Exceptional Citizens: Religion, Genocide, and Land in the United States and Israel/ Palestine

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"This is the basis of the Israeli 'homeland'—not rights, or history, or escape from persecution. Only violence: 'We drove them out and took their land. We set the village on fire, blew it up, and sent the people into exile." [1]

This epigraph from the Palestinian poet Mahmoud Darwish could be said as well of the US homeland with the dispossession of American Indians [2]. Both Zionism and the Puritan "errand in the wilderness" are in their very beginnings driven by religious agendas [3]. Philip Weiss's characterization of "Israel [as] a militant religious-nationalist project" could be applied to the origins of the US as well [4].

Considering that, we understand the United States and Israel are built on stolen Indigenous land. Both the US and Israel justify this theft by erasing it with exceptionalist narratives that find their origins in the same place, the Old Testament narrative of the "chosen people." This narrative acts to exempt Israel and the US from the history of violence by which they were established. This is an exemption projected onto a God who favors each of these states as translators of His word in history. Thus, exceptionalism is a way of thinking of national history outside of history, without, of course, noting the paradox.

[1] Mahmoud Darwish, Journal of an Ordinary Grief, trans. Ibrahim Muhawi (1973; Brooklyn, NY: Archipelago Books, 2010), 31.

[2] The US dispossessed Alaska Natives and Native Hawaiians as well, but that dispossession began at a much later moment in both cases and without the same religious justification.

[3] See Perry Miller, Errand Into The Wilderness (1956; New York: Harper Torchbooks, 1964). Miller's work remains definitive for detailing the Puritan religious agenda that infused the initial stages of settler colonialism in New England. However, it is also notable for its lack of concern for the Indigenous inhabitants. Likewise, Theodor Herzl The Jewish State (1896), the "bible" of Zionism, discussed at the end of this essay, expressed a similar lack of concern for the

[4] Philip Weiss, "Bill de Blasio ruins the liberal Zionists' glorious hour, "Mondoweiss, October 4, 2014 - See at: http://mondoweiss.net/2014/10/liberal-zionists-glorious?utm_source=Mondoweiss+List&utm_campaign=464b18b236-RSS_EMAIL_CAMPAIGN&utm_medium=email&utm_term=0_b86bace129-464b18b236-398512405 - sthash.ZE4AUlFi.dpuf

For the US, the exceptionalist narrative has its beginnings in the seventeenth-century Puritan narratives of the Indian wars in New England. The 17th-century clash culminated in 1675-76 with what the English termed King Philip's War. The name "King Philip" was the name colonists gave the Wampanoag sachem Metacomet, who became their figurehead for the causes of the War. This War ultimately ended in what we now characterize as a genocide, repeated across the continent, during two and a half centuries. In King Philip's war, 40% of the Native population of the United Colonies (Massachusetts Bay, Plymouth, and Connecticut) died[5]. What forced the War was not the perfidy of Metacom, as the Puritan narratives tell it, but increasing Puritan theft of Indian lands, beginning in 1620, enabled by a market system that forced the Indians into debt and then took their lands in "legal" payment for that debt. But, as the Puritans imagined it, that land was already theirs in the first place. The very opening sentence of Increase Mather's classic A Brief History of the Warr with the Indians in New England (1676) makes prior English ownership manifest:

> That the Heathen People amongst whom we live, and whose land the Lord God of our Fathers hath given to us for a rightfull Possession, have at sundry times been plotting mischievous devices against that part of the English Israel which is seated in these goings down of the Sun, no man that is an Inhabitant of any considerable standing, can be ignorant[6].

In the Puritan narrative, the land transactions, then, enacted with the machinery of Western law (bills of sale, deeds, etc.) were only ratification of a divine gift to "English Israel," a phrase that figures the Puritan identification with God's original chosen people. The passage also makes it plain that the Puritans did not think of themselves as starting the War by forcing Native land sales (sales of land that was never fungible in traditional Native theory and practice). Rather, the English understood the Indians as aggressors, terrorists, in fact, devious plotters of violence that had to be stopped. However, it should be noted that Mather's tract, as he notes, was, in part, motivated by a minority of Englishmen who dissented from the official story.

Nevertheless, the official story prevailed and by the nineteenth century had been secularized into the ideology of Manifest Destiny, a term coined in 1845 by the journalist John O'Sullivan to rationalize US imperial designs in the Mexican War. In our own time, American exceptionalism has been wielded by American Presidents from John F. Kennedy to Barack Obama, who referred to "America" as "the one indispensable nation."[7] That American exceptionalism was also wielded by the Republicans in accusing Obama of not believing in this credo is merely an irony of a one-party corporate state dissembling as a two-party democracy [8], just as Israel claims to

[5] Pauline Turner Strong, Captive Selves, Captivating Others: The Politics and Poetics of Colonial American Captivity Narratives (Boulder: Westview Press, 1999), p.85.

