

**UN Human Rights Council “Commission of Inquiry” on Israel  
created May 27, 2021 by resolution A/HRC/RES/S-30/1**

**Regarding:**

“Facts and circumstances regarding alleged violations of international humanitarian law and alleged violations and abuses of international human rights law leading up to and since 13 April 2021;”

*Note: this submission in itself should not be understood as an endorsement of the “Commission of Inquiry,” including its mandate.*

**Submission:**

# AMNESTY INTERNATIONAL’S BIG LIE ABOUT ISRAEL

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**Executive Summary**

Amnesty International’s report Israel’s Apartheid Against Palestinians charges that Israel enforces a “cruel system of domination” against Palestinians (by which they also mean Israeli Arabs) which amounts to a “crime against humanity.” Because the generally accepted remedy for apartheid is that the guilty state be dismantled, such charges must be supported with iron-clad evidence.

Does Amnesty’s report meet this challenge? Unfortunately, the answer is no, starting with the very first line of the report, which quotes a sentence by then Prime Minister Netanyahu, that Amnesty presents as supporting its case against Israel. But Amnesty deceives its readers by omitting the next line in Netanyahu’s statement, in which he says Arab citizens have the same rights as everyone else in Israel, something antithetical to apartheid.

This malicious editing is no anomaly – the rest of the report is filled with similar deceptions. For example:

A.) The relative amount of land owned by Jews and Arabs before 1948, in which Amnesty uses arithmetical gymnastics to minimize Jewish ownership while vastly maximizing Arab ownership. In fact, pre-state land ownership of Jews and Arabs was comparable.

B.) The Sheikh Jarrah dispute, which Amnesty portrays as ethnic cleansing of Palestinians through “inherently discriminatory laws.” In fact, the Palestinian tenants are facing eviction for non-payment of rent, which Amnesty manages to entirely omit. Amnesty also fails to mention that Jordanian and UN documents admit that the land in question was Jewish-owned.

C.) The charge that Israeli-Arabs can’t access state land in Israel is a favorite theme of anti-Israel propagandists, and so Amnesty features it prominently in their report. The charge is false – Israeli-Arabs have the same access to state land as any other Israelis, as exemplified by the city of Nof HaGalil which was built entirely on state land in 1957 and as of 2020 it’s more than 30 percent Arab. How can this be if state land is restricted to Jews only? The answer is it can’t.

D.) Palestinian claims to a “Right of Return” are presented as if they rest on a solid legal foundation. They do not.

E.) False charges by Amnesty that Israel’s “Law of Return” discriminates against Arab citizens of Israel, which it does not. Amnesty also manages to omit that many other democracies, such as Ireland and Denmark, have entirely similar laws.

These material deceptions and the many others in Amnesty’s report do not seem to be accidental – the organization has a long history of leveling maliciously false charges against Israel.

The false attacks must stop. Amnesty should forthrightly apologize for and correct all of the report’s numerous material errors and false charges.

We further call on Amnesty to hire a respected outside law firm to probe why the organization seems obsessed with falsely maligning Israel. The firm should be granted full power to question all those involved in producing this report, whether employees or consultants, and should have full access to all documents and communications, which should be preserved while the probe is organized. The results of the probe should be shared with Amnesty’s board and then with the public.

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Amnesty International has a long history of leveling maliciously false charges against Israel (eg [here](#), [here](#), [here](#), and [here](#)), and its leader Agnès Callamard had to apologize after [her bizarre anti-Israel tweets](#) were publicized. So it’s only fitting that in its latest [report alleging Israel is an apartheid and illegitimate state](#), the *very first line* is a blatant and malicious lie, a quotation from Benjamin Netanyahu mangled so that it seems to support such charges:

## 1. EXECUTIVE SUMMARY

“Israel is not a state of all its citizens... [but rather] the nation-state of the Jewish people and only them”

Message posted online in March 2019 by Israel’s then prime minister, Benjamin Netanyahu

Amnesty repeats this claim later in the report, citing an Instagram post by Netanyahu. Why is Amnesty’s quotation a lie? Because this is what the then-Prime Minister actually said about the nation-state issue, responding to a post by Israeli actress and model Rotem Sela:

Dear Rotem, an important correction: Israel is not a state of all its citizens. According to the Nation-State Law that we passed, Israel is the nation-state of the Jewish People – and them alone. As you wrote, **there’s no problem with the Arab citizens of Israel – they have the same rights as us all and the Likud government has invested in the Arab sector more than any other government.** (emphasis added)

That is, to indict Israel as apartheid, Amnesty omits the next line of Netanyahu’s post, in which he makes it clear Israel is *not* apartheid, and that Arab citizens can and do have equal rights.

