

Diplomacy and Conflict in the Era of Globalization

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2012-2013 Fall Semester

**Final Paper:**

**“Checkpoints Privatization and Normalization of Occupation”**

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## Introduction

*"We drove to the checkpoint after learning on Machsom Watch's Facebook page about problems there. The checkpoint's manager insists on calling it a "crossing."*

*The checkpoint has been privatized; it's managed by Modi'in Ezrachi (as are Irtach and Eyal); the Ministry of Defense supervises the security company. There are armed guards at the checkpoint, through which Palestinians cross into Israel. Like other entry checkpoints to Israel in Jerusalem and throughout the West Bank, this has also been "improved" by a network of entry and exit lanes, inspections, revolving gates, a cafeteria and landscaping which sends the following message: We're here to stay!" (Mchsom Watch report, 28.01.2013)<sup>1</sup>.*

The section above describes a checkpoint between Israel and the West bank that has been privatized in the last few years.

Privatization is a major manifestation of globalization, as it enhances the role of non-state actors in international relations. As a controversial phenomenon, it has a debate around it, also in Israel, as it is an ongoing process that touches in many aspects of state's responsibilities toward its citizens. However, when it comes to Israel security, it is only a recent phenomenon that privatization penetrated into this sphere.

In this paper I will explore the phenomenon of the privatization of the checkpoints between Israel and the West Bank and inside the West Bank, in the "Seam Zone" area.

I will start by introducing the theoretical base for military outsourcing, and then I will look at the Israeli case, by reviewing the current privatization situation and the rationale that led to it.

Then, I will analyze six possible aspects and implications of military outsourcing in Israel, (i.e. checkpoints privatization) into the hands of private Security Companies: the separation of the checkpoints activity from other conflict-related mission, issues of Public support and Democratic control, Legal ambiguity, future borders and finally, some semantic observation.

I will try to explain how these aspects have a contribution to the normalization of occupation. In other words, how the different faces of military privatization may assist in making the conflict situation a bearable to live with, and perpetuate it.

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<sup>1</sup> Report by machsom Watch, Makkabim (Beit Sira), Mon 28.1.13, <http://www.machsomwatch.org/en/reports/checkpoints/28/01/2013/morning/22473>

## Privatization in globalized world:

### Military outsourcing during armed conflicts

The discussion about Private Security Companies cannot start without marking the wider context in which they were created and expanded, Privatization – the ultimate representation of Neo-Liberalism.<sup>2</sup> Barak Erez claims that privatization is a broad term that has many forms: from a complete withdrawal of the government from activities in which the market forces considered to be more efficient, through contracting out an activity while maintaining public responsibility over it, and over with attaching price tags to once public services.<sup>3</sup> Outsourcing is a salient manifestation of privatization<sup>4</sup>, and this major type is the framework for our discussion.

Outsourcing represents a normative change – the privatization of the public sphere, and the rise of the wide held conception about the superiority of the free market over the government when it comes to certain services.<sup>5</sup> This normative atmosphere allowed the rise of the Private military and Security Companies.<sup>6</sup>

In order to conduct a further discussion on the privatization of warfare as it is manifested by the Private Security Companies, it is important to define it. Caparini and Schreier suggest this definition: “A Private Security Company is a registered civilian company that specializes in providing contract commercial services to domestic and foreign entities with the intent to protect personnel and humanitarian and industrial assets within the rule of applicable domestic law”<sup>7</sup>. This industry of Private military and Security companies (i.e. PMSCs), started to rise on the early 1990, as an aftermath of the cold war.<sup>8</sup> This rise reflects not only the normative change, but also the change in the perception of warfare: governments started to redefine their security strategies and as a result the missions of the armed forces, and removing non-core activities from its functions.<sup>9</sup> The removal of non-

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<sup>2</sup> Gillard, 2006.

<sup>3</sup> Barak-Erez, 2009.

<sup>4</sup> Ibid

<sup>5</sup> Gillard, 2006

<sup>6</sup> Ibid

<sup>7</sup> Caparini and Schreier, 2010, page 26

<sup>8</sup> Ibid

<sup>9</sup> Ibid

core activities does not mean the government does not monitor them, but it means that these functions have been outsourced.

