**Title**

Thresholds of repression and criminalisation of oppositional political activism in the Israeli setter state: a preliminary investigation

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**Abstract**

This article investigates processes of criminalisation and mechanisms of repression and control of oppositional political activism of Israel’s citizens, both Palestinians and Jews, given the state’s particular political formation as a ‘liberal settler state’ (Robinson 2013). In order to do so, the article traces the ‘threshold of threat’ that leads to criminalisation and repression in Israel. I argue that the process of criminalisation and repression is tied with the construction of the concept of ‘threat’ and is always bound with race-making. Further, the article treats criminalisation as a multi-layered process involving both state and non-state actors, and a range of informal and formal strategies. I further argue that the operational logic of the settler state dictates the strategies used to tolerate, contain, limit or crush dissent altogether. Since the Israeli state strives to maintain privileges to its Jewish citizenry, we can trace more reliance on ‘informal’ strategies of criminalisation towards its Jewish citizens, led by civil society organisations and actors, while the ‘formal’ strategies, led by the state, are preserved almost exclusively for dealing with Palestinian political activism. Finally, I argue that unravelling processes of criminalisation and oppression, triggered by the crossing of the threshold of threat, exposes state vulnerabilities and fragility. By tracing the shifting thresholds of threat we gain a window into the precarity of such system of power and how it can be challenged and transformed. We can also learn what opportunities for resistance exist and what ‘openings’ must be seized.

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*Threshold. (in neurology) the point at which a stimulus begins to evoke a response, and therefore a measure of the sensitivity of a system under particular conditions.*

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This article sheds light on processes of criminalisation and mechanisms of repression and control of oppositional political activism by Israel’s own citizens, both Palestinians and Jews, given the state’s particular political formation as a ‘liberal settler state’ (Robinson 2013). In so doing, the article traces the movement of the ‘threshold of threat’ that leads to criminalisation and repression in the Israeli state.

I argue that the threshold of criminalisation and repression is bound with the construction of the concept of ‘threat’ and is always bound with race-making, or, differently put, it is race that operates through the production of threat in the Israeli state. ‘Threat’, like the threshold, is liminal, and thus subject to change. Further, the article treats criminalisation as a multi-layered process involving several agents, both state and non-state, and strategies, ranging from the informal to the formal. I further argue that the operational logic of the settler state dictates the strategies used to tolerate, contain, limit or stop altogether dissent. Since the Israeli state strives to maintain privileges to its Jewish citizenry (and even beyond to ‘all Jews around the world’), we can trace more reliance on ‘informal’ strategies of criminalisation towards its Jewish citizens, led by civil society organisations and actors, while the ‘formal’ strategies, led by state agencies and actors are preserved almost exclusively for dealing with Palestinian political activism. Finally, I argue that unravelling the thresholds of criminalisation and oppression exposes state vulnerabilities and fragility. By tracing the shifting thresholds of repression and criminalisation, we gain a window into the precarity of such systems of power and how they can be challenged and transformed. We can also learn what opportunities for resistance exist, what ‘openings’ must be seized.

While focusing on the case of the Israeli settler state, the article draws conclusions that have wider analytical implications beyond the Israeli case, and even beyond other case of liberal settler states. Indeed, the fragilities of the settler state are not dissimilar from those of (so-called) liberal democracies, where threats to the status quo of capital, underpinned by racial, gendered and classed hierarchies are met with growing state repression, new restrictive legislation and greater police powers that are meant to repress and shut down such forms of ‘threat’ to existing order(s). This article, and the analysis and the cases offered in it are far from being comprehensive, and offer just a preliminary line of investigation that I intend to further explore elsewhere. For that, some of the analysis and the distinctions and categories it offers might seem crude or lacking nuance, as, importantly, for example, the ‘Jewish Israelis’ are far from being a homogenous group that is treated in the same way by the hand of the state. However, the scope of the article did not allow me to dwell into this here.

The article starts with a short analytical discussion of the concept of the threshold. The neurological definition of the term above reveals some of its qualities that are helpful for the analysis, as this article is interested to trace the ‘point’ in which certain phenomenon - criminalisation and repression - kicks into action, as well to think of the ‘sensitivity’ – vulnerability and fragility - of the system itself. From there, I move to discussion notions of crime and criminalisation at large, and criminalisation of political activism in particular, and specifically within the political formation of the liberal setter state. Next, I discuss the first threshold of threat within the Israeli state, namely race, where Palestinians, even while holding Israeli citizenship are targeted, criminalised and subjected to state violence for their political activism. Finally, I discuss a second threshold of threat, where also activities of Israel’s privileges citizen, Jewish Israeli reach the point where mechanisms and strategies of informal and formal criminalisation kicks into place by state and civil society organisations (many times working hand in hand).

*The qualities of the threshold*

The ‘threshold’ as a concept (rather than an architectural element) is commonly evoked to describe an end, boundary, level or point where something begins (or ends), whether it is an experience, an occurrence or change, that can be physiological or psychological (Cambridge Dictionary Online). Elsewhere, it is also referred to as ‘magnitude’ or ‘intensity’ that has a limit or level beyond which something comes into effect (Oxford Learner Dictionaries Online). When used in reference to step or scale in taxation or wages, an important classification is added, that the threshold is always determined by certain conditions. Such ‘conditions’ are not neutral or natural – but politically determined, by the government that sets taxation thresholds.

