

# ***‘They Are Human Beings’***



**An analysis of the use of ‘human rights-language’ by the Israeli Government with regards to its settlements-policies in the years 2015-2019**

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## Introduction

When it comes to the concept of human rights, the Israeli-Palestinian conflict is probably one of the most-discussed and controversial issues. One of the main components of the conflict is the continuing constructions of settlements in the Occupied Palestinian Territories by Israeli settlers, a practice almost universally condemned among the international community and often related to human rights violations.

However, the settler-movement plays a central role within Israeli politics and continues to shape narratives and policies relating to their practices. In the context of the 2019 elections PM Netanyahu has promised to ‘annex parts of the West-Bank’ (Haaretz, 2019, para. 1), a departure from earlier positions. It is a crucial time for the future of the Israeli-Palestinian conflict, with the revelation of Trump’s ‘deal of the century’ on the horizon, a deal which the Palestinians have said they will not accept in any form. It is against this backdrop that the prospect of a two-state solution is deemed by many to become increasingly unlikely (Nakhoul, 2019, para. 10-20).

In this context another important development has taken place, namely the adoption of human rights-rhetoric by settlers and pro-settler NGOs to justify their cause. The concept of ‘human rights’ is thus used to legitimize their behavior. Nicola Perugini and Neve Gordon (2015) have called this new human rights-based narrative the *Human Right to Colonize*.

Their analysis ties into a broader academic debate about the human rights norm, which has been seen as inherently antithetical towards these practices of domination (Perugini & Gordon, 2015, p. 13). They argue that human rights are actually intrinsically linked to domination because they are dependent on (and thereby legitimize) states, which enables narratives such as the *Human Right to Colonize* to come into existence. But their definition of the state is relatively broad and diffuse, which possibly problematizes their overall view, namely that ‘the state’ is somehow central to the link between human rights and domination, since their analysis in a way rests on an essentialized concept of ‘the state’. The role of ‘the state’ should therefore first be (re-)conceptualized in the in order to be able to understand its link to human rights and domination in the specific case of the *Human Right to Colonize*. Currently an analysis of how an important manifestation of ‘the state’, namely the Government, itself uses human rights language to justify its role in maintaining settler-colonial practices is still missing. This research therefore aims to provide this analysis.

It shows that there are substantial similarities between the way the Israeli Government justified its settlement-policies and the characteristics of the *Human Right to Colonize* as described by Perugini & Gordon, relating to the ways in which human rights get interpreted in a particularistic way and the position of the Israeli settlers and Palestinians gets inverted. It furthermore offers some insights in how the role of ‘the state’ might be viewed in this context, which suggest that – like human rights – ‘the state’ might also be subject to processes of meaning-shaping and local (re-)interpretation.

## Theoretical Framework

Human rights, because of their universality – they are ‘universal because they define the universal interests of the powerless’ (Ignatieff, 2001, p. 109) –, have traditionally been seen as a tool by oppressed people to *counter* state domination. This view has long been dominant within the academic tradition and can be placed within the broader frame of linear moral progress (Perugini & Gordon, 2015, p. 14), which not only limited itself to human rights specifically, but also to a general view of how international norms were established. This way of thinking was characterized by viewing norms in an essentialized way; this manifested itself in models such as ‘the norm life cycle’ (Finnemore & Sikkink, 1998, p. 895-908), in which the life cycle of certain norms was categorized along certain stages, thereby viewing the norm to have a certain fixed core (Bloomfield, 2015, p. 313). This same approach applied to the way in which human rights were believed to be universal and to be inherently antithetical to domination. The idea that ‘more human rights equals less domination’ is sometimes being referred to as the ‘hydraulic model’ (Perugini & Gordon, 2015, p. 13). However, this notion has proven to be more complicated, partly because of the fact that human rights started to be used by actors (often categorized as ‘liberal’ or ‘conservative’) to argue for opposing goals, which was exemplified in the international debate surrounding gun-ownership (Bob, 2012, p. 120). In addition to this, human rights were used in multiple instances by states to justify practices of domination – thereby problematizing the assumptions of the ‘hydraulic model’. As a reaction to this, multiple thinkers sought to explain this paradox by problematizing the ‘universality’ of human rights, like Arendt already did in *On Totalitarianism* (Arendt, 1962, p. 290-291). In *The Human Right to Dominate* Perugini & Gordon (2015) point out that human rights are never really ‘universal’, because local ‘state and non-state actors define who the subject of human rights is’. This translation of human rights into a local context is called an ‘economy of human rights’ (Perugini & Gordon, 2015, p. 15).

In their book Perugini & Gordon (2015) aim to better understand the link between human rights and domination (p. 5). Domination for the authors is ‘a broad array of relationships of subjugation characterized by the use of force and coercion’ (p. 3). To explore this dynamic they use the case of the Israeli-Palestinian conflict. In this context they focus on the recent emergence of two narratives which have incorporated ‘human rights language’ to justify practices of domination, namely what they call *The Human Right to Kill* and *The Human Right to Colonize*. The former is mostly used in the context of Israeli military operations and the concept of ‘targeted killings’. The *Human Right to Colonize* concerns the justification of taking land and constructing settlements in the occupied territories (OPT) by Israeli settlers. This phenomenon of the use of human rights language as a justification of settler-colonial practices in the OPT was also found by Shor (2008) who analyzed the coverage of the 2006 Gaza Disengagement by ‘conservative’ (pro-settler) newspapers, which he explained as a way to appeal to the international community.

Perugini & Gordon use the cases of the *Human Right to Kill* and the *Human Right to Colonize* as part of their broader argument that human rights are intrinsically linked to domination because of the role of the state. While human rights are supposed to protect people

from the state, those human rights are also enforced *by* the state; and this ‘points to an intricate link between human rights and domination’ (p. 28). Because human rights legitimize the role of states they are susceptible to be used as justifications for ‘practices of domination’. In the context of Israel-Palestine this manifests itself in the insistence by human rights NGOs of solving human rights issues *within* the legal framework of the Israeli State (‘legalism’); without challenging the foundations of the ‘broader apparatus of violation’, which enables domination. As a solution to this, the authors suggest several new approaches of how human rights can still be useful, all aimed at countering the tendency of human rights to be aligned with domination *as a result* of their link to ‘the state’ (Perugini & Gordon, 2015, p. 133-138).

