

Apartheid / ~~Apartheid~~ / []

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“APARTHEID: by itself the word occupies the terrain like a concentration camp,” wrote Jacques Derrida in an issue of this journal thirty-three years ago. “This last-born of many racisms is also the only one surviving in the world, at least the only one still parading itself in a political constitution. It remains the only one on the scene to dare to say its name and to present itself for what it is: a legal defiance taken by *homo politicus*, a juridical racism and a state racism.”¹ In reply to a critique by Anne McClintock and Rob Nixon, Derrida restated one of his central claims: “*Apartheid* designates today in the eyes of the whole world, beyond all possible equivocation or pseudonymy, the last state racism on the entire planet.”²

Derrida was both absolutely correct and hopelessly wrong. He was wrong because there was, and is, another state racism that has long out-

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1. Jacques Derrida, “Racism’s Last Word,” trans. Peggy Kamuf, *Critical Inquiry* 12 (Autumn 1985): 292.

2. Derrida, “But Beyond . . . (Open Letter to Anne McClintock and Rob Nixon),” trans. Kamuf, *Critical Inquiry* 13 (Autumn 1986): 158–59.

lived the South African experiment in racial separation, to which, as I will show, it can be compared on every single major point. He was right, however, because this other state racism did not, and does not, speak its name; or, rather, it angrily denies that its name designates a form of racism—and when the world did name it as such, it campaigned relentlessly for two decades to have its name cleared, which was done, extraordinarily, without naming it.³ As we shall see, the difference between a form of racism that has a name and one that does not—or at least says it does not because it claims not to be racism in the first place—turns out to be significant. Even people as sophisticated as Derrida can look past or right through it without recognizing it for what it is.

The same year (1986) that Jacques Derrida assured Anne McClintock and Rob Nixon that South African apartheid was “the last state racism on the entire planet,” a group of American Jews established a new settlement in the Galilee. They called it Eshchar. Nefesh B’Nefesh, an organization that encourages foreign Jews to emigrate to Israel, says that the population of Eshchar aims “to live in an environment of mutual tolerance and togetherness, and provides residents with a wonderful place to reside and raise children.”⁴ Boasting its many appeals to the potential immigrants it hopes to attract—including a wealth of facilities such as a daycare center, post office, youth center, sports complex, artisan workshops, an amphitheater, and even a botanic garden—the town proclaims itself a “model pluralistic community,” saying “Eshchar is a mixed community of religious, non-religious and traditional Jews from all backgrounds committed to mutual respect, pluralism, and openness, and prides itself on its heterogeneous identity including immigrants, Israelis, Ashkenazim, Sephardim,

3. I refer to UN General Assembly Resolution 46/86 of 16 December 1991, which states simply: “The General Assembly decides to revoke the determination contained in its resolution 3379 (XXX) of 10 November 1975.” The latter resolution, which recalls previous resolutions condemning “any doctrine of racial differentiation” as “socially unjust,” and notes the deep forms of affiliation between South African and Zionist forms of racism, had determined that “Zionism is a form of racism and racial discrimination” (*ibid.*).

4. Nefesh B’Nefesh, “Eshchar,” www.nbn.org.il/aliyahpedia/community-housing-aliyahpedia/community-profiles/eshchar/

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young and old.” It adds that its residents “believe the ideological message of heterogeneous community living is essential for the future success of the State of Israel and the Jewish community worldwide.”⁵

Seen from a somewhat more disinterested angle, this claim to extraordinary heterogeneity might seem suspiciously homogeneous; after all, everyone in the community is—and has to be—Jewish. “When everything is Jewish,” the historian Patrick Wolfe points out in his reading of the Zionist project in Palestine, “difference itself becomes Jewish.”⁶ Although the town is established on land confiscated from Palestinians, not a single Palestinian lives—or is permitted to live—in Eshchar. Access to Jewish community settlements such as Eshchar, which constitute 84 percent of all rural towns inside pre-1967 Israel⁷—is generally determined on the basis of admissions committees ensuring that (as a 2011 Israeli law recently upheld by the country’s high court puts it, rendering *de jure* what had been *de facto* practice) potential entrants to the community may be disqualified if they don’t fit its “‘unique characteristics’” or “‘social-cultural fabric’” or are otherwise “‘unsuitab[le]’” for its “‘social . . . life.’”⁸