What unites these definitions is the notion of a level, point or line, and with it, the imagination of neat distinctions between the here and there, before and after, inside and outside. But there is a unique quality to the threshold that goes beyond its use as a synonym of ‘line’ ‘point’ or ‘level’ or even ‘boundary’ or ‘border’ and the binaries of inside/outside and inclusion/exclusion. Etymologically (despite some disagreement among etymologists), the concept’s composition seems to be made of the old English term ‘thresh’ as tread or trample, together with ‘hold’ which implies a certain lingering or hesitation. This can be explained as a hesitation that involves a “passage through an obscure zone or territory - without clearly defined boundaries” (Vighi, Nuselovici and Ponzi 2014, 6). In this sense, the threshold has a certain depth, it is an area, a ‘zone’, “a place of both a demarcation and a transition, of a passage” (Chamayou 2021). Since it entails a passage, it signifies an area in which certain transformations can occur (Benjamin 1999). A useful metaphor that helps illustrate such condition is the ‘passage’ from being asleep to being awake, or from the day into night (and vice versa). The point in which one switches from one condition to the other, where darkness takes over the light or light over the darkness, is the ‘zone of transformation.’ At the same time, we can also claim that the threshold is “a borderline which emerges from the transition itself.” (Waldenfels 2014, 12). But such qualities of passage, transition and transformation also bring with them important questions linked to the conditions of crossing/passage: who can pass the threshold? Who cannot?

Such discussion resonates with Stoler’s (2022) treatment of the ‘interior frontier’ as a concept that, similar to the threshold, defines is a messier space and not a clear line. Indeed, the act of positioning ‘interior frontiers’ and the decision of who “falls vis-à-vis their gated space” (Stoler 2022, p. 11) operate according to colonial, racial, classist and gendered logic. Such interior frontiers/thresholds thus create an invisible geography marking out “the place one is rendered ‘unsafe’ or is considered ‘unsafe’ for others” (Ibid, p. 26) or “being ‘at risk’ or ‘a risk’, and demarcate “a moral and dangerously political space”, in which state (and society) surveillance and security regimes are operated and mobilised at full force (Ibid, p. 28). Since they are internally demarcated, they imply the existence of ‘internal enemies’, a definition that also lacks stability and fixity, that emerges at the “heart of civic space” rather than determined by the state alone. We thus see both state and civil society participate in the making, unmaking, and maintenance of the thresholds. This is an important notion to which I will return later.

This short reflection about the qualities of the threshold can facilitate our thinking about thresholds of criminalisation and repression in the Israeli state, as the blurry/thick lines/spaces, where categories of populations, and different (political) ideas and actions can fall in either side, or get stuck in the ‘in between-ness’ of the threshold. Specifically, the qualities of the threshold as a thick zone of transformation can support the analysis of two separate issues in relation to our case. When analysing the threshold of threat in the Israeli settler state, I suggest looking at two interrelated issues: **Firstly,** what is the logic that constitute the differentiation mechanism that determine the thresholds of repression and criminalisation in the liberal settler state? **Second,** how does the move from informal to formal criminalisation occur? In here, it is useful to point to the blurred lines between state and society and their agents in facilitating processes of criminalisation and repression.

*Crime, criminalisation and dissent in the liberal (settler) state*

‘Crime’, put simply, is a violation of the law. But what is seemingly a neutral category is in fact a highly politicised concept, as much as law itself. Law is a reflection of the social and political arrangements, ideologies and values in any given polity (Hutchinson and Monahan 1984; Giddens 1985). It also serves to protect and maintain the status quo of the political regime, and educate the population about the clearly marked distinctions between the desired and permissible behaviours, and those that are not (Abel 1998; Harris and Gebel 1982; Gilroy 1987; Povinelli 2002; Goldberg 2002). Crime must be similarly understood as contextual - socially and historically situated - and thus not as a natural or neutral category (Hall et all 1978, 185). As such, Wilson Gilmore reminds us “… what counts as crime in fact changes... Law changes, depending on what, in social order, counts as stability, and who, in a social order, needs to be controlled” (2007, 12). For that, the study of processes of criminalisation is the study of the political and social order, values and norms.

Criminalisation, “the attachment of the criminal label to the activities of the group which the authorities deem it necessary to control” (Hall et al 1978, 190), is a process. It operates along a continuum and involves multiple state and non-state actors. The process starts from establishing and determining what constitutes the status quo (stability of the existing order) and what is considered to be a ‘threat’ to the stability/status quo, whether an idea or an act, and the actors (individuals or groups) that pose a threat in their thoughts or deeds (and sometimes by their mere existence). This is, as Hall et al explain, it is a “heavy ideological work, required to shift labels about until they stick” (Ibid). Once these have been identified, such actors, ideas and acts need to be monitored, controlled and contained; particular laws must be written to classify such activity as illegal/criminal; law enforcement agencies are accordingly sent to police such actors, ideas and actions/behaviours; and legal professionals use new and existing legislation to prosecute such deeds and actors to remove them from society and its acceptable modes of behaviour. In this sense, all criminalisation is political in nature, as the categories are politically determined.

