Introduction

Land Law as an Identity Prism

*"Man is nothing but a small land,*

[*Man is but the imprint of his native landscape*](https://everything2.com/title/Man+is+but+the+imprint+of+his+native+landscape)*".*[[1]](#footnote-1) [Shaul Tchernichovsky](https://everything2.com/title/Shaul+Tchernichovsky)

Understanding a country’s land law and land policy is a key to understanding its identity. A society’s land legislation and policies are a consequence of its identity, and thus an expression of it. The study of land law and policy can serve as a litmus test for the predominant contours of a given society, allowing the researcher to “reverse engineer” its character and fundamental problems. It reveals its history, economy, social fabric and the nature of its regime. While this is true to every living or human society, it is evident with regard to the state of Israel. Israel's land law and policy reflect the most sensitive nuances of Israel's history and addresses the most difficult challenges and projections for Israel's future. They reflect the major identity problems of Israel: Being Jewish and democratic; Moving from socialist market to free market society; Keeping checks and balances between various branches of government; Dealing with bureaucracy, corruption and governance problems; Being very small and dense country and in the same time being a champion of creativity and innovation. This introduction will generally discuss the relationship between land and human identity. Then it will explain why Israel is an excellent medium for the exploration of a state's identity through its land law and policy. Finally, it will briefly elaborate the structure of this book.

**The relationship between land and identity**

Land is a key component of all life. Land provides nourishment and water to all, and comprises a habitat for all species. Territorial behavior, which seeks exclusive control over a particular territory is quite common in nature. Among the reasons offered to explain animals’ territorial behavior: achieving exclusive advantage in reproduction or various other benefits (food, protection). Animals can be distinguished by the manner in which they mark their territory, share it, and use it. The relationship between living creatures and the land is often a reflection of a particular species’ unique characteristics. The observation of a given being’s relationship to its territory provides the viewer with information about important characteristics of that species’ life. This is an accepted and common avenue of research in formulating and defining the biological identity of a given species.[[2]](#footnote-2) Similarly, location is an important characteristic to be considered when identifying plants. Indeed, scientific studies have recently shown that even plants display territorial behavior.[[3]](#footnote-3) Mankind categorizes certain species of animals or plants as “endemic” or “native” to a certain territory, in contrast to other species, categorized as “invasive.”[[4]](#footnote-4)

Land, likewise, has been a central feature of human life from its very inception. Humankind depends on the land for food, shelter and occupation. There is no human activity that does not require land. Mankind utilizes various components and strata of the land: its surface and subterranean levels, the ocean, and its minerals. People occupy or acquire land, adapt the land to their purposes, and fight over the right to utilize it. Many studies have shown that for many people, the relationship to the land, and especially to one’s home, immediate environment or hometown, is a unique, emotionally-laden relationship. People tend to become attached to such places.[[5]](#footnote-5) Indeed, there is a distinct interdisciplinary field of research dedicated to studying “place attachment.” People define themselves through their belonging to a particular place.[[6]](#footnote-6) This is a powerful expression of the widespread psychological phenomenon where people prefer to hold on to something they already have (loss aversion), or ascribe particular importance to their possessions (the endowment effect).[[7]](#footnote-7) Although all people have an affinity to some kind of land, these affinities are different for different people. People differ in the way they utilize the land and in their relationship to it. Cane was a farmer, while Abel was a pastoralist.[[8]](#footnote-8) The country mouse eats from his crops, while the town mouse enjoys the good life in the city. Some have a connection to a specific land, while others are affiliated with multiple territories. An examination of an individual’s relationship to the land allows the observer to learn much about important components in that individual’s identity and lifestyle. Legal theorists advocate consideration for the connection between a person and property in general, and land in particular. They believe that such consideration enables a person to express his personality, and view this as a key liberal and moral value in democratic states.[[9]](#footnote-9)

Everything we have noted regarding an individual’s affinity to the land is also true about groups of people. Families, households, tribes, tribal groups, nations, states, and federations, each collectively link to the land. All collective human patterns of life are related to the land: habitation, occupation, procreation, government and family. Religious belief is also in many cases focused on the land, through temples and sacred territories. Nationalist and patriotic sentiments are often linked to a specific territory. The group has an advantage in utilizing the land and in defending it, and this advantage allows for evolutionary continuity. In some cases, historical territorial memory becomes engrained in human memory, culture, or faith and achieves an independent existence. Thus, a national connection to a territory becomes fixed in people’s memories even after the group was severed from that territory. Sometimes this emotional link evolves into an abstract spiritual affinity to the land which has nothing to do with material needs. The connection to the land in such cases embodies the group’s psychological attachment to what the land symbolizes or evokes: a yearning for the past, hopes for the future, faith, or feelings. It fosters group cohesion and evolutionary continuity even when the territorial advantage does not actually exist. An obvious example of this would be the Jewish and Zionist yearnings for the Holy Land,[[10]](#footnote-10) or the spiritual relationships of indigenous peoples’ to their traditional territories.[[11]](#footnote-11) "By the rivers of Babylon we sat and wept when we remembered Zion," mourned the Jews in exile from their homeland.[[12]](#footnote-12) Similarly, the protagonist in Polish-Lithuanian poet Adam Mickiewicz’s work lamented: “Lithuania, my country, thou art like health; how much thou shouldst be prized only he can learn who has lost thee.”[[13]](#footnote-13) The specific combination “My land ‒ my pride” is found in many languages of different nationalities as an expression of the strong connection between a person and his native country.[[14]](#footnote-14) Cultural memories of land use patterns ‘from time immemorial’ are an important component in the cultures of indigenous nations worldwide.[[15]](#footnote-15) Even imagined communities develop an affinity to a territory.[[16]](#footnote-16) And, of course, a certain specific territory is the foundation of the concept of the ‘state’ in international law.[[17]](#footnote-17) Land, then, is an inherent component in the identity of most communal life forms in the world.

