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# Law and Sedition in Israeli Films

## From the Assassination of Itzhak Rabin to the Hilltop Movement

Marcella Simoni

#### **ABSTRACT**

In this article I analyze various Israeli films and documentaries, and in particular *Rabin, the Last Day* (Amos Gitai, 2015), to discuss political sedition in Israel in the mid-1990s. This period is characterized most prominently by the assassination of Prime Minister Itzhak Rabin, but also by the creation of the political climate that made the assassination possible, and which ultimately helped stall the peace process. I discuss to what extent fictional films (better than documentaries) can help the historian shed light on a particular historical period when primary sources are either unavailable or only partially available, and the relationship between primary sources and historically plausible fiction. In this framework I also consider how cinema can help construct a narrative, and ultimately a collective memory, that provides an alternative to the official one.

### The Settlers' Movement in the Mid-1990s and Its Representation

As is well known, the settler movement underwent a transformation and undertook a dramatic redefinition of its aims soon after 1993, when the State of Israel and the newly established Palestinian Authority signed the Oslo Accords. According to the Israeli Central Bureau of Statistics' data for 1995, at the time the settlers in the West Bank and Gaza Strip (WBGS) numbered 138,000 (East Jerusalem excluded). For the same year, Peace Now gives the similar number of 134,300.

What mattered most in this political shift in the mid-1990s was described by the late Michael Feige as the "long-standing fear [...] that an Israeli government would be lured by the promise of peace to sign an agreement with the Palestinians at their expense." The Oslo Accords almost overnight created a difficult situation for the survival of many settlements, from posts in a frontier land to forsaken outposts in a dangerous periphery, "like fish in a shrinking pond."

This new situation led to the rapid surfacing of the most extreme branches of the settler movement, and therefore also to the emergence of more extreme forms of political violence directed at Palestinians on the one hand, and at the state and at its institutions on the other. This situation was not entirely novel: Israeli institutions and society had already witnessed processes of settler radicalization, for example, in connection to the evacuation of the settlement of Yamit in the Sinai peninsula (1982) following the Camp David Accords (1979). 4 But from the mid-1990s onward, this phenomenon reached a new intensity and elaborated new strategies. Hebron is a good vantage point from which to observe them: Here political violence flourished through verbal aggressions, written graffiti, physical clashes, episodes of vandalism against Palestinian or international individuals or personal/collective property, murder, and terrorism, in a continuum that takes us to the present day. The best known of these episodes is the massacre at the Ibrahim Mosque/Tomb of the Patriarchs by Baruch Goldstein in 1994, but other episodes are also well known. The assassination of Prime Minister Yitzhak Rabin in 1995 by Yigal Amir, a fervent admirer of Goldstein, did not take place in Hebron, but some of the roots of the complex chain of events that led to it can be found in the political violence cultivated in that milieu. The Hebron Protocol of 1997 divided the city into two unequal, contiguous zones under Palestinian (H1) and Israeli (H2) control, further exacerbating the situation.

Indeed, most of the films and documentaries that deal with this ideological shift of the mid-1990s pass through Hebron to explain the processes of radicalization and emulation for other settlers. Some footage filmed there made it to both domestic and international news broadcasts, and then into the world of film and documentary. The well-known "sharmuta" video (originally caught on tape by activists of the Israeli NGO B'Tselem)<sup>5</sup> was later incorporated into the documentary This Is My Land... Hebron by Giulia Amati and Stephen Natanson (Italy, 2010); the settler girls' raids in the Kasbah—also shown in This Is My Land— appear as well in Testimony by Shlomi Elkabetz (Israel, 2011).<sup>6</sup>

Part and parcel of this redefinition of the mid-1990s was the formation of

the two terrorist groups, Kahane Chai and the much smaller Eyal, as splinter organizations after the Kach party had been outlawed in 1988 and Meir Kahane was killed in New York in 1990. This period also saw the initially scant beginnings of the Hilltop Youth movement and their first outposts—another good example of religiously based political violence directed at both Palestinians and the State of Israel, which continues to this day. On the one front, they utterly disregard the state's legitimacy—its laws, orders, and courtrooms—and regularly clash with the Israeli Defense Forces (IDF); on the other, they harass and carry out (so-called) retaliatory "price tag" attacks on Palestinians. All of this has filtered from the news into the world of documentary, as we shall see presently.

Shortly after its beginnings, the movement received a boost and legitimization by then-foreign minister Ariel Sharon; in a famous declaration of November 16, 1998, Sharon encouraged "everybody [...] to move, run and grab as many hilltops as they can to enlarge the settlements, because everything we take now will stay ours ... Everything we don't grab will go to them." This statement was originally pronounced at the convention of the now near-defunct right-wing secular party Tsomet as a way to sabotage Sharon's own Likud party rival Benjamin Netanyahu in the broader framework of the redeployments discussed at the Wye River Plantation talks (October 16–23 1998). Still, Sharon's declaration fired the fantasies and inspired the actions of the youngest and most determined among the new generations of settlers. They aimed for the collapse of the Wye River Plantation plan and indeed succeeded, also thanks to the changed broader domestic and international political contexts.