However, when thinking about processes of criminalisation of political activism in particular, the picture becomes messier. In the liberal (democratic) tradition, ‘dissent’ (the opposite of ‘consent’) means disagreement, and should be considered part of the ‘normal’ way of doing politics. Criminalisation of political activism happens when political conflicts are removed from the realm of permissible political debate to the realm of police action, legal proceedings and legislation. This, according to Watts (2020), stands in opposition to the democratic process itself that should allow contestation and opposition. Critiquing such an approach that sees a dichotomy between liberal democracies and repressive regimes in their relation and approach to dissent, Vegh Weis claims that “the right to dissent, which is at the core of democracy, has been often approached as a disruption and as a target of law enforcement in the Global South as well as in Global North” (2021, 1). While the end result itself (of criminalisation of political activism) is similar, the difference commonplace lies in the mechanisms of legitimation, production of public opinion, and creation of a sense of ‘moral panic’ of certain behaviours that pose a threat to the status quo. a process in which a certain group (and their ideas) is labelled as an enemy of the moral perception of the social and as a threat to its interests. This is an effective tool for monitoring of political activism that assist law enforcement agencies in controlling certain populations and silencing their activities (Hall et al 1978).

Political activism is frequently criminalised and violently repressed, first and foremost when protestors are categorised as ‘others’, along racial and class lines. It is common to see in the ‘liberal democracy’ that “criminalization takes place via emergency-based and exceptional laws targeting dissent after conceiving it as a “danger” or a “threat” to social order” (Ibid, 4). Moreover, we commonly see colonial and imperial strategies and practices of oppression, surveillance and control on anticolonial movements and overseas experiences of counter insurgency find their way into every part of the liberal state bureaucracy (Choudry 2019; Bruckenhaus 2017). Bearing this in mind will help draw wider conclusion about repression and criminalisation of political activism beyond the Israeli case, and beyond settler state, to the wider fora of the so-called ‘Western liberal democracies’.

Processes of criminalisation of political activism in the liberal settler state follow a similar logic, when colonial and racial distinctions take a more profound place in the operational logic of the state. Specifically, the liberal settler state, in its structures embodies both elements of liberalism and colonialism (operating in the same space): as a colonial entity, no dissent in the form of opposition to the colonial order of violence and privileges can be tolerated or considered legitimate, not even for the sake of appearances. But the mixture of liberalism and settler colonialism reveals specific thresholds of criminalisation and repression operating horizontally and vertically, depending on racial mechanisms and the conception of the threat posed to the regime. In Israel, that strives to maintain Jewish supremacy on the land, whose existence embodies the threat to such order? What ideas can pose a threat? And what acts can put activists on the other side of the threshold?

*The threshold of threat I: race, or, existence*

Israel is a settler state, a product of over a century long process of Zionist colonial settlement and progressive dispossession and elimination of the indigenous Palestinian population. Such categorisation is derived from the analysis of the Zionist movement as a settler colonial movement, whose aim was to establish a Jewish majority state in Palestine (Jabary Salamanca et al 2012). As a mid-twentieth century colonial formation, the founders of Israel had to conform to the changing times in the form of post WWII demands to respect human rights norms and the liberal international order. As such, Israel was formed as a procedural democracy, a possibility that was enabled by the forceful removal of most of the Palestinian majority within its territories during the 1948 war (Robinson 2013). To those Palestinians that managed to remain in the land that became Israel, the state extended some rights and duties embodied in the institution of citizenship, as determined by the (now turned) Jewish majority on the land. To follow Robinson’s (2013) categorisation, Israel can thus be defined as a ‘liberal settler state’, a formulation that relied on “a combination of legislated privilege, practices of informal discrimination, and the creation of territorial zones where the standard rules of governance did not apply” (p. 198). This form of rule is encapsulated in the Israeli self-definition of the state as ‘Jewish and democratic’, a topic of multiple reflections, justifications and ongoing tension and critique (Gabizon 1999; Smooha 1997; Yiftachel 2006 among others).

However, for the sake of the fulfilment of Zionist ideology and agenda, Israel is first and foremost a Jewish state, a state in which the Jewish people express their right to national independence and self-determination. Over the years multiple laws have been enacted in the Israeli parliament which legally ground the Jewish nature of Israel and grant special privileges to its Jewish citizens, thereby ensuring Jewish supremacy and creating differentiated citizenship regime within the state. The Israeli *Law of Return-1950* is a paradigmatic example of a law expressing the Jewish character of the state: It grants every Jew the right to emigrate to Israel and receive an automatic Israeli citizenship without conditions. This right is denied to Palestinian (inhabitants) spouses of Palestinian (citizens), as determined by the *Citizenship and Entry into Israel law-2022*.[[1]](#footnote-1) Other examples include the right to ownership of state lands, including the rights to transfer and sell them,[[2]](#footnote-2) and importantly, legality of political activism.[[3]](#footnote-3) Most recently, the *Israel as the Nation-State of the Jewish People Law-2018* grounds in legislation what already de facto exists: Israel is the nation state of the Jewish people (and of them alone).

