



THE CAMPAIGN TO DELEGITIMIZE ISRAEL WITH THE FALSE CHARGE OF APARTHEID

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ISBN 978-965-218-073-5

Production Director: Edna Weinstock-Gabay

Graphic Design: Rami & Jacky Studio (www.ramijaki.co.il)

EXECUTIVE SUMMARY

- » If Israel's detractors can associate the Jewish movement for self-determination with the Apartheid South African regime, they will have done lasting and maybe irreparable damage. Yet the comparison of Israel to South Africa under white supremacist rule has been utterly rejected by those with intimate understanding of the old Apartheid system.
- » Israel is a multi-racial and multi-colored society, and the Arab minority actively participates in the political process. There are Arab parliamentarians, Arab judges including on the Supreme Court, Arab cabinet ministers, Arab heads of hospital departments, Arab university professors, Arab diplomats in the Foreign Service, and very senior Arab police and army officers. Incitement to racism in Israel is a criminal offence, as is discrimination on the basis of race or religion.
- » The accusation is made that the very fact that Israel is considered a *Jewish* state proves an "Apartheid-like" situation. Yet the accusers have not a word of criticism against the tens of liberal democratic states that have Christian crosses incorporated in their flags, nor against the Muslim states with the half crescent symbol of Islam. For a Western state, with Jewish and Muslim minorities, to have Christmas as a national holiday is permissible, but for Israel to celebrate Passover as a national holiday is somehow racist. For various Arab states to denote themselves as Arab Republics is not objectionable.
- » Zionism is perhaps the only national movement that has received explicit support and endorsement both from the League of Nations and from the United Nations. It was the League of Nations that approved the mandate for Palestine with its ringing endorsement of "the historical connection of the Jewish people with Palestine and to the grounds for reconstituting their national home in that country."
- » The real goal behind the Apartheid campaign is the denial of the legitimacy of the State of Israel and the determination that the only status the Jewish population in Israel can hope for is that of a "protected" ethnic minority in an Arab Palestinian state.

HOW TO RESPOND TO A LIE

It is always a dilemma for an individual or a nation as to how to react to the publication of a calumny. By definition, a calumny is a deliberately malicious misrepresentation of the facts about a particular matter in order to ruin the reputation of whomever is its target. To ignore the calumny may be interpreted as an admission or as a partial admission of the lie and it leaves the arena open for the lie to spread unhindered. To respond puts the responder in the invidious position of having to prove his innocence and to engage in a dialogue on the subject, a dialogue which by its very nature may serve to spread the calumny.

Attempts to smear Israel with the abhorrent phenomenon of racism and Apartheid have reached the level where I believe Israel must react notwithstanding the above dilemma. International law blogs on the subject are proliferating^{1,2} and one organization has published a 300-page treatise by prominent lawyers “proving” that Israel is applying Apartheid.³ If Israel’s detractors can somehow, by analogy, associate the Jewish movement for self-determination with the Apartheid South African regime, they will have done lasting and maybe irreparable damage. Analogy to something odious is a very effective tool. It diverts attention from the reality of the subject, in this case Jewish self-determination and Israel, to a regime that is universally detested.

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The comparison of Israel to South Africa under white supremacist rule has been utterly rejected by those with intimate understanding of the old Apartheid system. Benjamin Pogrand, a former deputy editor of the *Rand Daily Mail* in Johannesburg, and an anti-Apartheid activist, responded to a 2006 report in *The Guardian* charging Israel with practicing Apartheid. He remarked that after he went through surgery in an Israeli hospital in Jerusalem, he noted that the doctors, nurses, and patients around him were both Arabs and Jews. He concluded: “What I saw in the Hadassah Mt Scopus hospital was inconceivable in the South Africa where I spent most of my life, growing up and then working as a journalist who specialized in Apartheid.”⁴

In contemporary South Africa itself, the false equation between Israel and the former Apartheid regime appears to have become popularized largely after the 2001 UN Durban Conference with the infamous anti-Israel declaration made by the NGOs that attended.⁵ Indeed, at the time, South Africa’s Deputy Foreign Minister Aziz Pahad issued a statement after the “disgraceful events” at the NGO meeting criticizing the way it had been “hijacked and used by some with an anti-Israel agenda to turn it into an anti-Semitic event.”⁶ Nonetheless, the Apartheid accusation against Israel has persisted and even gained a broader international following.