From different standpoints, Raya Morag and Yaron Peleg have discussed how, at the turn of the century, a progressively more religious Zionist movement has been represented on the small and large Israeli screens. Morag sees the assassination of Yitzhak Rabin in 1995—the tsunami of the mid-1990s shift in Israeli politics—as the watershed moment that brought Israeli narrative cinema, traditionally left-wing, to represent the Orthodox and ultra-Orthodox Jew "as its ultimate other" during the years of the Second Intifada. This period corresponded to Netanyahu's rise to power, when this population gained political power and influence, and campaigned for settlement expansion in the Occupied Territories. In Morag's view, despite this polarized and highly political context, Israeli narrative cinema celebrated "this otherness as harmless entertainment," as mainstream. Peleg discusses other aspects of the same phenomenon: the increasing presence of directors belonging to the Orthodox community, their limited dialogue with

the outside world, and the distortion of "old Labor Zionist paradigms" through the explosive mix of religion and politics of the new century.<sup>12</sup>

In this new context, where narrative cinema generally failed to denounce—or at least represent critically—a process of political radicalization and of democratic erosion, Israeli documentary cinema undertook the task to expose the dangers of the spread of a fundamentalist worldview in some Orthodox and ultra-Orthodox groups. In the last decade alone, numerous visual and literary texts from Israel and abroad—films, documentaries, novels—have looked at the transformation of the settler movement from the mid-1990s vis-à-vis the history of the settlement enterprise per se, in its relationship with the State of Israel and its institutions, and in how the settler movement dealt with the Palestinian population. Among them (in chronological order) are *Soldier on the Roof* (Esther Hertog, Netherlands, 2012), Wild West Hebron (Nissim Mossek, Israel, Palestine, 2013), God's Messengers (Itzik Lerner, Israel, 2015), Rabin, the Last Day (Amos Gitai, Israel, 2015), Beyond the Fear (Maria Kravchenko, Herz Frank, Israel, Latvia, 2015), The Settlers (Shimon Dotan, Israel, 2016), Rabin in His Own Words (Erez Laufer, Israel, 2016), and the novel The Hilltop by Assaf Gavron (2013). All of them were screened and circulated in a rather short period of time. The picture is even more complete if one includes in this list documentaries and literary texts by non-Israeli directors on the subject: the documentaries *This Is My Land . . . Hebron; Louis Theroux:* The Ultra Zionists (Andy Wells, UK, 2011); and Dan Ephron's journalistic inquiry into the assassination of Yitzhak Rabin, Killing a King (2015). Add to these the works that fall outside the time frame between 2010 and the present: Consider, for example, the well-known Land of the Settlers (Chaim Yavin, Israel, 2005) or the controversial film by director and settler Shoshi Greenfield (Evacuation Order, Israel, 2001), and the autobiographical novels and diaries by the settler writer June Leavitt, author of *Storm of Terror: A Hebron Mother's Diary* (2002).

All these written and visual texts address one or more aspects of the ideological and political shift described earlier. Some are documentaries: With or without a script, they try to show a history of the present, employing archival footage to trace the beginning of the Gush Emunim—the Orthodox Jewish right-wing, nationalist, activist movement committed to settlement in the West Bank—which was established in 1974. Taken together, this material gives a comprehensive picture of the main political questions underlying the settlers' enterprise in general, its 1993–1995 redefinition, and the successive development of the Hilltop movement. However, the solidly structured film by Amos Gitai,

Rabin, the Last Day, succeeds in presenting a deeply critical perspective on the assassination of Rabin, and on the political and historical questions underlying it, that many of these documentaries reach only at a more obvious level. The use of primary sources is more sophisticated, the creative process more successful, and the integration between the two better articulated. As such this movie gives a more comprehensive picture of the dramatic political shift of the mid-1990s, and of the way it affected the course of politics, law, and history in Israel. In the next few pages I will explain why.

# Film as Writing History: Rabin, the Last Day

This movie, which premiered in Israel exactly twenty years after Rabin's assassination (November 4, 2015), virtually in the same square where the murder took place, raises several major questions. These refer not so much to the chain of events that led to the murder, which became known shortly afterward; rather, they connect to broader themes of great historical interest: What is the role of cinema in forming and transmitting collective memory, especially in deeply divided or traumatized societies? How is cinema connected to history writing? In other words, who gets to shelter or transmit the memory of an event when religion and politics intertwine at several junctions? Is it the judge or the historian—to paraphrase the famous book by Carlo Ginzburg—who gets the last word and determines the ultimate (and normative) account of a historical event? Amos Gitai's movie on Rabin's assassination seems to answer this question unequivocally: "The filmmaker does!" Gitai's film does so primarily because of the medium he uses, which resorts to plausibility rather than historical or legal evidence. Historical sources need to be declassified, integrated, and published; legal evidence and its use are constrained by a set of rules and laws; both can at times be very technical. Through the placement of (fully or partially) fictional characters in a given historical context or legal framework, cinema (and other creative arts, like literature, for example) can bring to the fore questions and debates whose implications historical or legal sources alone are unable to fully represent.<sup>14</sup>

Gitai defined his film as a work of "civic cinema" twenty years after the actual event, "as we are still living the results of [Rabin's] death." Connected to this first set of questions are other, not minor, issues: First, what shape did the theory and the practice of sedition take in Israel between 1993 and 1995, and how can they be represented on screen, especially as the conflict of legitimacy between secular

and religious law stands at the core of this question? Second, was the murder of Rabin a coup d'état whose effects are still being felt today? Was that the birth time and birthplace of a neo-revisionist right that led Israel toward abandoning the pursuit of peace?<sup>16</sup>

As Gitai wrote, the movie is complex, and the layers of its articulation are structured around "the triangle of forces that led to the killing of Rabin: lunatic rabbis using all sorts of witchcraft, extreme right-wing settlers who were against withdrawal from Israeli territory on religious grounds, and the parliamentary right wing, which wasn't exactly active in the killing of Rabin but was happy to see him being demolished and discredited." <sup>17</sup>

As the movie progresses, such a structure becomes filled with human errors, ideological hesitations, bureaucratic inefficiency, and finally, through Rabin's own words, the hypocrisy of politics, with direct reference to Benjamin Netanyahu—at the time the rising star inside the Likud—and his support/nondenunciation of the seditious climate that led to the assassination. These historical events intertwine with some of the methodological questions mentioned earlier; I will therefore try to answer them in the section that follows.