The principle of supremacy of one group over another, or in other words – the logic of hierarchical racial differentiation is part and parcel of the foundation of any colonial project, as part of machinations of global racial capitalism (Robinson 2000). In the particular formulation of the liberal settler state, “racial liberalism operates as settler colonialism’s regime of justification simultaneously through the mobilization of liberal institutions and rhetoric, the production of racial hierarchies…, and the enactment of differentiated regime of citizenship and land rights” (Tatour 2019, 578). In Israel, it means that Jewish privileges are protected by state laws and its social structures, while Palestinian citizenship and its rights is conditioned, restrained, and placed under constant threat. Being a Jewish Israeli citizen places one in the interior, and within the perimeter of the protection of the state, in relation to Palestinian citizens. However, with its limited layer of protection, citizenship does create and maintain a distinction between different communities of Palestinians: those Palestinians who are citizens of the Israeli state, and those Palestinians who are living under military occupation (West Bank), in annexed occupied East Jerusalem (as Israeli residents), or in the besieged Gaza Strip.

Accordingly, each group’s strategies of resistance against the Israeli state are met with varying degrees of violence by the state’s security apparatus. Citizenship extended to Palestinian citizens in the Israeli settler state acts as a differentiation rationale that grants its holders different treatment in terms of legislation and law enforcement, determined by the need of Israel to maintain some level of liberalism within its rule, and some (albeit limited) commitment to preserve at least the processes and procedures of a democratic regime. Indeed, Israeli citizenship held by Palestinians is conceptualised by scholars as a ‘settler colonial citizenship’ (Rouhana and Sabbagh-Khoury 2015) and a ‘tool of domination’ (Tatour 2019). Palestinian citizenship in Israel is thus located somewhere in between ‘being a citizen’ with its duties and privileges (in relation to non-citizens) but at the same time, a potential ‘enemy from within’, both inside and outside at the same time. As such, it serves to classify and control populations and maintain racial difference, both within Israeli citizenry, and, within the Palestinian people as a whole. But while providing a layer of legal protection to those who hold it, the underlying logic of its operation is based on racial distinction, and as such, it is interesting to trace the moments in which this protection collapses, and Palestinians, citizens or not, become a unified ‘enemy collective’ which in turn justifies the use of violence against them, suspending all legal protections, regardless of their geographical location or citizenship status (Jabareen 2020). This is where the threshold of threat manifests itself most clearly.

When political protest of Palestinian citizens triggers a movement in the threshold of threat, Palestinians are stripped from the legal defence and layer of protection citizenship was meant to provide. These are the moments in which Palestinian citizens become ‘just’ Palestinians. Such ‘moments,’ sometime stretching over extended period of time, can be firstly found in the institution of the military regime operated by the Israeli state on those Palestinians who remained in the area that became the State of Israel in the aftermath of the 1948 war, lasting until 1966 (Jiryis 1976; Robinson 2013). Another such transformation occurred in 1976, during protests that came to be known as ‘Land Day’ where six Palestinian citizens were shot by the Israeli army and police while resisting the mass scale land expropriation in the Galilei area. In more recent history, the violent suppression of the so-called ‘October 2000 events’ where the Israeli police shot and killed 12 Palestinians citizens in clashes that occurred around the country that coincided with the outbreak of the second Palestinian uprising (intifada) in the West Bank and the Gaza Strip (Zreik 2003; Adalah 2003). In this occasion, the Governmental Committee of inquiry justified its decision to not prosecute any of the involved police officers in the claim that the applicable law in this case was law of military action against the enemy, rather than police action against its own citizens. Accordingly, shooting and killing citizens does not constitute a criminal offence, because this occurred in a context of warfare (Jabareen 2020, 521).

Most recently, during the eruption of wide spread protests around the country during Israel’s attack on Gaza in May 2021, in what came to be known as the ‘Unity Intifada’ a similar transformation in the threshold of citizenship occurred. Here, Palestinians across the country that stood in solidarity with their attacked people in Gaza, were met with the Israeli law enforcement authorities’ (police, attorney general) use of mass and prolonged arrests as a mechanism to crush their solidarity activism. The operational logic of the authorities in this case was that “the danger posed by the actions, even if joining them was a spontaneous act, is not abstract but rather a concrete and real danger. This is due to the inciting atmosphere, on the backdrop of the emergency situation that prevailed, that motivated the defendants to commit such acts” (Office of the State Attorney 2021). The overall guiding assumption was that every Palestinian that was arrested while participating in the protest should be remanded until the end of proceedings since otherwise they will be released back to the overall heated atmosphere of incitement that will lead them to take part again in similar actions (Ibid, 3). A second interesting element in the suppression of the 2021 uprising was the use of the *Counter Terrorism Law-2016* in prosecuting Palestinian citizens’ activism. The rationale for the use of the counter terror legislation was in incidents where “serious and severe events that were motivated by national-ideological reasons” that included, among other things, lynching, damage to infrastructure and essential services, arson, shooting and throwing of Molotov cocktails towards the security services or civilians (Ibid, 9).

The cases above only reveal a partial picture that deserves much more detailed and nuanced analysis. While discussing both race and citizenship, I tried to point to their intertwined nature, and the cases briefly discussed here reveal that at the base, race is the factor that creates (and maintains) the threshold of threat. Palestinian, by their existence, are posed as a threat to preserving Jewish supremacy, and accordingly political activism on their side is rarely tolerated. However, citizenship as an institution cannot be disregarded. It constitutes a rationale of differentiation among the Palestinians under Israel’s control, and while police raids in Jenin (West Bank), for example, are not the same as police raid in Haifa (within Green Line Israel), at certain occasions the state does not hesitate to violently repress and criminalise political activism, that leads to the disappearance of citizenship as a layer of protection from state violence. Repression and criminalisation of Palestinian political activism are done by formal tools, involving both use of existing legislation and the mobilisation of law enforcement agencies and strategies, a logic which is determined by racial categories. But since race is the baseline of the threshold of threat, how do forms of dissent by Israel’s privileged citizens – Jewish Israelis - are being treated? When are their ideas and actions become substantial enough that threshold of threat is being met, and repression and criminalisation kick in?