The fundamental premise of this view is thus that ‘the state’ is the central reason for the existing link between human rights and domination. But in their analysis, its meaning is left relatively unclear. Especially in the case of the *Human Right to Colonize* there seems to be a complicated dynamic at play with regards to what might be considered ‘the state’, namely the Government, and pro-settler civil society organizations. While the pro-settler NGOs frame themselves as being in opposition towards the Government, in practice the Government’s policies actually favor the settlers. Perugini & Gordon (2015) also point at a substantial level of overlap when it comes to rhetoric, what they describe as a ‘convergence between state- and non-state actors’ (p. 127). Research by Haklai (2007) outlines how part of ‘the state’s’ attitude towards settlement construction could be explained by the penetration of important ‘arms of the bureaucracy’ by settler activists; thereby further complicating the dichotomous distinction between the Government and the pro-settler NGOs.

This overlap between what might be considered ‘civil society’ and ‘the state’ does not necessarily contradict Perugini & Gordon’s emphasis on the concept of the state as the enabler of the fusion between human rights and domination. They point out that ‘the state’ should not be seen as a ‘totalizing structure of power (...) that is external to society yet somehow fully controls it’. Their main point actually *is* that the state enables the fusion between human rights and domination, *because* human rights are dependent on the state and therefore legitimize its authority; the goal of the pro-settler NGOs is not to get rid of the state, but rather to ‘incarnate it’ (Perugini & Gordon, 2015, p. 126). Because of this, the alleged opposition of pro-settler organization Regavim towards the Government is being described as a ‘mere chimera’ (the Government and the state are limbs of ‘the same colonial body’), since they use ‘human rights based petitions to force the Government to abide by the state’s founding logic’ (Perugini & Gordon, 2015, p. 118).

But this notion might complicate the role ‘the state’ fulfills with regards to the link between human rights and domination. The authors use a relatively broad and diffuse definition of ‘the state’, while at the same time describing the State of Israel as having an essentialized core (a ‘founding logic’). Furthermore the fact that in the case of the *Human Right to Colonize* ‘the state’ is left relatively undefined and seems to be interlinked with the settler movement, indicates that the meaning of ‘the state’ might be ‘appropriated and vernacularized’ in the same way human rights are. This links to the criticism of Schimmel (2017) in his review of *The Human Right to Dominate*, in which he points out that the authors approach ‘the Palestinians’ and ‘domination’ as flattened concepts (p. 123-124); the same might be said about the way they approach the concept of ‘the state’.

In order to maintain that the link between human rights and domination can be explained by the state, it should be firmly established that in the specific case of the *Human Right to Colonize* there is a structure called ‘the state’ which – as the result of an inherent quality

– enables this narrative to use human rights to justify domination. A first step would be to assess the extent to which ‘the state itself’ uses human rights to justify its practices of domination, because this is necessary to properly understand its role in this context. Since we cannot accurately determine the boundaries of ‘the state’, we therefore need to focus on its clear manifestations, such as the Government (which has been described as such throughout the *The Human Right to Dominate*). This leads us to the research gap: currently the *Human Right to Colonize* does not offer an analysis on how the Israeli Government *itself* uses human rights to justify its practices of domination, namely its settlement-policies, and mainly focuses on the role which is played by civil society organizations. And the fact that the role of manifestations of the state is left relatively unclear might undermine the premise that ‘the state’ links human rights and domination together. In my research I will thus analyze the way in which the Israeli Government has used ‘human rights’-language to justify its settlement-policies in recent years. My adapted research question will thus be: *How did the Israeli Government use human rights language to justify the construction of new settlements in the West-Bank in the period 2015-2019?*

I will focus on the case of *Human Right to Colonize* as opposed to the *Human Right to Kill*, because in the analysis of the latter the role of the state apparatus is already relatively defined. Instead of using a preconceived notion of the role ‘the state’ plays with regards to human rights and domination, this research thus aims at starting to (re-)conceptualize this role, by assessing if and how the Israeli Government *itself* seeks to justify its actions with human rights language. The relevance of this research will thus be twofold; 1) it is relevant in both an academic and a social context because it provides insight into the ways in which the Israeli Government’s narrative might be similar to that of the pro-settler NGOs; which might be an affirmation of the ‘convergence between state- and non-state actors’ Perugini & Gordon describe, and would further substantiate the overlap between the settler movement and the Government 2) on a more conceptual level this research serves as a next step in the process of attaining a deeper understanding of the role ‘the state’ actually plays in relation to human rights and domination.

My definition of ‘human rights language’ will be based on the characteristics of the *Human Right to Colonize*. A term which Perugini and Gordon coined to ‘understand the intermingling of the human rights rhetoric’ with the ‘settler colonial practices of dispossession’ (Perugini & Gordon, 2015, p. 116-117). The *Human Right to Colonize* refers therefore not to a specific ‘human right’, but to the interplay between human rights and colonialism and the justification of the latter concept based on the moral imperative of the former. The authors point out that this dynamic exists as a result of a narrow definition of human rights, namely specifically in the context of sovereignty and the concept of the protection of what are called the ‘national lands’. Human rights language is not only used to protect Israeli settlers from eviction by the Israeli Government, but also to justify the construction of *new* settlements and the displacement of Palestinians (Perugini & Gordon, 2015, p. 118-119). A general feature of this phenomenon is the fact that the situation in the occupied territories gets inverted. Perugini later illustrates the inversion of the relation between the settlers and the Palestinians in a 2018 paper, in which he describes how the settlers try to position themselves as the victimized natives; while continuing the process of appropriating Palestinian lands (Perugini, 2018, p. 41-58). The mechanisms of this dynamic have also been studied by Ron Dudai (2017), who further confirms the idea of reverse victimhood.

In my research ‘human rights language’ will thus consist of two main components: 1) namely the way in which the Israeli Government refers to human rights, and 2) inverts the relation between the Israeli settlers and the Palestinians (thus portraying the settlers as the natives); to justify its policies.