It’s obvious why Amnesty engaged in this deception – including the line would have undermined their false case against Israel. So, like the professional propagandists that they are, they simply omitted what was inconvenient.

If – **in the first line of their report** – Amnesty International can’t even quote a short statement by Netanyahu correctly and in context, how can anyone trust them on more arcane or involved issues, turning on critical issues of fact or international law?

The short answer is that on Israel Amnesty International can’t be trusted, on issues large or small.

And Amnesty’s entire report is like this – making up some new false charges, and recycling a huge number of old, already debunked propaganda.

Before going into the details of the report, it’s important to look at the report’s context, not just what it includes but what it omits. Shockingly, there is no mention of the terrorist group Islamic Jihad. And searching for the words “terror” or “bombing” or “suicide” or “stab” or “stabbing” reveals that in the entire 280-page report there is not a single mention of any particular Palestinian terrorist attack against Israelis, just a throw-away 26 word sentence that is used to setup criticism of Israel’s efforts to defend its civilians *against* terrorist attacks. For example, Amnesty neglected to mention the horrific Passover bombing on May 27, 2002, in which 30 people were

killed and 140 were wounded by a Palestinian suicide bomber. Also omitted was the suicide bombing of the Sbarro Pizzeria in Jerusalem on August 9, 2001, in which 15 people were killed including 7 children. Also omitted was the attack on December 1, 2001 at the Ben Yehuda Street pedestrian mall in Jerusalem, killing 11 people and wounding 180. Also omitted was the attack on a passenger bus the next day in Haifa, killing 15 and wounding 40. (For a partial list of such bombings see [Suicide and Other Bombing Attacks in Israel Since the Declaration of Principles](#).)

These attacks, and many more just like them (see here for a [fairly recent list](#) of the 1377 victims of Palestinian terrorism since Sept. 2000) were the reason for the construction of the security barrier and other security measures that Amnesty uses to malign Israel as apartheid, but for some reason the group does not see fit to even *allude* to them. It is simply amazing that an organization ostensibly devoted to “human rights” would work so hard to *dehumanize* these victims of Palestinian terrorism, in effect to bury them a second time.

Passing now to the specifics of Amnesty’s numerous charges, it should be clear that only some of the main points can be covered, and that if a specific charge is not refuted here, that doesn’t mean it is true and can’t be refuted – indeed, many more details refuting the apartheid charge against Israel can be found in [Deconstructing “Israeli Apartheid”](#) and in the site [Apartheid Week](#).

Finally, Amnesty should forthrightly apologize for all its report’s numerous errors and false charges and in each case should correct the record.

Now for the details:

- In the section Dispossession Of Land And Property, Amnesty claims:

In 1948, Jewish individuals and institutions owned around 6.5% of mandate Palestine, while Palestinians owned about 90% of the privately owned land there. Within just over 70 years the situation has been reversed.

First, let’s note Amnesty’s rhetorical trick here of referring to “mandate Palestine,” with lower case “mandate,” which seems intended to lead the uninitiated to believe there was a country of Palestine, rather than the usual and correct historical usage which would be “Mandate Palestine” or the “Palestine Mandate” or the “British Mandate of Palestine.” Evidently Amnesty will spare no effort to tilt in favor of the Palestinians and against the Jews.

And in a further trick, this time of arithmetic, Amnesty cites Palestinian land ownership as the percentage of *private land* in the Palestine Mandate, but Jewish ownership as the percentage of (total) *land* in the Palestine Mandate. This obviously will magnify

Palestinian ownership as compared to Jewish ownership. Again, Amnesty's professional propagandists spare no effort to tilt against the Jews.

Of course, Amnesty's claims about land ownership in pre-state Israel are also wrong as we shall see below – Jews owned more than 6.5 percent and Arab ownership was far, far less than 90 percent.

