

# Is Israel an apartheid state?

The short answer is unequivocal yes! But for those who are skeptical, let the record speak for itself. The following section is a comparison between apartheid South Africa and an analysis of Israeli policies and practices.

## What is Apartheid?

Apartheid is not just a particularly bad kind of racism. The word means “apart-ness” in Afrikaans. Understanding apartheid in Israel requires close attention to this principle of forced separation.

The doctrine of Apartheid is traced to white settlement in South Africa. Afrikaner (Dutch-descended) settler leaders—and many British-descended white people, too—had always believed that white people were racially superior to black and other people. They were determined that African black, Colored (mixed race) and Indian South Africans would never be able to challenge or compete with white South Africans for control over the country’s land, resources, economy, or political power. After 1948, when the Afrikaner-dominated Nationalist Party came to power, this doctrine was formalized into a comprehensive system of laws and practices governing every aspect of black people’s lives. However, absolute white supremacy also required keeping white people strictly apart from black people, partly because racial mixture would have quickly exposed the premise of the system—white racial and cultural superiority—as ridiculous. Social mixture would also have made white people vulnerable to black economic

competition, while living in mixed cities would have required that black people obtain political representation. So the motives shaping Apartheid laws were mostly to preserve white economic and political power, through laws steered and justified by racial prejudices.

Under international pressure, Nationalist Party leaders and apartheid ideologues eventually tried to dignify this systematic oppression of black Africans by arguing that different races and cultures should naturally live apart. Each “people”, they argued, had unique cultures and mental qualities that required separate states. Apartheid leaders even invoked the right to self-determination to argue for complete racial separation—i.e., stuffing black South Africans into “homelands” (cantons) that could eventually qualify for “independence” as separate states (although always under the white government’s thumb). Apartheid was therefore a variation of the “two peoples in one land” doctrine long promoted by Zionists, which has always proposed that the Jewish “people” and Arabs cannot live together as one nation. Older North Americans will also remember the variation of apartheid in the “separate but equal” doctrine, later exposed as a cruel and hypocritical system that used specious arguments about fundamental racial differences to divide white and black areas and enforce a ruthless and oppressive system of white supremacy.

### **Can a state other than South Africa be guilty of apartheid?**

Informally, any state that enforces laws which divide people on grounds of race or ethnicity in order to ensure the domination of one over the other can be called apartheid. But the term also has a legal meaning under international law that can serve as a test. As the world came to recognize the evils of apartheid in South Africa, the United Nations passed the Convention for the Suppression and Punishment of the Crime of Apartheid. This Convention was intended to

provide a “universal instrument”, that is, to apply to Apartheid systems anywhere in the world. According to the Convention, apartheid is understood to be “inhuman acts” that are practiced “for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them.” The Convention offers examples of such acts, discussed later, noting that they might be “similar” to acts in South Africa but not necessarily precisely the same. If any state does similar things, for the same purpose, it is guilty of apartheid.

### **How do we know whether a state is practicing apartheid?**

In legal terms, a state’s practices must fit the Convention’s definition of apartheid in order truly to be apartheid. The Convention’s definition suggests three ways to do this. First, we can look at the Convention’s own examples of “inhuman acts” and see if another state is practicing them for the purpose of racial domination. Second, we can look at other practices in apartheid South Africa that were developed for the same purpose and see if these match up (The Convention was written in 1972, so its definition didn’t anticipate all the changes that came later in South Africa, such as the independence of some bantustans and the recognition of black trade unions). Finally, we can look for any other laws and acts used by a state for this same purpose. These must not be just isolated practices, however, or private ones, such as racist attitudes among social groups. They must be part of an overall system maintained and enforced by the state.

### **Is Israel guilty of apartheid?**

Israel maintains a system of laws, practices and doctrines that match the definition of apartheid as defined in the Convention. Most of the “inhuman acts” cited in the Convention read like a list of Israeli practices in the

occupied territories: UN, Human Rights Watch, Amnesty International, the Red Cross, and other observers have been documenting these for decades.