HISTORY OF THE APARTHEID CAMPAIGN AGAINST ISRAEL

The genesis of the campaign to try and equate Zionism, the Jewish national movement, with racism and consequently Apartheid came from the coalition between the Arab states and the Soviet Union with their allies in the non-aligned movement in the 1970s. They used their automatic majority in the UN General Assembly to pass the 1975 resolution which defined Zionism as a form of racism.⁷ This resolution was widely condemned by Christian leaders as anti-Semitic. Cardinal Terence Cooke of New York declared: “We must reject anti-Semitism just as much when clothed with seeming legality at the United Nations as when crudely exhibited on a neighborhood street corner.” The U.S. National Catholic Conference for Interracial Justice declared that “This resolution is anti-Semitism at its worst.” The presiding bishop of the U.S. Episcopal Church, John M. Allin, decried the UN action as “an inexcusable offense against those legitimate aspirations of the Jewish people for a homeland which the UN itself certified back in 1947.”⁸ The resolution was subsequently rescinded by the General Assembly in 1991,⁹ apparently the first time that the UN General Assembly has taken such a step, but nevertheless the poisonous calumny had been planted.

The UN’s World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in September 2001, gave the Israel Apartheid calumny new force in international circles. The Declaration of the NGOs at the Durban meeting openly stated: “We declare Israel as a *racist, Apartheid* state in which Israel’s brand of *Apartheid* as a crime against humanity has been characterized by separation and *segregation, dispossession, restricted land access, denationalization, ‘bantustanization’ and inhumane acts*” (emphasis in original text). The Durban NGO declaration set off a global campaign against Israel that included an “Israel Apartheid Week” initiative across Canadian college campuses and at some U.S. universities as well.

Then in 2006, former President Jimmy Carter published his bestselling book, *Palestine: Peace Not Apartheid*.¹⁰ Although he wrote at the end of his book that the situation in Israel “is unlike that in South Africa,” in subsequent public appearances he stressed the comparison between Israel and Apartheid South Africa.¹¹ Carter chose to use the term “Apartheid” in his title to create controversy. His book gave the defamation of Israel as an Apartheid state new traction. Indeed, in reviewing the book for the *New York Review of Books*, Joseph Lelyveld, the former executive editor of the *New York Times*, asserted that Carter could have taken the calumny much further and should have done so.¹²

WHAT APARTHEID REALLY MEANS

Apartheid has been defined as a “social and political policy of racial segregation and discrimination enforced by white minority governments in South Africa from 1948 to 1994.”¹³ A dictionary definition is “racial segregation; *specifically*: a former policy of segregation and political and economic discrimination against non-European groups in the Republic of South Africa.”¹⁴ It was a situation where the black majority of the population was segregated, discriminated against, and denied the right to vote in the general elections and participate in the government.¹⁵

Among the prominent features of South African Apartheid policies were:

- » Prohibition of marriages between white people and people of other races.¹⁶
- » Prohibition of extra-marital sex relations between white and black people.¹⁷
- » Forced physical separation between races by creating different residential areas for different races.¹⁸
- » Prohibiting a black person from performing any skilled work in urban areas except in those sections designated for black occupation.¹⁹
- » Prohibiting colored persons from voting in general elections.²⁰
- » Requiring all black persons to carry a special pass, at all times. No black person could leave a rural area for an urban one without a permit from the local authorities.²¹
- » Prohibiting strike action by blacks.²²
- » Establishing a Black Education Department. Verwoerd (then Minister of Native Affairs, later Prime Minister) stated that its aim was to prevent Africans from receiving an education that would lead them to aspire to positions they wouldn't be allowed to hold in society.²³ Black students were banned from attending major white universities.²⁴
- » The so-called “petty segregation” in all public amenities, such as restaurants, swimming pools, and public transport. “Europeans Only” and “Non-Europeans Only” signs were put up to enforce this legislation.²⁵