#### THE JUDGE. THE HISTORIAN. AND THE FILMMAKER

In *Rabin, the Last Day,* one part of the story of the assassination is told through the work of the Shamgar Commission of Inquiry, which was appointed to investigate this matter in late 1995, and whose report was presented to the government the following year. Thus this movie addresses some questions about the relationship between law and history, challenging the idea that an institutional and official body should get to write the ultimate and normative account of the events under examination. This recalls the already mentioned work of Carlo Ginzburg and, more poignantly in the context, that of jurist Asher Maoz, both of whom have argued for the need for strong boundaries between history and law.<sup>18</sup> As Maoz writes, there are usually two types of commissions of inquiry, those "with an eye to the past, having as their main purpose calming the public about past events, and commissions with an eye to the future [. . . ,] that are expected to make recommendations for future measures."

In this movie, the Shamgar Commission of 1995 appears suspended between these two dimensions, looking back in shock and disbelief, and forward with an uncertain gaze, shying away from the political causes of the events under examination and thus avoiding venturing beyond technical analysis. Sociologists Yehouda Shenhav and Nadav Gabay had already made this point in 2001: In their sociological and textual analysis of the work and reports of the two commissions led by Supreme Court judge—and later, retired Supreme Court judge—Meir Shamgar (the 1994 Commission of Inquiry on the Matter of the Massacre in the Tomb of Patriarchs in Hebron and the 1995 Commission of Inquiry on the Matter of the Assassination of the Prime Minister, Mr. Yitzhak Rabin), they underlined how both commissions had "constitute[d] their investigations within the realm of the legal, managerial and rational discourse, redefining these conflicts as functional problems, requiring technical solutions." That is, by adopting a limiting approach, they could only achieve limited results.

In *Rabin, the Last Day*, Sigal Orot is one of the two younger lawyers assisting the commission; she clearly belongs to a different generation than her senior colleagues, and her voice calls for a deeper awareness of the broader picture and underlying causes that led to the assassination: starting from the ways in which the legal system works, justice is administered, and international law is often violated in the Occupied Territories. In a way Sigal Orot raises the question of who will ultimately establish justice, whether the commission, the historian, or maybe the filmmaker:

That's our investigative committee's lacuna. It doesn't address the religious school of thought that legitimized the violation of human rights and theft of Palestinian land which led directly to hooliganism. In the final analysis, Yigal Amir's gun was only the murder weapon. Behind it is a series of laws, the humiliation and trampling of the Palestinian populace and moonstruck rabbis with weird religious edicts who no one in this grand legal system saw fit to bring to trial.

And while the commission accepts this argument as intellectually interesting, it actually dismisses it, declaring itself not to be competent for that kind of inquiry. It is often repeated in the film—through the words of the commission's president, Meir Shamgar—that the aims of the commission are not political, but technical, "to study the operational faults of the murder and not their political context." And while Sigal Orot and the other legal assistant to the commission, lawyer Nolte, again try to raise the question of the existence of a broader political and highly problematic context—where the provisions of the Fourth Geneva Convention are repeatedly violated (above all the rights of Palestinians to land, resources, freedom of movement, and property, and the prohibition against the occupying

country settling its population in the occupied territory)—another member of the commission, ex-Mossad head Zvi Zamir, again dismisses such concerns. His statement that the army in the Occupied Territories behaves perfectly in line with the interpretation of the Fourth Geneva Convention, as put forward by Supreme Court Judge Aharon Barak, leaves Sigal Orot perplexed—and most possibly Amos Gitai too.

According to Chief Justice Aharon Barak, The Hague Convention revolves around two main axes. One, ensuring the legitimate rights to security of the side which takes over land through combat... and two, securing the interests of the civilian population in the given territory. The military commander may not place the national, military, economic or social interests of his own country before the interests of the local populace, and this is how the army conducts itself.

This quote recalls the documentary *The Law in These Parts* (Ra'anan Alexandrowicz, Israel, 2012), which demonstrates that exactly the opposite has been taking place in the Occupied Territories since 1967, with a crescendo of settlement, abuse, and violence from 1993 onward.<sup>21</sup>

# FILM AND HISTORICAL SOURCES: DECONSTRUCTING FAKE HISTORICAL ANALOGIES

Rabin, the Last Day addresses various other questions connected to the writing of history, and to the construction and deconstruction of historical narratives: First, where does the creation of false historical comparisons lead, whether they are informed by simple ignorance, dictated by false analogies, or guided by ideology, and what are their broader political consequences? Second, how are archival visual and textual sources used in this movie, compared to their use in the documentaries mentioned earlier?

The obvious answer to question number 1—where does the use of false historical analogies lead?—is that following false idols led to the delegitimization and demonization of the Rabin government and of Rabin's persona. As the late Ehud Sprinzak has written in many of his works, the pictures of Rabin wearing the Gestapo uniform were only the tip of the iceberg. Tragically, in the case of the Israeli-Palestinian conflict, the yardstick against which historical comparisons are made often comes from the semantic and imagery fields connected to World War II, thus further fostering false and deceiving historical analogies.

One scene from the movie in particular is worth mentioning here: It reproduces a meeting between members of the Yesha Council (the umbrella organization of municipal councils of Jewish settlements in the West Bank and formerly Gaza), where several voices are heard. At least two of them deserve attention: One simply enters the dialogue at one point to state that "we will treat the signing of the Oslo Accords as occupied France treated collaboration with the Nazis [...] It's treason ... and the day may come when Rabin is put on trial just as Pétain was, and from now on the word traitor should be attached to Rabin's name."

These lines reproduce the vitriolic language of Alyakim Ha'etzni, a Kyriat Arba attorney whose articles had been published in—among other journals—*Nekuda*, at the time of the official publication of the Yesha Council about which Sprinzak wrote. In 1994 Ha'etzni published an article where he gave the following historical comparison:

Protests, demonstrations, tent cities, even setting up road blocks are insufficient against a government engaged in national treason. In France, defeated in 1940, when Marshal Pétain gave in to Hitler and made an alliance with him—just as Lieutenant General Rabin did by shaking Yasser Arafat's dirty hand—de Gaulle did not demonstrate in protest. [...] He deserted, rebelled against a Nazi army or collaboration.