The only real question is whether these acts are practiced for the purpose of racial domination. Looking at the general policies of Israel, we find that they are. But first we have to consider that Israel does this differently in different geographic areas under its control.

#### **(a) Controlled territory**

When Israel is charged with apartheid, it is usually because of Israeli practices in East Jerusalem and the West Bank, areas where Jews enjoy rights, freedoms, and privileges are denied to Palestinians. Meanwhile the separation wall and border crossings divide people on the basis of their identities, Jewish or non-Jewish. Then there is the Gaza Strip, the area to which pre-1948 Palestinians were expelled and in which are now confined by fences, military guards, and pass laws. But Zionists who deny that Israel is guilty of apartheid always cite conditions for Palestinians inside the 1948 borders, where Palestinian citizens of Israel do have many rights that black South Africans were denied, such as the right to vote.

This Zionist argument is disingenuous, however, especially as the same proponents will often insist that the West Bank (or most of it) must remain an intrinsic part of Israel. Israel's policies toward the Palestinians throughout the territory under the state's control are in fact a whole system. Treatment of Palestinians in different geographic areas is designed to work together to ensure a goal that is intrinsic to Apartheid- ensuring unassailable domination by one group (Jews) over another (Palestinians) throughout the territory.

A precedent for this approach to Israel's policies can be taken from South Africa. In the 1980s, some groups (Colored and Indians) were briefly granted rights in order to consolidate the State's ability to deprive the black majority of rights. Black South Africans living in the townships also had a legal status different from blacks who were given citizenship in the

bantustans. These differences reflected particular social and political stresses, limitations on state capacity, and varying white desires regarding land, industry, and black labor.

Israel is ensuring Jewish domination (usually called a “Jewish state”) in the territory under its control by pursuing a similar policy of fragmentation. Palestinian citizens of Israel have various freedoms precisely because this concession allows Israel to exclude the roughly five million Palestinians under occupation from those same rights. Otherwise, Palestinian resistance throughout Israeli territory would escape Israel’s capacity to contain it. Conversely, excluding the majority of Palestinians from equal rights ensures that Palestinian citizens of Israel will always be a minority unable to alter the laws that ensure Jewish dominion. That the Palestinians may someday outnumber Jews or gain enough leverage to demand equal rights as Israeli citizens is Israel’s infamous “demographic threat”.

So any study of apartheid in Israel must consider that—while legally Israel is only in military occupation of the West Bank and Gaza Strip—the state of Israel is effectively sovereign throughout the entire territory under its control and is actually exploiting its different legal status of various areas to avoid having to enfranchise all the indigenous people and so imperil Jewish domination.

These systems work in complement to enable Israel’s own project of apartheid:

- i. Within Israel’s borders at the 1948 ceasefire, Israeli domestic law applies, but though both Jews and some Palestinians have Israeli citizenship and civil rights, Jews only enjoy special privilege.
- ii. In East Jerusalem which is still part of the West Bank under international law but is usually treated as a separate category, Jews have citizenship while Palestinians only have residency rights.
- iii. Within the occupied Palestinian territories, Palestinians live under military law and have no

citizenship while Jewish settlers live under civil law and most have Israeli citizenship.

**(b) Racial domination**

- i. In South Africa apartheid was an explicitly racial system meaning that all people were defined into racial categories- white, black, colored, and Indian- and the language was openly about race relations and racial white superiority and supremacy.
- ii. In Israel today, the use of the term “race” is not normally used; however it was used for Jewish and Arab identities in earlier decades. As in the rest of the world, the terminology of race has simply changed, as scientific support for measurable objective racial differences collapsed, switching to terms like “peoples” and “ethnic groups”. Precisely because social terms may vary while discrimination persists, international law does not limit “racial discrimination” to “race” as we use the term today but extends it to discrimination based on “color, descent, or national or ethnic origin”. Anti-Semitism therefore a form of racism because it targets Jews according to concepts of their descent, origins, and ethnicity, whether or not “race” is perceived. The comprehensive system maintained Israel to ensure domination by Jews over Palestinians is therefore a system of “racial domination” in the sense of international law even though the term “race” is not used any more. If discrimination against people because they are Jewish must be considered racism, then discrimination against people because they are not Jewish must equally be considered racism.
- iii. In South African the Population Registry Act categorized everyone according to race and gave people a different legal status according to their

