



A recently published report by Amnesty International has labeled Israel an 'apartheid regime'. Our researcher, Irena Kalhousová, has actively participated in the public debate sparked by this controversial statement. As a contribution to the discussion, we are publishing yet another perspective on the subject in this guest policy paper written by Dr. Jakub Záhora from Max Planck Institute in Germany.

The Difficulty of Debates on Israel as an Apartheid Regime

Jakub Záhora

In early February of this year, Amnesty International (AI), the world-leading human rights organization, published a report which stated that Israeli state policies towards the Palestinian population constitute the crime of apartheid. Rather unsurprisingly, even before it was published, the report was condemned by Israeli officials as antisemitic, but applauded as long overdue by Israel's critics.

The AI report is far from being the first to call Israeli regime apartheid. This label has been used for years by the Palestinians, and recently several Israeli and international human rights groups have come to the same conclusion. However, what is different about the AI conclusions in comparison with previous reports is that the AI argues that not only does the Israeli control over the Palestinians in the occupied West Bank constitute apartheid, but that this crime also defines policies in Israel proper (this is a claim that had been made repeatedly by the Palestinians).

This assertion has been criticized not only (quite predictably) by Israeli officials and pro-Israeli advocates of

different stripes, ranging from US politicians to conservative pundits to lobby groups and some civil groups, but even by many activists and commentators who are vocal in their opposition to the Israeli occupation and human rights abuses in the West Bank and Gaza Strip. The scope of the AI claims has been labelled as a strategic mistake that will alienate those who fight against Israeli control over the Occupied Territories but see Israel as an essentially liberal and democratic state, or as simply an unfair and misleading overstretch which erases any differences between Israel proper and the Territories.

About the author

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Much of the debate surrounding the AI claims suffers from emotional baggage that obscures many aspects of the report and makes an intelligible dialogue next to impossible. Although it would be naïve to assume that political differences on Israel/Palestine can be instantly overcome, clarification of some of the terms and claims should help to facilitate more informed and substantial discussion. Accordingly, the purpose of this policy brief is to provide an overview of the main contested points regarding the AI report, the common shortcomings that are present in the current debates on the AI claims, and to outline which points especially should be engaged with more carefully in order to have a more meaningful discussion.



Watchtower at checkpoint Qalandia; Source: SP (www.flickr.com/sp-politiek)

The Crime of Apartheid

Many commentators took issue with the AI conclusion (as well as previous assertions in this direction) by highlighting the differences between the Israeli treatment of the Palestinians, and the regime that was in place in South Africa before its dismantling in the early 1990s. However, as the AI report and its precursors make clear, apartheid is in fact a crime defined by international law. According to the 1998 Rome Statute that established the International Criminal Court to deal with crimes against humanity, apartheid consists of “inhumane acts” that are “committed

in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime”.

Clarification that apartheid is one particular and specific crime against humanity might help to address some of the debates regarding the allegedly unfair use of the term to describe the Israeli regime while ignoring violations committed by other governments. Labelling Israel as an apartheid state does not imply denying mistreatment of people in other contexts on the part of AI and the human rights community at large – these practices (according to the groups concerned) do constitute different breaches of international law, such as war crimes or ethnic cleansing, but do not amount to apartheid. What this means in terms of debate over the AI conclusions is that pointing to other instances of human rights violations does not in itself address the accusation of apartheid (in the sense of refuting these claims by supposedly highlighting double standards by critics of the AI report), and it can in many cases in fact pose as a red herring which derails attention from the substantial claims and debates regarding Israel and Palestine.

It should be also noted that Amnesty International concluded in 2017 that the mistreatment of the Rohingya population by Myanmar constitutes apartheid, and as stated by its representatives, the organization might also launch investigations into other countries which might be committing the crime. Similarly, Human Rights Watch (which has accused Israel of committing apartheid in the West Bank) has strongly condemned the illegal imprisonment and torture of political opponents by both Hamas and the Palestinian Authority. In other words, the human rights community does focus on other actors too, including the Palestinian leadership – but, in contrast to Israeli policies, it does not see these actors’ practices as constituting apartheid.

Clearing the Threshold

Even many discussions which do not equate the label “apartheid” and the regime that was in place in South Africa for much of the second half of the 20th century are easily derailed by blank rejection of the label without actually carefully addressing the claims made by AI and other groups. While to determine if the threshold of “an institutionalized regime of systematic oppression and domination” has been crossed is, ultimately, a matter of political analysis, the debate would benefit from a more careful engagement with the AI arguments.

Much of the discussion in this regard suffers from one of two shortcomings. On the one hand, many detractors simply refuse the label as completely inadequate or too harsh, while critics of Israel apply it as an obvious framework. Although ideologically opposite, such propositions do not really engage the substantive claims and simplistically support or refuse them on the basis of “common sense”. On the other hand, many debates come down to very particular cases without relating them to the larger picture. In this case, the commentators simply list a series of particular policies, practices and realities that either depict Israel as an apartheid state (for example, by pointing at discrimination of the Palestinian citizens of Israel in terms of access to land and housing) or oppose this portrayal (by highlighting the Palestinians’ political participation). This cherry picking does not get to the core of the AI claims which label Israeli policies as “systemic”, a claim which should be addressed in rigorous discussion about the nature of the Israeli regime. While such analysis and discussion are hard to conduct within the limited space afforded by media, commentators should try

to address the bigger picture in order to tackle the issue at hand.

This is especially needed with regards to claims that even Israel proper is a site of the crime of apartheid. While the AI report makes clear that the Israeli “system [...] operates with varying levels of intensity and repression based on Palestinians’ status in separate enclaves where Palestinians live today” (pp. 11) and “is not applied uniformly across all areas” (pp. 12), the claim that the Israeli state is defined by an apartheid regime is highly contestable (as admitted even by harsh critiques of its occupation policies) and should be carefully laid out without simply listing discriminatory policies against the Palestinian citizens of Israel as these in themselves do not necessarily constitute apartheid practices. In the same vein, those who agree with the AI conclusions should highlight the common basis of the policies across the Green Line separating Israel proper and the Occupied Territories to make a stronger case for analyzing the regime between the Jordan River and the Mediterranean Sea within one framework. Those who maintain that Israel is committing apartheid should also more carefully and in an in-depth way address the justification of many policies on the grounds of security and demonstrate that these are excessive and disproportionate, as the AI report devotes only two pages to refuting these claims.

While it is quite clear that addressing these issues will not lead to a unanimous agreement regarding the AI report in particular, and the nature of the Israeli regime in general, it should promote a more informed and substantive discussion which would be more accessible for policy-makers and the general public.