The link between land and identity is symbiotic and bi-directional. The land shapes identity and forms part of it. Physical characteristics of a territory, such as its spatial organization, its location, borders, and history, affect national identity.[[18]](#footnote-18) Identity is shaped by various factors that are both related and not necessarily related to the land. Sometimes physical geographical differences dictate the uniqueness of identity: location (desert, or fertile land rich in water), size, shape (long, narrow), topography (mountains and plains), natural resources, or climate. Sometimes it is human history rather than the land’s characteristics that creates difference. There are countries with a long unbroken history of human reign and there are countries that have experienced frequent changes in power, government and composition of the population. In some cases, what shapes attitudes toward the land is social, cultural and demographic characteristics, such as population size and composition, the relationship between its components (for example, a multinational society) or its socioeconomic conditions.[[19]](#footnote-19) Society’s relationship with the land is also influenced by ideologies and worldviews. Human societies have long recognized the right to privately own land. In the contemporary world, most Western countries espouse a market economy and the right to private property. Real-estate is one of the most notable of these private properties. However, the modern world has also witnessed the emergence of theories that deny private ownership of land, or that advocate communitarianism or conservation of land and natural resources for future generations.[[20]](#footnote-20) Technological advances in various fields such as cybersecurity and information systems, or the cooperative economy are already changing our perceptions of land use.[[21]](#footnote-21) The perception of the world as a global village is shaping the first steps in a global, multinational approach to this resource.[[22]](#footnote-22) All these affect society’s attitude toward the land, the regulation of its use, and the shaping of laws dealing with land and land policy. Therefore, the exploration of a society’s attitude towards land can shed light on its primary characteristics. A society’s land legislation and policies are a consequence of its identity, and thus an expression of it. The study of land law can serve as a litmus test for the predominant contours of a given society, allowing the researcher to “reverse engineer” its character and fundamental problems.

קרקע היא מרכיב מרכזי בחיי יצורים חיים. הקרקע מניבה לכולם מזון ומים ומהווה בית גידול לכל המינים. התנהגות טריטוריאלית החותרת לשליטה בלעדית בטריטוריה מסוימת נפוצה מאוד בטבע. בין ההסברים שנתנו להתנהגות הטריטוריאלית של בעלי החיים: השגת בלעדיות ברבייה או יתרונות תועלתיים (מזון הגנה). בעלי חיים נבדלים ביניהם באופן שבו הם מסמנים את הטריטוריה, מחלקים אותה או משתמשים בה. היחס בין החי לבין הקרקע מהווה לעתים קרובות תבנית של מאפייניו הייחודיים של המין החי. התבוננות ביחסו של בעל חיים לטריטוריה שלו מאפשרת לצופה ללמוד על מאפיינים חשובים של דפוסי החיים של כל מין. זה הוא נתיב מחקרי מקובל ורווח לגיבוש תעודת הזהות הביולוגית של אותו מין ולהגדרתה.[[23]](#footnote-23) בדומה מהווה המיקום מאפיין חשוב בזהות של צמחים במגדיר הצמחים. המחקר המדעי בשנים האחרונות הראה שאפילו צמחים מגלים התנהגות טריטוריאלית.[[24]](#footnote-24) האדם מגדיר מינים מסוימים של חי או צומח כמינים "אנדמיים" או "ילידים" בטריטוריה מסוימת ביחס למינים אחרים שמוגדרים כ"פולשים".[[25]](#footnote-25)

הקרקע היא גם מרכיב מרכזי בחיי האדם, מאז נברא. הקרקע היא המקור למזונו, למגוריו ולתעסוקתו. אין פעילות אנושית שלא צריכה לקרקע. האדם מנצל מרכיבים ומפלסים שונים של הקרקע: את פני הקרקע, את תת-הקרקע, את הים או את המחצבים. האדם תופס או רוכש את הקרקע, מכשיר אותה לצרכיו וגם נלחם על הזכות לנצל אותה. מחקרים רבים הראו שעבור בני אדם רבים היחס לקרקע, ובמיוחד לבית, לסביבה הקרובה או לעיר, הוא יחס מיוחד שעוצמתו הרגשית רבה. אנשים נוטים להיקשר למקומות אלה.[[26]](#footnote-26) יש תחום מחקר אינטרדיסציפלינרי מיוחד שחוקר את מאפייני ה- place attachment. אנשים מגדירים עצמם באמצעות השתייכותם למקום מסוים.[[27]](#footnote-27) זה ביטוי עוצמתי לתופעה הפסיכולוגית הרחבה יותר ששלפיה אנשים מעדיפים שלא לוותר על מה שיש להם (loss aversion) או מייחסים חשיבות רבה יותר למה שיש להם (endowment effect).[[28]](#footnote-28) אף כי לכל אדם יש זיקה לקרקע כלשהי, הזיקות של אנשים שונים לקרקע שונות זו מזו. אנשים נבדלים בסוגי השימוש שלהם בקרקע וטיב היחס שלהם לקרקע. קין היה עובד אדמה, והבל-רועה צאן.[[29]](#footnote-29) עכבר הכפר (country mouse) אוכל מפרי יבולו ועכבר העיר (town mouse) טועם את טעם החיים הטובים בעיר. יש מי שיש לו זיקה לקרקע מסוימת יש מי שמפזר את זיקתו על פני קרקעות רבות. התבוננות ביחסו של אינדיבידואל לקרקע מאפשרת לצופה ללמוד על מאפיינים חשובים של זהותו ואורחות חייו. תיאורטיקנים של המשפט מטיפים להתחשבות בקשר שבין אדם לבין נכס, בכלל, וקרקע, בפרט. הם סבורים שהתחשבות זו נועדה לאפשר לאדם לבטא את אישיותו. הם רואים בכך ערך ליבראלי ומוסרי במדינה דמוקרטית.[[30]](#footnote-30)