Thus, contrary to Amnesty's portrayal of much of the land belonging to Arabs, about half of the land that became Israel in 1948 was the Negev desert, and in Mandate Palestine, and before that under Ottoman Turkish rule, and in most countries today including the US, the desert belongs to the government. For example, in Nevada the US government alone owns 84.9 percent of the land, not counting the additional land owned by the state and local governments. Even in California, Federal lands total 45.8 percent.

So as in Nevada, under the Ottoman Land Code desert land was classified as Mawat (or dead land) and was the property of the Sultan, that is the government. The Ottoman Land code was maintained by the British when in 1922 they established the British Mandate of Palestine, with the role of the Sultan passing to the British government in the person of the High Commissioner.

What about land outside the desert? Did the Arabs own whatever the Jews didn't own there? Again no – most of that land was agricultural land, and under the Ottoman Land Code was almost entirely Miri land, or the land of the Emir (the ruler). The farmers who worked this land did not own it, they merely got the right to use it (usufruct) from the state in return for paying taxes on what they produced from the land. As long as they were using that land productively and paying taxes, no one else could use it.

So that takes care of the desert and most agricultural land, what about the rest? The land use records from the British Mandate authorities reveal that Arabs owned at most 14 percent of the land (and probably quite a bit less since this still includes some Miri land used by Arab farmers), while Jews privately owned 8.6 percent (not counting Miri land).

So most of the land that Amnesty charges Israel took from Palestinians was never private Palestinian land in the first place, and could not have been taken from anyone because it was state land. (For more details see [here](#), [here](#) and [here](#).)

As for Amnesty's claim that the land ownership situation has been "reversed," on the contrary: today Israeli Arabs own a disproportionately large 50% of the private land in Israel, despite being just 20% of the population.

- Amnesty claims further Israeli land discrimination:

Parallel to direct land expropriation by the Israeli government, all pre-1948 Jewish properties in annexed East Jerusalem held by the Jordanian Custodian of Enemy Property were transferred to the Israeli Custodian General under an amendment to the 1970 Legal and Administrative Matters Law. The law allowed the original Jewish owner, or their lawful heirs, to request the Custodian General to release such properties back to them. It applies only to Jewish property owners, not to Palestinians whose properties in West Jerusalem were confiscated after 1948, and is a clearly discriminatory compensation scheme.

Contrary to Amnesty's charges about absentee property, there is nothing unusual about abandoned property passing into state ownership. Israel inherited the relevant laws, and the office of the Custodian of Absentee Property, from the British Mandate, as did Jordan, which called its version the Custodian of Enemy Property.

Since the absent Palestinian owners were mostly residing in enemy states, they couldn't pay, for example, property taxes (certainly the Arab states would not have permitted them to send any money to Israel). So they would have lost the property for non-payment of taxes. Instead of simply taking the property in this way, Israel protected the Palestinian owner's interest by turning the property over to the Israeli Custodian, who, if he sold the property, held the value of the property in trust for the registered owner (with adjustments for inflation and interest).

Contrary to Amnesty, Arabs who lost property in Israel are eligible to file for compensation from Israel's Custodian. Palestinians were pressured not to make claims, lest that legitimize Israel's existence and sovereignty. Still, over the years at least 14,692 claims have been filed, claims have been settled with respect to more than 200,000 dunums of land, more than 10,000,000 NIS (New Israeli Shekels) has been paid in compensation, and more than 54,000 dunums of replacement land in Israel has been given in compensation.

Israel has followed this generous policy despite the fact that not a single penny of compensation has ever been paid to any of the more than 500,000 Jewish refugees from Arab countries, who were forced by the Arab governments to abandon their homes, businesses and savings.

Finally, it is interesting to note that after 1948 the Jordanian Custodian of Enemy Property allocated Jewish-owned land for construction of Palestinian refugee camps near Dheisheh, and in Anata and Qalandia (*Arab Building in Jerusalem: 1967–1997*, Israel Kimhi, p48-49, and also, from the leaked Palestine papers, [NSU Draft Memo Re: Rights of Jews Within the OPT Acquired pre-1967](#)).

