

## **ISRAEL COMMITTING THE CRIME OF APARTHEID**

- Israel has explicitly pursued a set of policies with the intent of developing and maintaining a Jewish demographic hegemony over Palestinians, committing the crime against humanity of apartheid.
- This hegemony relies on Israel fragmenting and oppressing Palestinians — appropriating more of their land whilst dispossessing more of their people.
- Major human rights organisations have released reports on Israeli apartheid, but rather than leading to action, these reports have led to smear campaigns against the organisations.

### **Background to South African and Israeli apartheid**

Apartheid is derived from the Afrikaans word for ‘separateness’, or literally, apartness. It refers to **a system of control and institutionalised racial segregation** that seeks to racially stratify society according to economic opportunities, housing, public facilities, social events and cultural institutions such as marriage.

In South Africa this ensured that the White minority settler-colonialist population could exercise control and domination over the indigenous Black African population. In Israel it is used to ensure that the settler-colonialist Jewish Israeli population exercises control and domination over the indigenous Palestinian Arab population.

Through the use of legal instruments of dispossession and the denial of Palestinian refugees’ right to return, of which there were 8.36 million by 2021,<sup>1</sup> Israel has explicitly pursued policy with the intent of developing and maintaining a Jewish demographic hegemony over Palestinian land and maximizing its control over land to benefit Jewish Israelis while minimizing the number of Palestinians and restricting their rights and obstructing their ability to challenge this dispossession.

### **Legal position of apartheid**

Apartheid is defined as a crime against humanity under Article 1 of the 1973 Convention Against Apartheid and Articles 7(1)(j) and 7(2)(h) of the 1998 Rome Statute of the International Criminal Court (ICC).<sup>2</sup> The Rome Statute defines apartheid as: “*inhumane acts...committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over another racial group or groups and committed with the intention of maintaining that regime.*”<sup>3</sup> Palestine’s accession to the Rome Statute in 2015 means that the ICC can exercise its criminal jurisdiction over the territories, even though Israel is not a signatory. Israel has ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Article 3 of the ICERD condemns apartheid and racial segregation and obliges parties to “prevent, prohibit and eradicate” these practices in territories under their jurisdiction.<sup>4</sup>

### **International Responses to Israeli apartheid**

Since 2021, the United Nations and several leading human rights organisations have released reports concluding that Israel is engaged in the crime of apartheid against the Palestinian people. These include reports from Al Haq, B’Tselem, Human Rights Watch, Amnesty International, and successive UN Special Rapporteurs for the occupied Palestinian territories, including Michael Lynk and incumbent Francesca Albanese.<sup>5</sup>

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<sup>1</sup> [BADIL \(2021\). 74 years of ongoing Nakba, 74 years of ongoing resistance: Palestinian refugees and IDPs in numbers.](#)

<sup>2</sup> [International Criminal Court. \(1998\) Rome Statute. United Nations, Treaty Series, vol. 2187, No. 38544.](#)

[International Convention on the Suppression and Punishment of the Crime of Apartheid \(1976\) G.A. res. 3068 \(XXVIII\), 28 U.N. GAOR Supp. \(No. 30\) at 75, U.N. Doc. A/9030 \(1974\), 1015 U.N.T.S. 243.](#)

<sup>3</sup> [ICC, Rome Statute Article 7, paragraph 2\(h\).](#)

<sup>4</sup> [UN General Assembly \(21 December 1965\). "International Convention on the Elimination of All Forms of Racial Discrimination". United Nations, Treaty Series. 660: 195.](#)

<sup>5</sup> [Apartheid reports by: B’Tselem, Human Rights watch, Amnesty International, Al Haq, Michael Lynk, UN Special Rapporteur, Francesca Albanese, UN Special Rapporteur.](#)

## **Instruments and institutionalisation of apartheid**

### *Dispossession of land and property*

Following the Nakba, Israel passed legislation including the 1950 'Absentee Property Law', and the 1953 Land Acquisition Law to enable the confiscation of Palestinian refugees' property. These laws contribute to Israel's Judaization of parts of the occupied West Bank including the city of Jerusalem and enable the altering of its Palestinian character, demographic composition and identity.

The 1950 Law of Return and 1952 Citizenship Law further institutionalised the racialised policies engineered to alter the demographic make-up of historic Palestine. These laws granted Jewish people the exclusive right to immigrate and obtain citizenship. In combination with denial of right to return for Palestinian refugees, this created the legal foundation of Israeli apartheid.

700,000 Israeli Jewish settlers now live in 300 settlements in the occupied West Bank (including East Jerusalem), in the midst of, but apart from 3,000,000 Palestinians.<sup>6</sup> Dual ID card categorisation ensures settlers in the Jewish-only segregated area enjoy the same legal rights as other Israeli citizens. The dispossession of Palestinian land, coupled with mass settlement of colonisers and reinforced by the racialised separation of space and separate legal structures clearly amounts to the crime of apartheid.

### *Segregation, fragmentation and domains of control*

Israel subjects Palestinians to draconian military law and enforces segregation, largely prohibiting Palestinians from entering settlements. In Gaza, Israel sharply restricts the movement of people and goods, creating systematic oppression and control described as an 'open-air prison' by Michael Lynk and former UK Prime Minister David Cameron.<sup>7</sup>

Since the 1967 occupation of Gaza and the West Bank, excluding East Jerusalem, and the illegal annexation of East Jerusalem, Israel has further divided the Palestinian people. The new military regime was established based on the legacy of colonial British, Ottoman, Jordanian (in the West Bank) and Egyptian (in Gaza) laws.<sup>8</sup> This led to separate legal frameworks for Palestinians living in different areas.

As a result, Palestinians are forced to live in separate jurisdictions and require permits from Israeli authorities to travel. Travel permits, curfews and political arrests have been used to intentionally disrupt the development of an independent political consciousness and to perpetuate a fragmentation of Palestinian society. This is further aggravated by the denial of right to return of displaced Palestinians, which contributes to this systematic fragmentation.

## **Persecution and silencing of opponents of apartheid**

Concerted smear campaigns are conducted against human rights defenders and organisations who oppose Israeli apartheid. Tools of control include arbitrary detention, smears as 'terrorists', intimidation against staff members and family members and punitive residency revocation. For example, Israel designated Palestinian human rights group Al Haq as a terror organisation in October 2021 following their April 2021 publication of 'The Legal Architecture of Apartheid'.<sup>9</sup> These practices are utilised to restrict opposition to apartheid.

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<sup>6</sup> [Michael Lynk \(2022\) Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. Human Rights Council. 45<sup>th</sup> Session. Agenda Item 7. GE.22-12588\(E\)](#)

<sup>7</sup> Comments by [Michael Lynk](#) and [David Cameron](#).

<sup>8</sup> [Amnesty International. \(February 1<sup>st</sup>, 2022\) Israel's apartheid against Palestinians: A cruel system of domination and crime against humanity. MDE 15/5141/2022. p.75.](#)

<sup>9</sup> [Al Haq. \(2022\) Israeli Apartheid: Tool of Zionist Settler Colonialism p.163.](#)