ascribed identity. Israeli law also requires that everyone under Israeli rule be categorized according to religious/ethnic identity (Jewish, Arab, Druze, etc.) and gives people different legal status according to these identities. (Legal attempts by some principled Israelis—both Jewish and Palestinian—to avoid this system, and be registered only as “Israelis”, have so far been rejected by the courts and the state

- iv. Geographic Segregation in the system of apartheid South Africa delineated special areas for black people, forcibly transferred them into those areas, and limited their ability to leave them or enter white areas. Some of these areas were black-only townships adjacent to white cities, to allow whites access to black menial labor. Others became the bantustans. This was Grand Apartheid: the complete segregation of the races through geographic divisions, which would ultimately preserve white supremacy. This creation of “reserves” was specified in the Convention as a particular problem. Similarly, Israel has forcibly transferred hundreds of thousands of Palestinians out of areas intended for Jewish-majority use and cantonized the entire territory under Israeli state control (equivalent to Mandate Palestine plus the Golan Heights) to limit or even confine most Palestinians to certain areas solely because they are not Jews. Inside Israel’s 1948 borders, this is done by banning Palestinians from leasing land in Jewish national land, which is 93 percent of the territory. In the occupied Palestinian territories, this is done by delineating cantons, divided by Jewish-only cantons, where Palestinians are allowed to live and work but which they cannot leave without passes. Segregation extends even to the banning of

Palestinians from using certain roads and highways through West Bank territory.

People arguing that Israel is not an apartheid state often point out that Israel does not practice what was called in South Africa “petty apartheid” — separate parks, bathrooms and beaches for whites and blacks. Inside Israel, no actual laws impede such mixing and Jews and Palestinians do routinely mix in limited areas, such as parts of Haifa and Jerusalem. But in most of the country, ethnic separation is profound and the populations do not mix. In the occupied Palestinian territories, ethnic mixture is strictly banned: whole towns, cities, and the land and highways between them, are Jewish-only, while Israelis are prohibited from entering Palestinian areas. Where Grand apartheid is operative, petty apartheid is not needed.

- v. Pass Laws were a particularly hated policy in apartheid South Africa, as they prevented black South Africans from entering or living in white areas except under very limited condition and any accidental violation made them subject to detention or imprisonment. Since 1966, Palestinian citizens of Israel have not suffered from pass laws as such since the system was eliminated to help prevent them from becoming a fifth column inside Israel before the 1967 war. In the Occupied Palestinian Territories, all Palestinians must have a military government pass to enter Israel or Jewish areas of the Occupied Palestinian Territories or even to leave their own areas. Elaborate border crossings enforce this restriction and cripple Palestinian movement and trade. In Gaza, this restriction has become so strict that very few can leave and the Gaza Strip is often called an open-air



prison.

**(c) Denationalization**

- i. In its latter decades, apartheid South Africa tried to deprive blacks of their citizenship and transfer their citizenship to special black “homelands” that the state delineated unilaterally within South African territory.
- ii. In the Occupied Palestinian Territories, Israel has granted citizenship to Palestinians, although their rights and liberties are limited by laws that grant preferential rights to Jews. In the Occupied Palestinian Territories, however, Israel has denied citizenship to the five million Palestinians under occupation solely because they are not Jews, and has indicated that they can obtain citizenship only in other countries. Palestinian refugees living outside the country are also denied citizenship in the land of their birth or origin. The Israeli government’s agreement to the formation of a Palestinian state would ostensibly compensate for the problem of denationalization, but this agreement has been highly circumscribed and always been conditional on terms that are unlikely to be achievable.

