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## **Intellectual and defence of Palestinian human rights. The case of Michael Sfard**

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### **ABSTRACT**

Intellectuals seems to play an important role in the modern world, as shown by the example of the Israeli lawyer Michael Sfard. Cognitive frames for authors considerations are created from the late Zygmunt Bauman prospect, with particular emphasis on his vision of intellectual's commitment and the era of liquid modernity specifics. The article consists of three parts. The first one focuses on the moral and political – the sequence is not accidental – aspects of Sfard's activity. In the second part the style and strategy of his law office activity is analysed. And the third is the review of some selected cases conducted by Sfard law office. In conclusion the author draws one's attention to the negative phenomenon of the adiaphorization, that Israelis moral indifference to the fate of other people, in this case the Palestinians, is.

### **KEY WORDS**

liquid modernity, Israeli-Palestinian conflict, the human rights, the separation wall, law

### **Introduction**

The Associated Press in the personal profile of Michael Sfard, published in December 2013 characterises him as "the most prominent human rights lawyer, known for his high-profile cases, one of which resulted in rerouting of separation fence" (Associated Press 2013). The Christian Science Monitor notes, Sfard achieved what could not be done by the

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White House and left-wing Israeli politicians. At least in two cases, he was able to contribute to the elimination of two settlements: abutments Ulpan and Migron. Settlements in Occupied Palestinian Territories (OPT) are illegal – not only according to international, but also the Israeli law (Lynfield 2012).

Sfard is above all a lawyer, but also a political activist, and in a sense, a writer, co-author of *The Last Spy*, published in 2007, the biography of Marcus Klingberg – Polish-Israeli customer first law office, where he worked – convicted of spying for the Soviet Union (Rudoren 2012). He do not repeal also before publishing comments in the press – in Hebrew and English – or co-writing expert reports (Capella & Sfard 2002); *Public Committee Against...* 2016). Simply put – the hero of the following considerations is the intellectual.

Recall that the idea of “special collective duties,” as Zygmunt Bauman notes (it is worth mentioning Bauman is the Sfard's grandfather from the mother's side), “emerged on the outskirts of the centre of modern civilisation – where the nature of things knowing that society be able, clashed the ascertainment of what social reality is – and so in areas experiencing its present status as a humiliating backwardness, as a state of unbearable, demanding immediate action: the state requiring repair” (Bauman, Kubicki & Zeidler-Janiszewska 1997: 88). Usually it is the intellectual as outsider, who says things that do not arouse universal approval; as not without a certain irony notes Sfard: “I was always this wise guy who needs to tell people off” (cit. in Associated Press 2013).

However, this analysis is rooted in well-defined space, one should keep in his mind at least to some extent, it has a more universal character. In the current phase of liquid modernity the integration and decomposition processes, globalisation and the rise of tribal sentiment mutually fuelling themselves: intersection and mixing of cultures is accompanied apartheid and Balkanisation (Bauman, Kubicki, Zeidler-Janiszewska 1997: 62–63). Liquid modernity is the era of melting bonds between choices of individuals in collective projects and political activities (Bauman 2006: 12). Precisely, outside the scope of this article are, what Naomi Klein (2005: 219–222) describes as the globalization of the Likud doctrine, and the Israeli inspiration American war on terror (Czapnik & Omelan 2016: 169–188).

Limiting the room for manoeuvre to Jews (not mentioning about representing one-fifth of Israel's population, Palestinian citizens) who oppose the policies of occupation, has gone very far. Justice Minister Ayelet Shaked proposed order to the members groups funded by foreign governments or the European Union wearing the appropriate signs in public places, which resembled restrictions on the Jews in Nazi Germany (Shulman 2016). The progressive separation of Jews and Palestinians, embodied by – recognised by the International Court of Justice in The Hague as illegal under international law (*Legal Consequences of...* 2004) – barrier of separation – creates an explosion of accumulated anger against aliens, perceived as a danger and a threat. One should note Bauman himself compared it to a Nazi wall that surrounded the Jewish Warsaw Ghetto during World War II (Frister 2011).

