

**Application for a Post-Doctorial Fellowship in Social Sciences**

Application No. 67/23

Name of Researcher: Smadar Ben-Natan

1. **Details regarding Ph.D.:**

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| Ph.D. Institute: Tel Aviv University |
| Ph.D. Department: Buchmann Faculty of Law |
| Ph.D. Advisor/s: Prof. Shai Lavi, Prof. Aeyal Gross |
| Title of Dissertation: Citizen-Enemies: Military Courts in Israel and the Occupied Territories1967-2000. |
| Date of Dissertation Submission: May 10, 2020 |
| Date of Dissertation Approval: October 19, 2020 |

1. **Details regarding Post-Doc:**

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| Post-Doc Institute: University of California, Santa Barbara |
| Post-Doc Department: Sociology |
| Post-Doc Advisor/s: Prof. Lisa Hajjar |
| No. of Years Requested (one/two): Two |
| Post-Doc Research Title: The Carceral State in Conflict: Between Reconciliation and Radicalization |

1. **Abstract of Ph.D. Dissertation (1 page, in English)**

**Citizen-Enemies: Military Courts in Israel and the Occupied Territories1967-2000**

Securitization and criminalization through military courts have played an underrecognized, yet central role in Israel’s management of populations and construction of citizenship. Following the 1967 occupations, Israel established a military courts system as part of the military government in the Occupied Territories (OT). Operating alongside the Israeli civilian justice system, the military courts are understood as reflecting the different citizenship status of the Palestinian non-citizens prosecuted therein, while Israeli citizens are prosecuted in civilian courts. Yet although almost unknown, the “Lod Military Court” was used to prosecute Palestinian citizens and residents of Israel for over 30 years, until it was quietly dismantled in 2000. Unraveling the Lod Military Court complicates the binary between citizens and non-citizens and articulates the role of military courts in the construction of multiple and liminal categories of citizenship.

My PhD thesis reconstructed this forgotten history of separate and unequal treatment through a qualitative analysis of military and civilian legislation, annual reports, official correspondence, hundreds of casefiles, and in-depth interviews with legal professionals. Compared to the civilian courts, both military court systems used overly broad criminalization, provided minimal procedural protections, and assigned harsher punishments, thus constituting “enemy penology”, as opposed to a penology of “citizens”. The Lod Military Court relied on British colonial *emergency powers*, which offer a hybrid model of security prosecutions, combining the well-known models of *criminal law* and the law of *armed conflict*. Emergency powers combine military and civilian legal doctrine and institutions by authorizing the prosecution of civilians in military courts without restriction to wartime, thus blurring boundaries between wartime and peacetime; civilians and combatants; citizens and enemies.

However, the allocation of cases between these three systems challenges the binary of citizen-enemy. The simultaneous use of military courts of *armed conflict* in the OT, *criminal courts* inside Israel, and *emergency powers* in the Lod Court enabled prosecution authorities to allocate cases by using multiple and dynamic classifications that conflated ethno-national categories of Palestinians and Jews with categories of civic status: citizens, residents, and occupied enemy nationals. The allocation of defendants to different courts according to their ethnicity and citizenship created a hierarchy of belonging and a gradation of rights, extending citizenship rights to settler-citizens beyond the state borders, while treating Palestinian citizens as a liminal category that I call “citizen-enemies.” Ultimately, military courts operated as instruments of securitized population management and citizenship regime.

**D. Abstract of Post-Doc Research: (2 pages, in English)**

**The Carceral State in Conflict: Between Reconciliation and Radicalization**

The criminological-theoretical aspects of incarceration during national conflict remain underdeveloped – a neglect especially egregious in Israel, where since 1967 over a third of the prisoner population are Palestinians, thus weaving together the management of the conflict with incarceration and the management of prisons. This study develops a penology of conflict.

