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Aaron Braun
Oberlin College

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Sovereignty and Exceptionalism: The Case of Israel/Palestine

Aaron Braun
May 1st, 2013
Honors Thesis in Political Theory
Advisor: Jacob Schiff
Readers: Jacob Schiff, and Sonia Kruks
Acknowledgments

I would first and foremost like to thank my advisor, Jacob Schiff, for keeping me grounded and on topic against all odds. I would to thank Harlan Wilson, for supporting me throughout my academic pursuits, and for teaching me how to write a political theory paper (against all odds). I would like to thank Sonia Kruks, whose insight and support has greatly informed my writing this year. And, I am grateful for my brilliant friends, who heroically put up with my rants and ravings for the last several months.

Finally I would like to thank my family, in particular my parents, Jake and Shauna. Their radicalism has always set the bar for me as a critical thinker. I dedicate this project to them.
Introduction

The practices of contemporary sovereign states, such as the increasingly ubiquitous investment in the policing and walling of borders, appear to be paradoxical. As Wendy Brown argues in *Walled States Waning Sovereignty*, the claim that the Westphalian model of clearly demarcated nation states is no longer applicable, nor desirable, is met by the growing pervasiveness of xenophobic policy.\(^1\) Contemporary political theory has become increasingly interested in the conclusion that political sovereignty, at least as it has previously been known, has reached its political horizon. Whether citing trends of globalization or democratization, political theorists and scientists alike have projected beyond this political horizon the fantasy (or night mare) of a world without borders. Brown writes, “We have learned, especially from late twentieth-century Continental thought, to keep our eye on power’s discursive dross, its noncentralized habitus, its noncommodifiable operation and its deterritorialization”\(^2\). Some take the growth of international systems of cooperation, and the dissolution of previous barriers to cooperation to be signs of a universal political community. Others see them as omens of a new political empire, operating through increasingly incorporeal yet deadly relations of power. Regardless, both fantasies are “perversely answered by the stark physicalism of walls”\(^3\).

The phenomenon of exceptionalism is analogous to this paradox. Exceptionalism is the normalization of the exception. It describes when the exception to the law, or the exception to the norm is subjected codification, or are asserted and validated as norms. States and subjects begin to identify with their exceptionality, despite the fact exceptionality is valuable because it signifies one’s capacity or ability to exceed the norms through which states and subjects are identified. Certainly there is a distinction between the law and the norm, yet I would argue that

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\(^2\) Ibid., 81.
\(^3\) Ibid., 1.
one result of state exceptionalism is that the law is increasingly treated as a norm. I find post-colonial and queer theorist Jasbir Puar’s definition of exceptionalism to be instructive. Puar writes that “exceptionalism paradoxically signals distinction from (to be unlike, dissimilar) as well as excellence (imminence, superiority), suggesting a departure from yet master of linear progress”\(^4\). In fact, exceptionalism attempts to link superiority over and applicability within norms, without eroding the distinction between the two. Exceptionalism can be demonstrated by both state’s and individual subjects. The logic of exceptionalism, like many contemporary sovereign practices appears conceptually problematic because it is often asserted in terms of the norms whose legibility it threatens. Nevertheless, exceptionalism can be an effective way of maintaining sovereignty if states and subjects can effectively position themselves in the liminal space between the exception and the norm. I aim to show how markers of political progress, such as democracy and diasporic identity, which denote a moving beyond investment in strict articulations of identity and sovereignty, have become employed as shibboleths of culture and politics\(^5\). I wish to link these perversions of progressive politics to the question of sovereignty’s persistence, a fact called into question by the normalization of different states of exception.

These states of exception are perhaps most famously theorized by political philosopher Giorgio Agamben. In this paper I explore the politics of exceptionalism. How does it work? What work does it do? How might we critique exceptionalism, and what problems are encountered in an attempt to do so? In response to these questions, I will argue that exceptionalism is effective for the very reason that it erodes the intelligibility of those norms through which states and subjects tend to assert themselves, and through which critiques of sovereign practices tend to be lodged. Exceptionalism is also strategic because it challenges modern theories of the individual and


\(^5\) By this I mean to say that certain practices of state and identity politics that are defined by the fact that they challenge the exclusiveness of state and identity practices, have become deployed as modalities of exclusion.
sovereign subject, because it challenges the assumption that sovereignty is intrinsic to the integrity of both. I will argue, however, that this fact is not natural to sovereignty, as some theorists argue, but rather is constituted by certain normative structures that are historically and politically specific.

When the Israeli state fosters lawlessness in the name of securing law at its border, or when it “defends democracy” through state practices that abuse human and political rights, these actions demonstrate just a few paradoxes ubiquitous to ascendancy of state exceptionalism. Consequently, the practices of the state, like those practices of sovereignty and identity observed by Puar, assert the sovereignty of a legal, cultural, and political, totality in ways, erode integrity of those legal, cultural, and political norms, despite the fact that they continue to profit from the legibility lent to them by these norms. In the case of the Israeli state, where sovereignty is increasingly articulated according to cultural norms (as Jewish Israeli) and political norms (as “liberal” and “democratic”), these two manifestations of exceptionalism cannot be separated.

I say “strategic” because in many ways this paper will be concerned with tactics. I identify exceptionalism to be highly strategic partially for the reason that it incorporates into its own operations the threat or promise of its own dissolution. In this sense, sovereignty increasingly operates by playing with its own chronology, by making its future dissolution or present incompleteness a norm of its operations. I find that Israeli sovereignty appears to operate and condition itself through the threat of its own dissolution, or through the promise of a more just form of statehood. In both cases marginalized subjects are blamed for the state’s inability to conform to legal and political norms that they have already exceeded. As I will show, this dynamic renders it difficult to etch out a space for effective critique.

For many of the thinkers discussed in this paper, and for Giorgio Agamben in particular,

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6 Ibid., 8.
it is the site of the legal indistinction between the law and exception that most clearly
demonstrates how political sovereignty operates. For Agamben, the fact that sovereignty
operates on its own threshold demonstrates the fundamental mode of political sovereignty. The
Agambenian sovereign acts in ways that confound theories of the natural and unitary subject, and
yet, despite this, Agamben tends to reduce politically and historically specific phenomena to
abstract metaphysical qualities. Agamben helps to describe the efficacy of sovereignty as it
operates through exceptionalism. In doing so he precludes any practice through which
exceptionalism could be effectively combated in ways that are problematically teleological and
apolitical.

I will be mostly employing theorists who tend to be lumped into the category of the
“post-structural.” For them, as for Agamben, contemporary sovereignty disproves modern
theories of the individual and collective subject, demonstrating how sovereignty operates through
the incomplete, disjointed, enactive, and “roguish” subject. Exceptionalism appears to be a
necessary development correlative to the problems incurred by any attempt to maintain the
sovereignty of a homogeneous entity. Sovereignty requires, paradoxically, as a political
imperative, the interorization of that which is excluded supposedly for the sake of maintaining
sovereignty. As a result, the sovereignty of the law and the sovereignty specific cultural or
political identities remain haunted by a perverse intimacy with that which is excluded, and that
which is posed as a threat to their existence. However, these writers distinguish themselves from
Agamben, insofar as exceptionalism remains a political tactic and achievement, not a natural fact
of politics, nor a natural quality of sovereignty.

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Many of these theorists advocate for practices of sovereignty and identity that challenge reliance on the determinate and complete subject, understanding those transgressions to already the mode through which the sovereignty of subjects is maintained. Thus, claims of personal and collective sovereignty remain important and potentially radical claims because the legal and political sovereignty to wish they lay claim is already operating outside the boundaries of those norms. For these writers, the thematics of the post-structural subject mark the sites where existing power relations can be subverted, and yet they also mark the site of their persistence. As such, it becomes increasingly important recognize the risk involved in theorizing along these lines (a risk that they do seem to be aware of). It is important to recognize the larger historical and economic factors of Israeli sovereignty that cannot necessarily be dislodged through practices which attempt to play with the intimacy between subversion and subjection or to embrace the precarity of political subjecthood and sovereignty already included within its continued mobilization. There is, after all, a huge difference between the resistance offered against Israeli and Palestinian claims to personal and collective sovereignty given that Palestinians and Israeli’s experience dramatically greater levels of privilege and freedom in relation to the law, and in relation to cultural and political norms. This difference may implicate, among other things, the dictates of global capitalism or the long histories of violence and oppression. Much of the thought that I am engaging has the tendency or at least the potential to obfuscate this difference. Through the work of Palestinian critic Joseph Massad, I hope to push back somewhat against the ethos of these tactics, while still affirming their critical edge.

In my analysis of exceptionalism I will be guided by a series of smaller questions.

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What are the risks already present when one makes a claim in response to exceptionalism? Consequently, what are the risks of critical theory in this context, and how are those risks distributed according to the, greater structural factors that effect but are not necessarily immanent to individual, and even collective, political practices. Each section tackles a different marker of Israeli sovereignty that also signifies a site of Israeli exceptionalism. The first section will be interested in the Israeli laws that more and appear to operate as norms in the face of state exceptionalism. The second section will discuss cultural norms, and the third section will discuss political norms, and in particular, the Israeli state’s self-identification as “democratic.” Each section engages political philosophy that challenges the determinacy of those markers on which sovereignty is supposedly contingent, explain how sovereignty persists through this indeterminacy, and finally reflect on the prospects for effectively critiquing contemporary sovereign practices. These theorists include but are not limited to Giorgio Agamben, Wendy Brown, Joseph Massad, Edward Said, and Jacques Derrida.
Chapter 1

Juridical Exceptionalism and Fickle Partitions: Israeli Sovereignty as Operating in Relation to the Law

Juridical markers of Israeli sovereignty are undermined by the actual operations of Israeli sovereignty, and yet they remain the signs under which that sovereignty is presented legible. The Israeli state’s attempt to assert its sovereignty illegally and to justify those assertions under some legal obligation to its own citizens, or at least to some of its citizens, mocks the very determinacy of those legal distinctions that are meant to separate Israel from the Palestinian authority. The material structures built in the name of the sovereignty of Israeli law, and in the name of Israel’s sovereign boundaries, effect that sovereignty for the very reason that those effects exceed the legal and territorial borders they are meant to mark and defend. What I am describing here is the dynamic of exceptionalism. By accusing Israel of “exceptionalism” I mean to highlight the capacity of the Israeli state and Israeli subjects to position themselves on the indeterminate space between the exception and law so as to remain unaccountable to the norms of either. It is from this position that Israel works to normalize multiple spaces of exception to the law while retaining the conceit of exceptionality.