THE NATURE OF ISRAELI SOCIETY

Israel suffers from all the internal strains and tensions that every immigrant society endures. The continuous security threats facing Israel add to the tension. The presence of the Arab minority, some of whom have strong family and cultural bonds to their kinsmen in hostile Arab states, is another unsettling factor. However, no objective observer could claim that there is Apartheid in Israel.

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Israel is one of the more open societies in the world.²⁶ Jews comprise some 80 percent of the population, but it is a multi-racial and multi-colored society. Israel has universal suffrage with free elections and an independent and effective judiciary. The Arab minority actively participates in the political process. There are Arab parliamentarians, including Arabs as Deputy Speakers of the Knesset. There are Arab judges including on the Supreme Court, Arab cabinet ministers, Arab heads of hospital departments, Arab university professors, Arab diplomats in the Foreign Service, and very senior Arab police and army officers.²⁷

Incitement to racism in Israel is a criminal offence.²⁸ A number of Israeli towns have mixed Arab-Jewish populations. In the past, when a private cooperative village instituted a membership selection process that was seen to discriminate against Arabs, it was declared by Israel's Supreme Court to be discrimination and hence illegal.²⁹ It is a crime under Israeli law for any public body to discriminate on the basis of race or religion. The Israel Supreme Court has ruled that "the rule prohibiting discrimination between persons on grounds of race, sex, national group, community, country of origin, religion, beliefs or social standing is a basic constitutional principle, intertwined and interwoven into our basic legal concepts and forming an integral part of it."³⁰

The law prohibiting discrimination in public places³¹ has been interpreted broadly by the courts as applying to even private places, including schools, libraries, pools, and stores serving the public. A law from the year 2000 bans any form of discrimination concerning the registration of students by governmental and local authorities or any educational institution. It is not surprising that after examining the false analogy between Israel and Apartheid South Africa, Rhoda Kadalie, a South African anti-Apartheid activist, concludes in an analysis, co-authored with Julia Bertelsmann, that:

Israel is not an Apartheid state....Arab citizens of Israel can vote and serve in the Knesset; black South Africans could not vote until 1994....Whereas Apartheid was established through a series of oppressive laws that governed which park benches we could sit on, where we could go to school, which areas we were allowed to live in, and even whom we could marry, Israel was founded upon a liberal and inclusive Declaration of Independence....Israeli schools, universities and hospitals make no distinction between Jews and Arabs. An Arab citizen who brings a case before an Israeli court will have that case decided on the basis of merit, not ethnicity. That was never the case for blacks under Apartheid.³²

Thus, it is difficult to visualize a society less akin to South Africa under Apartheid.

THE ACCUSATION THAT SINCE ISRAEL IS A JEWISH STATE, THIS MEANS APARTHEID

Since accusations of actual Apartheid in modern Israel lack credence, the accusation is made that the very fact that Israel is considered a *Jewish* state proves an “Apartheid-like” situation.³³ One website writes that “Apartheid began and is rooted in the very establishment of the colonial Jewish state, both in law (de jure) and in the implementation of its goals on various levels (de facto)”³⁴ and that “the establishment of a ‘Jewish People’ is a construct and tool of the Zionist project to legitimize it and to define the very real target of its racism.”³⁵ One “learned” study concludes: “The system Israeli Zionism resembles is that operative in the Union, later Republic of South Africa between 1948 and (at the latest) 1994.”³⁶

Israel’s accusers have not a word of criticism against liberal democratic states that have Christian crosses incorporated in their flags, nor against the Muslim states with the half crescent symbol of Islam or Arab states that denote themselves as Arab Republics.