Lastly I want to address a fundamental challenge when analyzing the Israeli-Palestinian conflict, namely the sensitivity of issue and its politicization. The academic debate about the conflict is often highly interwoven with certain value-judgments and a more normative dimension in general. For example, the research done by Dudai (2017) has also been susceptible to criticism with Landes & Steinberg (2018) pointing out the *politicization of victimhood* could also be applied to the Palestinians and their advocates (p. 603-615). It is therefore important to point out that my research will focus on the discourse of the Israeli Government – based on the characteristics of the discourse as described in the *Human Right to Dominate* –, but will not be a final assessment of who is ‘right’ or ‘wrong’ in this conflict; instead I will try to offer a deeper understanding of the narrative employed by ‘one side’ of the argument. However, this does not mean that I perceive the Israelis and the Palestinians to be in comparable positions. Currently the power balance favors Israel; for example in the way they are able to control the movement of Palestinians (Veracini, 2006, p. 12-22). In addition to this there is also broad international consensus concerning the illegality of the Israeli settlements in the West-Bank. While I am aware that the term ‘colonization’ has a strong normative dimension; I will use this word because it captures the unequal power relation, the international consensus concerning the illegality and the continuing expansion of (de facto) Israeli territory by the settlers. This research is not aimed at proving that ‘colonization’ is the correct term; but rather at analyzing the narrative that is used to justify this process.

# Methodology

## Concepts

### **Concept 1: 'Israeli Government'**

The definition of 'government' I will use, will be the standard Oxford-definition: *The group of people with the authority to govern a country or state*. As pointed out earlier, there has been a substantial amount of infiltration in the Israeli state apparatus by Israeli settler activists (Haklai, 2007, p.713-739). This complicates the notion that 'the government' can be seen as a totally separate actor from the pro-settler NGOs, and is likely influenced by them. This does not have any effect on my research however, because it merely focuses on the way the Israeli Government uses 'human rights language'; not on what has caused this.

When it comes to the operationalization the 'Israeli Government' refers to the Israeli President and/or Prime Minister, other government officials, government agencies and diplomatic agencies (such as embassies). I have chosen not to include the parliamentary body of the Knesset as part of 'the government'; including the viewpoints and statements of the different political parties would broaden the scope of the research too much.

### **Concept 2: 'Human Rights Language'**

When it comes to the definition of 'human rights language', it is important to note that it does not refer to a specific human right or a set of human rights; but is instead based on the concept of the '*Human Right to Colonize*'. This concept can be defined as the way in which the position of perpetrators and victims gets inverted and colonialism gets legitimized by the concept of human rights. The most comprehensive description reads: 'The human right to colonize – a notion we have coined in order to understand the intermingling of the human rights rhetoric deployed by conservative NGOs on the one hand, and the settler colonial practices of dispossession on the other – is informed by two interdependent moral imperatives: the protection of the settlements based on the idea that the evacuations of Jewish settlers are a human rights infringement; and the displacement of Palestinians based on the conception of expulsion as an act of justice' (Perugini & Gordon, 2015, p. 116)

'Human rights language' in the context of The Human Right to Colonize is thus a relatively broad term, but in its core refers to the use of (universal) human rights to justify colonial behavior; mainly by portraying the settler as the victim and the native as the invader. 'Human rights language' in this research will thus be operationalized in two ways:

- Any reference to specific human rights under the Universal Declaration of Human Rights and international human rights bodies, or 'human rights' in general; as (part of) an argument to justify the maintenance/construction of new settlements and/or the eviction of Palestinians in the West-Bank.



- My definition will also include (parts of) arguments in which the settlers get portrayed as ‘the native’ and the Palestinian as ‘the invader’ and in which the expulsion of settlers is described as ‘ethnic cleansing’ (and thereby an infringement on their human rights).

### **Concept 3: ‘Israeli settlements in the Occupied Palestinian Territories’**

‘Israeli settlements’ refer to settler communities which are generally made up of people of Jewish ethnicity, according to Haklai (2015). The settlements of these communities are built in three areas; the West-Bank, East-Jerusalem and the Golan Heights. All these settlements are deemed illegal according to UN General Assembly Resolution 70/89, the International Court of Justice, the Security Council and the High Commissioner for Human Rights. The settlements which are built in the West-Bank and East-Jerusalem are considered part of the Occupied Palestinian Territories (OPT). Since the Golan Heights are occupied territory from Syria, I have chosen to limit my focus to the settlements in the OPT; mainly because the dynamic of *The Human Right to Colonize* as described by Perugini and Gordon (2015) specifically relates to the context of the Israeli-Palestinian Conflict. The Israeli Central Bureau of Statistics (ICBS) makes a distinction between Israeli settlements (which are deemed legal) and Israeli ‘outposts’ (which are deemed illegal). However, Perugini and Gordon point out that this distinction is arbitrary and that outposts are actually also legal per Israeli law ( p. 104)

When it comes to the operationalization, I will only analyze arguments by the Israeli Government relating to the Israeli settlements in the OPT. I will not make a distinction between so-called ‘settlements’ and ‘outposts’; but I will focus instead on the justification of the policies of the Israeli Government which are aimed at the *expansion* or *maintenance* of settlements and/or outposts in the OPT in general and the *expulsion* and *eviction* of Palestinian residents.

### **Sub-questions:**

1. In which ways did the Israeli Government refer to the Universal Declaration of Human Rights, or the concept of human rights in general, in order to justify its settlement-policies?
2. In which ways did the Israeli Government invert the relation between the Israeli settlers and the Palestinian natives, in order to justify its settlements-policies?
3. Do the arguments by the Israeli Government based on human rights language play a central role in their justification of the settlement-policies?

### **Data sources**

There are several sources of data which can be used to conduct this research. I have identified the main three resources, ranked based on their relevance:

### **1. Official Government Publications:**

- These sources would be the best representation of ‘the Israeli Government’, since they are least subject to external circumstances and/or the opinions of individuals.<sup>1</sup>

### **2. Interviews with, and statements by Prime-Minister Netanyahu and/or other Ministers**

- This type of source is less ideal than the Government Publications, since it is more likely to be influenced by the audience and/or aim of the specific interview. However, they are valuable because the PM and the Ministers are the most authoritative figures within the Government and often give (English-language) interviews, in which they are questioned about Israel’s settlement policies. These interviews can be found on the websites of various international news outlets like Channel 4, Haaretz and FOX News.

### **3. Statements by Israel in international bodies:**

- The statements of Israel within international bodies are relevant because there is a lot of international pressure on Israel regarding its settlement-policies, thus it would be likely that Israel would have to address the issue. Because there are so many different international platforms, I have chosen to specifically focus on the most important bodies of the UN; namely the General Assembly and the Security Council. Israel’s statements which can be found on the UN Website and on UN WebTV.