Palestinians, including those who own the land on which these communities are built, are by definition “unsuitable”; none has been freely admitted to live in them.⁹ Instead, they live largely in segregated towns that are overcrowded because the state has confiscated the land surrounding them and, even as it establishes one new community after another for Jews (over six hundred since the foundation of the state), it adamantly refuses to permit Palestinians to develop a single new town of their own and indeed bulldozes existing Palestinian towns to make room for new

5. “Background,” Eshchar, www.eshchar.co.il/objDoc.asp?PID=38594&OID=52802

6. Patrick Wolfe, *Traces of History: Elementary Structures of Race* (London, 2016), p. 266; hereafter abbreviated *TH*.

7. See Adalah, *Suggested Items to the UN Committee on the Elimination of Racial Discrimination (CERD) for the List of Themes for the State of Israel*, 8 Dec. 2011, www2.ohchr.org/english/bodies/cerd/docs/ngos/Adalah_Israel_CERD80.pdf

8. Revital Hovel and Jack Khoury, “High Court Upholds Residential Screening Law, Enabling Jewish Villages to Keep Arabs Out,” *Ha’aretz*, 18 Sept. 2014, www.haaretz.com/israel-news/.premium-1.616391

9. In 2000, the Israeli High Court ruled that a Palestinian family, the Ka’adans, who had been denied entry to the Jewish Israeli town of Katzir by its admissions committee, had the right to live there, for which they had applied in 1995. It took the Ka’adans another seven years of petitions, complaints, and court filings (that is, twelve years in total) to even be able to start building their house. This solitary case is sometimes proclaimed with great fanfare by Zionist apologists to supposedly demonstrate that Palestinians do not suffer from discrimination in terms of access to land and housing. Either way, the new 2011 law (see earlier footnote) superseded the Ka’adan case, allowing formal discrimination to flourish.

Jewish ones.¹⁰ And not just in 1948; in January 2017, for instance, Israel began demolishing the Palestinian town of Umm al-Hiran in the south of the country to make room for a new Jewish community to be called Hiran. Meanwhile, it demolished the nearby village of al-Araqib in May 2017 for the 113th time since it was first razed to the ground in 2010 in order to clear space for a new Jewish National Fund forest. (No, that's not a typo: the state of Israel has demolished a Palestinian town whose residents are Israeli citizens 113 times to date to make room for a forest to "make the desert bloom.")¹¹

Almost literally a stone's throw from Eshchar are the Palestinian towns of Arab al-Naim, al-Husseiniya, el Qubsi, and Kammaneh. But even as the Israeli government was fast-tracking the development of new Jewish communities in the Galilee, it refused to recognize the existence of these Palestinian towns; it withheld municipal and state services from them. Moreover, it slated their homes for demolition and partially or in some cases entirely demolished them, claiming that they were built without permits, which, strictly speaking, is true—if only because they predate the existence of the state itself; it wasn't there to give them permits when they were first established, long before the twentieth century. The development of Eshchar was part of a wave of land confiscations in the Galilee (from Palestinians, for Jews) announced in 1976 in order to—as a memorandum written by the then Northern District Commissioner of the Ministry of the Interior put it—address “the demographic problem” and “expand and deepen Jewish settlement in areas where the contiguity of the Arab popu-

10. Examples of this: Nazareth was deprived of most of its land, while its population tripled (from 15,000 to 45,000). Umm al-Fahim, the largest Arab [Palestinian] village, used to own 140,000 dunums [one dunum is a quarter acre] in 1948 while its population was only 4,000; today this same village owns 12,000 dunums while its population has increased to 17,000 (i.e., 128,000 dunums have been confiscated). Another Arab [Palestinian] village, Taybih, lost 23,000 dunums, Tyrah also lost 23,000—and so on with the other Arab [Palestinian] villages. [Tawfiq Zayyad, “The Fate of the Arabs in Israel,” *Journal of Palestine Studies* 6 (Autumn 1976): 96]