The crux of the accusation against Israel is encapsulated in the often-repeated charge that the racism of Israel “is symbolized most clearly in Israel’s Jewish flag, anthem and state holidays.”³⁷ The accusers have not a word of criticism against the tens of liberal democratic states that have Christian crosses incorporated in their flags, nor against the Muslim states with the half crescent symbol of Islam. For a Western state, with Jewish and Muslim minorities, to have Christmas as a national holiday is permissible, but for Israel to celebrate Passover as a national holiday is somehow racist. For various Arab

states to denote themselves as Arab Republics is not objectionable, but a Jewish state is racism and Apartheid. As one of the most active websites promoting the calumny puts it: “The Zionist project is a European construct, born out of European nationalism expressed in nation-statehood during the era of colonialism. The Palestinian struggle for liberation is in essence an anti-colonial struggle. Inherent within *any* colonial project is a racist, Euro-centric worldview.”³⁸ In other words, the Palestinian national movement is legitimate, but the Jewish national movement is Apartheid.³⁹ One website equating Zionism with Apartheid explains the analogy on the grounds that Israeli law requires that “Palestinians’ political participation inside Israel is expressly conditional upon the acceptance of the Jewish exclusivity of the state.”⁴⁰ The authors neglect to quote the full text of the law which in fact makes no reference to “exclusivity,” but denies a political list the right to participate in elections if it calls for:

- » Negation of the existence of the State of Israel as a Jewish and democratic state;
- » Incitement to racism;
- » Support for armed struggle by a hostile state or a terrorist organization against the State of Israel.⁴¹

A law outlawing racism is not Apartheid.

Another website accuses Israel of Apartheid since: “military veteran benefits are awarded mostly only to Jews.”⁴² The website fails to mention that Arabs are not subject to compulsory military service and hence can study or work during the three-year period when other 18-year-olds are doing their compulsory service. The website also fails to mention that those Arabs who do join the Army receive the identical military veteran benefits.⁴³ It would appear that any country that grants military veteran benefits, such as the U.S. GI Bill of Rights, is guilty of Apartheid in the eyes of such websites.

Despite massive propaganda over the years by Arab states and by hate-mongers from both the extreme Left and the extreme Right, the overwhelming majority of people living in democratic societies have shown support for the principle that the Jewish people were exercising a legitimate right to self-determination in creating Israel. It is against this massive show of solidarity with Israel that the specter of association with Apartheid has been raised. It is an attempt to delegitimize the Jewish national movement. It is perhaps all the more pernicious in that it is not raised as an argument against any specific issue of Israel’s foreign policy but against the very legitimacy of a Jewish national movement.

INTERNATIONAL LEGAL ENDORSEMENT OF THE JEWISH NATIONAL MOVEMENT

Zionism is perhaps the only national movement that has received explicit support and endorsement both from the League of Nations and from the United Nations. The Mandate for Palestine gave recognition “to the historical connection of the Jewish people with Palestine and to the grounds for reconstituting their national home in that country.”

Needless to say, none of the accusations against Zionism as being a form of Apartheid point out that it is perhaps the only national movement that has received explicit support and endorsement both from the League of Nations and from the United Nations. It was the League of Nations that approved the Mandate for Palestine with its ringing endorsement in the Preamble that: “Whereas recognition has thereby been given to the historical connection of the Jewish people with Palestine and to the grounds for reconstituting their national home in that country.”⁴⁴ The Mandate interestingly also called on the Mandatory Power to “facilitate Jewish immigration under suitable conditions and shall encourage, in co-operation with the Jewish agency..., close settlement by Jews on the land, including state lands and wastelands not required for public purposes.”⁴⁵ It was the United Nations that in 1947 called for the establishment of “Independent Arab and Jewish States.”⁴⁶ Here again, presumably, the call for an independent Arab state is legitimate, but the call for an independent Jewish state is somehow racism. It was the United Nations that in 1949 by a two-thirds majority declared that the Jewish state was a “peace-loving state” and accepted Israel as a full member of the UN.⁴⁷

THE PEACE PROCESS AS A FORM OF APARTHEID?