My research traces a paradigm shift in Israeli carceral policies after 2000, following the failure of peace negotiations and the second Intifada. Between 1967-2000, Palestinian inmates met with Jewish Israeli staff, prisoners, and professionals such as teachers, lawyers, and social workers; watched Israeli TV; and audited classes in the Israeli Open University, all with the implicit encouragement of prison management. Consequently, the former prisoners took a significant part in “translating” Israeli society and politics to the Palestinian society, playing a major role in *reconciliation* efforts leading to the Oslo Accords. However, after the peace process was abandoned, carceral policies shifted to “state-induced radicalization,” in which the state seeks to maintain prisoners as enemies, thereby justifying the conflict. New policies reduced contact with prison staff by using surveillance cameras; banned encounters with professionals; restricted books, newspapers, and TV channels except for religious books; banned studies in the Open University; encouraged prisoners’ affiliation to militant organizations; sought open conflict; and targeted prisoners’ leadership. These combative policies denied the prisoners paths to individual growth and encouraged ideological *radicalization*.

I use this shift as a key to unlock and contrast penal paradigms, identifying *reconciliation* and *radicalization* as competing paradigms of conflict penology, which are consolidated through encounters between prisoners, prison authorities, and government officials. The shift from reconciliation to radicalization demonstrates that political prisoners and convicted terrorists might escalate violence through radicalization - but may also promote reconciliation. The state, on the other hand, may seek deradicalization but might also foster radicalization of prisoners as a strategy to sustain and justify protracted conflict.

**Theoretical Background**: The strong connections between national politics and carceral policies have been demonstrated by multiple scholars studying the carceral state. In the crime context, scholars identified paradigms like discipline, crime control, and managerialism. The context of national conflict lacks similar theories, leading mainstream Israeli criminology to neglect the study of Palestinian prisoners.

Reconciliation has mostly been studied in *post-conflict* countries like Northern Ireland and South Africa, while *terrorism* and radicalization have been studied mostly post-9/11 in the US and Europe. These two foci differ in their relational approach and in their accounts of prisoners’ agency. Post-conflict literature approaches conflict as happening between two sides and describes former prisoners as “ambassadors for peace”, while counterterrorism literature views terrorism as a one-sided attack, and prisoners as turning prisons into “universities for terror” in a prisoner-to-prisoner process. I identify reconciliation and radicalization as two potentialities, with the state and prisoners as potential agents of radicalization or reconciliation. By identifying state-induced radicalization, radicalization is shown to be a multidimensional process.

Furthermore, literature on incarceration *during conflict* describes the management of prisons as *repression* and political prisoners through *resistance*, while studying prisoners separately from prison authorities. This *Repression-resistance* is also the dominant theoretical framework regarding Palestinian prisoners. This monolithic take on prisoners and authorities as constant opposites misses the dialectical encounters inside prisons, the intermediary role of prison staff, and changes in the positions of actors. My research challenges the dichotomy by developing a relational approach, focusing on sites of encounter between Palestinians and Israelis in which some prisoners and staff develop *double-consciousness: the ability to see through the eyes of another*. The development of double consciousness offers a path to reconciliation.

**Methodology and Timeline**: This research employs a bottom-up, qualitative study of prison life and carceral policies., combining interviews, analysis of primary documents, and a media survey. My study is also informed by the hundreds of conversations with Palestinian prisoners that I have had over the years as their lawyer. Since March 2021 I have completed most of the data collection, including a database of 180 documents and 21 interviews. By October 2023, I intend to complete the data collection, conduct 20 additional interviews, and publish an article outlining the historical process by which Palestinian prisoners were transferred from military prisons in the Occupied Territories into civilian prisons in Israel. During the first postdoctoral year, I will analyze the entire data set and publish a second article on carceral encounters as reflected in the interviews. In the second postdoctoral year I plan to write a book proposal, obtain a publishing contract (submission invited to Stanford University Press), and work on a book manuscript.

