

Control of the Palestinians in the Jewish State: A Review Essay

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THIS ESSAY CRITICALLY EVALUATES David Kretzmer's 1987 study, *The Legal Status of the Arabs in Israel*, along with the 1984 *Report of the Committee Investigating Juvenile Delinquency in the Arab Sector*, which was submitted by Shmuel Toledano to the Ministry of Labour and Social Welfare in Jerusalem, Israel. The two publications under review deal in one form or another with those Palestinians, numbering close to 800,000, who are citizens of the State of Israel and comprise 17% of its population. Their political, legal, and economic position is distinctly different from their Palestinian brethren who reside in the Occupied Territories, Gaza and the West Bank, and number 1.5 million people. As such, these reports deal with a neglected aspect of Palestinian life in Israel: law and crime on the one hand, and the government's role in implementing law and providing social amenities on the other.

By all accounts, the Israeli Arabs have not been integrated in the state's social, political, and economic fabric, which explains their feelings of alienation and lack of identification with the basic institutions of Israeli society. In June of 1987 and again in March of 1988 the Arabs in Israel staged a successful general strike demanding equality and commemorating the 1976 Land Day protest in which six Israeli Arabs were killed in a confrontation with the police over the government's confiscation of Arab land. Similarly, they have expressed their solidarity with the Palestinian uprising on the West Bank and Gaza, now in its 28th month (as of April 1990), by raising money and collecting food donations.

As time went by, young Arabs who were born after 1948, and particularly those who were born after the 1967 War, began to regain their Palestinianism and to reject the official label "Israeli Arabs." Political pundits and other observers of the Israeli scene have confirmed this picture, and press reports and personal interviews conducted by the author recently have added support to this mounting evidence. For example, research at Haifa University revealed that close to 50% of Israeli Arabs identify themselves as Palestinians first, and two-thirds of the Arabs in Israel favoured repealing the "Law of Return,"

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which is the cornerstone of Israel's ideological *raison d'être*. According to the author of the study, "most Arabs experience Zionism as an exclusionary and discriminatory movement." From "the Arab viewpoint, this law, which is the legal embodiment of Israel's Jewish identity, confers on Jews a favoured status and denies Palestinian aspirations" (Smootha, 1984: 37).

By far the most significant finding to emerge from the Haifa study concerns Arab perception of their inferior status in Israeli society:

A large majority (70%) feel that Arabs cannot be equal citizens in Israel as a Jewish Zionist state. The validity of this point is strengthened by the 51 per cent of Jews who share this judgement (*Ibid.*: 37).

What is interesting about this finding is that it holds true irrespective of major demographic and other attitudinal variables, so much so that one-half of the Palestinians who unreservedly accept Israel's right to exist feel that they cannot be accorded equal citizenship status in the state.

Superimposed upon this picture — which shows the Palestinians in Israel to be alienated from the political system and to lack identification with its major institutions — is the presence of a hostile attitude among the Jewish majority towards them, who reveal a readiness to deny civil and political rights to co-citizens of the state. According to Shipler (1983), who cites data from the early 1980s, close to two-thirds of the Israelis surveyed indicated that they could not trust Palestinians; 70% of the Jewish sample indicated that they should be given preferential treatment when it comes to jobs, education, and welfare benefits; 77% blamed the government for doing more than enough for the Arabs; and 84% endorsed discrimination against Arabs seeking high government positions. Furthermore, a study by Tzemach (1980) showed that 64% of the Jewish sample endorsed increased surveillance over the Palestinians, 42% supported "preventive arrests" of the Palestinians, and 77% rationalized the need for this on the basis of national security.

In spite of a steady increase in research on the Palestinians in Israel, the scope of this research is significantly limited compared to that undertaken to address the majority Jewish population. This mounting interest in researching the Arab minority notwithstanding, crime and social control are hardly dealt with. And to the extent that they are, the tendency is to anchor this research in the cultural tradition where crime and delinquency are explained on the basis of a clash between Jewish modernity and Arab traditionalism. This is peculiar, if only because of the endemic presence of conflict in an ethnically bound society such as Israel, where state legitimacy is questioned by nearly 17% of the population.