Another track to try and associate Israel with the South African Apartheid regime is to claim that the Middle East Peace Process is somehow a manifestation of Apartheid.⁴⁸ Chomsky writes of the “administration put into the hands of a corrupt and brutal Palestinian authority, playing the role of indigenous collaborators under imperial rule such as the Black leadership of South Africa’s Bantustans.”⁴⁹ Professor Francis Boyle described the Oslo process as “akin to the Bantustans that the Apartheid Afrikaner regime had established for the Black People in the Republic of South Africa.”⁵⁰ One writer states that “in the name of security: Israel sets up Apartheid zones.”⁵¹ Learned NGOs have held workshops on the subject.⁵²

The Peace Process has had its detractors, but it is surely strange to ignore that the process has given hope for a lasting peace settlement. It gained its protagonists three Nobel Peace Prizes and the support, in democratic elections, of the majority of the population of Israel and of the Palestinians in the West Bank. The Israel-Palestinian Oslo Declaration of Principles, as part of the Madrid peace process,⁵³ was signed as an act of support by the United States and by the Russian Federation. The Interim 1995 Israeli-Palestinian Agreement, also part of the Madrid process,⁵⁴ was signed as an act of support by representatives of the United States, the Russian Federation, Egypt, Jordan, the European Union, and Norway. The Middle East “Roadmap,”⁵⁵ incorporating the Madrid principles, has been repeatedly endorsed by the UN Security Council.⁵⁶ The United Nations General Assembly has endorsed these Israeli-Palestinian agreements;⁵⁷ they have even been mentioned with approval by the International Court of Justice.⁵⁸ This is hardly “Bantustans,” puppet regimes that were not supported by a single state other than South Africa which unilaterally created them. The virulent criticism would seem to derive from those who are not interested in any peaceful resolution.

THE “WALL” AS APARTHEID

The most popular use of the word “Apartheid” in relation to Israel appears to be in connection with Israel’s security fence. The Israeli Army has explained the need for the fence: “Between Israel and the areas of the Palestinian Authority there is no border or natural obstacles, which, to date, enables the almost unhindered entry of terrorists into Israel. The security fence that exists along the Gaza Strip has proven its defensive robustness and the vast majority of infiltration attempts through it were discovered and thwarted.”⁵⁹

Those criticizing the construction tend to use the word “wall” and call it a separation wall though in fact “only a tiny fraction of the total length of the barrier (less than 3 percent or about 10 miles) is actually a thirty-foot-high concrete wall.”⁶⁰ Any border fence in fact serves to separate areas and one may hope for a world with no borders. However, as long as Israel has to face terrorist acts, it is legitimate for it, as it is for other states, to erect a barrier to prevent terrorist attacks and illegal crossings.⁶¹ Those calling the fence the “Apartheid wall” make frequent reference to the advisory opinion of the International Court of Justice on the issue.⁶² They fail to point out that in its opinion on the wall the International Court of Justice at no time made any analogy or reference to Apartheid or referred to an “Apartheid wall.” Furthermore, although the International Court criticized the route of the “wall” as being beyond the 1949 “Green” Armistice Line,⁶³ the court was careful not to deny Israel’s right in principle to build such a security fence.

The International Court of Justice at no time made any analogy or reference to an “Apartheid wall” and was careful not to deny Israel’s right to build a security fence.

THE “OCCUPIED TERRITORIES” AND SETTLEMENTS AS APARTHEID?

Some exponents of the “Israel Apartheid” thesis, aware that they have a problem with branding Israeli society as an Apartheid society, limit themselves to claiming that the Israeli administration and Israeli settlements in the West Bank are a manifestation of Apartheid.⁶⁴

Exponents of the Israel-Apartheid campaign claim that eastern Jerusalem is subject to an Apartheid regime and argue that “Since the illegal annexation by Israel in 1967, all successive Israeli governments have made great efforts to reduce significantly the number of Palestinians residing in eastern Jerusalem, to assure Israeli sovereignty, [and] a Jewish majority.”⁶⁵ This is a very strange accusation. The Arab population of Jerusalem was 68,000 in 1967, comprising 25 percent of the total population. In 2007 the Arab population of Jerusalem was 260,000, comprising 35 percent of the total population of the city.⁶⁶

The existence of some roads in the West Bank where, for security reasons, Israeli and Palestinian traffic is separated is also presented as proof of Apartheid.⁶⁷ This claim completely ignores the very real security threat to Israeli road traffic and incidentally also ignores the fact that “Israeli traffic” includes the vehicles of the more than one million Arabs who are Israeli citizens, and who also have been subject to terrorist attacks.

