REVIEW ARTICLE

REVEALING THE PAST – BREAKING WITH SILENCE: THE YEMENITE BABIES AFFAIR AND THE ISRAELI MEDIA

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'I come from there. I render the sky unto her mother
When the sky weeps for her mother.
And I weep to make myself known
To a returning cloud.
I learnt all the words worthy of the court of blood
So that I could break the rule.'
        Palestinian Poet Mahmoud Darwish, 'I Come From There'

Prologue

'The struggle against power is the struggle of memory against forgetting'
(Kundera 1999: 4)

Bell Hooks wrote about the ways by which black women have been indoctrinated, from elementary schools to higher education, to accept, admire and further 'perpetuate both consciously and unconsciously the very evils that oppressed [them]' (Hooks 1981: 120), thus, implementing in their 'psyches a seed of the racial imperialism that would keep [them] forever in bondage' (Hooks 1981: 121). How can, then, she eloquently asks, 'one overthrow, change, or even challenge a system that you have

been taught to admire, to love, to believe in?' (Hooks 1981: 121). This notion of resistance, challenging and breaking with oppressive hegemonic indoctrinations, is what I consider to be at the heart of Shoshana Madmoni-Gerber's (hereinafter: 'Shoshana'[1]) book, *Israeli Media and the Framing of Internal Conflict: The Yemenite Babies Affair.*

Shoshana's book raises many important themes, such as the interplay between the personal and the political, the politics of identity; the unique case of internal racism and Orientalism within Jewishness; the formation and framing of such a conflict; 'the collective memory within Israeli society' (p. 11); and the roles played by public institutions in preserving and further reproducing the racial foundational ethos upon which this conflict rests. Each of these themes deserves deeper analyses that go beyond the scope of this essay. I decided to focus instead on the theme of resistance, which I consider to be the core theme of Shoshana's book. Let me first briefly describe Shoshana's main argument.

Shoshana tells the story of the Yemenite-Jewish babies kidnapping affair. After the establishment of Israel, and particularly during the late 1940s and early 1950s, 'hundreds if not thousands of babies disappeared from immigrant absorption camps and transit camps throughout Israel and from the transit camp, Hashed, in Yemen' (p. 1). The babies were taken away from their parents without their consent. They were usually taken to the hospital 'despite parental assertion that the child was healthy' (p. 2). In cases where parents 'were present and refused to consent . . . camp authorities forcefully took their children from them, even acting with violence' (p. 2). Later, the babies were sent to various institutions in Israel. 'The parents were told that their baby had died' (p. 2). Indeed, this atrocious story involved mostly Yemenite Jews. It is, nevertheless, embedded in a larger context of racism and discrimination directed against Mizrahi Jews as a whole.

Mizrahis, Jews of Arab/Muslim descent, were brought[2] to Israel after its establishment. Like Palestinians, they are one of the poorest and most

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1 It is common place in academic writing to refer to authors by their surnames. However, using this gender-blindness/'neutrality'-based praxis usually results in concealing the gender dimension of the author herself. Therefore, being a feminist legal theorist, I have decided to refer to the author by her first name, Shoshana, giving visibility to her gender.

2 It is important to note here that the usual term used for describing the arrival of Mizrahis to Israel is 'immigrated'. Instead I use the term 'brought' to imply the passive role that they played in their decision to come to Israel. The term 'immigrated', revealing a colonialist rhetoric, portrays the Mizrahis as people who actively decided to immigrate to Israel, as the land of the Jews, and consequently, conceals the dialectic Zionist rhetoric that preceded their 'decision' to come to Israel. Mizrahi Jews were never part of the Ashkenazi Zionist enterprise. Zionism is based on a Eurocentric ideology, marking a dialectic discursive binary between the enlightened and their counter-primitive Oriental Others.

underdeveloped communities in Israel, a community which endured, and still does, structural and institutionalised discrimination by the Ashkenazi (Jews of European descent) establishment.

They are a social and cultural category that was invented by Ashkenazi Zionism in the same manner that Orientalism (Said 1979) was invented by the colonial West. The Mizrahis have suffered from a forced cultural erasure and assimilation, by which they had to deny their inner 'selves' and to deconstruct their identity from the 'there' – the 'old' world'. Perceived as pre-modern and decadent, lacking whiteness and devoid of the prerequisite features of the 'utopian-Jewish-archetype' suitable for taking part in the Zionist enterprise, Mizrahis were, thus, subjected to racist-Eurocentric mechanisms of discrimination encompassing every aspect of their lives. They were dehumanised as barbarous 'Schwartze-Chaies' (Black Animals in Yiddish). Strikingly, though not surprisingly, considering the wider context of subordination whereby whiteness and blackness are not merely colors of skin, Mizrahis were compared by David Ben-Gurion to the black slaves who were 'brought' to America.[3]

It must be emphasised that it is not my intention here to cover the vast discussion over the entire injustices and discrimination that the Mizrahis had, and still have, to endure. These are well academically supported and bureaucratically documented. The oppressive processes of exclusion and marginalisation that the Mizrahis confronted once brought to Israel are complex and go far beyond the scope of this essay. Suffice to say at this stage, however, that the oppression encompassed every aspect of

