

Israel's regime of institutionalised racial domination and oppression over the Palestinian people amounting to apartheid in violation of article 3 of ICERD

Summary of Joint Parallel Report to CERD

- **Article 3 of ICERD** enshrines the obligation that “*States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.*”
- Nonetheless, Israel has **maintained an institutionalised regime of racial domination and oppression** over the Palestinian people as a whole, which amounts to apartheid.
- In 2007 and 2012, **CERD found that Israel is in violation of Article 3 of the Convention** and urged the State party to take immediate measures to prohibit and eradicate any policies or practices of racial segregation and apartheid.
- In 2017, **UN ESCWA found that Israel's strategic fragmentation of the Palestinian people constitutes the main tool through which it carries out its apartheid regime.**
- These developments constitute a **cumulative recognition of Israel's creation and maintenance of an apartheid regime** over the Palestinian people.

1/ Institutionalised regime of systematic oppression and domination

Strategic fragmentation

- As recognised by ESCWA, Israel has strategically fragmented the Palestinian people into **four separate geographic, legal, and political domains**, comprising:
 1. *Israeli civil law governing Palestinian citizens;*
 2. *Israeli permanent residency law governing Palestinians in Jerusalem;*
 3. *Israeli military law governing Palestinians, including Palestinians in refugee camps, in the West Bank and Gaza Strip; and*
 4. *Israel's policy to deny the return of Palestinian refugees and exiles, living outside territory under the State party's control.*
- Israel has consolidated its apartheid regime by **entrenching the fragmentation of the Palestinian people and territory**, through the

persistent denial of the right of Palestinian refugees to return to their homes and property, the imposition of freedom of movement, residency, and access restrictions, in particular the closure of Jerusalem and the Gaza Strip, and the denial of family unification.

- These policies and practices have played an essential role in **ensuring that Palestinians from different areas are unable to meet, group, live together, share in the practice of their culture, and exercise any collective rights**, in particular the right to self-determination, including permanent sovereignty.

Legal foundations of the State

- Since 1948, Israel has enacted a **series of laws which have created an institutionalised regime of systematic racial domination and oppression** over the indigenous Palestinian people.

Citizenship and entry laws

- **The 1950 Law of Return** grants every Jewish person the exclusive right to enter Israel as a Jewish immigrant. In contrast, Palestinian refugees are not afforded the same status and are categorically denied the right of return to their homes and property. The Law legalizes in Israel the ahistorical premise that Jewish persons entering Israeli-controlled territory can claim adherence to the State, while conferring a superior “nationality” right on its subject vis-à-vis persons of other status inside Israel's jurisdiction or territory of effective control.
- **The 1952 Law of Citizenship** cements Israel's institutionalised racism in law by conferring automatic Israeli citizenship to any Jewish person who enters Israel under the Law of Return, while Palestinians are denied their right of return to their homes and property. Distinct from “nationality” status, Israel's Citizenship Law recognizes “return” as one pathway to Israeli citizenship, but that is unique to Jews. The Law sets out three other ways to become an Israeli citizen: by birth, marriage or residency. However, because of the superior status of “Jewish nationality,” citizenship is not a basis for equal rights in Israel.
- **The 1952 Entry into Israel Law** grants preferential treatment to Jewish immigrants under the Law of Return, allowing them to enter as if they were Israeli citizens. In stark contrast, the Law creates a precarious “permanent

resident” status for Palestinians in occupied East Jerusalem, treating Palestinians like foreign visitors in the land of their birth, and allowing for their forcible transfer through institutionalised residency revocation.

Rights to land, property, and self-determination

- **The 1950 Absentee Property Law** allows for the confiscation of Palestinian refugee property as “absentee property,” which was transferred to the Custodianship Council for Absentees’ Property, thereby stripping Palestinians of their rights to land and property. Seven decades since the Nakba, Israel continues to deny Palestinian refugees the right to return to their lands and property, as reaffirmed by General Assembly Resolution 194 and over a hundred times since. The Law continues to be used today to confiscate Palestinian property in occupied East Jerusalem.
- In 2018, Israel adopted the **Basic Law: Nation-State of the Jewish People**, which enshrines in Israel’s constitutional legal foundations its institutionalised domination and oppression over the Palestinian people. The Jewish Nation-State Basic Law states that: “[t]he exercise of the right to national self-determination in the State of Israel is unique to the Jewish people.” It further determines “Jewish settlement as a national value,” giving constitutional force to the expansion of illegal Israeli settlements in the occupied Palestinian territory.