Again, contrary to Amnesty, none of this Jewish-owned land taken by the Jordanian Custodian and used to build refugee camps can be returned to the original Jewish owners.

To sum this up, Jewish property in Jerusalem taken by and *held* by the Jordanian Custodian after 1948 can be returned to the original Jewish owners, and property owned by Arab residents of Jerusalem and held by the Israeli Custodian can be returned to the original Arab owners. If the land was transferred by the Custodian to new owners, the value of the land is held by the Custodian in trust for the original owners, and the original Palestinian owners can file to receive that compensation. If the land was used for farming, equivalent land can be given instead, as detailed above.

West Bank Palestinians are not eligible to file with Israel for property they lost after 1948, but neither are Israeli Jews eligible to file for property they lost in the West Bank (excluding East Jerusalem) after 1948. This has been the position of the Israeli government and was confirmed in the so-called Valero decision by Israel's Supreme Court. Settlement of such claims awaits a final peace agreement.

In other words, Amnesty is once again completely wrong about the facts and the details underlying the very serious charges it is so eager to direct at Israel.

- The Sheikh Jarrah Issue

Amnesty makes much of the dispute over certain properties in the Sheikh Jarrah neighborhood of Jerusalem, with the term appearing at least 30 times in the report.

According to Amnesty:

Sheikh Jarrah is a Palestinian residential neighbourhood to the north of the Old City in East Jerusalem. It has been a target of a sustained campaign to step up forced evictions of Palestinian residents to make way for Israeli settlers. According to OCHA, since 2009 there have been 21 demolitions in Sheikh Jarrah (as of 31 July 2021). Seven Palestinian families in Sheikh Jarrah are facing imminent threat of forced eviction from their homes after the settler company Nahalat Shimon International filed lawsuits in 2008 with the Jerusalem Magistrates' Court to seize their homes, referring to inherently discriminatory laws such as the Legal and Administrative Matters Law and the Absentees' Property Law. Following lengthy legal processes, on 4 September 2020, the Jerusalem Magistrates' Court ordered the eviction of three families – the Hammad, Daoudi and Dajani families – by no later than 1 August 2021. The court also ordered the families to pay NIS 30,000 (USD 9,677) for Nahalat Shimon International's court fees and legal expenses. On 4 March 2021, the Jerusalem District Court rejected

an appeal by the three families. On 8 October 2020, the court had ordered the eviction of a further four families – the Skafi, Al-Kurd, Abu Hasaneh and Jaouni families. On 10 February 2021, following an appeal by three of the families, the Jerusalem District Court dismissed the appeal and ordered them to vacate their homes by 2 May 2021. In response to the imminent forced eviction of the seven Palestinian families, Palestinians held nightly demonstrations in the neighbourhood in early May 2021. The families also launched a campaign on social media under the hashtag #SaveSheikhJarrah attracting worldwide attention and mobilizing protesters on the ground. On 18 May 2021, Palestinians across cities and villages in Israel and the occupied West Bank and Gaza Strip closed their offices, shops, restaurants and schools, abandoned construction sites, and refused to report to work for the whole day. In a display of unity not seen for decades, they defied the territorial fragmentation and segregation they face in their daily lives and observed a general strike to protest their shared repression by Israel...

Following the nightly demonstrations and international pressure, the Israeli Supreme Court postponed the hearing at the request of the Israeli attorney general, on grounds related to national security and so that he would have sufficient time to weigh his potential involvement in the case on behalf of the state. The attorney general later informed the Israeli Supreme Court that he would not intervene in the eviction case. As of the end of August 2021, the outcome in the case was still pending.

With all the attention Amnesty devotes to Sheikh Jarrah, it's somewhat surprising that nowhere in their report does the word "rent" appear. This is important because there is no question whatsoever that the properties at issue were Jewish-owned in 1948, that they were taken over by the Jordanian Custodian of Enemy Property, that there was then an agreement reached between the Kingdom of Jordan and the United Nations (UNRWA) to use the Jewish-owned (**the documents say this explicitly**) properties to resettle Palestinian refugees. Ownership of the properties stayed with the Jordanian Custodian (in trust for the absent Jewish owners) which leased it to the Jordanian government, and the tenants were required to pay rent.