מה שנאמר על זיקתו של אינדיבידואל לקרקע נכון גם לגבי קבוצת אנשים. משפחה, בית אב, שבט, קבוצות שבטים, לאום, מדינה או פדרציה של מדינות נקשרים לקרקע באופן קבוצתי. כל דפוסי החיים האנושיים הקבוצתיים סובבים סביב הקרקע: המגורים, התעסוקה, התרבות, הממשל והמשפחה. האמונה הדתית מתמקדת במקרים רבים בקרקע: במקדשים ובטריטוריות מקודשות. הרגש הלאומי והפטריוטיות מתייחסים לעתים קרובות לטריטוריה קרקעית. לקבוצה יש יתרון בניצול הטריטוריה ובהגנה עליה. היתרון מאפשר המשכיות אבולוציונית. לעתים, הזיכרון הטריטוריאלי ההיסטורי נחקק בזיכרון, בתרבות או באמונה האנושית ויש לו קיום עצמאי משלו. כך הזיקה הלאומית לטריטוריה מתקבעת בזיכרון האנשים גם כאשר יש ניתוק של הקבוצה מהטריטוריה. לעתים מתפתח הקשר הרגשי הזה לכדי זיקה רוחנית מופשטת לקרקע שאין בינה לבין צרכים חומריים דבר. הקשר לקרקע מגלם במקרים אלה זיקה פסיכולוגית של הקבוצה למה שהקרקע מסמלת או מעוררת: כמיהה לעבר, שאיפה לעתיד, אמונה או תחושה. הוא מעודד שמירת לכידות קבוצתית והמשכיות אבולוציונית גם כאשר היתרון הטריטוריאלי לא קיים בפועל. דוגמאות מובהקת לכך הן הכמיהה היהודית והציונית לארץ הקודש,[[31]](#footnote-31) או ה-spiritual relationships של עמים ילידים (indigenous people) לטריטוריות המסורתיות שלהם.[[32]](#footnote-32) "By the rivers of Babylon we sat and wept when we remembered Zion" התאבלו היהודים שהוגלו ממולדתם.[[33]](#footnote-33) כך גם קונן גיבורו של המשורר הפולני-ליטאי אדם מיצקביץ': Lithuania, my country, thou art like health; how much thou shouldst be prized only he can learn who has lost thee.[[34]](#footnote-34) הצרוף "My land-my pride" נפוץ בשפות שונות ובפי בני לאומים שונים כביטוי לקשר החזק בין אדם לבין ארץ מולדתו.[[35]](#footnote-35) זיכרונות של דפוסי שימוש בקרקע from time immemorial הם מרכיב חשוב בתרבויות של Indigenous Nations ברחבי העולם.[[36]](#footnote-36) אפילו קהילות מדומיינות מפתחות זיקה לטריטוריה.[[37]](#footnote-37) כמובן שטריטוריה מסוימת עומדת ביסוד מושג המדינה במשפט הבינלאומי.[[38]](#footnote-38) הקרקע היא אפוא מרכיב אינהרנטי בזהות של רוב צורות החיים הקבוצתיות בתבל.

הקשר בין הקרקע לבין הזהות הוא קשר סימביוטי, דו כיווני. הקרקע משפיעה על הזהות ומהווה חלק ממנה. מאפיינים פיסיים של הטריטוריה, כגון מבנה המרחב, המיקום, הגבולות, ההיסטוריה-משפיעים על הזהות הלאומית.[[39]](#footnote-39) הזהות נבנית הן מגורמים שקשורים לקרקע והן מגורמים אחרים שלא קשורים בהכרח לקרקע. לפעמים הבדלים גיאוגרפים פיסיים הם שמכתיבים את ייחודה של הזהות: המיקום (מדבר, קרקע פורייה ועתירת מים), הגודל, הצורה (ארוך, צר), הטופוגרפיה (הרים, מישור), המשאבים הטבעיים או האקלים. לעתים ההיסטוריה האנושית ולא מאפייני הקרקע היא שגורמת להבדל. יש מדינות שבהן יש רציפות ארוכה של שליטה אנושית ויש מדינות שבהן היו חילופים תכופים בשלטון, במשטר ובהרכב האוכלוסייה. לעתים מה שמשפיע על היחס לקרקע הוא מאפיינים חברתיים, תרבותיים ודמוגרפיים כגון גודל האוכלוסייה, הרכב האוכלוסייה, מערכת היחסים בין מרכיביה (למשל חברה רב-לאומית) או מצבה החברתי-כלכלי.[[40]](#footnote-40) יחס החברה לקרקע מושפע גם מאידיאולוגיות והשקפות עולם. חברות אנושיות הכירו מקדמת דנא בזכות הקניין הפרטית של אדם בקרקע. בעולם המודרני רוב מדינות העולם המערבי דוגלות בכלכלת שוק ובזכותו של האדם לקניין פרטי. המקרקעין הם אחד מהבולטים בקניינים אלה. עם זאת, בעולם המודרני התפתחו גם תורות השוללות את הקניין הפרטי בקרקע, או כאלה הדוגלות בקהילתיות או בשימור הקרקע ומשאבי הטבע לדורות הבאים.[[41]](#footnote-41) הקדמה הטכנולוגית בתחומים שונים כגון התפתחות הסייבר ומערכות מידע או כלכלת שיתוף משנה כבר כיום את התפיסות שלנו לגבי צורות השימוש בקרקע.[[42]](#footnote-42) התפיסה של העולם ככפר גלובאלי יוצרת ניצנים של התייחסות רב לאומית גלובאלית למשאב זה.[[43]](#footnote-43) כל אלה משפיעים על יחסה של חברה לקרקע, על אופן הסדרת השימוש בה ועל עיצוב החוקים העוסקים בקרקע ובמדיניות המקרקעין. על כן the exploration of a society’s attitude towards land can shed light on its primary characteristics. A society’s land legislation and policies are a consequence of its identity, and thus an expression of it. The study of land law can serve as a litmus test for the predominant contours of a given society, allowing the researcher to “reverse engineer” its character and fundamental problems.