As scholars Michaeli and Naftali observe, the actions of the Israel state, as an occupying state are not so “exceptional” if one takes into account the already existing concept of a “legal occupation” within international legal discourse. The ambiguities of legal discourse allow the Israeli state to articulate its sovereignty both within and without its legal obligations to an

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international community. This is not to say that international law is not meaningful, or that it exists purely and inevitably to maintain the conceit of Israel’s lawfulness. Rather, whatever legibility or legitimacy can be accessed through international law is appropriated by the Israeli state to present their illegal actions as exceptional, despite and in service of those structures which make indeterminate the boundaries and limits of Israeli law. “Israel,” they observe “enjoys in the occupied Palestinian territory both the powers of an occupier and the powers of a sovereign, while the Palestinians enjoy neither the rights of an occupied people nor the rights of citizenship. This indeterminacy thus, allows Israel to avoid the wrath of the international community for having illegally annexed the territory while pursuing the policies of “greater Israel” without jeopardizing its Jewish majority.”

Consequently, Palestinians are placed in a double bind in relation to the law. If it is in the name of the sovereignty of the law that Israeli perpetuates extralegal actions, and if it is in the name of the distinction between the lawful and the lawless that Israel disrupts the very distinction between them, what effective recourse should Palestinians take in relation to the law? For Israelis, the partitions that signify the distinction between inside and outside, and the distinction between law and exception actually mark the sites where Israeli citizens are insulated by and simultaneously freed from that very distinction. Inversely for Palestinians these sites mark the experience of being made accountable to that which already excludes them. When I discuss forms of cultural and political exceptionalism, I will also point to this quality of partition. I find that Israeli and Palestinian spaces overlap in ways which effect and maintain structural violence against Palestinians. Correlatively, Palestinians are condemned for a fragmented political subject hood and sovereignty for which the Israeli state is at least partially responsible. Meanwhile Israelis are licensed to transgress the boundaries of political subjecthood and sovereignty, often in the name of those boundaries on

14 Ibid., 66.
which sovereignty is supposedly contingent.

Just as Israeli law is applied selectively both within and without what is officially recognized as Israeli territory, so too is sovereignty selectively enacted both within and without Israeli legal structures. The relationship between the Israeli state and Palestinians in East Jerusalem is a good example of this. The separation wall has annexed East Jerusalem. The wall snakes around Palestinian communities in an attempt to take as much land and as few Palestinians as possible. In the process the borders of Israel’s self-proclaimed capital continue to expand into occupied territory. Palestinians living in this annexed territory are excluded from Israeli citizenship. Further, because they reside in annexed territory they are also excluded the slight protections that would be granted to them by Palestinian citizenship. Instead of citizenship they are granted the precarious title of “temporary resident.” The Palestinian resident of East Jerusalem appears to exhibit an exceptional and temporary relationship to government and legal structures. It is this indeterminacy that privileges the livelihood of Israeli settlers, while it makes precarious the livelihood of Palestinians. Further, the state attempts to license the permanence of structures such as checkpoints or the separation wall, through these forms of indeterminate and temporary subjection. In the case of East Jerusalem, the Israeli government is certainly serious about removing Palestinians from the land. It is the “temporary” presence of Palestinians within Israeli occupied territory that serves as a managed threat to Israeli sovereignty: this exposes Palestinians to the unlawful actions of the Israeli state. The institutions of surveillance and control, built in order to handle this problem of ambiguous citizenship, maintain the status of Palestinians as subjects to Israeli sovereignty while excluding Palestinians from the citizenship that is extended to Israelis made easily accessible to the entire Jewish population.

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diaspora. This dynamic of exclusive inclusion, as we will see in other forms of exceptionalism, operates quite discriminately as a practice of both subjection and subversion in relation to the limits of the law and to the limits of citizenship.\textsuperscript{16}

Exceptionalism is effective partially because it normalizes a double standard in how the law applies to Israelis and Palestinians. This double standard operates in a condition of legal indeterminacy characterized by architectural theorist Eyal Weizman as a state of “temporary permanence”\textsuperscript{17}. Under this condition the opening up of Palestinians to the force of Israeli law overlaps with the insulation awarded to Israelis by the law. This is especially the case regarding the settlement infrastructure of the West Bank. In the early stages of the post-1967 settlement boom, the annexation of land for settlement and occupation was declared legal so long as settlements reflected a temporary incursion into foreign territory in response to a temporary security risk.\textsuperscript{18} It was the very conceit of a temporary occupation, of a “legal” occupation, which nourished the permanence of an illegal presence in foreign territory. In 1978, a justice of the Israeli high court defended the legality of an accelerating and increasingly permanent infrastructure of settlement and occupation on the grounds of its temporariness, stating, “the possession itself may one day come to an end as a result of international negotiations which could end in a new arrangement that will gain force under international legal in attempt to speak generally to the relationship between Israeli articulations of sovereign law”\textsuperscript{19}. In the case of settlement and occupation, legality and extralegality become co-constitutive, producing indeterminacy between the law and the exception to the law through which sovereignty is asserted. Adi Ophir and Ariella Azoulay comment on the logic of temporary permanence, as that

\textsuperscript{18} Ibid., 103.
\textsuperscript{19} Ibid., 103.
which allows sovereign authorities to incorporate the threat or promise of an end to occupation as justification for its persistence: “Temporariness is now the law of occupation…occupier, is an unrestrained, almost boundless sovereign, because when everything is temporary almost anything, any crime, any form of violence is acceptable, because the temporariness seemingly grants it a license, the license of the state of emergency”\(^\text{20}\).

Israeli occupation is defended as a response to exceptional circumstances, and yet this justification serves to maintain indeterminacy between the exception and the law through which Israeli sovereignty is asserted. Weizman writes that, “When the settlement activity seemed to degenerate into complete chaos it was because this chaos was often promoted from the centre. Actual or claimed loss of control in the Occupied territories thus itself became an effective government strategy. The appearance of being out of control allowed the state to achieve its ideological objectives without accepting responsibility for them.”\(^\text{21}\) The Israeli state justifies its complicity with settler vigilantism on the basis of its legal obligation to its citizens, but because these Settlers were presented as in some way outside the domain of the Israeli sovereign, the government continues to act as though it is not equally responsible for that vigilantism.\(^\text{22}\)

Inversely, Palestinians are abandoned by the law at the same time that they are violently subjugated to the force of the law. This double abandonment and intrusion operates in the name of a distinction between the lawful and the exceptional that the Israeli state has already exceeded. This juridical flexibility is maintained through an infrastructure of occupation, through which


sovereignty is asserted in response to an indeterminacy that is partially engendered by those structures.  

There exists a network of “temporary” structures of governmentality that consists of checkpoints, racialized surveillance and identification systems, and physical walling. These systems reify rather than untangle a situation of overlapping political geographies. Thus, it is necessary, as Sari Hanafi and Eyal Weizman have argued, to observe apartheid and partition in the OPT as operating 3-dimensionally. Settlements are often built on hilltops above Palestinian communities, and are connected by a series of roadways that bypass the structures of occupation below. What may appear to be an indeterminacy on a two dimensional plane is actually a much more strategic form of partition. It is one that appropriates and projects a picture of geographical indeterminacy in order to effect a much more flexible form of partition. In past peace negotiations, the Israel government has conceded that “it is no longer possible to draw a continuous line that separates Palestinians from Israelis” and has opted to grant Palestinians more sovereignty over the territorial surface in exchange for full sovereignty over the subspace and soil. Indeed, apartheid already operates along vertical space as settlements are increasingly built on hilltops, connected by a complex network of highways inaccessible to Palestinians. These highways cruelly mock the network of checkpoints they bypass. This network of checkpoints violently fragments Palestinian communities for the sake of Israeli safety. Consequently, Israelis living in the occupied territories live insulated from Palestinian communities, while they are continually able to cite the “presence” of Palestinians as that which

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26 Ibid.
necessitates the greater construction of biopolitical systems of surveillance and control, systems that already exclude Israeli settlers.

The fact that both Israelis and Palestinians are often placed in a liminal space between the exception and law makes it difficult to discern whether an effective critique of, or resistance to, contemporary forms of Israeli sovereignty should come from within or without the law. I believe that Giorgio Agamben’s sovereign describes the kind of exceptionalism I have observed in the operation of Israeli sovereignty. These qualities call into question the notion of sovereignty as operating fully and naturally according to certain preconceived metaphysical presuppositions, despite the fact that Agamben tries to explain exceptionalism as intrinsic to sovereignty. Still, he maintains the capacity of the sovereign to transgress certain existential boundaries. This is problematic insofar as it endows the sovereign with tactics that are not in contest, and thus cannot be appropriated for the sake of counter tactics. Consequently, I wish to expose the limits of Agamben’s metaphysical account of sovereignty and the exception, which, because sovereignty is treated as a thing, rather than a practice, seems immune to effective critique.