Israel’s Zionist parastatal institutions

- In 1952, Israel adopted the **World Zionist Organization-Jewish Agency (Status) Law**, which authorizes the World Zionist Organization (WZO), the Jewish Agency (JA), and the Jewish National Fund (JNF) to function in Israel as quasi-governmental entities.
- **The WZO, JA, and JNF, are chartered to carry out material discrimination against non-Jewish persons** and prevent the indigenous Palestinian people from accessing or exercising control over their means of subsistence, including their natural wealth and resources, by exploiting and diverting Palestinian natural resources for the benefit of Israeli-Jewish settlers.
- **Israel formally defers to these institutions in all matters of legislation and policy** affecting development, commerce, agriculture, access to and control over natural resources, including land, urban planning, and civil matters.

- **In 1998, CESCR found that “the large-scale systematic confiscation of Palestinian land and property by the State and the transfer of that property to these [Zionist] agencies constitute an institutionalized form of discrimination, because these agencies by definition would deny the use of these properties to non-Jews.”**

2/ Maintaining Israel’s apartheid regime

Entrenching fragmentation

- **It is through the systematic and widespread fragmentation that Israel obfuscates the reality of its apartheid regime** and thoroughly represses the ability of Palestinians to oppose and challenge it and ensures the maintenance of the apartheid regime.
- As highlighted by UN ESCWA, **the international community has played a role in normalizing Israel’s fragmentation of the Palestinian people** more broadly, and has:

“unwittingly collaborated with this manoeuvre by drawing a strict distinction between Palestinian citizens of Israel and Palestinians in the occupied Palestinian territory, and treating Palestinians outside the country as ‘the refugee problem’.”
The Israeli apartheid regime is built on this geographic fragmentation, which has come to be accepted as normative. The method of fragmentation serves also to obscure this regime’s very existence.”

Institutionalised impunity

- Facilitating the continued perpetuation of these policies and practices is a **legal framework that is designed to produce impunity and prevent Palestinians from effectively challenging the many facets of the apartheid regime**. Israel’s legislation and military orders, which codify the apartheid regime, render the Israeli judiciary, including Israel’s Supreme Court, enablers of the system, which confer legitimacy on the regime’s legal foundations.
- Instead of upholding its obligation as a State Party to “**condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature,**” **the Israeli Government has instituted a system that secures impunity** for the very same practices, in line with the ultimate goal of securing its exclusionary *raison d’État* seeking to **maintain a racialized regime of dispossession, domination, and systematic fragmentation of the Palestinian people**.

The creation of a coercive environment

- Israel has also maintained its apartheid regime through **the creation of a coercive environment designed to drive Palestinian transfer, to control Palestinians, and to weaken their ability to effectively challenge the regime.** As part of Israel’s ongoing policy to erase and replace the Palestinian people on both sides of the Green Line, Israel has pursued a systematic State policy to forcibly transfer Palestinians and to force demographic manipulations in the occupied Palestinian territory, in particular in East Jerusalem and in the Jordan Valley.
- **To pursue its demographic goals, Israel has imposed discriminatory planning and zoning on both sides of the Green Line,** which has resulted in illegal house demolitions, forced evictions, and displacement, thereby depriving Palestinians of their rights to freedom of movement and residence, adequate housing, land and natural resources.
- Israel’s resort to **excessive use of force against Palestinians is designed to intimidate Palestinians and feed a climate of repression** to undermine the exercise of their rights.
- In addition, **movement restrictions,** including checkpoints, the Annexation Wall, and closures have led to **a denial of access to and fragmentation of healthcare for Palestinians.** Critically, Israel continues to deny Palestinians the right to travel to access healthcare under the guise of “security,” particularly in the Gaza Strip, where **Palestinian patients or their companions have been coerced into collaborating in exchange for treatment.** As such, denial of access to healthcare constitutes a **method of control and oppression,** ensuring the maintenance of Israel’s apartheid regime.

Silencing of opposition

- Israel has used **mass arbitrary detention of the Palestinian civilian population as a method of subjugation, intimidation, and control** to oppress and dominate the Palestinian people.
- **Sanctioned by the Israeli High Court of Justice, torture has been used since the beginning of Israel’s occupation,** including against detained Palestinian children, over time becoming standard operating procedure.
- **Creating a climate of fear, repression, and intimidation, widespread collective**

punishment has been a staple of Israel’s occupation, ranging from the illegal closure of Gaza, to freedom of movement and access restrictions, the **punitive revocation of residency rights, punitive house demolitions, and the withholding of bodies of Palestinians** killed by the Israeli occupying forces.