**Contribution:** While crime-related incarceration has been extensively theorized, this study addresses a lacuna by developing a penology of conflict that is also relevant to incarceration in the context of class, ethnic, and racial conflicts. It maps and conceptualizes carceral policies and their effects on prisoners and on the trajectory of the conflict, while integrating the study of Palestinian political prisoners into Israeli criminology. It offers avenues to addressing the conundrum of rehabilitation of security prisoners by replacing the goals of reducing recidivism and rehabilitation with the goal of developing double consciousness. At a time of increasing incarceration, this study connects incarceration in Israel/Palestine to discussions in criminology, socio-legal studies, peace & conflict studies, and policy making.

1. **Rational for choosing your advisor and institute of Post-Doc: (up to ½ a page, in English)**

The institutions of the University of California system are among the leading research universities in the United States and globally. Professor Lisa Hajjar from the Sociology Department at the University of California Santa Barbara (UCSB), who will be advising this project, is an internationally renowned scholar in the sociology of law and conflict, national security, human rights, and state violence. Her ethnography of military courts and human rights in Israel and Palestine has made her the leading expert on the region. Her wide-ranging knowledge and theoretical rigor make her uniquely qualified to apply analytical prisms from the social sciences to the study of incarceration and conflict, and provide guidance and expertise on the research’s empirical, methodological and theoretical aspects.

Professor Hajjar is co-chairing a research project on Global Carceral States. She is affiliated with the Orfalea Center for Global & International Studies at UCSB and maintains an active network with scholars and centers in the Middle East, such as the MENA Prison Forum, which would be highly valuable for my future career. The global profile of UCSB and the various research initiatives that Prof. Hajjar is involved in will provide an invaluable opportunity to interact and collaborate with peers interested in the same issues, though in different contexts and jurisdictions. Prof. Hajjar was one of the external reviewers of my Ph.D. dissertation and therefore is very familiar with my work. She and I follow similar research trajectories, from military courts and human rights to our currently related research projects on prisons and incarceration in the Middle East and in globally. While at UCSB, I will be able to become an active collaborator in these research initiatives and enhance my professional network and profile.

1. **Detailed academic plans for the time period between July 2022 and October 2023: (up to ½ a page, in English)**

Alongside my current research, in the coming year I plan work on a book manuscript based on my Ph.D. dissertation. I will hold a book workshop and prepare the book manuscript, which I have been invited to submit to Stanford University Press. One chapter of the book, on the death penalty in Israel, will be published in Edward Elgar Publishing’s Companion on Capital Punishment and Society edited by Austin Sarat and Benjamin Fleury-Steiner, to be submitted by March 2023.

My postdoctoral research project won the Harry Frank Guggenheim Distinguished Scholar Grant 2020 and 2021, for the period of March 2021-February 2023. To date I completed a comprehensive review of case law, legislative records, and institutional reports of the Israeli Prison Service (IPS) and the National Public Defender, and 21 in-depth interviews. Due to the inaccessibility of data from the IPS and the IDF, I submitted Freedom of Information Act requests to the IPS and IDF, and inquiries with the IDF archive. Until October 2023, with two research assistants, I intend to complete the data collection from these sources, conduct media research on the representation of, and political rhetoric around Palestinian prisoners, and conduct 20 more interviews. I am currently writing and plan to complete the first article from this research, which is forthcoming in an edited journal volume.

1. **Parallel scholarships for the requested Post-Doc period (Starting at October 2023):**

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| **Fellowship annual amount** | **Fellowship period**  Beginning date (month/year) – End date (month/year) | **Fellowship name and source** |
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1. **Declarations**

I am aware that the post-doctoral format (e.g. institution, advisor, research plan, period, place of residence) presented in this form is binding, in case of receiving ISF fellowship.   
I will inform the ISF ASAP of any changes in the fellowship format.

Applicant’s Signature: Icon

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I am aware that the fellowships for outstanding young researchers in the social sciences are intended to strengthen the social sciences in Israel. I intend to return to Israel at the end of the period of study and to integrate into its higher education system.

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I have read the guidelines for receiving additional post-doctoral fellowships in parallel to the given scholarship and will inform the ISF of additional scholarships within 14 days from receiving the approval of the additional scholarship.

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