MIDDLE EAST COUNCIL
ON GLOBAL AFFAIRS

ANALYSIS PAPER
MAY 2023

Apartheid and the Palestine Liberation Movement: Opportunities and Challenges

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COVER IMAGE: London, England, UK—May 15, 2021: Protesters march to the Israeli Embassy in solidarity with Palestine as Israeli cities are in conflict between Jewish and Arab people. Credit: Loredana Sangiuliano

ABSTRACT

The characterization of Israeli control over Palestinians as an apartheid system represents a significant shift in the way the regime is portrayed and understood. While the application of the term to Israel has been around since the 1960s, traction has intensified over the past two decades, partly due to the emergence of an anti-apartheid movement and increasing recognition that Israel's grip on Palestinian territory is permanent. Legal experts, scholars, human rights professionals, and multilateral institutions have all contributed to the growing body of research and analysis supporting the charge.

This paper examines the implications of the adoption of the apartheid framework for the Palestine liberation movement today and in the future, presenting new opportunities and challenges in the struggle to free Palestinians from Israeli subjugation and enable them to exercise their internationally recognized right to national self-determination. The paper traces the history of the apartheid narrative as applied to Palestine-Israel and how it has evolved, examines the various arguments for applying the apartheid characterization to Israel, and explores the opportunities provided by the growth of the apartheid narrative for the Palestine liberation movement. It also highlights the challenges the framework poses and those that lie ahead for the development of a Palestinian anti-apartheid movement.

KEYWORDS

Apartheid

Occupation

Settler Colonialism

Palestine

Israel

Palestine Liberation Movement

International Law

INTRODUCTION

In recent years, the characterization of Israel's rule over the Palestinians as constituting a system of apartheid has gained significant momentum and increasingly entered the mainstream. In addition to numerous scholarly works making the case, the world's leading human rights organizations have extensively documented Israel's violation of what is deemed in international law to be a crime against humanity.[1] Today, a significant body of research and analysis supports this charge and is available to policymakers, governments, courts, journalists, activists, and advocates. At the United Nations (UN) and in other international fora, a growing chorus, including the governments of South Africa and Namibia—now led by the erstwhile victims of apartheid—is adopting the apartheid framework to describe what is happening in Palestine-Israel and demand an international response.[2]

"Apartheid offers a far more expansive and encompassing conceptual basis for understanding Israel's regime and the collective Palestinian experience within it. It reframes Israel not as a government occasionally committing an illegal act, but as a regime that is at least constitutionally illegal, and at most intrinsically illegitimate."

The increased traction around the apartheid paradigm reflects the work of grassroots actors and experts to shift the frame of reference over the past two decades, as well as broader geopolitical shifts that have forced stakeholders and observers to reassess the nature of Israel's regime. In particular, there has been growing recognition that the prospect for ending Israeli control over the occupied West Bank and Gaza Strip through a negotiated partition into two independent states is no longer feasible. Without that possibility or the intention to grant citizenship to the millions of stateless people living there, Israel's undemocratic rule over Palestinians appears permanent; as does Israel's dislocation of Palestinian refugees and the systematic discrimination against its own Palestinian citizenry. Permanency, in other words, has cast Israel's regime in a different light. Instead of a temporary—albeit prolonged—regime of belligerent military occupation, there exists a fixed regime of inequality, invidious discrimination, dispossession, and oppression—all reinforcing a system of territorial expansionism and ethnic supremacy, given that Israel's Jewish citizens are the intended beneficiaries of this regime.

Moreover, the steady erasure of the Green Line—the 1949 armistice border separating Israel from the territories it occupied in 1967—has lessened the distinction between territory and people under Israel's effective control. Where the existence of apartheid may have been more easily discernible in the occupied West Bank as compared to Israel proper, the growing lack of practical and political distinction between the two alters that perception. As such, the continuum of policies enforcing segregation, dispossession, and repression of Palestinians between Israel's recognized borders and occupied territory becomes more apparent. Palestinian citizens and non-citizens of Israel are perceived jointly as a single people, and the state policies targeting them are regarded holistically and with singular intent. Although many Palestinians and others have framed this reality as apartheid for several decades, the appearance was less stark to most observers because Israel's regime does not mirror the archetype of apartheid: South Africa between 1948 and 1994, and by extension Namibia.

This radical reframing around the nature of Israel's regime, from occupying power to apartheid regime, is highly consequential. While the two frameworks are not mutually exclusive—as evidenced by Namibia—given that military occupation can exist as a tool of repression within a system of apartheid, apartheid offers a far more expansive and encompassing conceptual basis for understanding Israel's regime and the collective Palestinian experience within it. It reframes Israel not as a government occasionally committing an illegal act, but as a regime that is at least constitutionally illegal, and at most intrinsically illegitimate. As such, it transforms how the relation-

ship between Israelis and Palestinians is perceived, internally and externally; modifies the applicability of international law and the recourse to mechanisms of accountability; and reorients stakeholders. Consequently, the adoption of the apartheid framework has significant implications for the Palestine liberation movement today and in the future, presenting new opportunities and challenges in the struggle to free Palestinians from Israeli subjugation and enable them to exercise their inalienable, internationally recognized right to national self-determination.

This paper seeks to elucidate and examine these opportunities and challenges and consider how stakeholders are, can, and should be responding to them. The first section traces the history of the apartheid narrative as applied to Palestine-Israel and how it has evolved, showing that the advancement of the apartheid framework required political mobilization in order to take root and develop. The second section examines the various arguments for applying the apartheid characterization to Israel, identifying points of commonality and divergence. The third section examines the opportunities provided by the growth of the apartheid narrative for the Palestine liberation movement. The section charts how the apartheid framework is likely to shape the movement and its political objectives, as well as the challenges the framework poses and those that lie ahead for the development of a Palestinian anti-apartheid movement.