One can safely argue that the entree in a study of social control in Israel — as it is for other deeply divided societies — must be the literature linking race, ethnicity, class, and underdevelopment to crime, punishment, justice, and

minority-group reactions to methods of control. Yet the literature of uneven economic development, underdevelopment, and settler regimes in general is almost silent on the issue of crime and social control. Although Western criminologists are beginning to express a belated interest in the subject of crime and colonialism/neocolonialism (see Sumner, 1982), without exception Israel seems to be excluded from their research agenda. It is beyond the scope of this review to explain why it is that critical criminologists have been silent on the Third World in general and on the case of the Palestinians in particular. Clearly, when it comes to the Palestinians it is not only the lack of appropriate tools with which to analyze settler regimes from a Western vantage point that has contributed to this silence. There is no shortage of scholarship and rhetoric when it comes to condemning oppression and injustice in Latin America, South Africa, and other societies — including those of the Western, industrial variety such as Britain, Northern Ireland, the U.S., and Canada, to name a few, where the issue of race, ethnicity, and crime looms large. The Israeli exception is part and parcel of the traditional endorsement of the Left in the West of the so-called socialist and liberal roots of the Zionist experiment in Palestine; any resemblance between Israeli conduct *vis-à-vis* the Palestinian population and that of other settler regimes towards their indigenous populations is construed as an aberration not worthy of investigation.

The above should not be taken to mean that studies of crime and social control concerning Israel's Arab sector have not been carried out (Zureik, 1988). What is peculiar about this literature, however, is that it has been peripheral in terms of the research concerns of Israeli criminologists, who until recently have tended to focus on the Jewish segment of the population at the expense of any serious discussion of the Palestinian minority. In the few cases where Israeli researchers have strayed into examining the Palestinian population, the frameworks adopted have been firmly anchored in the modernization school, which has been so aptly criticized as unsuitable to explaining the rise of crime in settler societies and Third World countries.

As will be shown below, although the studies under review fill some of the informational gap in the literature on the Arabs in Israel, they fail to situate the discussion in a proper theoretical context which draws upon the role of law in colonial and settler regimes.

Juvenile Delinquency

Toledano's monograph (essentially the report of a governmental task force on juvenile delinquency in the Arab sector) constitutes the most recent and detailed statistical study of juvenile delinquency in the Arab sector. When the report was released in 1985, it received extensive coverage in the press and was commented upon by specialists in the field and politicians alike. The report has the added weight that its author played a major role in shaping state

policies towards the Arab minority in his capacity as head of the Arab Department in the prime minister's office under successive Labour governments. The report opens up with the following observation, which acts as the guiding principle of the entire study:

Arab society is undergoing severe changes which are the direct result of developments in modernization and urbanization. Such changes are reflected in the weakening of traditional institutions such as the family and the *hamula* [extended family], on the one hand, [coupled with] the absence of alternative social institutions on the other. This is reflected, among other things, in weakening the extent of social supervision of the youth (p. 4).

The report goes on to say:

Such developments boost delinquency, which at times is directed against the Jewish sector (*Ibid.*).

In invoking this standard culturalist explanation, the report makes the point that "Arab society finds itself in transition from a patriarchal and agrarian social structure to a Western, industrial and democratic one..." (*Ibid.*).

And:

Arab society has ceased to be an agricultural society; its main source of livelihood comes from wage labour. In most cases this takes place outside the village, in Jewish rural and urban settlements. The head of the household spends minimum time at home, and [as a result] his authority has diminished... (*Ibid.*).

After taking note of overcrowded conditions in the Arab sector and the fact that neighborhood renewal programs were implemented exclusively in the Jewish sector, the report continues:

In many villages residents are not allowed to build their own homes, due to the absence of a master plan for the area or because of the non-granting of building permits. Many residents build their houses without permit, in most cases on their own land, to find themselves taken to court and faced with demolition orders. In cases where the demolition orders are carried out, this increases the feeling of oppression; if it [the demolition order] is not carried out, this contributes to increasing the feeling of disregard for the law, a feeling which is one of the root causes of the phenomenon of deviancy (*Ibid.*: 5).