Alien should be defined as someone who is leaded by his intentions, which – at best – one can guess, but one cannot be sure (Bauman 2003: 106). In the face of the so-called.

intifada knives 9 February 2016 Binyamin Netanyahu proposed building a massive barrier around the entire country, to protect the society from "wild beasts" (Shulman, 2016).

The article consists of three parts. The first one focuses on the moral and political - the sequence is not accidental - aspects of the Sfard activity. In the second the style and strategy of his law office activity are analysed. The last one is the review of some cases conducted by Sfard.

### **Sfard's moral and political background**

His father – Leon – spent three months in a polish prison, avoiding the process thanks to quick leaving the country. At the Sfard lawyer office one can see a large photograph of four police cars, which he did in 2010, when he was in Poland – the similar to the car his father's had been taken in the middle of the night in 1968. As lawyer notes, "It reminds me time and again what am I doing, and what are the dangers of being a dissident" (cit. by Rudoren 2012). Stresses the fact, he is very grateful to his father, he chosen as their mother country a democratic country, which enjoys freedom of expression. But for Sfard it's a starting point not something for which he intends to give thanks every day.

In Israel, Sfard's father worked a consultant in the field of hi-tech. His mother earned for a living as a lecturer in the field of education. They raised Michael and his younger sister in Jerusalem. Their house was a meeting place for journalists, in the living room discussing daily events. In high school, Michael wanted to cinemas to had been opened on the Sabbath and advocated for peace with the Palestinians. Sfard grew up having no contact with the living on a nearby street Palestinians, Arab residents of the city. In high school, he studied French and English, not Arabic. He was rather typical Israeli teenager, having no contact with the harsh reality of half a century of Israeli domination over the nearby Palestinians (Associated Press 2013).

He chose law studies thinking he had no features political leader's needs. (Rudoren 2012). Sfard, already in law school, became interested in issues politically momentous, though he knew that he belonged to a generation that had known only one side of Israel – the occupiers. He grew up in a country where a small group of fundamentalist Jewish settlers, supported by the right and the left, has grown in strength. Israel must "pay a high price moral" for the occupation and colonisation of Palestinian lands. He admitted that the idea of the State of Israel – based on the values of humanism, pluralism and democracy – to which he is attached, left to the past.

The lawyer has a problem with his Israeli identity because of everything that also on his behalf is being done on the other side of the Green Line: from the expansion of settlements and the destruction of houses over the wall and arrests to the humiliation and targeted executions. Sfard moved from Jerusalem to Tel Aviv to escape from the religious atmosphere of the Holy City (Backmann 2010: 107–108).

One of the important moments in Sfard's life was the refusal of escorting Israeli settlers in the OPT, for which he had to spend 21 days in custody. Sfard did not want to refuse to obey the order. If he had another way, he would choose them. Refusal to obey an order is neither funny nor heroic. When one takes the penalty, don't think, "I'm right and the others are wrong", on contrary, thinks: "Maybe I'm wrong and the others are right" (Sfard 2004: 83). Doubts arise. However, over time – different for everyone – a red line appears beyond which would mean getting rid of your personality, uniqueness, value and above all – consciousness. Sfard would not mind serving in the occupied territories as such. However, he refused to obey the order, which required him three weeks to guard the settlers, which would mean a personal search of the Palestinians and, if necessary, their arrest. His brief testimony about the episode Sfard ends with the words: "Were I to do that, I would no longer be the same person" (Sfard 2004: 83).

Sfard as a lawyer filed a complaint with the Supreme Court on behalf of David Zonsheine. Zonsheine decided that he could defend his actions - refusal to obey an order – through the courts not being subjected to disciplinary procedures. In 2002, 450 reservists, mostly aged 25-35, signed a petition, published in the media, refusing to participate in the occupation or service in the occupied territories. Sfard was one of the signatories, helped them in the legal battle, then visiting them in prison. People who risked their lives for Israel, questioned the morality of the occupation. They realised that the dominance over another nation violates human rights (Backmann 2010: 108).

Sfard noted the refusal to serve on the PTO is most often the result of a deep personal crisis, moral dilemmas and deep concern about the fate of Israel, the state of the culture and ethics. In the name of fighting against terror, Israelis are accustomed to checkpoints where Palestinians are waiting for hours. Often humiliated by young soldiers. They are not uncommon massive destruction of homes that the Israeli army describes as "surface uncovering". The Israelis accepted the state policy of killing, euphemistically called "focused prevention". Refusing to follow orders, Israeli soldiers believe in values – respect for human life and dignity (Sultan 2003: 153).

