

Israel-Palestine: When Occupation Becomes Apartheid

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[Irish Moses](#)

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Israel's military occupation and control of the West Bank, East Jerusalem, and Gaza has gone on almost half a century, since it conquered those territories during the 1967 Six Day War. While many fear Israel will become an apartheid state unless it relinquishes all or most of these occupied territories, the evidence is overwhelming that Israel created an apartheid system and became an apartheid state at the end of the 1967 war, 48 years ago.

Under international law and Section III of the [Geneva Conventions of 1949](#), a conquering army becomes an [occupying power](#) once military operations have ceased. The occupying power has the duty to restore public order and safety and protect the local civilian population.

[Under Article 49](#), it cannot seize or annex any part of the territory occupied or forcibly deport civilians, nor can it permanently transfer its own citizens into the occupied territory. It must also relinquish control of the occupied territory and return it to civilian authority and control as soon as reasonably possible once order is restored.

The U.S. conducted one the most difficult military occupations in history at the end of World War II after it (and its allies) had defeated the combined Axis Powers of Germany, Italy and Japan. Despite the bitterness of the conflict, the U.S. restored public order and safety and took less than eight years to rebuild the infrastructure and civilian democratic institutions of all three countries and return each to sovereign democratic rule.

The U.S. didn't seize or annex the sovereign territory of these three countries, it didn't deport civilians, nor did it transfer portions of its own civilian population into the three countries it occupied. The U.S. post-World War II occupations are models of how military occupations should be conducted, and today, Germany, Italy and Japan, all former bitter enemies of the U.S., are healthy, prosperous democracies, and strong allies.

Unlawful Deportations and Annexations

By sharp contrast, [Israel's military occupation](#) of the West Bank, East Jerusalem, and Gaza has defied international law almost from the beginning. Some 300,000 Palestinians [fled or were forced to leave](#) their homes during and after the 1967 fighting and then were deported from the territories occupied by Israel, as were [another 130,000](#) from the captured Golan Heights.

Israel also prevented Palestinian refugees from lawfully returning to their homes and lands

by denying them entry at the borders and by using force against those who surreptitiously attempted to return. It destroyed dozens of Arab towns and villages to prevent their Arab inhabitants from returning.

It also seized and annexed Palestinian lands including East Jerusalem and about 27 square miles of West Bank land which became [Greater Jerusalem](#) the so-called eternal capital of Israel. Later it annexed the Golan Heights. Both annexations have been declared illegal under international law.

In his [meticulously researched study](#) of the two years following the 1967 Six Day War, *The Bride and the Dowry: Israel, Jordan, and the Palestinians in the Aftermath of the June 1967 War* (2012, Yale University Press), author Avi Raz details how Israel successfully forced hundreds of thousands of Palestinians to leave the West Bank and then conducted “a diplomacy of prevarication” aimed at deceiving the U.S. and its allies into believing it was willing to allow the refugees to return, and would give back the territories it had captured during the war.

Raz also shows how Israel was approached by both the Jordanian government and by Palestinian leaders who were eager, after the debacle of the 1967 Six Day War, to negotiate a settlement with the Israelis. Israel used its excruciatingly-protracted talks with both sides to convince the UN and the U.S. that it was interested in and working toward a negotiated settlement while instead it was doing everything possible to delay and avoid any commitment to one.

This diplomatic strategy was aptly described by Israel’s foreign minister, Abba Eban, as *tahksisanutor* deviousness. Raz concludes Israel was never willing to trade captured land for peace and used a “[foreign policy of deception](#)” to hide that fact from its allies, mainly the U.S. which Israel feared would force it to return the captured lands and refuse to sell it the sophisticated aircraft and weaponry it craved.

Raz argues that Israel’s entire approach to settlement negotiations from 1967, through the Oslo Accord of 1993, to the present day followed Eban’s strategy of diplomatic *tahksisanut*. The goal has always been to delay and avoid an agreement until the number of illegal settlements and settlers in the occupied territories created facts on the ground that would make the permanency of Greater Israel a *fait accompli*.

The collapse and failure of Secretary of State John Kerry’s [2013-14 peace talks](#) reflects the continuing success of *tahksisanut*, of Israeli duplicity.