In the same text, Ha'etzni also invoked civil disobedience against the possibility of a "pogrom" conducted by any IDF soldier who, "though Jewish [...,] would pull us, our wives, our children and grandchildren from our houses and make us refugees."<sup>23</sup>

The other voice we encounter in the same scene is that of a woman, Dr. Neta, a clinical psychologist who is granted space in that same meeting to give a psychological profile of Rabin. From the initially encouraging "our prime minister" with which she opens her speech, her words rapidly degenerate into the description of a leader unfit to rule because he is affected by a schizoid personality. In a rapid crescendo, Rabin is depicted as detached from reality, hesitant in speech, and altogether incapable of speaking clearly, obviously megalomaniac because of his tendency to overuse the "I" pronoun, agitated, and with "full confidence in a deformed reality, fruit of his imagination, and complete loss of the faculty of judgment." Asked if any other leader existed with the same or similar psychological profile, Dr. Neta gives the obvious answer:

"Hitler, and there are many" (רבים, note the assonance between the Hebrew rabim [= many] and Rabin).

The historian will wait for the declassification of other primary sources to deconstruct or integrate the official narrative of this event and the technical perspective of the Shamgar Commission. However, not many primary sources are still awaiting declassification to reveal the fallacy—and most of all the bad faith—of the comparison between the Oslo Accords and the collaborationist government of Vichy, or that between Rabin and Pétain, two generals whose historical paths and national roles, lives, and deaths could not be more different. Until more documentary sources become available, an artistic rendition based on plausibility offers tools that the historical or legal inquiry cannot (yet) provide, succeeding also in reaching a greater audience. Some visual primary sources and footage were included in the movie, shedding some light on the difference between film and documentary, at least according to this director.

#### NARRATIVE CINEMA, DOCUMENTARIES, AND HISTORICAL NARRATIVES

According to Gitai, fiction and documentary serve different purposes and are two distinct disciplines; their boundaries should remain distinct. Many of the documentaries I mentioned at the beginning of this article on the history of Jewish settlement post-1967 make use of archival footage, often trying to give some historical depth to the present they stage; this allows them to unspool a chronology of events for this fifty-two-year-long occupation. This is the case of the documentary *The Settlers*, for instance, where, however, the chronological staging of historical event has not been presented in a critical framework. Another very interesting but totally different experiment with archival footage is the documentary *Rabin in His Own Words*, where nothing but historical footage is used to construct a nostalgic biographical portrait of the private and public Yitzhak Rabin. As these two examples, among the many possible, show, the use of primary sources does not imply a critical approach or result per se.

On the contrary, Gitai has generally conceived and constructed documentaries as archaeological excavations in cinematic forms, <sup>26</sup> or rather as metaphors that have almost excluded archival footage. (To mention just a few examples: *Bayit [The House]*, 1980; *Field Diary*, 1982; *The Arena of Murder*, 1996.) In fiction films, in contrast, he has addressed historical or social themes by always preferring the use of actors (see *Kadosh*, 1999; *Kippur*, 2000; *Alila*, 2003; *Kedma*, 2002; *Promised Land*, 2004; *Disengagement*, 2007, etc.). For *Rabin* Gitai has combined the two

methods, making use of several available visual and textual historical sources: the well-known amateur video of the demonstration of November 4, 1995, by Roni Kempler; the minutes of the Shamgar Commission that he convinced Shamgar to release on the occasion of the twentieth anniversary of Rabin's death and the commission's establishment; the contemporary TV footage of the mass scenes showing the demonstrations against Rabin; and the parliamentary debates in which the prime minister was verbally abused and censored. Where historical sources were unavailable, he resorted to re-creating scenes with actors, as well shall see in the following section. In Gitai's own words: "Everything that is staged—for the most part they are fictional scenes—is based on factual documents." 27

This careful dosage of original contemporary, historical sources and documentable fiction weaves a powerful and complex historical narrative that, for the larger public, denounces the theoretical shortcomings of the official inquiry and the dangers of baseless historical comparisons.<sup>28</sup> By alternating the two, Gitai succeeded in adding both historical and critical depth. Interestingly, his visual and textual sources reveal their weakness as tools for describing the events but, at the same time, emphasize their ability to reveal the political period and mood in which they were produced. In this respect one can see this movie as helping to bring about the soul-searching that Meir Shamgar—caught up in a vertiginous sense of historical responsibility that almost impedes his flow of speech—maintains, in the second to last scene of the film, is the only way out for the future generations: "The commission had been limited by law to examine the functioning of the system and of the people responsible for the security of the prime minister, [however, its report] does not free Israeli society from its duty of introspection to try to answer the question how we have arrived to the point of having a prime minister assassinated by an extremist and how violence has become a means to solve political conflicts."

Let me now turn to these points.

# Sedition and the Use of Political Violence as a Means of Political Struggle

*Rabin, the Last Day* delves into the fostering of a political climate and mood of sedition that spread throughout the Occupied Territories, and in part also in Israel proper, between 1993 and 1995. Sedition has several quite standard definitions:

"incitement of resistance to, or insurrection against, lawful authority"; "language or behavior that is intended to persuade other people to oppose their government"; "conduct or speech inciting people to rebel against the authority of a state or monarch."29 "Sedition" is one of the first words we hear in this movie, already in the prologue, in a few excerpts from a long interview with the late Shimon Peres, the other architect of the Oslo Accords and minister of foreign affairs at the time of the assassination. It was planned and theorized in some religious circles, among the most radical settler communities, with the passive contribution of right-wing parties and of Netanyahu in particular, who exploited this climate to pursue his own—and his party's—political interests. As Israel Harel, one of the late leaders of the Gush Emunim movement, confirmed: "The political parties of the right melted into our cause."<sup>30</sup> The very last scene of the movie—the signature of the director—points to this direction: Worried and embittered, Shamgar stands in front of the Likud's electoral billboards just before the 1996 elections, which Netanyahu won. In various interviews in the fall of 2015, Gitai explained how this sedition was successful, referring to this period in general, and to the assassination of Rabin in particular, as a successful coup d'état: It averted the consequences of territorial concessions foreseen in the Oslo Accords, and it brought to power conservative and repressive forces that have not left since.<sup>31</sup>

Sedition emerges in this movie in various ways: for example, by representing how some religious institutions and their leaders laid the religious justifications for it; by showing how the leaders of the settler movement—from the Yesha Council to the movement "Zo Arzeinu"—fomented political unrest; and finally, by pointing at how right-wing parties used this seditious framework to pursue their own political goals.