[6] Pauline Turner Strong, Captive Selves, Captivating Others: The Politics and Poetics of Colonial American Captivity Narratives (Boulder: Westview Press, 1999), p.85.

[7] See, for example, https://www.youtube.com/watch?v=BZ-ORmMlTFQ

[8] See Eric Cheyfitz, The Disinformation Age: The Collapse of Liberal Democracy in the United States (New York, Routledge, 2017), 15-17.

be the only democracy in the Middle East, while enforcing a system of apartheid in the Occupied Territories and treating Arab Israelis as exceptional, that is, marginalized citizens. Their subordinate status is now codified in Israel's Jewish state law. While the US is by law a secular state, one forgets its fundamentalist Christian origins, manifest in crucial aspects of US life, at the risk of historical disorientation. Thinking of Israel as both a democracy and an exclusively Jewish state, without noticing the contradiction, is similarly disorienting.

At the end of the eighteenth century, the land theft begun by the Puritans under religious auspices was carried on by the government under the secular auspices of US federal Indian law. The primal crime of this law was and is to formalize the translation of non-fungible Native land into the commodity the European tradition knows as "property," thus facilitating the forcible seizure of that land by Western legal means, the primary engine of which was the treaty. This act of translation, which I have written about extensively in my published work, was codified in 1823 in the Supreme Court case Johnson and Graham's Lessee v. M'Intosh(21 U.S. 543), which the legal scholar Robert Williams Jr. has called the "legal basis" of "genocide."[9] Johnson was the gateway through which marched the forces of genocide, codified in acts of Congress—the Indian Removal Act of 1830—and case law—Cherokee Nation v. Georgia (30 U.S. 1[1831])—both of which were instrumental in creating the Trail of Tears, where between 1831 and 1840 over 60,000 Indians from the Cherokee, Choctaw, Muscogee (Creek), Chickasaw and Seminole nations were forced to march west of the Mississippi River as part of a massive federal ethnic cleansing program that resulted in thousands of deaths on the trail. [10]

By the end of the nineteenth century, an original Native population, estimated by the demographer Russell Thornton at "5+ million" in 1492, in what would become the lower forty-eight states, had been reduced by genocide (preemptive war, ethnic cleansing, biological warfare) to 250,000.[11] Today, while, according to the US census, the Native population in the US (including Alaska Natives) has grown to 3.08 million, "Indian country," the legal term for the 340+ federally recognized tribes in the lower forty-eight states, contains a colonized population, caught between the different agendas of tribal and US citizenship, the latter having been enacted by Congress in 1924. In the US, then, Indians are exceptional citizens. For example, the Haudenosaunee (Iroquois) Nationals lacrosse team's passport conflict with the British government in 2010 makes this point. Writing about the conflict in The New York Times on July 16, 2010, Thomas Kaplan notes: "The dispute has superseded lacrosse, prompting diplomatic tap-dancing abroad and reigniting in the United States a centuries-old debate over the sovereignty of American Indian nations. The Iroquois refused to accept United States passports,

[9] Cited in David H. Getches, Charles F. Wilkinson, and Robert A. Williams, Jr., Cases and Materials in Federal Indian Law, 4th ed. (St. Paul: West, 1998), 71.

[10] See "Trail of Tears" at https://en.wikipedia.org/wiki/Trail_of_Tears. Wikipedia lists the number of Indians who walked the Trail of Tears as 46,000 between 1830 and 1837. The Cherokees were forced onto the Trail in 1838 and added to that number according to Wikipedia 16, 543.

[11] Russell Thornton, American Indian Holocaust, and Survival: A Population History Since 1492 (Norman: University of Oklahoma Press, 1987, 43,

saying they did not want to travel to an international competition on what they consider to be a foreign nation's passport."[12]