Furthermore, Toledano's study takes note of inadequate infrastructure in Arab villages, such as roads, water, electricity, and schools, at a time "when new Jewish settlements are equipped with the needed infrastructure even before the residents move into their houses" (*Ibid.*). In addition to the physical necessities, Toledano's report stresses the need to recruit qualified police and professionals from the health, social work, vocational counselling, and probation fields, to work in the Arab sector. He demonstrates the disadvantaged position of the Arab, relative to the Jewish, sector by comparing the two on a "distress index," based on the extent to which each community enjoys social, manpower, and physical provisions.

The report does draw attention to the relevance of the "national and political factor" in the dispensation of social services:

Among the majority of the Arab population in Israel there is a feeling of discrimination in comparison with the Jewish population in the areas of housing, employment, etc. (*Ibid.*: 7).

The report goes on to argue that feelings of discrimination are related to delinquency:

The Committee came across instances where relations of trust between the authorities (police) and the local Arab councils were lacking. This reality does not help to uncover delinquency (*Ibid.*).

Toledano's report charts the rise of juvenile delinquency rates in the Arab sector by showing that in comparison to 1989, when Palestinians (both in Israel and in the Occupied Territories) comprised 29% of total juvenile offenders, the proportion rose to 30% in 1979, 41% in 1980, 44% in 1981, and 49% in 1982. Further features of the Palestinian juvenile offender population to emerge from Toledano's study show:

1. Probation officers dealing with Palestinian youth tend to recommend police and court action more often than is the case with Jewish juveniles.
2. In 1980, 84% of all security offences were committed by Palestinian juvenile offenders; the figures were similar for the two subsequent years, 1981 and 1982.
3. Juvenile delinquency is correlated with early school dropout. Of the Palestinian offenders who come into contact with probation officers, the majority cannot read and write, and 70% finished only grades five or six of elementary schooling.
4. In a recent survey carried out by the city of Nazareth, the largest Arab concentration in the country, of a total of 4,415 youth who have

dropped out of school, only 320 were absorbed in work programs and an additional 100 were admitted to boarding institutions.

5. While one-quarter of the Arab youth between the ages of 14 to 17 is in the work force, only 11.7% of the corresponding Jewish group has entered the labour force. By the same token, Arab youth accounted for 38% of all working youth, at a time when they constituted 22% of the entire 14-to-17 age group.
6. The motivations for school-age Jewish and Arab youth to enter the labour force are different. Arab youth drop out in order to work and supplement the family income, whereas Jewish youth drop out of school and enter the labour market after having failed to meet the requirements of the educational system.

This phenomenon has lead the authors of the report to say:

Therefore there crystallizes the desire by Arab [compared to Jewish youth] to work in any job, particularly in jobs that guarantee [them] higher income.... For this reason, the percentage of the unemployed among Arab youth is lower than that found among Jewish youth... (p. 25).

In its statement of recommendations, Toledano's report stands out as a classic policy document on crime and delinquency where piece-meal social engineering is advocated at the expense of any serious consideration of the overall position of the Palestinians in the context of the system of control to which they are subjected in Israeli society. Considered within the literature on crime and social control, the thrust of the report is to extend the system of social control under the guise of state-sponsored therapeutic practices, to transfer part of the policing responsibility to the community, and to treat crime as a manifestation of "blocked opportunities" among Israel's Arab youth.

A central weakness of Toledano's report is his absolute faith that official crime statistics reflect an objective reality waiting to be recorded. It is an accepted fact that "counting procedures" embody certain value-laden assumptions, be those of the processing agency at the classification stage or those of the bureaucratic agent of the state at the data-gathering stage (see Davis and Slebbert, 1985). Although this problem is common to all organizations involved in the administration of people, it assumes special significance in conflict-bound settings where the dominant group in society and its social control apparatus are entrusted with the classification and processing of individuals who constantly challenge the regime's legitimacy. In commenting on the ideological bases and meaning of official crime data pertaining to Arab youth, Haidar makes the following pertinent remark in his 1987 study, *Social Welfare Services for Israel's Arab Population*:

There is, for example, no distinction made in these official definitions between disturbing public order via participation in a large group fracas, and participation in a political gathering at election time or in a demonstration of a political nature. For example, young people detained on "Land Day" [to protest government confiscation of Arab land] or at similar demonstrations in recent years, or those arrested and charged with disturbing public order after participating in the protest demonstrations against the war in Lebanon or against the massacres in the Sabra and Shatila refugee camps, are considered by the police to be delinquents and are included in the official statistics. Certainly in so far as their own society is concerned, these young people may be the bearers of its highest values, as against the young people accused of delinquency of a criminal nature, who are also included in the statistics (1987: 88).