Of course, there are other ways to learn about the characteristics of a society’s identity. Identity is reflected in countless aspects of life: literature, journalism, culture, art, or other disciplines of government and law. However, unlike these other spheres, land law and policy are often envisioned as a collection of dry, obscure regulations, secrets known only to a chosen few. Indeed, the famous British property law scholar Lawson wrote that the concepts of real property law "seem to move among themselves according to the rules of a game which exists for its own purposes" and create “a world of pure ideas from which everything physical or material is entirely excluded”.[[44]](#footnote-44) Yet, land law is not and should not be the exclusive purview of legal experts. It is the key to understanding and decoding a society’s identity. This is a consequence of the important role played by land in the lives of individuals and societies. Anything taking place in this field is a direct and concrete reflection of the problems plaguing a society. Land policy and its results reflect the “real [e]state” of a country’s affairs; it is more than just a theoretical discussion of what is or what ought to be. The world of real-estate is not merely a series of dry, technical regulations. The code to a society’s identity lies nestled in between the laws details and directives.

**Exploring Israel's identity through its Land law and policy**

Israel is an excellent medium for the exploration of a state's identity through its land law and policy. First, Israel’s territory is considered part of the biblical Holy Land, perhaps one of the most prominent examples in the world of a territory, which constitutes a central component of religious, ethnic and national identities. Ever since it was promised to Abraham in the Bible, it has represented a core element of Jewish identity. In the nineteenth century, it was adopted by the Zionist movement as the location in which the Jewish right to self-determination would be realized.[[45]](#footnote-45) It goes without saying that this territory is also closely bound to Christian and Muslim identity.[[46]](#footnote-46) Given this historical background, the territory of the “Land of Israel” is particularly interesting.

Second, land law and policy in the state of Israel has a high comparative value, because the identity of the State of Israel embodies a wide range of processes taking place in other locations across the globe. For example, the State of Israel is a country hich has undergone a process of decolonization. In the centuries preceding its establishment it was ruled by foreign empires: first the Ottomans and later the British.[[47]](#footnote-47) Like any country which has undergone such a process, its land law have assimilated vestiges of its past under foreign rule. It serves as a case study of similar processes taking place in neighboring Middle Easter countries and even countries lying farther afield in other corners of the globe. In addition, Israel has, in just the few decades since its establishment, transitioned from a socialistic, centralized economy to a free market economy.[[48]](#footnote-48) Among other things, this process has led to the privatization of land. Similar processes have also taken place in Eastern Europe.[[49]](#footnote-49) Israel is also an excellent example of a country forged in the crucible of a conflict with a national minority. It serves as an example of a democratic country dealing with problems related to the status of its national minority and may serve as a test case for the methods by which civil equalities can be advanced. Israel is also a Western Democratic state suffering from those systemic problems which plague free societies such as bureaucracy and corruption.[[50]](#footnote-50) Its judicial system is progressive and independent, and its intervention in issues related to land, is one of the areas in which an equilibrium between judiciary and executive branches is expressed. [[51]](#footnote-51) All these qualities are reflected in Israel’s land law and policy. An analysis of land law and policy in Israel can, therefore, illustrate not just the complex identity of the state, but also the connection between land and similar identities in many countries around the world.

Third, Israel is one of the smallest and most densely populated countries in the world. Therefore, the manifestation of problems related to its identity, inasmuch as land is concerned, is particularly concentrated and intensive. Global phenomena – such as urbanization, urban sprawl, reduction of open spaces, or creating equality between a country’s center and periphery – exert a faster and more acute influence in Israel than in other countries. Israel, therefore, must quickly develop very creative planning solutions for its concentrated problems. Processes taking place in Israel today can augur the fates of larger and less densely populated countries in the future.

Fourth, Israeli law speaks Hebrew, creating a barrier to genuine understanding of Israel's land laws. The proposed book purports to remove this barrier. It exposes the international audience to sources, which are largely inaccessible to English speakers. It enriches the international body of knowledge with a special and fascinating model of a land law system, which has an immense scientific comparative value as well as practical economic and political utilities.

Finally, for a variety of political reasons, Israel has long been the focus of greater international attention than would be expected of a small Middle Eastern state. This is primarily due to the Israeli-Arab conflict and its various aspects and most studies of Israel examine it through the prism of this conflict. Israel’s identity is undoubtedly affected by this conflict, as is its land law. Nonetheless, the realm of land law in the State of Israel has other sides to it, which are of considerable comparative value. These aspects have to date not received sufficient attention in the English language research literature. Frederic Goadby’s and Moses Doukhan’s book, The Land Law of Palestine, published in Jerusalem in 1935, summarized the various aspects of land laws in Palestine of the time.[[52]](#footnote-52) This book did not claim to treat Palestine’s identity issues, but rather to provide “a comprehensive a treatise on the land law of Palestine” aimed primarily at a narrow audience of contemporary jurists. Eighty five years have since passed, during which the State of Israel was established and its land policy underwent considerable changes, yet not a single English language book treating the different facets of Israel’s land law and policy has been appeared. One reason for this is the inaccessibility of Hebrew, Israel’s national language, to some scholars. In light of the considerable comparative value of research on Israel, the present book seeks to address this lack. It seeks to provide an up-to-date portrait of Israel’s land law as it is today at the dawn of the third millennium, in all its facets and aspects. This is an important contribution that will be made by establishing the book central thesis regarding the Israeli system.