For Giorgio Agamben, exceptionalism, or, the operation of sovereignty in the indistinction between the exception and the law, is the fundamental mode of sovereignty’s operations. Agamben, like Schmitt,\(^{28}\) believes that in order for sovereignty to operate above the law, there consequently must be an intimacy between the law and that which exceeds the law.\(^{29}\) This is the paradox of sovereignty that explains the impossibility of both separating and collapsing the distinction between the law and the exception. Following this, Agamben places as distinct and prior to the law the liminal space between it and the exception. He writes, “the state of exception is thus not the chaos that precedes the order but rather the situation that results from


its suspension.” Agamben paints a picture of distorted space and time, where the sovereign operates outside of its own existential terms. In this condition, sovereignty operates both outside itself and in a sense prior to or generally out of step with itself. He argues that the law cannot be reduced to the exception, although the exception remains always present within the law for the sake of the law’s ability to operate. The law continues to assert itself as a presence, even as it necessarily asserts itself outside of itself. But where is it possible to locate, and thus critique or challenge sovereignty in this picture? By what markers is it possible to identify the sovereign in this condition? Agamben’s theory of sovereignty remains decisionistic although it is not always clear who/what is making the decision. He writes, “The sovereign, who is outside the law, declares that there is nothing outside the law.” The implication is that sovereignty operates by taking its own existence, or rather the question of its existence as an object of its operations. The fact that it is difficult to locate sovereignty in this picture perhaps speaks to the capacity of states, such as the Israeli state, to articulate sovereignty selectively both within and without the law.

The sovereign assertion requires the self-sacrifice of the law. This self-immolation is necessarily enacted in order to bring about the exception. Agamben writes, “The exception does not subtract itself from the rule; rather, the rule, suspending itself, gives rise to the exception and maintaining itself in relation to the exception, first constitutes itself as a rule…The sovereign decision of the exception is the originary juridico-political structure on the basis of which what is included in the juridical order and what is excluded from it acquire their meaning.” Assuming that sovereignty continues to be made legible through the law, Agamben completely disrupts the chronology of sovereignty’s coming into being by asserting that sovereignty of the law is actualized through its self-immolation. How then, is it possible for the law to enact anything, if

30 Ibid., 18
31 Ibid., 15.
32 Ibid., 16
this enaction exists prior to its constitution as a law? Who/what enacts this, and by what standards can this enaction be recognized as a withdrawal? Does this withdrawal not already require some distinction between the exception and the law? Would not the operation of sovereignty erode this distinction?

Agamben describes a sovereign whose actions appear to be self-destructive but in fact constitute the natural being of the sovereign. Yet, given Agamben’s own description, and my own observation of contemporary Israeli sovereignty, it would appear that for sovereignty to remain effective and persistent in this manner, there must be some disjunction between what sovereignty is and what sovereignty does, precisely for the very reason that sovereignty necessarily asserts itself by exceeding its own boundaries. Agamben would perhaps argue that regardless of whether one privileges the exception or the law in the constitution of political sovereignty, one cannot avoid the fact that each necessarily maintains the trace of the other that exists exterior to it.\textsuperscript{33} I find it odd, then, that Agamben’s account of sovereignty is metaphysical given the fact that sovereignty of the law is constituted by a transgression of its own existential limits. Thus Agamben implies that sovereignty is not just a thing, but rather is mobilized through a state of coming into, or being brought into being.\textsuperscript{34}

I do not agree with Agamben that exceptionalism is intrinsic to sovereignty. However, Agamben accurately describes how sovereignty is presented by the Israeli state. This is a presentation that many take as a given. Through a series of overlapping geographies, the Israeli state effects its sovereignty by declaring outside the law and beyond its own constructed boundaries that there is no sovereignty outside the law. Yet in doing so, Israel normalizes the very states of exception that serve as the stage on which sovereignty continues to be mobilized.

\textsuperscript{33} Ibid., 19.
\textsuperscript{34} Ibid., 16
If sovereignty operates by normalizing the exception, how is it possible for Israel to maintain the conceit of its exceptionality and to do so in a way that further insulates that exceptionalism from its own self-destructiveness? Agamben implies that this is possible when he describes the sovereign as being able to strategically operate in disjunction from itself, without actually bringing into contestation the terms of its own legibility as sovereign. Wendy Brown argues that, “exceptionality cannot become permanent without eroding the norm defining it and against which it functions, without replacing that norm itself and thereby forfeiting the status of exceptionality through which sovereignty is defined.”

The threats to states and subjects are interiorized in order condition the sovereignty of states and subjects. But, if this is the case, then in what sense are they threats any longer, and by what means is it possible to maintain the conceit of them as such? If the sovereignty of states and subjects operates by normalizing their own exceptionality, how is it possible for these entities to maintain the conceit of their exceptionality?

Brown, like Agamben, attempts to make sense of the contradiction between the “evanescent, protean, and depthless traits of late modern culture and politics,” and the stark repressive power reflected by contemporary practices of walling.” Brown argues that these repressive devices are constructed to enact a condition of sovereignty that is precluded by the condition actually effected by those walls. Sovereignty is in this sense disclosed by the failure of sovereign states to maintain sovereignty according to the fantasy of Schmittian politics. But again, as I argued in my discussion of Israeli exceptionalism, these, albeit performative, structures do not fail to normalize occupation and apartheid. The wall engenders the very lawlessness it is built to combat. Instead of creating civil relations between those it is meant to

36 Ibid, 84.
37 Ibid, 90.
separate, “the staging of sovereign integrity, order, and force in the face of sovereign decline both draws upon and intensifies a xenophobic sense of nationhood among the nation’s subjects.” Regardless, this wall is not even contiguous with the borders of national identity and some of the most forceful declarations of Israeli sovereignty are made by Israeli settlers outside of Israeli territory. If this is the case than there must be a mechanism that insulates sovereignty from the lawlessness it fosters, and from its own complicity with that lawlessness. This mechanism could be explained by a number of structural factors, including but not limited to, the growing power lent to the Israeli state by its role in the production of global capital, or discursive authority lent to articulations of Israeli sovereignty.

For Agamben, the placing of states and subjects on liminal space of outlawry reflects the original political relation through which sovereignty is constituted. Further, the indeterminacy of those markers that have historically served as signifiers of political sovereignty, (such as territorial and legal borders), constitute the original and fundamental condition of sovereignty and politics. Again, it is odd that Agamben places a premium on an original and fundamental relation of political sovereignty when, for Agamben, sovereignty appears effective for the very reason that sovereignty actualizes itself by disproving an obligation to the previous terms of its own existence. I find these conclusions radical insofar as they challenge the notion of political sovereignty as contingent on the clear distinction of legal and territorial boundaries, yet I believe that they wash over the ways in which different subjects’ relationship to those boundaries are contingent on certain political nuances (geopolitical struggle, racism and ethnic conflict, to name a few).

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38 Ibid, 94.
41 Ibid, 19.
Agamben describes this position within and without the law (as norm) as a general category for all subjects. Yet, Agamben makes a clear distinction between two paradigmatic figures of politics, the sovereign and the sacred man. This difference, like the difference between sovereignty’s presence and absence, or the difference between its self-assertion and self-destruction has problematic political implications. For Agamben, both live in a state of exclusive inclusion in relation the law, yet while the sovereign is privileged by the law that he transcends, the sacred man is stripped of all political subjectivity and reduced to bare life by the law that abandons him. The sacred man is included as an object of political authority, since he can be killed without threat of punishment, but is excluded from having any agency within politics. He cannot be sacrificed because he is already included as a sacred object of political sovereignty, and thus his life and death are not political agency, even though they appear central to politics.\textsuperscript{42} Both the sovereign and the sacred man are bound together, like two sides of the same coin, despite the political disparity that exists between them.\textsuperscript{43} Finally, the relationship between the two is not contingent historically and politically specific structural factors, but rather exists before and thus cannot be reduced to those markers of cultural or political difference by which we might come to recognize the relationship between sovereigns and subjects. Given this, I agree with Catharine Mills when she writes that Agamben’s writing “relegates characteristics such as race and gender to the level of the ontic, thus setting them outside the ontological focus that Agamben’s theorization valorizes. Secondly, in doing so, it risks abstracting too far from any recognition of the unequal distribution of the burdens of vulnerability and violence across social, economic and (geo)political spheres”\textsuperscript{44}. Certainly the greater privilege and freedom of Israelis in contrast to Palestinians livelihood is not intrinsic to an abstracted relationship between them.

\textsuperscript{42} Ibid, 82.
\textsuperscript{43} Ibid, 84.
\textsuperscript{44} Mills, Catherine. \textit{The philosophy of Agamben}. Stocksfield: Acumen, 2008, 136.
This difference is dependent on the normalization of structural violence. In Israel/Palestine, privilege and oppression operate through systems of governmentality built by the Israeli state, which sort and classify individuals on the basis of race and ethnicity. Secondly, Agamben writes that the production of bare life and the exclusion of peoples from the political sphere is the fundamental political act of sovereignty. Yet, he also asserts that the sacred man has no access to political efficacy or agency. So the sacred man is politically meaningful and valuable to the sovereign but is only politically valuable as a passive object of that which excludes them. I think this is a double standard, and I think it is problematic that Agamben attempts to reduce this double standard to metaphysical presuppositions.

This is an issue that I will discuss at greater length when my analysis of sovereignty and exceptionalism moves to take into account how sovereignty is articulated and operates discursively according to cultural and political norms. Given the deep asymmetry that separates and the strong duality that binds the sovereign to the sacred man, I am generally interested in how the assertions of sovereignty made by some states and subjects become recognized and taken for granted, despite the fact that such assertions appear to exceed the norms through which states and subjects are presented, and thus should threaten their intelligibility. I wish to understand better the persistence of contemporary sovereignty, but also the repeated failure of certain claims for self-determination and collective sovereignty. What, then are the stakes of articulating and asserting sovereignty, and how are these risks distributed? If it is through the withdrawal of the law from itself that sovereignty is in some way asserted and effected, than how can this withdrawal simultaneously privilege and insulate Israeli’s while abandoning and condemning Palestinians?
Take for example, once again, the case of Israeli settlement. As Eyal Weizman argues, the vigilante justice exercised by settlers is important to the capacity of the state to maintain supremacy at its borders. Brown argues that the blurring of the space between the exception and the law is strategic, for the very reason that it allows states to defer on to sovereignty to those whose actions they are not accountable to, despite the fact that this challenges the state’s “monopoly on decisionism as well as the monopoly on violence presumed to anchor state sovereignty”\textsuperscript{46}. Individuals attempting either to take the law in their own hand, or to simply break the law in the name of their status as citizens of a sovereignty state enact a sovereignty but in doing so challenge the legal norms and territorial boundedness to which that sovereignty is supposedly obligated.\textsuperscript{47} If a vigilante is someone who takes the law into their own hands, then it is already implied that the vigilante is some way free to do so and therefore outside of the law. The Israeli state and Israeli settlers are able to more comfortbly assert their sovereignty as outlaws, but remain insulated by the terms of the law. They attempt make outlawry legible as a legal norm, and this exceptionalism succeeds because of existing political and economic structures that are exclusive and discriminatory in nature.\textsuperscript{48} If there is a risk to asserting sovereignty in this way, then it is not a factor for those entities whose right to sovereignty is already taken as a given.\textsuperscript{49}