#### LAYING THE RELIGIOUS JUSTIFICATION FOR POLITICAL SEDITION

When we look at the religious authorities and the settlers on the one hand, and the prime minister and the state on the other, it is obvious that each side saw the other as seditious vis-à-vis their own system of values and beliefs. This may appear a trap of cultural relativism, but all these characters belong—*volens nolens*—to a Western political tradition; here, the prerogative to establish and defend borders, legislate and impose the rule of law, manage and regulate violence belongs to the state and its institutions, organized in its various branches.

Some literature in the political sciences which uses the framework of the stakeholder analysis has interpreted the assassination of Rabin as a reaction

against the prime minister not acknowledging the legitimacy of an influential stakeholder group. Stakeholders are defined here as "groups or individuals who interact for the purpose of influencing the government's objectives, policies, decisions or activities."<sup>32</sup> And while this definition may appear technical, the use of such apparently apolitical and nonpartisan expressions actually disguises the seditious nature and actions of a political group that challenged the rule of law though violence in the name of its own interpretation of a higher law. This approach neglects two factors: first, that "religious-nationalists do not possess the monopoly of truth"; as Clive Jones wrote, the "application of *halakhic* rulings in determining total Israeli control of the occupied territories has been challenged by religious-Zionists [...] who demonstrate that *halakha* has to be contextualized and applied in historical terms."<sup>33</sup> And second, that the lawful depositary of the law and of the rule of law remains the state and its institutions.

The theme of sedition runs through the whole movie in various ways from the first until the last scene; I will mention here just a few examples, so we have a general picture of the components that—from the religious field—helped sedition spread, in theory and in practice.

The first representation of the conflict between law and sedition is metaphorical and comes from a long shot. While in the background we hear the curses of the *pulsa denura*—the curse launched by various rabbis against Rabin as the enemy of the people—on the screen we see the three judges of the Shamgar Commission go to work, calmly climbing the stairs of the building where the courtroom is located and chatting with one another, full of confidence. Walking along an old corridor, the three judges flank a gate made of iron bars (and thus may appear to be behind bars), a metaphoric reminder of the limits of human law that protects, but also contains and constrains; in contrast, the representation of the rabbis engaged in the *pulsa denura* is that of irrational interpreters of a higher law that, rather constraining and limiting, unleashes mysterious and negative powers. In the long shot, the camera intercepts a wall where the portraits of other Israeli prime ministers are hanging, and the sound of the shofar concluding the *pulsa denura* slowly dies out while the door of the courtroom where the judges start their session opens.

After this introduction, Michael Ben Yair, the attorney general of the State of Israel (1993–1996), enters as the first witness. For reasons of space I cannot analyze here his complicated and controversial deposition; however, through his words, the commission (and by extension, the public/viewers) gets acquainted

with Dov Lior (chief rabbi of Kiryat Arba), Nahum Rabinowitz (head of Yeshivat Birkat Moshe in Ma'ale Adumim), Eliezer Melamed (secretary of the Council of Yesha Rabbis), Shmuel Dvir (from Yeshivah Har Etzion), and Daniel Shilo (rabbi of Kedumim). These are the five rabbis from various radical streams of the settler movement whose alleged role in this narrative was to lay the religious legal framework—by pronouncing a *din mosser* and *din rodef* on Rabin—that armed the hand of Yigal Amir. These are the "moonstruck rabbis with weird religious edicts" whom Sigal Orot had mentioned, and whom the Israeli "grand legal system" had failed to "bring to trial."

The speech that one of them delivers in the same Yesha Council meeting mentioned earlier in this article places political sedition at the center stage of their reasoning and their actions: Here religious law is twisted to construct the possibility that someone would believe that killing Rabin would equate to saving the nation.<sup>35</sup>

The current administration doesn't have a Jewish majority and therefore it has no authority whatsoever to give away parts of the Land of Israel. The very signing of the declaration giving away parts of Israel, constitutes the concession of parts of the Torah . . . and that is a desecration. The Oslo Accord means nothing, and no administration that represents the Jewish people should even consider it. The accord is a violation of the Torah for three reasons. Giving away parts of the Land of Israel, the Holy Land, is a violation of Torah law, an explicit violation. Placing the security of Jews in the hands of gentiles, in the hands of others . . . is risking lives, an invitation to murder. Furthermore . . . the emissary may not act against the wishes of he who sent him. And the majority of Israelis, the Jewish majority, and certainly in the Diaspora, did not grant this minority government the authority to act in fundamental, essential matters that determine our fate. And now . . . the question must be asked: Must not the leaders of the public . . . warn this administration . . . warn the prime minister and his ministers that if they continue to act on this awful treaty, if they continue to try to apply it in the territories . . . they will be liable by Torah law, by Jewish law . . . to the Din Moser, punishment accorded to traitors . . . since they are placing the lives of Jews in the hands of gentiles? That's all I have to say.