In 2005, Sfard and women of Machsom Watch – monitoring organization treatment of Palestinians at military checkpoints – brought to life organization Yesh Din (Hebrew Here Right) to fight for human rights through the courts. Sfard insists that his own experience shows that you can achieve anything, even in court occupier. He continues to make legendary lawyers, Felicia Langer and Lei Cemel, fighting for the rights of Palestinians, decades earlier (Associated Press 2013).

Analysing Sfard activity, it's obvious, he is very critical as he relates to the separation of pleasure or usefulness of any oath or commitment to "love, honour and obey." Such separation, Bauman notices, is the main mechanism of the postmodern version of adiaphorization, the relations abrasion with the moral evaluation, making them morally invalid. Adiaphorization occurs whenever the interpersonal relationships are selected aspect of an object – correct, useful or interesting manifestation alien, while

the overall ratio between spatially and temporally whole selves covers the issue of responsibility for the other (Bauman 1995: 133).

To put it generally, Sfard defends the Palestinian rights to a pure human life. Palestinian writer and activist (founder of El-Hak) Raja Shehadeh points out his nation is trapped between the Green Line and the separation barrier. His existence – notes Ariel Handel – is reduced to biology, the man becomes a creature similar to the robot, which has medical needs, educational or related to agriculture.

Shehadeh defends the right to walk – without a specific purpose, but only for the joy of free movement on their own feet. Israel prevents them in two ways. Firstly, since the last decade of the last century – and especially after the outbreak of the second intifada – the Palestinians subject to a system of permits to move in, which is possible only in strictly defined purposes. The second way is older and more deeply rooted. Israel considers Palestinian only those lands that are constantly over the years cultivated by Palestinians – the others are supposedly empty, so they can become part of Israel.

Israel does not recognise Palestinian rights to the enjoyment of staying in nature. As puts it Sfard: Israelis cannot think that the Palestinians can use the land for recreational purposes, if only to organise a picnic. Unlike them, the Jews know how to utilise the land, building parking lots or shopping centres and other things, which – allegedly – does not require the Palestinians (Business 2015: 78–79).

It should be noted, however, that Sfard treats his own activity as a service to the state of Israel not sacrifice to the Palestinian cause. As he himself recognised: "I'm not a Palestinian freedom fighter, I'm an Israeli human rights attorney who fights to strengthen human rights in Israel and in the territories it occupies and represents clients the best I can" (cit. in Associated Press 2013).

### **The specificity of Sfard legal practice**

The activity on the law floodplain grew out of the crisis that hit the Israeli peace camp after the failure of the Israeli-Palestinian peace negotiations and the outbreak of the Palestinian uprising in 2000 (the Second Intifada). The Israeli centre-left lost the authority, many Israelis no longer believed in the agreement. They began, even among the Israeli left, saying that on the Palestinian side there was no interlocutor. Grassroots groups began to fill the political vacuum. Some joined the weekly Palestinian protests against the separation barrier, cutting off nearly one-tenth of the West Bank.

Sfard Law Office in the sandy southern Tel Aviv has become an important address in particular in the cases against the settlements and the separation barrier. His largest customers – in cases not *pro bono* – are Yesh Din (sponsored by European governments), monitoring the settlement Peace Now and Breaking the Silence (Associated Press 2013).

Sfard opened his own law office in 2004. Initially it was a one-man office, nesting in one room and the other half. After eight years eight workers have created the office team, occupying three apartments and having two subtenants.

Sfard law office is one of the few with no parking spaces. Young lawyers working there usually wearing t-shirts and shorts and arriving on foot or by bike. Sfard always explain such style saying it 's because of his clients who cannot come or are in jail. Most of them are, living in the West Bank, Palestinians, who need a permit to enter Israel. For obvious reasons suing the State of Israel does not facilitate it.

The following case could be a good example. The mother and cousin of the protestor killed by Israeli soldiers, have not been permitted to enter Israel, despite the fact they were the key witnesses in the hearing before the Supreme Court. The Government considered that relatives of victims are a threat to security because it may wish to take revenge. So Sfard often represent before the court the absent clients (Rudoren 2012).