After 1967 the successors to the original Jewish owners were able to regain control of their property, and they set about asking the Palestinian tenants to begin paying rent. Some of the Palestinian tenants quietly agreed, but others did not, and it was against the latter group that eviction proceedings commenced – 40 years ago!

Here is a scan of the original agreement between the Kingdom of Jordan and UNRWA:



1. An urban housing project consisting of housing accommodation for twenty eight families now in receipt of Agency relief will be undertaken as a means of enabling these refugees through savings in rent to become self-supporting members of the community.

2. Two single and thirteen twin housing units will be constructed in the Sheikh Jarrah Quarter of Jerusalem on formerly Jewish property leased by the Custodian of Enemy Property to the Ministry of Development, for the purpose of this project.

Excerpt from the agreement showing that the Jewish-owned land was leased by the Jordanian Custodian to the Jordanian government, not sold.

That is, the “inherently discriminatory laws” Amnesty claims Israel is employing to dispossess the residents is the requirement that tenants pay rent or face eviction.

To repeat, while the term “Sheikh Jarrah” appears 30 times in the Amnesty report, the term rent does not appear at all.

Could there be a stronger indictment of Amnesty, or a stronger proof of their pathological anti-Israel bias? (For more details about Sheikh Jarrah see [Sheikh Jarrah: The Facts](#) )

- Amnesty also levels charges about Israeli-Arab access to state land in Israel:

State land in Israel is largely used to develop Jewish towns and localities; Palestinian citizens of Israel are effectively blocked from leasing land on 80% of state land. Jewish national bodies generally do not lease land to non-Jews and do not accept them in the housing projects and/or communities they establish on state lands that have been developed specifically for new Jewish immigrants. About 13% of state land in Israel, or over 2.5 million dunams, is owned and administered solely through the Jewish National Fund for exclusive use by Jews.

Amnesty seems a bit confused here – is it 80% of the land that Israeli-Arabs can't access, or 13%, or do they mean the 13% is included in the 80% (if so why mention it separately), or what? In fact, neither of Amnesty's numbers is correct.

Amnesty is also confused in that the JNF hasn't administered its land since the passage in 1960 of the [Basic Law: Israel Lands](#), which created the Israel Lands Administration (ILA), and also established that JNF-owned land and government-owned land would together be defined as “Israel lands” and would be administered by the ILA. The principle was laid down that such land would be leased by the ILA, rather than sold. The JNF retained ownership of its land, but *not* administrative responsibility.

How can Amnesty draw detailed and extreme conclusions about Israeli policies if it can't even get the basics about those policies correct?

And contrary to Amnesty, Israeli Arabs and other non-Jewish Israeli citizens absolutely can and do lease land from the ILA.

For example, the city now known as Nof HaGalil (formerly Upper Nazareth) was built entirely on state land in 1957 and as of 2020 it's more than 30 percent Arab (in Search Locality enter Nof HaGalil).

In addition, about half of the land farmed by Israeli-Arabs is leased from the ILA. (*Legal Status of the Arabs in Israel*, Westview Press, p. 66, 1990)

Moreover, sometimes Israeli Arabs receive more favorable terms from the ILA than do Israeli Jews. Thus, for example, in new Jewish communities near Beersheva the ILA charged \$24,000 for a capital lease on a quarter of an acre, while at the same time Bedouin families in the nearby community of Rahat paid only \$150 for the same amount of land. (*Israel's Dilemma*, Shapolsky Publications, p. 97, 1989)

When a Jewish citizen applied to the ILA to lease land in a new Bedouin community under the same favorable, highly subsidized terms available to the Bedouins, the ILA refused to lease him land in the community under any circumstances. The Jewish citizen sued and in *Avitan v. Israel Land Administration* (HC 528/88) the High Court ruled that ILA discrimination against the Jewish citizen Avitan was justified as affirmative action for Bedouin citizens. (*Legal Status of the Arabs in Israel*, p. 81)

So when it comes to land use Israel practices a unique form of apartheid in which the supposed victims benefit from affirmative action.

How can all this be if state land is restricted to Jews only? The answer is it can't, and Amnesty is once again wrong.

- More land charges – Israeli Arabs are allegedly restricted to “enclaves”

In an inflammatory and error-ridden video accompanying its report Amnesty charges that:

2.5 million Palestinians live in Israel and East Jerusalem, restricted to enclaves that make up 3% of the entire area.

