

The Law Is Laughing

Fragments Following the War in Gaza

Roe Rosen

1. The Comic Mode of the Occupation

The war launched by Israel in Gaza was called *Operation Cast Lead*. The name is taken from a Hanukkah nursery song Israeli children know by heart (the full line goes: "My uncle bought me a dreidel made of cast lead"). When a mass killing in which hundreds of Palestinian children are slaughtered in about three weeks has such a name, as vile as it is, we are faced with a joke. The comic mode of the occupation army and of the Israeli law is persistent and has its own, distinct literary style. Its poetics are recognized in a long sequence of names offering a variety of reversals, from a war called peace in *Operation Peace of the Galilee* (the first Lebanon war, 1982), to rendering a destructive offensive in terms of constructive defense, in *operation Defensive Shield* (2002), and in faux pastoral lyricism and childishness, from the assault on the city of Raffah, called *operation Rainbow in a Cloud* (2004), to the current horror. To set in relief the uniqueness of this comical lyricism, one need only mention the American *Desert Storm*, undoubtedly an infantile, repulsive name, but one inspired by war movies, with no concealed smiles. In Israel, these reversals are ubiquitous beyond the naming of wars; so much so that they became routine, presuppositions of daily life. Thus, for example, I have written in 2003 about a "positive" news story, reporting the reduction in the jail time sentencing of what is called "administrative detainees," that is, prisoners who were never put on trial, and hence for whom no jail sentence was ever legally exacted: a joke by which the law negates itself.

2. The Comic Mode and the Law as the Criminal

A philosophical insight to which I frequently return is Gilles Deleuze's claim that the comic mode is the only way to destabilize the law. A law such as "thou shall not kill" is premised on the possible action of the killer. Thus, on the structural level, crime affirms, justifies and solidifies the mechanism of the law. The comic response to the

law (for instance, the masochist's eagerness to be punished regardless of his innocence), may confound, confuse and undo the structure and the meaning of the law. How, then, can one mitigate the comic mode of the Israeli law with the transgression of the law the comic mode is supposed to entail? The answer lies in the fact that with the occupation, Israel became a state whose law is based on its own negation. The occupation refutes the notion of the border as the basis of national sovereignty. Once the concept of the border has been negated, the state itself must diligently and persistently act to obfuscate its borders and disavow its sovereignty, from which follows the negation of the presupposition that the state's inhabitants are its citizens, and thus the very concept of citizenship is negated as well (it should be noted that in Hebrew the same word, 'ezrah' is used both for 'citizen' and 'civilian' [as opposed to 'military']). The comic resonance is thus the result of a condition by which the state itself negates the concept of the law. The law maker, the state, is the criminal.

3. **Without the façade of a Law**

National law, of course, is never innocent, but its rules and operations are premised on simulation, appearance and façade (of good will, justice, ideals, values), that cannot be maintained once the negation of the foundation of the national law (the border) becomes the explicit appearance and the constitutive structure, that is, once certain crimes explicitly appear as law. In this sense, I do not wish to claim that Israel's crimes are worse than those of other nation states (for example, The United States' in Iraq), but rather to understand the special pathologies stemming from this disintegration of the relation between appearance and action, law and crime, transgression and comicality. Thus, for example, one can imagine an American citizen who actually believed George Bush's axis-of-evil rhetoric, but it is impossible to imagine an Israeli citizen who would be deluded enough to think that the Israeli government would like to turn the Palestinians of the occupied territories into Israeli citizens (that is, to realize a sovereignty). This is why the murderer is unabashed when joking. There is no façade to keep.

4. **The Unique Comicality of Criminal Law: A Nameless Comicality**

When the law is constituted on its own negation, its comic mode is not set against the law (as Deleuze understands humor and irony). This comic mode is not driven by a discontent with what is (for instance, defiance against wrongdoing or reaction to fear or horror), but is rather prompted by a paradoxical attempt to stabilize and preserve the law in its condition of self negation. Such comicality, of a criminal sovereign, is akin to cynicism, but does not fully correspond to it. We are dealing with a nameless comic mode.