In the words of Clive Jones, "The language used to oppose territorial retrenchment was broad enough in its conceptual base to accommodate extreme acts." 36

#### OTHER EXAMPLES OF RELIGIOUS SEDITION

#### VS. THE ENFORCEMENT OF THE LAW

The construction of illegal outposts and settlements in the West Bank and their successive forced evacuation (and demolition) by the police, the border police, and the IDF are additional examples of the clash between the state's institutions and the political actors who challenge the state's legitimacy if it acts against their interests and beliefs. In Gitai's movie this clash is represented prominently in connection with the assassination of Rabin, and most of the documentaries quoted at the beginning of this article also staged it in different ways.

In God's Messengers, for example, settlers of the illegal outpost of Havat Gilad (Itai and Bat Zion Zar, and their children) continuously express their anger and total contempt for any institution that derives its legitimacy from a secular framework, whether it is the state's law, the lawyers, the courts, or the soldiers. These are defined as "enemies because they stop at the checkpoint the material for the construction of the new outpost," just to give an example. In Wild West Hebron, soldiers are also enemies because they try to contain the level of violence that settlers Avidan Ofir and Dalia Har Sinai, from Mitzpe Yair, keep raising. The clash here is not only between the lawful and the seditious party; it is also in the self-representation of this violent and extreme political subculture that on the one hand practiced and encouraged verbal, physical, practical, and symbolic violence (and continues to do so), while on the other cultivated the image of its own innocence, purity of heart, and righteousness. This latter element is very pronounced in Evacuation Order, the movie mentioned at the beginning of this article, which makes the case from the perspective of a settler woman and inevitably emerges in many videos of the settler milieu recorded by television crews or NGOs. The so-called Knife Dance of the Hilltop Youth video remains a good example.<sup>37</sup>

This question had emerged also in the final scenes of Amos Gitai's *Disengagement*, and it returns in *Rabin*, first through an investigation of the construction of the illegal outposts around Beit El and then, later in the film, in the exploration of the dynamics of its forced evacuation and demolition. While the evacuation scene in *Disengagement* was a long shot with hundreds of characters, in which all the stories of that movie were tied together, the mass scenes of the outposts around Beit El in *Rabin* are not equally effective. However, they are functional for continuing the investigation on the theme of sedition: Yigal Amir appears among the evacuees, possibly as one of the few members of the underground right-wing group Eyal, through which he was attracting and encouraging other youth to

settle. Like all the others, he opposes passive resistance and is then carried away. However, the verbal exchange between several other settlers and the commander of Platoon 5, who has come to evacuate the settlement, anticipates the physical clash that inevitably follows. In the short dialogue between them, one can see most of the themes examined thus far: the question of whose violence is more legitimate, the one regulated by the state or that commanded by God; the issue of who gets to decide what the future will be, whether according to state laws or religious laws; and finally, the demonstration that, once the religious element is introduced in an exchange, the party that opposes it is not just wrong, but actually commits a sin.

- —Please leave this place now. [...]
- —What right do you have to get rid of us? I want to tell you something. A higher-ranked officer than you was here. A retired general.
  - —Leave or I'll have to use force!
- —What right do you have to be here? I said, God commanded us to! You know what? Your son will do army service on that hill too, because we're going to decide where this country's borders are!

This dialogue further clarifies which party between the two is the seditious one. As mentioned earlier, in that Western political tradition to which all the parties involved in this history belong, establishing and defending borders, the monopoly of violence and its organization, are prerogatives of the state and of its institutions. This dialogue also raises another question about who owns a land considered sacred. And while the "stakeholders" mentioned earlier clearly claim ownership, one should also consider the words of Moshe Halbertal, fellow of the Shalom Hartman Institute and professor of Jewish thought and philosophy at Hebrew University, who is interviewed for the documentary *The Settlers*:

"If it is sacred to me, it is mine." Anyone that understands anything about sanctity knows that such a claim contains a profound contradiction. Saying that something is sacred is saying that it does not belong to you, you don't own it, you have no sovereignty over it.

This perspective is remote, to say the least, from that of Gitai's movie and the documentaries mentioned at the outset of this article. In *Wild West Hebron* settlers

not only exercise violence and harass Palestinians over ownership of the land and its produce; they also harass each other, if one is not recognized as a member of the peer group. Similar mechanisms are portrayed in *God's Messengers*, where, in a retro-Zionist fashion, the construction of a farm is the means through which settlers claim ownership of the land.

These two documentaries—and in a much forceful way, also Gitai's movie—speak to the degree to which the state had lost control over this group of its citizens beginning in the mid-1990s, when anti-state ideas had spread geographically through the West Bank, trans-generationally from Gush Emunim fathers to Kach sons, down to Hilltop Youth nephews, and inside the state's apparatus and security service through the unclear and still classified role of Agent Champagne (i.e., Avishai Raviv).<sup>38</sup>

And while such an anti-state attitude emerges though every word of the questioning of Yigal Amir—in Gitai's movie as well as, for instance, in an interview with his brother Haggai, released from imprisonment in 2012<sup>39</sup>—this oppressive narrative is interrupted in front of the Shamgar Commission by a voluntary witness, Mrs. Sara Eliash. After Sigal Orot, this is the second woman in the movie to challenge the construction of a historical narrative—and of this event in particular—based on male voices and memories, whether those of the witnesses summoned to the commission, of the three male judges, of the rabbis, settlers, police officers, of the murderer and of the victim. In a way she represents a voice of moderation and reason from the settler camp.