Similarly the report charges:

Some 93% of land in Israel and occupied East Jerusalem, comprising around 19.5 million dunams (1.95 million hectares), is now state land. The residual 7% of land in

Israel is owned by private individuals. Jewish Israelis own over half of this, that is around 3.5% to 4% of the total land. About 80% of Palestinian citizens of Israel are packed into the remaining 3% to 3.5% of the land. (p 128)

and

As mentioned above, about 90% of Palestinian citizens of Israel live in 139 localities that control less than 3% of state land in Israel. (p 146)

While Amnesty has yet to use the word “bantusatan,” that is clearly the import of this series of charges – Israel is confining its Arab citizens to crowded and impoverished enclaves.

To evaluate the validity of Amnesty’s charge would require knowing whether 20% of the population allegedly living on around 3% of the land is confining or expansive or somewhere in the middle. That is, what would a reasonable number be, and what is the number for Israel in general? And note, what is important here is not population density, which looks at all the land of the country, but rather the area of land that is actually lived on, meaning the area of the roughly 170 localities in Israel versus the population that lives on that land.

This can be calculated from [Table 2.24 in Israel’s 2021 Statistical Abstract](#), which looks at localities of greater than 5000 people, giving each locality’s population and population density. The result of the calculation is that these localities cover an area of just 2865 sq. km., as compared to Israel’s total land area of 21,643 sq. km.

That is, just 13.24% of Israel’s land has any substantial population. And since Israeli Arabs are about 20% of the population, they could be expected to be occupying around 2.6% of Israel’s land. But Amnesty helpfully tells us that they occupy 3% to 3.5% of Israel’s land, which is a disproportionately large share.

So far from being confined to enclaves, on average the Arabs of Israel have more room than their fellow citizens. In other words, Amnesty once again has it exactly backwards.

Finally, another of Amnesty’s errors should be noted. When Amnesty claims above that “93% of land in Israel and occupied East Jerusalem ... is now state land,” they are confusing “Israel lands” with “state lands.” If Amnesty presumes to criticize Israeli policies, they should at least have a basic understanding of those policies. The fact that they clearly don’t only further undermines their criticism.

- Now let’s turn to the so-called Palestinian “Right of Return.” According to Amnesty, in the section Citizenship and Right to Return Denied:

As stated above, Israel continues to deny Palestinian refugees – displaced in the 1947-49 and 1967 conflicts – and their descendants their right to gain Israeli citizenship or residency status in Israel or the OPT. By doing so, it denies them their right to return to their former places of residence and property – a right, which has been widely recognized under international human rights law. The right to return to one’s own country is guaranteed under international human rights law. The right to return applies not just to those who were directly expelled and their immediate families, but also to those of their descendants who have maintained “close and enduring connections” with the area.

So Amnesty International claims that Palestinian refugees and all their descendants have a “right to return” to Israel, and that Israel’s refusal to accept this is a grave violation of international human rights law which contributes to its standing as an apartheid state.

Amnesty’s claim is arrant nonsense. The main source it cites is UN General Assembly Resolution 194, which says nothing of the sort, and in any event as a General Assembly Resolution is nonbinding.

The key point ignored by Amnesty is that the central provision of the resolution called for the creation of a Conciliation Commission and:

... establishment of contact between the parties themselves and the Commission at the earliest possible date ... to seek agreement by negotiations [and thereby reach] a final settlement of all questions between them. (paragraphs 4 and 5)

That commission was duly formed and met in Lausanne, Switzerland, where the Arabs refused even to meet with the Israelis, much less to negotiate peace, a stance that was maintained through many years and multiple costly wars. The only clause of Resolution 194 the Arab side ever acknowledged was paragraph 11, which suggested (it could not “require,” since it was a General Assembly rather than a Security Council resolution) that:

refugees wishing to return to their homes and live at peace with their neighbors **should be permitted** to do so at the earliest practicable date ... [R]epatriation, resettlement and economic and social rehabilitation of refugees and payment of compensation [should be facilitated]. (emphasis added)

Even if this were a Security Council resolution, because it only recommends that refugees be permitted to return, it can hardly be characterized as creating a “right.” Moreover, the requirement that returnees first accept living “at peace with their

neighbors” meant that Palestinian returnees would have to accept Israel’s right to exist, something that very few of them, even today, seem truly willing to do. Further, it did not even hint at any return rights for descendants of refugees.