Agamben’s theory seems to undercut the efficacy of a critique of contemporary sovereignty. However, he supplies us with some of the tools through which a critique of exceptionanism could be constructed. This critique would be based on the practices demonstrated by the Agambenian sovereign, if we understand those practices to be political

\textsuperscript{48}Ibid., 68.
achievements and not natural qualities intrinsic to sovereignty. The sovereign’s capacity to operate between exception and norm, and to assert its exceptionality in the name of those laws denigrated by the exception, may be a fact of contemporary politics, but it is not necessarily the telos of politics. Further, the legibility of this assertion of exceptionality cannot be taken for granted, especially if one takes into account the failure of Palestinians to effectively challenge the Israeli exceptionalism, through claims to Palestinian sovereignty. By attempting to rationalize this fact, or what Agamben calls “the paradox of sovereignty,” one opens up the possibility of critically redeploying that paradox in ways that are effectively empowering. With this in mind I would like to return to my description of exceptionalism, focusing now on how Israeli sovereignty is articulated in the context of cultural norms.
Chapter 2

Cultural Exceptionalism and Zionist Narratives: Articulations of Israeli Sovereignty As Operating in Relation to Cultural Norms

Cultural exceptionalism describes the phenomenon by which certain cultural norms are exceeded in the assertion of those norms. Consequently, to say that a certain identity is exceptional is to, as Puar argues, imply that those individuals paradigmatically conform to and maintain a mastery over cultural norms. Thus, cultural binaries that tend to discriminate between Israelis and Palestinians are effective in asserting the supremacy of certain identities partially because they exceed the norms of identification. Like those material and legal partitions that mobilize Israeli sovereignty, the Arab/Jew binary is not effective at discriminating against Palestinians because it forestalls all movement across it. Rather, it and they are effective because they normalize the capacity for Israelis to transgress those norms while remaining insulated by them. I draw a parallel between articulations of Israeli identity of the sovereignty of Israeli law, as Israeli sovereignty is increasingly tied to issues of cultural and ethnic belonging. The articulation of Israel as a state of and for the Jews implies that the sovereignty of Israel is contingent on the purity and determinacy of the state’s “Jewish character.” However, I argue that in the attempt to assemble a determinate Jewish “people” from which the Israeli state would receive its authority, that this notion of a “Jewish people” already exceeds the mobilization of Israeli sovereignty. In this sense the indeterminacy of the Jewish/Arab binary may appear as a threat to Israeli sovereignty, and it is often presented as such. However these cultural norms are effective insofar as they already include the exception to those norms. This is demonstrated by

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the appropriation of some Arab identities as “Jewish” and the exclusion of other Arab identities as “Palestinian.” These latter identities are treated as a threat to the state’s “Jewish” character.

There is perhaps no greater irony to the citation of porous borders as justification for Israel’s lawlessness, than Israel’s openness to the world’s Jewish population. Despite the fact I am not technically Jewish according to Orthodox Law, I would have much less difficulty obtaining Israeli citizenship than a Palestinian Arab born and raised in the capital of Israel. The relationship of Diaspora to the Zionist rhetoric of the state reflects, as Helga Tawil-Souri observes, a contradictory logic of “not having stated borders but wanting to defend them.” She writes that, “Israel is a ‘de-bordered’ state insofar as it is the nation for the world’s Jews, not simply for Israelis who may or may not be Jewish, such as the 20% of the population within ‘Israel proper’”\(^\text{52}\). Israel’s borders are consistently penetrated, as dictated by the Zionist state’s claim to sovereignty. This claim at once enacts Israeli sovereignty as a solution to and negation of the Jewish Diaspora. The Zionist state’s claim to popular sovereignty operates as an unconditional claim in the name of the Jewish people, despite the fact that it is not a state representative of the entire Jewish population. This claim is a productive one insofar as the Jewish identity of the Israeli state is asserted as an exceptional claim, necessitated by the fact that the Jewish population exceeds the Israeli state’s claim as the state of the Jews. It is not simply a description of what already exists but rather a claim which owes its force and momentum to the exceptional situation facing a the Jewish people, a situation that if the Israeli state were to actually solve would threaten the unconditionality of its claims to sovereignty. As a result, the Israeli state continues to articulate its sovereignty as that which is yet to be realized, not because it cannot be realized, but because it is threatened by the presence of the Palestinian “other.” What

\(^{52}\) Tawil-Souri, Helga. "Uneven Borders, Coloured (Im) mobilities: ID Cards in Palestine/Israel." *Geopolitics* 17, no. 1 (2012): 158
this reveals is not simply precarity of the “Jewishness” of the Jewish state, but that such precarity is employed to maintain the unconditionality of the Israeli right to sovereignty. The claim that Jewish people require a state is bolstered by the condition of being a people without a home (a condition shared by many Palestinians), which is potentially problematic insofar as a diasporic condition is antithetical to statehood. Again, we see that the dissolution of sovereignty as presented by the Israeli state helps to mobilize a sovereignty that does not really operate according to the cultural norms that it cited as its foundation for existence. This is perhaps why Agamben attempts to link the dissolution of sovereignty to its persistence and rearticulation, as the condition of sovereignty’s self presentation according to certain norms is both undermined and animated by that assertion.

The ambiguous and volatile relationship between Zionism and diaspora reflect a perversely constitutive relationship between what affirms and threatens Jewishness. It is in the name of its very negation, that the exceptionality of the diasporic condition is asserted. Consequently the Diaspora is an efficacious and malleable political instrument, and as an inviolable icon of the Jewish experience. Palestinian critics, such as Joseph Massad, have attempted to challenges the monopoly that Zionists narrative have on the diasporic experience, by bringing to light Zionism’s own fraught relationship to that history. Such attempts are upsetting to the image of Israel as a “western outpost on an eastern front.” This image is politically strategic because it is paradoxical, and because it allows the Israeli states and subjects to articulate the sovereignty of identity as that which both exceeds and paradigmatically conforms to the limits, parameters and obligations of national belonging. To be like a Western

nation state Zionism must eventually give up the exceptionality lent to the Israeli state by the Jewish diaspora. Yet it is the diasporic history of the Jews that makes their claim to statehood legible and legitimate, at the “unfortunate” cost of the Palestinian Diaspora. Zionism, in its operations, both excludes the diaspora as an obstacle to the realization of Israeli identity, and includes the diaspora as a venerable token of Israeli exceptionalism.

While articulations of Israeli national and cultural belonging exclude the Arab other as that, which poses an existential threat to Jewish/Israeli identity, the Arab-Palestinian remains integral to the operation of the Zionist master narrative. It is the threat and obstacle of the Palestinian “other” that is cited to prove both the exceptional vulnerability and perseverance of the Jewish way of life.\(^\text{55}\) On the other hand, “they” are objectified and fetishized as keys to accessing Jewish origins. Within narratives of Zionism, “arabness,” both in the figure of the Palestinian and in the figure of the Arab Jew, is an object of desire. Arab Jewish scholar and activist Ella Shohat writes that, “The Arab was perceived as the incarnation of ‘the ancient, pre-exiled Jews’, ‘the Semitic not yet corrupted by wanderings in exile’, and therefore, to a certain extent, an authentic Jew. The projection of the Arab as preserving archaic ways, and rootedness in the land of the Bible, in contrast with the landless ghetto Jew, provoked a qualified identification with the Arab as the desired object of imitation for Zionist youth in Palestine/Israel, and as reunification with the remnant of the free and proud ancient Hebrews.”\(^\text{56}\) Arab identity becomes in appropriated in the assertion of Israeli’s as culturally hybrid and multicultural. Later I will discuss how this presentation of cultural hybridity is key to the articulation of Israeli’s as more progressive than Palestinians.

It is this obsession with historical origins as an object to be discovered and selectively


\(^{56}\) Ibid, 226.
celebrated that informs Zionism’s denial of the presence of Palestinians as an agentic subject of history. This is after all the already contradictory logic of the Zionist project, to colonize and conquer its origins, and to construct a “new” Jewish subject in the name of a condition that it wishes to negate. This inclusion as object and exclusion as subject is integral to the operation of Orientalist discourse in general. As Edward Said writes, quoting the scholar Anwar Abdel Malek “This ‘object’ of study will be, as is customary, passive, non-participating, endowed with a historical’ subjectivity, above all, nonactive, -nonautonomous, non-sovereign with regard to itself: the only Orient or Oriental or ‘subject’ which could be admitted, at the extreme limit, is the alienated being, philosophically, that is, other than itself in relationship to itself, posed, understood, defined-and acted- by others”57. If any Palestinian figure is written into narratives of Zionism, it is the “terrorist,” who carries an “unwarranted” and murderous desire to annihilate the Jewish state. As I will discuss later in my analysis of political norms, this image of Palestinian resistance also bolsters the claim that Israel serves as a bastion of secular progressiveness in the Middle East (despite its ethnocentric policies). This Islamophobic stereotype only further animates the Orientalist discourse that reduces the Palestinian subject to “objective” investigations of Islamic or “Arab” history and culture, while effacing the violent marks that the history of Zionism has left on the Palestinian subject.