HISTORY OF THE NARRATIVE

"I, like virtually every South African who visits the occupied territory, [have] a terrible sense of déjà-vu. We've seen it all before, except that it is infinitely worse." –John Dugard [3]

In 2001, the United Nations World Conference on Racism was held in Durban, South Africa, a mere seven years after the dismantlement of that country's racist regime. In parallel to the main event, the UN held a forum for non-governmental organizations (NGOs), bringing together roughly 3,000 civil society actors from around the globe. At the forum's conclusion, delegates overwhelmingly voted to adopt a declaration that described Israel as "a racist, apartheid state" guilty of war crimes, including "acts of genocide" and "ethnic cleansing."[4] The declaration also called for the establishment of a war crimes tribunal, a UN Special Committee on Apartheid, and the launch of a movement against Israeli apartheid.[5]

The NGO declaration caused a furor among Israeli allies like the United States (U.S.) and certain European governments. Human Rights Watch (HRW) and Amnesty International (Amnesty) distanced themselves from the statement. The UN's High Commissioner for Human Rights, Mary Robinson, called the declaration "regrettable" and urged the NGOs not to adopt it.[6]

Fast forward 20 years and both HRW and Amnesty have each published their own groundbreaking report asserting Israel to be guilty of the crime of apartheid. Over that span, the UN Human Rights Commission has appointed five special rapporteurs on the situation of human rights in the Palestinian Territory occupied since 1967, and four of them have concluded that Israel is guilty of apartheid.[i] (The fifth—second chronologically—Makarim Wibisono, resigned his position early in his tenure because Israel would not grant him access to the country.[7]) John Dugard, one of the special rapporteurs and a South African human rights lawyer, judge, and professor of international law, called Israeli apartheid "infinitely worse" than the one established in his home country,[8] echoing comments from South African anti-apartheid luminaries such as Archbishop Desmond Tutu, Ronnie Kasrils,[9] and Denis Goldberg.[10]

Additionally, a recent survey polling the opinions of 1,200 Middle East scholars showed that a large majority considered the current situation in Palestine-

i. John Dugard (2001-2008), Richard Falk (2008-2014), Michael Lynk (2016-2022), and Francesca Albanese (2022-present) have all stated explicitly and/or written substantive reports charging Israel with committing the crime of apartheid.

Israel to be "a one-state reality akin to apartheid."[11] While there are no survey data showing perceptions from 20 years ago on this issue, recent responses indicate a rapid shift over a short period of time. In February 2021, 59% of the scholars polled viewed the situation as akin to apartheid.[12] By September 2021, 65% viewed it as such, meaning dozens of scholars changed their opinions amid the publication of reports from human rights organizations. By March 2023, the percentage had risen to 68%, with 80% considering it akin to apartheid if a two-state outcome is deemed no longer possible in the next decade.[13]

> The application of apartheid to Israel preceded Israeli occupation of the West Bank and Gaza and the unlawful colonization of those territories, as well as the implementation of dual legal regimes for Jewish settlers and Palestinians.

This shift over the past 20 years has been dramatic. It is indicative of the influence grassroots Palestinian actors have had in reshaping the discourse by documenting evidence and situating it within the context of apartheid. That has coincided with the work of scholars and experts expanding on the critical analysis of apartheid in relation to Israel, as well as activists spearheading an embryonic, international, anti-apartheid campaign modeled on the one used in South Africa.

Yet Durban only marked a turning point in a much older debate and raises serious questions over what has actually changed. In fact, the use of the apartheid label to describe Israel is far older than 2001. The earliest application may in fact come from the architects of apartheid in South Africa, 40 years prior. In 1961, South African Prime Minister Hendrik Verwoerd, considered the father of the "grand apartheid" vision, saw a parallel in the Israeli and South African regimes' colonial nature and their respective efforts to separate from the indigenous population: "The Jews took Israel from the Arabs after the Arabs had lived there for a thousand years. Israel, like South Africa, is an apartheid state," Verwoerd said.[14] *Die Transvaler*, a leading organ of the ruling South African National Party, put it in similar terms, asking: "Is there any real difference between the way the people of Israel are trying to maintain themselves amid non-Jewish peoples and the way the Afrikaner is trying to remain what he is?"[15]

Major Palestinian and Arab figures at the time also recognized the parallel. In 1961, Ahmad Shuqeiri, the first chairman of the Palestine Liberation Organization (PLO) and then-ambassador of Saudi Arabia to the United Nations, stated on the floor of the UN that "the apartheid of South Africa is being practiced by Israel" against its Palestinian-Arab minority.[16] Iraq's ambassador to the UN, Adnan Pachachi, also accused Israel that year of practicing racist policies similar to South Africa.[17] In 1965, the Palestinian scholar and diplomat Fayez Sayegh penned a seminal booklet called *Zionist Colonialism in Palestine*, in which he draws many parallels between the two regimes and refers to the "Zionist practitioners of apartheid in Palestine."[18]

Thus, the application of apartheid to Israel preceded Israeli occupation of the West Bank and Gaza and the unlawful colonization of those territories, as well as the implementation of dual legal regimes for Jewish settlers and Palestinians. More formal arguments that apartheid should apply to Israel began to appear in the 1970s and 1980s. In part, this was brought into focus by the close working relationship between Israel and South Africa that intensified after the War of 1967, and by the Third World Liberation movement that joined various anti-colonial and anti-imperial movements in cross-pollinating solidarity efforts.[19]

In this general analysis, Israel—like South Africa—was viewed through a settler-colonial lens, and the apartheid system of segregation and separation that underpinned colonialism in South Africa was seen as present in Israeli law and practice, as well as in Zionist ideology. This was clear in the work of Palestinian scholars like Elia Zureik (1979),[20] non-Palestinian scholars like Alfred Moleah (1979, 1981),[21]

Brice Harris, Jr. (1984),[22] and John Quigley (1991),[23] and even dissident Israeli scholars and public intellectuals such as Uri Davis (1987)[24] and Israel Shahak (1988),[25] who all argued that Israel was implementing a system of apartheid akin to South Africa to advance and consolidate its colonial project.[26] There are also numerous examples in this period of other scholars and experts remarking that Israel was implementing a form of apartheid, without distinctly making the case that apartheid should be adopted as a framework.

"Crucially, apartheid also began to be recognized as a discrete crime of international law, rather than a *sui generis* political system of South Africa that merely held parallels to Israel."

Palestinian-Arab politicians in Israel also described their own government in similar terms. In 1985, member of the Knesset Tawfiq Toubi said that a law barring candidates who reject the existence of the State of Israel as the state of the Jewish people showed Israel to be an apartheid state by denying citizens the right to protest the legal and ideological basis of their own discrimination.[27] Tawfiq Zayyad, the most prominent political leader among Arabs in Israel referred to the state as "*Israeltheid*—Apartheid in the Israeli way," which he said the country had practiced since 1948.[28]

Crucially, apartheid also began to be recognized as a discrete crime of international law, rather than a *sui generis* political system of South Africa that merely held parallels to Israel—*apartheid* is an Afrikaans word meaning apartness or separateness. Specifically, the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid defines it on its own terms. As a result, the legal application of apartheid to Israel no longer required a comparative study between the two regimes, even though in practice apartheid continued to be defined discursively by the model practiced in southern Africa.