It aspired to become the Jewish replica of Eurocentrism, creating a New Hebrew Man, an enlightened, superior, modern and secular Jew. Zionist enterprise aspired to create a little Europe in the middle of the Levant, secluded from the dangers posed by the Orient. The Zionist vision, using an 'inclusive-exclusive' rhetoric, aspired to create a Jewish state for the European Jews that would be their refuge and asylum from European anti-Semitism. The new Jewish nation for Herzl, wrote David Ben-Gurion, was in effect designed solely for the European Jews (Ben-Gurion 1964) whom Herzl thought to be appropriate for carrying his Zionist vision. The 'Other' Jews of the Orient, that is, Mizrahis, were explicitly excluded from this vision (See Chetrit 2004: 49; also: Chetrit 1992). Never-theless, as the Eurocentric West needed to invent the 'Oriental Other' in order to construct its distinctive identity, justify its own existence and legitimize its hegemony and 'privileges and aggressions' (Shohat 1988: 1, 2), Zionism, being a local replica, needed to produce its own 'private' and particular 'pre-modern and deviant oriental'. Moreover, confronting a massive shortage in 'working hands', Zionism needed another 'other', a cheap labor Jew, a proletarian, that would be able to 'take the place of the Arabs' (Massad 1996: 54) and to work instead of, or more accurately to work for, the Ashkenazis. The Mizrahis were 'the perfect candidates' and became an alternative potential source of immigration. Mizrahis, then, were not part of the Zionist enterprise. But, nevertheless, they became the sole means for implementing and achieving this vision. Therefore, Mizrahis cannot be portrayed as immigrating to Israel. They were brought to Israel to be used as cheap labour.

3 Ben-Gurion 1964: 23); Shohat (1988: 1, 5), citing Segev (1984).

the Mizrahis lives and was manifested in (lack of) access to education, employment, monetary resources and housing.[4]

Zionist leaders such as Ben-Gurion tried to portray the bringing of the Mizrahis as an heroic endeavor, saving and rescuing them (Shohat 1988: 13, 16) from elimination by 'Hitlerite means' (Shenhav 2006: 31). They were 'represented as in need of rescue from their Levantine countries of origin, redeemed from their Middle Eastern culture' (p. 3). They were perceived as third-world children deprived of the parental capacity to control their lives without 'the benevolent help of the more 'adult' and 'advanced' societies' (Shohat 1997: 9). 'This view of the Mizrahim', argues Shoshana, perceiving them as 'incapable' and 'underprivileged[,] turned them into infants in the eyes of the Ashkenazi absorbers; thus, taking over every decision regarding Mizrahim and their children seemed natural' (p. 4). Taking this view, then, there is no wonder that some of the people involved in the kidnappings thought that 'maybe we did them a favor' (p. 12). It is within this larger context of racism and patronage that the kidnapping of the Yemenite babies is rooted.

In her work, Shoshana examines 'these issues as evident in mainstream media discourse on the Yemenite Babies Affair'. By focusing on the media's coverage of the affair, she explores 'the narrative of the affair and discuss[es] its effects on the future of Israeli society'. Shoshana, then, examines the role that the Israeli media played in framing the Mizrahi–Ashkenazi conflict vis-a-vis the babies affair. She argues that the media have preserved, perpetuated and further reproduced the Zionist ideals in which the babies' affair is located. The media, she argues, 'played an active role in silencing the Affair' (p. 14). She shows how the 'media networks through the framing and silencing of the Affair ultimately worked to maintain the facade of Jewish unity' (p. 12). For example, the media have disconnected the personal stories of the kidnapping and the political and collective context of Zionist hegemony in which they were embedded; they have silenced any competing narratives and critical voices.

In particular, Shoshana discusses the story of Rabbi Meshulam's revolt. In 1994, Rabbi Uzi Meshulam and few of his followers 'protested against the Israeli government's handling of the Yemenite Babies Affair' (p. 158). They 'wanted the Israeli government to establish a public investigative commission to investigate the Affair' (p. 158). The police, guided by vast public hostility, 'mounted an armed attack' on the protesters, and after more than a month of 'police and army troops surround[ing] Meshulam's house . . . they attacked and killed a 19-year-old follower of Meshulam' (p. 158). Rabbi Meshulam and others were arrested and convicted, each

4 For further discussion of Mizrahis' discrimination and its effects on their stratification including data, Saporta and Yona (2004: 251–75); Bernstein and Swirsky (1980: 5–66); Swirsky (1981).

serving prison sentences. Shoshana shows how the media's coverage was negative. Their 'played a significant role in shaping public perception of the Yemenite Babies Affair'. They portrayed Rabbi Meshulam as insane, and ignored the deep context in which his protest was embedded. The media shifted the focus from the political aspects of his protest to his 'disturbed' personality. This, she argues, 'is crucial to the Kidnapped Babies Affair' (p. 166): It 'was an effective way to dehumanize him and depict him as a danger to society' (p. 166).

As a feminist legal realist theorist, I find her book to be a pioneering document both academically and symbolically. It challenges three main interrelated and established themes, which I consider to be central in the process of post-colonialist writing: the academic importance of the substance researched and the methodologies deployed, the symbolic significance of who is writing and the notion of resistance.