*Threshold of threat II: ideas and actions*

The state of Israel, and its extensive security apparatus is geared towards limiting, controlling and repressing Palestinian political activism in its various geographical locations, as a permanent threat to preserving and maintaining Jewish supremacy on the land. Palestinians are therefore criminalised for their mere existence, in a practice that intensifies according to the ideas and actions they promote or take, in formal strategies that involves legislation, law enforcement and imprisonment, alongside routine exercise of state violence. Since the operational logic of the Israeli state involves the maintenance of Jewish privilege within the framework of nominal democratic institutions and procedures, political activism of Jewish citizens is left undisturbed in most cases, or is not formally repressed by state agencies. In other words, the threshold of threat is not met by the existence of political activism of Jewish Israelis, but instead by certain ideas and actions that are promotes or taken by them. Moreover, since the state mostly refrains from formal strategies of repression and criminalisation of Jewish Israeli activists, the door is left open for the operation of non-state actors, individuals and groups, that take up the mission of labelling, monitoring and surveilling Jewish Israeli activists. What constitutes the threshold of threat (both ideas and actions), that once crossed, also privileged citizens become the target of informal and also formal strategies of criminalisation?

In this section, I will discuss instances that clearly indicate a movement in the threshold of threat, and trigger repression and criminalisation. Firstly, when Jewish Israeli activists are seen to be ‘cooperating with the enemy’, crossing the lines to join the Palestinian struggle. Such cases are met with formal strategies of criminalisation, with direct involvement of both police and the state’s security agency, and lead to interrogations, arrests, criminal prosecutions and imprisonment. Secondly, when Jewish Israeli citizen are contributing to that is conceptualised as the ‘delegitimation’ efforts against the State of Israel, we can see involvement of civil society organisation, working hand in hand with state agents to thwart such efforts. This involves producing reports, spying (infiltrating organisations to collect information on activities and activists), leading defamation campaigns against individuals and organisations that name and shame those that are labelled ‘traitors’, and publish their photos and details and, also, lobbying in parliament to take formal legislative and punitive steps against them, including de-funding, or putting restrictions of the sources of funding such organisations can access and accept, and in effect, silence and shut down their activities (Jamal 2018).

Cases of formal criminalisation through legislation and law enforcement (arrests, legal proceedings, imprisonment) against Jewish citizens are rare. This is less due to the fact that such cases are not criminalised, but because the number of times that Jewish Israeli citizens actually cross the lines, participate in the armed struggle, or join the ranks of Palestinian organisations is very limited (Owen 2020; Weizman 2022). Besides that, the overall assumption of Israel’s security apparatus is that opposition to the regime that centres against countering Jewish supremacy is by essence a Palestinian opposition. British emergency regulations that were adopted into Israeli legislation as temporary orders that were routinely extended were the main tool used by Israel to manage and control Palestinian citizens’ lives and limit (or forbid altogether) political activity that was deemed a ‘threat’ to the Israeli state. Indeed, they were rarely used against Jewish Israeli citizens. Berda (2020) explains that even with the enactment of the *Counter-Terrorism Law-2016* that incorporated the emergency measures into primary legislation, an act that potentially opens the door for its universal application on all of Israel’s citizens, the likelihood of such scenario is low. This is because the law cannot be read in isolation and instead must take into consideration other pieces of legislation that ground Jewish privileges in the state, most notably the *Nation State Law-2018* that enshrines a hierarchy between Jewish citizens and others, and proclaims the exclusivity of Jewish self-determination and settlement (Ibid, 572).

The rare cases in which the abovementioned legislation was used, were cases in which Jewish activists were involved in underground movements in cooperation with Palestinian organisations. In the 1970s and 1980s, three such organisations existed and were captured and its members imprisoned. These were ‘The Red Front’ of Ehud (Udi) Adiv, an organisation that was formed in 1971 and promoted a communist revolution through violence, and struggle against the Zionist state and its army; another case was Rami Livne, a member of the ‘Maavak’ – the Revolutionary Communist Alliance, who was imprisoned for 10 years for ‘contacting a foreign agent’ and ‘complicity in a criminal offence’; another example is ‘Derech Hanitzotz’ (the path of the spark), a Maoist organisation that co-operated with the Democratic Front for the Liberation of Palestine (DFLP) in the mid-1980s but was captured in 1988 and its members imprisoned. These cases are of activists that were willing to take their resistance to the violent stage, either symbolically (through the co-operation with Palestinian organisations) or practically. The third was the Alternative Information Centre, a Trotskyist organisation that co-operated with the Popular Front for the Liberation of Palestine (PFLP). Even though the organisation mainly worked as an alternative media outlet, its relations with the PFLP led to the arrest and imprisonment of its members (Kaufman 2003: 65-69; Interviews with Adiv 2022; Livne 2022; Tsemel 2022).

