

HRW Crosses the Threshold into Falsehoods and Anti-Semitic Propaganda

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Human Rights Watch’s new report, “A Threshold Crossed” accusing Israel of the crime of apartheid is, despite its length, a propaganda document: full of falsehoods and distortions. The world it describes is an alternate reality.

Overview

- The report mocks the history of apartheid by using its hateful memory to describe a grab bag of policies that HRW happens to disagree with, and in many cases are not in effect, or were never in effect. Apartheid is not just a term for policies one dislikes – it is an international crime defined as “inhumane acts 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.” These “acts” include such things as “widespread” murder and enslavement. The legal standard for labeling a government an “apartheid regime” is set quite high—indeed, so high that no country since the end of South African apartheid has ever received the distinction. Many countries, like the United States, grapple with systemic racism and discrimination – but no one suggests that amounts to apartheid. Despite massive systematic oppression of racial and ethnic minorities in countries from China to Sri Lanka to Sudan, the apartheid label has never been applied to those countries by the international community.
- Invoking the heinous crime of apartheid to criticize Israeli policy is classic anti-Semitic rhetoric: it accuses Jews, uniquely among the peoples of the world, of one of the most heinous crimes, while also judging the Jewish state by a metric not applied to any other country. And the clear agenda is to entirely delegitimize Israel: the remedy for apartheid is not reform, it is the abolition of the regime itself and a total reshaping of the government.

- HRW’s position is so extreme, it goes beyond even the positions of PA/PLO President Mahmoud Abbas and the International Criminal Court. In a speech just this month, Abbas made clear that Israel is not an apartheid state. The ICC has been investigating potential crimes by Israel for years, and has never mentioned apartheid part of its investigation.
- The HRW’s own report uses racist language, referring to all Arabs in the area as “Palestinians,” though many of them are Druze, Bedouin, or Circassians. The negation of these national identities in the name of Palestinian supremacy further reveals the bigoted and activist nature of the HRW report.

Part I of this paper explains what apartheid actually is – and how Israeli policies have no resemblance to it.

Part II shows that the HRW report is based on an alternate reality, where neither the Palestinian Authority or Palestinian terrorism exist.

Part III performs a brief fact check on some of the many egregious assertions made by the report.

Part I: What apartheid really was

- The very essence of apartheid was the physical separation – apartness – of people based on a legislated racial hierarchy. There are no racial or ethnic hierarchies in Israeli law. Under the South African Reservation of Separate Amenities Act of 1953, municipal grounds could be reserved for a particular race, creating, among other things, separate beaches, buses, hospitals, schools and universities. In Israel and all territories under its jurisdiction, there are no separations of this sort—Jews and Arabs, Israelis and Palestinians patronize the same shops and restaurants, work together and go to the same hospitals. In South-Africa, public beaches, swimming pools, some pedestrian bridges, drive-in cinema parking spaces, parks, and public toilets were segregated. Restaurants and hotels were required to bar blacks. **Jews are de facto excluded from Palestinian-controlled territory, but that is not the apartheid HRW has in mind, as it involves Palestinian crimes against Israeli Jews.**

- Under the Bantu Homelands Citizenship Act of 1970, the Government stripped black South Africans of their citizenship, which deprived them of their few remaining political and civil rights in South Africa. In parallel with the creation of the homelands, South Africa's black population was subjected to a massive program of forced relocation. Israel did not dislocate Arabs citizens to the PLO territories, nor has it revoked the citizenship of Israeli Arabs.
- The black “Bantustans” were created by the apartheid government itself under a series of laws. Because they were generally regarded as puppets of Praetoria, their supposed independence was not recognized by other countries. The Palestinian government was created by the Palestinians themselves in negotiations conducted under international auspices, and is recognized internationally as legitimately representing the Palestinian population by almost every country in the world.
- Blacks in South Africa were deprived of their political rights, including the right to vote and the right to be elected. Palestinians with Israeli citizenship (Israeli Arabs) have full voting rights for the Knesset, while non-citizen Palestinians in the territories have voting rights for the Palestinian Legislative Council. Israeli citizens do not have voting rights in the Palestinian government, because it is a different and independent government – even though it passes laws that greatly affect Israelis, like the “pay for slay” rewards program for terrorists. By the same token, Palestinians do not vote in the Knesset – not because it is apartheid, but because since the 1993 Oslo Accords, they have had their own government. Millions of Palestinians with Israeli citizenship have voted in Israeli elections and dozens have been elected to Knesset. Voting rights for the Palestinian Legislative Council are more restricted, since they are under the exclusive jurisdiction of the Palestinian Authority. Jews are barred from receiving Palestinian citizenship and cannot vote for the Council.
- Human Rights Watch says what has sent Israel over the brink to apartheid is the Nation State Law and political discussions about applying Israeli law to the West Bank (which Human Rights Watch calls “annexation”). This is perhaps their most ludicrous statement. While the wisdom of the Nation State law can be criticized, it does nothing like what any of the apartheid laws did, and instead closely resembles numerous European democratic

constitutional provisions. Indeed, it is almost entirely declarative; its one substantive provision guarantees rather than denies Palestinian Arab rights (it guarantees Arabic language rights). As for talk of “annexation,” it cannot be the basis for any claims of apartheid because it has not happened and is unlikely to happen in the near future. Apartheid was not evil because of things that were discussed and did not happen – apartheid was something that did happen. Moreover, the application of Israeli law would guarantee equality of rights for all residents of affected areas, just as in Israel proper today.