5. The Legal Illegal and the Illegal-Illegal

In my novel *Ziona*TM (2006), there is a minor character, Ma'adan (formerly Gordon) Dukas, who settles in a caravan on hill number 547, which he calls *Tel Or* (Hebrew for *Mount Light*): "... a one-man settlement of the illegal-legal-legitimate kind (to be distinguished from the illegal-illegal-legitimate kind, and from the illegal-illegal-quasi-legitimate kind)." When the law negates itself it perpetuates a dynamic, ever-expanding system of legal activity aiming to establish comic distinctions between legally approved crimes (the crime that is not a crime), and between those crimes that are still defined as crimes. This legal bustle is characterized by dizzying hyperactivity, and even though by its very nature it aspires to remain discrete, its signs cannot but pop up in the media. Thus one can read about the versatile actions of the department of international law of the IDF's attorney office, whose prime goal is to render kosher illegal military actions such as the killing of civilians (*Haaretz* magazine, January 23rd, 2009). Then, there is the plan to "incriminate" every house bombarded during *Operation Cast Lead* creating for each target a dossier that documents its hostile use, a plan whose natural offshoot ought to be the incrimination of every child murdered. And, the exposure of a governmental data base deemed secret by the defense ministry which documents the fact that the vast majority of the settlements in the occupied territories – "The Legal Illegal" – are unlawfully expanding, building with no authorization on a massive scale, and on private Palestinian lots – that which is still "Illegal-Illegal," aspiring to become a "Legal-Illegal" as well (*Haaretz* magazine, January 30th, 2009), an activities in which practically all Israeli governments were engaged in since the occupation, with varying degrees of covertness.

6. Values as Phlegm; Values as Zombies

When the law is its own negation, its comicality is like spasmodic coughing. The phlegm secreted during such coughing fits are values that became refuse (in *the Peace of the Galilee* the refuse is the longing for peace, and in exacting the name *Cast Lead* from a nursery song, the waste is the sensitivity to the lives of children). Values are the living dead – matter ejected that ever returns from within: an uncanny zombie. This explains why someone who holds the value as if it was fully alive (an Israeli mourning the murder of Palestinian children), might be intimidating, threatening, to the point of being called a criminal (a traitor). As zombie values resurge as the Unheimlich, there is a correlation between the psychological reactions in Israeli society to cope with, for instance, the murder of children, and between the major comic mechanisms described by Deleuze: disavowal as the mode of the masochist (we murder despite the terrible pain we feel; we murder because there was no choice; we kill as few as we can; our suffering and our attempt to save those we did not have to kill attest to our humanity; we, in fact, do our best to save lives by killing), and negation as the mode of the sadist (*Hamas* is responsible, it were the Palestinians who put the children in harm's way; they murdered themselves through the mediation of our weapons, hence, we did not murder). Comic coinage in this situation is the zombie residue of values the law was supposed to affirm when it could still be "seriously" grasped as a law, that is, the era when it could still be said without a bitter smile that Israel aspires to be a democracy sovereign within its established borders. Think, for example, of a relatively bland product of the law, meant to signify humanism, abidance by International law and the fear of hurting civilians: a procedure the IDF calls *Knock on the roof*, that is, shooting "mild" ammunition of the roofs of people's houses in Gaza, before deploying the heavy ammunition that will eradicate the house and kill those who stayed inside it. The name *knock on the roof* cannot but be associated in the Israeli memory with the infamous *Neighbor Procedure* (that is, the army's use of family members and friends of Palestinian fighters as human shields in the attempt to lure them out of houses during the second Intifadah). These names remain as verbal, comic locus of zombie values.