The Palestinian and the Arab Jew are both internal others of Zionist discourse. The dual restriction and appropriation of othered subjects into the Zionist narrative in ways mirrors deployment of European diasporic Jewishness in those narratives. Through both, Zionism negatively articulates its own sovereign coherence, capturing what it excludes in the act of negation. Both Joseph Massad and Ella Shohat are interested in the complex combination of investment in and exclusion of the Arab Jew in Zionist discourse. In the Persistence of the

Palestinian Question, Massad writes about movements of resistance among Mizrachi Jews, and is especially interested in their identification with the American Black Panther Party. Even within the confines of legible Jewishness, articulations of the democratic sovereignty of a Jewish nation are made hollow by the exclusion of its own recognized people. The structural racism experienced by Arab Jews exhibits the dark shadow of Zionism’s celebration of the Jew as a multicultural and diasporic subject. I would argue that Palestinians living within Israel are not second-class, but rather third class citizens. The racism experienced by Arab Jews challenges the idea that it is possible to unproblematically appropriate cultural hybridity as a slogan of Israeli superiority. I would like to make clear however, that although it is possible to draw similarities between the role of Palestinians and Arab Jews in the Zionist master narrative because of their “arabness,” their access to legibility and legitimacy within a discourse of national and collective sovereignty remains strikingly different.

Arab Jews are not subject to the same kind of exclusive inclusion as Palestinians in relation to Israeli identity. For Palestinians, their diasporic history is something that is consistently denied by the Zionist narrative, perhaps for the reason that the Israeli state claims a monopoly on diaspora. I find Joseph Massad’s critique of cultural exceptionalism exciting insofar as his critique attempts to challenge exceptionalism by implicating Zionism in its capacity to selectively valorize and condemn practices of identity, and in particular the diasporic experience. He writes that “the project of Zionism proved to be two fold, in transforming the Jew into the anti-Semite or “anti-Jew” as Israeli clinical psychologist Beit-Hallahmi posited), it

became necessary to transform the Palestinian Arab into the disappearing European Jew.\textsuperscript{60} This statement is indeed controversial (and a bit reductive). Yet, it serves as a tactical response to many Zionist narratives that depict Palestinians as both desiring diaspora and yet desiring to retake the Jewish state. I am reminded of the once popular retelling of the 1948 war, in which Palestinians were described as abandoning their own homes, so as to prepare an invasion force with which to “drive the Jews into the sea.” This story bolsters the depiction of Israelis as both vulnerable and inviolable. It negates the causal link between Israeli statehood and Palestinian diaspora at the same time that it wishes to use the threat of Palestinian resistance as justification for the aggressive outlawry and exceptionalism of the Israeli state. Consequently, Zionist rhetoric refuses to recognize the Palestinian diaspora, as its legibility as such would be seen as an affront to the authority of Jewish history. And yet, despite this, Zionist rhetoric also licenses state practices that further normalize the diasporic condition of Palestinians in an attempt to negate the diasporic condition of the Jewish people.\textsuperscript{61}

Understanding that the Israeli sovereign is increasingly identified in reference to a cultural totality, I would argue that the actual assertion of sovereignty is animated by cultural norms that are exceeded by this assertion. And as Israeli sovereignty increasingly attempts to assert its exceptional acts, or conditions as norms in and of themselves, the line between distinction between norm and exception becomes increasingly troubled. This is similar to what the Agambenian sovereign has demonstrated. By attempting to operate strategically within and without its own limits the law appears to undermine itself and in a sense destroy itself, in its very assertion. This is what Massad is referring to when argues that Zionism is fraught with a

\textsuperscript{60} Massad, Joseph Andoni. \textit{The persistence of the Palestinian question: Essays on Zionism and the Palestinians}. Taylor & Francis, 2006 (169)

resentment of diasporic Jewish identity. However, it is a fact of contemporary politics that, while cultural exceptionalism strategically mobilizes Israeli sovereignty under the conceit of vulnerability, for Palestinians, this same dynamic constitutes a double bind. It is difficult for Palestinians to assert the exceptionality of their own experience when many still consider it anti-Semitic for Palestinians to openly identify with history of the Jewish diaspora, or to at least draw a parallel between the Jewish and Palestinian diaspora, even though they are expected to recognize that history as paradigmatic it in order to make their own suffering legible. In conforming to discursive norms of political intelligibility, Palestinians attempting to make their claims to national sovereignty legitimate must undercut the potency of that very claim by recognizing Jewish exceptionality.  

“The state of racist exception,” writes Nadia Abu-El Haj, permeates this structure of command: as scholars, as critics, even as Palestinians who have paid a dear price for Israel’s existence, we must reassure you, one of the most militarily powerful states on earth, of your right to exist”. We are faced with a series of questions similar to those ones implicated in the operation of legal exceptionalism. How is it possible that for some, the attempt to exceed the recognized norms of belonging proves their exceptionality and thus the sovereignty of those norms, while for others such a fact constitutes a failure to conform to certain norms from which they are already excluded?  

More recent articulations of Israeli sovereignty have grafted contemporary civilizational discourses on to the Zionist narrative and consequently have colonized the language of democracy, popular sovereignty, and political pluralism so as to operate as a modality of

62 Ibid., 228  
exclusion. Consider one academic’s assertion that in the post 9/11 era “we are all Israelis”\textsuperscript{64} In this sentence exceptionality and normativity overlap. The “we” being referred to in this statement is inclusive insofar as it sets the limits of Israeli identity beyond the most secular notions of Jewishness. Yet it is that very act of inclusion that proves and affirms a much more pervasive form of exclusion. This “we” could perhaps be extended to “we democrats,” or “we people progressive nations,” or “we people of western nations,” despite the fact that Israel is neither democratic, progressive, nor in the West. The operation of the principles of democratic and popular sovereignty as signifiers of national, cultural or even racial belonging, brings into relief one of the more insidious development of Israeli exceptionalism, its robbing of Palestinians of the political language to which they are expected to conform. The image of Israel as both Jewish and Democratic, or as the only democracy in the Middle East exemplifies this double standard.

I am interested in theories of identity and sovereignty that conceptualize both as that which is neither revealed as an already naturally existing (or not existing) totality, nor orchestrated and reorchestrated in every moment. Rather I wish to conceptualize sovereignty and identity as that which is mobilized through action, and assertion. Consequently I would like to understand those norms under sovereignty as being enacted. The effectiveness of this mobilization of one’s identity through enaction and the determination of one’s supposedly self-determined self sets the stage for future assertions. This effectiveness is not predetermined by the objective existence of that which the claim refers to. However neither is it completely contingent on the will of the individual, as claims of identity are deeply structured by existing norms of recognition. There are high political and material stakes to the assertion of sovereignty and

identity. In the case of Israel assertions of sovereignty are tied to the assertions of particular identities, and both require recognition. Judith Butler writes that “to be addressed is not merely to be recognized for what one already is, but to have the very term conferred by which the recognition of existence becomes possible... One ‘exists’ not by virtue of being recognized, but, in a prior sense, by being recognizable.” Consequently, there are two risks involved when an individual or totality asserts itself. These are risks that cannot necessarily be taken into account or calculated in advance by a unitary subject, yet these risks shape the development of different tactics through which political subjectivity is constituted, challenged, or reinforced.

Primarily there is a risk that the assertion of sovereignty or identity will not be recognized or deemed legible. Perhaps this is because it is revealed to be an enaction, as not complying with the norms of what is being asserted, as I have attempted to argue that the force of the enaction necessarily exceeds those norms in order to effective. It is also often if not always the case that questions of legibility and recognition are not immanent to those attempting to receive recognition. I would argue that the latter is often the case with Palestinian claims for collective sovereignty, where visibility and legibility is constant struggle against the power of Zionist rhetoric. Secondly, as Judith Butler observes in “Imitation and Gender Insubordination,” in the act of having one’s performance recognized one risks being, “re-colonized under which [they] write.” Regardless of how these risks are distributed, we can say that identity is neither an objective thing nor a subjective choice. Rather, it is practice that transforms the subject in the process of identification, but does not necessarily subsume that subject.

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66 Ibid, 162
67 Ibid, 163.
I argue that Israeli sovereignty operates through unequal distribution these risks between Israelis and Palestinians. In Israel/Palestine the risks of having one’s claims validated are much less for Israeli articulations of sovereignty and identity. Thus, Palestinians are much more reliant on the determinacy of a personal and collective sovereignty, and consequently the personal and collective identities through which sovereignty is increasingly articulated. The recognition of Israel’s identity as a sovereign democratic and pluralistic state is in no way threatened by its ethnocentric policies. Nor do the progressive platitudes of the Israeli state appear to harm the privilege experienced by white Jews in Israel. Rather, the Israeli state attempts to normalize its own exceptional practices while it continues to argue that its claims to sovereignty are unconditional, due to the extreme situation facing the Jewish people. It is in these cases that identity as a practice, and not as a natural constant, is a cause for celebration. For Israelis, these practices prove the unreifiability and exceptionality of the identity disclosed, while they simultaneously affirm the efficacy of identification as exceptional. In this context practices that challenge the presence of an “empirically determined subject” becomes celebrated as an ethos of outlawry that is perpetuated by the Israeli state. Parallel to the fact that vigilantism has is a strategic mode by which to effect sovereignty both within and without the law, the presentation of Jewish Israeli identity as multicultural and thus transgressive in its relation to cultural binaries insulates Zionist claims to the exceptionality and inviolability of Jewish identity from the effects of those claims.

In the case of Palestinian claims, the disjunction between the norms through which sovereignty and identity is asserted, and the actual force of that assertion, underscores the inability to have one’s own claims recognized according to existing norms. I will discuss this more in depth when I tackle the question of political norms and their growing intimacy with

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cultural binaries. I will say that tactically, this dilemma reflects a double bind. The demands of recognition are structured in such a way that one remains jammed between the desire to effectively assert one's sovereignty according to certain cultural and political norms and the desire to have those norms recognized. Consequently, Zionist articulations of Israeli Jewish identity are able to strategically play with the Jewish/Arab binaries, while Palestinians are condemned both for attempting to include themselves within narratives of the Jewish experience and are chastised for being unable to accept a more pluralistic practices of identification. Given this double bind, some theorists have advocated for practices of identity that look to sites of cultural hybridity in order to reappropriate the tactics of exceptionalism. These theorists, having already having recognized that cultural binaries are being transgressed and played with for the sake of maintaining Israeli privilege, attempt to reclaim hybridity for the sake of progressive politics.