Although legal and political initiatives accusing Israel of committing this crime were not immediately forthcoming, the thinking at the time was reflected in other important international initiatives, such as the 1975 UN General Assembly Resolution 3379 that declared Zionism to be "a form of racism and racial discrimination."[29]

Another seminal period in the development of the apartheid framework in relation to Israel came, ironically but uncoincidentally, during the same period as the collapse of the apartheid regime in southern Africa: between 1990 and 1994. This is the moment that Israel began direct negotiations with Palestinians over the administration of the occupied territories and their future. For decades, Israel had attempted to cultivate a local leadership among Palestinians in the occupied territories that could negotiate a permanent system of semi-autonomous governance—one that would offer Israel a measure of political separation, allowing it to hold on to the occupied territories indefinitely without enfranchising the Palestinian population and thereby deflect charges of apartheid. All such attempts failed due to a lack of legitimacy among the target public.

Some Palestinian intellectuals recognized that Israel would use the official negotiations that had commenced in Madrid and Washington to legitimize the apartheid system. In 1992, for example, Palestinian lawyer and co-founder of the leading human rights NGO Al-Haq, Raja Shehadeh, wrote,

> If the Palestinians allow themselves to be drawn into negotiating self-government arrangements on the terms proposed by Israel, they would be accepting a process that can lead (at best) to reforms within the existing structure of annexing the land without the people. In so doing, they would be contributing to the consolidation of the system of apartheid put in place by successive Israeli governments over the past twenty-five years.[30]

Nonetheless, when secret negotiations between Israel and the PLO resulted in the signing of the

Oslo Accords in 1993, the PLO leadership became a willing partner in the separation initiative. On the ground, the contours of separation between Israelis and Palestinians in occupied territory became more visible and concrete. Israel's military occupation was reconfigured but did not end, while Israel's settlement activity not only continued but accelerated. Israel consolidated its grip over most of the occupied West Bank and Gaza Strip, especially East Jerusalem, limiting Palestinian freedom of movement with an increasingly restrictive permit system that did not apply to Jewish settlers.[31] This was no accident. Shlomo Ben Ami, who went on to become Israel's minister of internal security, foreign minister, and chief negotiator under Prime Minister Ehud Barak, wrote that "the Oslo Accords were founded on a neo-colonialist basis" with the intent to permanently subject the Palestinians to "almost total dependence on Israel."[32]

"The miscarriage of the Oslo peace process, capped by the failure to reach an agreement at Camp David and the outbreak of the Al-Aqsa Intifada in 2000, reopened space in the discussion for the apartheid paradigm and allowed it gain unprecedented momentum."

While most Palestinians continued to use the terminology of military occupation and colonization, some leading Palestinian intellectuals who had refuted the premise that Oslo would lead to a Palestinian state, such as Edward Said and Azmi Bishara, described the reality taking shape and the mirage of Palestinian statehood as little more than the manifestation of Palestinian Bantustans. One article written by Said ran under the headline: "How Do You Spell Apartheid? O-s-l-o."[33] Mouin Rabbani expertly summed it up at the time, writing that instead of getting a "Singapore in the Middle East," Oslo presented Palestinians with a "Soweto on the Mediterranean."[34]

Despite Oslo's effect in crystalizing apartheid, negotiations also ushered in a peace process discourse that overshadowed all others. Israel's occupation, already a quarter-century old, was given a new lease on temporality, as something that would be imminently rolled back, even after military redeployments stalled, the occupied territory was carved up, and illegal Israeli settlements expanded faster than ever before.

Nevertheless, the miscarriage of the Oslo peace process, capped by the failure to reach an agreement at Camp David and the outbreak of the Al-Aqsa Intifada in 2000, reopened space in the discussion for the apartheid paradigm and allowed it gain unprecedented momentum. The Israeli policy of unilateral separation, exemplified by the building of the massive separation barrier—which some have termed the "Apartheid Wall"[35]—and the cordoning off of the Gaza Strip, accelerated rapidly along with the consolidation of Israeli colonial holdings in the West Bank. This led to huge leaps in the documentation and analysis of apartheid, as well as the organized grassroots challenge to it. Major Palestinian NGOs, such as Badil, Al-Haq, and Adalah, adopted the language of apartheid to frame their reports.[36] In January 2001, even prior to Durban, the U.S.-based National Lawyers Guild issued a report characterizing Israel as practicing apartheid.[37] In 2009, after a year of investigation, the Human Sciences Research Council of South Africa published perhaps the first report of its kind on apartheid in Israel.[38] That same year, the Russell Tribunal on Palestine was formed to investigate the question of apartheid, and in 2011 released its finding that Israel was guilty of this specific crime against humanity.[39]

While Israeli politicians firmly rejected the term, they also inadvertently played a role in normalizing it. Indeed, some prominent leaders of the right and left began using apartheid to warn of the dangers of holding on to the occupied territories indefinitely. In 2010, for example, former Israeli Prime Minister Ehud Barak said, "As long as in this territory west of the Jordan River there is only one political entity called Israel it is going to be either non-Jewish, or non-democratic ... If this bloc of millions of Palestinians cannot vote, that will be an apartheid state."[40] This echoed an ear-

lier warning from former Prime Minister Ehud Olmert, who in 2007 warned of a "South African-style struggle for equal voting rights" by Palestinians if partition was no longer possible.[41]

The irony of these threats from Israeli leaders is that no clear threshold was ever offered for when apartheid would be realized. While this allowed Israeli leaders to continue to deny that Israel practiced apartheid, it is logically consistent that apartheid already existed, and that it was only a matter of others recognizing it as such. Moreover, the fact that these threats could never materialize in Israeli discourse only served to discredit those who issued the warnings in the eyes of their own public. The ultimate beneficiaries of this discrediting were leaders from the Religious Zionist right wing who advocate policies that consecrate apartheid, such as the formal annexation of occupied territory without granting political rights to Palestinians, and who gained considerable influence under the successive governments of Benjamin Netanyahu.

> "The Trump administration's lock-step alignment with the annexationist camp of the Israeli far right encouraged them to ... pass laws legislating Jewish supremacy."