This research has been based on a mix of these types of sources; but predominantly on ‘type-2’ sources; mainly because there were not many ‘type-1’-sources available, and often were relatively technical, and therefore did not provide many arguments for the stated positions.

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<sup>1</sup> These publications can be found on the website of the Israeli Government under *Publications* (<https://www.gov.il/en/Departments/publications/>)

## Validity

The first challenge when it comes to the validity of the research, has to do with the internal validity. This research only looks at one time-frame, the current discourse of the Israeli Government does not get compared with other moments in time, therefore we cannot conclude if the emergence of the *Human Right to Colonize* from Israeli civil society in recent years has had a causal impact on the rhetoric the Israeli Government uses now. However, this does not have to constitute a problem, since my research question mainly tries to answer the question *how* the Israeli Government uses human rights based arguments, instead of describing a historical development.

A second challenge has to do with the construct validity, because ‘human rights language’ is in itself a relatively broad and abstract concept; it could be argued that my operationalizations do not cover the concept sufficiently, which might make it more difficult to determine if the concept can be found among the statements of the Israeli Government. Initially, I have tried to overcome this by using one operationalization which is relatively specific (thereby concretizing the concept), and one operationalization which is in itself more abstract (thereby also trying to take into account its breadth). But while doing the research it became apparent that both operationalizations had their limitations; the first one did not account for the way in which the Israeli Government used rights-based language in a less strict sense; the second operationalization had the limitation that the inversion of the position of Israeli settlers and Palestinians did actually not so much refer to certain arguments, but was rather a frame through which the Israeli Government sees the situation. This is not necessarily problematic, which will be outlined in the *Discussion & Conclusion*.

A third challenge has to do with the external validity, since it could be argued that findings based on the sources that I used cannot be projected on ‘the Government’ in general, because the Government is not a unitary actor and it is possible that there will be opposing views *within* the Government with regards to the use of human rights language. Initially, I have tried to limit this problem, for example by not including the Parliament as part of the Government. It is important to point out however, that one of the main findings of my research actually was that ‘the Government’ is indeed not a unitary actor and has a high level of ‘internal dialogue’; which provides some important insights for the broader discussion surrounding the role of ‘the state’ in relation to human rights and domination, which will be touched upon in the *Discussion & Conclusion*.

# Results

## **In which ways did the Israeli Government refer to the Universal Declaration of Human Rights, or the concept of human rights in general, in order to justify its settlement-policies?**

The first conclusion to come away with while analyzing the different statements by the Israeli Government relating to its settlement policies, is that the term ‘human rights’ was not literally used in any statement and that there were no references made specifically to the UDHR. However, rights-based language *was* used by the Israeli Government in other ways, which I will outline further. The rights-based language that was employed by the Israeli Government consists out of two main components; 1) the notion of ‘equal rights’ and 2) the ambiguous use of the term ‘rights’.

### **1) The notion of ‘equal rights’**

The first way in which the Israeli Government justifies its settlement-policies is by framing the settlers as disadvantaged citizens, who are not being treated equally in comparison to other Israelis. This argument is then used to justify the expansion of Israeli control over these settlements and/or to wholly annex them. Annexation of the settlements thus means the expansion of the rights of settlers within the context of Israeli society, and is therefore framed as way to emancipate them.

In a 2016 interview (then) Minister of Diaspora Affairs and Education Naftali Bennett argued that it was ‘*time for Israel to apply Israeli law*’ because it was ‘*time that 450.000 Israelis are treated equally*’ (Arutz Sheva TV, 2016). This is a clear example of how the annexation of certain parts of the OPT is justified by contrasting the situation of the settlers with that of the Israeli citizens. It is for the same reason that Ministers Yariv Levin and Gilad Erdan called a decision in 2018 by AirBnB to delist accommodations in the West-Bank ‘discriminatory’; since ‘*there is no differentiation between this part and that part of the state of Israel*’ (Magid, 2018, para. 6-10). Delisting the accommodations of settlers by AirBnB would therefore be an infringement on the rights of settlers.

In an interview with Channel 12 before the 2019 elections, Prime Minister Benjamin Netanyahu stated the following: “*From my perspective, each of those settlement points is Israeli. We have responsibility [for them] as the government of Israel.*” (Staff, 2018, para. 4). This exemplifies how the plans to annex parts of the West-Bank are rationalized by using the frame of ‘equal rights’ for all Israeli citizens. By stating that the Israeli Government has ‘a responsibility’ for the settlers, since they are ‘Israeli’, Netanyahu lays out the argument for incorporating the settlements into the Israel. The fact that Strategic Affairs Minister Gilad Erdan urged the PM Netanyahu to legalize the outpost of Asa’el because it “*would do justice to its residents*” (Lazaroff, 2019, para. 5), also indicates that the settlers have a certain ‘right’ to be recognized as part of the State of Israel, *because* they are Israeli.

## 2) Using the idea of ‘rights’ ambiguously

The second way in which rights-based language is used, is the way in which the Israeli Government alludes to certain ‘rights’ in a more abstract way, often tied together with other arguments relating to (Biblical) history.

In 2017 legal center Adalah went to court in reaction to the adoption of the ‘Settlements Regularization Law for Judea and Samaria’ by the Israeli Knesset. In response, the Israeli Government listed a few arguments to defend its position, among which the argument that *‘it is the natural right of Jewish Israelis to live in this area’* (Adalah, 2018, para. 6). The idea of a ‘natural right’, a ‘historical right’ or a ‘Biblical right’ is often invoked to justify the presence of settlers in the West-Bank. The use of the term ‘rights’ is brought up in the context of another argument, but is often not specified in detail. In a 2019 video for the pro-settler *Sovereignty Movement*, Miri Regev, Minister of Culture and Sports, stated that there is room for only one-nation state between the Mediterranean and the Jordan, and that *‘therefore, national rights (...) belong exclusively to the Jewish nation’* (The Sovereignty Movement, 2019). This is an example of how the concept of ‘rights’ is used based on another premise; namely that ‘there is not enough room’, which is in itself a geographical argument. By not clearly defining what these ‘rights’ specifically mean, rights-based language is used in a loose manner to strengthen other arguments that are aimed at justifying its settlement-policies.