Part II. HRW’s alternative universe: ignoring the Palestinian Authority, Palestinian terror, and actual apartheid policies

- The entire report is written as if Israel governs all of the Palestinians, and the Palestinian Authority does not exist. Yet since 1993 the Palestinians have had their own government, which regulates almost every aspect of their lives. (In fact, since 2007, the Palestinians have had two distinct independent governments, thanks to the military takeover of the Gaza Strip by the Hamas terrorist organization.) Unlike South African Bantustans, the PA government is recognized by most countries of the world, and functions outside of Israeli control. Israel does not tax the Palestinians, draft them, or impose other legislation upon them.
- Under the Oslo Agreements, the PA government and Israel agreed on a framework for dividing authority and jurisdiction in areas where the governments and populations are intertwined. The HRW cites those very features—agreed upon between Israel and the Palestine Liberation Organization—as evidence of anti-Palestinian apartheid, in effect saying that the internationally-backed Oslo Accords, for which several Nobel Peace Prizes were awarded, is equivalent to apartheid, for which Nobel Peace Prizes were awarded to those who ended it.
- By pretending that the Palestinian government does not exist, the report remarkably ignores actual apartheid-like policies. The Palestinian Authority pays generous salaries to people simply for murdering Jews. It criminally prohibits Palestinians selling land to Jews – upon penalty of torture, extended sentences in labor camps, or even death. It denies citizenship

or even residency rights to Jews. These policies resemble apartheid, and are not found anywhere in the HRW's long report. Indeed, the report speaks of "Israeli Palestinians," but it never speaks of Jewish Palestinians – because the PA has created a regime where it is impossible for Jews to live in its jurisdiction, and actively campaigns for the expulsion of all Jews from the West Bank.

Ignoring and whitewashing Palestinian terrorism

- Despite the length of the report, it entirely ignores Palestinian terrorism. Moreover, almost all of the restrictions on movement (including checkpoints and permanent barriers) were established only in response to the murderous wave of terror unleashed by the establishment of the PA in 1994, which accelerated following Israeli peace offers in 2000 and ultimately killed over 1000 Israelis. HRW tries to paint non-violent Israeli counter-terror measures as policies of subjugation – by entirely ignoring the context of Palestinian terror.
- On page 25, the report refers to the Palestinian terrorist organization Hamas, together with Fatah as "Palestinian political parties." The report refers to Hamas 13 times, but never once acknowledges that Hamas is listed as a terrorist organization by Israel, the United States, the European Union and others.
- On pages 193-194, the report refers to the Israeli ban on membership in terrorist organizations such as al Qaeda and ISIS as part of a deprivation of "Palestinians in the OPT of their basic civil rights. It describes a ban on membership in groups like al Qaeda – common to many Western democracies – "targeting Palestinians for their anti-occupation ... activism, and affiliations, jailing thousands, outlawing hundreds of political and non-government organizations ..."

Part III. Brief Fact Check of the Report

- *On page 2, the report states "About 6.8 million Jewish Israelis and 6.8 million Palestinians live today between the Mediterranean Sea and Jordan River, an area encompassing Israel and the Occupied Palestinian Territory (OPT), the latter made up of the West Bank, including East Jerusalem, and the Gaza Strip. ... From 1967 until the present, it has*

militarily ruled over Palestinians in the OPT, excluding East Jerusalem. By contrast, it has since its founding governed all Jewish Israelis, including settlers in the OPT since the beginning of the occupation in 1967, under its more rights-respecting civil law.”

FACT CHECK: FALSE

Israel has not had any government in Gaza since the 2005 Disengagement. While apartheid South Africa deported blacks from white areas, Israel did the opposite, expelling Jews from a largely Palestinian area.) In accordance with Israel’s power-sharing agreement with the Palestine Liberation Organization, Israel has no military government or territorial jurisdiction in areas A and B of the West Bank since 1995. There is no military government in east Jerusalem, and Palestinian Arabs, Israeli Jews and Israeli Arabs are all subject to Israeli civil law. The Israeli military government in area C, in the meantime, is not personal or ethnically based. Palestinian Arabs, Israeli Jews and Israeli Arabs are all subject to the military government; for instance, Israeli Jews, Israeli Arabs and Palestinian Arabs who purchase land in area C all must register their purchases with the military government, and all are subject to the military government’s land use regulations.