Mrs. Eliash is the principal of the girls' school Ulpana Lehava in the settlement of Kedumim. She is only slightly younger than the three judges before whom she sits; she seems uncertain about the legal procedure and about how to behave in front of the commission; her speech is hesitant sometimes, possibly in her desire not to make mistakes. But she succeeds, better than many of her male counterparts (who often had a defensive, clear-cut, military, legalistic, and sometimes aggressive way of responding to the queries of the commission, both through their words and body language), in offering testimony that is not reticent, and which sheds some light on yet another aspect of this whole event that almost naturally goes beyond the technical limits imposed by the commission, and that hits at the center of the debate on sedition. As principal of a girls' school, she also brings the testimony of her girls, annotated on a piece of paper. In her time in front of the commission, a whole new picture is disclosed: Not only does the involvement of Avishai Raviv with both the Shin Bet and with Eyal appear evident; but most

of all, the hilltops and their outposts appear as sites where the cult of the land above everything else translates into a culture of manifest illegality, and thus of open political sedition:

—When Avishai Raviv's name appeared in the newspapers, as a school principal I was shocked at the thought that behind a man who incited sedition among little schoolgirls, and who knows how that might affect them—That an official entity stands behind him, that made me very upset. I asked the girls what exactly was said, and it was not the first time. They knew them well. Not very well, but they knew them by name. With your permission, I'd like to quote a few things that were said a little more clearly.

- —How old are the girls?
- [...] Some are 14, 15, 16, who went away for Shabbat. [...] These young women often went away for Shabbat by themselves, just for fun. [...] There were two Shabbats. The 26th of Nisan, that's what the girls said, and the 3rd of Tammuz, if I'm not mistaken. Yes. [...] This summer.

May I? One of the girls told me, "I went into a room where there were Kach activists." Those were her words. "Avishai Raviv said that a Din Rodef had been passed against the government . . . that all the Arabs in Israel should be killed and that the whole government should be blown up." These things were said in Yigal Amir's presence and in front of college students. The girls said they tried to argue, and then Avishai Raviv said that the Arabs should be killed and that soldiers who evacuate settlements should be shot in the leg. This girl told me, "When I heard that, I was shocked." She tried to tell them that soldiers shouldn't be attacked and that you can't kill all the Arabs, some other solution should be found. Afterwards, of course, we came to the conclusion that he needs—I'm referring to Avishai Raviv—he needs psychological help.

### Conclusions

In August 1967 a young Amos Oz wrote a piece for *Davar* entitled "The Ministry of Foreign Affairs and the Vital Space." Here he famously upheld the view that the recently finished war placed Israel at a crossroads vis-à-vis Zionism and its interpretation: Israel had to decide whether it would pursue Zionism as a movement for the liberation of the Jewish people or for the redemption of the land. The same categories have been used to analyze the hesitations and contradictions

of post-1967 governments, at times based on the *Am Israel* paradigm, and at times on the *Eretz Israel* one. <sup>40</sup> According to Oz, there were dangers in both paths, but it was clear to him that the word "liberation' applies to people, not to dust and stone." Gitai seems to follow a similar interpretation when he says: "Israel for me is a political project, the conclusion of a historical suffering; it is not a religious project." In the movie, this message is entrusted to Meir Shamgar, the judge who, just before leaving the office at 7 PM, stops to read out—not without some difficulty—the concluding paragraph of the commission's recommendations:

Since the establishment of the State of Israel, its strength has lain in the essential balance between fostering its power and the moral restrictions it took on. Israel's pride as the only democracy in the Middle East lay, among other things, in the fact that negative phenomena such as political murder do not exist in its social and political culture. Three gunshots on November 4, 1995, totally changed these axioms. Israel after the assassination of Prime Minister Yitzhak Rabin, may he rest in peace, will never be the same.

In the post-Rabin era, therefore, the challenge is to build a paradigm of interpretation for this event and its underlying causes that is as historically accurate and complex as possible, and that can be therefore different from the one proposed and transmitted in mainstream politics, media, and representation, which is influenced and—some would argue, constructed—by the same political forces that have been in power since Rabin's assassination and whose recent history has been discussed in this article. The construction of a different historical narrative will, in the long term, give way to a different collective memory of this founding event.

To lay the foundations of this discourse, Gitai felt that "more than one medium" was needed. We are therefore confronted with yet another Gitai trilogy: beyond the movie, a multimedia installation/photo exhibition titled "Chronicle of an Assassination Foretold" (coproduced by MAXXI in Rome and the BOZAR Centre for Fine Arts in Brussels), which opened in 2016 and then traveled to the Collection Lambert in Avignon in 2016. Moreover, a similarly titled theatrical piece inspired by the memories of Leah Rabin—and possibly by the intimate interview that appears at the end of the movie *Rabin*—was also staged first in Avignon and then elsewhere. And while the comparison between this theatrical piece and the film could well be the subject for another study, the existence of three works

on the same subject not only shows that it can be addressed from different angles and perspectives—the judicial, the historical, and the more intimate one;<sup>44</sup> it also reveals the role Gitai has cut for himself in this whole story: to give shape to a new collective memory that can help foster a political redefinition of this event. During this theatrical piece, he projected on the walls of the Cour d'honneur du Palais du Pape excerpts from a previous work from 2009 entitled *The War of the Sons of Light against the Sons of Darkness* inspired by the Dead Sea Scrolls and *The Jewish War* by Josephus Flavius. In an interview, he explained the connection between these two works:

Like Flavius wrote, the destruction of Jerusalem by the Romans was also the result of growing nationalism and of the radicalization of Jewish society; [...] one can say it was the result of the radical nationalist groups in the Jewish society at the time. [...] They won, by bringing upon themselves destruction through continuous provocations. [...] But Jospehus won the war on memory because he recorded for us how it happened. [...] Our collective memory of those events today is influenced by a guy who was against those events, because he is the only one that did the good work to record them. So this is why it is so important to make the battle on memory, because the memory also stays, like in the case of Flavius, when the real battle was lost. 45

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#### **Notes**

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- 3. Feige, Settling in the Hearts, 248–249 and 253.
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- 8. See Sara Y. Hirschhorn, City on the Hilltop: American Jews and the Israeli Settler Movement (Boston: Harvard University Press, 2017); see also Amos Harel and Chaim Levison, "Settler Terror Underground Seeks to Overthrow Israeli Government, Say Investigators," Haaretz, August 3, 2015; Chaim Levinson, "Meet the Jewish Extremist Group That Seeks to Violently Topple the State," Haaretz, August 7, 2015; Yotam Berger, "Jerusalem Stakeout Reveals 'New Generation' of Radical Jewish Settlers,"