### **In which ways did the Israeli Government invert the nature of the relation between the Israeli settlers and the Palestinian natives, in order to justify its settlements-policies?**

The Israeli Government extensively uses the concept of ‘inversion’. While this happens in multiple forms, I have identified three recurring themes which relate to the inverted relation between the settlers and the Palestinians. Namely 1) the portrayal of the settlers as the natives through the use of the concept of ‘applying sovereignty’, 2) the portrayal of the settlers as the natives through the use of terms like ‘uprooting’ and 3) the use of terms like ‘ethnic cleansing’ and ‘ethnic purification’ to describe the eviction of settlers.

It is important to note that the Israeli Government does not regard the settlements as a form of colonialism, and often states that there is nothing wrong with settling in the OPT since it is part of the ‘Jewish Homeland’; this is often substantiated with historical and Biblical arguments. This line of reasoning was apparent in an interview with Minister Nafali Bennett by Al Jazeera’s Mehdi Hassan. Where Bennett stated that *‘peace will be achieved (...) not by carving out our tiny country and handing it out to our enemies’*. In a response to Hassan’s objection that ‘carving out their country’ actually meant withdrawing from illegally occupied territory, Bennett said *‘I guess what you need to do is change the Bible (...), because it’s all there’* and ending with the statement *‘you cannot occupy your own home’* (Al Jazeera English, 2017).

#### **1) The concept of ‘applying sovereignty’**

The first way in which the Israeli Government inverts the relation between the settlers and the Palestinian residents of the OPT, is by using the concept of ‘applying sovereignty’. There is a

strong push from certain parts of Israeli civil society to annex (parts of) the West-Bank, and to ‘apply sovereignty’ there, with organizations like the Sovereignty Movement playing a central role. ‘Applying sovereignty’ in practice means the extension of Israeli control over what is called ‘Judea and Samaria’.

The idea of ‘applying sovereignty’ is important because it alludes to the struggle for self- actually lies at the heart of the establishment of the human rights norm (Perugini & Gordon, 2015, p. 29). By framing the annexation of the OPT West-Bank as ‘applying sovereignty’, it is implied that Judea and Samaria should be part of Israel and this ties into the broader idea that these regions are part of a historical/Biblical Israel; and that it is therefore a form of liberation and/or justice if they are annexed. The annexation is then thus not the (illegal) appropriation of land, but a ‘return home’ to the State of Israel; it is a way to frame a process of colonization as a liberation struggle – a *‘redemption of all the lands’* as stated in the Nahala Declaration, signed by twelve Israeli Ministers (Ma’An News Agency, 2019).

In the aforementioned video by the *Sovereignty Movement* Agriculture Minister Uri Ariel states that *‘Israel’s sovereignty over its land has existed from the days of our father Abraham, and we, in this generation, are responsible for realizing the vision, the divine promise’* (The Sovereignty Movement, 2019). It is a clear example of how historical and religious narratives are fused into the broader claim that certain parts of the OPT actually *belong* to Israel and that annexing them is therefore not colonial in nature. The use of the idea of ‘applying sovereignty’ inverts the relation between the settlers and the Palestinian residents in the sense that it suggests that the annexation of the West-Bank is a struggle by settlers to return to the ‘original situation’, instead of regarding it as a process of dispossession of Palestinians.

## 2) The use of terms like ‘uprooting’

The second way in which the relation between the settlers and the Palestinian residents gets inverted is by using terms like ‘uprooting’ when referring to the eviction or settlements. Prime Minister Netanyahu has promised multiple times to not ‘uproot any settlements’. In an address during a ceremony marking ‘50 years of Jewish settlement in Samaria’, he stated *‘this is the land of our fathers, (...) there will be no uprooting of communities in the land of Israel’*. After Palestinian terror attacks in December 2018, Netanyahu said that *‘Palestinian terrorism thinks it will uproot us from here. (...) This place is the heart of our homeland.’*

In both instances the term of ‘uprooting’ is used in relation to the claim that there has been a long historical Jewish presence in Judea and Samaria; in this context the terror attacks are framed as a way the Palestinians are trying to expel Jews from their own (historical) lands; thereby inverting the relation between the settlers and the Palestinian residents. The term ‘uprooting’ thus implies that Jewish settlers are torn from a land that they have historically inhabited – where they have *‘deep and ancient roots’* (Israel in UN, 2019). It therefore further entrenches the idea that a native Jewish population is victimized by the Palestinian residents who want to drive them away.

### 3) 'Ethnic cleansing' and 'ethnic purification'

A third way in which the Israeli Government inverts the relation between the settlers and the Palestinian residents is by framing the decolonization of the OPT (and thus the eviction of the Jewish settlements) as an 'ethnic cleansing' or as 'ethnic purification'.

In a 2017 booklet published by the Ministry of Foreign Affairs titled *The Jewish Settlements* the Israeli Government makes the case that these settlements are not illegal and are not an obstacle to peace. In addition to arguments relating to international law and history, it is stated in the booklet that the Palestinians '*that Judea & Samaria should be cleansed from any Jewish presence*'. (Ministry of Foreign Affairs, 2017, p. 3).

The idea of 'ethnic cleansing' is often brought up in relation to the argument that there are also Arabs who live in Israel, and that 'nobody is calling for their expulsion'. This argument was made by PM Netanyahu during a 2015 interview with the American research and advocacy organization Center for American Progress (CAP), stating that '*there is this ethnic cleansing idea (...) why do we have in Israel Arabs living (...) yet the idea of a Palestinian State, it's got to be 'Judenrein'*' (seeprogress, 2015).

The difference being that the Jewish settlers do not become citizens of a Palestinian State, but are regarded as Israeli citizens; Netanyahu thus equates the existence of an Arab minority within the State of Israel with the expansion of Israel into the OPT. By using this frame; the situation gets portrayed as the Palestinians who are trying to expel the Jews and 'ethnically cleanse them'; instead of the Jewish settlers illegally settling in the OPT.

#### **Do the arguments by the Israeli Government based on human rights language play a central role in their justification of the settlement-policies?**

This last sub-chapter deals with the extent to which what I have defined as 'human rights language' has played a central role with regards to the Israeli Government's justification of its settlement-policies.

When it comes to the first operationalization of 'human rights language', I already mentioned that there were no specific references to 'human rights' or the UDHR. However, rights-based language has played a central role since it was used in at least 16 of the 35 statements. To what extent this can also be categorized under 'human rights language' and the *Human Right to Colonize*-discourse, will be discussed later.