The final watershed moment for the apartheid framework came in 2016 with the election of Donald Trump as president of the United States. The Trump administration's lock-step alignment with the annexationist camp of the Israeli far right encouraged them to abandon caution, announce their intentions to annex parts of the West Bank openly, and pass laws legislating Jewish supremacy, including the 2018 Nation State Law. Naftali Bennett, a fierce advocate of annexation who became prime minister in June 2021, said that Trump's election meant "the era of the Palestinian State is over,"[42] and that it was a once-in-a-lifetime chance "to determine the territory of our country" and "bring all the Israeli settlements in the Land of Israel into the sovereign State of Israel."[43]

Indeed, one of the clearest expressions of Israeli apartheid came in the form of Trump's proposal to resolve the Israeli-Palestinian conflict released in 2020, which mapped out Israeli annexation and Palestinian self-governance in a network of territorially non-contiguous enclaves. A full year before the Israeli human rights organization B'Tselem released its own report on apartheid, the organization's director Hagai El-Ad said the Trump plan was an offer of "permanent apartheid."[44]

In spite of decades of usage, however, the apartheid framework only began to gain traction and resonate broadly after two developments. First, the establishment of a grassroots movement that could anchor the analysis and continually use it to advocate. That is especially true given that the locus of the Palestinian liberation movement, the PLO, never adopted the apartheid framework to situate their cause, preferring to treat Israel initially as an illegitimate colonial entity that should be displaced, rather than a legitimate state with an illegitimate political regime that could be dismantled and reconstituted. After Oslo, the PLO recognized Israel as a legitimate state that need only end its occupation of specific territories, rather than an apartheid regime. As a result, Palestinian society has not, by and large, adopted the terminology of apartheid to describe their situation until only recently. In the absence of an effective political leadership with a clear vision and strategy, a grassroots movement has filled the void and shifted the narrative on their own.

The second development is that facts on the ground have foreclosed alternative frameworks. In the words of Kenneth Roth, the former longtime executive director of HRW who oversaw the publication of their report on Israeli apartheid, the decision to move forward with it reflected the reality that the peace process was dead. "There's no evidence that what's happening today is going to go away," he said. "That's what led all of us to realize we have to change our paradigm."[45]

APARTHEID THE ARGUMENT

Apartheid is a crime grounded in international law. While this offers a clear definition by which to judge whether the crime has been committed, the arguments made alleging the crime have taken different approaches. Some arguments strictly adhere to the definition of apartheid in international law as a crime against humanity, demonstrating through careful documentation and analysis how Israel meets that definition.[46] Others incorporate analysis of how Israel's regime replicates fundamental aspects of South Africa's "grand apartheid" policy of segmentation, segregation, and security-based repression, while some situate apartheid within an overarching process of settler colonialism.[47] Some take a holistic view of territoriality spanning the entirety of Palestine-Israel—including, in certain cases, Palestinian refugees outside those borders—while others limit their scope to the occupied Palestinian territories in the West Bank and Gaza Strip. As such, some view apartheid as inherent to Israel's colonial project, while others consider Israel to have "crossed a threshold," in the words of the HRW report, in which Israel's military occupation transitioned into an apartheid system through cumulative effect.[48]

> The crime of apartheid occurs when serious human rights violations are committed in the context, and with the specific intent, of maintaining a regime or system of prolonged and cruel, discriminatory control of one racial group by another.

It is important to note, however, that even those that restrict their argument to the occupied territories do not necessarily absolve Israel of implementing apartheid policies within its internationally recognized borders—they simply do not include it in their analysis. That, for example, is true of the study produced by Harvard Law School's Clinic on Human Rights, which concludes that "Israel's deliberate, institutionalized, and explicitly *legal* subjugation of Palestinians leads to the conclusion that Israel is in breach of the prohibition of apartheid under international law," while offering the disclaimer that its limited territorial scope is simply a matter of research focus.[49]

Some cases, such as John Quigley's "Apartheid Outside Africa: The Case of Israel," focus solely on Israel and do not include the occupied territories.[50] Even some Palestinian scholars, such as Raef Zreik, have argued in the past that apartheid only applies to Palestinian citizens of Israel and not to Palestinians under occupation or to refugees.[51]

In spite of these variances, all arguments share the premise that "apartheid has acquired a universal meaning"[52] based on three international treaties that establish its legal definition: (1) the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); (2) the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid (Apartheid Convention); and (3) the 1998 Rome Statute of the International Criminal Court (Rome Statute). Essentially, the crime of apartheid occurs when serious human rights violations are committed in the context, and with the specific intent, of maintaining a regime or system of prolonged and cruel, discriminatory control of one racial group by another.[53]

It is beyond the scope of this paper to unpack thousands of pages of documentation and reporting on Israel's human rights violations, as compiled by various legal scholars, experts, and human rights organizations. Nonetheless, key apartheid practices documented across various reports include infringements on rights to life and liberty of persons through the excessive use of force and unlawful killings; unlawful detainment and torture; restrictions on movement and access to resources; vastly preferential treatment and settlement of Israeli citizens in the West Bank; and the denial of citizenship and other rights to Palestinians. Together, the evidence gathered in these reports establishes a firm consensus among legal scholars, academics, human rights professionals, and other experts that Israel functions as an apartheid

regime (as defined under international criminal, humanitarian, and human rights law).[ii]

The Israeli regime's overriding intention is to maximize Jewish demographic and territorial hegemony, while minimizing Palestinian demography, access to land, and rights, in order to dominate them. This intention is not only evident in the use of territorial fragmentation and legal segregation; denial of nationality, residence, and family life; restrictions on movement; restrictions on rights to political participation; dispossession of land; and discriminatory property, zoning, and planning policies. It is also evident in the words of Israeli political, civil, and military leaders from across the ideological spectrum, who have guided the production of legislation and policies since the state's founding (and in the Zionist movement prior to Israel's founding).[54]

> "Apartheid acts as a mechanism for continuing the process of settler colonialism by segregating and oppressing the native population in order to pursue a gradual process of demographic replacement and territorial control."

Despite the commonality of this basic conclusion, that Israel is in violation of the crime of apartheid according to international law, it is also important to consider the critique that the strictly legal definition of apartheid is too narrow to account for the full extent of Israel's effort to eliminate the Palestinians as a nation in their homeland.

Apartheid in the Palestinian context is not only about discrimination, segregation, and repression—three things that can exist solely in the present as law and policy and can be dismantled accordingly—it is also about forced displacement, dispossession, and erasure, which are historical processes related to settler colonialism that cannot be undone simply by dismantling a legal regime and offering equal citizenship to Palestinians. This dimension is largely absent from the international and Israeli human rights reports, which are thus considered by some Palestinian critics as incomplete, at best.[55] The Amnesty report, for instance, never mentions the words Zionism or colonialism in its entire 280 pages, reflecting limitations in its scope of analysis.[56]

Nevertheless, the general critique of these reports does not disagree with the legally based analysis of apartheid. Rather, it seeks to contextualize the argument and deepen the analysis by incorporating examinations of Zionism as the foundational ideology that informs Israeli institutions, laws, and practices, including the system of apartheid, which this critique contends is fundamentally racist.[57] Moreover, it emphasizes that the goal of apartheid is not only to discriminate in order to dominate, which is the focus of the legal definition, but more importantly to facilitate the process of settler colonialism at its root with the intention to eliminate and replace the indigenous population.[58] This is something Israeli apartheid shares with the South African experience, but it is not conveyed in international law. Furthermore, the Palestinian case includes Israel's expulsion of the majority of Palestinians in 1948 and the creation of the refugee issue,[59] as well as ongoing efforts of forcible displacement, which are not shared by apartheid South Africa but are integral to the issues of separation and demography that underly apartheid as they manifest in Palestine-Israel.