1. Mizrahis as Present Absentees: The Importance of the Subject Researched and the Methodologies Deployed

'Madmoni-Gerber tells a shocking story that nobody wants to hear.'[5]

Why Do Mizrahi Issues in Israel Matter?

Shoshana's book challenges the marginalisation of Mizrahi issues in academic writing. It is an innovative intellectual attempt to reveal and expose the racism directed against Mizrahi Jews by the Ashkenazi establishment in Israel. In particular, it brings to the fore the Yemenite babies affair, which is one of the darkest, most shocking and atrocious, and yet one of the most silenced stories in Jewish-Israeli official narrative and history. Not much was written, to say the least in English, about such an affair which most Israelis, especially formal state institutions including academia, led to silence, or at best to consider as 'something' that happened, or may have happened, if at all, in the past. There was a refusal to acknowledge its racist roots, its gravity and its atrocious effects which persist until today. This is not to say that there have been no academic writings about Mizrahis. On the contrary. Perceived solely as the subject of research, as the oriental Others, the Eurocentric inferior alter-egos of the Ashkenazis, trapped within the Eurocentric dialectic-binary of researchers and researched, Mizrahis have always been at the center of 'academic' studies.

Nevertheless, for reasons that I will discuss further below and most of which are discussed in Shoshana's work, the affair has never been considered as a viable subject to be officially investigated or even

5 James E. Young, University of Massachusettes Amherst, the back cover of Shoshana's book.

academically researched. This was particularly the case for Mizrahi scholars, who are almost invariably stereotyped as biased and subjective, and all the more so for critical ones, who might raise alternative narratives that would compete with the official national ethos. Shoshana, on the contrary, resists the Ashkenazi code of silence and breaks with this taboo by writing about the taboo itself. One can understand how, in a state, where babies are kidnapped from their parents, a state which, nevertheless, refuses to confront its own dubious past and start an important and brave dialogue and subsequently a process of reconciliation, not many scholars find such a subject matter to have any academic merit and significance.

The Methodologies Employed

> 'Whenever a new nation enters into a critical reexamination of its past, it will also adopt methodologies that produce a critical history of law.' (Horwitz 2002: 415)

Shoshana's critical research of a silenced story is inherently linked to the methodologies that she employs in her research. One of Shoshana's main criticisms concerns the 'privatisation' of the affair by the media. Instead of placing the affair on an ongoing historical continuum that emphasises the correlation between past and present, the media decontextualised the affair by isolating its personal narrative from its political and collective context. What is interesting here is the interplay between substance and methodology: Shoshana criticises the media's decontextualisation of the affair by doing exactly the opposite, applying what she argues to be lacking from that coverage, that is, the collective historical context. She uses, then, contextual-based methodologies, especially 'a cultural studies approach' (p. 12), substantially to 'fill' in the void in the national memory.

Shoshana's writing is influenced by communitarian perspectives and critical race methodologies, advocating contextuality (Minow and Spelman 1990: 1605) and 'race consciousness' (Peller 1995: 127; Wilkins 1998: 57). These methodologies reinforce the importance of contextual group identity analysis of 'individual' socio-legal and cultural phenomena, and advocate the location of a 'singular' and 'private' case within a larger community based framework. Shoshana contests the interpretation of social ills in a vacuum, the viewing of the affair as a personal–based issue 'discrete from any larger cause or group' (Hilbink 2004: 672) and lacking 'a complex, particular, and historical context' (Peller 1995: 127, 130). For example, in the introduction of her book she connects her personal narrative as a Yemenite Jew to the collective context in which it is embedded. What started for her as a child, as a personal family story of her aunt Hammama whose child was kidnapped, became after years of research a collective story of the Yemenite community in particular and of

the Mizrahis in general. Similarly, chapter 1, entitled 'Present but Absent: Official Narratives and the Untold Mizrahi History', outlines in depth the general context in which the babies affair is located.

Despite the fact that the babies affair has been silenced and marginalised, lacks visibility and recognition, and confronts a firm and strong official state refusal to acknowledge it, Shoshana displays not only intellectual originality and depth of research, but, also courage. She contests the silence by writing about it and breaking it. In this sense the book is both a means for breaking the silence and an end in itself, giving a voice. This notion of courage leads me to the second theme which the author challenges. That is, the identity of the writer.

2. The Identity of the Writer

'Who controls the past controls the future; who controls the present controls the past.'[6]

George Orwell, *Nineteen Eighty Four*

Shoshana is a Mizrahi–Yemenite scholar. She is a member of the community about which she is writing. This is not a trivial detail. It touches what I consider to be one of the corner-stones of the colonialist ideology, that is, the identity of 'who speaks'.

In colonial regimes, using Frantz Fanon's words, it is '[t]he settler that makes history and is conscious of making it' (Fanon 1963: 51). It is the coloniser who is in charge of the task of 'story-telling'. The Israeli official narrative has been portrayed from an androcentric, Euro-Ashkenazi standpoint ignoring Mizrahi (and Palestinian) history. When made the subjects of academic research, Mizrahis are usually studied by Ashkenazis who mostly write from their own Eurocentric-'scientific' vantage point. The few 'fortunate' Mizrahi women scholars who dare to challenge the researching-researched binary, taking the role of storytelling from the point of view of the oppressed and writing about Mizrahis, are almost invariably stereotyped and marginalised as political, demagogical and ideological. As Angela Davis suggests, they are perceived as 'more like a preacher than a scholar' (Davis 1994: 427). It is a commonplace fact 'that any work done by a [Mizrahi] person about [Mizrahi] issues [is] not acknowledged as "real scholarship"' (Davis 1994: 427).

