

# Apartheid in Palestine

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The Palestinian territory is clearly occupied territory. There's no question about this as far as the international community is concerned in respect to the West Bank. Israel has argued that, since 2005, when it withdrew its settlers and its military force from Gaza itself, that it has ceased to be an occupied territory. But the International Committee of the Red Cross and, I think, the whole of the international community, with the possible exception of the United States, reject this argument. They take the view that Gaza is effectively occupied by Israel because Israel has control of its land borders, its sea space, its air space and it conducts military incursions fairly regularly into the territory.

I think the United States' position, announced by [former US Secretary of State] Condoleezza Rice, was that it was a quite hostile entity. One doesn't quite know what that means. But one hopes that the [US President Barack] Obama administration will make it clear that it regards Gaza and the West Bank as occupied territory. Military occupation is a regime that is tolerated by international law. It's not approved. In terms of the Fourth Geneva Convention, which regulates the conduct of the occupying power, the occupying power is obliged to care for the welfare of the occupied people and, in particular, to ensure that medical facilities and educational facilities are respected and fostered. But, of course, we all know that Israel just ignores this obligation because in Palestine the international donor community is largely responsible for the welfare of the Palestinian people. It's quite clear that international law does not contemplate a lengthy period of

occupation, a prolonged occupation in this case running to more than 40 years. The Israeli government tends to take the view that the longer the occupation, the less the obligations. But I think the generally accepted view is that the exact opposite applies. So, Israel is in occupation. But over the past 40 years, we've seen the addition of two other elements. That is colonialism and apartheid. And this tends to aggravate the status of the Palestinian territory.

I don't think there's any question about colonialism in the Palestinian territory, particularly in the West Bank since settlers withdrew from Gaza in 2005. We have nearly half a million Jewish settlers in the West Bank. This number is growing despite promises by successive Israeli governments that they will stop settlements. It's interesting that constructions are taking place in some 88 of the 149 settlements in the West Bank. The growth rate in the settlements is 4.5 per cent compared with 1.5 per cent in Israel itself.

It's important not only to look at settlements but also at territory in the West Bank that is set aside for military purposes and as nature reserves. Someone can say that roughly 38 percent of the West Bank is off limits to Palestinians. So, there is a form of colonialism in the West Bank, and colonialism is not tolerated by international law. It's clearly unlawful. Not only do settlements constitute a form of colonialism, they also violate the Geneva Convention. So, that's a clear illegality on the part of Israel.

The other element that has been introduced is that of apartheid. It's important to stress that apartheid is not only illegal in South Africa itself, but it's also been declared to be unlawful in international law. In 1973, there was a Convention on Apartheid adopted by the United Nations. Briefly, this Convention provides against the infliction on members of a racial group of serious bodily or mental harm, inhumane or degrading treatment, the deliberate creation of conditions preventing the full development of a racial group, and so on, by denying to such a group basic human rights and freedoms when such acts are 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. So, there is a general definition of apartheid. This definition has now been transferred to the Rome Statute of the International Criminal Court, and the crime of apartheid is seen as a species of crime against humanity. So, it's quite clear that apartheid is unlawful under international law.

Israel, of course, argues that its policies do not constitute apartheid. It claims that there's no racial discrimination in its practices or policies. It argues that the purpose of its occupation is simply to maintain law and

order pending a peace settlement. It's not to maintain domination of one group over another. I think it's important to stress that there are major differences between apartheid as it was applied in South Africa and the policies and practices in the Palestinian occupied territories. The systems are clearly not identical. But there are many similar features. I would just like to speak about what I regard as the three dominant features of apartheid in South Africa, and examine the extent to which they apply in the Palestinian territory.

First of all, there was what was known as 'grand apartheid'; that was territorial separation. Then, there was what was incorrectly described as 'petty apartheid', which was racial discrimination. And then, thirdly, there were the security laws. How does Israel feature in respect of 'grand apartheid'? Are there Bantustans in the West Bank? I think the answer to this question is 'yes'. We do see territorial fragmentation of the kind that the South African government promoted in terms of its Bantustan policy. We see, first of all, a very clear separation being made between the West Bank and Gaza. But within the West Bank itself, we see a separation to essentially three or more territories and some additional enclaves with a centre, north and south. And it's quite clear that the Israeli government would like to see the Palestinian Authority as a kind of Bantustan puppet regime. So, there are similarities of that kind.

Then one comes to so-called 'petty apartheid' – discrimination. There's abundant evidence of such discrimination. There are, of course, separate roads for settlers and for Palestinians. And let me hasten to add that in South Africa we never had separate roads for black and white. There's the discrimination in the Seam Zone. That is the area between the Green Line and the Wall. Israeli nationals are free to enter the Seam Zone, but Palestinians require permits and they are seldom granted permits. Then, there's the whole question of building rights. As you know, under Israeli law, houses may not be built by Palestinians in East Jerusalem or in Area C of the West Bank – and that constitutes most of the West Bank – without permits. Permits are not granted in most cases, an overwhelming majority of cases, with the result that there's tremendous demolition of houses for so-called administrative reasons. We see that happening at present in Jerusalem. So, there is a housing demolition practice policy, which is also similar to that which occurred in South Africa.

Fourthly, there is freedom of movement. In South Africa, we had a pass law system which required all blacks to carry documents and to justify their existence wherever they happened to be. They were prevented from entering urban areas without special permission. Serious restrictions were

placed on freedom of movement. But I think it's true to say that even more serious restrictions are imposed upon Palestinians. We have over 600 checkpoints within the West Bank itself. It's rather strange that Israel argues that it has built a so-called security barrier to keep suicide bombers out of Israel, but then, in addition, it erects these checkpoints. I tend to take the view that the sole purpose of the checkpoints is to discriminate and to humiliate.

