

*Epilogue:*  
**Criticism of the Study of the Law in Israel**  
**Hassan Jabareen**

The study of law in Israel is based on a geographical distinction between the area within the Green Line (including Jerusalem and the Golan Heights) and the West Bank and Gaza Strip. Accordingly, while discussion of Israeli ‘domestic law’ relies on expertise in constitutional law, analysis of the law that applies to the West Bank and the Gaza Strip is perceived as a “foreign” matter, which relies on expertise in international humanitarian law (IHL). In the first case, the discussion assumes the applicability of constitutional norms to the citizens of the State of Israel, and thus its criticism focuses on violations of constitutional principles. In the second case, the discussion assumes the applicability of IHL to the Palestinian residents of West Bank and Gaza, and its criticism focuses on violations of the norms of IHL. This sort of study presents two types of Israeli Supreme Court rulings, each of which is foreign to the other.

In this article, I challenge the study of Israeli law based on this sharp distinction. I argue that this study does not capture the essence of Israeli law. I explain that the *political*, which precedes the law, is the essence of the conception of Israeli sovereignty on which Israeli law is based. This essence negates the dichotomies of Israeli legal education (Green Line – West Bank and Gaza; constitutional law – IHL; domestic law – foreign law; citizens – noncitizens). For the *political* appears in some critical cases on both sides of the Green Line, and trumps the rule of law by suspending all kinds of legal protections, both constitutional rights and IHL. I therefore contend that the study of the law that applies to the West Bank-Gaza Strip does not require a special discussion on IHL, but could begin from the study of the “domestic Israeli law,” which applies to the Palestinian citizens of Israel. My argument here is descriptive rather than normative.

I discuss three cases. The first is a Supreme Court ruling on opening fire against protesters in Gaza in 2018 (the **Yesh Din** case). The second is the Attorney General’s decision to close the **October 2000** files against police officers, who were involved in opening fire that resulted in the killing and injury of hundreds of Palestinian citizens of Israel. The third case is the Supreme Court ruling delivered in 2006 that banned Palestinian family unification in Israel (the **Adalah** case). I show that in these three critical cases, the *political* was applied uniformly to the Palestinians as such regardless of any legal norms or geography, and that the **Yesh Din** case is just a continuation of Israeli “domestic” law.