One of those activities is staffing checkpoints, a security mission that is common during an armed conflict, which requires a constant contact with civilians.<sup>10</sup> The increased involvement of civilians in armed conflicts is not just as forced participants in the fighting, but also as employees of the PSCs, the newest addition to the modern battlefields, in which their role becomes very significant.<sup>11</sup>

### **Why outsource military activities?**

As mentioned above, outsourcing in general, and of military functions in particular, is a highly controversial issue.

Those who in favor of outsourcing non-combat military functions say that performing them weakens the military since it distract it from its core mission of fighting a war.<sup>12</sup>

Those who object military outsourcing will first say that any kind of (military) power is under the monopoly of the state and therefor a non-state actor cannot perform activities of that kind. More over, the activities the military contactors are doing are too important to be put in the hands of private companies which are profit motivated above all.<sup>13</sup>

However, this phenomenon has expanded so widely, that it is unreasonable to discuss its pro and cons and/or its elimination. Rather, it is important to explore the issue of accountability – by the state or the PSCs themselves, by mechanisms of monitoring and regulations.<sup>14</sup>

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<sup>10</sup> Gillard, 2006

<sup>11</sup> Caparini and Schreier, 2010.

<sup>12</sup> Ibid

<sup>13</sup> Ibid

<sup>14</sup> Ibid, Richemond-Barak ,2011.

## **Military Outsourcing in Israel**

In this section I will describe the military outsourcing in Israel, better known as privatization and civilianization. First, we I will present some data about the Israeli security companies industry and the applicable regulations, then I will describe the process in which staffing of the checkpoints has been outsourced to some of those companies, and present the current situation of the checkpoints privatization.

## **Private Security Companies in Israel**

Usually the discussion over PSCs in the context of an armed conflict focuses on those companies who operate “abroad” – in conflicts in which the state is involved, and the PSC is considered its branch.<sup>15</sup> However, when it comes to the Israeli- Palestinian conflict there is a uniqueness since they are active on the Israeli borders and within the occupied territories<sup>16</sup>, but they are subject to Israeli regulations, as any other security company that operates in Israel. The regulation applicable is the domestic law regarding the authorities of private security guards.<sup>17</sup>

## **The process and rationale of Military outsourcing in Israel**

The Instant connotation of privatization is that it has an economic motive, and that it is conducted in order to save in the government expenditures. However, in Israel, as we will shortly see, the rationale was not led by economic reasoning, but had other motivations. More than that, hiring of private security guards will cost more than if the state had continued to use IDF soldier.<sup>18</sup> Therefore, the economic incentive for privatization will not be discussed in this context.

As noted earlier, military outsourcing is the transfer of non-core activities to the private sector. The Israeli Government Decision of November 30<sup>th</sup>, 2000, is consisted with this

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<sup>15</sup> For the sake of this argument I will define them as a branch, despite the legal debate about state accountability over them and their legal status in general.

<sup>16</sup> Ronen ,2012.

<sup>17</sup> powers for maintaining public security law, 2005.

<sup>18</sup> Maoz, 2009

definition: under the title “civilianization of tasks in the IDF”, it decided, “The IDF will list tasks that can be done by the civilian sector, and their meaning”.<sup>19</sup> However, the very first step toward privatization of security in Israel took place in 1993, when the government appointed “Sadan” committee, to determine which tasks can be moved from the army to the market.<sup>20</sup>

On 2003, after a thorough examination of the military and police activity in the checkpoints, the state comptrollers determined in its annual report that the IDF has difficulties activating the checkpoints and reach the satisfactory level, considering the required professional level.<sup>21</sup>

The IDF’s “Spiegel Committee” also recognized this complexity in its report of March 2004, but has expended the meaning of professional complexity. It has expressed a formal acknowledgement of the complexity of operating checkpoints by the armed forces by the IDF.<sup>22</sup> This report defines the activity done in the checkpoints as an essential part of the operational reality and in the general “fabric of life” in which the IDF and the other security force are dealing with.<sup>23</sup> The main problems that arise from this activity are, due to the constant friction with civilian society, are phenomenon of hurting human dignity, inappropriate behavior and great exhaustion (of the soldiers).<sup>24</sup> The report identified that there are many problems regarding the regulations, procedures, appropriate training and infrastructure, as well as damage to the credibility and image of the IDF by the international community and other foreign bodies who are active in the area.<sup>25</sup> Finally, it asserts that operating the checkpoints is an armed forces mission like any other, which includes civilian aspect, and this is the reason why a well-trained manpower is the answer to the problems raised by this report. The final recommendation is for an establishment of professional body to deal with this issue comprehensively, however, it does not say it should be a civilian