Fifthly, there's the subject of family reunification. Again, this is a blatantly discriminatory practice. As you know, Palestinians living in Israel are not allowed to bring their spouses to Israel if they are from the Occupied Palestinian Territory, and Palestinians in the Occupied Palestinian Territory are not allowed to bring in foreign spouses either. So, we do have a discriminatory system.

Another feature of apartheid was its security apparatus. In order to maintain white control, the South African authorities introduced draconian security laws, which resulted in the detention and prosecution of a large number of political activists. But, of course, the same thing happens in Israel. We now have some 11,000 Palestinian prisoners in Israeli jails. There are very serious allegations of torture of detainees and prisoners. So what is the major difference?

The major difference I see between South Africa's apartheid system and what prevails in the Occupied Palestinian Territory is that the South African apartheid regime was more honest. We had a rigid legal system which prescribed in great detail how discrimination was to occur and how it was to be implemented. There was an obsession with detail and legality in much the same way that Nazi Germany discriminated. It was open but, at the same time, it was honest. In the case of Israel, it is concealed. There's a lovely story told by Shulamit Aloni, a former Minister of Education in Israel, of an occasion in which she confronted a member of the Israeli Defence Force who was arresting a Palestinian for driving on a settler road and confiscating his identification card. She said to him, 'But how is he to know that this is a road for the exclusive use of settlers? There is no notice to that effect.' And the soldier said, 'Of course Palestinians know or they should know.' He said, 'What do you want us to do? Do you want us to put up signs saying Palestinians only, settlers only, and then everyone will say that we are an apartheid state like South Africa?' There is this concealment of discrimination.

So, there are differences. I suppose you're going to ask me the question, which regime was worse? I find it difficult to answer this question as a white South African because, although I lived in South Africa throughout

the apartheid period, I was obviously not subject to the discriminatory laws that were levelled and aimed at blacks. But what is interesting is that every black South African to whom I've spoken who has visited the Palestinian territory has been horrified, and has said without hesitation that the system that applies in Palestine is worse. There are a number of reasons for this. I think, first of all, one can say there are features of the Israeli regime in the Occupied Territory that were unknown to South Africans. We never had a wall separating black and white. I know it's called the apartheid wall, but that's really a misnomer because there was no wall of that kind in South Africa. As I've said, there were no separate roads. These are novel features of Israel's apartheid regime.

The enforcement of the regime is much stricter. We have repeated military incursions into the West Bank, let alone Gaza. Gaza tends to attract most of the attention, but there are regular raids carried out by the Israeli Defence Force into the West Bank, arrests are made, and Palestinians are shot and killed. What is interesting is that in South Africa political activists were tried by the regular criminal courts of the land in open proceedings. Whereas in Israel, Palestinians are tried by military courts, which have emergency rules and regulations inherited from the British, but they are not proper courts.

I think perhaps the most important distinguishing feature is that there are no positive features about Israel's apartheid. The South African apartheid regime did attempt to pacify the black majority by providing it with material benefits. Schools were built; universities were built; hospitals and clinics were built by the apartheid regime. Special factories were built in the black areas in order to encourage workers to work in the African areas. So, there was a very positive side, although it was a materialistic side, to the apartheid order. Whereas in the case of Israel's apartheid, Israel makes virtually no contribution to the welfare of the Palestinian people. It leaves it all to the donor community.

Of course, this also raises the question, which is debated vigorously in Palestine, about whether it is wise for the donor community to bail out Israel. Whether it would not be wiser just to withdraw and let the whole world see how nasty the Israelis are in Palestine. But that's a separate question.

Let me conclude by making some comments on the response of the international community because this is another area of great difference. You'll recall that the apartheid regime was vilified internationally in the United States, in the West and throughout the world. States subjected the apartheid regime to sanctions. The United Nations was active. It also

imposed limited sanctions on South Africa. The international community took the view that apartheid was an illegal regime and everything should be done to get rid of it.

Whereas we know that in the case of Israel, although there are serious and manifest violations of international law, no action is taken by western states or by the international community. We all know the reason. I might suppose in the United States you would say ultimately the strength of the American Israel Public Affairs Committee (AIPAC) and the evangelical lobby, but I think, in the West, generally it's feelings of Holocaust guilt, as if the Palestinians were responsible for the Holocaust rather than the Europeans. We see a double standard being applied in respect of Israel. I think this has serious implications for the future. One can understand the comments made by [Sudanese] President [Omar] al-Bashir, 'Fine for me to be subjected to an arrest warrant but what about Gaza?' And this is a plea one hears in the developing world repeatedly.

You ask us to take action against Sudan, Zimbabwe, Burma for human rights violations. And I believe that action should be taken against these states. But the developing world says, 'Why do you ask us to take action against these states when you yourself are engaged in the protection of Israel?' It's very difficult to know what's going to happen in this situation. I'm fairly disappointed about the United Nations. The General Assembly and the Human Rights Council have very little powers. The Secretary General of the United Nations is timid, shall we say. The Security Council is hampered by the veto, and the Quartet, whose very origin is suspect, is clearly under the control of the United States. In 2004, the International Court of Justice gave an advisory opinion holding the Wall as illegal. That has simply been ignored by the Security Council, the Secretary General, and the Quartet.

There are demands for another advisory opinion on the question of the consequences of prolonged occupation coupled with apartheid and colonialism. But again, such an opinion, even if given, is likely to be ignored. But I think there are some hopeful signs in respect of movements in civil society. We do see the question of action against Israel over Palestine being raised on university campuses, in churches and in trade unions. I do tend to get the impression that public opinion is beginning to shift, even though government policies remain much the same.