To say that identity is often implicated in certain practices of hybridity is to imply that there is a paradoxical intimacy and disjunction between identity, and the capacity of identity to be asserted effectively. In other words, identity and sovereignty both constitute and challenge the integrity of the other. Consequently, identity always appears tainted by that either exceeds or fails to conform to its own terms. If, in order to maintain the sovereignty of identity, the individual or collective subject described must exceed the terms of description, then this identity necessarily implicates that which is excluded from the terms of description. In Parting Ways: Jewishness and the Critique of Zionism, Butler argues both that hybrid identities are already implicated within the Zionist project and that it may be possible to embrace hybridity as a way to affirm or celebrate Jewishness without continuing to privilege Jewish identity. In this sense,
Butler’s work is aligned with some of the later work of Edward Said\textsuperscript{70}. For Butler, the understanding of Jewishness as suffering from a necessary impurity or mixing with otherness, opens up new directions in identitarian politics\textsuperscript{71}. Butler’s project resonates with Said’s occasional identification as a “Jewish Palestinian,” which underscored his attempt to lay the foundations for a bi-national project of popular sovereignty as well as to make legible the discursively invisibilized markings of Jewish identity on the Palestinian subject. Butler is just as interested in uncovering the “arabness” within her Jewish identity, as Said is in uncovering the “jewishness” in his Arab identity. Butler is particularly excited with Said’s work *Freud and the Non-European*, which celebrates Moses as both a foundational and excluded figure for the very reason that he was an “Arab Jew.” For Said, the foundational figure challenges the identitarian boundaries that are constructed in the name of that very foundation.\textsuperscript{72}

Indeed Said’s assertion as a Jewish Palestinian is highly enactive. In fact, it appears at first glance so performative that it is unlikely to receive recognition as anything other than disrespectful to those who feel an intimacy with a collective Jewish identity. However, I believe Butler’s own attempt to reclaim alterity within Jewish thought is more likely to be read as progressive (or at least less likely to be read as anti-Semitic) because she has the privilege of challenging Zionist conceptions of Jewish supremacy through Jewish resources. Butler is concerned with this fact. She observes that “by claiming there is a significant Jewish tradition affirming modes of justice and equality that would, of necessity, lead to a criticism of the Israeli state, I establish a Jewish perspective that is non-Zionist, even anti-Zionist, at the risk of making even the resistance to Zionism into a “Jewish” value and so asserting, indirectly, the exceptional

\textsuperscript{71} Ibid, 2.
ethical resources of Jewishness”\textsuperscript{73}. Edward Said has a different problem. His attempt to appropriate alterity for the sake of recognizability as both a victim and a subject of Zionist hegemony, not only triggers backlash for appearing anti-Semitic, but also contradicts the dual claim that Palestinians constitute a “real” and homogenous people, and that they are deserving of political self-determination. Particularly instructive is Joseph Massad’s critique of Said in this case. He argues that Said’s attempt to challenge cultural exceptionalism by appropriating the alterity already play in the operation of cultural supremacy may put too much faith in the ability for creative self-expression to realize a post-nationalist form of citizenship, or a post-racial form of identity. Massad points out that such connections between Jewish and Palestinian suffering can be made, but can only be made “rhetorically.”\textsuperscript{74} This may seem odd given Massad’s even more controversial attempts to challenge Jewish exceptionalism by making those rhetorical connections. I would argue, however, that Massad’s attempt is more openly aware of the limits placed on such statements as a result of their rhetorical nature and reductive tendency, and for that reason is much more the effective than Said’s attempt to, as Hochberg explains “go across but do not enforce the lines of separation”\textsuperscript{75}. Massad takes into account what Shohat refers to as the “Israeli monopoly over representations of the Israeli/Palestinian conflict.”\textsuperscript{76} I am inclined to support this critique given that Zionist narratives have already deployed those identifications that transgress the Arab/Israeli binary in order to assert the progressiveness of Israeli’s in contrast to Palestinians. It would be much more accurate to say that these practices of cultural hybridity in fact underline an objectification and fetishization of Arab Culture and Arab subjects within


\textsuperscript{75}Ibid, 61.

\textsuperscript{76}Ella Shohat, “Exile, Diaspora, and Return: The Inscription of Palestine in Zionist Discourse,” 223
Zionist narratives, despite the lack of recognition received by Arab Palestinians in those narratives.

What I am attempting to call attention to the site of disjunction between the fact of identity or the fact of sovereignty, and the force implicated in the assertion of identity and sovereignty. This is perhaps most clear in the case of rights claiming, especially when those rights are claimed on behalf of a certain common identity.77 Yet it is also in cases of rights claiming where the legibility of the fact of one’s own personal or collective identity becomes increasingly important for making claims to political rights and to political sovereignty. Some critique theories of identity that emphasize the necessary incompleteness, or indeterminacy of identity for “positively undermining emancipatory politics [and] with threatening the theoretical and strategic resources essential to responding to and transforming relations of inequality and injustice”.78 Perhaps Israeli exceptionalism is a good example of why some people feel this way. However, I do not think this is the fault of these theories of identity in principle, but rather certain structural factors that we can identify, such as the Israeli monopoly on discourse. These factors explain how some emancipatory politics are often undermined in this way, while other privileged claims to sovereignty continue to persist.

With this in mind I would like to critically engage the unequal access that Palestinian and Israeli subjects have to legibility homogenous people and as a people deserving of political sovereignty. The former is particularly important in the Israeli Palestinian conflict, where sovereignty is often talked of in ethnic and racial terms. Some political norms have become tied to cultural norms in paradoxical ways. Take for example, the misnomer that identifies the state’s

78 Ibid., 169.
Jewish character as a predicate of its “democratic character.” This identification demonstrates how certain people and states have colonized principles and practices, which are often recognized for their attempt to destabilize rigid articulations of identity. This phenomenon is demonstrated by the “clash of civilizations” thesis, which identifies “democracy,” among other political norms, to be a culturally specific phenomenon, but then bolsters the supremacy of western culture by merit of democratic theory’s characteristic claim to universality and plurality. Many of the theories of subject and sovereignty discussed in this paper attempt to show how the operation of pluralistic and democratic entities is haunted by the practices of sovereignty that pluralism and democracy are meant to do away with. However, this continues to privilege certain political norms (such as democracy and pluralism) that cannot easily if at all be detached from cultural norms, or from the sovereign practices that exceed those political norms.

So, in discussing the differences in how Israeli and Palestinian articulations of sovereignty are structured according to cultural and political norms, I will continue to engage theories of identity and sovereignty that wish to challenge the determinacy and completeness of the subject. More specifically, I am interested in those theorists that recognize and deal with an intimacy between the target of critique and the subject who is poised to subvert or challenge that object of critique, and thus an intimacy between practices of self-determination and practices of subjection. Given this seemingly inescapable duality, we are faced with the question of whether it is possible to, and whether it is efficacious to attempt to separate the two. This question proliferates a number of ethical questions regarding the relationship between theory and praxis.

We remain faced with certain problems regarding attempts to theorize exceptionalism so as to effectively challenge it. These theories, which see a potential for radical resignification in the hybridity or the enactive quality of identity, tend to remain attached to progressive
shibboleths, which, far from challenging the binary between Israelis and Palestinians, would simply abstract from the difference which structures Israeli and Palestinian claims. By theorizing exceptionalism in order to recognize and normalize the indeterminacy between the exception and the norm already at play, one risks undermining the recognizability of certain claims for individual rights and collective sovereignty while at the same time freeing other previously recognized identities and sovereignties from the obligation to their own claims of exceptionality. With this in mind I would like to finish my analysis of exceptionalism as it operates through political norms.
Chapter 3

Political Exceptionalism and the “failure” of Israeli Democracy: Israeli Sovereignty as Operating in Relation to Political Norms

In the case of Israel Palestine it is increasingly difficult to separate cultural and political norms, and so I will attempt to discuss specifically the operation of political norms without repeating myself too much. By political norms, I refer to terms by which certain states and subjects are said to conform to certain political identities. Specifically, I am interested in the qualification of the Israeli state as progressive and/or democratic, and Israeli identity as singularly multicultural and diasporic. In describing Israeli exceptionalism, it has been partially priority to describe in detail the principles on which Israeli sovereignty is supposedly made contingent. Lawfulness, the determinacy of borders, the purity of Jewish character, and finally a democratic and progressive ethos are articulated as the principles and conditions of Israeli sovereignty. I have attempted to demonstrate in these cases, the actual operation of sovereignty makes unintelligible those conditions and denigrates those principles, and yet in some sense conditions the continued operation and re-articulation of sovereignty. Indeed, the authoritarian acts of the Israeli state continue to be justified in the name of popular sovereignty, or democracy. Consequently, these acts evacuate that language of their meaning and political efficacy, at least for some. Palestinians, attempting to articulate “legitimate” modes of popular sovereignty as resistance to occupation, are made more dependent on that language that the Israeli state has already exceeded. Let us take for example the increasingly ubiquitous and unquestioned truism that Israel is both Jewish and Democratic. This claim plays strategically with the indeterminate spaces between the exception and the norm. “Israel,” write Yasmeen Abu-Laban and Abigail B.

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Bakan “is commonly identified as a state without comparison, framed in international politics as the only “Jewish” state, and one that is claimed to be exceptionally “democratic” in the context of the Middle East”\(^80\). Although democratic popular sovereignty is at times valorized on the condition of its universality and its unconditional inclusiveness, some of us remain more democratic than others. Inclusiveness as a marker of identity becomes appropriated for the sake of exclusive practices of political sovereignty and of cultural, ethnic, and racial supremacy.