When it comes to the second operationalization, it can be concluded that 'inversion' has clearly played a pivotal role in the justifications of the Israeli Government's settlement policies, since in at least 25 out of the 35 sources this way of reasoning was used. At least 25, because this inversion is not so much a specific argument, but more a general attitude towards the situation in the OPT. The Israeli Government does not see the construction of settlements as a process of colonization – but instead as a situation in which Israeli Jews rightfully inhabit their own historical/Biblical homeland. This makes it more difficult to determine precisely to what extent inversion has played a role; because this view in a way *underlies* all the justifications the Israeli Government makes for its settlement-policies. This also links to another complicating factor; namely the fact that the different types of arguments ('human rights'-based, historical, geographical, etc.) cannot be clearly separated from each other. They are often interrelated and

part of the broader narrative, but they do center around the idea that the Israeli settlers in the OPT are the native population and that they are being victimized.

What can also be concluded is that the inversion of the relation between the settlers and the Palestinians is mainly only focused on the position of the settlers. The position of the Palestinians is often described more ambiguously; sometimes their claim to the territory is also recognized; but at other times they are literally described as ‘invaders’.

Lastly it can be concluded that there was a relatively high level of coherence when it came to the use of human-rights language throughout the different statements by the Israeli Government. As can be seen in the frequent use of terms like ‘ethnic cleansing’/‘ethnic purification’ (at least 8 times) and the ‘application of sovereignty’, in addition to the recurring focus on equality between settlers and other Israeli citizens.

## Discussion & Conclusion

In this research I have tried to analyze the way(s) in which the Israeli Government has used ‘human rights language’ to justify its settlement policies in recent years. I have based ‘human rights language’ on the broader narrative of the *Human Right to Colonize* as described by Perugini and Gordon. It is therefore that I based the operationalization of ‘human rights language’ in this research on 1) references to terms like ‘human rights’ 2) and arguments which inverted the relation between settlers and Palestinians.

When it comes to the research itself there were several important factors which merit further elaboration. The first one has to do with the type of data I used. While I initially planned on mainly using type-1 data (official Government publications). It turned out that it was relatively hard to find appropriate data sources, this could partly be explained by language-barriers; but also because the sources that I found, were mostly technical in nature and did not offer extensive explanations and/or justifications of the positions that are stated in the text. There were a few useful sources that I used, the bulk of my sources however were of ‘type-2’ and one ‘type-3’ source.

By using mainly ‘type-2’-sources it became clear that ‘the Government’ cannot be seen as a unitary, monolithic actor. Different Ministers are highly involved in the debate around settlements, and sometimes made statements that contradicted those of other individuals, like those of the Prime-Minister; for example with regards to their view on the two-state solution. There is also a high level of internal dialogue within ‘the Government’ when it comes to its settlement-policies, as exemplified by the letter Minister Gilad Erdan wrote to PM Netanyahu.

Another complicating factor was the relatively large time-frame, since the statements of the Israeli Government have also been subject to changing contexts throughout the years. For example, the first explicit promise to annex parts of the West-Bank by PM Netanyahu only came in 2019 and was clearly linked to the national elections at that time. There has thus been a high level of influence of individual government officials and different time-frames with regards to what could be considered as the ‘Israeli position’ on settlements. The analysis of the use of ‘human rights-language’ by the Israeli Government should therefore not be read as a definitive determination of the level of adoption of a certain narrative; but more as a general



overview of how this narrative can be found throughout the different statements by the Government over the last few years.

To answer the research question I will summarize the findings and relate them to the *Human Right to Colonize*.

When it comes to the first operationalization of my concept, I have outlined how the terms like ‘human rights’ were not explicitly used, but that the Government made use of other ‘rights-based’ language; 1) the notion of ‘equal rights’ and 2) the ambiguous use of ‘rights’. The use of rights-based language can still be placed in the broader narrative of the *Human Right to Colonize*.

The fact that Israeli Government framed the situation of the settlers as ‘unjust’ because they do not have the same rights as *other* Israeli citizens can be related to the particularistic way the idea of rights gets applied – namely to one group, being the settlers. The ‘unjust situation’ is then used as a reason for the annexation of the settlements, taking the position Palestinians out of the equation. This ties into the broader concept of the ‘economy of human rights’ in which the concept of human rights are ‘allocated unevenly to different individuals and social groups’ (Perugini & Gordon, 2015, p. 15).

‘Human rights’ is not used literally; but the complaint about the settler’s lack of rights relating to basic necessities such as ‘sanitation and electricity’ by Israeli Ministers amounts to the same idea. PM Netanyahu at one point stated that the settlers ‘are human beings’ as the reason why they should not be evicted (see progress, 2015). This application of terms relating to ‘humanity’ and ‘rights’ are only used in relation to the position of the settlers – therefore being consistent with the logic of the *Human Right to Colonize*.

The second operationalization of the concept ‘human right language’ had to do with the inversion of the relation between the settlers and the Palestinians, and this has played a central role in the justifications by the Government of its settlement-policies in three concrete ways: the use of terms like 1) ‘sovereignty’, 2) ‘uprooting’ and 3) ‘ethnic cleansing’. The frequent use of the latter term is a clear manifestation of what Perugini & Gordon describe as ‘the specific moral economy of settler colonialism whereby unsettling is equated with injustice’. The use of terms like ‘sovereignty’ is also interesting, because it links to an intrinsic historical link between human rights and the concept of ‘a people’s/nation’s right to ‘self-determination’ (sovereignty) (Perugini & Gordon, 2015, p. 29); by presenting the goals of the settlers as a quest for ‘sovereignty’; their struggle is thus clearly framed as a struggle for ‘human rights’.

Aside from these specific cases, inversion cannot just be defined as a certain kind of argument, but it in fact underlies the complete frame through which the Israeli Government sees the situation. The centrality of the inversion of the relation between the settlers and the Palestinians to the narrative of the Government provides a clear similarity to the *Human Right to Colonize*.

