

Is Israeli Occupation Moving Toward Apartheid?

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Apartheid in Palestine,
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Israel's occupation of the West Bank and East Jerusalem has come under increased scrutiny in recent days. In December, the U.N. Security Council adopted a resolution that condemned Israeli settlement building. The Obama administration chose to abstain from the vote rather than exercise its veto to block it. The New York Times (Dec. 29, 2016) editorially declared that, "Nowhere is it written that an American president is obligated to shelter Israel from international criticism that is consistent with decades-old American policy and with American interest ... It declared that the settlements, in territory that Israel captured from Jordan during the Arab-Israeli war of 1967, have no legal validity; affirming longstanding U.N. and American policy, it cited the Fourth Geneva Convention of 1949, which prohibits any occupying power from transferring its own people to conquered territory.

In a major speech in December, Secretary of State John Kerry said that the Israeli government was undermining any hope of a two-state solution. "The status quo is leading toward one state and perpetual occupation," he declared. "Some seem to believe that the U.S. friendship means the U.S. must accept any policy, regardless of our own interests, our own positions, our own words, our own principles — even after urging again and again that the policy must change. Friends need to tell each other the hard truths, and friendship requires mutual respect."

Kerry argued that Israel, with a growing Arab population, could not survive as both a Jewish state and a democratic state unless it embraced the two-state approach that a succession of American presidents has endorsed. While both Kerry and President Obama were harshly criticized by Prime Minister Netanyahu, many other Israelis expressed their agreement. The liberal Israeli newspaper Haaretz carried the headline, "A very Zionist, pro-Israel speech." Former Prime Minister Ehud Barak, the most decorated soldier in Israel's history, warned that, "As long as in this territory west of the Jordan River there is only one political entity called Israel, it is going to be either non-Jewish or non-democratic. If the bloc of millions of Palestinians cannot vote, this will be an apartheid state." Of Secretary Kerry's speech, Barak characterized it in these terms on Twitter: "Powerful, lucid ... World and majority of Israelis think the same."

Israeli Occupation as "Apartheid"

Both in Israel and in the U.S., the term "apartheid" is being used more and more to describe Israel's occupation. Rabbi Henry Siegman, a former director of the American Jewish Congress, says that Israel's settlements have created an "irreversible colonial project" and involves having Israel "cross the threshold from 'the only democracy in the Middle East' to the only apartheid regime in the Western world. Denial of self-determination and Israeli citizenship to Palestinians amounts to 'double disenfranchisement,' which, when based on ethnicity amounts to racism." Reserving democracy for privileged citizens and keeping others "behind checkpoints and barbed wire fences," he states, is the opposite of democracy.

In the book *Apartheid in Palestine*, Ghada Ageel, visiting professor in the Department of Politics at the University of Alberta, has gathered a group of essays about Israel's policy of occupation. The authors are Jewish, Christian and Muslim. They are of various nationalities — American, Canadian, Israeli and Palestinian. Some are the descendants of families who have been displaced by Israeli policies. They shed much light on what is now taking place in the occupied territories and whether "apartheid" is an appropriate term to describe the current situation.

The forward is written by Richard Falk, professor emeritus of international law at Princeton who, in 2008, was appointed by the U.N. Human Rights Council to a 6 year term as U.N. Special Rapporteur on "the situation of human rights in the Palestinian Territories occupied since 1967." He writes that, "Since the early 1990s, most hopes for a peaceful resolution of the conflict depended on a diplomatic framework agreed upon in Oslo and solemnized by the ... 1993 handshake at the White House between Yitzhak Rabin and Yasser Arafat ... As of now, there is a widespread realization that diplomacy cannot under present conditions produce a sustainable peace by the parties. This became clear when negotiations collapsed in April 2014 ..."

Israeli Politics Moving to the Right

Dr. Falk, who is Jewish, points out that, "Israeli internal politics have been drifting further and further to the right and seem on the verge of producing a consensus that will favor a unilaterally imposed solution that will leave the Palestinians squeezed either into barren Bantustans on the West Bank or incorporated into an Israeli one-state solution, in which the best that they can hope for is to be treated decently as second-class citizens in a self-proclaimed Israeli ethnocracy. Beyond this, even these diminished democratic elements in the Israeli reality would be threatened by the prospects of a Palestinian majority, leading many prominent Israelis to throw their democratic pretensions under the bus of ethnic privilege."