While both Israel and the US are settler-colonial societies, they are clearly in different stages of that colonialism. After what is possibly the largest single land-theft in the history of the world, the United States holds most of the 66 million acres of land that remains to the Indian nations in the lower forty-eight states in perpetual "trust." The United States government encoded this control in laws going back to the early nineteenth-century.[13] Based on the US Supreme Court decision in Cherokee Nation v. Georgia, US laws define the tribes to this day oxymoronically as "domestic dependent nations," with "[t]heir relation to the United States resemb[ling] that of a ward to his guardian" (30 U.S. 1 at 17).This dicta characterizes Indian nations as minors before the law. Still, Indians as individuals, in contradistinction to the Palestinians in the Occupied Territories, are citizens of the occupying power and entitled to all the Constitutional rights thereof, when not living on a reservation, where they come under the jurisdiction of US federal Indian law. The 1924 Indian Citizenship Act, then, acts as one way of leveraging assimilation, of encouraging Indians to leave reservation homelands, which, because of US policy, are the most impoverished communities in the United States. On the other hand, Israel is in an earlier stage of settler colonialism, holding the West Bank and East Jerusalem under military law, and Gaza under military siege:

> The late human rights lawyer and Center for Constitutional Rights Board President Michael Ratner also charged Israel with committing "incremental genocide" against the Palestinian people: "There's no doubt again here this is 'incremental genocide,' as [Israeli historian] Ilan Pappé says. It's been going on for a long time, the killings, the incredibly awful conditions of life, the expulsions that have gone on from Lydda in 1947 and '48, when 700 or more villages in Palestine were destroyed, and in the expulsions that continued from that time until today. It's correct and important to label it for what it is." [14]

Like the US occupation of Indian country, the Israeli occupation of the Territories has reduced them to poverty, with the exception in both cases of an Indigenous elite, which enriches itself through various forms of collaboration with the occupying power. Such profitable arrangements are endemic to both colonialism and neocolonialism.

While land theft may appear to be a thing of the past in the United States, it is, in fact, ongoing through the way Native land claims cases are

[12] Thomas Kaplan, "Iroquois Defeated by Passport Dispute" at https://www.nytimes.com/2010/07/17/sports/17lacrosse.html.

[13] See https://www.quora.com/What-percent-of-US-land-is-still-owned-by-Native-Americans.

[14] The Center for Constitutional Rights, "The Genocide of the Palestinian People: An International Law and Human Rights Perspective," at https://ccrjustice.org/genocide-palestinian-people-international-law-and-human-rights-perspective. See also Mark Levine and Eric Cheyfitz, "Israel, Palestine, and the Poetics of Genocide," in Jadaliyya at https://www.jadaliyya.com/Details/34248/Israel,-Palestine,-and-the-Poetics-of-G, May 2, 2017. LeVine and Cheyfitz argue that while Israel has committed and continues to commit war crimes against the Palestinians, these crimes do not conform to the legal definition of genocide as it is articulated in international law.

adjudicated to deny or reduce claims or denied adjudication altogether.[15] Genocide by other means than war and ethnic cleansing, which are staple parts of Israeli state policy, continues as well in the United States. Perhaps the prime example of this is the lack of federal enforcement of "Major Crimes" laws on Indian reservations. Under federal Indian law, Native nations do not have the right to enforcement in this area. On November 12, 2012, The New York Times ran a story by Timothy Williams titled "Washington Steps Back From Policing Indian Lands, Even as Crime Rises": "The federal government has cut the size of its police force in Indian country, reduced financing for law enforcement and begun fewer investigations of violent felony crime, even as rates of murder and rape there have increased to more than 20 times the national average, according to data."[16] The situation has not changed since the article was published.

In keeping with an earlier stage of colonialism, land theft in Israel from Palestinians and Bedouins (principally through settlement) is blatant, unapologetic, and ongoing in clear violation of international law as is the continued Israeli violence against Israel's occupied population. The historical precedent here backed by the US and Western nation states is that while the colonizing powers make international law, they also exempt themselves from it in a state of exception. While the colonial histories of Israel and the United States are at different stages, what binds the situation of the Palestinian territories and Indian nations together is the issue of sovereignty. It is worth noting in this respect that had they been enacted both the Oslo (1993–95) and Camp David II (2000) accords would have created the Occupied Territories and East Jerusalem as a "domestic dependent nation" of Israel, which has been Israel's endgame in negotiations to date.[17] Simply put, Israel

[15] See, for example, City of Sherrill v. Oneida Indian Nation of New York (544 US 197 [2005]) and Cayuga Indian Nation of New York v. Pataki (413 F.3d 266 [2d Cir. 2005]). These are land claims stemming from illegal treaties forced on the Cayugas and the Oneidas by New York State in the post-revolutionary war period. Both land claims and monetary compensation (in the Cayuga case) were denied by the courts (the Supreme Court in the Oneida case and the 2nd Circuit in the Cayuga case) based on the doctrine of laches, which is a failure to assert one's rights in a timely manner, resulting in a claim being barred. The use of laches in Indian land claims cases sets a dangerous precedent precisely because of the barriers put in the way of Indian nations pressing these claims in the courts until the second half of the 20th century. Thus, the very notion of "timely" means something entirely different, if it means anything at all, in these cases than it does in ordinary civil suits.