Those who center the settler-colonial dimension argue that apartheid and settler colonialism are logically entwined as part and parcel of the same process aimed at displacing and replacing indigenous people. In another sense, the need for apartheid emerges from the limitations of settler colonialism to replace the native population. Once total replacement is not possible, separation from the remainder becomes imperative as both corollary and complement. Apartheid acts as a mechanism for continuing the process of settler colonialism by segregat-

ii. This is a summary of numerous reports.

ing and oppressing the native population in order to pursue a gradual process of demographic replacement and territorial control.

To an extent, Israel relieved itself of the need for a South African-style apartheid system through ethnic cleansing in 1948. The Palestinians that remained in Israel's recognized borders were a minority, and their enfranchisement did not threaten Jewish control of the polity or economy.[60] Israel still imposed military rule on the Palestinians who remained for nearly two decades, while it expropriated their land holdings and enshrined Jewish domination of the state and society at their expense. Its leaders also promulgated foundational legislation, such as the Law of Return (1950) and the Nationality Law (1952), which clearly discriminate against Palestinian citizens, as well as handed over important state functions to organizations like the World Zionist Organization, Jewish Agency, and Jewish National Fund, whose sole responsibility is to facilitate the Jewish conquest of Palestinian land.[61]

> Mainstreaming popular identification of Israel with apartheid facilitates broad international understanding of the Palestinian plight.

Taken together, the Palestinian human rights reports, the various international and Israeli human rights reports, and the critiques of those reports can act in a complementary way. They offer varying interpretations of apartheid that appeal to different audiences. Yet, their variances also contain an underlying tension that could prove problematic.

OPPORTUNITIES

The mainstreaming of the apartheid framework provides clear opportunities for Palestinians and their supporters to challenge the existing structures of Israeli subjugation.

Fundamentally, apartheid is a more expansive and encompassing concept than military occupation, which is not only temporally and territorially limited—rooted in 1967 and the occupied territories—but fails to account for numerous aspects of Israel's regime that are outside the scope of occupation's narrow confines, including settler colonialism and racially discriminatory policies. As such, apartheid offers a more accurate description of the regime in place and the Palestinian reality within it. While occupation is a banal and little understood concept among the general public, anyone who has heard the word *apartheid* understands it to denote something nefariously reprehensible. That is also true of apartheid's intent, maintaining Jewish supremacy, which resonates in contemporary international discourse on racism. Thus, mainstreaming popular identification of Israel with apartheid facilitates broad international understanding of the Palestinian plight and opposition to the Israeli regime as it is constituted.[62]

This is important if Palestinians are to build upon the gains of their fledgling anti-apartheid movement and rally supporters to put pressure on corporations, institutions, and governments doing business with Israel.[63] Since Durban in 2001, Palestinian activists have organized multiple campaigns that have formed the nucleus of this movement, including the Palestinian Grassroots Anti-Apartheid Wall Campaign (Stop the Wall) in 2002, the Palestinian Academic and Cultural Boycott of Israel (PACBI) in 2004, the Boycott, Divestment, Sanctions (BDS) campaign, Israeli Apartheid Week in 2005, and the BDS National Committee in 2007.[64]

The growth of this movement is an important means of reducing the power imbalance between Israelis and the Palestinians, given that it is directed at leveraging international public opinion to pressure Israel and force states, institutions, and companies to end their complicity with Israel and impose mechanisms of accountability, such as divestment and sanctions.

The compendium of documentation and analysis that has been compiled on Israel's regime of apartheid, along with the consensus that has emerged in the human rights community, are major assets to the Palestinian campaign, which no longer needs to

continually make the case that Israel is committing the crime of apartheid. Moreover, the prestige of organizations like HRW, Amnesty International, and Harvard Law School's International Human Rights Clinic, to name a few, lend credibility to the anti-apartheid movement, which has been subject to a significant campaign of delegitimization and criminalization since its inception.[65] In effect, they have helped widen the Overton Window[iii] on the topic of apartheid and allowed for a larger segment of people, including a growing number previously fearful of backlash, to call out apartheid and condemn it in the Israeli context.[66]

> "It is incumbent on members of the international community to end relations with Israel and pressure it to dismantle the regime of apartheid."

This has already led to some significant results, with notable figures and groups at the cultural, political, and religious levels having adopted the apartheid framework and/or the use of boycotts to express solidarity with Palestinians.[67] State actors, particularly in the Global South, are also beginning to do the same—most notably South Africa and Namibia, which have spearheaded an effort for the African Union and its members to cut ties with Israel.[68]

A second major opportunity is in the legal pathways opened or widened by apartheid. Unlike military occupation, which is not inherently unlawful,

> The legal prohibition against apartheid has become well-established through both customary and conventional international law. It is regarded today as a *jus cogens* norm, a peremptory norm of international law for which no derogation is allowed. Elevating apartheid to the most serious of crimes in international law places it in the same category as war crimes, wars of aggression, territorial annexation, genocide, slavery, torture and crimes against humanity. And as a *jus cogens* norm, this gives rise to obligations *erga omnes*, creating a legal duty on all states to cooperate in order to end the violation.[69]

In other words, it is incumbent on members of the international community to end relations with Israel and pressure it to dismantle the regime of apartheid.

So far, juridical bodies like the International Criminal Court (ICC) and the International Court of Justice (ICJ) have not taken up the issue of apartheid specifically. However, Palestinian advocates and others have already filed relevant complaints with the ICC, including a 700-page communication in 2017 from a group of Palestinian human rights organizations proffering evidence alleging the crimes of persecution and apartheid.