Risking her own intellectual reputation, Shoshana not only breaks the taboo of writing about silenced issues and marginalised people, but also resists Mizrahi exclusion by 'squatting' into the 'formal archives' of history and challenging the official story. She takes the task of 'story-telling', deconstructs and decolonises it by creating a counter-history that

6 Orwell's *Nineteen Eighty Four*, cited by Teitel (2000: 95).

competes with that of the official Israeli story. In this sense, I think that being committed to revealing the contexts that underlie the social and legal inferiority of minorities, and explaining their social and political actions, the author reveals a unique form of academic resistance, compatible with her own writing about the Yemenite resistance, particularly that of Uzi Meshulam. She is resistant by writing about resistance.

Coming from a country where Mizrahis are hardly represented in higher education, and almost absent from academia, I think, that Shoshana's work is more than an academic endeavour. It is a fascinating deconstructive project. The author, especially by offering her alternative interpretation of the Uzi Meshulam revolt, perceiving it as a viable form of resistance and not merely as a crime, reverses the equation of who is researching whom. Following Monique Wittig, she deconstructs the subordinated image of the Mizrahis from being 'objects of oppression', about which researches are conducted, to being 'active subjects' (Wittig 1992: 16) that is, becoming the researchers of themselves. She creates what Monique Wittig calls a 'science of oppression' (Wittig 1992: 19) by which she reevaluates and reorganises Mizrahis' social world 'from the point of view of the oppression' (Wittig 1992: 19).

As a feminist legal theorist for whom the personal is the political, I think that Shoshana's personal/professional narrative is a crucial factor for understanding the importance of her book. As I wrote above, Shoshana is a Mizrahi–Yemenite woman, second generation, her parents having been brought to Israel after its establishment in 1948, and confronting entrenched institutional discrimination. Shoshana begins with an introduction entitled 'The Personal, The Political and the Theoretical', where she tells a personal/political story about her aunt Hammama whose baby boy was kidnapped and 'disappeared, never to be seen again' (p. 1). She was raised listening to this and other similar stories, breathing in what later became apparent to her as a national tragedy. As she eloquently writes in her introduction, it was 'only years later did [she] understand the magnitude and ramifications of this traumatic event' (p. 1). It was only after years of 'extensive research and interviews with dozens of families and activists' (p. 1) that she could understand the lager political and collective context in which her 'personal' story was rooted and from which it has stemmed. It was then that her personal became her political leading eventually to the formation of the theoretical. She was then provided with theoretical frameworks by which she could put into words what a minority woman such as herself has carried intuitively and personally.

Writing about affirmative action in legal academia, Duncan Kennedy argues 'that minority communities can't compete effectively for wealth and power without intelligentsias that produce the kinds of knowledge . . . that will help them get what they want' (Kennedy 1990: 713). At present,

Shoshana is considered to be one of the few 'fortunate' Mizrahi women scholars who has managed, relatively, to resist the institutional obstacles depriving them of any access to political, social and monetary resources, and preventing them from acquiring higher education. Moreover, she is one of the few Mizrahis involved in critical and historical analysis of socio-legal and cultural phenomena concerning minorities in Israel. Her work, then is a valuable source of reference in itself, giving voice not only to the subject, and subjects, of research, but also to future Mizrahi scholars who are looking for a voice. Her work allows them to locate their personal narrative in a wider political continuum, and then further to conceptualise and translate it into an established theory. She produces a kind 'of knowledge . . . that will help them get what they want' (Kennedy 1990: 713).

With this I now proceed to discuss what I have recognised as the central theme of Shoshana's book. That is the notion of resistance.

3. Resisting the Present, Revealing the Past: Mizrahi Intifadas and Revolts (Wadi Salib in 1959, the Black Panthers in 1971 and Rabbi Uzi Meshulam in 1994)

'No longer is the "savage" in the disciplinary backyard or front lawn. She has invaded the "home" *Here,* fissuring it in the process.' (Smadar Lavie and Ted Swedenburg (1996: 154, 158)

As a legal theorist I write, amongst other things, about decriminalising lawbreaking, especially when committed by aggrieved minorities. I offer an alternative interpretation to lawbreaking, perceiving it as a viable language, as a legitimate form of resistance, invoking greater principles of justice, capable of challenging the law and aimed at correcting past/present injustices. I focus on constructing a new socio-legal approach towards lawbreaking, approaching it from wider historical and contextual-based perspectives. As such, I found chapter five most appealing and important. Since I criticise in my work the law and the courts' roles in subordinating minorities, I was particularly drawn by Shoshana's criticism of the media's coverage of both Rabbi Meshulam's and other Mizrahi protests. I found her own alternative interpretation of these acts, as acts of resistance, most appealing and important.