As the Israeli-Palestinian human rights organization Adalah points out, land confiscations and the refusal of the state to allow Palestinians to develop new towns has led to severe overcrowding: Palestinians constitute around a quarter of the population inside Israel, but Palestinian municipalities exercise jurisdiction over only 2.5 percent of the land inside the state. See Adalah, *The Inequality Report: The Palestinian Arab Minority in Israel*, Mar. 2011, www.adalah.org/uploads/oldfiles/upfiles/2011/Adalah_The_Inequality_Report_March_2011.pdf

11. On Umm al Hiran, see Ayman Odeh, “Israel Bulldozes Democracy,” *New York Times*, 11 Feb. 2017, www.nytimes.com/2017/02/11/opinion/sunday/israel-bulldozes-democracy.html?mcubz=1&_r=0; on Araqib, see “Israeli Forces Demolish Bedouin Village of al-Araqib for 113th Time,” *Ma'an News Agency*, 17 May 2017, www.maannews.com/Content.aspx?id=777112. For more on Araqib, see +972, “Al-Araqib,” 972mag.com/tag/al-araqib/, and Adalah, “Al-Araqib,” www.adalah.org/en/tag/index/643

lation is prominent” with the effect of “diluting existing Arab population concentrations.”¹²

Thus, while the roads to Eshchar and sixty-one other towns, the development of which was intended to cement what was referred to as the “Judaization of the Galilee,” were being neatly paved and signposted, only rutted dirt tracks without signs led to the entrances of Arab al-Naim, al-Husseiniya, el Qubsi, and Kammaneh (and countless other Palestinian towns like them throughout pre-1967 Israel, never mind the territories occupied in 1967).¹³ Eshchar was instantly made visible on Israeli maps; the neighboring unrecognized Palestinian villages were not. Eshchar had from its inception wonderful new facilities; the unrecognized villages did not—nor were they connected to the national power grid, postal system, or water or sewage networks, all of which were immediately extended to Eshchar. The new homes in Eshchar had tiled roofs, irrigation systems, and lush lawns; those in the neighboring villages were made of corrugated tin and fabric and (denied municipal services) lacked running water and were surrounded by garbage. There were no plans to build them amphitheatres, sports complexes, and botanic gardens—or even schools. Recently, one of these villages, Arab al-Naim, was officially recognized. The biggest obstacle in getting the regional council to extend municipal services turned out to be the “model pluralistic community” of Eshchar, whose residents—living on land confiscated from the neighboring villages, including Arab al-Naim itself—said they did not want the impoverished Palestinian residents “living next door to them.”¹⁴

Here, then, we arrive at one of the most important features of the Israeli version of apartheid (about which more in a moment): not simply an official racism privileging Jews over non-Jews that drives and struc-

12. It goes without saying that no other state on the planet goes around obsessively counting population ratios in this perverse way. See “Top Secret: Memorandum-Proposal Handling the Arabs of Israel,” trans. pub., *Journal of Palestine Studies* 6 (Autumn 1976): 190–200. “In mid-1975 the Arab [Palestinian] population of the northern district was 250,000 while the Jewish population was 289,000,” the report notes with alarm.

A regional examination shows that in western Galilee the Arab [Palestinian] population constitutes 67 percent of the total; in the region of Yizre’el the Arab [Palestinian] population constitutes 48 percent of the total population. In 1974 only 759 Jews were added to the population of the northern district while the Arab [Palestinian] population increased by 9,035.

According to this rate of increase, by 1978 Arabs [Palestinians] will constitute over 51 percent of the total population of that district. [P. 191]

13. Oren Yiftachel, *Ethnocracy: Land and Identity Politics in Israel/Palestine* (Philadelphia, 2006), p. 229, and see pp. 64–69.