ולבסוף, מסיבות פוליטיות שונות מדינת ישראל מעוררת במשך שנים עניין עולמי רב ממה שניתן היה לצפות ממדינה מזרח תיכונית קטנה. אחראי לכך בעיקר הסכסוך הישראלי ערבי על היבטיו השונים. רוב הכתיבה שעוסקת בישראל מנתחת אותה דרך הפריזמה של סכסוך זה. זהותה של מדינת ישראל כמובן מושפעת מסכסוך זה וכך גם עולם המקרקעין שלה. עם זאת, יש לעולם המקרקעין של מדינת ישראל גם פנים אחרות. הן בעלות ערך השוואתי רב. היבטים אלה לא זכו עד כה לתשומת לב מספקת בספרות המחקרית בשפה האנגלית. בשנת 1935 יצא לאור בירושלים ספרם של Frederic Goadby וMoses Doukhan The Land Law of Palestine, שסיכם אז את ההיבטים השונים של דיני המקרקעין בפלשתינה-א"י באותה עת.[[53]](#footnote-53) הספר לא היה אמנם ספר שהתיימר לשרטט את בעיות הזהות של Palestine באותה עת אלא רק "a comprehensive a treatise on the land law of Palestine" שנועד לשרת בעיקר קהל מצומצם של משפטנים בני דורו. על אף שמאז חלפו שמונים וחמש שנים, הוקמה מדינת ישראל ובמשטר המקרקעין שלה חלו שינויים רבים, לא פורסם מאז ספר בשפה האנגלית המציג את ההיבטים המגוונים של דיני המקרקעין בישראל ושל מדיניות המקרקעין שלה. אחת הסיבות לכך היא העדר נגישות של חוקרים לעברית-שפתה של מדינת ישראל. נוכח הערך ההשוואתי הרב שיש למחקר על מדינת ישראל – ספר זה מבקש להשלים חסר זה. הוא מבקש לתת תמונה עדכנית של עולם המקרקעין של ישראל, על כל גווניו והיבטיו, כפי שהוא כיום, בראשית המילניום השלישי. זו היא תועלת נוספת וחשובה שיניב ביסוסו של הרעיון המרכזי של הספר על השיטה הישראלית.

**The structure of this book**

Each chapter will focus on the way in which the land law of the State of Israel and its land policy reflect a central characteristic of the identity of the State of Israel.

Chapter 1 shows that the current composition of the private and public land inventory in Israel is none other than the enduring fingerprint of history. Thus the imprints of Ottoman rule, British colonialism, the Zionist vision, the Israeli-Arab conflict and the socialist ideology of its founding fathers - are all manifest in daily lives of every Israeli. These are all important components of Israel’s identity.

In chapter 2 shows how the administration of the public land inventory attests to the socio-economic characteristics of the state’s identity. The principles governing land administration primarily derive from the economic philosophy of its founders. The administration of public lands in Israel prominently reflects a socialist, Zionist and Jewish background. These conceptions were responsible to the constitutional prohibition of transferring ownership over government-owned lands. This legal ban evolved a complicated system by which the state is letting its land by leasing arrangements for limited periods. The gradual transition from Israel’s socialist system based on central governmental control to a market-economy is evident in the process of public land privatization. Both the retention of ownership and the privatization process had and still have significant practical foothold in the day-to-day life of every Israeli.

Chapter 3 reveals the culture of governance in Israel through analyzing the process of public lands' privatization. While transparent and systematic privatization may attest to a sound culture of governance, informal kinds of privatization, subject to influence by power groups or plagued by corruption, may point to governance challenges and an un-sound style of governance. An analysis of land privatization processes in Israel shows that informal privatization anticipates formal privatization and is a sign of faulty governmental administration. The process of land privatization reflects not only the difficulties posed by the transition from socialist administration to a market economy, but also one of the existential problems of Israel in the last decades – The lack of good governance standards.

Chapter 4 shows how Israel's land planning policy reflects, on the one hand, the geography and demography of the state, and the innovative and creative nature of the nation, on the other. Israel is a small country, narrow and long, with one of the highest population densities in the world. It has demanding and unique security needs. Although furnished with natural resources and a large coastline, it is subject to a number of natural “curses” (water shortages and susceptibility to earthquakes). These characteristics pose the Israeli planning system with extraordinary challenges such as gaps between the country’s center and periphery, processes of urbanization and rapid urban sprawl, shrinking land reserves and violation of environmental values. Land policy in Israel a formidable and unique challenge by global standards. To cope with these challenges, Israel must exercise creativity and innovation in the search for solutions to its shortage of land and abundance of needs.

Chapter 5 analyzes how land policy reflects society’s attitude towards the Arab minority. Israel aspires to be both the nation state of the Jewish people, as well as a country, which ensures full equality for all its citizens. Israel land policy reflects this paradox in its treatment of the impact of Israel’s war of independence on ownership as well as in its land allocation policy. The way in which lands are allocated, planned, and developed in Israel reflects two contradicting ends: keeping separation between populations on the one hand or encouraging assimilation, on the other. Preference of one option over the other is not only a question of policy. This is an existential paradox situated at the basis of every Israeli's identity.

Chapter 6 will analyze how land law reflects the status of the Israeli judicial system in Israel. Two prominent activist responsibilities held by the judiciary branch in democratic countries pertain to this field: the protection of rights stemming from equity law and the constitutional protection of private property. The Israeli Supreme Court is very creative in these fields and its activities as well as the criticism it has received as a result, reflects the status of the judiciary branch in Israel, which is one of the most controversial public debates that sweeps Israel society in the last decades.