The Legal Framework

In contrast to Toledano, Kretzmer, who teaches law at the Hebrew University, sets out to examine "the price paid in terms of equality under law in order to accommodate the Jewishness of the state and the requirements of security, as perceived by those in power" (1987: 2). His analysis addresses the ramifications of Israel's existence as a "Jewish State" — as defined in the Declaration of Independence and other legal precedents — for the non-Jewish segment of the population. Three important qualifications color — and in my view weaken — Kretzmer's analysis and dictate the conclusions he reaches in the study. First, he chooses not to deal with the sociopolitical basis of Israeli law as this impinges upon the "Jewishness" of the state. The meaning of the Jewish state is addressed strictly from a legal and constitutional angle. Second, the legalistic perspective leads him to leave out of the analysis any consideration of social discrimination as practiced by nonpublic and governmental entities. In his own words,

The present study is concerned with the *legal* status of the Arabs. It should therefore be clearly understood that we are not dealing with the general question of discrimination in Israeli society. Even though we are fully aware that there may be considerable discrepancy between the situation under law and situation in fact we shall confine ourselves to those legal rules or arrangements which either outlaw discrimination or institutionalize it (*Ibid.*).

Third, his choice to weigh the evidence bearing upon the Palestinians as *individuals* and not as a (national) group flows from the fact that the latter dis-

tion would challenge the definition of Israel as a Jewish state, something he is unwilling to entertain. In concluding his essay, Kretzmer notes:

The problems of recognizing a national minority are compounded in the situation of Israel and its Arab minority. For Israel was established as the nation state of the Jewish people in the midst of a bitter conflict between two national movements which did not end with the establishment of the state and continues to this day. Given the fact that the Arab minority is part of a nation, a large portion of whom are still in a state of war with Israel, it is hardly surprising that recognition of the rights of the Arabs in Israel, as a national minority, is regarded as highly problematical. The fear exists that such recognition would inevitably lead to political demands, such as the demand for autonomy or even secession, which Israel, like all other states, would certainly reject (pp. 152–153).

Kretzmer's brief, final chapter, which deals with the Palestinians as a group, adopts a culturalist definition of nationalism by linking it to language, education, and religion.

The fact that Israel does not have a constitution, a bill of rights, or legislation protecting civil and human rights in general has important implications for the legal position of the Arabs in Israel. Although a series of "Basic Laws" were enacted in 1949 dealing with formal organization of the economy, polity, army, etc., these laws, Kretzmer points out, are not superior to ordinary laws enacted by the Knesset; as a matter of fact, the Knesset "is sovereign and has the power to pass any law it likes" (p. 6). The Supreme Court, which is usually considered to be the final legal arbiter, has thus declined to accept Basic Laws and even the Declaration of Independence as having any constitutional power to determine the validity or invalidity of laws and statutes. So-called primary legislation, i.e., laws that were enacted either by the Knesset or by the British Mandatory authorities, have supremacy and are not open for review by the Supreme Court. "Thus even statutes which offend basic civil rights, or contradict principles enshrined in the Declaration of Independence such as the principle of equality, will not be struck down on this account by the Supreme Court" (p. 7). As will be apparent below, the preeminence of the Knesset, essentially a partisan body, in providing a frame of reference for legal interpretations does not bode well for the indigenous Palestinian population.