14. Jonathan Cook, “Unwanted Citizens,” *Al-Ahram Weekly*, 10–16 Jan. 2002, weekly.ahram.org.eg/Archive/2002/568/re2.htm

tures the state's actions, and not simply the inability or refusal of its practitioners and their overseas supporters to recognize this stark racism for what it is, but, above all, their adamant insistence that they stand for its exact opposite. Thus, Eshchar is an endeavor of "mutual respect, pluralism, and openness," not hostility towards others; a model of "mutual tolerance and togetherness," not a contemporary experiment in racial segregation; a project in "heterogeneous community living," not an attempt to maintain insular homogeneity against surrounding otherness; in short, a vibrant "pluralistic community," not a colonial settlement implanted on land usurped from its ethnically cleansed indigenous owners. Similarly, on a larger scale, Israel is (or is claimed to be) a bastion of Occidental tolerance and liberal democracy—a "Jewish and democratic state" in a desert of backward, violent, fundamentalist, tyranny.

And here too we arrive at one of the most important differences between the South African and Israeli versions of apartheid. As Derrida points out, one of the most compelling facts about South African apartheid is that it dared to have a proper name, after all; it insisted on calling attention to itself in its system of explicit signs, labels, markers—on every bus, at every beach, at the entrance to every bathroom. In other words, South African apartheid continually registered itself in the verbal and visual field of everyday life through endless plaques, signs, words, laws, names, classifications—an endless series of binaries constructed around the ultimate *Blankes / Nie Blankes* (whites / not whites). At the end of the day, then, the white South African, irrespective of her or his personal beliefs or ideological position, had to look at the sign saying "Blankes / Nie Blankes" and affiliate her- or himself accordingly—an awkwardness the Apartheid Museum in Johannesburg reenacts very effectively at its entrance.

The Jewish Israeli, and the supporter of Israel overseas, is never forced into such a confrontation and its attendant forms of recognition and awareness; she or he never has to make that choice. Nowhere in Israeli law is the right to equality protected; quite the contrary, in fact. Dozens of laws explicitly or implicitly discriminate against Palestinian citizens of the state.¹⁵ But in general these laws do not brashly call attention to themselves as did their South African precedents; nowhere does it say, officially, that Jews must live *here* (Eshchar, for example) and Palestinians must live *there* (Arab al-Naim, for example). A powerful system of formal and informal mechanisms ensures that to a large extent that is precisely how things work, but

15. See *Adalah*, "Discriminatory Laws Database," 30 May 2012, www.adalah.org/en/content/view/7771

it seems to happen in the background, as it were, rather than being so visibly and crudely foregrounded as in South Africa. Thus, unlike the white South African, who was always reminded of the forms of privilege she or he enjoyed at the expense of black people, the Jewish Israeli, like her or his supporters overseas, can ascribe to her- or himself the values of tolerance, pluralism, heterogeneity, and so on and not have to reckon with the status or even the existence of the Palestinians on whose land she or he lives.¹⁶

We will return to these visual and cultural distinctions between the two forms of apartheid, but first we must attend to the details of the two systems and what they have in common. For every major South African apartheid law has a direct equivalent in Israel and the occupied territories today.

First and foremost, precisely as was the case in apartheid-era South Africa, there is no universal category of citizenship and nationality in Israel. Thus the Population Registration Act of 1950, which assigned to every South African a racial identity according to which he or she had access to (or was denied) a varying range of rights, has a direct equivalent in the Israeli laws that assign to every citizen of the state a distinct racial identity on the basis of which various rights are also accessed (or denied).¹⁷ It is vital to note that in Israel, the categories of race and nation are collapsed into one another.¹⁸ For, according to the Israeli state and its juridical appa-

16. This is not to say that all Israeli Jews adopt this blindness towards Palestinians, of course, for many of them—well, *some* of them anyway—work toward justice and coexistence, and I count them as friends and comrades in a common cause. The point however is that this is a position that requires considerable thoughtfulness; the default mode lends itself to obliviousness, which never was the case in South Africa.