**(d) Racial State**

- i. Under apartheid, South Africa was established by law as the state of the white race, which was defined as a distinct people. No other “race” had comparable rights in South Africa.
- ii. Israeli law similarly defines the state of Israel as the state of the Jewish people. No people has a recognized nationality or national rights in Israel except the Jewish people.

**(e) Discrimination**

- i. Under apartheid, South Africa maintained a comprehensive system of discrimination to segregate the “races” and ensure white supremacy. These included limiting the jobs that blacks could do, what kind of businesses they could operate, where they lived and where they could travel, their educational opportunities, and everything else that affected their life chances. It also included “petty apartheid”—reserving separate beaches, parks, benches, entrances, bathrooms, and so forth for blacks and whites.
- ii. Inside Israel, some citizens’ rights are universal, but a special body of laws conveys special rights and privileges to Jews only, such as the right of return (and citizenship) and the exclusive right to lease land on Jewish “national” land—which is 93 percent of the state’s territory. Jews also have preferential access to housing and education subsidies as well as exclusive access to certain employment sectors. In the West Bank, Jewish settlers are considered to be residents and have special rights, privileges, facilities, and freedoms while non Jewish indigenous Palestinians are denied those same rights, privileges, facilities, and freedoms. The dual legal system, with separate laws, courts, and jails for Jews and Palestinians, is a hallmark of this discrimination. Israel does not maintain “petty apartheid” but this is because the communities generally do not mix at all.

**(f) National Rights**

- i. In apartheid South Africa, the state used the language of self-determination to argue that white people and black people were separate nations who cannot live together. This evolved into the bantustan policy: that black people should

have separate “homelands” or even “independent” states, whose borders the white state delineated, but whose policies always remained subject to white fiat, and into which compliant black elites were installed to govern.

- ii. Similarly, Zionism has used the language of self-determination to argue that Jewish and non-Jewish Palestinians are two separate nations/peoples who cannot live together. This has evolved into a system of assigning distinct zones for Palestinian society, whose borders the state has delineated and in which Israel has cultivated compliant Palestinian elites to govern. In both cases, the state holds absolute control over the indigenous zones and dominates the entire territory for the benefit of the dominant group.

**(g) Political Rights**

- i. Apartheid South Africa excluded blacks from voting and from exercising any political rights, except in the “homelands”, where elections for black governments were held under the white state’s supervision, strictly limiting the range of political views that could be expressed.
- ii. Israeli law provides equal “civil rights” to non-Jewish citizens regarding elections but not the right to vote for any party that will oppose the discriminatory laws that ensure the inferior legal status of Palestinians. In the Occupied Palestinian Territories, Palestinians have no political rights at all. Elections have been held only with Israeli approval. Meanwhile, military occupation continues which strictly limits the range of Palestinian political positions that may be expressed.

**(h) Multiple-state Solutions.**

- i. In apartheid South Africa, apartheid doctrine evolved to endorse separate states for blacks, defined according to their ethnic and language differences, as separate black “nations”. Ultimately, this policy generated ten black “homelands”, four of which became “independent” states with governments, elections, flags, and civil police forces, but were always controlled by the white South African government and lacked key powers of sovereignty such as control over borders, air space, cyberspace, natural resources such as water, and any meaningful military power.
- ii. In Israel, Zionist doctrine has evolved to endorse a separate “homeland” for Palestinians that may or may not obtain the label “state” but would certainly be dominated by Israel and would lack key powers of sovereignty such as control over borders, air space, cyberspace, natural resources such as water and any meaningful military power.

