

Opinion – The Silencing of Amnesty International’s Report on Israeli Apartheid

Written by Jeff Handmaker

This PDF is auto-generated for reference only. As such, it may contain some conversion errors and/or missing information. For all formal use please refer to the official version on the website, as linked below.

Opinion – The Silencing of Amnesty International’s Report on Israeli Apartheid

<https://www.e-ir.info/2022/02/18/opinion-the-silencing-of-amnesty-internationals-report-on-israeli-apartheid/>

JEFF HANDMAKER, FEB 18 2022

Most analyses of Amnesty International’s ground-breaking report, including a contribution in this publication by Alexander Loengarov, to which this article responds, have fallen short in grappling with the social, historical and legal underpinnings of Israel’s regime of systemic discrimination, settler-colonialism and apartheid that Amnesty’s report responds to. That is, if they have attempted to do so at all; the *New York Times* for example, which was once a reliable source of information during the South African anti-apartheid struggle, has scrupulously avoided discussing Amnesty’s findings, although the newspaper had earlier commented, somewhat dismissively on a similar research by Human Rights Watch. This silencing of the debate is hardly surprising. But it is, of course discouraging.

The full title of Amnesty International’s report is: *Israel’s apartheid against Palestinians: a cruel system of domination and a crime against humanity*; and can be downloaded here. This 280-page report adds to a longstanding and growing body of literature by Palestinian, Israeli and other international organizations as well as legal scholars, UN experts and others that scrupulously document Israel’s apartheid regime directed at Palestinians.

Amnesty’s report is important and for many advocates it is affirming of what they have been stating all along is a racist regime of systemic discrimination. However, for many longstanding critics of Israel, accusations of Israeli apartheid are not new, nor is the predictable backlash against them whereby antisemitism has been weaponized by Israel and its supporters. This backlash is now been directed against Amnesty International.

As some have commented, Amnesty’s report is not particularly ground-breaking in its content. Indeed, it builds on what scholars Walid Khalidi, Ronit Lentin, Ilan Pappé, Karma Nabulsi, Nur Masalha and Palestinian NGOs long ago revealed. There has been critique that it fails to adequately address problems of settler-colonialism. However, coming from an organization of 10 million members, the report is undeniably a game changer in the public debate around Israel’s decades long impasse with the Palestinians; nudging the issue into the mainstream.

While Loengarov, a frequent commentator on matters pertaining to Israel-Palestine, clearly recognizes that the term apartheid is undeniably taking hold, he subtly twists things around and triggers doubt about Amnesty’s findings. What jumped off the page for me was his assertion that:

it is not clear how the conclusion is reached that Israel as a country is characterized by the intent to establish and certainly maintain a system of racial discrimination, as such would also require a detailed assessment of Israel’s motives for the rules and policies it adopts.

There are at least three responses that challenge Loengarov’s denial that Amnesty has presented a strong case for apartheid. This can be regarded as either a deliberate attempt to obfuscate the debate, or a well-intended, but highly minimalist reading of Amnesty’s ground-breaking report on Israeli apartheid.

The first response is that Israel’s denial of nationality, while referred to dozens of times throughout Amnesty’s report, is not mentioned even once by Loengarov. This is the legal lynchpin of Israel’s racist and settler-colonial apartheid regime. Israeli law does not recognize Israeli nationality; a basic legal notion common to every other country on earth,

Opinion – The Silencing of Amnesty International's Report on Israeli Apartheid

Written by Jeff Handmaker

which has been continually rejected by the Israeli government and the Supreme Court of Israel as to accept Israeli nationality would 'undermine Israel's Jewishness'.

Hence, Israel's apartheid regime is maintained by distinguishing between *Jewish* nationality (which is the only nationality that is legally protected) and dozens of other nationalities (which do not have legal protection).

The second response, more specifically to Loengarov's argument that 'intention' is missing, Israel's Interior Minister Shaked made clear recently that, Israel's policies are aimed at protecting Israel against the 'demographics' of Palestinian unification. Indeed, from David Ben Gurion onwards, it is undeniable that Israel's intention has been to ethnically cleanse Palestine. This goes this goes well beyond the legal definition of intention in the context of Apartheid, which according to Article 7(2)(h) of the Rome Statute of the International Criminal Court requires that it be '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*'.

The third response, which is related, is that Loengarov deliberately avoids mention of how deeply entrenched racism is in Israel, most obviously against non-Jews, but also between different Jewish communities.

In South Africa, legalized racism hinged on scales of whiteness. In Israel, scales of whiteness are hidden behind obscure notions of Jewishness. In Israel, it is not legally defined what it means to be Jewish. The reason for this is that no Israeli government wants to alienate those whose basis for Jewishness is a religious understanding, nor do they want to alienate others for whom Jewishness is a secular-cultural understanding.

Both understandings of Jewishness accord social primacy to European Ashkenazi Jewishness, to the exclusion of, for example, Mizrahi Arab-speaking Jewishness. As Israeli anthropologist Smadar Lavie has researched, tensions between different Jewish groups in Israel reached fever-pitch in the 1970s when Mizrahi women were sterilized in Israel and more recently Ethiopian Jewish women were given contraceptives without their consent.

In other words, the racism in Israel is multi-layered, and at the surface level that Loengarov examines, is arguably not unique in comparison with other countries. However, in the context of an institutionalized regime of legal apartheid, its impact on Palestinians is devastating.

Loengarov's article falls short of a much-needed analysis of Amnesty International's and indeed others' claims, such as by renowned international law John Dugard that Israel maintains an apartheid regime. While there is certainly room for critique Amnesty's report, it is unhelpful to cursorily dismiss its findings without critically-engaging with the underpinnings of the situation of systemic racism, and in particular the denial of nationality that Amnesty's report vividly shows. Amnesty International's report deserves to be read widely and discussed, and not brushed aside.

About the author:

Dr. Jeff Handmaker is Associate Professor in Legal Sociology at the Hague-based International Institute of Social Studies of Erasmus University Rotterdam and a Visiting Research Fellow in the School of Law, University of the Witwatersrand. He has published widely on topics concerning Israel's decades-long impasse with the Palestinians and previously worked as a human rights lawyer in South Africa. He conducts research on legal mobilization. His recent publications include various perspectives on legal mobilization concerning Palestine, an edited volume with Cambridge University Press and the importance of critical reflexive learning in international criminal justice.