In chapter 5 Shoshana writes about Rabbi Meshulam's revolt which started on 10 March 1994. Rabbi Meshulam contested both the kid-nappings themselves, revealing the racial ideology on which they were founded, and the institutional code of silence surrounding them. Never-theless, and despite the larger context of institutional discrimination in which the affair was embedded and against which the protest was directed, and despite the greater social cause and principles of justice and equality

that the protest sought to invoke, the revolt elicited vast public alienation and animosity. It was portrayed in the Jewish-Israeli national memory as a mere manifestation of crimes and violence, that is, as mere riots.

Shoshana focuses on other examples of Mizrahi rebellions, such as the Wadi Salib rebellion in 1959 and the Mizrahi Black Panthers Rebellion in 1971, all protesting against inequality and institutional discrimination, but which, nevertheless, are all referred to as criminal riots. As the author eloquently writes:

> The resistance . . . was rarely noted as such in public discourse . . . Wadi Salib provoked a well-crafted response by the establishment designed to delegitimize the impact of this political act to nothing but a violent action that reportedly threatened the country's unity . . . the Wadi Salib and the Black Panthers riots were dismissed by the press and the government as 'expressions of violence-prone Moroccans'.
>
> They were never perceived to be protests for social justice or people pursuing the right to basic necessities such as running water. (p. 161)

She then continues:

> Similar to the depiction of Wadi Salib, and the Black Panthers, Rabbi Uzi Meshulam's ideological claims about the Yemenite babies affair were mostly absent from the public sphere. Like Mizrahi protesters before him, Rabbi Meshulam's acts were considered violent and a threat to democracy. (p. 165)

In particular, Shoshana examines the role played by the media during Meshulam's revolt. She argues that similar to previous revolts, such as the Wadi Salib and the Black Panthers uprisings, '[w]ith the exception of some fair representation in the newspapers . . . newspaper coverage had been inconsistent and negative. Most articles were placed in the criminal section of the newspaper, which served to further label the protesters as criminals rather than political activists' (pp. 162–163).

Shoshana criticises the media for its biased role, and argues that '[t]he media coverage of this affair exemplifies the Israeli media's appointed role as defender of public unity rather than a watchdog for democracy and justice' (pp. 13–14) She argues that the media functioned as the guardian in charge of surveillance of the state's (and its own) official story. As she aptly puts it:

> By deliberately introducing potentially explosive material as questionable or vague, or simply burying and ignoring it altogether, the media maintained Zionist hegemony and played an active role in silencing the Affair. As a natural consequence, the media was instrumental in shaping both the meaning and public memory of this Affair. (p. 14)

Moreover, instead of placing the struggle on an ongoing historical continuum that emphasises the correlation between past and present,

the media privileged 'knowledge based on schematisation, isolation, and decontextualisation over knowledge grounded in experience and context' (Shamir 1996: 233). They decontextualised the revolt by isolating the personal narrative of the struggle from its political and collective context. As Shoshana observes, relating to the babies affair in general:

> 'Broadcasts and newspaper articles deliberately or subtly, remind audiences that Yemenite Jews are a distinct ethnic community and the Babies Affair is their own distinctive problem, While the story of the Babies Affair received coverage, at times even extensive, the reports lacked urgency and a call for action; they focused on a Yemenite story keeping it distant from the national agenda. Furthermore, despite attracting some attention, especially in the mid-1990s, and public sympathy for individual stories, the Affair never gained enough political momentum to bring about a fair investigation.' (p. 13)

The media concentrated on decontextualising, isolating, dividing and separating (Shamir 1996: 233) these Yemenite 'chaotic narratives', treating history and reality 'as a series of distinct moments and not as an ongoing process' (Shamir 1996: 233). These people have no distinct history with unbounded continuity (Shamir 1996: 234). They are entrapped behind what Ronen Shamir calls 'conceptual grids' (Shamir 1996: 231, 235), treated 'as clusters of autonomous individuals who should be readily identified and located in time and space' (Shamir 1996: 234).

Furthermore, not only was the revolt stripped of its collective features, but the media, guided by notions of Eurocentric ideology, perceiving 'the savage' as an object to be tamed, 'established a common understanding of the conflict's central figure as irrational' (p. 165). The people involved, and especially Rabbi Uzi Meshulam, were ridiculed and stereotyped as crazy and insane. The media, Shoshana further writes, almost completely ignored the kidnapped babies story by focusing on Meshulam's unstable personality . . . [Meshulam's] 'evil' personalit[y] [was] . . . constructed by the media and used against [him] as a way to dismiss [his] claims. [He was] perceived as unstable an Oriental . . . the media oversimplified these conflicts and reduced them to nothing but one crazy man's act' (p. 165).

Shoshana reaches an important conclusion, arguing that Mizrahi resistances in general, and in particular that of Rabbi Meshulam, 'were not perceived to be motivated by political or social agendas or by the demands for equality in the public sphere. Rather, they were mostly represented as displays of violence that were endemic to the primitive Arab character of Mizrahi protesters' (p. 160).