The Illegal Settlements

Raz quotes Levi Eshkol, Israeli prime minister from 1963 until his death in 1969, as saying Israel “wanted the dowry” (the land of the occupied territories) “but not the bride” (the Palestinians living on that land). To solve that dilemma, plans were made and implemented almost immediately after the war to keep the occupied territories as an integral part of Greater Israel or *Eretz Yisrael*, and build [all-Jewish settlements](#) in the occupied areas to create [facts on the ground](#) that would make the establishment of a separate Palestinian state difficult if not impossible.

In September 1967, a [secret legal memo](#) commissioned by Israel’s prime minister made it clear that transferring Israeli Jewish citizens onto settlements in the occupied territories

would be a direct [violation of international law](#), specifically the Fourth Geneva Convention.

Despite this warning, Israel began the process of transferring Jewish civilians into settlements, establishing 12 in 1967, followed by ever-increasing numbers in the next five decades. Today, 48 years later, over 10 percent of Israel's Jewish population, [well over 600,000 Israeli Jews](#), live in hundreds of settlements in the West Bank and East Jerusalem, making the creation of a contiguous Palestinian state virtually impossible, as was the plan from the very beginning.

U.S. Secretary of State Dean Rusk, in a [March 1968 memo](#) to the U.S. Embassy in Israel, told the U.S. ambassador to warn the Israeli government that the transfer of its civilians into the occupied territories violated [Article 49](#) of the Fourth Geneva Convention. He instructed the ambassador to tell the Israeli government, in the strongest possible terms, the U.S. opposition to any Israeli settlements in the occupied territories.

Rusk also said that building Jewish settlements created the impression that Israel had no intention of reaching a settlement and withdrawing from the occupied territories. Half a century later, Rusk's memo has proved prophetic.

The evidence is clear that Israel knew its obligations as an occupying power under the Fourth Geneva Convention but decided to ignore them. Its illegal actions of forcing civilians out of the occupied territories, refusing to allow them to return, annexing portions of occupied lands for itself, and transferring its own civilians into the occupied lands, all while keeping the Palestinians under strict military rule, demonstrate an intent to keep the occupied territories for itself. Its negotiation strategy of *tahksisanut* is further evidence of that intention.

If Israel had no intention of withdrawing from the occupied territories, and deliberately violated most if not all of the legal precepts regarding military occupation, its behavior was and remains illegal under international law and constitutes grave violations of the laws of war, or war crimes.

Even President Obama's White House seems to have finally acknowledged this hard fact. On March 23, at the J Street annual conference, White House Chief of Staff, Denis [McDonough](#) [said](#):

"Israel cannot maintain military control of another people indefinitely"; "An occupation that has lasted for almost 50 years must end, and the Palestinian people must have the right to live in and govern themselves in their own sovereign state"; "Palestinian children deserve the same right to be free in their own land as Israeli children in their land,"

The Law and Practice of Apartheid

Can Israel's 48-year illegal military occupation be described as apartheid? The [term](#) was originally used to describe a system of racial segregation in South Africa. Today, the [crime of apartheid](#), according to the UN Apartheid Convention, applies to acts committed for the purpose of establishing and maintaining domination by one racial, ethnic or religious group over another by acts of systematic oppression.

Examples include: denying the one group the right to life and liberty and subjecting members of that group to arbitrary arrest and expropriation of property; depriving the group of the right to leave and return to their country, or of freedom of movement and residence;

the creation of separate areas for the members of different racial groups; the prohibition of mixed marriages, etc.

Each of these examples applies to [Israel's treatment of Palestinians](#) in the occupied territories, and, to a lesser extent, to the 20 percent of Israeli citizens who are non-Jews. Some [50 laws](#) in Israel discriminate against [non-Jewish Israeli citizens](#), forcing them to live in [impoverished Arab communities](#) surrounded by prosperous all-Jewish communities which receive the vast majority of public resources. Moreover, Israel's Arab population lived under [strict martial law](#) the first 18 years of Israel's existence, until 1966, even though Israeli Arabs became nominal citizens of Israel in 1952.

Today, there remain about 274,000 Israeli Arab citizens who are [internally displaced refugees](#) of the 1948 war who fled or were forced to leave their homes and villages and were not allowed to return to reclaim their homes, land and property after the end of the war *even though they are lawful residents and citizens of Israel*.