Sfard office is a kind of chronicle. The map of Israel 1958, found at the flea market in Jaffa, hangs there. the map is the only one for which there are no settlements and Palestinian villages are marked. There is also, framed, warrant to search his office in search of data related to the conversations with the soldiers-dissidents. In the years 2004-2012 the Sfard office conducted 500 cases. Many of them had not require a legal genius, but time and money, for example, to find Palestinians who can prove their rights to the land. Do not it always effects work office are satisfactory, however, as Sfard puts it, "The process is no less important than the result," he said. "I am addicted. It's not a question of Whether it's depressing or not, but whether I can live without it" (cited in Rudoren 2012).

Close to Sfard's desk in his office one can find the texts of the Geneva Conventions 1949 and 1977. However, the green line is just over 30 kilometres, daily confrontation between the soldiers of Israel Defence Forces (IDF) and the Palestinians or the threat of suicide terrorism seem to be something straight from another planet (Backmann, 2010: 107). On the shelves in Sfard's office the works of Mahatma Gandhi, Nelson Mandela, Dalai Lama and Martin Luther King also could be found (Rudoren 2012). It is the issue, approaching him to a number of Palestinian human rights defenders, drawing on the same sources ,the inspiration to fight without violence.

Sharon Weill published in 2014 a book about the role of national courts in the application of international humanitarian law. She writes that while working on it had a great chance to encounter many great lawyers and practitioners of international law and having fascinating discussions with them. Among the dozen or so people who mentions in this context, in the first place is Sfard (Weill 2014: v).

It should be underlined the specificity of the described law office activity. Israeli legislation is guided by the principle of proportionality.

Firstly, it means adopting a colonial perspective: Israeli democratic political and social rights should be guaranteed at the level of the developed Western countries and balanced against the rights of the Palestinians. Unlike the Israelis, the Palestinians are subject to occupation, the indigenous peoples, deprived of civil rights – their humanitarian needs will be guaranteed when the occupation will come to the end. The Jewish residents of the settlements are subject to full legal protection – freedom of movement, property and social rights – according to the Israeli democratic standards.

Palestinian rights are subordinated to the rules established by the occupation army. Therefore, restrictions on the freedom of movement of thousands of Palestinians are not only authorised, but also proportional.

Secondly, the balancing of proportionality associated with bias, according to the Israeli rights are more important than Palestinian, which is to consolidate the domination of one people over another. Lawyers dealing with human rights are wondering whether the petitions addressed to the Supreme Court does not serve the interests of the State of Israel more than their customers, even if they win the case (Sfard, 2009: 39–50).

It should be emphasised, repeat after Nicola Perugini and Neve Gordon (2015) that NGOs have not developed a specific and effective counter-hegemonic political power. Those of them that deal with human rights, have a number of achievements, such as allowing patients to reach the hospital through checkpoints; preventing the destruction of a number of houses. They also found thousands of political prisoners who were in the middle of the night dragged out of their homes. And finally, they pushed for the armed forces to lift in some places a curfew. However, they had no influence on the structure of the occupation, nor destabilised routine domination, which lay at its core. Implementation of the global discourse of human rights was at the root of the weakening of other cultures of the Palestinian political resistance. Human rights emphasis has not changed the asymmetry of power on the spot. What's more, allowed the settlers to strength its legitimacy.

Sfard points out the mobilisation of human rights in Israel has created a paradoxical situation – the Jewish state may criticise each other, and thus strengthen their own legitimacy. Rights lawyer dilemmas are complex. The internal opposition may eventually lead to a symbiosis between resistance movements and the authorities. The authorities, noted Sfard, need internal opposition in order to better plan and implement its policies. Opposition becomes part of the process of government, which opposes. Resistance becomes one of the phases of the policy-making process (Perugini & Gordon 2015: 42–43).

Human right lawyers, according to Sfard (2009: 39–40),

are no ordinary lawyers. They are, in a way, independent political actors, sensitive to the potential consequences of one litigation on another and to the human rights situation in general. In other words, even if the particular client has nothing to lose from going to court, *the human rights perspective* must be sensitive to the litigation's ramification on the *overall* fight for securing human rights.