This observation is very important. In what seems as purely intuitive, Shoshana summarises what is considered to be the essence of the concepts of resistance and civil-disobedience in socio-legal philosophy and jurisprudence. Civil-disobedience has become an important means

for exercising ones' moral and political convictions against what is presumed to be unjust law or policy. It is an important medium by which certain criminal, but nevertheless justifiable, acts can be tolerated, not attracting the same legal condemnation that usually accompanies 'ordinary' lawbreakers. Despite conceptual variations in the scope of its definition, we can draw a general 'formula' that for the purpose of this essay can be presented as follows: for an act to be civilly disobedient it should be non-violent, overt, featured by openness and public visibility and be rooted in deep political awareness and consciousness, and accompanied by a willingness to bear the consequences of disobedience, such as arrests, criminal charges and convictions.[7] These are somewhat heroic acts of resistance, committed by politically involved people, motivated by greater moral and political causes that may be justified in challenging and eventually repudiating unjust laws or policies.

Nevertheless, whilst the act of civil-disobedience is aimed at correcting unjust laws or practices by breaking the law, it should nevertheless be done 'within the limits of fidelity to law', (Rawls 2003: 322) recognising and accepting, using John Rawls' words, the legitimacy of the constitution (Ibid: 319). The emphasis, then, is on a rigid distinction between acts that are merely criminal, motivated by self-interest and selfishness (Dworkin 1985: 105) and acts that are indeed unlawful but are nevertheless justifiable since they are motivated not by greed or self-serving (Markovits 2005: 1898) but rather by greater moral and political causes invoking principles of justice and social good for the greater society.

Reading about the Uzi Meshulam revolt in the book, one could easily observe that the revolt complied with the prerequisite criteria of civil-disobedience: It was non-violent, overt, featured by openness and public visibility, was rooted in deep political awareness and consciousness, and accompanied by a willingness to bear the consequences of disobedience, such as arrests, criminal charges and convictions. The protesters were politically involved people, motivated by greater moral and political causes entailing deep political mores and invoking larger principles of equality and justice.

The question now to be asked is why were the media reluctant to characterise their acts as resistance, and acknowledge both their legitimacy to resist and the context against which they protested? There are several possible reasons, some of them discussed in Shoshana's book. I believe that the main reason is that acknowledging the protests as resistance and their Mizrahi narrative would jeopardise and threaten the core pillars

7 John Rawls, for example, defines civil disobedience as 'a public, nonviolent, conscientious yet political act contrary to law usually with the aim of bringing about change in the law or policies of the government' (Rawls 2003). For further discussion on civil disobedience, see: Thoreau (1993); Bedau (1961: 653–661); Bickel (1975).

of the Ashkenazi ethos, and in particular the alleged notion of Jewish unity.

In Israel, Shoshana observes, 'unity has often been perceived to be sacred – something that must rise above any conflict or controversy. Attempts to deconstructs this unity have historically been seen as efforts to fragment Israeli society' (Madmoni-Gerber 2009: 12). By pointing at the discriminatory nature of the Ashkenazi establishment, the protesters undermine the all-Jewish-unity pretence that Israel has created and sought to preserve down the years, portraying itself as a single nation with its struggle to survive against 'the Arab threat'. Legitimising the Mizrahi narrative of exclusion and exploitation in general and the Yemenite one in particular 'forces an examination of such concepts as justice, power, violence, and human rights as it challenges the Zionist notion of rescue and unity' (p. 12).

Moreover, I think that the protesters endanger and threaten to undermine the Israeli meta-foundational and constitutional principle of 'Jewish and Democratic'. Their protest illuminates the problematic definition of 'Jewish and democratic' not from the outside such as with the Palestinians, but rather from the inside. They point at a different inconsistency not only with regard to the contradictory relationship between the 'Jewish' and the 'democratic', but also with regard to the deep and inner undemocratic praxis *within Jewishness.* Being created by this inner undemocratic praxis, they start to deconstruct their subordinated 'otherness' in the course of which the intra-Jewish undemocratic nature of the Zionist enterprise in revealed.

The media, however, are committed to preserving their 'appointed role as defender of public unity' (p. 13) They operated as the 'long arm' of the state, and decontextualised and further silenced the motivations of these protests, and thus prevented the deconstruction of the stolen national memory. They further buried what Uzi Meshulam sought to reveal.

The media are not the sole institution in charge of policing the national memory. The law is another disciplining medium. Indeed, Shoshana examines the formative and constitutive role played by the media in the formation of the Jewish–Israeli internal conflict. Nevertheless, her exploration of the media bears larger and broader interdisciplinary implications, raising questions which apply to other different disciplines, such as the legal sphere. Taking a Foucauldian approach, the media are one regulatory mechanism alongside others,[8] most of which are based on, and created by, the prevailing hegemonic ethos. They are designed to facilitate the latter's control and expansion, and are used, despite their neutrality

8 For further discussion on the role of regulatory mechanisms such as the law in the structure of power, see, for example, Foucault (1976).

and objectivity pretence, for preserving and further reproducing the underlying constitutive ethos and its racial foundational basis.[9] The law is another powerful institution used for entrenching the powers of the ruling order, from which it derives its own validity and power.[10] It is, therefore, important for me to broaden Shoshana's criticism of the media by briefly reflecting on the role played by the law. My alternative approach to law will enable the reader to understand the depth of Shoshana's criticism.