**(i) Denial of Basic Freedoms**

- i. In South Africa, apartheid laws denied colored people a gamut of basic rights and freedoms. The Convention lists some of these as examples. What matters most is their purpose: “to prevent a racial group or groups from participation in the political, social, economic, and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups”.
- ii. All of the cited examples are practiced by Israel:
- iii. Denial of the right to work. Apartheid laws restricted blacks to menial labor and allowed only limited quotas of blacks to work in the white-owned mines and other white sectors. Blacks were

not allowed to develop industry inside the Black Homelands that would compete with white industry. Inside Israel, Israeli law limits the jobs that Arab citizens can perform by restricting some to Jews only. In the Occupied Palestinian Territories, Israeli military rule limits the development of Palestinian industry through licensing and trade restrictions and allows only very limited numbers of Palestinians to work as manual laborers in Jewish areas.

- iv. Denial of the right to form recognized trade unions: apartheid South Africa did not recognize black trade unions until 1979. Israel still does not recognize Palestinian trade unions. In the Occupied Palestinian Territories, Palestinians are required to register with the *Histadrut*, the Jewish-Israeli trade union, although it does not represent Palestinian interests.
- v. Denial of the right to education: South African law denied education to blacks beyond basic skills, in order to cut them off from upward mobility and competition with whites. Israeli law does not have such a system but impairs Palestinian education through different means. Inside the 1948 borders, Palestinian education is impeded through reduced public budgets for Palestinian schools. In the Occupied Palestinian Territories, these include military closures, travel restrictions and funding cuts. But, as with the Mixed Marriage Act (see below), the goal of preventing competition with the dominant group for employment is effected mostly through other methods, such as geographic separation, travel restrictions, or by assigning some employment sectors preferentially to Jews.
- vi. Denial of the right to leave and to return to their

country: Palestinian citizens of Israel can freely leave and return to their country. But the millions of Palestinians who are not Israeli citizens are infamously prevented from doing so: This is because the immense refugee problem dating from the wars of 1948 and 1967. Millions of Palestinians now living in the Occupied Palestinian Territories who fled their homes inside the 1948 borders are also prohibited from returning to their home towns and cities. Palestinians in the Occupied Palestinian Territories are often prevented from leaving and, if they do leave, prevented from returning.

- vii. Denial of the right to a nationality (citizenship): Israel violates this provision in two ways. Most egregiously, it has denied Palestinians citizenship in the state that governs in the land of their birth, explicitly to maintain an overwhelming Jewish majority. Holding Palestinians outside the national fold as a “demographic threat” to Jewish statehood, Israel has also prevented the formation of a distinct Palestinian state that would provide an alternative. South Africa faced the same: that the native people had no citizenship and clearly required one, which prompted the bantustan policy. Israel is now following the same course: create a vulnerable autonomy zone and call it a “state” in order to escape the moral, political and diplomatic consequences of denying people a citizenship.
- viii. Denial of the right to freedom of movement and residence, South Africa cantonized the land and strictly limited the freedom of black South Africans to move around the country, particularly into white areas. Israel does the same. Inside the 1948 borders, Palestinian citizens can move freely

anywhere in the country but may not lease property in the 93 percent of the country reserved for Jewish national use. In the Occupied Palestinian Territories, restrictions on movement are draconian and crippling. Ethnic cleansing is also clearly underway in East Jerusalem and parts of the West Bank.

- ix. Denial of the right to freedom of opinion and expression. South Africa suppressed the African national congress (ANC) and all opposition expression through a range of methods, from censorship to assassination. Israel does the same: censorship laws limit what can be reported even within the 1948 borders and foreign journalists operate under strict constraints. Palestinians in the Occupied Palestinian Territories may operate newspapers and conduct internal debates but they are closely monitored and may be arrested or killed if their views are deemed likely to threaten Israel's occupation.
- x. Denial of the right to freedom of peaceful assembly and association.