Kretzmer is quick to note that the lack of formal, legal acknowledgement of equality, freedom of speech, and other civil rights does not mean that the principle of equality is not recognized on the basis of judicial precedent. Quoting the Attorney General in 1985, he states: "Equality before the law is a basic principle of Israel's legal system.... [This principle] has grown to become a well-rooted legal rule" (p. 8). Following this lead, the Supreme Court

declared that discrimination on grounds of religion or race will be regarded as improper use of administrative discretion, even if that discretion is absolute (p. 9). Kretzmer details two instances where equality has been given statutory recognition: the Labour Bureau Law of 1959 and the Higher Education Law of 1959, both of which prohibit discrimination by public bodies on the basis of race, sex, religion, nationality, or social status. Having said this, it is important to note that these “soft principles” (to use Kretzmer’s term) of equality lack the power to strike down primary legislation which involve covert discrimination as, for example, in the areas of education, welfare benefits, and employment. Other limitations to the universal application of the notion of justice in Israeli society derive from special “historical” reasons and instances where the “Jewishness” of the state is involved. As an example, Kretzmer discusses the case of The Jewish Quarter in the Old City of Jerusalem. After Israel captured the eastern part of the city in the 1967 War, Arab residents were evicted from the Quarter. When an evicted Arab resident applied to purchase an apartment unit in the newly constructed Jewish Quarter, he was refused sale by the developer. The Supreme Court upheld the practice by noting that this is a “Jewish Quarter,” the implication being that only Jews can qualify to live there.

One of the most controversial pieces of legislation to affect Arab citizens of the state is the 1945 British Defence Regulation, which is still in effect both in Israel proper and in the Occupied Territories. The intention of the legislation at the time of its introduction was to assist the colonial authorities in putting down unrest in the country, by both Arabs and Jews. As Kretzmer rightly points out, this legislation in particular was condemned by the Jewish Lawyers Association of Mandatory Palestine for undermining the foundations of law, posing a danger to individual freedom, and for instituting “a regime of arbitrariness without judicial supervision” (p. 16). This British legacy to Palestine in the form of curfews, demolition of houses, banishments, administrative detention, censorship, closure orders, and special military courts whose decisions have no right of appeal, continues to be applied in cases involving the Arab population. In spite of various attempts to have the regulations repealed, the Supreme Court upheld their status, with the result that the major part of the Defence Regulations remain in force to this day (p. 17). And while the Defence Regulations do not distinguish between Jews and Arabs, “there is no doubt, however, that the major use of most of the powers in these regulations has been to impose restrictions on Arab citizens” (p. 128).

Jewishness of the State

A series of laws was enacted to give expression to the idea that Israel is a “Jewish State.” Foremost among them are the 1950 Law of Return and the 1959 Nationality Law. Both laws give special status to Jews to automatically

acquire citizenship upon immigrating to the country. In evaluating the Law of Return, Kretzmer admits "that the right given in the Law of Return to Jews to immigrate to Israel involves overt discrimination [as distinct from covert and institutional discrimination, with which he also deals] between the rights of Jews and non-Jews" (p. 50). However, this discriminatory aspect of the Nationality Law is purposefully ignored by Kretzmer because it is "generally regarded as a fundamental principle of the state of Israel, possibly its very *raison d'être* as a Jewish state" (pp. 50–51). The implications of the Nationality Law is that "Arabs cannot acquire Israeli nationality by way of return; they must do so by residence, birth, or naturalization" (p. 51). The notion that every state has the right to institute its own immigration policies, an argument advanced by defenders of the law and cited by Kretzmer, is hardly a comfort to the more than two million displaced Palestinians who were either born there or who are the offspring of individuals who were displaced from their country during the 1948 War and have since acquired the status of permanent refugees.

