political will, by the fragmented way the resistance originally developed, and by internal disagreements” (2016:218).

There is overwhelming popular disillusionment towards the PA, which is widely seen as complicit in the ongoing occupation. In one of the starkest admissions of the disarray within the Palestinian leadership, two former Palestinian negotiators who were part of the Oslo Peace Process, wrote in the fall of 2017,

The contemporary Palestinian national movement---founded and led by Yasser Arafat and embodied by the PA, Fatah, and the PLO over the past half century--- is reaching its end. As its institutions wither and its leaders fade away, there is no obvious successor to take its place (Agha and Khalidi 2017).

With all the dissatisfaction towards the political and economic agenda carried out by the current government of President Mahmoud Abbas and Prime Minister Rami Hamdallah and the PA's ongoing inability to provide employment to young Palestinians, settlement employers will continue to be able to attract Palestinians for work on the settlements.

In parallel with the increasing frustration of Palestinians towards the PA, right-wing political parties, particularly those that support the settlements, have increased their influence in the Israeli government. The governing coalition for Prime Minister Netanyahu's government between 2009-2013 included the center-left Labor party, but since 2013, the governing coalition has not needed the support of the historically important Labor party and has been able to put together coalition governments of only right-wing parties.<sup>8</sup> Prime Minister Netanyahu has a cabinet full of right-wing politicians who advocate for the expansion of the settlements and for legislation that would annex parts of the West Bank.<sup>9</sup> The Education Minister, Naftali Bennett, one of the more outspoken supporters of the settlements, routinely calls for expansion of the settlements and "to extend our sovereignty in the land of Israel" (Baruch 2016). Justice Minister Ayelet Shaked has also been active in implementing changes in the legislative process such that all legislation passed by the Knesset would apply to Judea and Samaria.

<sup>8</sup> The Kulanu party is considered a centrist political party that gained popularity because of its leader, Moshe Kahlon, and its particular focus on economic issues.

<sup>9</sup> Most notably, Minister of Culture and Sport Miri Regev, Minister of Jerusalem and Environmental Protection Ze'ev Elkin, Minister of Education and Diaspora Affairs Naftali Bennett, Minister of Justice Ayelet Shaked, and Minister of Defense Avigdor Lieberman.

Although this shift rightward and the public statements made by cabinet members are significant, these are not a fundamental break from the past. Demands by right-wing politicians for annexation and expansion are not new. Meron Benvenisti wrote in the New York Review of Books in 1983,

Looked at statistically, those processes do not yet appear to have reached the point of no return. However, when we consider the dynamics of all the forces as well as the time element, we can see that the critical point has passed...For all practical purposes the annexation of the West Bank and Gaza Strip now seems only a matter of time (1983:15).

He wrote this when there were only an estimated 30,000 settlers (not including East Jerusalem); it is now estimated that there are 382,916 settlers in the West Bank in addition to over 205,220 in East Jerusalem (B'Tselem 2017a)! Thus, expansion and development of the settlements continue. In early 2017, the Israeli government announced significant new housing construction for the settlers.<sup>10</sup> Two announcements approved a total of 5,500 new homes for East Jerusalem and the West Bank. Earlier in the month, Israeli planners announced plans for a massive new IZ west of two of the largest IZs, Barkan and Ariel West (Arutz Sheva Staff 2017). According to the report and current plans, the new IZ will become the largest settlement IZ. All of the new housing construction and new factories will open thousands of new jobs for Palestinians. These jobs in construction and factories will be in high demand, particularly in light of Palestinian frustration with the PA and the absence of a coherent national movement.

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<sup>10</sup> Notably, these announcements came after the election of Donald Trump as US President. He had been very outspoken in his support of Israel and named key advisors who were supporters of the settlements.

### *Conclusion*

Israeli employers profit from the superexploitation of Palestinian labor, and the Israeli military continues to use employment in the Israeli economy as a central strategy to pacify the Palestinian population. In addition, as detailed in Chapter Five, settlement advocates use the rhetoric of the benevolent employer, arguing that the settlers are the ones that truly care for the Palestinians because of the jobs they provide. It is true that Palestinian individuals benefit from employment on the settlements, but it is also internationally recognized that the settlements are illegal. Moreover, the settlements are a fundamental part of the system that steals Palestinian natural resources, profits from superexploitation, and structurally de-develops the Palestinian economy.