7. **Measured Crime**

The comic Phlegm, as well as the crimes themselves, has a dimension of proportionality. Thus, for instance, against the civilians of Gaza and Lebanon use was made of the exceedingly cruel and prohibited cluster bombs (for the former) and phosphorous weaponry (for the latter), while the criminal measures taken against the demonstrators in Bil'in, who protest weekly against Israel's separation wall, will be more moderate (as many of the demonstrators are Jewish Israeli citizens), with an occasional comic resonance. Thus, among the diverse variety of such measures, the Israeli police recently introduced *The Skunk*: an armed vehicle splattering the demonstrators with jets of noxious fluid. For humanitarian activists the law reserves the more gentle reversal of treating them as criminals. This proportionality, however, is fluid, ever seeking opportunities to redraw its lines. War is an opportune time. While the headlines were busy with *Cast Lead*, tiny news items informed the Israelis that the Bil'in demonstrators are now shot with 22 millimeter bullets, long declared illegal after their deadly potential was recognized.

8. **Haaretz: The Criminal's Expression**

It is hard to add much to Noam Chomsky's exhaustive analysis of the way consent is manufactured by the media. Consent needs gaining with those who perceive themselves as critical and enlightened, that is, through a newspaper that has the appearance of integrity, criticality and autonomy in relation to the law: *the New York Times* rather than the tabloids in the US, and *Haaretz* in Israel. During the war, the structures described by Chomsky were clearly reflected by the headlines of *Haaretz*, wherein the daily number of Palestinians killed appeared customarily at the end of the bylines, if at all, details of the killing were usually scarce and marginalized, and accompanied with no images), as well is the general composition of the daily, with the reports of Amira Hess, the only journalist who delivered substantial information from Gaza, relegated to page 8 or 9, reducing its import by implication almost to that of an op ed. But what went beyond Chomsky's reflections were instances in which *Haaretz* dubbed with its own words the nation imagined as a singular, unified entity, with its own collective psychology – that of the criminal. This is how, for example, *Haaretz* described the UN call for a cease-fire in a big headline on page 2: "Israel's

friends, Sarkozy and Bush, Disappointed in the UN" (January 11th, 2009). The Disappointment over the fact that the "friends" do not approve of the crime and decline to oppose the UN's resolution is not given in quotes; it is neither the dismay of a right wing leader, nor even of the government. The disappointment, in fact, is not a response to the news (against which other reactions can be fathomed, such as relief and strengthened hope for a cease-fire). Rather, the disappointment itself is the news reported: "I" am disappointed – "I," that is to say "we," who will to continue "our" war in Gaza by the criminal power that is the law.

9. Solemnity

From within the comicality of the law can be understood the radical dimension of the call of a thinker such as Ariella Azoulay for a serious, willful return to the notion of citizenship, and for the active assertion of a civil domain. For while in relation to the law as such the coinage "a good citizen" might indicate conformism, obedience, and a normative stance, in a law-negating state, good citizenship might be seen as a mutiny.

10. War Crime as a Political Qualification; The Timing of War

If the state is criminal, it stands to reason that its leader's job qualification would include an ability to be a criminal. And since the problems at hand are no less than existential, white collar crimes would not suffice: the leader should be a war criminal. This is why Ariel Sharon should epitomize the leader in the national imaginary. Sharon is the leader who was found unfit by a federal committee to serve as a defense minister following the massacre in the Sabra and Shatila refugee camps in Lebanon (1982), and became a highly popular prime-minister, not in spite of his crimes, but because of his proven ability to negate the law. This sheds some light on the timing of massive killing soon before or after national elections: the second Lebanon war, with about one thousand dead Lebanese two months after an election; *Cast lead*, with at least 1300 Palestinians dead, of whom at least 410 were children (*Be'Tselem* data as of January 28th, 2009) two months before an election.

During election time the burden of proof lies with the prospective leader, and especially if the suspicion can be raised that his or her heart is not cold enough.

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