The Israeli Supreme Court decisions about occupation – a violations of the human rights itself – „are strengthening or weakening the occupation as a legal and political entity” (Sfard 2009: 40). In short: the Court rarely decides in favour of Palestinian petitioners (Sfard 2009: 44). During dozen years since Israeli occupation in the West Bank and Gaza Strip began Supreme Court

has rendered numerous decisions on matters related to the Israeli military authority over those territories, applying Israeli administrative law and international humanitarian law, but until this

day it did not decide whether the most important and relevant legal codification of this field of international law, the Fourth Geneva Convention of 1949, applies and is enforceable in Israeli-ruled Palestinian territories (Sfard 2005: 158).

This does not mean years of legal resistance to the occupation failed to achieve any positive effect. Human rights organizations believe violations of the rights of people detained by Israel generally has weakened. Sfard claims in the last two decades of the previous century physical or mental torture was something routine. In the twenty-first century are used in exceptional and isolated cases of hearings.

Palestinians are more sceptical, considering even the action before the Supreme Court as "propaganda" (long waiting for trial and the implementation of decisions). However, even they admit the prisoners used to be more under psychological pressure – as insulation, insufficient food or irregular washing up – rather than physical. Interestingly, Palestinian armed groups teach militants how to endure them and techniques of physical as well as attaching to the wall and forced to stand, but not electroconvulsive. Such extreme techniques are not among currently used (Byman 2011: 304).

### **The Sfard legal activity – selected cases**

Sfard and Avigdor Feldman represented in 2006 at the Israeli Supreme Court, Public Committee Against Torture in Israel (PCATI) against the government of Israel. The lawyers argued Article 51 of the Charter of the United Nations about the right to self-defence could not be applied in the case of targeted killings, since Israel is fighting with the units of the OPT. Targeted killings – according to PCATI – also violated the right to defence before the courts, at the same time, also the rules of international human rights. Feldman and Sfard claimed even if Israel participates in an international armed conflict, the potential targets are protected with civilians conventions.

Representing the Israeli authorities Szaj Nican argued that Israel is forced to use targeted killings, because of the outbreak of the second intifada goes "a new kind of conflict" and must contend with the variety of manifestations of combat and terrorism. The objectives of the killings are neither civilians nor military, but distinct category of unlawful combatants. Moreover, he argued, Israel rarely make targeted killings – in accordance with the rule of proportionality. It does so, only when there is no alternative.

The decision of the court had to be spend and justify by the former Chief Justice Aaron Barak. It appealed, as Marouf Hasian Jr. convince, the Zionist overtones and narrative, according to which a large part of the so-called Judea and Samaria belong to Israel, and the Gaza Strip populated by "terrorist organisations". Barak acknowledged Palestinian terrorists have the status of civilians, but filled with military functions, which means that they have no privileges dedicated to the soldiers, nor the protection afforded to civilians. Civilians, noticed Barak, relying on Article 51 of the Additional Protocol to the Geneva Conventions of 1977, loose their protection when they are engaged in hostile action. Opponents of targeted killings of Israeli emphasised Israel was killing people who went out from Hamas and were,



selected by Palestinian, politicians, and some tried to alleviate tensions and reduce the scale of violence (Hasian Jr. 2016: 81 – 82).

Targeted killings outraged movement *refuznikim* (often represented before the courts by Sfard) - soldiers who refused to serve in the Israeli army on the OPT and to submit to the orders which they consider immoral. Many pilots expressed anger, recognising as the detriment to the honour, situations when such missions often fall accidental victim. This was the case of targeted assassination of Hamas military commander Sheikh Salah Shehadeha (Colonomos 2013: 164). He was killed in July 2002. F-16s bombed his house in Gaza – killing eleven people, including seven children, were injured about 120 people (Goldenberg 2002). The motto of the report on the policy of targeted assassinations of Israel, co-authored by Sfard, are the words of the then Prime Minister Ariel Sharon, who noticed, after the assassination of Iyad Hard (5 April 2001), that sometimes Israel will confirm what he had done, another time – no, because it does not have to announce anything (Capella & Sfard 2002: 1).