1. [Shaul Tchernichovsky](https://everything2.com/title/Shaul+Tchernichovsky), Collected Works, Vol.3-Poems (Va'ad Hayovel Publisher, Berlin 1929)(Hebrew); Sirim [Poems] (Tel-Aviv-Shocken 1950)(Hebrew). [↑](#footnote-ref-1)
2. Robert Ardrey The territorial imperative ??? (Atheneum, New York  1966); Luca Giuggioli, V. M. Kenkre, *Consequences of animal interactions on their dynamics: emergence of home ranges and territoriality*, 2 Movement Ecology 1, 1 (2014). [↑](#footnote-ref-2)
3. [H.J.Schenk](https://www.sciencedirect.com/science/article/pii/S006525040860032X" \l "!), [R.M. Callaway](https://www.sciencedirect.com/science/article/pii/S006525040860032X" \l "!), [B.E.Mahall](https://www.sciencedirect.com/science/article/pii/S006525040860032X" \l "!) *Spatial Root Segregation: Are Plants Territorial?* 28 [Advances in Ecological Research](https://www.sciencedirect.com/science/journal/00652504" \o "Go to Advances in Ecological Research on ScienceDirect) 145, 145-146, 162-168 (1999). [↑](#footnote-ref-3)
4. Herbert H. T. Prins and Iain J. Gordon *Testing hypotheses about biological invasions and Charles Darwin’s two-creators rumination* in Invasion biology and ecological theory-Insights from a continent in transformation 1, 1-2 (Herbert H. T. Prins and Iain J. Gordon EDS., OUP 2014). [↑](#footnote-ref-4)
5. M. Carmen Hidalgo, Bernardo Hernandez *Place attachment: Conceptual and empirical questions*, 21 Journal of Environmental Psychology 273, 273-275, 278 (2001). [↑](#footnote-ref-5)
6. Setha M.Low, Irwin Altman Place attachment-A conceptual inquiry in Place Attachment 1, 1-6 (Irwin Altman, Setha M. Low eds., Plenum Press, NY 1992). [↑](#footnote-ref-6)
7. [↑](#footnote-ref-7)
8. Genesis 4, 2. [↑](#footnote-ref-8)
9. Margaret Jane Radin *Property and Personhood* 34 Stanford Law Review 957,991-996 (1982). [↑](#footnote-ref-9)
10. Ardrey The territorial imperative, supra note 2, at ???. [↑](#footnote-ref-10)
11. United Nations Declaration on the Rights of Indigenous Peoples 2007, §25, GA Res 61/295 UN GAOR 61st Sess., Supp. No.49, Vol. III, UN Doc. A/61/ 49 (2008) 15; Jérémie Gilbert' Indigenous Peoples' Land Rights under International Law: From Victims to Actors 192-197 (Brill Nijhoff, Leiden, 2016). [↑](#footnote-ref-11)
12. Psalms 137a. [↑](#footnote-ref-12)
13. Adam Mickiewicz Pan Tadeusz – The Last Foray in Lithuania (George Rapall Noyes translator, J.M.Dent & Sons Ltd. 1917), Emicentennial Publications of the University of California, <https://archive.org/stream/pantadeuszorlast00mickuoft/pantadeuszorlast00mickuoft_djvu.txt> . [↑](#footnote-ref-13)
14. Gordon H. Hills Native libraries: Cross-cultural Conditions in the Circumpolar Countries 165 (Scarecrow Press, 1997); Richard T. Antoun *Civil society, tribal process, and change in Jordan: An anthropological view* 32 Int. J. Middle East Stud. 441, 460 (2000); [Honaida Ghanim](https://samba.huji.ac.il/+CSCO+1h75676763663A2F2F6A6A6A2E77666762652E626574++/action/doBasicSearch?si=1&Query=au%3A%22Honaida+Ghanim%22&swp=on&fc=off&hp=25&so=rel&wc=off&prq=%28%28%28ird%29%29+AND+%28ard%29%29+AND+%28land%29&acc=on) *[Poetics of Disaster: Nationalism, Gender, and Social Change Among Palestinian Poets in Israel After Nakba](https://samba.huji.ac.il/+CSCO+1075676763663A2F2F6A6A6A2E77666762652E626574++/stable/10.2307/40608203?Search=yes&resultItemClick=true&searchText=pride&searchUri=%2Faction%2FdoBasicSearch%3Fswp%3Don%26amp%3Bfc%3Doff%26amp%3Bhp%3D25%26amp%3Bso%3Drel%26amp%3Bwc%3Doff%26amp%3BQuery%3Dpride%26amp%3Bacc%3Don%26amp%3Bprq%3D%2528%2528%2528ird%2529%2529%2BAND%2B%2528ard%2529%2529%2BAND%2B%2528land%2529&refreqid=search%3Ae9ba4e199f6351d98d1b9036c1928bb2)*22 International Journal of Politics, Culture, and Society 23, 33-36 (2009). [↑](#footnote-ref-14)
15. [A. St. J. J. Hannigan](https://samba.huji.ac.il/+CSCO+1h75676763663A2F2F6A6A6A2E77666762652E626574++/action/doAdvancedSearch?si=1&Query=au%3A%22A.+St.+J.+J.+Hannigan%22&group=none&q0=Native+Custom%2C+its+Similarity+to+English+Conventional+Custom+and+its+Mode+of+Proof&c5=AND&f5=all&f4=all&f2=all&f0=all&c3=AND&acc=on&f6=all&c4=AND&f3=all&c2=AND&c6=AND&c1=AND&f1=all) *[Native Custom, Its Similarity to English Conventional Custom and Its Mode of Proof](https://samba.huji.ac.il/+CSCO+1075676763663A2F2F6A6A6A2E77666762652E626574++/stable/10.2307/745265?Search=yes&resultItemClick=true&searchText=Native&searchText=Custom,&searchText=its&searchText=Similarity&searchText=to&searchText=English&searchText=Conventional&searchText=Custom&searchText=and&searchText=its&searchText=Mode&searchText=of&searchText=Proof&searchUri=%2Faction%2FdoAdvancedSearch%3Fgroup%3Dnone%26amp%3Bq6%3D%26amp%3Bq0%3DNative%2BCustom%252C%2Bits%2BSimilarity%2Bto%2BEnglish%2BConventional%2BCustom%2Band%2Bits%2BMode%2Bof%2BProof%26amp%3Bc5%3DAND%26amp%3Bq5%3D%26amp%3Bf5%3Dall%26amp%3Bsd%3D%26amp%3Bed%3D%26amp%3Bpt%3D%26amp%3Bf4%3Dall%26amp%3Bq1%3D%26amp%3Bq2%3D%26amp%3Bisbn%3D%26amp%3Bla%3D%26amp%3Bf2%3Dall%26amp%3Bf0%3Dall%26amp%3Bc3%3DAND%26amp%3Bq4%3D%26amp%3Bf1%3Dall%26amp%3Bq3%3D%26amp%3Bf6%3Dall%26amp%3Bc4%3DAND%26amp%3Bf3%3Dall%26amp%3Bc2%3DAND%26amp%3Bc6%3DAND%26amp%3Bc1%3DAND%26amp%3Bacc%3Don&refreqid=search%3A94c3ac96bf669117d84a46346beee54f)* 2 Journal of African Law 101, 104-106 (1958); Daniel G. Kelly *Indian Title: The Rights of American Natives in Lands They Have Occupied Since Time Immemorial* 75 Colum. L. Rev. 655, 660-661 (1975); Shaunnagh Dorsett *Since Time Immemorial: A Story of Common Law Jurisdiction, Native Title and the Case of Tanistry*, 26 Melb. U. L. Rev. 32, 36-43 (2002). [↑](#footnote-ref-15)
16. Benedict Anderson Imagined Communities Reflections on the Origin and Spread of Nationalism 53-55 (Revised Edition, Verso 2006). [↑](#footnote-ref-16)
17. David B. Knight *Identity and Territory: Geographical Perspectives on Nationalism and Regionalism* 72 Annals of the Association of American Geographers 514, 519 (1982); John G. Sprankling The International Law of Property 5 (OUP 2014); Knight 517. [↑](#footnote-ref-17)
18. Guntram H. Herb *Identity and territory*, Nested Identities: Nationalism, Territory, and Scale 9, 17 (Guntram H. Herb& ,David H. Kaplan EDS., Rowman & Littlefield Publishers, Oxford, 1999); Anssi Paasi *The institionalization of regions: A theoretical framework to understanding the emergence of regions and the constitution of regional identity* 164 Fennia 105, 120-121 (1986). [↑](#footnote-ref-18)
19. Knight *Identity and Territory* , supra note 17, at 517. [↑](#footnote-ref-19)
20. Stuart Elden *Land, terrain, territory* 34 Prog. Hum. Geogr. 799, 810-811 (2010);  Gregory S. Alexander‏, Eduardo M. Peñalver, An Introduction to Property Theory 11, 57 (OUP 2010); Gregory S. Alexander‏, Property and Human Flourishing 82-95 (2018). [↑](#footnote-ref-20)
21. Haim Sandberg *Real Estate E-Conveyancing: Vision and Risks*, 19 Information & Communications Technology Law 101, 103 (2010); Stephen R. Miller *First principles for regulating the sharing economy* 53 Harv. J. on Legis. 147, 156-160 (2016); Victoria L. Lemieux*Evaluating the Use of Blockchain in Land Transactions: An Archival Science Perspective* 6 European Property Law Journal 392, 392-393, 440 (2017); Nicolás Nogueroles Peiró, Eduardo J. Martinez García *Blockchain and Land Registration Systems* 6 European Property Law Journal 296, ??? (2017). [↑](#footnote-ref-21)
22. Amnon Lehavi *Land law in the age of globalization and land grabbing* Comparative Property Law: Global Perspectives 290, 290-291 (Michele Graziadei, Lionel Smith eds., Edward Elgar 2017); Sprankling The International Law of Property, supra note 17, at 18-20. [↑](#footnote-ref-22)
23. Robert Ardrey The territorial imperative ??? (Atheneum, New York  1966); Luca Giuggioli, V. M. Kenkre, *Consequences of animal interactions on their dynamics: emergence of home ranges and territoriality*, 2 Movement Ecology 1, 1 (2014). [↑](#footnote-ref-23)
24. [H.J.Schenk](https://www.sciencedirect.com/science/article/pii/S006525040860032X" \l "!), [R.M. Callaway](https://www.sciencedirect.com/science/article/pii/S006525040860032X#!), [B.E.Mahall](https://www.sciencedirect.com/science/article/pii/S006525040860032X#!) *Spatial Root Segregation: Are Plants Territorial?* 28 [Advances in Ecological Research](https://www.sciencedirect.com/science/journal/00652504) 145, 145-146, 162-168 (1999). [↑](#footnote-ref-24)
25. Herbert H. T. Prins and Iain J. Gordon *Testing hypotheses about biological invasions and Charles Darwin’s two-creators rumination* in Invasion biology and ecological theory-Insights from a continent in transformation 1, 1-2 (Herbert H. T. Prins and Iain J. Gordon EDS., OUP 2014). [↑](#footnote-ref-25)
26. [↑](#footnote-ref-26)
27. Setha M.Low, Irwin Altman Place attachment-A conceptual inquiry in Place Attachment 1, 1-6 (Irwin Altman, Setha M. Low eds., Plenum Press, NY 1992). [↑](#footnote-ref-27)
28. # 