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<sup>19</sup> Government decision 2571 (TM/79). Available as word document, but mentioned in the protocol of Knesset comitee of matters of state audit, protocol no. 133 of November 24<sup>th</sup>, 2004. See: <http://www.knesset.gov.il/protocols/data/html/bikoret/2004-11-23.html>

<sup>20</sup> Maoz ,2009

<sup>21</sup> The state comptroller Annual reports 54a, 2003, page 84.

<http://www.mevaker.gov.il/serve/contentTree.asp?bookid=388&id=161&contentid=&parentid=undefined&w=1280&hw=730>

<sup>22</sup> see: <http://www.nrg.co.il/online/1/ART/772/991.html>. The full report was never made public.

<sup>23</sup> Ibid, 1, a,3

<sup>24</sup> Ibid, 1, a,4

<sup>25</sup> Ibid, 2

body. The overall message of the report is, without any critique over the actual necessity of the checkpoints, is that major changes has to be made to increase the humanity aspect of their operation.

In the following years, the process of civilianization has been discussed to the point of formation of the Crossing Point Administration (CPA) of the ministry of Defense (MOD) on 2005. The Crossings Administration that is responsible, among other things that are related to the crossings, over the management of the MOD activity by using civilian manpower, the building, maintenance and security of the sites, as well as creating an operational manual and monitoring the training of the PSCs' employees.

The due date for finalizing the project of civilianization was by the end of 2006.<sup>26</sup>

It is important to specify its rationale, as understanding of the reasons and motivations for the privatization can lead us to further understanding of the possible implications of this process.

One major motive was to increase the standard of service given to the civilians, as well as improving the quality of the security checks that are conducted.<sup>27</sup> The IDF is not trained and meant to give the necessary service required in the crossings, the soldiers does not have the desired “service awareness”.<sup>28</sup> The head of the crossings administration asserted that it is a mission for civilians, not soldiers, since the function of the crossing is to monitor civilian activity, as any other terminal in the world.<sup>29</sup>

The other main argument relies on the assertion made by the “Spiegel Committee” mentioned earlier about the negative implications that constant friction of the IDF soldier with the Palestinian population has. This argument focuses on the emotional toll that this friction has on young soldiers that are not trained for this job and therefore it has to be done by mature, specifically trained personnel.<sup>30</sup> Minimizing the friction was considered by the

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<sup>26</sup> Tzwabner, 2005.

<sup>27</sup> Lt Col Ofer Hindi, head of the Seam Line Project, central command, Ministry of Defense, Knesset Committee on Internal Affairs and Environmental Protection, Protocol No. 17 (20 June 2006), available at: <http://www.knesset.gov.il/protocols/data/html/pnim/2006-06-20.html> , also in tzwabner,2005.

<sup>28</sup> Ibid

<sup>29</sup> Betzalel Treiber, head of the crossings Management, ministry of Defense, Knesset Committee on Internal Affairs and Environmental Protection, Protocol No. 495 (27 July 2005), available at: <http://www.knesset.gov.il/protocols/data/html/pnim/2005-07-27.html>

<sup>30</sup> Ronen,2012.



MOD a humanitarian move, to reduce the possibility of human rights violations.<sup>31</sup> On top of it, the improved service given by the Private Security guards, might be better than the one of the soldiers, and in that way, the image of IDF and the checkpoints in the media and in the public opinion will be improved.<sup>32</sup>

It is important to mention the other reasons to outsource military functions: saving money is one of them, and the other is the lack of sufficient manpower, and the desire to reduce the burden on the soldiers.<sup>33</sup>

The rationale that led the privatization process touches at the core change in current warfare: every activity that is not directly related to the functions of the IDF could be done and managed by another body.<sup>34</sup>

On 2010, the state comptroller defined the civilianization process a “National Project that has political, security and economical influences, which affects the way of life and the security of both inhabitants of Israel – including East Jerusalem and the Palestinian population”.<sup>35</sup> The report repeats the arguments for civilianization, and focuses on the need to finalize the project.<sup>36</sup>

As we can see, the main arguments for promoting privatization were: raising the service standards, minimizing IDF soldiers-civilians’ friction and as a result to improve the image of the IDF in particular and of the state of Israel in general.