Dr. Ageel cites Hebrew University sociologist Eva Illouz, who recently compared the present circumstances of the Palestinians to conditions of slavery. She argues that these conditions

present one of the great moral questions of our time and that they are similar, in certain respects, to the slavery that divided the U.S. in the 19th century. She writes: "If a person or a group creates mechanisms to alienate the freedom and life of another, that person is not technically speaking a slave but s/he is subject to conditions of slavery." She suggests that when 70 per cent of the Palestinian population "live in conditions in which their freedom, honor, physical integrity, and their capacity to work, acquire property, marry, and more generally, plan for the future, are alienated to the will and power of their Israeli masters, these conditions can only be named by their proper name; conditions of slavery." Illouz asserts that, "The occupation started as a military conflict and unbeknown to itself became a generalized condition of domination, dehumanizing Palestinians, and ultimately dehumanizing Israelis themselves."

Two controversies which this book confronts, writes Ageel, are these: "Comparisons of Israel's policies to those of apartheid South Africa are met, almost invariably, with expressions of indignation. Equally heated controversy ensues when the Palestinian exodus, widely known in Palestinian narrative as the Nakba, is linked directly to the establishment of the state of Israel. This book takes on these two controversies — apartheid and Nakba — from the points of view of both Palestinians and Israelis, scholars as well as activists."

Displaced Palestinians

Dr. Ageel tells the stories of many Palestinians who were displaced by the creation of Israel. One of these is Khadijah, 89, a mother of 10, who now lives in the Khan Younis refugee camp: "Once she owned a house, farms and land, and she enjoyed honor, dignity and hope. She was part of the Beit Daras community, a village that no longer exists on world maps. It has been demolished together with over 500 other Palestinian villages. Khadijah's tale is a story of a land that has been emptied of its people and a people who have been separated from their land and segregated from each other ... Over 70 per cent of the current population of Gaza are refugees whose stories closely approximate Khadijah's. Either they themselves or their parents and grandparents were driven from their homes in 1948. Israeli military forces systematically destroyed hundreds of Palestinian villages during and after the 1948 war; as one of six measures included in a 'Retroactive Transfer' approved in June 1948 by the Israeli finance minister and prime minister to prevent Palestinian refugees from returning home."

The town of Beit Daras, before it was destroyed by the Israeli Army in 1948, had a population of approximately 3,000 people, including some 400 houses, one elementary school, and two mosques. "Virtually nothing is left today," writes Ageel. "According to Plan Dalet, Jewish forces were ordered to cleanse the Palestinian areas that fell under their control. Israeli historian Ilan Pappé describes this cleansing: 'Villages were surrounded from three flanks and the fourth one was left open for flight and evacuation. In some cases it did not work, and many villagers remained in the house — here is where the massacres took place.'"

Ghada Ageel is the eldest granddaughter of Khadijah. She notes that, "Growing up in a refugee camp ... decades after the destruction of Beit Daras, my grandmother told me the story of our village ... She didn't forget our land, contrary to the prediction by David Ben-Gurion that the old generation would die and young generations would forget. The story of our lost village was, in the accurate words of Ramzay Baround, 'a daily narrative that simply defined our internal relationship as a community.' ... The claim by Israel's Prime Minister Golda Meir in 1979 that, 'There are no Palestinians,' enhanced the misunderstanding of Palestinian peoplehood. The world seems not to understand that when Israelis speak of 'the Jewish state of Israel' they are talking about the ethnic cleansing of my grandmother. Likewise, the world seems not to understand that when the Israelis speak of 'the war of independence' they are talking about the Najba."

"Pullout" from Gaza

Husaida Arraf, a Palestinian-American lawyer and human rights activist, writes, with regard to Israel's withdrawal from Gaza and its current status, that, "In August/September 2005, in a much heralded 'pullout' from Gaza, Israel evacuated approximately 9,000 Jewish settlers from 21 illegal colonies in Gaza and redeployed its military from within the Gaza Strip to its borders. It then proceeded to proclaim that Gaza was no longer occupied. However, nothing about Israel's disengagement ended its occupation, or the isolation of Gaza. Israel continued to control Gaza by land, sea and air, and to enforce a near complete separation of Gaza from the West Bank and from the rest of the world. Under international law, the measure of whether a territory is occupied is not boots on the ground, but rather the measure of 'effective control' that a foreign power has over a territory. In addition to control over Gaza's borders, covering approximately one-third of Gaza's agricultural land, and shoots at Palestinians who enter this area ... As such, Israel maintains control over Gaza and consequently still occupies Gaza."