Contemporarily, activists are routinely arrested in the West Bank during demonstrations or direct actions conducted in collaboration or coordination with Palestinians, but while the Palestinians are detained for prolonged periods, the Jewish activists are frequently released within hours. Additionally, the Shin Bet is involved in surveilling Jewish Israeli activists that routinely participate in demonstrations and/or direct actions in the West Bank. Some activists have been ‘invited’ to ‘questioning’, and threatened that if they will not cooperate or share information, they will be summoned to an official interrogation (ACRI 2017, Margalit 2018). Shin Bet representatives explained that this practice is meant to deter those taking part in what the organisation defines as “involvement in subversive illegal activities that can amount to a threat on Israel’s national security” (Preliminary answer by the Shin Bet and the Israeli Police in Supreme Court case 5277/13, 2013: 2). But while subjecting activists to psychological and financial strain that can deter some, such practices do not indicate an overall trend to formally criminalise political activism of Jewish citizens.

The case of the ‘delegitimation threat’ provides an interesting example where it is possible to trace a movement of the threshold of criminalisation, from informal means by non-state actors to formal tools, as well as the feeding of informal, non-state actors and strategies into formal strategies of the state. Additionally, the blurred lines here between in/formal and non/state are interesting and should be analysed and explained. The case in point here is the Boycott Divestment and Sanctions campaign, and the involvement of Jewish Israeli activists in it.

On 9 July 2005, a collection of 170 Palestinian political parties, unions, associations, coalitions and organisations representing the Palestinian people (including refugees, inhabitants of the West Bank and Gaza Strip and those holding Israeli citizenship) issued a call for boycott, divestment and sanctions against Israel. According to the call, these measures should be maintained until Israel meets its obligation to ‘recognise the Palestinian people’s inalienable right to self-determination and fully comply with the precepts of international law’. These include ending the occupation and colonisation of Palestine; recognising the rights of the Palestinian citizens of Israel to full equality and respecting, protecting and promoting the right of return of the Palestinians refugees according to UN resolution 194 (bdsmovement.net).

From inside Israel, a small group called *Boycott From Within!* composed of Israeli citizens, Jewish and Palestinian (with around 1000 signatories added their names) endorsed the BDS call and actively promote it both inside and outside Israel. Officially formed in 2008 by activists that were previously involved in boycott initiatives, the group is dedicated to supporting the existing Palestinian campaign and act as enablers for its demands. One important role of the Jewish (Israeli) supporters of BDS is to provide the legitimacy to the campaign that is commonly framed as ‘antisemitic’ by its opponents (Weizman 2017).

It was not the first time a boycott was issued against the State of Israel – indeed the Arab League decided on a policy of economic boycott since 1946, before the establishment of the state, in an attempt to pressurise and isolate the Israeli economy. The boycott reached its peak in the 1970s, but gradually lost its grip starting with the signing of the peace treaty Israel-Egypt, and subsequent agreements in the 1990s and later on. However, it seems that the perception of threat from the reformulated boycott movement, originating in grassroots Palestinian organising and its spread and hold on western civil society became heightened. In its 17 years of existence, the BDS movement managed to achieve a discursive change around the question of Palestine, gaining visibility and supporters internationally. Despite not succeeding in mobilising foreign governments to impose sanctions on Israel or in inflicting significant economic harm on Israel, the echoes of its activity reached the corridors of governments, notably the US congress and the UK parliament. Several articles in the international media, including the Guardian (Thrall 2018), the Times (Mansoor 2020) and the New York Times (Halbfinger et al 2019), were dedicated to assess the movement, echoing its visibility and impact. In a 2018 article, the journalist and human rights activist Ben White argued that in the short to medium term, “the BDS campaign is about three objectives: a shift in discourse, the promotion of accountability, and the growing isolation of Israel. Since 2005, there has clearly been progress on all three fronts” (White 2018).

In Israel, the growing visibility of the BDS movement and the discursive shift it prompted in liberal circles in Europe and the US about Israel and the conflict in Palestine is observed with concern. State officials and governmental bodies refer to it as a *“*significant threat to the strength and national security of the State of Israel” (Israel’s Population and Immigration Authority, 2017). References to the intensity of the threat the movement poses commonly appear in speeches and statements made by Israeli prime ministers, ministers or members of parliament, with the Israeli Prime Minister Netanyahu declaring in 2015 the BDS as a ‘strategic threat facing the state of Israel, alongside Iran and Hizballah’ (Shalev 2015). Leading Israeli think-tanks, such as the Institute for Policy and Strategy at the Interdisciplinary Centre in Herzliya claimed in 2016 that the BDS movements is winning the battle over the hearts and minds in most western societies that are traditionally Israel’s allies, and accordingly, it is a strategic threat that “might demand a heavy price from the State of Israel and will endanger its vital interest in the future” (Shay and Mintz 2016, 3).