The coding of Palestinians as fundamentalist, reactionary sets certain standards of “legitimate” Palestinian statehood and representation. Consequently Palestinian claims for self-determination are painted as unpragmatic and outlandish claims and therefore illegitimate.\(^81\) Israel is not subject to these same expectations, while they still profit from the conceit of the Israeli state as a paradigm of liberal statehood in an otherwise illiberal environment. A double standard is also demonstrated by the expectations placed on non Jewish Arab representatives of Israel within the Knesset. Their presence perhaps serves as an avatar of Israeli democracy, popular sovereignty, and a general ethos of inclusiveness. Yet it is through that very mechanism of “inclusion” and “democratic representation” that channels of Palestinian representation are captured as that which can be cited to prove the inefficacy of Palestinian popular sovereignty, and prove the inviolability of Israeli popular sovereignty. According to Israeli domestic law, all Arab representatives in the Knesset and all Arab political parties can be rejected if they do not reject the Zionist definition of Israel as a “Jewish State”\(^82\). Consequently “legitimate” forms Palestinian representation in fact “confine legitimate change to the boundaries defined by the

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Zionist consensus and anchor them in constitutional law. Yet in doing so Palestinian representatives are immediately alienated from their position as representatives. Popular representation for the Arab citizens of Israel is undercut by the very terms of that representation being recognized.

Joseph Massad suggests that “If we were to use a metaphor in order to describe the hegemonic Western discourse vis-a-vis Palestinians, we would see it as a discursive space that places Palestinians on its border, faced with checkpoints that mainly keep us out but do allow some entry.” The image of the checkpoint is useful insofar as it demonstrates a parallel between how political subjects are produced materially and how those subjects are produced discursively. The checkpoint marks a liminal space and leaky space. It is a space where sovereignty operates in a permanent state of incompletion, in the failure for it to actualize its own goals, and so as not to negate the foil of its existence. In this space the qualities and practices that are at times valorized by many post-modern thinkers appear to be implicated in the violation of individual subjects. However, these theorists maintain that it is for this very reason that such qualities describe the most strategic way to negotiate effectively with relations of domination. A politics that attempts to embrace the notion of sovereignty in this way, can be read as hopeful, perhaps to a fault. If sovereignty is already operating in a state of its own incompleteness, then the terms by which sovereignty is defined are to some extent in contest. Karen Zivi writes that it is because the assertion of personal and collective sovereignty increasingly exceeds the norms through which it presents itself, that “terms and norms can be invoked and cited in ways that exceed and help shift dominant ways of thinking, being and doing. This makes a performative

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politics a hopeful politics". We have also seen however, that a politics of this kind is implicated in the ability of sovereignties and the bearers of particular identities to not only exceed the norms of sovereignty or identity, but to attempt to normalize such exceptions in the name of their own legibility as that sovereignty or identity. This duality is well demonstrated by Derrida’s writing on sovereignty and democracy.

I would like to focus on the relation between sovereignty and democracy. Democracy is asserted as a practice of politics that challenges the kind of unconditional sovereignty, which in the case of Israel, has been licensed by such assertions. In Rogues: Two Essays on Reason, Derrida writes on the contemporary phenomenon of the “Rogue State” (État Voyou), that asserts sovereignty through the manipulation of political norms that are antithetical to the way in which sovereignty continues to operate. These states are characteristic for “appearing not to respect the mandates of international law, the prevailing rules and force of law of international deontology, such as the so-called legitimate and law-abiding states that interpret them in accordance with their own interests” Exceptionalism demonstrates the kind of roguishness that Derrida argues to be ubiquitous in self-declared “democratic” states.

Derrida’s describes there to be an intimacy between sovereignty and democracy that is aporetic, partially because democracy, asserts its sovereignty in under and in the name of an identity that is often corrupted by its very assertion. Yet, Derrida implies that for this reason the relationship between democracy and sovereignty is integral to the persistence of both. The concept of democracy has always been controversial for the reason that it is difficult, as Derrida points out, “to distinguish, with regard to free will, between the good of democratic freedom or

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liberty and the evil of democratic license”\textsuperscript{87}. Despite the fact that the term “democracy” is often articulated as a universal and unconditionally inclusive concept, the presentation of Israeli policy as an attempt to protect or preserve democracy implies that democracy can only be effective when it is bounded. This is odd given that those same policies licensed in the name of preserving democracy further disrupt the boundedness of Israeli sovereignty. The operation of sovereignty becomes an obstacle to the actualization of truly democratic practice, although democracy is understood as necessarily linked to some sort of sovereignty through which it can be actualized. Thus democracy continues to be asserted by sovereign nations as an incomplete project, as a promise for something that is yet to come. Yet, this promise is attractive for the very reason that it refuses to restrict itself to any conditions based on previous promises, and thus remains attached to a sovereignty that exceeds the political norm to which it fails to conform. Derrida agrees, further arguing that the will of people can only be effectively represented by some sovereignty, which is not directly reducible to the people, and which is in some sense outside of the people, an “other,” of the people\textsuperscript{88}, but that cannot be truly exorcised from the people in the attempt to bring about Democracy. So, although Democracy stakes its claim to sovereignty on its identification with democracy, democratic practices remain implicated in practices of exclusion, surveillance, security and larger structures which simultaneously signify the failure of democratic practice, and the promise for a principled democratic practice.

This account is persuasive, but Derrida’s use of the abstract “other” problematically suggests a symmetry that obscures the fundamentally asymmetrical dynamics of exceptionalism. This usage also abstracts from the difference between more principled forms of democratic practices, and what I observe to be clear perversions of democracy. Indeed, I agree with Derrida

\textsuperscript{87} Ibid, 21.
\textsuperscript{88} Ibid, 84.
that democracy often operates on its own threshold, but that does not mean we can come to say that certain states are “democratic” for the very reason that they are not democratic. Both the Israeli settler and the Palestinian are examples of border figures, in whose name Israeli sovereignty is articulated. This occurs despite that those figures are conditioned at the threshold of Israeli sovereignty by its very operations. However, to equate the Israeli Settler with the Palestinian in this case is problematic, despite the fact that Derrida abstracts from this difference in order to critique state exceptionalism.

For Derrida, popular sovereignty enables self-determination. In order for a subject, (whether personal or collective), to be its self, and to actualize its self-determination, that subject must exceed its self in the process. Consequently, to assert collective self-determination is to assert a sovereignty of the people that must necessarily exceeds the people. Derrida writes that, “there is no freedom without ipseity and, vice versa, no ipseity without freedom—and, thus, without a certain sovereignty”\footnote{Ibid, 23.}. The borders of identity through where the sovereignty of states and subjects is asserted are necessarily exceeded by the capacity to protect or defend those borders. Thus ipseity, or self-identity is exceeded by self-identification. This is what the exceptional state seeks to normalize. It seeks to maintain the conceit of its exceptionality despite the fact the assertion of sovereignty necessarily makes indeterminate the distinction between the exception and the norm. Yet, if we affirm Derrida’s general point on inevitable disjointedness of personal sovereignty and self-determination, then the claim to the rights of Palestinians or the right to a Palestinian state, which can be posed as a challenge to Israeli exceptionalism, may appear inevitably self-undermining for the same reason that Israeli exceptionalism continues to persist. I would argue that this is the case because of how Palestinians are expected to prove their political rights in ways that are not expected of Israelis.
Derrida challenges teleological narratives of the subject so as to understand how
exceptionalism can be a constitutive force. He writes that self hood or “ipseity” is, among other
things, enactive “inasmuch as this latter still implies a power for some “I” guaranteed by
conventions that neutralize the pure eventfulness of the event, and inasmuch as the eventfulness
of the to-come exceeds this sphere of the performative”\(^\text{90}\). This “to come” is integral to Derrida’s
critique of contemporary so-called democratic sovereignty. To continue to act in the name of that
which is denigrated by those actions is for Derrida a quality of democratic popular sovereignty.
But then again, it is unclear whether Derrida’s deconstruction of popular democratic sovereignty
is a normative critique.

There is a paradox at the heart of democratic popular sovereignty, which is both
necessary for its operation and the cause of its seemingly inevitable failure. This problem mirrors
the paradox of self-identification and self-determination of the “I” or “We” that exceeds or fails
to conform to the norms of its own determination and identification. Yet if this is the case than
how can these norms continue to carry any meaning? If a democracy necessarily is effective for
the reason that it \(\text{isn’t}\) a democracy than why are we still using the term? To this Derrida would
perhaps respond with the claim that democratic sovereign both suffer from and are conditioned
by a certain “autoimmunity,” and that consequently, democracy comes in the form of a promise,
and as something that remains as that which is “to come.” Derrida writes that sovereignty “is
always in the process of positing itself by refusing itself by denying of disavowing itself; it is
always in the process of autoimmunizing itself, or betraying itself by betraying the democracy
that nonetheless can never do without it.”\(^\text{91}\) I wonder if it is possible, with Derrida’ approach, to
be supportive yet critical of the promise of an Israeli/Palestinian state that democratically

\(^{90}\) Ibid, 84.
represents its respective people (whatever that means), in ways which do not enforce the double standard that Palestinians are subjected to? I am not sure, but to answer this question one must first take into account the fact that there exists certain discursive norms that already privilege as paradigmatically conforming to and thus superior to those norms. Consequently, identification as “democratic” can be employed to rhetorically license the violent and the anti-democratic practices of the Israeli state and of some of its citizens. Derrida’s writing can be read as both apologizing for the failure of democracy, and chastising current “democracies” for not being accountable to their identification as democratic. Because of this of this, it becomes increasingly important to take into account the Israeli monopoly on discourse and to take into account those structural factors that determine how sovereignty comes to be recognized according to political norms, and to what extent states and subjects are dependent on conforming to those norms.

Derrida depicts a sovereign who operates by playing with the own question of his existence or non-existence and thus exists—like the settlements--in a state of “temporary permanence.” This is similar to Agamben, who depicts a sovereign that is brought about and thus operates on the threshold of its own dissolution, insofar as the Agambenian sovereign consistently operates by exceeding the norms of its intelligibility. However, for Derrida, this fact is not fundamental to sovereignty, and this marks a major contrast with Agamben. I would agree, and argue that if sovereignty appropriates the condition of its dissolution as a condition of its own operation, that this is only effective if sovereignty is already taken given. With this in mind, it is possible to recognize how sovereignty persists under Israeli exceptionalism, while also recognizing how Palestinian claims to sovereignty remain unrecognized. We could recognize this
failure to be a result, not of the failure of Palestinians to conform to the terms of political intelligibility, but of what Joseph Massad calls “the limits of racialized discourse.”