[16] https://www.nytimes.com/2012/11/13/us/as-crime-rises-on-indian-lands-policing-is-cut-back.html. See also: Eric Cheyfitz and Shari Huhndorf: "Genocide by Other Means: US Federal Indian Law and Violence against Native Women in Louise Erdrich's The Round House" in Elizabeth S. Anker and Bernadette Meyler, eds. New Directions in Law and Literature (New York: Oxford University Press, 2017), 264-278.

[17] For what he refers to as the "asymmetrical Oslo accords," see Clayton E. Swisher, The Truth About Camp David: The Untold Story About The Collapse Of The Middle East Peace Process (New York: Nation Books, 2004), 134-44. The specific phrase cited is on p. 142. Robert Malley, one of the US negotiators at Camp David II, and his co-author Hussein Agha remark that from the Palestinian point of view "Oslo…was not about negotiating peace terms but terms of surrender" ("Camp David: The Tragedy of Errors," The New York Review of Books, August 9, 2001 Issue). For a cogent analysis of the failure of Camp David II, see Norman Finkelstein, Journal of Palestine Studies, Vol. 36, No. 2 (Winter 2007), pp. 39-53. Contrary to the US explanation for the failure, which places the failure on the intransigence of the Palestinians, Finkelstein argues that it was Israel and the US that engineered the collapse by displacing what should have been the legitimate framework of Palestinian "rights" with a framework of "needs," in which Israeli needs were primary, leading to a continued Israeli presence on the West Bank and East Jerusalem. In a detailed analysis of the Camp David II negotiations cited above, Malley and Agha also confirm that the Israeli-U.S. narrative of Palestinian intransigence is a political myth. Their view of the failure of Camp David II is complex, analyzing the positions on both sides that led to the collapse of the summit. Wikipedia has a well-documented article on Camp David II, which details that for "security" purposes Israel demanded a continued military presence on the West Bank and control of Palestinian foreign policy, at https://en.wikipedia.org/wiki/2000_Camp_David_Summit#Security_arrangements

is governing the Occupied Territories modeled on Indian reservations, with local governance subordinated to Israeli sovereignty. In Israel, however, the model of implementing military law as the rule replicates the practice in a nineteenth-century Indian reservation. Thus, Israel and the United States are bound together not merely by strategic concerns, which are increasingly counterproductive if peace in the Middle East, as stated, is the goal, but by their intertwined exceptionalist narratives. These narratives function to deny the ongoing settler-colonial histories of both countries so that they can continue to practice settler-colonialism while denying the practice.

The Middle East Research and Information Project begins its "Primer on Palestine, Israel and the Arab-Israeli Conflict" with the following statement:

> The conflict between Palestinian Arabs and Zionist (now Israeli) Jews is a modern phenomenon, which began around the turn of the 20th century. Although the two groups have different religions (Palestinians include Muslims, Christians and Druze), religious differences are not the cause of the strife. The conflict began as a struggle over land.[18]

I want to take exception with this decoupling of religion and land. As I have suggested in the case of the US, the original justification for the Puritan seizure of Native land was, in fact, religious, as the Jewish idea of the "chosen people" is clearly a religious idea. The idea is grounded in the opposition "Jew" versus "Gentile," as the Puritan idea of the "chosen people" is grounded in the opposition "Christian" versus "pagan." The "doctrine of discovery," a cornerstone of international law from the very beginning of the European invasion of the Americas, and still, tellingly, a tenet of US federal Indian law, is based on the idea of Christian rights over pagan lands.[19] Indeed, what that doctrine does is effectively erase an Indigenous presence from those lands, translating them into "terra nullius." In this respect, it is significant that Theodor Herzl's Zionest manifesto The Jewish State (1896) does not mention any Arab presence in Palestine, which is referenced as "the Promised Land."[20] Gershon Shafir summarizes this colonial mindset:

> The inherent hostility between the indigenous population and the immigrants was principally because the immigrants insisted the territory chosen by them was "empty" of other nationalities. In practical terms, this meant that the newcomers viewed the native populations as part and parcel of the environment that was to be subdued, tamed, and made hospitable for themselves.[21]

While Herzl's plan for colonizing Palestine is ostensibly secular, based on "scientific principles" of

[18] See https://web.stanford.edu/group/sper/images/Palestine-Israel_Primer_MERIP.pdf

[19] See Johnson and Graham's Lessee v. William M'Intosh (21U.S.543 [1823]). John Marshall cites the "doctrine of discovery" in this generative case to declare the US's right to the title of Indian lands. And in City of Sherrill (see footnote 15), Justice Ginsburg in her opinion for the Court cites in the first footnote the "doctrine of discovery" to buttress her decision denying the Oneida Nation's claim to place into trust their purchase of private land that was once part of their former reservation.