For the purposes of the analysis here, I would like focus on reactions in Israel to the movement. I argue that an indication of the movement’s strength (and perceived threat) is found in the efforts Israel is putting, both domestically and globally to thwart its activities. When the threshold of threat is met, as is the case with the BDS movement, variety of mechanism, efforts and strategies were put in place by both state bodies, civil society organisations and the media to repress and criminalise BDS activism and its activists from within. It involves a concerted efforts of various governmental bodies, civil society organisations, the media and also individuals who join forces to win the hearts and minds of the international public opinion. The state channelled substantial resources (Tibon 2016) and dedicated governmental offices or branches of existing offices to combat the threat. Noteworthy here is the Ministry of Strategic Affairs that was re-established in October 2015 as the highest authority to act and coordinate “the battle against de-legitimation”.[[4]](#footnote-4) The Ministry was closed in 2021 and its responsibilities then moved to the Ministry of Foreign Affairs.

In terms of formal criminalisation tools, already in 2011 the Israeli parliament (Knesset) enacted the *Law for Prevention of Damage to the State of Israel through Boycott-2011* that prohibits the public promotion of boycott by Israeli individuals and organisations. The law imposes financial sanctions against civil society organisations and businesses that call for or participate in economic, cultural or academic boycotts of Israel (Brinn 2012). To this date, in the 11 years since its enactment, the law has not been activated against any individual Israeli citizen. To address this, and in order to increase the efficacy of the law, an ongoing attempt is made in the Knesset to approve specific regulations of the law that are meant to impose sanctions on individuals or organisations that call or support the boycott (draft of sub-ordinances 2022). The last discussion was held in March 2022 but the sub-ordinances were not yet presented to the Knesset for vote. The new Minister of Finance, Btzalel Smotrich announced that he is planning to sign the regulations that will now move to discussion in the parliamentary committee for law and constitution (Kahana 2023).

While the boycott prohibition law targets the ‘threat from within’, an additional piece of legislation was introduced in order to limit the entry of non-citizens into Israel, if they are BDS activists or working for an organisation that promotes or call for BDS. The *Entry into Israel Law-1952 (Amendment 28)* determines that “no permit or visa of any type will be granted to a person who is not an Israeli citizen or with a permanent residency permit in Israel if they are, or the organisation they work for, knowingly published a call to boycott the state of Israel”. This law was used in order to detain and in some cases deny entry of several international activists to Israel (Landau 2018).

However, the efforts to combat the BDS movement and the subsequent delegitimation of the Israeli state involves more than legislation. Civil society organisations and media organs are working hand-in-glove with governmental offices to silence Israeli supporters of the movement. These are joining forces to create a sense of ‘moral panic’ around the activity of the movement. A striking example of this is the ‘Know the Traitor’[[5]](#footnote-5) campaign led by Im Tirzu, an organisation funded in 2006 with the aim of ‘building a Zionist society’ (Im Tirzu Website). The campaign is a database, and provides the public access to information about activists and organisations that act to delegitimise soldiers or settlers, and encourages the public to report any ‘incidents’ so that the organisation will consider “public or legal course of action” (<https://radicalactivists.imti.org.il>). Im Tirzu also monitors Israeli academics, and ‘name and shame’ those who support the BDS movement. A report published in 2016 included a recommendation to the Council for Higher Education and the Minister of Education to immediately dismiss any Israeli academics that are promoting the academic boycott of Israeli institutions while working in an Israeli institution, and call for sanctions against any academics or any institutions that enable those who are supporting the boycott and promoting a variety of activities on campus, including waving the Palestinians flag, and calling for refusal to serve in the army and, of course, calling for BDS (Golan 2016). The report was submitted to the parliamentary education committee that convened in 2016 to discuss the matter. Finally, the recommendations were not adopted (Knesset Education Committee June 2016). Media organs also do not shy away from stirring the panic around the Jewish-Israeli supporters of the BDS/Delegitimation movement. One example is the popular TV show ‘Shetah Hefker’ (no-man’s land) of the Israeli public channel 11 that conducted an investigation in 2018 into what they called the ‘Aces of the BDS movement’, the Israeli citizens that support the boycott movement and provide it with legitimacy around the world, raising alarm and fear that, “those that are most influential in the movement are just like you: Israeli citizens” (Kan 11, 2018).

The efforts to combat the movement are much wider, since the majority of activism is done abroad, where the hand of Israeli legislation and security forces cannot reach to stop and silence BDS activists. Here, alongside diplomatic efforts and extensive use of public diplomacy (‘Hasbara’) Israeli citizens and Jewish individuals and organisations around the world are encouraged to take active part in the battle. An interesting initiative in this regard is the ‘Screen Savers’ (Shomray Masakh) project, a joint venture of the popular Israeli news platform Ynet, the newspaper that owns it, Yediot Aharonot, together with the Governmental Office for Strategic Affairs, that was launched in 2017. This initiative is meant to “wage the battle in the networks against the boycott movements” (Weiss 2017) For that, it calls Israeli citizens to take part in the battle for the image of the State of Israel. Another example is the 4IL project, initiative of the Ministry of Foreign Affairs calling people around the world to join the battle against delegitimation.