The law in most Western Jurisprudences is based on, and committed to preserving, libertarian values and legal formalism. As such, it is to certain extent, especially in a Rawlsian sense, a-historical and isolated from exogenous socioeconomic contexts. The law perceives and understands itself internally as closed set of rules. Alternative textual sources of law, such as contexts, narratives and stories are usually discarded, especially ones that are represented by minorities whose stories might compete with the official story of the state and the positivist law, and especially when involving resistance and lawbreaking.

Robert Cover, in contrast, has argued that we need to broaden our conception of what the law is. The meaning of law should not be

9 Oren Yiftachel terms this kind of regime that is determined to preserve its own economic, political and cultural superiority, a 'Settling Ethnocracy'. By 'ethnocracy' he means, a regime that is 'founded on the interests and dominance of one specific ethnic group' (Yiftachel (1998: 21). This regime, describes Yiftachel, 'facilitates the expansion, ethnicisation, and control of a dominant ethnic nation (often termed the charter or titular group) over contested territory and polity'. See Yiftachel (2006: 11).

10 The law plays a central and vital role- even a violent one as Robert Cover would argue. See Cover (1983: 4, 15) in implementing, legitimising and legalising these discriminatory mechanisms mainly through the exercise of presumably 'neutral' and 'universal' legal interpretation and 'great legal decisions'. (Newton 1994: 453, 461). For Cover, the courts, 'at least the courts of the state, are characteristically 'jurispathic' (Cover 1986: 40), i.e. killing 'the diverse legal traditions that compete with the State' (Cover 1986: 1601). As Nell Newton explains:

> . . . words rather than the sword accomplished the dispossession of the United States' original Indian inhabitants from their aboriginal land. Although land transfers did result from armed conflicts with Indian tribes, much more land was acquired through treaties negotiated with Indian tribes . . . The greed for land and the cultural and racial superiority of the white settlers and their supporters created the popular will to confiscate Indian land. Unfortunately the United States Supreme Court gave its imprimatur to these takings. Judicial decisions legitimizing takings in turn permitted the citizenry to accept the results as fair. In other words, the words that have been the most effective in 'conquering' the Indians are the words of the great legal decisions setting the premises of American Indian Law as it relates to land rights'. . . (Newton 1994: 458, 461).

On the role of Israeli law in facilitating and further reproducing discriminatory practices against Mizrahis, see Harbon (2006: 413–62; 2006a: 155–90).

perceived only as a set of rules and principles of justice dominated by the formal legal institutions of the state. Rather, the law does not exist 'apart from the narratives that locate it and give it meaning, 'it is a part of a larger normative universe where the law of the state is 'but a small part of th[is] normative universe' (Cover 1983: 4) and is embedded in deeper and wider social contexts reflecting different *nómoi* (pl. of *nómos*) and narratives of different communities. It is within these interactions between the state of affairs and the normative visions surrounding it that legal meanings are created, a process Cover called jurisgenesis. What is important for this essay is that the law is not only the product of the state's formal legal institutions, but is the reflection of an ongoing process where communities are engaged in jurisgenerating and creating their own meaning for, and vision of, the law.

To put it differently, taking a Coverian approach, the law is understood as a continual and evolving language which reflects complex preceding and ongoing socio-legal processes in which resistance constitutes an important formative role. It is a language that reflects deep social meanings and narratives of communities generating dynamic processes, whereby protesters can be perceived as participants in the course of creating legal and social change.

For example, I have long focused, in both practice and scholarship, on researching within a comparative legal, sociological and historical context, the Eurocentric discriminatory basis of the land and property laws in Israel and the crucial role it has played in discriminating against Mizrahis and Palestinians in Israel, especially with regard to public housing policies. I argue that the differential land policies directed against Mizrahis formed the basis for their legal and social inferiority and resulted in creating unique structural legal problems which I identify as collectively characterising Mizrahis. Particularly, I became involved in representing Mizrahis and Palestinians who have resisted the ruling order especially through land and property lawbreaking.

One such an example is a fascinating case of Mizrahi women squatters in Israel, an ongoing phenomenon that I have already begun to study and write about. These are poor single Mizrahi mothers who squat in publicly-owned houses, and are soon evicted for trespassing, violating both the Israeli penal code and the land and property laws. Most of these women are second and third generation Mizrahi women whose parents were brought to Israel from Arab/Muslim countries. Their parents have endured structural discrimination by the Ashkenazi establishment, especially by its differential land regime[11] and public housing policies, which give preferential treatment to Ashkenazis. These have deprived

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11 For further discussion on the Israeli Land Regime, see Yiftachel (2006).

them[12] of a fair opportunity to purchase their homes and enlarge their family capital designated for inheritance as a means of securing their children's social- economic status, thereby giving them a 'chance in life'. Yet, in general the law, like the media in the Meshulam revolt, is not sympathetic to these acts, or to the women involved. Their acts do not have any past or context. At best they are considered to act out of poverty, necessity or despair. But, nevertheless, these are mere criminal acts.