    [↑](#footnote-ref-28)
29. [↑](#footnote-ref-29)
30. [↑](#footnote-ref-30)
31. [↑](#footnote-ref-31)
32. United Nations Declaration on the Rights of Indigenous Peoples 2007, §25, GA Res 61/295 UN GAOR 61st Sess., Supp. No.49, Vol. III, UN Doc. A/61/ 49 (2008) 15; Jérémie Gilbert' Indigenous Peoples' Land Rights under International Law: From Victims to Actors 192-197 (Brill Nijhoff, Leiden, 2016). [↑](#footnote-ref-32)
33. [↑](#footnote-ref-33)
34. Adam Mickiewicz Pan Tadeusz – The Last Foray in Lithuania (George Rapall Noyes translator, J.M.Dent & Sons Ltd. 1917), Emicentennial Publications of the University of California, <https://archive.org/stream/pantadeuszorlast00mickuoft/pantadeuszorlast00mickuoft_djvu.txt> . [↑](#footnote-ref-34)
35. # Gordon H. Hills Native libraries: Cross-cultural Conditions in the Circumpolar Countries 165 (Scarecrow Press, 1997); Richard T. Antoun *Civil society, tribal process, and change in Jordan: An anthropological view* 32 Int. J. Middle East Stud. 441, 460 (2000); [Honaida Ghanim](https://samba.huji.ac.il/+CSCO+1h75676763663A2F2F6A6A6A2E77666762652E626574++/action/doBasicSearch?si=1&Query=au%3A%22Honaida+Ghanim%22&swp=on&fc=off&hp=25&so=rel&wc=off&prq=%28%28%28ird%29%29+AND+%28ard%29%29+AND+%28land%29&acc=on) [*Poetics of Disaster: Nationalism, Gender, and Social Change Among Palestinian Poets in Israel After Nakba*](https://samba.huji.ac.il/+CSCO+1075676763663A2F2F6A6A6A2E77666762652E626574++/stable/10.2307/40608203?Search=yes&resultItemClick=true&searchText=pride&searchUri=%2Faction%2FdoBasicSearch%3Fswp%3Don%26amp%3Bfc%3Doff%26amp%3Bhp%3D25%26amp%3Bso%3Drel%26amp%3Bwc%3Doff%26amp%3BQuery%3Dpride%26amp%3Bacc%3Don%26amp%3Bprq%3D%2528%2528%2528ird%2529%2529%2BAND%2B%2528ard%2529%2529%2BAND%2B%2528land%2529&refreqid=search%3Ae9ba4e199f6351d98d1b9036c1928bb2) 22 International Journal of Politics, Culture, and Society 23, 33-36 (2009).