[20] Theodor Herzl, The Jewish State (New York: Dover Publications, 1988). Kindle Edition. Location 1675.

[21] Gershon Shafir, "Changing Nationalism and Israel's 'Open Frontier' on the West Bank," Theory and Society, Vol.13, No.6 (Nov., 1984), 804.

organization, nevertheless in describing the layout of "workmen's dwellings," he notes: "The Temple will be visible from long distance, for it is only our ancient faith that has kept us together" (location 1188). The secular is driven by the sacred. Jewishness, located in maternity, remains the predominant requirement for citizenship in the secular state, creating a state of exception for Jews exercising the "law of return." When Benjamin Netanyahu demands of the Palestinians recognition of Israel as a Jewish state as the bottom line of negotiations for the by now ever receding two-state solution, he inseparably intertwines land and religion.

In his memoir of the Nakba, Journal of An Ordinary Grief, in the chapter entitled, pointedly, "The Homeland: Between Memory and History," Mahmoud Darwish captures the way the relation between religion and land operates in the colonial context of Israeli occupation. Darwish begins by quoting the Jewish theologian Martin Buber: "'The Arabs exist in Palestine in a relationship of "I-It." The Jews, on the other hand, exist in Palestine in a relationship of "I-Thou."'" The "I-It" relationship in Darwish's reading of Buber is a historical, or contingent, relationship:

In this relationship, there is no freedom, only necessity. The "I-Thou" relationship, on the other hand, exists outside space and time, beyond causality. Here there is freedom and not necessity. On this understanding, human existence is inauthentic if it is an "I-It" relationship. The Jewish faith is the only religion based on the "I-Thou" relationship. And because the Jews still believe in the truth of this religion, they are the chosen people, and on that basis the state of Israel must come into being in Palestine. (40)

Like the paradoxical exceptionalist narrative, which unfolds outside of history in order to explain history, the "I-Thou" relationship of Israel to God exists outside of history but for Buber explains and justifies the Jewish right to Palestine. For, as Darwish notes, the logic of this relationship, "The relationship of the Jews to Palestine is not the same as that of the Arab relationship to it, because Arabs exist in Palestine in an 'I-It' relationship, and for that reason, it is easy for them to sever that relationship, and it would be possible to transfer them elsewhere"(40). According to this logic, the Arab relationship to the land is a godless relationship; the land is an "It," a thing, as opposed to a living entity, a "Thou"; and thus, because, according to Buber, the Arabs have no religious, that is, original, relationship to the land, it is not a crime for the Jews to displace the indigenous inhabitants of Palestine. It follows that any Palestinian resistance to this displacement can only be interpreted by the Jews as a crime against God. This characterization, then, returns us to the Puritan exceptionalist narrative with which I began this essay and which works perfectly in either the American colonial context of 1676 or the Israeli colonial context of the present moment. The narrative bears repeating precisely because, catastrophically, it continues to happen in both Israel and the United States:

> That the Heathen People amongst whom we live, and whose land the Lord God of our Fathers hath given to us for a Rightfull Possession, have at sundry times been plotting mischievous devices against that part of the English Israel which is seated in these goings down of the Sun, no man that is an Inhabitant of any considerable standing, can be ignorant.

What remains, then, is the work of stopping the repetition of this exceptionalist narrative and replacing it in the case of Israel/ Palestine with an unexceptional secular, democratic one within which both Jews and Palestinians (and anyone else for that matter) can live equally in a single state. In the case of Native America, the reunciation of this narrative by the United States would mean the recognition of full sovereignty in the Native nations in the United States. This would mean ending Congress' "plenary power" in Indian country with the abrogation of federal Indian law and according Native nations the status of nations-within-the-nation with a special interdependent relationship with the United States, of the kind that is envisioned in the Plurinational Constitution of Bolivia.,enacted on February 7th, 2009 by President Evo Morales Ayma.

The fate of this visionary document in the wake of the November, 2019, right-wing coup in Bolivia, supported by both the United States and Israel, is certainly in jeopardy, though its anti-colonial, Indigenous values and its promise of democracy persist. Given the history of the U.S. and Israel elaborated in this paper, their support for this coup, fundamentally staged against the Indigenous people of Bolivia, is not surprising but should not be defeating given the ongoing resistance both at home and abroad to settler-colonial power in its current guise as neoliberalism.

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