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<sup>31</sup> A memo by the spokesperson of the ministry of defense, regarding mobile screening machines in the checkpoints, from december 26th, 2006.

<sup>32</sup> Hever ,2013.

<sup>33</sup> Ibid

<sup>34</sup> Ibid

<sup>35</sup> The state comptroller Annual reports 61a, 2010, page 13.

<http://www.mevaker.gov.il/serve/contentTree.asp?bookid=594&id=161&contentid=11581&parentid=undefined&bctype=11581&sw=1280&hw=730>

<sup>36</sup> :ibid.

## **Overview of crossings' privatization:**

The actual process of civilianization started on 2006<sup>37</sup>, and as of December 2012, there are 97 permanent checkpoints throughout the west bank, 40 of them are considered last inspection point before entering Israel. Twenty-four of those checkpoints, sometimes referred to as crossings and even terminals, are either fully or partially activated by PSCs.<sup>38</sup>

## **Political aspects of military outsourcing and their contribution to the normalization of occupation**

There are many ways to explore the fascinating phenomenon of military outsourcing, and many components that are worthwhile checking. In this section I will discuss the different aspects of privatization and their possible political implications and will apply it to the Israeli case. I will demonstrate how privatization may contribute to a normalization of the occupation – transform the situation into one that is bearable-to-live-with and weaken the affinity between the activity in the checkpoints and the state. More than that, normalization means that if those missions are not performed by the military, they do not belong to the armed conflict framework and therefore are another security need of a state that would like to defend its borders in the best way possible.

## **Separation of the checkpoints activity from other conflict-related mission**

The basis for military outsourcing is defining the outsourced mission as non-core activities. By non-core it means that they are not typically military missions (such as fighting) but are peripheral missions, and therefore do not necessitate the use of the trained, expensive soldiers. By defining a mission as non-core, peripheral, it allows its outsourcing. The outsourcing, in turn, changes the essence of the mission from military one to a civilian one. In Israel, defining the checkpoints operation as a privatization permitted, means that it is not a

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<sup>37</sup> Maoz, 2009

<sup>38</sup> B'TSELEM, The Israeli Information Center for human Rights in the Occupied Territories.  
[http://www.btselem.org/freedom\\_of\\_movement/checkpoints\\_and\\_forbidden\\_roads](http://www.btselem.org/freedom_of_movement/checkpoints_and_forbidden_roads)

mission that has to be performed by the army, and by doing that dissociate it from the framework of the conflict and the occupation. By transferring it to the civilian sphere, the checkpoints can be now considered as a regular mission of defending the borders, along with the movement monitoring and other restrictions on the Palestinian civilian population. Adding the checkpoints operation to the list of the regular state obligations, contributes to the normalization of the occupational and conflict situation, as it becomes part of a “normal” missions of the state.

### Public support

Outsourcing can ensure that the government does not have to risk carrying the political costs of assigning troops to domestically controversial or less supported missions.<sup>39</sup> Furthermore, casualties among PSCs employees do not have the same political implications as a death of a soldier also due to the fact that their casualties are not added to the official body count.<sup>40</sup> Though this case is more relevant to high intensity armed conflict in which PSCs employees may be involved in actual fighting, the public opinion and the sensitivity to casualties is worth mentioning in our context. In this respect, transferring the power to private hands may prevent public criticism on alleged abuse of public power<sup>41</sup>, and thus actions performed by PSCs are not counted against the administration. Moreover, Caparini and Schreier say that an important lesson that can be learned is that outsourcing made it easier for leaders to take states to war.<sup>42</sup>

Assuming the special civil-military relationship that exists in Israel, and the high sensitivity to casualties and to injuries, outsourcing, as mentioned above dissociates between the army and the conflict situation and implication and can reduce this sensitivity. For example, if there is an incident of human rights violations, or just a case of miss-behave by the security guards that goes public, the people might not feel as responsible to it as they would have felt had it been performed by one of “their” soldiers. On the micro level, since the majority serves in the army, many of the soldiers had to take part in operation of the checkpoints, so

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<sup>39</sup> Caparini and Schreier, 2010

<sup>40</sup> Ibid

<sup>41</sup> ibid

<sup>42</sup> Ibid

one might feel relieved he does not have to pay the emotional toll the service in the checkpoints might charge of him or his dear ones.