For years, Palestinians have been attempting to seek redress for alleged Israeli crimes in international courts, particularly for war crimes committed in Gaza, but also for structural violations like the occupier's illegal transfer of its citizens into occupied territory. According to Noura Erakat and John Reynolds, one benefit of the apartheid framework is its ability to "[link] together the hot violence of Israel's war crimes with the cold violence of its legal structures of dispossession, exclusion and persecution."[70]

Legal actions at the ICC have not been limited to Palestinian groups. As recently as October 2022, Democracy for the Arab World Now (DAWN), an American NGO, filed a submission calling on the prosecutor of the ICC to investigate the former West Bank Legal Advisor to the Israeli Defense Forces, Eyal Toledano. The submission stated that between 2016 and 2020, "Toledano planned, approved, or oversaw acts and policies that constitute war crimes, crimes against humanity, and human rights violations, including ... maintaining a system of apartheid."[71]

iii. The Overton Window is a theory developed by Joseph P. Overton to describe the range of policies and stances that are within the realm of political possibility at a given time.

In 2022, the UN General Assembly passed a resolution requesting the ICJ to render its opinion on:

> The legal consequences arising from Israel's ongoing violation of the right of the Palestinian people to self-determination, its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption of discriminatory legislation and measures. The resolution further asks the Court how Israel's policies and practices referenced affect the legal status of the occupation and what are the legal consequences that arise for all States and the UN."[72]

Although apartheid is not referenced in the question to the ICJ, several aspects of apartheid are, such as demographic engineering and systematic discrimination, and the court could choose to include it in its opinion. It is worth noting that in March 2022, the International Commission of Jurists recognized and denounced Israel's system of apartheid.

Beyond the international courts are numerous committees established to monitor the implementation of treaties, such as the Committee on the Elimination of Racial Discrimination (CERD). Documents have already been filed with CERD urging it to look at Israel's violation of this treaty, which it ratified in 1979, in the context of apartheid, and CERD affirmed its jurisdiction in 2019 and the admissibility of claims in 2021.[73] New commissions of inquiry have also been established with a similar purpose. In May 2021, the UN Human Rights Council established an independent, ongoing commission for the occupied territories, East Jerusalem, and Israel to "investigate all underlying root causes of recurrent tensions, instability and protraction of conflict, including systematic discrimination and repression based on national, ethnic, racial or religious identity."[74] Its first report was released in June 2022.[75]

Pro-Palestinian advocates are seeking the reconstitution of the UN Special Committee established in 1962 to combat apartheid in South Africa, which was decommissioned in 1994 when apartheid was dismantled there. This committee was responsible for coordinating an international response and documenting and fighting complicity. It also promoted the international campaign against apartheid and helped shape public opinion and legitimize the call for boycott, divestment, and sanctions, among many other things. There was also the UN Centre on Apartheid, established in 1976 and decommissioned in 1994, that supported the work of the Special Committee and reviewed and reported on the activity of Third States in relation to South Africa, a key pillar of enforcing compliance.[76]

There is another legal opportunity outside the UN system for Palestinians and their supporters. Domestic courts in some countries allow lawsuits for gross violations of international human rights law and crimes against humanity abroad. As such, complicity with a state committing the crime of apartheid could become the target of lawsuits. Although this avenue was attempted and failed in the past regarding Israel, the growing resonance of the apartheid framework and the substance of the human rights reports may provide new opportunities in the future. In September 2021, for example, a French court ruled against the multinational cement company LafargeHolcim for complicity with ISIS over the company's business activities in Syria.[77]

That is also true for national laws that prohibit the sale of military equipment to foreign states that are engaging in gross violations of human rights, such as the Leahy Laws in the United States and export laws in the United Kingdom that prohibit sales of weapons when they may be used in a "serious violation of international humanitarian law."[78] In 2019, for example, a UK court ruled against the sale of military equipment to Saudi Arabia because of such alleged violations in Yemen.[79]

Another opportunity presented by the mainstreaming of apartheid exists within the composition of

democratic government and political rights within Palestine-Israel itself. Apartheid within Israel's internationally recognized borders is not very pronounced, because it does not need to be. Palestinian citizens are a minority and do not pose an existential threat to the state's Jewish character, making their enfranchisement expedient and allowing systematic discrimination to be subtly woven into the laws and practices of the state.

Yet with each passing generation the Palestinian citizenry has become more politically assertive in demanding equality, using the language of democratic liberalism by calling on Israel to become "a state of all its citizens."[80] Over time this has made it increasingly difficult for Israel to continue passively defining itself as both Jewish and democratic, while tiptoeing over the inherent contradiction in those terms. It is no coincidence that in recent years the Israeli Knesset has taken steps to tip the balance in favor of Jewishness,[iv] passing a slate of discriminatory legislation that culminated in the Nation State Law in 2018, which explicitly defines the state in terms of Jewishness without once mentioning democracy or equality.[81]

> "If Palestinians extend their anti-apartheid struggle ... to a political movement on the ground ... then the pressure on Israel to choose between democracy and Jewishness would rise exponentially."

The elimination of partition as a possibility has accelerated these trends by bringing the more than five million stateless Palestinians in the West Bank and Gaza closer to Israel's polity and enhancing the pressures of demography and political unity among fragmented Palestinians. Still, these stateless Palestinians have never demanded citizenship *en masse*. This has not only kept the political agenda of Palestinian citizens and non-citizens distinct, but it has also relieved Israel of the full demographic pressure on its limited democratic system.

If Palestinians extend their anti-apartheid struggle—so far largely existing in the international arena—to a political movement on the ground, translating their demands for self-determination into demands for citizenship, then the pressure on Israel to choose between democracy and Jewishness would rise exponentially. Such a choice would mean either dismantling apartheid to include all Palestinians in the polity or moving further down the path of exclusion and separation, thereby reinforcing the visibility of apartheid.

The apartheid framework is not only useful as a means of challenging Israel's regime. Apartheid also speaks directly to Palestinians and their internal needs at this juncture of fragmentation and despair. As Tareq Baconi writes, "For many pro-Palestinian activists, the appeal of highlighting the similarities rests largely in the desire to make South African history an exemplar to mobilize international support for Palestinians and to inspire hope in the prospect of ending apartheid."[82] In other words, the success of the South African experience can offer Palestinians much needed optimism in a blueprint for achieving liberation.

Apartheid is also a unifying framework that counters longstanding efforts to fragment and compartmentalize Palestinians. Whereas the orientation around occupation is inherently divisive, because only a subsection of Palestinians lives under that system, apartheid recognizes Palestinians as a single people facing invidious discrimination and repression, although in varying degrees, from the same regime. Apartheid can account for these differences while not fully compartmentalizing Palestinians and treating their circumstances as distinct. As such, the apartheid framework orients Palestinians in a unified struggle and harmonizes their political agenda, at least to an extent. As such, this framework offers a

iv. In the coalition agreement of Israel's far-right government, which took office in December 2022, it took the Nation State Law a step further by saying the Jewish people have "an exclusive and unquestionable right to all areas of the Land of Israel," including the occupied territories.

pathway to much-needed unity among Palestinians after years of debilitating fragmentation.