If we follow Derrida’s approach, then Democracy remains inextricably tied to the sovereign who both attempts to bring about and fails to conform to democracy in principle. The capacity for certain political formations to persist under the banner of Democratic practice, is necessarily tied to sovereignty’s disjunction from the terms by which it identifies itself. And in a clear way this is a good thing, as it is the failure of the Israeli state to live up to the principles it wields as a rhetorical weapon against Palestinian claims for self-determination that informs the space for critique. If exceptionalist states like Israel remain in some way haunted by the own promise of democracy, or haunted by the others excluded in the name of that promise, then a emancipatory politics would necessarily require calling attention to this fact, and exposing the paradox at play. However, to do so would remain tied to an ideal of democratic practice, and to a notion of democratic sovereignty without the stakes of sovereignty. This is an ideal that has already become an instrument of state exceptionalism, and one which already reflects Israeli privilege.

Derrida is clear that his ideas cannot, and should not be easily appropriated for the sake of emancipatory politics. His critique targets all “militant or interminable political critique.” Instead we find the hope for democracy in the failure of democratic practice itself, because it is failure that incites the outlawry that progress requires. For Derrida, democracy cannot exist without that taste for roguishness that the Israeli government demonstrates. In this sense, we return to the same problem encountered by Butler’s albeit cautious celebration of hybridity and

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93 Ibid, 87

by post-modern theories of subject and sovereignty generally. To advocate for practices that play with the distinction between the exception and the norm, in ways already practiced by sovereign states and subjects, is to call attention to the unfair ethical injunction for some subjects and sovereign states to remain obligated to those norms. However it does not necessarily challenge the force of those norms more than it does further erode the capacity for marginalized subjects to be recognized according to them.

A theory of politics along these lines must take into account the extent to which disjointed practices of subjectivity and sovereignty are insulated by existing asymmetries of legibility. For those claiming political rights, the extent to which the success of such claims is bolstered and not undermined by its enactive character, is ultimately structured by norms of recognition that are not immanent to the claims themselves. So on the one hand, the claims to the exceptional rights of the Israeli state and Israeli citizens can be bolstered by claims of normativity (“we are all Israelis”) without undermining the special treatment that Israel receives on the basis of its exceptionality. In contrast, the attempt to make Palestinian claims to political rights efficacious, by arguing the exceptionality of Palestinian experience or, by comparing the Palestinian experience to the Jewish experience according to certain norms, are both read as anti-Semitic. This is because both “threaten” Israeli exceptionalism.

I would argue that those theories that purport to challenge the link between the political efficacy of cultural and political norms, and the integrity of those norms, can be useful tools for maintaining a sovereignty that is purportedly contingent on one’s capacity or ability to conform to those norms. The fostering of vigilantism and outlawry, the appropriation of Arab identity in the articulation of Israeli identity as multicultural, and denigration of democracy in practice in the name of a democracy that remains ethnically and racially coded all demonstrate the
incorporation of that which is stated to be exterior, for the sake of a sovereignty and identity founded in practices of excluding the “other.” However, these unfortunate perversions of what, for many would constitute a progressive or even emancipatory politics, cannot be reduced to any abstract philosophical issue of sovereignty as enactive, or as fractured and incomplete. This, I would argue, is Agamben’s fatal flaw. Instead they should be contextualized by the normative political, discursive, and economic structures that set the terrain in which sovereignty is practiced.
Conclusion

In their introduction to *The Subject and the Political*, Jenny Edkins, and Veronique Pin-Fat observe that in poststructuralist though the “sovereign individual”

becomes the incomplete, impossible subject, and “sovereignty” is brought into question. There are no settled identities; the subject never achieves the completion or wholeness toward which it strives. It remains haunted by that which has to be excluded for subjectivity to be constituted in the first place. This subject has no respect for sovereignty or its linearities: that which is placed on the outside-the other-turns out to be on the inside after all. In the process, time itself is distorted. In this pictures, the subject is always in the process of being constituted; there is no point at which however briefly, the performance is finished.95

I find this description of the post-structural political subject to resonate with my own account of exceptionalism in several ways: the fact that sovereignty increasingly operates both within and without the markers of its own legibility, and the fact that subjects increasingly articulate their personal sovereignty on the borders of legal, cultural and political belonging. The relationship between subject and sovereignty echoes across scales of political constellations. The “sovereign individual” could signify both the individual citizen subject or the collective and bounded Subject that is the modern nation state. Both appear as “rogues,” with a certain “disrespect” for the norms of their own identification. As both exceed the limits of their identity as states and subjects in their assertions of sovereignty, there remains both a strong link and a strong disjunction between what sovereignty is and what sovereignty does. Consequently, what sovereignty “is” increasingly appears as a performance that has no ending, and as an operation that persists through a state of its own precarity. This is correlative with the quality of temporary permanence through which the sovereignty of states and identities is continually asserted. The operations of contemporary sovereignty disrupt chronologies by which those sovereign entities are said to exist. As a result states are able to deploy the threat of their own dissolution or the promise of their self-actualization, (according to certain norms), as the condition of their own

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operations. In a sense, sovereignty is never “itself,” but rather always operates by exceeding or failing to conform to the norms by which one is said to be sovereign.

However, this description unfortunately misses the asymmetry implicit in this condition. What marks the difference between failure and refusal when it comes to the operations of sovereign entities? What is the difference between the refusal of Israelis to conform to the political norms that already take their rights as given, and the failure of Palestinians to conform to the political from which they are already excluded? What is the difference between the temporary permanence of Israeli occupation, and the always-provisional authority of Palestinian sovereignty? In Agamben’s description of sovereignty, this difference is reduced to the incontestable distinction between the sovereign and the sacred man despite the fact that sovereignty appears persistent for the reason that the difference between them remains in contest and in flux. Indeed, Zionist narratives are politically efficacious insofar as they oscillate between depiction of the Israeli state as both threatened and inviolable. The Agamenian sovereign is tactical because he operates through exceptionalism, and because he asserts himself outside of the norms through which his “self” is made legible. And yet, if Agamben reduces this fragmented quality of the sovereign to a metaphysical quality intrinsic to sovereignty, then how can there still be a strategic distinction between what sovereignty is and what sovereignty does? Agamben’s approach undercuts all possibilities of strategizing against exceptionalism as there is no named distinction between sovereignty is and what sovereignty does, despite the fact that his theory appears radical for the very reason that there is demonstrated a disjunction between the two.

Sovereignty remains effective partially because it is enactive, and thus is consistently disclosed through certain norms but can never be kept accountable to those norms. And, when
sovereignty increasingly asserts this exceptionality of a norm of its own operations, then it becomes increasingly difficult keep sovereignty accountable. From where does one lodge an effective critique of exceptoinalism, if exceptionalism operates by including what exists outside of it, in the form of the exception, as a norm? Further, how does one recognize the indeterminacy of those binaries that supposedly distinguish Israeli sovereignty, without obfuscating the structural violence experienced by those excluded from Israeli privilege?

Derrida’s writing on democracy shows that within the context of political norms, there exists a disjunction between the integrity of the identity of states and subjects, and the force behind the assertion of those identities. In the Israel’s self-identification as “democratic,” this site of disjunction marks both the perversion of democratic practice but also the best opportunity for democracy to continue on into the future. Butler’s writing on a Jewish critique of Zionism shows how, in the context of cultural norms, this disjunction marks both the persistence of Jewish exceptionality, and the space through which that exceptionality can be effectively challenged. Implicit in Butler’s attempt to articulate a “post-Zionist” position is both an inability to escape and a capacity to subvert from within Zionist discourse. This term “post-Zionist” marks a future failure to escape the terms of its own object of critique, but it also signifies a promise to revolutionize that object of critique. Derrida, who explicitly critiques radical polemics, understands that as political norms are increasingly identified through the capacity to exceed norms, it becomes impossible, from the perspective of critical theory, to lodge a critique free from the indeterminacy of exception and norm. While Agamben seems to unreasonably hold out for a radical philosophy that transcends this problem, Butler and Derrida are perhaps to easily willing to forgive critical theory for its failures.

What is to be done when democracy, and diaspora become identities through which the
Israeli state attempts to justify its xenophobic and authoritarian policies? Can those concepts be used critically without privileging the identities that colonize them? Regardless of whether this can or should be done, I feel generally uncomfortable holding Palestinian sovereignty to the same standards to which I hold Israeli sovereignty. This may seem contradictory given the fact that much of this paper has been an attempt to critique the exceptional status granted to the Israeli state and to Israeli subjects. Yet, I find myself ready to support claims for Palestinian sovereignty and forgive those claims for their “problematic aspects,” while I am still critical of Israeli sovereignty, even in its most apologetic forms. I find this approach strategic in because it recognizes that Palestinian access to agency within cultural and political norms is minimal in contrast to the privilege of Israeli voices. Similarly, I feel more inclined to celebrate Palestinian lawlessness or forgive violence against Israeli institutions as a necessary response to the already existing indeterminacy between exception and law, because Palestinians do in no way exert the same agency that Israelis do in the context of that indeterminacy.

Perhaps my own practices of critique are inconsistent. They may appear to be an arbitrary curbing of my own theoretical insights for the sake of my own standards of solidarity. This is partially true, although I have come to this position as a result of my theoretical investigations. Israeli claims to political sovereignty increasingly assert the unconditionality of those claims as a norm of Israeli statehood, and consequently, critical theorists are constantly asked to curb their own critical principles for the sake of showing solidarity with the Israeli state. Inversely, Palestinian claims are always conditional, and are always expected to conform to certain norms of political intelligibility. By recognizing this fact, I cannot necessarily close the gulf between what theory says and what theory can do. Regardless, I hope that doing so will shed light on the structural factors (both material and discursive) that effect but are in no way immanent to my
capacity to critique them. So, at times, I support Palestinian claims in manners that may verge on the unconditional. If I do, it is because I have been asked to do so, because Palestinians are faced with an exceptional set of circumstances, and because so many are unwilling to recognize this fact.

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