In the occupied West Bank, conditions are far worse. Palestinians are forced to live in enclaves (the so-called Area A) surrounded by Israeli military zones (Area B). [Area C](#), about 61 percent of the West Bank, contains over [300,000 Jewish settlers](#) living in all-Jewish settlements under complete Israeli control. This area completely surrounds Areas A and B.

Palestinians are forced to live in dozens of separate enclaves, their movement heavily restricted. [Arbitrary arrest and detention](#) of adults and even young children is commonplace, due process a distant dream.

Palestinian land in the West Bank and East Jerusalem is confiscated and used to build all-Jewish Israeli settlements protected by Israeli Army units and connected by access roads that are restricted to use by Jews only. Israeli Jews living in the occupied territories have full civil rights including the right to vote while their Palestinian Arab neighbors live under Israeli military law, have no civil rights, and cannot vote in Israel's national elections. All of these discriminatory restrictions on the Palestinian Arab population certainly seem to meet the definition of apartheid.

Stephen Robert, a Jewish-American investment banker and long-time Israel supporter, as well as a member of the Council on Foreign Relations and a former chancellor of Brown University, described the situation in the occupied territories as apartheid after fact-finding visits to the West Bank and East Jerusalem in 2011. In a long and detailed article entitled ["Apartheid on Steroids"](#), he concluded:

"How can Jews, who have been persecuted for centuries, tolerate this inhumanity? Where is their moral compass? How can this situation be acceptable to Judaism's spiritual and political leaders? I don't have that answer; except to say that Israel's biggest enemy has become itself."

That was four years ago. David Shulman, an Israeli Jew and distinguished professor at the Hebrew University of Jerusalem described similar conditions in his March 21 [post-Israeli election recap](#), article:

"Israel has, in effect, knowingly moved further toward a *full-fledged apartheid system*. Those who don't like the word can suggest another one for *what I see each week in the territories and more and more inside the Green Line*." [Emphasis added].

Shulman sees apartheid in the occupied territories and more and more evidence of it even within Israel itself. Israeli journalist and author, Amira Hess, [sees much the same](#):

“When you look at the geography of Palestinians in Israel, it’s the same geography, they are encircled in enclaves. They are deprived of their land. Most of their land has been taken by Jews to settle, even though they are Israeli citizens. ... They are all packed and cramped in houses without spaces to breathe, without agricultural lands. ...The political geography of the Israeli state is very similar on both sides of the Green Line.”

Apartheid Comparisons

The treatment of Palestinian Arabs by Israeli Jews is also [strikingly similar](#) to the treatment of non-whites by South Africa’s all-white regime under apartheid. Moreover, all the conditions for apartheid, the deportations, the annexations, the creation of Jewish settlements, the isolation of Palestinians under military law, were put in place by the Israeli government in 1967.

Since both the intent and the fact of apartheid were in place in 1967, and since conditions have only gotten worse, it’s become impossible to call Israel’s near half century military occupation of the Palestinian people on Palestinian lands in the West Bank, East Jerusalem, and Gaza anything but apartheid.

The only remaining question is why we as Americans continue to support a country whose oppression of its Arab population is so contrary to our own national values, a country who openly practices apartheid. Israel’s conduct toward the Palestinian people makes a mockery of its claim to be “the only democracy in the Middle East,” as does its claim that Israel and the U.S. share common values.

It’s high time that we, as Americans, face up to the fact that supporting Israel is supporting apartheid, and that our military, economic and diplomatic support of that country has fostered and abetted nearly half a century of continuing oppression of 4.5 million Palestinians.

It’s also high time we put a stop to it by telling our representatives in Congress that while we as Americans support the state of Israel, we will no longer provide military, economic and diplomatic support for Israeli apartheid.

Gil Maguire is a retired civil rights attorney and a writer of both non-fiction and fiction. His interest in the Israel-Palestine issue came from his father’s involvement flying Jewish refugees from around the world to the new state of Israel in 1948-49. David Ben-Gurion, Israel’s first prime minister called his father “the Irish Moses” because of [his exploits](#), hence the name of Maguire’s blog site —www.irishmoses.com.

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