- **Israel has also pursued a campaign of intimidation, harassment, and delegitimisation of human rights defenders** and organisations advocating for the rights of Palestinians and calling for justice and accountability. **Through the Ministry of Strategic Affairs and affiliated groups, the Israeli Government has carried out ongoing, systemic, and organised attacks amounting to a concerted smear campaign** against human rights defenders.

Racist hate speech and incitement

- While Israel has a positive obligation under ICERD to ensure that private individuals are not empowered to engage in disseminating hate speech and incitement to racial hatred with impunity, **Israel has facilitated continued and protracted trends of racial violence directed towards Palestinians and the prevalence of racial hatred in public discourse.**
- Israel’s failure to act has created a **pervasive fear among Palestinians of retaliation by Israeli public and private actors and a chilling effect on freedom of expression,** including online.
- Rather than address the threat posed by hate speech and incitement to racial hatred against Palestinians, **Israeli lawmakers have taken legislative steps to further repress Palestinian speech,** thereby denying Palestinians their freedom of speech and disabling Palestinians, individually and collectively, from challenging Israel’s apartheid regime.

3/ Key recommendations

- We urge the Committee **to recognise and declare that Israel’s discriminatory laws, policies, and practices have established, and continue to maintain, an apartheid regime** of systematic racial domination and oppression over the Palestinian people as a whole, using fragmentation as a main tool to maintain its apartheid regime, in violation of Article 3 of ICERD.

- We urge the Committee to **call on Israel to cease all measures and policies, which contribute to the fragmentation of the Palestinian people**, including the persistent denial of Palestinian refugee return, the ongoing closure of Jerusalem and of the Gaza Strip, the construction of the Annexation Wall, and the imposition of severe movement and access restrictions, **as core elements in Israel’s creation of an apartheid regime over the Palestinian people on both sides of the Green Line and further afield.**
- We urge the Committee to **reaffirm the right of return of all Palestinian refugees and internally displaced persons to their homes, property, and land** which they were forced in flee in 1948 and thereafter, and to **call on Israel to comply with Articles 5(d)(ii) and 5(d)(v) of ICERD** and to recognise Israel’s persistent refusal to grant Palestinian refugees and displaced persons their right of return to their homes, property, and land.
- We recommend that the Committee demand that Israel **repeal all legislation enshrining racial discrimination**, domination, and oppression, including repealing the Basic Laws and other statutes that directly or indirectly effect the enjoyment of human rights through racial and/or racialized distinctions.
- We urge the Committee to **recognise and to declare that the Jewish Nation-State Law (2018) is antithetical to the object and purpose of the Convention** as it has the purpose of nullifying the recognition, enjoyment, and exercise, on an equal footing, of all human rights and fundamental freedoms in the State Party.
- We call on the Committee to urge Israel **to cease conferring public functions of the State to the WZO/JA and JNF**, which are chartered to carry out material discrimination against non-Jewish persons.
- We urge the **reversal of Israel’s policies and practices with regards to demographic manipulation**, in particular Israel’s discriminatory planning and zoning regime, as a manifestation of the crimes of population transfer and apartheid, in violation of Article 3 of the Convention.
- We urge the Committee to **demand Israel cease forthwith the ongoing closure and lift the blockade of Gaza with immediate effect**, to lift restrictions on dual use items, and to recognise that Israel’s discriminatory policies and practices, amounting to the crime of apartheid, **have already made the Gaza Strip uninhabitable.**
- We urge the Committee to **call on Israel to uphold the right of the Palestinian people to the highest attainable standard of physical and mental health**, including to ensure Palestinians in the Gaza Strip, including those injured during the Great March of Return, are guaranteed their right to access necessary treatment outside of Gaza, and to **refrain from obstructing healthcare provision**, including attacks on health workers.
- We urge the Committee to **demand that Israel immediately cease any and all practices of collective punishment and intimidation and silencing of human rights defenders**, including through arbitrary detention, torture and other ill-treatment, institutionalised hate speech and incitement, residency revocation, deportations, and other coercive or punitive measures.
- We urge the Committee to **demand that Israel immediately cease the construction of all illegal settlements** in the occupied West Bank, including East Jerusalem, and dismantle those already in existence, in accordance with its obligations, as occupying Power, and to **call for an end to Israel’s prolonged occupation of the occupied Palestinian territory.**
- We urge the Committee to **call for accountability and access to justice for apparent and serious violations of international law committed against the Palestinian people**, including by calling for the opening of an investigation by the Office of the Prosecutor of the International Criminal Court into the situation in Palestine, as a viable independent judicial body capable of ending impunity and effectively deterring the commission of future crimes.