17. “Under Israeli law and policy, group membership is an official category imposed and monitored by the state, not simply a voluntary identity,” notes the Russell Tribunal on Palestine. “Israeli Jews are a group unified by law, sharing the same legal status wherever they reside, while Palestinian Arabs are a separate group, sub-divided into citizens, occupied residents (whose residence rights may be lost if they leave the territory in which they live), and refugees who do not have the right to return to any part of historic Palestine” (Russell Tribunal on Palestine, “Findings of the South African Session,” 5–7 Nov. 2011, p. 14, www.russelltribunalonpalestine.com/en/wp-content/uploads/2011/11/RTOP-Cape-Town-full-findings3.pdf).

18. I am using the term *race* here and throughout this paper as expressed in the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the major international convention on racial identity and attendant forms of discrimination, which adopts an understanding of race as encompassing what might otherwise be distinguished from now discredited understandings of race (in a narrowly biological sense) as national or ethnic origin. Thus, article 1 of the convention states:

In this Convention, the term “racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoy-

ratures, there is no such thing as an Israeli nation in a secular or nonracial sense and hence no such thing as Israeli nationality as such. As the High Court put it in 1972 (in a ruling it reiterated in 2013), there is “no Israeli nation separate from the Jewish People. The Jewish People is composed not only of those residing in Israel but also of Diaspora Jewry.”¹⁹ As a result, not only Jewish citizens of the state but all Jews everywhere are considered by the organs of the state, on the basis of their racial identity, to have “Jewish nationality.” Whereas non-Jews, although they may be citizens of the state, are explicitly not members of the “nation,” that is to say, Jews all over the world (whether they want to be affiliated with Israel or not), whose state Israel claims to be. Thus, from the state’s inception, “although state passports designated the citizenship (*ezrahut*, or *jinsiyya* in Arabic) of their holders as ‘Israeli,’” Shira Robinson points out, “internal identity cards marked their holders’ nationality (*le’om* or *qawm* in Arabic) primarily as ‘Jewish’ or ‘Arab,’ the racial groupings built into mandatory law and endorsed by the League of Nations.”²⁰

As a result, Israel’s nationality law (the 1950 Law of Return) applies only to Jews and provides no mechanism to grant nationality to non-Jews. An entirely different law (the misleadingly named 1952 “Nationality” Law)²¹ allows the extension of the lesser category of citizenship, but not nationality,

ment 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. [United Nations Human Rights Office of the High Commissioner, “International Convention on the Elimination of All Forms of Racial Discrimination [ICERD],” 21 Dec. 1965, www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx]

As John Dugard and John Reynolds note, this passage from the ICERD provides “categories that Jewish Israelis and Arab Palestinians may be classified by, even if not clearly discernible under the more ambiguous indicators of race or colour” in the “traditional” sense. Thus, they conclude, “Jewish and Palestinian identities, while not typically seen as ‘races’ in the old (discredited) sense of biological or skin colour categories, are constructed as groups distinguished by ancestry or descent as well as ethnicity, nationality, and religion. As such they are distinguished from each other in a number of forms within the parameters of racial discrimination under international human rights law” (John Dugard and John Reynolds, “Apartheid, International Law, and the Occupied Palestinian Territory,” *The European Journal of International Law* 24, no. 3 [2013]: 886, 885, 889; hereafter abbreviated “A”).

19. Quoted in John Quigley, *Palestine and Israel: A Challenge to Justice* (Durham, N.C., 1990), p. 129. As the international legal scholars Dugard and Reynolds point out, this ruling “made it clear that to recognize a common Israeli nationality would be to ‘negate the very foundation upon which the State of Israel was formed’” (“A,” p. 904).

20. Shira Robinson, *Citizen Strangers: Palestinians and the Birth of Israel’s Liberal Settler State* (Stanford, Calif., 2013), p. 108; hereafter abbreviated CS. More recently issued cards have asterisks over the field for nationality, but the ministry of the interior retains the racial/national designations for each citizen in its internal records and the population registry.