Israeli peace activist Tali Shapiro describes how her religion and background makes her superior to Palestinians: "Within this system, I am partitioned at the top of a ruling class by virtue of my mother's religion, my grandmother's geographical origins and the color of my skin. Within this system, if you don't possess these random endowments, you are not only of the lower class but, in some cases, you are virtually non-existent. I'd like to point out that such 'non-existence' isn't a merely a metaphorical erasure. It's literal ... Israeli colonial culture, via the government and business, not only erases Palestinian existence but also thwarts any attempts to counter this erasure."

She points to the fact that, "Israel's one and only water company/authority controls and distributes water resources in the Occupied West Bank, beyond the armistice lines viewed as Israel's borders prior to 1967. Not only does the occupying power keep its hand on the faucet; it systematically abuses this power by favoring its (Israeli Jewish) civilians (illegally transferred into occupied territory) over the indigenous population under occupation ('protected persons'

under international law). Israel rations water in favor of its settlers, and at times leaves the occupied community completely dry, especially during the hot summer months. In addition, the Israeli water company/authority also dabbles in water technologies in collaborative projects with various corporations. For example, it desalinated water, which it eventually exports for profit.”

Former Ambassadors to South Africa Speak Out

Of particular interest is the essay, “Israel and Apartheid,” by the respected Canadian attorney Edward C. Corrigan. He points out that Alon Liel, a former Israeli ambassador to South Africa and a former director general of the Israeli Foreign Ministry, has spoken out on the continued Israeli occupation of the West Bank and has called for a boycott of goods produced in the Jewish settlements of the West Bank. He makes an analogy to apartheid in South Africa: “Many of us tend to believe that the conflict can be managed forever and Israel no longer has a ‘Palestinian problem.’ However, this is pure deception. The continuing settlement expansion threatens to make a two-state solution to the conflict impossible. Israel is sliding into a situation where, short of apartheid, or expulsion of the Palestinians, a one-state solution with equal rights for all could become the only possible way out of the conflict. This is the South African model.”

Another Israeli ambassador to South Africa, Ilan Baruch, voiced a similar criticism of Israeli policies toward the Palestinians in 2011. In what was described as a “Foreign Ministry earthquake,” the veteran Israeli diplomat says he resigned “because he had a hard time defending the policies of Israel’s current government.” Baruch sent a personal letter to all Foreign Ministry employees to explain his motives for his action: “Identifying the objection expressed by global public opinion to the occupation policy as anti-Semitic is simplistic, provincial and artificial. Experience shows that this global trend won’t change until we normalize our relations with the Palestinians.”

“Apartheid,” Corrigan points out, is not simply a pejorative term of insult but has a specific legal meaning, as defined by the International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted by the U.N. General Assembly in 1973 — and ratified by most U.N. members — but not the U.S. and Israel. According to Article II, the term applies to “acts committed 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.”

Charges of Anti-Semitism

Corrigan declares: “The question remains: Is the comparison to apartheid valid in reviewing Israel’s policies toward the Palestinians? Is it anti-Semitic to defend Palestinian human rights? ... Charges of anti-Semitism must

be seen as spurious and as attempts to obscure and deflect discussion from the real issues when the facts reveal that Palestinians are discriminated against and subjected to cruel and unusual punishment in defense of their human rights ... The Netanyahu government's 'Jewish nation-state' bill is moving Israel even closer to being an apartheid state that discriminates on the basis of race and religion ... Israel's mistreatment and violations of Palestinians and Palestinian rights are best described in the words of Moshe Goral, the legal analyst for Haaretz: 'Chief Supreme Court Justice Aharon Barak used the phrase 'long-term occupation' to justify the Israeli government's permanent, massive investments in the territories. To describe a situation where two populations, in this case, one Jewish and the other Arab, share the same territory but are governed by two different legal systems, the international community customarily uses the term apartheid.'"

There is only one important legal case that relates to the Palestinian issue at the International Court of Justice (ICJ): the advisory opinion on the "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," which was rendered on July 9, 2004. The ICJ court majority decision was 14-1. The ICJ found that Israel was an occupying power and that the Fourth Geneva Convention as well as other international conventions and international customary law applied to the Israeli occupation of the Palestinian territory. Here are some key excerpts from the Summary of the ICJ Advisory Opinion:

"The Court concludes that all these territories (including East Jerusalem) remain occupied territories and that Israel has continued to have the status of occupying power.

"As to the principle of self-determination of peoples the Court points out that it has been enshrined in the U.N. Charter and reaffirmed by the General Assembly in Resolution 2625 (XXV) cited above, pursuant to which 'Every state has the duty to refrain from any forcible action which deprives people's referred to (in that resolution) ... of their right to self-determination.'"