A major theme of the “Israel applies Apartheid to the territories” campaign is that Israeli law, with all its built-in safeguards of individual rights, applies to Israeli settlers but not to the local Palestinian population who are subject to Israeli military administration. Such criticism ignores two major facts. The first is that since 1993, as part of the peace process, it is the Palestinian Authority that has jurisdiction over the overwhelming majority of Palestinians in the West Bank. Hamas, which splintered off from the Palestinian Authority, has jurisdiction over the whole population of the Gaza Strip. The vast majority of Palestinians in the West Bank and Gaza are hence subject neither to the Israeli military administration nor to regular Israeli law. Their laws, courts, police, prisons, taxes, etc., are Palestinian and Israel has no jurisdiction over them.

As for the claim of Apartheid in the territories, as a result of the Oslo Accords it is the Palestinian Authority that has jurisdiction over the overwhelming majority of Palestinians in the West Bank, while Hamas has jurisdiction over the whole population of Gaza.

The other issue the criticism ignores is that any attempt to apply internal Israeli law to the few local Palestinians who are still under temporary Israeli military administration

would be met by vehement world opposition. According to international law, temporary military administration is the norm to be applied to territories that are not under the sovereignty of a state. Israel is damned if it does and damned if it doesn't. What Israel has done is to allow all Palestinians within its jurisdiction access to the Israel Supreme Court to petition against the Israeli army and government. This is apparently the only time a state has allowed such access to persons under its military administration.

The issue of settlements in the West Bank is a matter of debate in the international community as well as within Israel society. What is clear, however, is that it will be resolved if Israel and the Palestinians can agree on a boundary. When that boundary is fixed, any Israeli settlement on the Palestinian side of the future boundary can only continue to exist with the agreement of the Palestinians. The issue is one of boundaries between Israel and a future Palestinian state. It is not an Apartheid system of a minority controlling a majority, but a border dispute that hopefully will be negotiated peacefully in the near future.

CONCLUSION

The Apartheid campaign against Israel has another revealing feature. It rarely deals with the massive abuse of human rights or cases of real Apartheid elsewhere in the world. In other words, it singles out Israel with a false accusation. For example, President Carter has spoken about Israeli Apartheid but is careful about how he describes the conflict in Darfur, where Sudan's Arab regime has been slaughtering black Muslims with the backing of many Arab states.⁶⁸ The campaign against Israel is not based on a concern with the universal application of human rights, but on something else. This treatment of Israel is nothing less than an effort to delegitimize the Jewish state, by attributing to it the most heinous crimes. Michael Ignatieff, the head of Canada's Liberal Party who served as a professor of human rights policy at Harvard University in previous years, made this very point in March 2009: "International law defines 'Apartheid' as a crime against humanity. Labeling Israel as an 'Apartheid' state is a deliberate attempt to undermine the legitimacy of the Jewish state itself."⁶⁹

Perhaps the most chilling indication of the real purpose behind the "Israel is Apartheid" campaign is revealed in one of the most active websites behind the campaign. They write that among the goals of "prosecution for the crime of Apartheid is to force Israel to –

- (4) Enable the true majority to return to power over their own lands, while protecting the rights of ethnic minorities."⁷⁰

In other words, the real goal behind the Apartheid campaign is the denial of the legitimacy of the State of Israel and the determination that the only status the Jewish population in Israel can hope for is that of a "protected" ethnic minority in an Arab Palestinian state.

