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Israel and the A-Word

By John Reynolds
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The word resonated loud and clear from South Africa. Hendrik Verwoerd, widely described as a key architect of apartheid, was the far-right National Party's propagandist, political strategist and, ultimately, party leader. In 1961, as South African Prime Minister, he noted that Israel was

built on land taken 'from the Arabs after the Arabs lived there for a thousand years.' The point was to express his approval and to highlight Zionism's common cause with the Afrikaner pioneers: 'In that, I agree with them. Israel, like South Africa, is an apartheid state.'

Verwoerd was able to make this diagnosis without needing to live to see the brutality of the Israeli occupation of the West Bank and Gaza after 1967. Israel's apartheid foundations were laid in its dispossession of the Palestinians in 1948. They were reinforced by the immediate erection of colonial constitutional structures that cemented the exclusion of the colonised.

Since then, Israeli law and policy has only deepened the state apparatus of separation and segregation, discrimination and domination. Over the years, countless activists, authors and artists, as well as leading anti-apartheid figures from South Africa, have referred to Israel's particular brand of structural discrimination as akin to apartheid. In the last decade, international lawyers have also begun to do likewise, but with reference to the definition of apartheid under international law rather than by analogy to southern Africa.

This week, a report commissioned and published by the UN Economic and Social Commission for Western Asia (ESCWA) has concluded that 'Israel has established an apartheid regime that dominates the Palestinian people as a whole'. According to the report, the Israeli regime governing Palestinians is a racial regime of institutionalised domination – the essence of the international legal definition of apartheid. The maintenance of Israel's exclusionary constitutional character as the state of the Jewish people has entailed a "strategic fragmentation of the Palestinian people". It has involved expulsion of Palestinian refugees into exile, discrimination against Palestinians inside Israel as second-class citizens, oppression of Palestinians under occupation; all through a concerted array of law, policy and practice that forges 'a comprehensive policy of apartheid'.

This finding breaks new ground in the context of UN analysis on Israel/Palestine. Specialised UN bodies – such as the Committee on the Elimination of Racial Discrimination and the Human Rights Council's Special Rapporteur on Palestine – have in recent years categorised Israeli law and policy in terms of racial segregation and apartheid. This framing has been geographically limited to the military occupation of the West Bank and Gaza, however – as distinct from inside Israel itself, or Israel's relationship with the Palestinian people writ large.

This was a somewhat necessary distinction, given the UN practice of analysing the occupied Palestinian territory and Israel as two separate territories under international law. But it was also in certain respects an artificial distinction. Much of what renders the situation in the occupied territory as apartheid is the separate and preferential legal system applied to Israeli settlers – a hierarchical legalism which is central to the constitution of Israel itself. Laws on citizenship, residency and family unification, as well as land, planning and housing rights, apply inside Israel to benefit Jewish-Israeli citizens over Palestinians. Those laws are then channeled into the West Bank to further stratify the population there. Colonisers living in the settlements are endowed with legal status and privilege that is denied to the Palestinian population of the same territory.

There are of course differences in the modalities of Israel's discrimination against Palestinians – depending on whether they are inside Israel, in occupied territory, or in exile. The crucial point

that the UN report highlights, however, is that this is nonetheless best viewed as a single overarching institutional regime which discriminates against the Palestinian people as a whole.

For a UN Commission report to state this so clearly, and to theorise Israel as a "racial state", is significant. A people's tribunal, the Russell Tribunal on Palestine, did arrive at similar conclusions back in 2011. The momentum that this analysis has gathered in official UN settings since then shows the possibilities of an international law from below – one which is not afraid to confront the realities of a state in which increasingly discriminatory legislation has spewed thick and fast from an ascendant far-right.

While the report's findings do hinge on the legal definition of apartheid, the Commission itself does not have the authority of an international tribunal. The International Court of Justice and the Committee on the Elimination of Racial Discrimination are among the relevant actors when it comes to determining Israel's state responsibility for an unlawful apartheid regime. The International Criminal Court enters the fray for determining the criminal responsibility of individual Israeli officials for the perpetration of acts of apartheid, as crimes against humanity. Any adjudications from these and other legal institutions can feed into the UN political organs vested with the capacity to impose sanctions and arms embargoes, as was (eventually) done with apartheid South Africa. In this context, the report offers a potential platform for further developments in the political arena of the UN.

A UN spokesperson has said that 'the report as it stands does not reflect the view of the Secretary-General'. The report made no claim to represent the views of the UN as a whole. It does, however, reflect the views of a regional UN commission, made up of eighteen member states of North Africa and West Asia. And here it is important to remember that the genesis of the UN sanctions and arms embargo against South Africa flowed up from below and inwards from the periphery, not down from on high or out from the core. The Third World states led the charge against apartheid for many years in the face of Western resistance and support for South Africa. It was 1952 when a group of thirteen Arab and Asian states first succeeded in adding 'The Question of Race Conflict resulting from the policies of apartheid' to the UN General Assembly's agenda. It took another 25 years – after multiple abstentions and vetoes by Britain, France and the US, and a rising global social movement against apartheid – before the Security Council eventually imposed a mandatory arms embargo on South Africa.

In the current conjuncture, the significance of this week's report extends beyond Israel/Palestine. Verwoerd's National Party is not the only white supremacist political movement to have seen the attraction of Israel's constitutional structures. The "alt-right" movement in the US is premised on a white nationalism that incorporates very real antisemitic discourse and intimidation among its multiplicity of racisms. At the same time, it admires Israel's exclusionary policies. Richard Spencer describes the alt-right project as 'a sort of white Zionism' and argues, as Omri Boehm has noted, that Israel's ethnic-based politics is the basis of a strong, cohesive identity which the alt-right is seeking to emulate in the US.

With the alt-right now maintaining a foothold in the White House, it is imperative to think seriously about the apartheid nature of Israel's constitutional order and about how to deepen anti-racist alliances and solidarities across borders. The Trump/Bannon travel ban agenda of course

finds some parallel in Israel's own long-standing border policies, and comes at a time when Israel has adopted new legislation purporting to ban boycott adherents. In that context, the ESCWA report's call for member states and civil society to support and 'broaden support for boycott, divestment and sanctions initiatives' is another significant political move.