21. Despite the name as officially translated into English, this is actually a citizenship law, not a nationality law. See below.

to non-Jews, notably those Palestinian Muslims and Christians who had survived the ethnic cleansing of Palestine in 1948.²² As Robinson argues, “in its explicit privileging of the rights of all Jews in the world at the expense of native non-Jews, the Law of Return became Israel’s first legal nail in the coffin against the homecoming of Palestinian refugees, and the cornerstone of racial segregation between Israeli citizens” (CS, p. 99).

Those Muslim and Christian Palestinians who had managed to remain despite the ethnic cleansing of 1948 (who, with their descendants, today constitute a quarter of the population of the state within its pre-1967 borders) had to scramble to adapt themselves to a shifting series of residency requirements that the new state made it as difficult as possible for them to actually meet (see CS, p. 108). When it was finally framed, the law that ultimately granted them citizenship was careful not to mention Jews or Arabs as such, “instead outlining the two paths to acquire automatic status in seemingly neutral, bureaucratic terms,” Robinson notes (CS, p. 107).²³ The authorized English translation of the citizenship law was tweaked in another way to conceal its discrimination, she adds. “Although its Hebrew name, *Hok ha-Ezrahut*, translates literally as ‘Citizenship Law,’ the government called it the Israeli Nationality Law [in English] in order to denote the broadest legal meaning of the term as it is understood in English. This was deceptive” (CS, p. 107). As we shall see, the deception served a purpose.

Thus, unlike Jewish citizens, who are recognized as having a national identity as Jews, Palestinian citizens are methodically stripped by Israeli law of their national identity as Palestinians and reduced to mere ethnicity. This is why the state refuses to refer to them as Palestinians and instead uses the

22. In her meticulous reading of the founding of the state, Robinson points out that there was an extensive delay in formulating and legislating the laws regarding citizenship and nationality because the Zionist leadership—above all David Ben Gurion—were trying to figure out how best to frame the laws to include Jews but exclude Palestinians. Hence, Robinson argues, “the juridical and social content of Israeli citizenship was determined not by an ideal vision of whom to include but rather by the stark imperative of whom to keep out” (CS, p. 72). On the ethnic cleansing of Palestine, see Ilan Pappé, *The Ethnic Cleansing of Palestine* (London, 2006); Nur Masalha, *Expulsion of the Palestinians: The Concept of “Transfer” in Zionist Political Thought, 1882–1948* (Washington, D.C., 1992) and *The Palestine Nakba: Decolonising History, Narrating the Subaltern, Reclaiming Memory* (London, 2012); and Benny Morris, *The Birth of the Palestinian Refugee Problem Revisited* (New York, 2004).

23. Section 2 of the law, as Robinson shows, covers “‘citizenship by return,’” and extends status “‘to every *oleh* [Jewish immigrant/settler] under the 1950 Law of Return-’”; in other words, Jews only. Section 3 outlines the conditions for “citizenship by residence,” and, without referring explicitly to non-Jews as such, devotes itself to anyone to whom Section 2 does not apply—that is, without saying it explicitly, while absolutely intending it implicitly, non-Jews (CS, pp. 107, 108).

malicious term *Israeli Arabs* to designate them.²⁴ That term—the mere use of which involves participation in the attempted erasure of the Palestinian people—is never used to refer to the Arab Jews who make up a considerable proportion of Israel’s Jewish population (who really are Israeli Arabs) because of course in their case Israel wants to erase their Arab identity and absorb them as Jews, whereas in the case of Palestinian citizens the reverse holds true: they can’t be absorbed as Jews, so their indigestible Arabness is emphasized.²⁵ Race, in other words, works in both positive and negative ways in Israel, and the logics of racination and deracination perform extraordinarily complex ideological work in support of the all-important racial distinction between Jewish nationals and non-Jewish nonnationals.²⁶ The end result is a starkly racial state that at every possible turn resorts