    [↑](#footnote-ref-35)
36. [↑](#footnote-ref-36)
37. Benedict Anderson Imagined Communities Reflections on the Origin and Spread of Nationalism 53-55 (Revised Edition, Verso 2006). [↑](#footnote-ref-37)
38. David B. Knight *Identity and Territory: Geographical Perspectives on Nationalism and Regionalism* 72 Annals of the Association of American Geographers 514, 519 (1982); John G. Sprankling The International Law of Property 5 (OUP 2014); Knight 517. [↑](#footnote-ref-38)
39. Guntram H. Herb *Identity and territory*, Nested Identities: Nationalism, Territory, and Scale 9, 17 (Guntram H. Herb& ,David H. Kaplan EDS., Rowman & Littlefield Publishers, Oxford, 1999); Anssi Paasi *The institionalization of regions: A theoretical framework to understanding the emergence of regions and the constitution of regional identity* 164 Fennia 105, 120-121 (1986). [↑](#footnote-ref-39)
40. Knight *Identity and Territory* , supra note 17, at 517. [↑](#footnote-ref-40)
41. Stuart Elden *Land, terrain, territory* 34 Prog. Hum. Geogr. 799, 810-811 (2010);  Gregory S. Alexander‏, Eduardo M. Peñalver, An Introduction to Property Theory 11, 57 (OUP 2010); Gregory S. Alexander‏, Property and Human Flourishing 82-95 (2018). [↑](#footnote-ref-41)
42. Haim Sandberg *Real Estate E-Conveyancing: Vision and Risks*, 19 Information & Communications Technology Law 101, 103 (2010); Stephen R. Miller *First principles for regulating the sharing economy* 53 Harv. J. on Legis. 147, 156-160 (2016); Victoria L. Lemieux*Evaluating the Use of Blockchain in Land Transactions: An Archival Science Perspective* 6 European Property Law Journal 392, 392-393, 440 (2017); Nicolás Nogueroles Peiró, Eduardo J. Martinez García *Blockchain and Land Registration Systems* 6 European Property Law Journal 296, ??? (2017). [↑](#footnote-ref-42)
43. [↑](#footnote-ref-43)
44. Frederick H. Lawson, *The Rational Strength of English Law* 79(Stevens & Sons Limited, London 1951). [↑](#footnote-ref-44)
45. Anita Shapira, Land and Power: The Zionist Resort to Force, 1881-1948, 6, 9-10 (Stanford University Press, 1999); Emanuele Ottolenghi *A national home* Modern Judaism: An Oxford Guide 56-57 ( Nicholas De Lange‏, Miri Freud-Kandel‏ eds., OUP 2005). [↑](#footnote-ref-45)
46. Glenn Bowman [*Christian ideology and the image of a holy land*](https://books.google.com/books?hl=en&lr=&id=gtJNAwAAQBAJ&oi=fnd&pg=PA98&dq=significance+of+the+holy+land+in+christianity&ots=tXonbjcqPx&sig=g0t1iEQm3ily903HPmyuy6o96yo)-*The place of Jerusalem pilgrimage in the various Christianities* Contesting the Sacred: The anthropology of Christian pilgrimage 98, 98-106 (John Eade, Michael J. Sallnow eds., Illinoi University Press 1991); Jacob Lassner, Medieval Jerusalem: Forging an Islamic **c**ity in **s**paces **s**acred to Christians and Jews 60-62 (University of Michigan Press, 2017). [↑](#footnote-ref-46)
47. William David McIntyre, British Decolonization, 1946–1997 31-33 (Macmillan Press Ltd., 1998). [↑](#footnote-ref-47)
48. Ronen Mandelkern, Amir Paz-Fuchs [*Privatizing Israel: An Introduction*](https://link.springer.com/chapter/10.1057/978-1-137-58261-4_1) The privatization of Israel: The wthdrawal of state responsibility 1, 1-3, 6-10 (Amir Paz-Fuchs, Ronen Mandelkern, Itzhak Galnoor eds., Palgrave Macmillan, New York 2018); Rachelle Alterman *National-level Planning in Israel: Walking the tightrope between government control and privatization* 257, 268-272 National-level planning in democratic countries: An international comparison of city and regional policy-making (Rachelle Alterman ed., Liverpool University Press 2001). [↑](#footnote-ref-48)
49. M.R. Jepsen et al. *Transitions in European land-management regimes between 1800 and 2010* 49 Land Use Policy 53, 61 (2015). [↑](#footnote-ref-49)
50. Francis Fukuyama, Political order and political decay: From the industrial revolution to the globalization of democracy 52, 81, 359 (Farrar Straus and Giroux, New York 2014). [↑](#footnote-ref-50)
51. Shimon Shetreet, *The critical challenge of judicial independence in Israel*, Judicial independence in the age of democracy-Critical perspectives from around the world 233, 233-235 (Peter H. Russell & David M. O'Brien eds., University Press of Virginia, 2001). [↑](#footnote-ref-51)
52. Frederic Goadby, Moses Doukhan ,The Land Law of Palestine (Tel-Aviv 1935). [↑](#footnote-ref-52)
53. [↑](#footnote-ref-53)