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- 9. This famous quote comes from an Israeli radio broadcast in November 1988. See https://www.bbc.com/news/world-middle-east-11576714, accessed April 16, 2019.
- 10. This would have increased the extension of land under Palestinian sovereignty by an average 13 percent through transfers of land from areas A, B, and C of the West Bank in various stages and forms. The full text of the agreement is no longer available at official US government or Israeli websites but can be found here: http://www.jewishvirtuallibrary.org/text-of-the-wye-river-memorandum, accessed September 19, 2017.
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- 12. Yaron Peleg, *Directed by God: Jewishness in Contemporary Israeli Film and Television* (Austin: University of Texas Press, 2016), 95–96.
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- 16. This last point is discussed extensively in Raffaella A. Del Sarto, *The Politics of Insecurity and the Rise of the Israeli Neo-Revisionist Right* (Washington, DC: Georgetown University Press, 2017).
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- 18. Asher Maoz, "Law and History. A Need for Demarcation," *Law and History Review* 18.3 (2000): 619–626.
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- 24. One cannot escape the impression that the settlers' values, speeches, and contemptuous attitude toward national governments and their civil laws, and toward the international community and its agreements—whether the Oslo Accords in Israel, or the European Union as a common economic or political space in other countries—find a good match with the system of values supported by some of today's defenders (to different degrees) of Pétain and his legacy in France; among them, the obvious reference is to the "Front National."
- 25. For a study of the first forty years of occupation in historical perspective, see Neve Gordon, *Israel's Occupation* (Berkeley: University of California Press, 2008).
- 26. Stanford Jewish Studies, *Amos Gitai on Cinema, Memory, and Rabin, the Last Day*, https://www.youtube.com/watch?v=TjEghgQUjAc, accessed April 1, 2017.
- 27. Cinémathèque Suisse, Amos Gitai présente.
- 28. For the unknown dangers of cultivating baseless historical comparisons and the risks they harbor in the construction of public and political discourse, consider the speech by Benjamin Netanyahu at the World Zionist Congress on October 20, 2015, where he claimed that Hitler got the idea of exterminating Jews from Haj Amin al-Husseini. See "Netanyahu: Hitler Didn't Want to Exterminate the Jews," *Haaretz*, October 21, 2015, http://www.haaretz.com/israel-news/1.681525, accessed March 31, 2017. For a full transcript of the meeting between Hitler and Haj Amin al-Husseini, see "Full Official Record: What the Mufti Said to Hitler," *Times of Israel*, October 21, 2015, http://www.timesofisrael.com/full-official-record-what-the-mufti-said-to-hitler/, accessed March 31, 2017; and the response of Angela Merkel on behalf of the German government, http://www.bbc.com/news/world-middle-east-34599706, accessed March 31, 2017.
- 29. Respectively at https://www.merriam-webster.com/dictionary/sedition; http://dictionary.cambridge.org/dictionary/english/sedition; https://en.oxforddictionaries.com/definition/sedition, accessed April 1, 2017.
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- 31. Stanford Jewish Studies, Amos Gitai on Cinema, Memory, and Rabin, the Last Day.
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- 33. Clive Jones, "Ideo-Theology and the Jewish State: From Conflict to Conciliation?" *British Journal of Middle Eastern Studies* 26.1 (1999): 9–26, 10.
- 34. See Sasson Sofer, ed., *Peacemaking in a Divided Society: Israel after Rabin* (New York: Routledge, 2013), for a clear explanation of these terms, their religious significance, and the political consequences of such pronouncements in the post-Oslo context.
- On the psychological profile of Yigal Amir, see Sprinzak, "Israel's Radical Right," 125–126.
- 36. Jones, "Ideo-Theology and the Jewish State," 14.
- 37. https://www.youtube.com/watch?v=LHGaNQvD\_NA, accessed October 10, 2017.
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- 39. Ami Kaufman, "Hagai Amir: I don't regret Rabin's murder, because you can't regret a mitzvah," +972, September 2, 2012, https://972mag.com/hagai-amir-i-dont-regret-rabins-murder-because-you-cant-regret-a-mitzvah/55027/, accessed April 2, 2017.
- 40. Raffaella A. Del Sarto, "I confini del consenso: La Guerra dei Sei Giorni e la frammentazione della società e della politica israeliana," in *Quaranta anni dopo: Confini, Barriere e Limiti in Israele e Palestina (1967–2007)*, ed. Arturo Marzano and Marcella Simoni (Bologna: Casa Editrice Il Ponte, 2007), 33–48.
- 41. Liam Hoare, "Natan Alterman or Amos Oz? The Six-Day War and Israeli Literature," *Fathom* (Spring 2017), http://fathomjournal.org/1967-natan-alterman-or-amos-oz-the-six-day-war-and-israeli-literature/, accessed April 2, 2017.
- 42. Cinémathèque suisse, Amos Gitai présente.
- 43. Amos Gitaï, *Yitzhak Rabin: Chronique d'un assassinat* (Festival d'Avignon 2016/France Culture), broadcast on *France Culture* on July 10, 2016. With Hiam Abbass, Sarah Adler, Edna Stern (piano), Sonia Wieder-Atherton (cello), the choir of Luberon directed by Johan Riphagin, and with the videomaker Einat Wietzman. Texts by Amos Gitai and Marie-Josée Sanselme. See https://www.youtube.com/watch?v=jCB35AtYZg8, accessed September 19, 2017.
- 44. For a discussion of the personal and political roles of Leah Rabin in the aftermath of Itzhak Rabin's assassination, see Yoram Peri, "Between Commemoration and Denial," in *The Assassination of Yitzhak Rabin*, ed. Peri, 348–376.
- 45. Stanford Jewish Studies, Amos Gitai on Cinema, Memory, and Rabin, the Last Day.