The answer to the research question is thus that ‘human rights-language’ has played an important role throughout the justifications by the Israeli Government of its policies in recent years. Both operationalizations offered clear links with the *Human Right to Colonize*, overlapping in the way ‘rights’ are applied selectively and the position of settlers and Palestinians gets inverted. The use of ‘inversion’ is difficult to quantify because it underlies all the other arguments. Furthermore the term ‘rights’ was used ambiguously and arguments relating to human rights were highly interwoven with other arguments. The rhetoric of the Government can also not be seen separately from the rest of society – due to the important

influence of elections and the blurred line between ‘the settler movement’ and ‘the Government’.

This also has several implications for further research.

Firstly, the fact that there are multiple aspects of the narrative of the Israeli Government which could be related to the *Human Right to Colonize* seems to indicate that this narrative has been (at least partially) adopted by the Israeli Government. And even though this research demonstrates a clear link between the *Human Right to Colonize* and the rhetoric of the Government, this research does not analyze the dynamics that might have caused this. More research is thus needed to better understand the interplay between the Israeli Government and the settler lobby, in addition to a more historically grounded analysis of how the Government’s rhetoric has developed; this is necessary to determine if this ‘convergence of state- and nonstate actors’ has taken place in the way Perugini & Gordon have described it.

The other implications for further research have to do with the way in which the findings of this research tie into the broader discussion about the role of the state in relation to human rights and domination, specifically with regards to how Perugini and Gordon conceive ‘the state’ as being of central importance to this dynamic.

The ‘internal dialogue’ within the Government that I described earlier, shows that the Government has the capacity to consciously reflect on its own role. I have demonstrated how the Government inverts the relation between the Israeli settlers and the Palestinians and portrays the settlers as victims. But in doing this the Government often also ‘frames itself’ in different ways in relation to the settlers: being either the source of their suffering, their defender or their ‘co-victim’ (like after the terror attacks on settlers). Because the Government is a clear manifestation of ‘the state’, the Government’s level of ‘self-awareness’ can – at least to a certain extent – also be attributed to ‘the state’. This indicates that ‘the state’ has the ability to (re-)define itself – much like human rights, the meaning of ‘the state’ also gets interpreted and constructed locally. On an even more fundamental level, it seems to be the case that ‘human rights’ and ‘the state’ seem to be given meaning *in conjunction* with each other. Israeli Ministers speak about their ‘responsibility for the settlers’ and point out that the settlers should be given equal rights in comparison to *other* Israeli citizens – which is in itself a way of stretching the meaning of ‘the state’.

This ties into another finding of this research, namely the fact that narrative of the Government does not seem to be based on a consistent logic: The Israeli Government justifies its policies with a mix of legal, historical, Biblical and ‘human rights’-based arguments – which are often used to reinforce each other. The flexible way of using terms like ‘rights’ is dependent on the ‘flexible’ use of the meaning of ‘the state’; aside from being used to refer to the area over which the Israeli Government has full legal jurisdiction, it is also a ‘divine promise’ and a ‘historical homeland’, depending on which case needs to be made. This shows that not only ‘human rights’ get interpreted and contextualized locally; in order to do this the meaning of ‘the state’ also needs to get re-interpreted. It thus seems to be the case that both ‘human-rights’ *and* ‘the state’ are being used as rhetorical tools to advance a broader goal – namely continuing the process of territorial expansion. This complicates the notion of Perugini & Gordon that ‘the state’ somehow lies at the heart of the link between human rights and domination. Further research is thus needed into how the use of ‘human rights’-language is dependent on certain narratives surrounding ‘the state’.

This leads to a third point, namely the difficulty the concept of ‘inversion’ poses. This research has further confirmed the process of inversion as described by Perugini & Gordon

(2015), Perugini (2018) and Dudai (2017); in this case being utilized by the Israeli Government. Terms such as ‘ethnic cleansing’, ‘uprooting’ and ‘applying sovereignty’ are used to redefine an re-interpret whom might be considered a victim, and whom a perpetrator. This has implications for the solutions Perugini and Gordon offer in relation to ‘the future of human rights’ in the last chapter. In their view human rights should somehow ‘return to the people’ and be untangled from the legalistic frameworks they currently find themselves in. The defining divide should be between instances where human rights are used to further either domination or liberation (Perugini & Gordon, p. 136-138). Their definition of ‘domination’ is ‘a broad array of relationships of subjugation characterized by the use of force and coercion. Not all violence is domination, as exemplified by the anticolonial struggle, but the distinction is not specified in detail; and mainly seems to relate to the way violence is linked to state power (Perugini & Gordon, p.3-4). This link between domination and the state mainly manifests itself in the monopoly the state has over violence. When discussing inversion both Dudai (2017) and Perugini & Gordon (2015) seem to assume that the settlers are ‘not real victims’; mainly because the Government is helping them in practice; thus linking ‘victimhood’ as relational to the state; but if the state in itself also undergoes localized processes of redefinition; this might have implications for the way we are able to assess what is either ‘liberation’ or ‘domination’. Especially if the use of ‘human-rights’-language is also dependent on certain specific notions of ‘the state’; this might indicate that the role of the state in the ‘paradoxical link’ between human rights and domination might be more complex.

The criticism of Schimmel (2017) with regards to Perugini and Gordon’s narrow definition of ‘domination’ should thus not only be seen as a different point of view with regards to the normative side of the conflict, but it also touches on the risk that simplifying these concepts might pose. If too much emphasis is placed on ‘the state’ when defining ‘domination’; this possibly overlooks the way in which the state is itself also given meaning through these narratives which aim to ‘justify domination’. Essentializing a specific state, and states in general, as having an inherent tendency towards domination might in a way actually be an acceptance of the frame that has been created by narratives which use their concept of ‘the state’ to justify it. Further research is thus needed to better conceptualize the role of ‘the state’ in the context of the *Human Right to Colonize* and to see how, and to what extent it is subject to local processes of meaning-shaping. By offering an analysis of the use of human rights-language by the Israeli Government I have tried to contribute to a better understanding of 1) how human rights are being employed to justify the current settlement-policies by the Israeli Government and 2) how the role of ‘the state’ can be interpreted in this process.