My approach towards these acts is different, offering a new reading of them. Whilst the law condemns these acts for being motivated by self-interest and selfishness and thus categorised as mere crimes, I show how these acts are nevertheless justifiable manifestations of resistance and civil – disobedience, rooted in deeper historical and socio-legal contexts, from which they have emerged and against which they are directed. I argue that these women speak through lawbreaking, tell their story and create their own vision of the law. This is their way of communication. I argue that these women resist the ruling order through land and property lawbreaking. The acts of squatting, albeit individual, are acts of civil-disobedience, correcting past injustices, and rooted in a larger context of discrimination, bearing collective features of resistance to injustices, namely to the Israeli discriminatory land regime that has deprived these women of the right to home ownership and has created their special inferiority within the Israeli society, obliging them to squat. I have, therefore, proposed to redefine 'trespassing' by conceptualising and employing a new definition: 'affirmative squatting'.[13]

Instead of acknowledging the jurisgenerative potential of his revolt, the media, like the law, missed, and not accidentally, an important opportunity for reconciliation. Instead of reconciliation the media operated through 're-concealiation', ignoring the dialogic dimensions entailed in Meshulam's resistance, a rare chance for a national healing. As with the case of Mizrahi Affirmative Squatters, contextualising Uzi Meshulam's revolt, placing it on an ongoing historical continuum that emphasises the correlation between past and present, has the potential to delegitimise the Jewish–Israeli unity pretense.

Uzi Meshulam challenges the Mizrahi inferior positioning in society. His work helps it 'escape[s] its conceptual grids' (Shamir 1995: 235) 'reappear from the ensuing oblivion' (Ibid: 237) and become 'a trespasser, a lawbreaker or, at best, a creature taking its first steps toward socialization' (Gordon 1984: 59). This deviation is conceived as both atypical and bad

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12 Alongside the prevention of access to education, employment and monetary resources. For further discussion on discrimination against Mizrahi Jews, see Chetrit 2004; Shenhav (2004).

13 See Harbon (2007); See Claris Harbon, Squatting and Invasion to Public Houses in Israel.

(Gordon 1984: 57, 59) leading to an extreme and violent legal response, eviction in the case of Mizrahi women squatters or criminalisation, and even death, in the case of Uzi Meshulam's revolt, that might even, as aptly put by Ronen Shamir, result 'in the annihilation of the actions, movements, and histories of people who do not fit the frame' (Shamir 1995: 235).

In both cases, these Mizrahi resisters risk their denunciation not only by eviction from their homes, or by criminalisation, but also by the erasure of their own narrative. They resist this further annihilation of their past and deconstruct the colonial binary oppositions of 'we' versus 'they' in which they were entrapped. They demand instead connection over isolation, unbounded continuity over separation, recognition over denial, legitimate backward context over backwardness, revival over erasure. Following Ronen Shamir, they disobey their 'freeze in time' (Shamir 1995: 252, 253) and their 'suspension in space' (Shamir 1995: 253) and demand the location of their history in an unbounded contextual backward–inward–forward continuum. These people make history. Shoshana's book is an important step in giving these people visibility, voice and recognition.

Epilogue

'They may torture my body, break my bones, even kill me.
Then they will have my dead body, not my obedience.'
  (Mahatma Gandhi)

I wish to conclude this review by referring to the book's cover photo, entitled 'Yemenite Mothers and their Children at the Ein Shemer Immigrants' Camp', taken in 1950. I found myself staring at this picture. I could not stop looking at it. The picture shows several Yemenite women hugging their babies and smiling. It was the women's smiles that particularly drew my attention. At face value, these women look happy. For me, however, these smiles are not compatible with the national trauma that Shoshana's book reveals. They do not symbolise happiness, as smiles usually do. They reveal grief. I could not stop wondering which of these women lost or was about to lose her child, and which of the children photographed were later kidnapped. Shoshana's book gives voice to these women. It puts words in these smiles. She opens their mouths and releases them from their freezing silence. In this sense, her book is more than a book about the media's coverage of the Yemenite babies affair. It is a book about restoring stolen memories. It is one of only a few studies that have been written on the subject, breaking the code of silence. Shoshana's book

is aimed at filling, using a colonial rhetoric, the 'Vacuum Domicilium',[14] in the national memory. Her book 'fills' this void, by offering a critical, challenging and innovative analysis.

Like the alternative interpretation that I offer for approaching socio-legal phenomena, Shoshana offers an analysis that re-contextualises the Mizrahi past and present. Her book is an important attempt to deconstruct the Jewish-Israeli national story. It is marked by relations, whereby all are engaged in shaping and reshaping it by negotiating and bargaining their competing visions of it. It was not only the children who were kidnapped, but also their voice. As Shoshana observes, quoting Ella Shohat, 'the act of physical kidnapping must be seen as part of a broader kidnapping of historical memory' (p. 17).[15] The children were kidnapped, most of whom were never to be seen or heard of ever again. Shoshana gives them and their aggrieved parents a voice. She releases these ghosts from their captivity. Shoshana's book is a must read book. It will open your mouth.

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14 'Vacuum Domicilum' or 'Terra Nullius' is the colonialist justification for the dispossession of indigenous people from their land based on the false notion that the land 'belonged to no one', was 'no man's land' or 'unoccupied land'.

15 Shoshana refers to Shohat (2004).

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