*Haaretz* newspaper wrote that in April 2006, Israeli troops have reduced the "safety zone" (the area between the place of planned attacks artillery and populated areas) from 300 to 100 meters. In an interview with Human Rights Watch, Brigadier General Mandelblit refused comment the media messages claiming that if the armed groups knew the instructions of the Israeli army could had moved closer to the homes of civilians. It is estimated within a radius of 100-300 meters from the shooting of the artillery can die people. To be more precise – the Israeli military attacks directed on civilian buildings sometimes happen. Sfard, before the Supreme Court, representing six human rights groups fighting for the change the policy of fire, highlighted that the IDF neither in the media, nor in the courtroom questioned the change of the security zones policy. [Indiscriminate fire... 2007: 29]. After Operation Cast Lead, when the Israeli army shelled civilian buildings directly in Gaza, the case has become devoid of [Under fire... 2014: 29].

In August 2004, when erected the first part of the barrier of separation, a group of Palestinians, supported by Israeli human rights organisations – including the Association for Human Rights in Israel (the Association for Civil Rights in Israel, ACRI) – benefited from the legal assistance of three attorneys, including Sfard. They directed a petition to the Israeli Prime Minister Sharon, Defence Minister Shaul Mofaz, head of the Israeli army in Judea and Samaria, Major General Moshe Kaplinski, local authorities (responsible for the barrier) and the city council Alfei Menashe (Backmann 2010: 110).

This petition was a solid foundation. It relied on the one hand on humanitarian issues, on the other – legal. In detail it was described, how the process of rising barriers affected the lives of Palestinians in the area of health, education, family relationships and friendships, work, trade, religious practices. Legal arguments relied in part on the advisory opinion of the International Court of Justice, 9 July 2004 ruled on the illegality of the wall, indicating that the UN take up this matter. Despite the criticism, which came upon the Court, its provisions could not be completely ignored.

Sfard argued Israel has no right to circle the barrier Palestinian villages - not required for safety reasons, otherwise it would be territorial annexation, one cannot make the occupier. Moreover, the course of the wall was due to pressure from residents of settlements Alfei Menashe and Matan. The course of the separation barrier is doubtful even the real reasons of security – military, some argue that it would be better run along the Green Line, simpler and shortening the length of the wall. Architect barriers admitted before the court that the increased loop around settlements, placing it within three Palestinian villages (Ras a-Tira, a-Dab'a and Wadi a-Rasha) to allow expansion of Alfei Menashe, south and west. With a population of 66 pages unanimous decision of the nine Supreme Court bench declared the course of obstacles at this point cannot be justified on grounds of security, violating the rights of Palestinians. The government had a "reasonable time" to consider another course of the barrier. No specific time-frame has allowed the Israeli authorities ignore the ruling. What's more, 29 August 2007, the Supreme Court ruled the two Palestinian villages north of settlements, Arab a-Ramadin and Arab Abu Farda, would remain on the Israeli side of the barrier. The judges concluded that this solution balances the safety of Alfei Menashe and Palestinian humanitarian concerns, because "gives" it to the Palestinians 472 acres of their land. The judges stressed in the judgment, that the course of the wall of separation can meets the need for expanding the Jewish settlements, especially in the absence of plans for their development (Backmann, 2010: 111–115). Welfare and safety of 5,700 Jews from the settlement Alfei Menashe have been achieved by, the de facto, imprisonment of 40,000 Palestinian residents of the city Kaliji (completely encircled by the separation barrier) and the surrounding villages (Weill 2013: 37–38).

Sfard opposed Amon – one of the oldest and biggest of dozens of outposts on the hills that settlers built since the late 90s without official permission of the authorities, but their silent consent and financial support. The Government did not deny that Amon was built illegally on private Palestinian land. In 2006, the army destroyed 9 houses on the estate, which was preceded by riots about 5,000 settlers and their supporters. It remains, however, a few dozen others, despite a court order their demolition. Six Sfard's clients could not appear in the courtroom, because they had not received permission to enter Jerusalem. The two managed to arrive. Hebrew Sfard comments were translated by a volunteer of Yesh Din. Abdel Rahman Saleh, who heads the village of Silwad – on the earth, where Amon raised – declared he believes in Sfard, because "he is a son of the system and knows the keys" (Associated Press 2013).