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# Appendix

## Sources

<b>Source</b>	<b>Type of source</b>	<b>Operationalization</b>	<b>Key words</b>
<i>The Jewish Settlements</i> – Ministry of Foreign Affairs	Government Publication (1)	Type 2	‘ethnic cleansing’
<i>Nahala Declaration</i> – Signed by several Ministers	Other (4)	Type 2	‘not to cede one inch of our inheritance from our forefathers’; ‘redemption of all the lands’
Response to lawsuit by Adalah – Government of Israel	Other (4)	Type 1	‘natural right’
Interview with i24NEWS English – Prime Minister Netanyahu	Interview (2)	Type 2	‘ethnic cleansing’
Statement at Government Press Office – Prime Minister Netanyahu	Statement/Speech (2)	Type 2	‘ethnically cleansed state’; ‘uprooting’
Interview with Face The Nation – Prime Minister Netanyahu	Interview (2)	Type 2	‘ethnic purification’; ‘it’s their right’
Interview Channel 12 – Prime Minister Netanyahu	Interview (2)	Type 1 & Type 2	‘we have a responsibility for them’; ‘apply sovereignty’
Interview i.r.t. AirBnB decision with Israel Army Radio – Minister Gilad Erdan	Interview (2)	Type 1	‘there is no distinction between this part or that part of the State of Israel’; ‘discriminatory’
Letter to American Governors i.r.t. AirBnB decision – Minister Gilad Erdan	Other (4)	Type 1	‘Anti-semitic’; ‘Discriminatory against Israel’
Statement i.r.t. AirBnB decision –	Statement/Speech (2)	Type 1	‘discriminatory’

Minister Yariv Levin			
Speech at commemoration 50 years of Jewish presence in Judea and Samaria – Prime Minister Netanyahu	Statement/Speech (2)	Type 2	‘No uprooting of communities’; ‘the homeland’; ‘the home’
Public discussion with Chatham House – Prime Minister Netanyahu	Interview (2)	Type 2	‘why ethnic cleansing?’
Letter to Prime Minister Netanyahu – Minister Gilad Erdan	Other (4)	Type 1	‘Wouldn’t do justice’
Interview with Andrew Marr Show – Prime Minister Netanyahu	Interview (2)	Type 2	‘The idea that Jews cannot live Judea is crazy’
Interview with KenyaCitizenTv – Prime Minister Netanyahu	Interview (2)	Type 2	‘We have lived here for many years’; ‘why can’t Jews live here?’
Speech at settlement Beit Illit – Prime Minister Netanyahu	Statement/speech (2)	Type 1	‘They deserve a home’
Speech at Adam settlement – Prime Minister Netanyahu	Statement/Speech (2)	Type 2	‘Their will to uproot us from our country’; ‘they want to uproot us from here’; ‘their homes will be built and more’
Public discussion with Center for American Progress (CAP)	Interview (2)	Type 1 & Type 2	‘They are human beings’; ‘where does this idea of ethnic cleansing come from?’
Press statement – Minister Yuval Steinitz	Statement/Speech (2)	Type 2	‘Palestinian vision of cleaning, sooner or later, (...) Judea and Samaria, but the entire Palestine or the entire land of Israel from the Jews’

Public video address – Prime Minister Netanyahu	Statement/Speech (2)	Type 2	‘No one would seriously claim that the nearly two million Arabs living inside Israel – that they’re an obstacle to peace’; ‘It’s called ethnic cleansing’; ‘Would you accept ethnic cleansing in your state?’ ‘Societies that demand ethnic cleansing don’t pursue peace’; ‘their ancestral homeland’
Press Statement covered by TV7 Israel – Prime Minister Netanyahu	Statement/speech (2)	Type 2	‘They are trying to uproot us’; ‘heart of our homeland’
Speech at commemoration 50 years of Jewish presence in Judea and Samaria (2) – Prime Minister Netanyahu	Statement/Speech (2)	Type 2	‘We have lived her forever’; ‘no uprooting’
Interview with AlJazeera UpFront – Minister Naftali Bennett	Interview (2)	Type 2	‘carving out our tiny country and handing it out to our enemies’; ‘you cannot occupy your own home’
Statement at cabinet meeting	Statement/Speech (2)	Type 2	‘would break our spirit’; ‘allow to continuation of normal life’
Promotional Video by the Sovereignty Movement – Multiple Ministers	Statement/Speech (2)	Type 1 & Type 2	‘National Rights’ ‘Apply sovereignty’
Interview with Arutz Sheva TV –	Interview (2)	Type 1 & Type 2	‘our right over our father’s lands’; ‘our rights



Minister Yariv Levin			of Judea and Samaria' 'our historical rights'
Press statement – Minister Naftali Bennett	Statement/Speech (2)	Type 1	'citizens and residents of Judea and Samaria do not enjoy the same rights that people enjoy in Tel Aviv'; 'An Israeli, is an Israeli, is an Israeli'
Interview with Arutz Sheva TV – Minister Naftali Bennett	Interview (2)	Type 1 & Type 2	'it 's time that 4500000 Israelis are treated equally'; 'it's time to apply Israeli sovereignty'
Interview with Arutz Sheva TV – Prime Minister Netanyahu	Interview (2)	Type 1 & Type 2	'I do not abandon them'; 'I'm not going to tear any Jew out'
Speech at Legal Forum of Israel in defense of the Norms Bill – Minister Ayelet Shaked	Statement/Speech (2)	Type 1	'Conditions need to be equal'; 'there are basic laws that do not apply in Judea and Samaria'
Interview with CNN – Minister Naftali Bennett	Interview (2)	Type 2	'We are not occupying any land'; 'one cannot occupy their own home'; 'this has been our home forever and this will be our home forever'
Interview with Arutz Sheva – Minister Yariv Levin	Interview (2)	Type 2	'those who want to expel us from our land'; 'there is terror because they want to expel us from our land'
Interview with i24NEWS English – Minister Uri Ariel	Interview (2)	Type 1 & Type 2	'from the Jordan River to the sea is the land of the Jews'; 'It is our right according to

			the Torah'; 'Why don't we have the same rights as the citizens in Jaffa'; 'this is our home'; 'we are not giving up our rights'; 'Let's assume your neighbor invades your home'
Interview with Arutz Sheva TV – Minister Yisrael Katz	Interview (2)	Type 1	'the word 'freeze' should be removed from the agenda it (...) causes injustices in all areas of life'
Statement at UN Security Council – UN Ambassador Danny Dannon	Statement Israel International Body (3)	Type 2	'The Jewish people's rightful ownership of Israel is well-documented throughout the Old Testament and beyond'; 'the Jewish people's deep and ancient roots in the Land of Israel'; '(...)the Bible paints a consistent picture. The entire history of our people, and our connection to Eretz Yisrael, begins right here'