Covert Discrimination

Moving on to examine covert discrimination, Kretzmer notes that explicit discrimination on the basis of ethnicity, i.e., Jews versus non-Jews, is limited in Israeli legislation. Thus, he directs his attention to "whether other seemingly non-discriminatory criteria are employed which lead in fact to different rules or arrangements being applied to different groups, divided along racial, religious, national, or sexual lines" (p. 83). Here he focuses on military service as a criterion for discrimination between Jews and Arabs, and accepts as reasonable the assumption that individuals who serve in the armed forces should be differentiated in terms of benefits on the basis of their military service. What is problematic, in his view, is whether or not benefits given to ex-soldiers bear any connection to military service. If there is no reasonable connection, then this is considered as an example of covert discrimination. When taking children's allowance as an example, where Jewish families of soldiers with three children or more are entitled to larger children-allowance payments compared to Arab families of the same size, Kretzmer concludes that this is a clear case of covert discrimination. Selective enrollment in certain educational programs — which is linked to military status — is also considered a form of covert discrimination if it can be demonstrated that this results in mass exclusion of Arab students from such programs. Tax benefits, which are routinely accorded to discharged soldiers, do not constitute in Kretzmer's opinion a case of discrimination. On the other hand, subsidies for housing and university fees that are linked to military service are shown to be instances of covert discrimination. It is interesting to note that the university student subsidy is tied to the children's allowance legislation. In other words, those who are entitled to receive extra family allowance due to military service are also entitled to receive

a government subsidy for university tuition. Covert discrimination extends to more fundamental aspects of Arab life in Israel. Benefits granted to local councils are a function of the council's geographical location. The 1959 Encouragement of Investments Law authorizes government subsidies and tax concessions to industries located in "development areas."

While a few Arab villages do indeed appear in the defined areas, these areas are drawn to all intents and purposes so as to include Jewish settlements and to exclude Arab towns and villages (p. 100).

Two additional laws which contained covert discrimination have to do with land expropriation: the 1950 Absentee Property Law and the 1953 Land Acquisition Law. Both laws played important roles in dispossessing Arabs of their land. While neither law referred to Arabs per se, the laws were "meant to apply only to Arabs, and [were] implemented in the Arab sector" (p. 102).

Institutional Discrimination

Institutional discrimination refers to policies or programs implemented by public organizations with clear intentions to discriminate. The stress is on intentions, as distinct from indifference resulting in bureaucratic discriminatory practice. Three areas are chosen for scrutiny: budgetary discrimination, resource allocation, and implementation of laws. With regard to benefits to Arab and Jewish councils, there is a significant discrepancy between the two sectors. The same is true with regard to educational expenditures. Although Arab children make up 20% of students in the state educational system, the government spends substantially less than 20% of its education budget in the Arab sector. Even with regard to the Ministry of Religious Affairs, there is a large gap between allocations to the Jewish and various Arab denominational sectors. Budgets for urban renewal programs which come from the government (on housing) and the Jewish Agency (on public building), reflect discriminatory practices. The government's attempt to hide behind the agency's non-governmental status is rejected by Kretzmer in the following words:

[Housing] project renewal may not be regarded as a purely Jewish Agency project. Jewish Agency participation in the project serves to justify the adoption of clearly discriminatory criteria in allocation of government spending (p. 109).

With regard to the implementation of laws, Kretzmer isolates several areas where there is clear institutional discrimination:

1. Non-implementation of laws regarding the provision of social services;
2. Land expropriation;

3. Security laws, where Arab offenders are brought before military courts, while Jewish offenders for similar offences are not; and
4. Closure of areas for military use under the Defence Regulations has been primarily applied against Arab property.

Kretzmer also identifies differential implementation of the law such as in the area of welfare services:

Examination of the welfare situation among Arabs in Israel reveals that services which are regarded as essential in the Jewish sector of the population do not exist at all or exist on a much lower level in the Arab sector. Many of these services are services which the authorities are bound to provide by law (pp. 117–118).

Finally, there is under-representation of Arabs on agricultural marketing boards, and with regard to water quotas and usage, “the differences are so great that it is hard to believe that at least some part of it is not attributable to institutional discrimination” (p. 120).

Why do these forms of institutional discrimination persist? Kretzmer gives a threefold answer: (1) they have not been challenged in court; (2) they are “amorphous” forms of discrimination which are difficult to challenge; and (3) the courts are reluctant to interfere in what are perceived as policy decisions, and especially “decisions of national priority” (p. 123). However, the real explanation for institutional discrimination is not, of course, the lack of legal principles but rather “political, historical, social, and even psychological factors which we leave for analysis by others” (p. 124). This is something which Kretzmer decided from the outset not to address.