All the Arab states voted against Resolution 194, precisely because it did not establish a “right of return,” and because it implicitly recognized Israel. It is disingenuous, at best, for those same Arab states (and Palestinian representatives) to see today in Resolution 194 the right of return they formerly claimed did not exist.

Additionally, even if Resolution 194 had been legally binding in 1948, it would have lost any such weight under the fundamental legal principle of *estoppel*, under which a party who materially violates a contract or agreement is barred from asking other parties to live up to their obligations under the same contract. The Arab side, having rejected and violated Resolution 194 from the day of its inception, cannot now come to Israel and say “Implement Paragraph 11.”

Amnesty’s citation of the Universal Declaration of Human Rights as supporting a Palestinian right of return is also false, because the clause in question actually establishes an individual’s right to leave his country, rather than a collective right to return to a country, and because the UDHR is not binding international law, as even Amnesty admits elsewhere:

Although it is not legally binding, the protection of the rights and freedoms set out in the Declaration has been incorporated into many national constitutions and domestic legal frameworks.

For more details with further references see [here](#) and [here](#).

- In its section on Unequal and Separate Citizenship Structure in Israel, Amnesty claims that Israel’s Law of Return discriminates against Israeli Arabs:

The requirements to become an Israeli citizen are set out in the Nationality Law of 1952, which covers Jewish people and non-Jewish people. Article 2(a) of the law grants automatic citizenship rights to every Jewish immigrant under the Law of Return of 1950. As outlined above (see section 5.1 “Intent to oppress and dominate the Palestinian people), the Law of Return is effectively a nationality law that grants every Jew, regardless of where they reside in the world, the distinct right to settle in Israel with full legal and political rights. An amendment to the law, which was added in 1970, defined a Jew as a “person who was born of a Jewish mother or has become converted to Judaism and who is not a member of another religion.”

By contrast, Palestinian citizens of Israel are granted citizenship rights based on residence in Israel...

This unequal and separate citizenship structure has resulted in stark discrimination against Palestinian citizens in several ways ...

Israel's Law of Return allows for people with a certain level of Jewish heritage to emigrate to Israel and receive expedited citizenship, but contrary to Amnesty's ominous portrayal, the Law of Return is neither racist nor peculiarly Israeli. Similar laws have been in effect in many democracies, especially those with large diasporas, such as Mexico, Ireland, Finland, Greece, Poland, Germany, Italy, Denmark, etc.

Furthermore, such laws are expressly permitted by, for example, the International Convention on the Elimination of all Forms of Racial Discrimination (1965). According to Article 1(3) of this convention, nations are permitted to favor certain groups for citizenship provided there is no discrimination targeting any particular group.

Moreover, Article 1(4) provides for "affirmative action." That is, a state may employ a preference in granting citizenship to undo the effects of prior discrimination. In the case of Israel such prior episodes of discrimination are clear: the British decision in 1939, for example, to bar Jewish immigration to Mandatory Palestine, thereby consigning millions of Jews to deaths in the crematoria of Europe. To an *exceedingly small degree*, the Law of Return helps to mitigate this wrong.

As stated above, other democracies have similar laws. For example, in Ireland the appropriate minister can waive the usual requirements for citizenship under various conditions including:

Where the person is of Irish descent or of Irish associations, or is a parent or guardian applying on behalf of a minor child of Irish descent or Irish associations.

The text of the full Irish law makes clear just how widely the concept of descent or associations is defined:

Section 16 of the Principal Act is amended by the insertion of the following subsection:

“(2) For the purposes of this section a person is of Irish associations if—

(a) he or she is related by blood, affinity or adoption to a person who is an Irish citizen or entitled to be an Irish citizen, or

(b) he or she was related by blood, affinity or adoption to a person who is deceased and who, at the time of his or her death, was an Irish citizen or entitled to be an Irish citizen.”

The Irish “law of return” is therefore even more expansive than Israel’s, as it does not cut off at the level of the grandparent.