Notes

- 1 For example, one international law website has an item titled: "The State of Israel has a formal system of discrimination set up which technically fits the official UN definition of Apartheid." <http://www.geocities.com/savepalestinenow/internationallaw/studyguides/sgil3k.htm>.
- 2 For example, <http://www.geocities.com/savepalestinenow/internationallaw/studyguides/sgil3k.htm>.
- 3 "Occupation, Colonialism, Apartheid? A Re-assessment of Israel's Practices in the Occupied Palestinian Territories under International Law," Democracy and Governance Programme of the Human Sciences Research Council of South Africa; http://www.hsrc.ac.za/Media_Release-378.phtml.
- 4 Benjamin Pogrud, "Why They Depict Israel as a Chamber of Horrors Like No Other in the World?" *The Guardian*, February 8, 2006.
- 5 Rhoda Kadalie and Julia Bertelsmann, "Franchising 'Apartheid': Why South Africans Push the Analogy," *Z-Word.com*, March, 2008.
- 6 Benjamin Pogrud, "Israel Is a Democracy in Which Arabs Vote," *Focus*, December 2005.
- 7 UN General Assembly Resolution 3379 (XXX) (1975).
- 8 All three quotes from Judith H. Banki, "The UN's Anti-Zionism Resolution: Christian Responses," http://www.ajcarchives.org/AJC_DATA/Files/740.pdf.
- 9 UN General Assembly Resolution 46/86 (1991). Adopted by a vote of 111 to 25.
- 10 Jimmy Carter, *Palestine, Peace Not Apartheid* (New York: Simon and Schuster, 2006).
- 11 Alan Dershowitz, *The Case Against Israel's Enemies: Exposing Jimmy Carter and Others Who Stand in the Way of Peace* (New York: John Wiley and Sons, 2008), p. 24.
- 12 Joseph Lelyveld, "Jimmy Carter and Apartheid," *New York Review of Books*, March 29, 2007.
- 13 <http://www.africanaencyclopedia.com/apartheid/apartheid.html>. The Statute of the International Criminal Court defines apartheid as one of the crimes against humanity, being "inhumane acts... committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime" (Article VII of the Statute of the ICC).
- 14 <http://www.merriam-webster.com/dictionary/apartheid>.
- 15 The 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid (1015 UNTS 243) extends the definition beyond the South African-type situation. The Treaty is regarded by many as obsolete and it has not been ratified by any Western European state or by any state member of NATO.
- 16 Prohibition of Mixed Marriages Act, Act No. 55 of 1949.
- 17 South African Immorality Amendment Act, Act No. 21 of 1950; amended in 1957 (Act 23).
- 18 South African Group Areas Act, Act No. 41 of 1950.
- 19 South African Bantu Building Workers Act, Act No. 27 of 1951.
- 20 South African Separate Representation of Voters Act, Act No. 46 of 1951 (as amended in 1956).
- 21 South African Natives (Abolition of Passes and Co-ordination of Documents) Act, Act No. 67 of 1952.
- 22 South African Native Labour (Settlement of Disputes) Act of 1953.
- 23 South African Bantu Education Act, Act No. 47 of 1953.
- 24 South African Extension of University Education Act, Act No. 45 of 1959.
- 25 South African Reservation of Separate Amenities Act, Act No. 49 of 1953.