ICC and Israeli Settlements

George Bisharat, a professor at the University of California's Hastings College of Law, commented on the ICC's findings concerning one of the major Israeli violations of international law, namely the settlements in the West Bank and East Jerusalem: "No doubt, Israel is most worried about the possibility of criminal prosecutions for its settlements policy. Israeli bluster notwithstanding, there is no doubt that Jewish settlements in the West Bank, including East Jerusalem, are illegal. Israeli officials have known this since 1967, when Theodore Meron, then legal counsel to the Israeli Foreign Ministry and later president of the International Criminal Tribunal for the former Yugoslavia, wrote to one of Prime Minister Levi Eshkol's aides: 'My conclusion is that civilian settlement in the administered territories contravenes the explicit provisions of the Fourth Geneva Convention.'"

The U.N. Human Rights Council report also affirms that Israel is in violation of Article 49 of the Fourth Geneva Convention, which forbids the transfer of a population into territory that is occupied. The U.N. fact-finding mission's report on the settlements, concludes that, "Israeli settlements are constructed for the benefit of Jews only through a system of ethnic segregation and military law, and are in violation of the Fourth Geneva Convention, which forbids the transfer of civilian population into occupied territory by the occupying force." According to the U.N. report, Israel must cease all settlement activity without preconditions and must immediately initiate a process of withdrawal of all settlers.

The Israeli settlements, Corrigan declares, are not only illegal under international law but are, according to the Israeli Committee Against Home Demolition (ICAHN) "an obstacle to the enjoyment of human rights by the whole population, without distinction as to national or ethnic origin. Actions that change the demographic composition of the Occupied Palestinian Territory are violations of human rights and international humanitarian law." Amnon Rubenstein, Israeli legal scholar and former parliament member, reached a similar conclusion: "In its policy of establishing settlements in the territories, irrespective of the policy's political wisdom or absence thereof, Israel has clearly violated international law. It has violated the prohibitions concerning an occupying power's transferring nationals to the territory it occupies and concerning the expropriation of land for purposes unrelated to the local population's well-being."

Demolition of Palestinian Homes

Since 1967, Corrigan points out, Israeli authorities have demolished more than 2,000 houses in East Jerusalem alone. In 2012, a total of 581 homes were demolished, displacing 1,049 men, women and children. He notes that, "These policies render the lives of Palestinians more and more miserable, pressuring the Arab population into a 'voluntary' exodus from the area; one wonders if this is, in fact, the unspoken goal of the Israeli government. As Uri Avnery, a member of Gush Shalom and a former Knesset member, writes, 'These methods have served 'the redeemers of the soil' (in Zionist terminology) for the last 120 years. The tempo can be increased rapidly. the more hellish the lives of Palestinians become — for security reasons, of course — the more the Israeli leadership hopes that the Arabs will go away voluntarily.' Indeed, there is much evidence to support the notion that the intention of the current political Zionist Jewish leadership of Israel is to drive out the Palestinians."

If so-called voluntary removal does not work, Corrigan argues, "... force becomes the alternative. This intention has been clear in Israeli officials' policies and statements. In 1989, at the time of Tiananmen Square protests in the People's Republic of China, Israeli Prime Minister Benjamin Netanyahu said that, 'Israel should have taken advantage of the suppression of the demonstrations in China, when the world's attention was focused on what was happening in that country, to carry out mass expulsions among the Arabs of the Territories.' He added,

'However, to my regret, they did not support that policy that I proposed, and which I still propose should be implemented.' Netanyahu denied making these remarks but the Jerusalem Post provided a recording of his speech."

At the present time, as a result of the December U.N. Security Council resolution, and the fact that the administration of President Donald Trump has expressed opposition to it, there has been increasing attention paid to Israel's settlements. The growing debate may be helpful. Writing in *The Washington Post* (Jan. 1, 2017), Brent Scowcroft, who served as national security adviser to Presidents Ford and George H.W. Bush, and Thomas Pickering, a former undersecretary of state and ambassador to the United Nations and Israel, write that, "Over decades in and out of government, we have shared with great conviction the United States' commitment to Israel and its security. We have also followed with increasing concern the inability to secure the kind of peace that Israelis and Palestinians alike so deserve and that would best advance U.S. goals in the region and beyond. No side is blameless ... but the relentless confiscation of Palestinian land and expansion of Israel's presence in the territories occupied since 1967 have created facts on the ground that are the proximate cause of fear that a two-state deal might soon be impossible to attain."