When it comes to analyzing the notion of state security, he is obliged to take cognizance of the political factors, but only when these factors serve the interests of the state. Thus, when evaluating “security threats” or “subversive activities” he notes the following:

The above presentation of the different perceptions of “security” might be considered a political analysis which has little to do with the present study of the legal status of the Arabs. It is essential to realize, however, that the legal system cannot be divorced from the political context in which it functions... (p. 143).

In other words, even though earlier he eschewed any discussion of the social and political basis of the law, he nevertheless explains approvingly the behavior of the government in the area of the Defence Regulations as being contingent upon one’s interpretation of what “security threat” means!

In defining what is meant by security, it is clear from Kretzmer’s analysis that the government has cast its net very wide indeed. For example, he shows

how political considerations are routinely invoked by the Department of Arab Education in the Ministry of Education in its hiring and firing decisions. In the view of Kretzmer, "there is no legal basis for the above system of control" (p. 147).

Although not situated in a sociopolitical framework, Kretzmer's study is an excellent treatment of how the state utilizes the law in order to further solidify political and economic stratification in society. The evidence presented by Kretzmer demonstrates how access to the reward structure in Israeli society is highly contingent on nationality as defined in political and historic terms. For this reason, his treatment of the Palestinians as a national group on the basis of culture and language, while incorporating the political dimension only when discussing individual experience, is a serious shortcoming of the study. Indeed, Kretzmer would have been on safer grounds to start his study precisely where he ended it: namely, to examine the law as a tool in the hands of the state in its struggle with a contending national group. His otherwise informative study is marred by a legalistic-formalistic approach which, even by his own admission, falls short of addressing *in toto* the issues of equality and discrimination. One cannot help but compare his approach to that adopted by Sabri Jiryis, a Palestinian lawyer and graduate of the Hebrew University, who two decades ago addressed in his pioneering study, *The Arabs in Israel*, the sorts of issues Kretzmer shied away from and relegated to history, politics, sociology, and even psychology.

Concluding Remarks

Culture figures prominently in most Israeli criminological studies, as evidenced in the report prepared by Toledano's committee. In the face of glaring disparities in income, education, provision of social amenities, and continued political and economic dependency of the Arab on the Jewish sector, all of which are acknowledged by Toledano, his remedies to the mounting increase in crime rates among the Palestinians center on increased state intervention in the area of social control. Better police training, improved youth supervision, and community involvement in policing are recommended as means to stem the tide of crime.

The assumption here is that crime is the product of frustrated aspirations and "blocked opportunities" for mobility. This explanation, which is essentially functionalist in nature since it advocates policy reforms in order to safeguard the interests of the state, is derived from modernization theories. In the words of Clinard and Abbott, "increased crime rates in less-developed countries can be expected primarily because in these countries young people predominate, the growing cities attract the young, and it is the young who are most noticeably affected by the way of life in the city and who are drawn more easily into criminal activities" (1978: 29). As critics of modernization theory,

including this author (Zureik, 1979), have remarked, such a theory which relies on a linear conception of development, unhindered by the uneven nature of economic development due to penetration of the capitalist mode of production in pre-capitalist social formations, obscures the nature of criminogenic social structure itself and aims, in the words of Sumner, to "preserve the superficial integrity of the State and its sanctioned social structure" (1982: 33).

A more appropriate approach to studying crime in deeply divided societies of the settler colonialism variety is to begin by:

1. Questioning the definitions and categories used in classifying criminal behavior;
2. Locating criminality in a political-economic framework which links law, deviance, and state ideology in a coherent theoretical matrix; and
3. Examining the internal workings of dependent regions in order to isolate the economic and political forces which operate in a counter-vailing manner to official policies.

It is extremely important not to apply stock-and-barrel Western and First World theoretical constructs in order to understand the true nature of crime in colonized regions.

Finally, it must be said that the two studies under review contain a wealth of information, and Kretzmer in particular has rendered a useful service to the English-speaking reader by providing inaccessible details of the Israeli legal system as it impinges upon the Arab population. The fact that Kretzmer operates within the traditional boundaries of legal studies as a discipline is not surprising, bearing in mind that critical theory has made little headway in Israeli social science in general, and law is no exception.

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