- 26 The Freedom House report for 2009 places Israel as one of the 42 states in the world designated as “Free” out of a total of 193 states investigated. <http://www.freedomhouse.org/template.cfm?page=363&year=2009>.
- 27 Except for the Arab Druze population, Arabs do not have to do compulsory army service but can and do volunteer to serve in the army, notably the Bedouin Arabs.
- 28 Section 144A of the Penal Law, 1977, as amended in 1986 and 1992, provides for a penalty of up to five years’ imprisonment for a person who incites to racism.
- 29 *Kaadan v. Israel Lands Administration et al.* HCJ 6698/95.
- 30 *Burkan v. Minister of Finance* HCJ 114/79 P.D. 32 (2) 800, 806.
- 31 Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law, 5761-2000.
- 32 Kadale and Bertelsmann, *op. cit.*
- 33 “Israel Has Made Itself into a White Colonial Settler State, Mimicking South Africa before the End of Apartheid.” Lisa Rofel, Anthropology, UC Santa Cruz, <http://www.arabicnews.com/ansub/Daily/Day/060609/2006060907.html>.
- 34 “The Palestinian Grassroots Anti-Apartheid Wall Campaign,” <http://www.stopthewall.org/downloads/pdf/4PageFactSheetOctober9.pdf>.
- 35 *Ibid.*
- 36 Daryl J. Glaser, “Zionism and Apartheid: a Moral Comparison,” *Ethnic and Racial Studies*, vol. 26, no. 3, May 2003, pp. 403–421.
- 37 *Ibid.*
- 38 <http://www.stopthewall.org/downloads/pdf/4PageFactSheetOctober9.pdf>.
- 39 An interesting historical aside is that it was largely the Zionist movement that was the catalyst for the creation of Palestinian nationalism.
- 40 <http://electronicintifada.net/v2/article689.shtml>.
- 41 Basic Law: The Knesset (1958).
- 42 <http://www.geocities.com/savepalestinenow/internationallaw/studyguides/sgil3k.htm>.
- 43 See note 27 above.
- 44 Preamble, 1922 League of Nations Mandate for Palestine, LON Official Journal, August 1922, p. 1007.
- 45 Article 6, 1922 League of Nations Mandate for Palestine, LON Official Journal, August 1922, p. 1007.
- 46 Part B (I) (3) UN General Assembly Resolution 181(II) on the Future Government of Palestine, 29 November 1947 (GAOR, 2nd Session 1947, p. 131).
- 47 UNGA Resolution 273(III), 31 May 1949.
- 48 “Formalizing Apartheid Masked as a Peace Initiative,” <http://www.zmag.org/znet/viewArticle/14233>.
- 49 Noam Chomsky, *Mid-East Realities*, 28 October 2000, <http://www.hartford-hwp.com/archives/51a/index-j.html>.
- 50 Francis A. Boyle, “The al-Aqsa Intifada and International Law,” 17 December 2000, <http://www.hartford-hwp.com/archives/51a/091.html>.

- 51 Sara Flounders, "Occupied Palestine," *Workers World*, 6 June 2002, <http://www.hartford-hwp.com/archives/51a/089.html>.
- 52 Workshop entitled "Legal Analysis of the Applicability of the Apartheid Analogy to Israel and the Occupied Territories," organized by Avocats Sans Frontières, Al-Ram, December 15-16, 2005.
- 53 1993 Declaration of Principles on Interim Self-Government Arrangements, <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Declaration+of+Principles.htm>.
- 54 1995 Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip, <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Agreement+on+Gaza+Strip+and+Jericho+Area.htm>.
- 55 A Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict, <http://www.state.gov/r/pa/prs/ps/2003/20062.htm>.
- 56 For example, UN Security Council Resolution 1515, 19 November 2003; Resolution 1850 of 16 December 2008.
- 57 "Noting the agreements reached between the Government of Israel and the Palestine Liberation Organization in the context of the Middle East peace process" (ES-10114 adopted by the General Assembly of the United Nations on 8 December 2003).
- 58 "The Court is conscious that the 'Roadmap,' which was endorsed by the Security Council...constitutes the negotiating framework for the resolution of the Israeli-Palestinian conflict....A number of agreements have been signed since 1993 between Israel and the Palestine Liberation Organization imposing various obligations on each Party." ICJ Advisory Opinion, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," 9 July 2004.
- 59 <http://www.securityfence.mod.gov.il/Pages/ENG/purpose.htm>.
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- 63 See this author's critique of the court's ruling on the issue: R. Sabel, "The International Court of Justice Decision on the Separation Barrier and the Green Line," *Israel Law Review*, vol. 38, no. 1-2 (2005), p. 316.
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