The scale and scope of these efforts, the multiplicity of agents (state and non-state) clearly illustrate the intensified perception of threat the movement poses to the State of Israel, as it risks to threaten its desire to be accepted as a legitimate democratic and liberal state among western political centres. The threshold of threat was met with the shifting of discourse internationally, and with it, mechanisms of repression and criminalisation kicked into use. However, formal repression and criminalisation (legislation, law enforcement) of Jewish Israeli citizens still remains minimal. Formal criminalisation and repression exist only at the margins, with arrests, interrogations and surveillance by the state’s security services. More widespread is the use of informal tools by civil society organisations, with monitoring and labelling of activists, groups and individuals. However, it would be wrong to see the two as disconnected. The contact points between the formal and informal criminalisation and the work of state and civil society actors are important to note, mainly in a society like the Israeli one that is characterised by strong identification of state and society. For that, when repression and criminalisation intensifies, the soft spots of the state are revealed – the threat encapsulated in delegitimation is substantial.

*Conclusion*

In the time when I conclude this article, the political map is Israel is shifting further to the right. The 5th election campaign since 2019 has led to the prominence of the ‘national religious’ camp, headed by Itamar Ben Gvir and Betzalel Smotrich. Radical Kahanist right wing ideology that advocates ‘Jewish Power’ (the name of Ben Gvir’s party), the extension of Israeli sovereignty in the West Bank and silencing of left wing political activism is now at the heart of the political system. Attacks of the institutions of the liberal (settler) state by this camp are more prominent, with a programme of legislation that is meant to enable the parliament to bypass Supreme Court decisions and disqualification of laws, an act that will de-facto jeopardise the separation of powers at the heart of the Israeli state (Tsimuki 2023). These processes were compared to similar ones that took place in Hungary or Poland in recent years, and triggered a mass scale protests all over the country for the past three months.

It remains to be seen the extent to which the thresholds of criminalisation and repression will continue to shift, and which individuals and groups will find themselves on the ‘other’ side of the threshold. Building on already existing trends from the Unity Intifada of 2021, and the statements made by the minister of ‘national security’ Ben Gvir, the racial threshold seems to be further taking hold over the threshold of citizenship, with statements promising to change the rules of engagements, and providing greater legal immunity to the security forces in the line of duty (Golditch, Azoulay and Karni 2022). The probability for increased formal repression of political activism of anticolonial Jewish Israelis is still unknown, but a few incidents from the last weeks indicate a possibility of change also here: the now viral video of a soldier beating up an activist in Hebron while another soldier threatening that “Ben Gvir will finally put some order in here. That’s it, you’re done. I am the one that determined what is the law, and you are breaking the law” (Ben Kimon, Zeytun and Fox 2022); and the army stopping a visit of a group of left wing activists to the old city of Hebron with a ‘closed military zone’ order (Shezaf 2022) are just a few indicators for the creeping measures that previously were kept solely to deal with Palestinian dissent, but threaten to become more widespread to Israel’s privileged citizens.

I end this article with a short sketch by Hanoch Levin, the famous Israeli satirical playwright, sharply criticising the ways in which Palestinians in the Occupied Territories are being targeted by the Israeli security forces. It clearly illustrates that the threshold of threat doesn’t need to necessarily involve action, but sometimes the threat is someone’s mere existence. Here, it is the Palestinians in the Occupied Territories, elsewhere we saw it stretches to Palestinian citizens. Will it reach also Jewish Israelis who oppose the colonial order that preserves Jewish supremacy on the land? Probably not (yet).

*Security instructions:  
A man walking down the street glancing nervously from side to side and over his shoulder – shall be suspected of being an Arab terrorist.  
A man walking down the street looking calmly ahead of him – shall be suspected of being a level-headed Arab terrorist.  
A man walking down the street looking up at the sky – shall be suspected of being a religious Arab terrorist.  
A man walking down the street staring at the ground – shall be suspected of being a shy Arab terrorist.  
A man walking down the street with his eyes shut – shall be suspected of being a drowsy Arab terrorist.  
A man not walking down the street – shall be suspected of being a sick Arab terrorist.  
All the suspects listed above shall be arrested. In the event of an attempted escape, a warning shot will be fired in the air. The body will be taken to the forensic institute.*

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Interviews

Udi [Ehud] Adiv April 2022, Haifa

Rami Livne April 2022, Gan Shmuel

Lea Tsemel, April 2022, Jerusalem

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1. The Citizenship and Entry into Israel Law-1952. This law was amended several times to deny “unification of families” of Palestinians on both sides of the Green Line. [↑](#footnote-ref-1)
2. The network of laws regarding land management and ownership can be a topic for a separate study. These include the management of state lands by the Jewish National Fund, transfer of Palestinian ‘absentee’ property to the development agencies and through that to the use of Jewish citizens, to name just two. See: Israel Land Administration Law-1960; Development Authority Law (Transfer of property)-1950; Jewish National Fund Law -1953 and its amendments. [↑](#footnote-ref-2)
3. This particular piece of legislation, the Knesset Law, article 7a, determines that no party can participate in the elections if in its agenda contradicts the principle of Israel as a Jewish and democratic state. [↑](#footnote-ref-3)
4. This term was coined with the establishment of the governmental Ministry of Strategic Affairs in 2015. See: <https://www.gov.il/he/departments/Units/ministry_of_strategic_affairs_and_public_diplomacy> [↑](#footnote-ref-4)
5. Traitor here is not reflecting the exact meaning of the Hebrew word ‘Ocher’ that is used in the campaign, which originated in the bible, where it refers to those that were working against the Israelites and led to the death of many amongst them. The phrase is used politically to exclude a position or a person out of the acceptable and legitimate Israeli discourse. [↑](#footnote-ref-5)