With the ongoing settler colonial policies that continue to expand the Jewish presence in the West Bank and further enclose the Palestinian population; an apartheid political system of domination through military occupation and legal separation; and the PA's disinterest in protecting the working class from both the occupation and the exploitation of capitalist employers, working class and poor Palestinians are stuck in an infuriating situation. As the Palestinian worker said to me in the opening vignette of this dissertation, "Work for the Jews, work for the Arabs, it does not matter. It's all shit." In the absence of any foreseeable political and economic changes for Palestinians in the West Bank, the story of Hatem Abu Ziadeh and the Israeli labor union Maan, in Chapter Three, provides a concrete example of contemporary efforts to try to assist Palestinians and to expose the superexploitation on the settlements. Although one could argue that assisting Palestinians who work on the settlements is contradictory to the Palestinian cause, National Coordinator for Maan, Assaf Adiv, does not believe that the work of Maan in unionizing Palestinian workers in the settlements undermines the possibility for an

independent Palestine but rather exposes “the exploitation of Palestinians in Israeli businesses” (2014). He believes that raising awareness of their rights and organizing as workers will be beneficial for them in their current work and help them to organize others in the future. Maan has a unique voice, and its efforts to organize workers “regardless of religion, race, and nationality” stands in direct contrast to the restrictive nationalist ideologies on both sides. Maan’s actions and rhetoric are a reminder of a different kind of politics, one that moves beyond the restrictions of nationalism into a call for the working class to rise up in unison against both the nationalist and capitalist ideologies.

Yet, Maan is, comparatively, a small union with limited capabilities. In order to pay for the lawyers who worked on the Hatem Abu Ziadeh case, Maan resorted to an online campaign to raise funds. Additionally, Maan’s unique perspective has very few adherents in Israeli society. The union is also up against a government that has historically, structurally, and institutionally discriminated against and dominated the Palestinian population. Opposition to the political and economic ideals Maan advocates for is prevalent all across Israeli society, in the Israeli Knesset, and among the police and military, employers, and lawyers and judges in the court room. Furthermore, mobilizing support from potential allies in Palestinian society will be very difficult, as Palestinians struggle with the issue of trustworthiness and sincerity of an Israeli organization. And others will also question whether the strategy of unionizing in the settlements only further solidifies the legitimacy of the businesses and employers. Nonetheless, Maan will continue to do its part to advocate for workers, and if Palestinians who are employed on the settlements ask for help, the union will respond.

The Israeli High Court decision in 2007 laid the foundation for a major shift in law and legal rights for Palestinian workers. By ruling that Israeli law should be the law for employment

relations in the West Bank, Palestinians can sue their employers according to Israeli labor law and, as in the case of Maan, an Israeli union can represent Palestinians. The paradox is that if organizations such as Worker's Hotline and Maan are successful, both in the labor courts and in unionization, and there is an increase in adhering to labor laws, employment on the settlements will only become more attractive to Palestinians desperate for a job. But without political rights, poor and working class Palestinians will have little choice but to participate in both the economy and the legal jurisdiction of the occupiers. Moreover, any improvements gained in labor conditions do not compensate for Palestinian lack of sovereignty and political rights. Ultimately, what is needed is citizenship based on equal rights for all citizens and which does not discriminate by religion, ethnicity, and race; economic justice in which workers are protected and labor laws are enforced; and active defense against capitalist demands of profit over the rights of the workers.

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December 18, 2012

MEMORANDUM

TO: Ethan Morton-Jerome  
Ted Swedenburg

FROM: Ro Windwalker  
IRB Coordinator

RE: New Protocol Approval

IRB Protocol #: 12-10-175

Protocol Title: *Palestinian Labor on West Bank Settlements and Palestinian Authority Efforts to Create Employment Alternatives*

Review Type:  EXEMPT  EXPEDITED  FULL IRB

Approved Project Period: Start Date: 12/17/2012 Expiration Date: 11/05/2013

Your protocol has been approved by the IRB. Protocols are approved for a maximum period of one year. If you wish to continue the project past the approved project period (see above), you must submit a request, using the form *Continuing Review for IRB Approved Projects*, prior to the expiration date. This form is available from the IRB Coordinator or on the Research Compliance website (<http://vpred.uark.edu/210.php>). As a courtesy, you will be sent a reminder two months in advance of that date. However, failure to receive a reminder does not negate your obligation to make the request in sufficient time for review and approval. Federal regulations prohibit retroactive approval of continuation. Failure to receive approval to continue the project prior to the expiration date will result in Termination of the protocol approval. The IRB Coordinator can give you guidance on submission times.

**This protocol has been approved for 200 participants.** If you wish to make *any* modifications in the approved protocol, including enrolling more than this number, you must seek approval *prior to* implementing those changes. All modifications should be requested in writing (email is acceptable) and must provide sufficient detail to assess the impact of the change.

If you have questions or need any assistance from the IRB, please contact me at 210 Administration Building, 5-2208, or [irb@uark.edu](mailto:irb@uark.edu).