

Institutional racial discrimination in apartheid South Africa and Israel

Adri Nieuwhof and Bangani Ngeleza

In 1965, the UN General Assembly adopted the Convention on the Elimination on all Forms of Racial Discrimination (CERD). This convention defines racial discrimination as “any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” Racial discrimination is institutionalized when it is reflected in the laws and regulations of a state and governing bodies. Successive governments in Israel and South Africa developed since 1948 a system of laws and policies that encroached deeply in the lives of the indigenous population in the domain of possession of land and property, residency, marriage and family life, work, education, and health.

After the discovery of gold in Witwatersrand, Britain successfully fought descendents of the Dutch, the Boers, in South Africa from 1899-1902. A constitution of the Union of South Africa was adopted by the British Parliament in 1909 and a Union of South Africa declared in 1910. This Union represented an accommodation between British and the Boers who were both settler communities. What followed was a gradual marginalisation of indigenous people, including through the passage of the Land Act in 1913. This piece of legislation effectively declared 87 percent of South Africa as white territory, pushing the majority black people off their land and limiting them to only 13 percent of the most marginal land.

In 1948 the National Party came to power, further formalizing and institutionalizing the widely practiced racial segregation through legislation such as the Population Registration Act (1950) resulted in the formal classification of people into Whites, Indians, Coloureds and Africans. The Mixed Marriages Act (1949) and the Immorality Act (1957) outlawed marriages and relationships across racial lines respectively. The Nationalists used the Land Act as a basis for the influx control policies in the 1960's. The aim was to limit the number of indigenous black South Africans in the 87 percent of the land area designated as “white South Africa”. The Group Areas Act of 1955 prohibited Africans from being present in South Africa for more than 72 hours without official permission. Labour bureaus matched African workers with specific jobs and granted the official permission to work and to live in a designated township. The Group Areas Act restricted African citizenship to 13 percent of the poorest land, the Bantustans.

The influx control policy was pursued through forced removals. For example, in 1955, after the passage of the Group Areas Act, over 600,000 indigenous Africans were forcefully removed from Sophiatown, where people of different races had lived peacefully side by side for years. The Group Areas Act designated Sophiatown as a whites only area, making it illegal for people of other races to live in Sophiatown. Africans were dumped in Soweto, a collection of townships designated for Africans that served as labour reserve ten kilometres from Johannesburg. People lived in overcrowded conditions, initially with no amenities. During the 1960's, 1970's and 1980's over 3,5 million black people were forcefully removed from their land and property. Between 1966-75 5,8 million indigenous Africans were prosecuted under laws restricting free movement.

On May 14, 1948, on the day the British Mandate over a Palestine expired, the “establishment of a Jewish state in Eretz-Israel, to be known as the State of Israel” was declared. Israel is one of the few countries that has no constitution, and has instead adopted a set of Basic Laws. In 1985, the character of Israel as a Jewish state was reaffirmed in the Knesset, the Israeli parliament, when it adopted a Basic Law prohibiting political parties to participate in the elections if they are opposed to “the existence of the State of Israel as the state of the Jewish people.” In other words, those who

don't want the state to be only for the Jews, but instead for all its citizens, cannot participate.

Just like South Africa, Israel adopted laws and policies to deny the indigenous people access to their land and property. The U.N. Conciliation Commission estimated that about 80 percent of the land in Israel is property confiscated from Palestinians. Until recently Palestinians were forbidden by Israeli law from owning or leasing land. Today, Israeli Palestinians own about 3 percent the land in Israel.

The Law of Return of 1952 has been a tool to remove Palestinians from their land. The law grants “every Jew, wherever he may be, the right to come to Israel and become an Israeli citizen”. This right has been extended later “to include the child, spouse of a child of a Jew, and the spouse of the grandchild of a Jew.” While the Law of Return is generous towards immigration of Jews from around the world, it discriminates against Palestinians, who were actually born on the land, and their descendants. Hundreds of thousands of Palestinian refugees who fled the violence and aggression of Zionist militias and Israeli forces from 1948 until today, have been cut off from their land and property inside Israel. The Law of Return does not recognize their right of return, simply because they are not Jewish. In 1967, 70,000 indigenous Palestinians were stripped from their right to stay in the West Bank and Gaza Strip, because they were not in the occupied territories during the Israeli census shortly after the June war. In 2003 a “temporary” law passed by the Knesset to prevent Palestinians from the occupied West Bank to or Gaza Strip who married Israeli citizens to live in Israel.

Institutional racial discriminations requires an administrative system to define and divide a population. In South Africa The Population Registration Act of 1950 led to the creation of a national register in which every person's race, was recorded, following the classifications "black", "white", "coloured", and "Indian". The classification was mentioned on an ID-card. The Race Classification Board took the final decision on what a person's race was in disputed cases. Those classified as white received the best treatment and were regarded as superior beings to others, with indigenous Africans receiving the worst treatment. This law also resulted in the separation of families with some members classified as coloureds whilst others were classified as Africans and forced to live in separate residential areas and attend separate schools. For instance in the case of Sandra Laing, born in 1955 in a conservative white family. She was classified as “coloured”, and had to attend a school for black children. In 1967 she was reclassified white when the law changed, defining that the child of two white parents could not belong to another racial group.

In 1958, Blacks were deprived of their citizenship, legally becoming citizens of one of ten tribally based self-governing homelands called bantustans. Four bantustans became nominally independent states with . This was later followed by the Bantu homelands citizenship Act of 1970 which further institutionalized the limitation of black citizenship to homelands or Bantustans on 13% of the poorest land in South Africa, according to ethnicity. For instance, Zulus were limited to Zululand, Xhosas to the Transkei and the Ciskei, Shangaans to Gazankulu, Southern Sothos to Qwaqwa, Northern Sothos to Lebowa, Ndebeles to KwaNdebele, Tswanas to Bophothatswana, Vendas to Venda and Swazis to KaNgwane. The Black population were deported to “their” bantustan, The government segregated and provided inferior education, medical care, and other public services, and provided black people with services inferior to those of whites through legislation such as the Bantu Education Act of 1953 and the Separate Amenities Act of 1953.

In Israel, the Population Registry Law of 1965 requires all residents of Israel to register their ethnic group and religion with the population registry, and to obtain identity cards. The ID-card marks ethnicity, revealing if you are a 'Jew', 'Arab', 'Druze', or whatever the holder is registered as at the Ministry of Interior. A Jew is categorized as a Jew when he has a Jewish mother. When a person presents his ID card to a policeman, a security official, a soldier, or to a clerk at a government

office, they know which “sector” he belongs to, and treat him accordingly. The “Israeli” nationality is not recognised, and thus never mentioned on an ID-card.

According to the Office of the United Nations High Commissioner for Human Rights, “a dual system of law discriminates between Jewish Israelis and indigenous Palestinians based on a constructed status of 'Jewish nationality'. This prejudicial application of law is apparent in all processes of the legal system, from the rights to information and fair trial to detention and prison treatment.” This is a situation similar to that which prevailed in South Africa and which led to Apartheid being declared a crime against humanity.

Bangani Ngeleza and Adri Nieuwhof are independent consultants from respectively South Africa and the Netherlands. Ngeleza participated in the liberation struggle of the ANC to overcome apartheid in South Africa, and Nieuwhof supported the struggle as a member of Holland Committee on Southern Africa the ANC in achieving its goals.