

The Amnesty Report: Charges of Apartheid and the Denial of Israel's Right to Exist

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On February 1, 2022, Amnesty International [published](#) a report accusing Israel of committing the crime of apartheid against the Palestinians. Israel strongly [condemned](#) the report's findings, declaring it was "false, biased, and antisemitic." The report's extremism makes it easier to rebuff as it exposes the agenda of its authors, which is not defending the Palestinians and their rights while facing the challenges of a complex reality, but rather denouncing Israel and denying its right to exist as a state of the Jewish people. However, the growing trend of labeling Israel as an apartheid state is worrying and requires proper attention by the Israeli government. This trend reflects the challenge that Israel's policy toward the Palestinian issue poses in the international arena. Overall, the reports that portray Israel as an apartheid state should serve as a warning sign for the future: while the description distorts the existing reality, there is a fear that this would be the reality resulting from a solution that seeks to maintain one state with a dominant Jewish character between the Jordan River and the Mediterranean Sea.

On February 1, 2022, Amnesty International [published](#) a report accusing Israel of implementing a regime of apartheid against the Palestinians and of committing the crime against humanity of apartheid. Israel strongly [condemned](#) the report's findings, declaring it was "false, biased, and antisemitic," and "denies the State of Israel's right to exist as the nation state of the Jewish people." Moreover, "in publishing this false report, Amnesty UK uses double standards and demonization in order to delegitimize Israel. These are the exact components from which modern antisemitism is made."

As defined in international law, apartheid refers to an institutionalized regime of systematic oppression and domination by one racial group over another racial group, with the intention of maintaining such a regime. The definition derives from the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1965), the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973), and the Rome Statute of the International Criminal Court (ICC)

(1998). The basic argument in the Amnesty report is that since its inception, Israel has imposed means of oppression and domination over the Palestinians, aimed at maintaining Jewish hegemony wherever Israel exercises effective control. It is claimed that Israel treats the Palestinians as an inferior non-Jewish racial group, with the intention of preventing equal rights to the Palestinian people. The racial distinction is made in a systematic and institutionalized manner through laws, policies, and practices that are designed to deny Palestinians rights enjoyed by Israeli Jews. Although the intensity of the regime of oppression and discrimination differs in the State of Israel, the West Bank, and the Gaza Strip, it exists in all of them, with Israel working to preserve the Jewish majority and maximize resources for the benefit of the Jewish population at the expense of the Palestinian population. In this context, it expelled Palestinians and took over their property in 1948, and it continues its abusive policy against the Palestinians in the territories occupied in 1967. The report states that the very existence of different regimes in relation to the Palestinians in the various territories is intended to enable Israel to fragment Palestinians and to suppress their possibility of uniting against the controlling power.

The report details the elements of repressive policy, which include territorial fragmentation, denial of citizenship and equal status, restrictions on movement, restrictions on family reunification, use of military government, restrictions on political participation and popular resistance, expropriation of land and property, restriction of human development, and denial of economic and social rights. In addition, inhuman acts of unlawful killing and injuries, forcible transfers, administrative detention and torture, deprivation of basic liberties, and persecution are listed.

According to the report, by definition, Israel's fundamental goal to maintain the country's Jewish majority and Jewish identity produces a regime of discrimination and oppression. Thus, the Law of Return and the Nationality Law, which grant the right to immigrate and become citizens only to Jews, are given as an example of systematic discrimination against the Palestinians. The Nation-State Law is presented as proof that discrimination in favor of the Jews is a declared policy of the state. The

report also insists emphatically on the right of return of all Palestinian refugees and their descendants to their former homes.

Beyond Israel's criticism, the [United States](#), Germany, and Britain expressed reservations regarding the report. Sharp criticism was also voiced by various organizations, including [NGO Monitor](#). The critics underscored that the report distorts international law by misinterpreting the crime of apartheid and its components, including race and control, and denies the very Jewish identity of the State of Israel and the right of Jews to self-determination. The analysis contends that the report chooses facts tendentiously and selectively in order to paint a distorted picture of Israel's policy, while almost completely ignoring the security reality, rounds of fighting, and acts of terrorism against Israel – with all restrictions on Palestinians presented as an expression of Israel's racist policies. In addition, the report blurs the distinction between the status of Palestinian citizens of the state and the status of Palestinians in the territories, and ignores the progress in integrating Palestinian citizens of Israel in the state. It also does not address the significance of the Palestinian Authority's control of the West Bank and of Hamas in the Gaza Strip, while referring to all areas as a single unit.