Finally, while the continued adherence of the PLO/Palestinian Authority (PA) to the Oslo framework and the two-state solution has reinforced Palestinian political fragmentation and sapped the incipient anti-apartheid struggle of a coherent voice and political leadership, the mainstreaming of apartheid has finally forced the PLO's hand. In 2022, the PLO established an anti-apartheid department and, in partnership with the BDS movement, the Palestinian NGO Network, the Palestinian Human Rights Organizations Council, the PA Ministry of Justice, and several other civil society actors, convened a conference to discuss the way forward in relation to apartheid. In January 2023, the PLO released a groundbreaking statement calling for a unified global front to end apartheid and settler colonialism.[83] Although the PLO leadership remains reluctant to fully embrace the apartheid framework, the statement marked an important step and a critical opportunity for Palestinians to end their fragmentation and join together in a cohesive, national struggle.

> "Despite the current traction around the apartheid framework ... attempts to delegitimatize and criminalize elements of the anti-apartheid movement have grown in scope and intensity."

CHALLENGES, OBSTACLES, AND RISKS

In spite of the many opportunities it presents, the usage of the apartheid framework is not without its challenges. Moreover, the absence of representative political leadership and a comprehensive Palestinian voice on the issue of apartheid poses certain risks.

Like military occupation, apartheid is a finite concept that does not encapsulate the full extent of the interaction between the Zionist movement, Israel, and the Palestinian people. While it goes much further than occupation, there is still a risk of relying on it completely to frame Palestinian grievances and demands. Moreover, whereas military occupation is a universally accepted concept as applied to Israel, apartheid is likely to continue to meet resistance at various levels, especially in important power centers of the Global North.

Despite the consensus in the human rights community and the publication of major reports documenting apartheid, policymakers in North America and the European Union, in particular, have either been unwilling to use the term or have rejected its applicability to Israel outright.[84] This makes efforts within international institutions where these states wield considerable power more difficult and riskier. International courts like the ICC operate in highly politicized contexts and are subject to pressure from states.[85] It is quite possible that important rulings on the status of Israel's occupation and on apartheid will not go in the Palestinians' favor.

In a March 2023 U.S. Congressional hearing, Ambassador to the UN Linda Thomas-Greenfield stated that the U.S. mission had successfully worked to decrease the staffing and budget by a quarter for the UN's commission of inquiry investigating Israel.[86] She also mentioned complaints lodged against the current UN Special Rapporteur Francesca Albanese at the highest levels of the institution, demonstrating how the U.S. intervenes to undermine the work of UN-mandated actors scrutinizing Israeli violations of international law, including apartheid.[87]

Nonetheless, according to officials at HRW and Amnesty, policymakers in Western states have been more receptive to the applicability of the apartheid framework in private discussions and do not offer substantive refutations of the term's applicability.[88] Moreover, the U.S. and EU have taken steps towards recognizing Israeli apartheid by adopting relevant frameworks that approach the definition of apartheid without using the precise term. In internal documents and public statements, for example, the EU has described the situation in Palestine-Israel as the entrenchment of "a one-state reality with unequal rights."[89] The Biden administration has continually framed its goal—beyond the two-state solution—as "ensuring that the Palestinians and Israe-

lis enjoy equal measures of freedom, security, opportunity, justice, and dignity."[90] While these may be half steps, they move Western states closer to recognizing apartheid.

"The Israeli government has also predictably been active in orchestrating and funding efforts to undermine the apartheid framework and anti-apartheid movement."

Despite the current traction around the apartheid framework, or perhaps because of it, attempts to delegitimize and criminalize elements of the anti-apartheid movement have grown in scope and intensity. Anti-boycott legislation has made significant headway in the U.S. and in some European countries like Germany. While courts have largely rejected this legislation as a violation of free speech rights, the issue remains unsettled, and the chilling effects of anti-boycott campaigns remain potent. This effort to halt the traction around apartheid has been bolstered by the International Holocaust Remembrance Alliance's (IHRA) "working definition" of anti-Semitism, which conflates it with criticism of Israel and has been used to attack the major international human rights groups that have published reports on apartheid. Indeed, the IHRA definition's "language has paved the way for attacking virtually all criticism of Israel as *prima facie* anti-Semitic, based on the simplistic argument that focusing criticism on Israel, when other nations are guilty of similarly bad behavior, can only reflect animus against Jews."[91] So far, the IHRA definition has been adopted or endorsed by 39 countries, including most of Europe, the U.S., Canada, the UK, Argentina, Uruguay, Colombia, Guatemala, the Philippines, and South Korea. While the definition is not legally binding, it works in tandem with other efforts to silence criticism of Israel and intimidate its detractors. And although this is not specific to the apartheid framework, it still poses a challenge that must be surmounted for the Palestinian liberation and anti-apartheid movements to gain further traction.

The Israeli government has also predictably been active in orchestrating and funding efforts to undermine the apartheid framework and anti-apartheid movement. Indeed, beginning in 2015, Israel's Ministry of Strategic Affairs spearheaded the fight against BDS, using proxies to bypass foreign funding regulations in the U.S. to establish networks dedicated to the effort.[92] In 2021, Israel designated the Palestinian NGOs at the forefront of documenting apartheid violations and building the case at the UN as terrorist organizations, criminalizing their work and attempting to cut them off from essential funding from abroad.[93] Taken together, most of the obstacles and challenges to the apartheid framework have come in the form of efforts to discredit, undermine, or criminalize the messengers, rather than refute the message.

However, resisting the adoption of the apartheid framework is not only an issue for Israel and its allies in the Global North. The PLO and PA have also been hesitant to fully embrace it; although the State of Palestine did ratify the Apartheid Convention in 2014, this was primarily done to strengthen its statehood initiative by acceding to all conventions available.[94] This is partly due to an unwillingness or inability of the current leadership to shift course, after decades of unsuccessfully pursuing an independent state, and jettison the professed gains of the past thirty years, as well as risking the personal material interests that have been accumulated. Part of the hesitation also stems from misunderstandings over the implications of adopting the apartheid framework, and over what the South African anti-apartheid movement entailed and achieved. Some question whether adopting the apartheid framework implies that Palestinians only seek civil rights within the State of Israel, rather than national rights, which is seen as accepting the Zionist narrative and legitimizing existing Israeli state structures.