On the macro level, when there is separation between the conflict and the price tag it has, the discussion of the price it carries is no longer a consideration of the support in the continuation of the armed conflict.<sup>43</sup> If this situation applied to the Israeli case, the toll that the checkpoints carry, both in the micro level of the soldiers who perform this controversial mission and the public, even international perception of the IDF as a moral army, may be reduced. When it reduces, it might contribute to indifference toward a change in the way the checkpoints are operating in particular, and to a conflict resolution as a whole.

### **Democratic control**

Public and governmental control over the activity of PSCs has been weakened as the dependency in them has grown<sup>44</sup>, it is about the democratic control over the armed forces. Moreover, it is not certain that military outsourcing is the most appropriate response to necessary security changes.<sup>45</sup> The privatization and outsourcing of military functions has implications on the democratic control of the use of armed forces.<sup>46</sup> When mission of the regular armed forces are discussed, it is done within the framework of democratically elected government who is accountable for its action – but what about PSCs – who can truly control their use of power?

The question of control over the power used, touches at the core of the privatization process – was it a transparent public process? What are the mechanisms and regulations used to make sure the activity of the PSCs is consistent with the government policy and regulations over the use of power? In the question of balancing between the will of the government to maintain its sovereignty and authority and the will to allow the PSC to act efficiently – the answer is not clear, and there is no guarantee that such balance can exist.<sup>47</sup> Possible outcomes of this imbalance or even tension between those two goals might result in further

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<sup>43</sup> Hever, 2013

<sup>44</sup> krahan, state citizens etc, 241

<sup>45</sup> Ibid, 242

<sup>46</sup> Ibid, page 3

<sup>47</sup> Hever, 2013.

human rights violations.<sup>48</sup> In the case of violations, in the broader use (the legal aspect will be shortly discussed in the next section), if they occur, the state will not be held accountable, since it removed the activities that might bring to violations from its hands. In Israel, tender chooses the PSCs, but the contractor is the state, through the Crossings Administration and the Ministry of Defense. So, there is still a weak relationship between the government and the PSCs, but they are not its direct agents, as soldiers are, who are expected to fulfill orders of the political level. Anecdotal as it is, when it comes to transparency, none of the people in my close social circle whom I shared the crossings privatization phenomenon with, was aware of the extent of it. In a more serious note, the media coverage to this process or even of the current situation is minimal, let alone formal publications about the current civilianization of the crossings. To sum up, the democratic control and supervision over the activity in the crossings is clearly less than the one it could have had the army performed this mission. The extended length of the chain of command between the state and the PSCs weakens the democratic control over the acts done in the crossings, the state is less accountable for it, and therefore this issue is being shoved outside of the public sphere, to the private-sector professional zone, in which the public has no real say.

### **Legal ambiguity**

In the respect of possible violations, it is important to mention the legal status of PSCs, especially that of their employees, since the question of state liability and accountability relates to it. The relation is due to the fact that accountability leads to possible political outcomes, both internationally and locally. The state has the obligation to ensure respect to the international humanitarian law, and determine who is accountable for such violations if they occur. Though a legal debate over the status and accountability of the companies and the employees is beyond the scope of this paper, there is still uncertainty about the legal status of their operation as whole, and legal scholars call for further regulation. However, the main question is – does this situation of further use of PSCs assume less accountability