24. Palestinian citizens of Israel refuse the designation Israeli Arab and insist on their identity as Palestinians. “We, sons and daughters of the Palestinian Arab people who remained in our homeland despite the Nakba, who were forcibly made a minority in the State of Israel after its establishment in 1948 on the greater part of the Palestinian homeland; do hereby affirm in this Declaration the foundations of our identity and belonging, and put forth a vision of our collective future, one which gives voice to our concerns and aspirations and lays the foundations for a frank dialogue among ourselves and between ourselves and other peoples,” reads the opening of the Haifa Declaration issued by leading Palestinian intellectuals, scholars, and activists inside Israel. “Despite the setback to our national project and our relative isolation from the rest of our Palestinian people and our Arab nation since the Nakba; despite all the attempts made to keep us in ignorance of our Palestinian and Arab history; despite attempts to splinter us into sectarian groups and to truncate our identity into a misshapen ‘Israeli Arab’ one, we have spared no effort to preserve our Palestinian identity and national dignity and to fortify it,” it continues (*Haifa Declaration* [Mada al-Carmel, 2007], mada-research.org/en/files/2007/09/haifaenglish.pdf).

25. For, to be incorporated into the Israeli state, Arab Jews from Iraq or Yemen had to be politically and ideologically “purified,” the act of stripping them of their Arabness being the flip side of the act of asserting their identities as Jews. This was sometimes done in violent and terrifying ways, by forcibly separating the children of Arab Jewish immigrants from their parents in order to raise them separately in more “purely” Jewish foster families, thereby aligning them more fully with their Jewishness precisely at the expense of their Arabness. “In aligning Mizrahim to fellow-Jews rather than to fellow-Arabs [Palestinians], race operates in negation,” Wolfe notes; “Mizrahi *de-racination* is a work of race” (*TH*, p. 265).

26. “Every Jew who has immigrated into this country before the coming into force of this Law, and every Jew who was born in this country, whether before or after the coming into force of this Law, shall be deemed to be a person who has come to this country as an *oleh* [immigrant/settler] under this Law,” says the Law of Return (quoted in *TH*, p. 250). That is, while scrupulously avoiding any mention of the indigenous non-Jewish Palestinian population, the law defines all Jews, including Palestinian Jews, as settlers. “There could hardly be a clearer example of settler colonialism’s replacement of Natives by immigrants,” Wolfe points out. “Under this foundational provision, the conferral of racial privilege on Palestine-born Jews was achieved by the means of the poker-faced contrivance of converting them into honorary immigrants.” Thus, Wolfe notes, the divide in Israel between Jews and non-Jews is also a legal distinction “between settlers and Natives” (*TH*, pp. 250, 255).

to linguistic tricks and verbal sleights of hand (such as deliberately mis-translating *citizenship* as “nationality”) to conceal its racial logic.²⁷

Stripping Palestinian citizens of their national identity as Palestinians is not merely degrading, however. For, as Dugard and Reynolds argue, “underpinning Israel’s discriminatory policies against the Palestinians—both within Israel and in the occupied Palestinian territory—is a legal system that constructs a notion of ‘Jewish nationality’ and privileges Jewish nationals over non-Jewish groups under Israeli jurisdiction” (“A,” p. 904). Thus, in Israel, various fundamental rights—access to land and housing, for example—are attendant upon racial identity (nationality) as defined by the state, not the lesser category of mere citizenship. As Dugard and Reynolds point out, Palestinians “are hugely restricted in critical areas such as land use and access to natural resources and key services, excluded by planning laws and institutions, and systematically discriminated against at municipal and national levels in the sphere of economic, social, and cultural rights.” Meanwhile, they note, “Jewish nationals, whose exclusive interests are served by parastatal institutions such as the Jewish Agency and the Jewish National Fund, are privy to exclusive access to most of the state’s territory and to claim extra-territorial rights and privileges in areas controlled by Israel” (“A,” p. 905). Indeed, Jews who are not citizens actually have more rights in some domains, particularly with regard to land, than native Palestinians.²⁸ In no other country on earth do racially privileged noncitizens enjoy greater rights than those who actually live in the territory controlled by the state.