Beyond these criticisms, the main distortion in the report is in presenting a national conflict between peoples, which includes rounds of fighting and terrorism, as a regime of racial segregation, in which one group treats the other as inferior. Other national conflicts, common around the world, are not defined as apartheid regimes

The report embodies an approach that denies the Jewish identity of the State of Israel, regardless of its borders. According to Amnesty, the very existence of the State of Israel as the state of the Jewish people is a racist idea, and what is required is a complete abolition of the Jewish essence of the state, including allowing all Palestinian refugees and their descendants to return to their former homes. It is also clear that a two-state solution is not acceptable to the authors of the report, and that the Oslo Accords

themselves are regarded as part of Israel's racist initiative to separate and govern the Palestinians.

The report calls on the UN, the countries of the world, international organizations, and business entities to put pressure on Israel, in part by imposing an embargo on the export of weapons to Israel, and by applying universal jurisdiction in the courts of countries in relation to the crime of apartheid. The prosecutor of the ICC is called on to investigate this crime. This report follows reports published by [Human Rights Watch](#) (HRW) in April 2021, [B'Tselem](#) in January 2021, and [Yesh Din](#) in July 2020, which also state that Israel maintains an apartheid regime, but these are worded in less extreme fashion. For example, HRW claimed that the crime of apartheid takes place only in the West Bank and Gaza, while in Israeli territory there is discrimination against the Palestinians that does not meet the threshold required for definition as apartheid.

These reports should be seen as part of a broader campaign seeking to brand Israel not only as a state committing war crimes in the context of a national conflict, but as a state that implements a racist policy related to its very existence as a Jewish state. This framing also connects to the transition among the leaders of the Palestinian struggle from demands for the realization of national rights within the framework of a two-state solution to demands for the realization of civil rights within the framework of a one-state solution. The campaign connects to the BDS initiatives to boycott and condemn Israel, as well as to efforts to pursue several channels in the international arena, with an attempt to accuse Israel of apartheid.

The first channel is the investigation in the ICC, which opened in March 2021, and focuses on war crimes committed in "Palestine," i.e., in the West Bank, East Jerusalem, and the Gaza Strip since June 13, 2014. The crime of apartheid is on the list of crimes against humanity in the statute of the Court. The authors of the reports are attempting to put pressure on the prosecutor to advance the investigation and to also include this crime in the investigation.

The second channel is the UN Human Rights Committee's Commission of Inquiry set up after Operation Guardian of the Walls in May 2021. The commission's mandate adopted recommendations included in the said HRW report published about a month earlier. The mandate is significantly wider than that of previous commissions of inquiry in three parameters: the period of time examined – the committee is authorized to examine ongoing violations without an end date and to publish annual reports; territorial application – also violations within Israeli territory and not only in the West Bank and Gaza; and the scope of examination – including allegations of systematic discrimination and repression and not just violations of humanitarian international law and human rights law. The three appointed members of the committee have clearly biased views against Israel. It is estimated that the first commission report, expected in June 2022, will include allegations of apartheid against the Palestinians.

The third channel is before the Committee on the Elimination of Racial Discrimination of ICERD. The Convention requires member states to prevent any form of discrimination on the basis of race, color, marital status, national, or ethnic origin of different groups, and explicitly addresses apartheid. A complaint was filed in 2018 by “the State of Palestine” against Israel for discrimination against Palestinians in the West Bank, East Jerusalem, and Gaza since 1967. The committee [rejected](#) claims by Israel regarding lack of authority and lack of admissibility, and in December 2021 [announced](#) the appointment of five members to an ad hoc conciliation commission that would hear the parties and prepare a report with recommendations. The report is expected during the year. This is the first time that a report on a complaint between countries is expected by the committee.

The fact that the Amnesty report is so extreme makes it easier to rebuff: it exposes the agenda of its authors, which is not protecting the Palestinians and their rights while facing the challenges of a complex reality in a conflict arena, but rather denouncing Israel and denying its right to exist as a state of the Jewish people. However, the growing trend of labeling Israel as an apartheid state is worrying and requires proper attention by the Israeli

government. It reflects the challenge that Israel's policy toward the Palestinian issue poses in the international arena. Furthermore, that the reports portray Israel as an apartheid state should serve as a warning sign for the future. While this description indeed distorts the existing reality, there is concern that this would be the reality resulting from of a solution that seeks to maintain one state with a dominant Jewish character between the Jordan River and the Mediterranean Sea.

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