

Israel eyes a new kind of regime in the West Bank, but the world sees apartheid

Israel doesn't see the enclave as occupied, and it doesn't see it as 'liberated territory.' The West Bank is thus abandoned

Shaul Arieli | Feb. 22, 2022 | 5:09 AM | 7

At the beginning of February, Amnesty International released a report stating that Israel maintains a system of apartheid against the Palestinians. This document could turn out to be a trailer for the UN Human Rights Council's commission of inquiry that was established following the fighting with Gaza last May. The commission's report is due out in June and could claim that Israel is an apartheid state. Israel's government must lift this threat by implementing a clear policy on the West Bank.

The previous government's confused policy on the territory's future is no longer acceptable to most of the international community. That policy sees things the following way: We won't annex but we also won't set up a Palestinian state, we'll maintain the status quo but we'll expand the settlements, we'll enforce the law but not against Jewish rioters and illegal outposts, we'll talk with Palestinian President Mahmoud Abbas but only about what we want to, we'll keep Jerusalem unified but only invest in Jewish neighborhoods.

Since 1967, Israel has been engaged in a war of rhetoric based on whitewashed terms declaring that the occupied territories are "liberated" or "held" territories. In doing so, Israel tries to justify its actions that run contrary to international law and resolutions.

Israel's governments have always been aware of the West Bank's legal status. A top secret cable from the Foreign Ministry to Yitzhak Rabin in 1968, when he was the Israeli ambassador to Washington, stated that "our consistent line was and remains to avoid debating with foreigners the situation in the territories on the basis of the Geneva Accords... Our explicit recognition of the Accords' applicability will put a spotlight on serious problems ... regarding house demolitions, expulsions, settlement and so on."

This understanding never stopped Labor governments from launching the settlement enterprise, which violates the principle of temporality of the laws of occupation. Such leaders cite security needs and say the territories are being "held" until a diplomatic agreement is reached. As Rabin wrote in his 1979 book "The Rabin Memoirs," the government adopted a clear security policy: where to settle and where not to.

The Supreme Court accepted the security argument. “I am aware of the fact that we are talking about a civilian population... Against this background, I accept the argument of Gen. Orli that a civilian presence in these sensitive points is the necessary solution,” Justice Miriam Ben-Porat wrote in 1978.

At the same time, the government cooperated with the messianic-nationalist settlement movement. On September 27, 1967, Col. Shlomo Gazit wrote to the chief of staff of the Israel Defense Forces. The letter referred to the “Gush Etzion outpost.” It stated: “As a cover for the state’s needs, the outpost of religious youth in Gush Etzion will be registered as a military Nahal outpost. Instructions in this regard will be given to the settlers.”

The High Court of Justice sought to end this mendacious policy in the Elon Moreh case of 1979, in which it changed tack and ruled that privately owned Palestinian land cannot be seized to establish settlements based on the argument of security needs. The court also prioritized the rule of law over “divine promise.” “This petition provides an eternal answer to the argument that seeks to interpret the historical biblical promise to the Jewish people as one overriding property rights,” Justice Moshe Landoy wrote.

Over the decades, the international community has rejected Israeli policy, culminating in UN Resolution 2334 of December 23, 2016 stating that the Israeli settlements established on Palestinian lands occupied since 1967, including East Jerusalem, have no legal standing and breach international law.

The Security Council has also addressed the settlement enterprise’s aims and means in achieving them. In Resolution 2334, it condemned “all measures aimed at altering the demographic composition, character and status of the Palestinian Territory occupied since 1967, including East Jerusalem, including, inter alia, the construction and expansion of settlements, transfer of Israeli settlers, confiscation of land, demolition of homes and displacement of Palestinian civilians, in violation of international humanitarian law and relevant resolutions.”

Over the past decade, the Israeli government has elected to continue the violations listed above. It has approved the establishment of a new settlement, Amihai, and authorized 22 illegal outposts. It has widened the separation between the two judicial systems, one for Israelis and one for Palestinians. It has increased the number of settlers by a third.

It has approved the construction of thousands of new housing units. It has established 67 farms and a huge industrial area in Samaria, the northern West Bank. It has allocated 13 billion shekels (\$4 billion) for paving roads, and has demolished thousands of Palestinian homes.

Over the past decade, Israel has also further violated its main obligation under international law – to ensure the restoration of law and order. First, it has established 135 outposts that are illegal under Israeli law as well. It has connected them to the road network and the power grid. And in recent years, under the whitewashed term “young settlements,” it has tried to regulate their status and infrastructure via antidemocratic laws.

Second, the government has not taken the required action against the Jewish rioters who commit violence against Palestinians, Israelis, Israeli soldiers and the Israeli police. The public security minister’s orders to the IDF, whose soldiers have been present at most of these incidents, aren’t being carried out. The minister has said that the IDF must “take action to maintain security and order in Judea and Samaria while exercising the authority awarded the IDF under the law, in cooperation and in coordination with the Israel Police.”

From the perspective of the current government, which committed to change, the West Bank isn’t occupied territory. Evidence of this can be seen in its actions in violation of international law and resolutions. It’s not interested in settling the West Bank’s future through negotiations. It doesn’t see the West Bank as a “occupied territory,” as it violates the principle of temporality by expanding settlements. The government also doesn’t see the West Bank as “liberated territory,” as it committed in the Abraham Accords not to annex it.

The status of the West Bank is therefore one of an abandoned territory whose Palestinian residents are discriminated against. The Palestinian Authority can’t enforce law and order in most areas of the West Bank, as it only has authority over 40 percent of the territory, which is divided into no less than 169 separate islands. In Area C, controlled by Israel, there are two judicial systems: one for Israelis and one for Palestinians.

The world calls this apartheid. Not only does Israel not apply the laws of military occupation, it also ignores its own laws and government resolutions. It lets a radical minority determine the character of the state and its image around the world. The Startup Nation is trying to invent a new startup, it seems, in the form of a new regime. But unlike high-tech and agriculture, the world isn’t really interested in this “innovation” and sees it simply as apartheid.

Israel’s membership in the family of nations – thus preventing it from becoming an outcast – is of unparalleled importance. We should remind Prime Minister Naftali Bennett – who believes that the world will “get used to” all of Israel’s whims – of what Prime Minister David Ben-Gurion told Haaretz on October 2, 1959.

“Anybody who believes that today one can solve, purely through military force, questions of historical issues between nations doesn’t know what world

we live in... Any local issue today becomes an international one, so our relationship with the nations of the world is no less important than our military strength.”

Dr. Shaul Arieli's latest book is the 2021 Hebrew-language work "12 Israeli Myths About the Israeli-Palestinian Conflict."