Has Amnesty ever charged that Mexico, Ireland, Finland, Greece, Poland, Germany, Italy, and Denmark are also apartheid states? Why is only Israel singled out?

Finally, negating Israel’s Law of Return is also an assault on the ability of Jews around the world to find haven in Israel when faced with growing anti-Semitism. Many French Jews have emigrated to Israel in recent years for just this reason. Why does Amnesty condemn anything Israel can do to prevent terror attacks against Israeli Jews, and why does it also condemn the only route to safety for threatened Jews outside of Israel?

For more details see [BACKGROUND: The Palestinian Claim to a “Right of Return”](#) and [Democratic Norms, Diasporas, and Israel’s Law of Return](#).

- Amnesty also bizarrely portrays Israel’s decision not to conscript Israeli Arabs into the army as discriminatory:

The Israeli Ministry of Foreign Affairs claims that “Arab Israelis are citizens of... Israel with equal rights” and the “only legal distinction between Arab and Jewish citizens is... civic duty”, because Palestinian citizens are exempt from military service. Military service is mandatory for Jewish Israeli men and women, as well as the men of the Druze and Circassian minorities. Whilst Palestinians largely refuse to join the Israeli army for national and political reasons, the exemption of Palestinian citizens of Israel from military service has resulted in their discriminatory exclusion from substantial economic benefits and opportunities guaranteed under Israeli law to those who have completed military service.

So according to Amnesty, Palestinians (ie Israeli Arabs) largely refuse to join the IDF, but therefore miss out on veteran’s benefits. Those who volunteer get the veteran’s benefits, and this is supposedly Israeli discrimination against Israeli Arabs.

It’s hard to take this criticism seriously. And imagine what Amnesty would charge if Israel did force Israeli Arabs to join the Israeli army!

As a comparison, one should also note that during WWII the United States eventually allowed Japanese Americans (who had shamefully been interned), to serve in the US Armed Forces, but only in the European theatre, not in the Pacific, where they would

face Japanese forces. Despite the mistreatment of Japanese Americans by the US government, these soldiers served with great honor and distinction.

- Amnesty also charges – of course – political discrimination against Arab citizens of Israel:

#### 5.3.5 Restrictions on Right to Political Participation and Popular Resistance

As a result of their citizenship status, Palestinian citizens of Israel are the only group of Palestinians living under Israel's rule who can vote in its national and municipal elections and be elected as members of the Knesset. However, while Israeli laws and policies define the state as democratic, the fragmentation of the Palestinian people ensures that Israel's version of democracy overwhelmingly privileges political participation by Jewish Israelis. In addition, the representation of Palestinian citizens of Israel in the decision-making process, primarily in the Knesset, has been restricted and undermined by an array of Israeli laws and policies.

So Israeli Arabs are not involved in the decision-making process? Did Amnesty miss the fact that the current Israeli government includes the United Arab List, an Islamist Arab party led by MK Mansour Abbas, that Abbas serves as Deputy Speaker of the Knesset, and that he also sits in the Cabinet as Deputy Minister for Arab Affairs?

Because Abbas's and his party's membership in the governing coalition demolishes Amnesty's case against Israel, he is simply ignored. (He is mentioned only once, tangentially, in the report.)

But there's a broader way to look at the apartheid charge. Consider, for example, that in the supposedly apartheid state of Israel, when President Moshe Katsav was charged with serious crimes against female aides, he was convicted by a three-judge panel headed by an Israeli Arab judge (Israel doesn't have jury trials). When he appealed to the Supreme Court the charges were upheld by a three-judge panel that included a different Israeli Arab judge, Supreme Court Justice Salim Joubran.

So the Jewish state again practices a unique and previously unknown form of apartheid, in this case where the Israeli Jewish president can be thrown in jail by Israeli Arab judges. And Katsav didn't receive a slap on the wrist – he was in jail for five years.

And that's what Amnesty can't admit – no definition of apartheid can possibly include Israel. And because they are determined to denigrate and delegitimize Israel with the apartheid label, their only choice is to misrepresent facts, laws and definitions.



In plain terms, to engage in the “big lie,” a term made famous by Nazi leaders. Is it just a coincidence that the original proponents of the big lie had the same target as Amnesty International?