**(f) Other Convention Provisions**

- a. Any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups: Israel's entire geographic policy is to divide the population this way.
- b. By arbitrary arrest and illegal imprisonment of the members of a racial group or groups: In the Occupied Palestinian Territories, Israel's policy of administrative detention—detention without trial—is notorious. Recently, the state

has begun to use this practice with Palestinian citizens as well. The state also maintains two separate judicial and court systems for Jews and Palestinians in the West Bank.

- c. The prohibition of mixed marriages among members of various racial groups:
  - i. The Mixed Marriages Act was an infamous act in apartheid South Africa which banned interracial marriage.
  - ii. Israel doesn't have a Mixed Marriage Act but doesn't need one to achieve the same goal of preventing miscegenation. Civil marriage doesn't exist in Israel: only religious authorities may officiate over marriage, which makes mixed marriages very difficult. Also, ethno-religious divisions in the country are very deep and anti-Arab prejudice among Jews is very strong, so mixed marriages are extremely rare. In the almost unheard-of instance that a Muslim or Christian Israeli and a Jewish Israeli wish to marry, one of them must convert or they must marry in another country. Even marriages between Orthodox and Reform or non-religious Jews are forbidden. Zionists frequently cite the absence of a Mixed Marriages Act in Israel as evidence that Israel is not an apartheid state. But according to the Convention, all of the "infamous acts" it lists as examples need not exist to constitute the crime of apartheid. The technical absence of this or any single other provision in Israel therefore does not signify that Israel isn't an apartheid state. In fact, the Mixed Marriages Act is one of very few provisions in the Convention that Israel does not replicate, so it is quite the stretch to cite this



exceptional instance as evidence that Israel is not guilty of apartheid when the bulk of the evidence is so overwhelming that it is.

- d. The expropriation of landed property belonging to a racial group or groups or to members thereof.
- e. Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid. South Africa's repression of black dissent—the ANC, the United Democratic Front—was infamous, extending to arbitrary arrest, detention, torture, letter bombs and murder. The South African government eventually identified the whole body of resistance to apartheid “total onslaught” which required a “total defense”, justifying these measures. Israel replicates this orientation by referring to all Palestinian resistance as “terrorists” and uses the same methods: arbitrary arrest, detention, torture, assassination, etc.
- f. By inflicting upon the members of a racial group or groups of serious bodily or mental harm, by the infringing on their freedom or dignity, or by subjecting them to torture or to cruel, inhuman, or degrading treatment or punishment. Palestinian prisoners are frequently subjected to imprisonment without charge or trial for prolonged periods of time known as administrative detention.
- g. Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part: This provision uses the language of the Convention against Genocide. It is a curious addition to the Convention against apartheid because South Africa could not be accused of this practice. In the case of Israel, since 1948, it has pursued

policies and practices to cause ethnic cleansing of Palestinians. In the case of Gaza, there is ample evidence and international acknowledgment to indicate that Israel is systematically engaged in killings, starvation, deprivation of vital medical assistance, and the infliction of mass human suffering or callous and cruel methods toward intimidating people and compelling their political capitulation.

- h. Exploitation of the labor of the members of a racial group or groups, in particular by submitting them to forced labor. Apartheid was certainly based on ruthless exploitation of black labor, which it ensured by imposing conditions that left blacks with no option but to work at the menial and arduous tasks reserved for blacks through Bantu education, restrictions on black trade and industry, etc.. However, South Africa did not rely significantly on forced black labor. Israel used to rely significantly on cheap Palestinian labor but began systematically to exclude Palestinian labor in the 1990s and now its labor dependency on the Occupied Palestinian Territories population is negligible. It is easy to speculate that the government undertook this policy precisely because dependence on black labor was identified as one factor that brought down apartheid in South Africa. However, the Israeli economy continues to rely on cheap Palestinian labor for some agricultural work and the building of settlements drawing from the old biblical tradition of the natives being allowed to remain in the country but only as “hewers of wood and drawers of water”. In recent years, Israel began to minimize its reliance on Palestinian labor through the importation of foreigners. This contributes to the Palestinians dependence on foreign aid for survival.