Peace Predicated on Israeli Withdrawal

Scowcroft and Pickering make it clear that, "Support for Israeli-Palestinian peace predicated on an Israeli withdrawal to a border based on the 1967 lines and opposition to Israeli civilian settlements in occupied territories have been long-standing bipartisan principles of U.S. policy. The Carter administration's determination of the illegality of settlements under international law has never been reversed by succeeding Republican or Democratic presidents ... We believe that a rejection of peace and the promotion of settlements are also bad for Israel. If we lose the two-state option, then we may well lose the ability to base the U.S.-Israel relationship on shared values. The permanent disenfranchisement of millions of people on an ethnic-national basis — keeping the Palestinians 'separate and unequal,' in Kerry's words — does not conform with American values. This is not something to be taken lightly ... We would hope that when it comes to weighing the alternatives, our new leaders will come to see the wisdom in advancing the only viable option for peace: a sovereign and contiguous Palestine alongside a secure and democratic Israel ..."

Explaining the U.N. action and the U.S. decision not to veto the resolution criticizing Israeli settlements, *New York Times* (Dec. 28, 2016) columnist Thomas Friedman made the point that, "Friends don't let friends drive drunk, and right now Obama and Kerry rightly believe that Israel is driving drunk toward annexing the West Bank and becoming either a bi-national Arab-Jewish state or some Middle Eastern version of 1960s South Africa, where Israel has systematically deprived large elements of its population of democratic rights to preserve the state's Jewish character. Israel is clearly on a path to absorbing the West Bank's 2.8 million Palestinians. There

are already 1.7 million Arabs living in Israel, so putting these two Arab populations together would constitute a significant minority with a higher birth rate than that of Israeli Jews — who number 6.3 million — posing a demographic and democratic challenge ... Bibi (Israeli Prime Minister Benjamin Netanyahu) just calls Obama an enemy of Israel ... U.S. Jewish 'leaders' then parrot whatever Bibi says. Sad."

It has been clear for some time that establishment Jewish organizations, which support whatever policies the government in Israel embraces, do not represent the views of most American Jews. Samuel Heilman, a sociology professor at Queens College specializing in Jewish life, notes that, "These days the right wing has a louder voice in Israel, and, in some ways, it also has a louder voice in America, because the people who are most actively and publicly Jewish, sectarian Jewish, share the right-wing point of view, and are very pro-settlement. But it's not the mainstream point of view."

Jewish Support for Kerry Speech

Rabbi John L. Rosove of Temple Israel in Hollywood, California, chairman of the Association of Reform Zionists of America, applauded Secretary Kerry's speech and suggested that many American Jews supported the Obama administration's vote in the U.N.: "I felt Kerry was exactly right. The people who will criticize him and will take a leap and say he's anti-Israel, just as some American Jews are saying Obama is an anti-Semite. This is ridiculous. They recognize and cherish the state of Israel."

Rabbi Jill Jacobs, the executive director of T'ruah, a rabbinical human rights organization, says. "There's a very clear values clash going on. On the one hand, we have a small but vocal minority of American Jews who believe that supporting Israel means supporting the right-wing agenda, the current government. And on the other, there is a larger percentage of American Jews who are committed to Israel and committed to democracy and want to see it as a safe place that reflects our values." Steven M. Cohen, a research professor at Hebrew Union College and a consultant to the recent Pew study of American Jews, believes that Secretary Kerry's speech represents the thinking of most American Jews: "On survey after survey, American Jews are opposed to Jewish settlement expansion. They tend to favor a two-state solution and their political identities are liberal or moderate."

After Vice President Joe Biden visited Israel in 2010 only to be confronted by Prime Minister Netanyahu's approval of 1,600 new housing units in East Jerusalem, Gen. David Petraeus warned, "Arab anger on the Palestinian question limits the strength and depth of U.S. partnership with governments and people in the region." The subject of Israel's settlements is likely to divide the incoming Trump administration. Its ambassador to Israel, David Friedman, is not only an advocate of the settlements but rejects the creation of a Palestinian state. The new Secretary of Defense, Gen. James Mattis, warned in 2013 that Israeli settlements were leading

to an “apartheid” state.

Reimagining the Palestinian Struggle

Those who seek to make sense of what is certain to be a continuing discussion of the Israeli-Palestinian conflict would do well to read the collection of essays in the book *Apartheid in Palestine* gathered together by Ghada Ageel. As Richard Falk writes in the Forward, “Ghada Ageel and her band of collaborators are telling us to reimagine the Palestinian national struggle, and even to relate to it in an effective and knowledgeable manner.”