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<sup>48</sup> Ibid

of the state? Without going too deep into legal discussion, Olivier De Schutter<sup>49</sup>, draws three conditions under which the state is accountable to the activity of the PSCs: that they are in a complete dependence of the state, that they are empowered by the law of the state to exercise elements of governmental authority and finally, that they act under the control of the state, when it comes to international responsibility.<sup>50</sup> If we look at the Israeli PSCs, it is important to mention the applicable domestic law, “The Powers for Maintaining Public Security”, which gives security guards, under the authorization of the state, the privilege to use force in order to maintain security and public order. This law is considered rather comprehensive, on the edge of handing too many authorities to PSCs employees. According to the process of privatization described earlier, it is possible to determine that the three conditions mentioned above are fulfilled, and the PSCs act as state agents, while regulated by domestic law, but the question of accountability is not yet clear. One might assume, that this ambiguity allows the state to reduce its responsibility over the situation, claim that the security tasks are not part of the actual fighting – it relates to privatization of non-core activities –and in this way contribute to the normalization of occupation by framing the security actions at the realm of domestic/regional public order.

### **The crossings and the future border**

Israel has invested dozens of Dollars in the civilianization process<sup>51</sup>, including transformation of crossings into terminals, guided by the thought that they will serve as future international borders, and they will be defined as such.<sup>52</sup> Mr. Dani Ardity, of the Prime Minister Office, said that the location of the crossings was determined according to a set of calculations – among them security needs and possible access routes.<sup>53</sup> However, in the same discussion, MK Dov Hanin calls for a reevaluation of the locations of the crossings, in case of a future settlement, that they will not have to be removed after the massive financial investment.<sup>54</sup> Some of the crossings are located within the west bank in

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<sup>49</sup> De-schutter, 2009

<sup>50</sup> Ibid, page 29

<sup>51</sup> protocol 495

<sup>52</sup> Tzwebner,2005 , protocol 495

<sup>53</sup> protocol 17

<sup>54</sup> Ibid

the “seam zone” area, and not on the green line. Thus, transformation into terminals could have had a positive implication in favor of a future settlement, but given their location – they might end up serving as a barrier, and not just literally.

### **Semantics’ contribution**

Throughout the paper various terms has been used: checkpoints, crossings, terminals, outsourcing, privatization and civilianization. The academic language refers to military outsourcing as a form of privatization, and checkpoints is the acceptable term when monitoring civilian movement during conflict.

When it comes to the Israeli military outsourcing, the wider use was of the term civilianization over privatization. Privatization, though accepted by many as the cure for the public service illnesses, is not precise in our case, since the state is still active in the actual operation, though not as directly as before. For other people, privatization has negative connotation of removal of responsibility from the state, and it is possible to assume that in a desire to maintain some connection between the state and the crossings – but not between the army and the crossings – the term has been less utilized. Civilianization, on the other hand, clearly marks the dichotomy between the military and the civil, and put the crossings in the civil sphere. By doing that, as discussed above, it locates any implication of the privatization in the civil sphere and denies the instant connotation of privatization – money saving on the one hand and profit motivation on the other. Overall, it seems that using this term might also contribute to the impression that it is about improving a service that is given by the state.

Every crossing is a checkpoint – but not vice versa, however, the civilianization process refers mainly to the crossings, as their goal is to monitor the movement of people as well as vehicles and goods, and their meaning and function has been expended over checkpoints. Transformation into terminals upgrade their status, and distance them even more from their original meaning – to monitor the movement within the west bank and in and out of Israel. One might say that it is about launderings the occupation and its outcomes, but to determine that a deeper and more extensive socio-linguistic analysis is needed. Nevertheless, as a part of the bigger picture, the use of certain terms over the other, can certainly serve the occupation normalization trend.

## **Conclusion:**

In this paper I have tried to demonstrate how different aspects of the Israeli military outsourcing carry possible implications. Each one of the aspects mentioned above affects conflict perpetuation, by contributing to a situation in which the activity in the checkpoints is being moved from a bilaterally (and internationally) damaging situation, into the sphere of ordinary state's security needs. By outsourcing the checkpoints, the debate about the role of the checkpoints in maintaining the occupation is taken out of the armed conflict framework as they are being operated as part of a civil system. When the checkpoints activity is no longer in the instant framework of the conflict, its negative implications might not serve as an incentive to end the conflict. Thus, the privatization of the checkpoints contributes to a normalization of occupation – and perpetuation of the conflict since it was made easier for the Israeli public and decision makers to continue the situation as it is. However, the question whether the checkpoints privatization serves as a barrier to future settlement, is a subject for a further research.



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