In an interview, one senior PLO official suggested that securing civil rights had been the primary aim and achievement of Black South Africans, missing that the dismantlement of apartheid included the reconstitution of the entire political system, which

took years of negotiations between stakeholders. Indications are that:

> The current thinking in the PLO is [not necessarily] that we need to shift completely to an anti-apartheid movement like that in South Africa. There is a realization that this is a major thing, it has to be mainstreamed, it has to get into our discourse and narrative and the lexicon, etc., but not much more. Because still, by and large, the program is the end of occupation that began in '67, and the right of refugees in accordance with international law. That's the program.[95]

"For years, Palestinians have faced a crisis of leadership in which the people heading political institutions have lost their basis for legitimacy."

For years, Palestinians have faced a crisis of leadership in which the people heading political institutions have lost their basis for legitimacy: they are unelected, widely unpopular, and adhere to a political program that no longer has the support of most Palestinians. This has produced a widening gap between the leaders of the PLO/PA and the Palestinian public—especially the alienated Palestinian diaspora and exile communities—over the strategy and goals of the liberation movement. As such, Palestinians have been unable to organize effectively around the issue of apartheid and speak with a coherent and comprehensive voice on the full nature of apartheid and its potential remedy. Activists and NGOs are largely operating adrift of an organized political movement, and in its place, international human rights groups—with their limited, legalistic perspective on apartheid—are driving the discussion on those issues.

Yet, Palestinians are concerned about the shortcomings of relying solely on international law, at the expense of historical context, to address the complexity of the Palestinian question and realize justice on those terms. According to Erakat and Reynolds:

> There is scope for principled anti-apartheid legal tactics to trigger transformational possibilities, if harnessed effectively under the right conditions in service of a cogent political strategy. However, given the current state of the Palestinian leadership, and the disconnects between Palestine's political institutions, popular movements and global solidarity campaigns, such conditions and strategy remain distant.[96]

Another issue stemming from the lack of a coherent Palestinian political agenda is the latent tension between the apartheid framework and the potentialities of Palestinian self-determination. The anti-apartheid agenda does not necessarily correspond to various political end-goals equally, and Palestinian ideological fragmentation obstructs a broad coalescence around the anti-apartheid movement. The grassroots Palestinian anti-apartheid campaign has sought to avoid this pitfall by rejecting the need for an overarching political program and focusing on the immediacy of Palestinian rights denied by Israel. The three pillars of the BDS program are ending military occupation, securing equal rights for Palestinian citizens, and enabling the return of refugees. These pillars address the current structural framework of apartheid using the rights-based discourse, which is grounded in international law and focused on remedying the status quo without necessarily addressing historical injustices or looking ahead to a future constitutional framework. But the tension remains.

Those Palestinians who are still committed to the two-state paradigm, for instance, are skeptical of the apartheid framework and its implications for realizing their preferred political vision of a future Palestine. The PLO leadership falls into this camp and has never fully backed the international boycott movement. Indeed, Palestinian civil society groups made the call for BDS on the first anniversary of the ICJ's 2004 ruling that Israel's separation barrier was illegal, after the PLO failed to take any action of its own over the course of a year. By contrast, it was the African National Congress leadership that made the call for an international boycott of apartheid South Africa in 1958, while spearheading this tool of political pressure as part of a broader strat-

egy of resistance. For the Palestinian campaign, the lack of involvement from organized political leadership with a cohesive strategy and vision hinders its overall effectiveness.

> The characterization of Israeli rule over Palestinians as a system of apartheid represents a radical reframing of the regime between the Jordan River and the Mediterranean Sea.

Finally, Palestinians will likely face challenges in building a broad-based anti-apartheid movement that includes Israelis, which many consider crucial to successfully ending apartheid. Without a coherent and appealing vision of what a shared Palestinian-Israeli future might look like, including a willingness to grapple with the need for spaces of expression for Jewish nationalism, Palestinians will likely have difficulty engaging Israelis and winning converts to the effort of dismantling the current regime. Yet the Palestinians who have adopted the apartheid framework have so far been unable to address questions of a shared future, because ongoing Palestinian political fragmentation makes the process of developing a common vision virtually impossible.

Palestinian intellectuals have been understandably concerned with rehabilitating the full conceptual basis of the Palestinian cause after decades of peace process-era distortion. The more radical intellectuals have returned to the tenets of Palestinian liberation from the 1960s and 1970s, which are deeply rooted in the anti-colonial struggle. This point of view makes space for Jews, but not for Jewish nationalism, in a decolonized Palestinian state. Indeed, the demand for decolonization, while arguably necessary, poses significant political and strategic challenges, as it is certain to alienate the vast majority of Israelis and face firm opposition. Decolonization, like any political program, also requires the power to implement, which Palestinians fundamentally lack. Mobilizing the international community without clear, basic conceptions of the future beyond dismantling systemic discrimination could prove more difficult. Furthermore, challenging the totality of Israel as a Jewish national project comes with significant risks arising from zero-sum contestation that could be met from the Israeli side with a more sweeping use of coercive violence against the vulnerable Palestinian population under its control. These realities of political power and potentialities of violence cannot be simply brushed aside.

CONCLUSION

The characterization of Israeli rule over Palestinians as a system of apartheid represents a radical reframing of the regime between the Jordan River and the Mediterranean Sea. Although the charge dates back to at least the early 1960s and has been part of the discourse ever since, the past two decades have seen a dramatic rise in its usage to the point of it now entering the mainstream. This highly consequential shift has been driven, in part, by the development of an embryonic anti-apartheid movement, and by increasing acknowledgment that Israel's control over the occupied Palestinian territories has become permanent. It has also been anchored in a growing body of research and analysis by legal experts, scholars, human rights professionals, and multilateral institutions.

As Palestinians seek to redress the significant power imbalance between themselves and Israel, the mainstreaming of the apartheid framework offers new opportunities, particularly in advocacy and accountability, owing in part to the fundamental illegality of apartheid regimes. It also offers Palestinians a unifying basis from which they can combat their forced fragmentation and contest Israeli subjugation on the ground. The adoption of the apartheid framework, however, is not without considerable challenges and risks. For it to be politically effective, Palestinians must be able to reorient and harmonize their struggle around the apartheid framework, which is exceedingly challenging in the absence of political unity and a cohesive political movement. Palestinians will also face challenges mobilizing Israelis to dismantle their own regime of Jewish privilege without having a clear vision of a shared future, posing the type of zero-sum situation that could provoke additional, sweeping violence against a vulnerable Palestinian population.

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The author would like to thank the Middle East Council on Global Affairs' research and communications teams, particularly Nader Kabbani for his guidance and support, Tanner Manley for his diligence, and Françoise Freifer for her contribution to the Arabic translation. The author would also like to thank the peer reviewers for their important feedback, and those he interviewed for their time and insight.

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