- *On pg. 71, the report claims Israel has been “denying residency rights to Palestinians for being abroad when the occupation began in 1967.”*

FACT CHECK: FALSE. What the report is doing is accusing Israel of apartheid for not allowing the immigration of millions of Palestinians from enemy states like Lebanon and Jordan. The population they are speaking about was not “abroad” in 1967 in the sense of being on a trip, but long-time residents or even natives of foreign countries. The report is actually accusing Israel of “apartheid” for rejecting the Palestinian negotiating demand of unlimited Palestinian immigration to Israel under a “right of return.”

- *The report claims Israel allows for Jewish communities to “exclude” Palestinians (pg. 151).*

FACT CHECK: FALSE. There are no laws privileging Jewish communities over Arab ones. Indeed, the opposite is true: The Supreme Court has ruled that Jewish towns cannot exclude Arabs from moving in (*Kaadan* case, 2000), while Jews could be excluded from buying in Arab towns (*Avitan* case, 1988).

- *On pages 16-17, the report states: “When Israel annexed East Jerusalem in 1967, it applied its 1952 Law of Entry to Palestinians who lived there and designated them as “permanent residents,” the same status afforded to a non-Jewish foreigner who moves to Israel. The Interior Ministry has revoked this status from at least 14,701 Palestinians since 1967, mostly for failing to prove a “center of life” in the city. A path to Israeli citizenship exists, but few apply and most who did in recent years were not granted citizenship. By contrast, Jewish Israelis in Jerusalem, including settlers in East Jerusalem, are citizens who do not have to prove connections to the city to maintain their status.”*

FACT CHECK: FALSE

Israel never applied its 1952 Law of Entry specifically to Palestinians living in east Jerusalem while denying its application to others. In fact, Israel never made any particularized decision about the Law of Entry. In 1967, Israel applied its law and jurisdiction to “East Jerusalem,” i.e., those parts of the current municipality of Jerusalem that were unlawfully occupied by Jordan from 1948-1967. The Law of Entry does not differentiate between Palestinians and non-Palestinians. The application of Israeli law and jurisdiction made East Jerusalem part of Israel for purposes of Israeli civil law, making all residents of all ethnicities in East Jerusalem residents of Israel whatever their ethnicity. The only reason no Jews became residents as a result of the application of Israeli law was that Jordan had already expelled all Jewish residents of the areas of the city it occupied in 1948. There is no special status for Jewish Israelis under Israeli law in Jerusalem; all Israeli citizens in Jerusalem, whether Israeli Jews or Israeli Arabs (called Palestinians by the HRW report) enjoy full rights as Israeli citizens.

- *On page 17, the report states: “Inside Israel ... a two-track citizenship structure ... effectively regards Jews and Palestinians separately and unequally. Israel’s 1952*

Citizenship Law contains a separate track exclusively for Jews to obtain automatic citizenship. That law grows out of the 1950 Law of Return which guarantees Jewish citizens of other countries the right to settle in Israel. By contrast, the track for Palestinians conditions citizenship on proving residency before 1948 in the territory that became Israel, inclusion in the population registry as of 1952, and a continuous presence in Israel or legal entry in the period between 1948 and 1952.”

FACT CHECK: FALSE

The 1952 Citizenship Law does not have a separate track for Palestinians. The Citizenship Law provides six different paths for citizenship—one is the track for “returned” Jews, and the others are open to persons of all ethnicities. The track providing citizenship for former citizens of the British Mandate of Palestine (on the basis of lawful residence in Israel at the time of the law’s enactment in 1952) applies to persons of all ethnicities, not specifically to Palestinians. 1.9 million Palestinians (Israeli Arabs) are citizens of Israel on the basis of the rights they have lawfully exercised under the Citizenship Law.

- *The report continues on page 17, “Authorities have used this language to deny residency rights to the more than 700,000 Palestinians who fled or were expelled in 1948 and their descendants, who today number more than 5.7 million.”*

FACT CHECK: FALSE

The UN Relief and Works Agency indeed claims that there are 5,703,546 registered “Palestine refugees,” but it lists 2,348,359 of them as residing in the West Bank and Gaza Strip (<https://www.unrwa.org/what-we-do/relief-and-social-services/unrwa-registered-population-dashboard>), i.e., in areas that the HRW report claims are under exclusive Israeli control. Obviously, Israel does not deny those persons the right to continue residing in the West Bank and Gaza Strip.

- *On page 172, the report claims that "Since 2007, the year that Hamas seized effective political control over the Gaza Strip from the Fatah-led PA, Israel has imposed a generalized travel ban on movement in and out of the small territory with few exceptions.*

FACT CHECK: FALSE

Israel restricts travel *in and out of Israel* from Gaza. Israel has made no attempt to impose a generalized travel ban—Israel does not control Gaza’s land border with Egypt, and it has never claimed to place any limitations on Egypt’s entry and exit policies.