One of the most significant is the story of a ten-year Palestinian girl killed in a village near Jerusalem by border guards, when the girl went with other children. According to Palestinian witnesses, the majority of children do not have provoked the Israelis, one of them stated someone threw a stone. It was only after the intervention of Sfard, two days after the death of the girl, the investigation was established. The delay made impossible to secure evidence at the scene. Lawyer argued even if one cannot accuse the officers of murder, one can try to hold them liable for the misuse of weapons. A key role, however, have acted divergent opinions of pathologists. Expert, hired by the family, found she had died as a

result of injury to the back of the head by a rubber bullet. A police pathologist found one cannot fix the causes of her death. The case was discontinued with "lack of evidence" (Braaksma 2009: 65–66).

Paradoxically, notes the *New York Times* journalist, Sfard's micro-victories at the court incline right-wing government to achieve macro-wins through legalisation and expansion of Jewish settlements in the West Bank. A good illustration may be the case in the summer of 2012. When 30 homes were evacuated from the outpost called Ulpan as fruit of Sfard's petition, proving they arose on private Palestinian land, Israel promised to build 800 houses in return (Rudoren 2012).

## Conclusions

Sfard activity evokes many Israelis very negative reactions. For the chauvinist right wing he has become a mortal enemy. A settler from Kiryat Arby was convicted for calling the web of murder Sfard by publishing the address of his residence (Rudoren 2012).

One nationalist organisation (Regavim) paid – perhaps using the funds received from the state – a private detective, who in 2010-2013 spied Sfard. Detective asserted that he has never broken into the Sfard office, but gained information rummaging in the garbage, so the police concluded there was no breach of the law (Blau 2016).

According to spokesman for the settlers from Migronu, Sfard, using the legal system tools, is trying to work towards a two-state solution, which is wrong, because it is the task of a political nature.

Gerald Steinberg, who directs NGO Monitor organization, Yesh Din criticized for "supporting the Palestinian narrative," recognizing the occupation as a source – and not the result – the conflict, which means that the Palestinians are not interested in compromise (Lynfield 2012). Steinberg argues that Sfard "sees the courts as the way to force the changes That he perceives as Necessary for Israel", "But he does not convince the Israeli public. In any democratic process, you cannot just use the legal system to Impose an ideology" [cit. by Rudoren 2012).

One settler said that Sfard is a threat to his life style, trying to destroy his house and weaken the Jews to strengthen Arabs.

Israeli attorney Nitzan Darshan-Leitner, repeatedly appearing in court against the Palestinian terrorist organizations, claims "In a state of conflict, you cannot give both sides equal rights", "Sometimes it comes to a situation of either them or us. If he [Sfard – author] comes to defend them, he certainly hurts us" (Associated Press in 2013).

It seems well founded observation these allegations are serious, but not so much undermine the valence of Sfard activity, but it is confirmed. Underlying them is the lack of recognition of the legitimacy of otherness.

Described lawyer takes a different perspective – assumes that "another may be right, it will be the different right from my right, and I cannot say that this is not right reason," (Bauman, Kubicki & Zeidler-Janiszewska 1997: 86–87]. Without trying to understand the position of the other part, the Israeli-Palestinian conflict, not to mention the denial of their

right to exist – can only exacerbate, because stronger part – generalising: Israelis – adopted the policy excluding his adversaries from their moral responsibility, assigning them unworthy of respect, and even the attention (Bauman 2016: 94). What's more, Sfar stresses that work in favour of the Palestinians, because he knows the history of the persecution of the Jews: "I have an allergy to Situations where the strong, the majority is exploiting and maltreating the weak, the minority" (cit. by Lynfield 2012).

It can be considered Sfar belongs to the Ashkenazi tradition of Israel, which expresses its commitment to the values of human rights, democracy and tolerance (Shatz 2016). Despite all adversities, like any consistent intellectual, he intends to continue its mission in an increasingly unfavourable circumstances: "This is my place: this culture is my culture, this language is my language", "I do not see emigration as something That can be happy, only a tragedy. But if I stay here, I have to fight against things being done in my name" (cit. by Rudoren 2012).

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