

THE LAW IN THESE PARTS

Occupation is a legal concept.

DENIALISM

- A prior obstacle to study the occupation as a legal category.
- What is the difference between silence, secrecy, and subversion?
- What is denialism?
- Mark Hoofnagle, author of the environmentalist *Denialism Blog*, explains that denialism is a system of employing “rhetorical tactics to give the appearance of argument or legitimate debate, when in actuality there is none,” namely, an attempt to support a viewpoint against overwhelming evidence to the contrary.

WHAT IS THE OCCUPATION? HOW TO STUDY IT?

- A. Legal category
- B. Everyday experience
- C. Resistance
- D. Colonization

WHAT IS THE OCCUPATION? THE POST-1967 WAR ISRAELI DILEMMA

- Israel's post-1967 dilemma: "the dowry and the bride."
- Classical colonial dilemma: annexation and extension of citizenship v. land for peace
- Interregnum: focus on land while discounting its population.
- Unusual interpretation of the international legal framework and, in general, mire Israel into an ever deeper denial of both the causes for the untenable situation wrought by continued occupation and its likely consequences.

LEGAL FRAMEWORKS

- 1. CITIZENSHIP: (a) based on membership in state, (b) consists of civil, political, and social rights, (c) combined with effective enforcement.
- 2. HUMAN RIGHTS: (a) based rights not by virtue of membership but humanity, (b) overlap with citizenship but are 'thinner,' (c) limited enforcement, (d) enshrined in international conventions, (e) significance: applied to populations that cannot invoke effective citizenship rights.
- 3. HUMANITARIAN PROTECTIONS: (a) based on compassion and care, (b) temporary: following disaster, refugees, occupation, (c) mostly voluntary aid, (d) significance: applied to population that cannot invoke effective citizenship rights & high rights, € not a right but protection.

CITIZENSHIP MANQUÉ

- Unlike '1948 Palestinians' who are Israeli citizens occupied Palestinians were not granted citizenship rights.
- (a) Most likely they would not have wanted to become Israeli citizenship,
- (b) Two test cases: population of East Jerusalem & Golan Heights that were annexed by Israel were only given contingent and local, i.e. "Jerusalem residence."

HUMAN RIGHTS LTD.

- 1. Israeli HCJ 2002 ruling on mass arrest of Palestinian terror suspects during Operation Defensive Shield (height of Second Intifada) uphold balance between security needs and human rights.
- 2. Israeli position presented to International Court of Justice advisory ruling on Separation Wall: “Israel denies that the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which it has signed, are applicable to the occupied Palestinian territory. It asserts that humanitarian law is the protection granted in a conflict situation such as the one in the West Bank and Gaza Strip, whereas human rights treaties were intended for the protection of citizens from their own Government in times of peace.”
- 3. ICJ’s position is in line with a growing tendency that sees the two branches of international law converging.