South Africa’s Group Areas Act of 1950, which assigned different areas of South Africa for the residential use of different racial groups, has a direct equivalent in the system of formal and informal regulations that determine access to land inside Israel (and in the territories occupied in 1967, too, of course, even more blatantly). Palestinian citizens of the state are barred from living on state land held by national institutions such as the Jewish National Fund (JNF), the overwhelming majority of it Palestinian

27. This verbal sleight of hand is very hard to dislodge: I have had several fruitless arguments with members of the editorial board of the *Los Angeles Times* about the paper’s use of the term *Israeli Arabs* to refer to Israel’s Palestinian citizens. See Saree Makdisi, “They’re Palestinians, Not ‘Israeli Arabs,’” *Los Angeles Times*, 27 Mar. 2015.

28. For instance, Israeli military regulations governing access to certain closed areas in the West Bank prevent Palestinians who own the land in question from entering them while granting access to anyone “who is eligible to enter Israel in accordance with the Law of Return” (Saree Makdisi, *Palestine Inside Out: An Everyday Occupation* [New York, 2008], p. 17). So, a Palestinian farmer may not be able to get to her or his field by order of the Israeli army, but anyone Jewish from anywhere in the world can; see *ibid.*, pp. 16–17, where I discuss this at length.

property violently expropriated by the new state after the ethnic cleansing of Palestine in 1948.²⁹ Nowhere, in fact, is the extent and institutionalization of racial discrimination (“ethnocracy” is the term used by Oren Yiftachel in his scholarship on land planning in Israel)³⁰ more glaringly obvious—for those willing to see it—than in the pronouncements of the JNF, which, officially empowered to manage state land, advertises itself as “the caretaker of the land of Israel on behalf of its owners—Jewish people everywhere.”³¹

South Africa’s Bantu Education Act of 1953, which created a separate and unequal educational system for black South Africans, has a direct equivalent in the administrative procedures that have created separate and unequal primary and secondary educational systems for Jewish and non-Jewish citizens of the state of Israel (and the territories occupied in 1967), and ongoing forms of racism and discrimination in its higher education system.³² All told, Israel invests more than three times as much on a per capita basis in educating a Jewish citizen than it does in a non-Jewish (that is, Palestinian) one.³³ The forms of discrimination practiced by the state’s education system are even transcoded into its school textbooks, as a comprehensive study by the Israeli sociologist Nurit Peled-Elhanan shows.³⁴

And so the list goes on. South Africa’s Prohibition of Mixed Marriages Act of 1949 has its equivalent in the Israeli laws preventing Jews from marrying non-Jews; there is no institution of civil marriage, and Jews are only legally allowed to marry other Jews in Israel and only according to Orthodox religious law, because only the Orthodox rabbinate is empowered to

29. See Pappe, *The Ethnic Cleansing of Palestine*, and Masalha, *The Politics of Denial: Israel and the Palestinian Refugee Problem* (London, 2003).

30. See Oren Yiftachel, *Ethnocracy: Land and Identity Politics in Israel/Palestine* (Philadelphia, 2006).

31. Mel Salberg, “The Jewish National Fund . . . Its First Century,” Jewish National Fund, www.jnf.org/site/News2?page=NewsArticle&id=9938. Empowered by the state for its role in managing state land, this institution not only acknowledges but proudly justifies its long-established record of discriminating against Palestinian citizens by pointing out that it “is not a public body which acts on behalf of all the citizens of the state. Its loyalty is to the Jewish people and its responsibility is to it [the Jewish people] alone. As the owner of JNF land, the JNF does not have to act with equality towards all citizens of the state” (“Excerpts from the Jewish National Fund’s Response to H.C. 9205/04 and H.C. 9010/04,” www.adalah.org/uploads/oldfiles/eng/publications/makan/hc9010.pdf.)

32. See notes below for details.

33. See *Parallel Report Jointly Submitted to the UN Committee on the Elimination of All Forms of Racial Discrimination*, 69th Session, Geneva, July–Aug. 2006; Adalah, “The Education Gap” (August 2007); Adalah, *Suggested Issues for Consideration Regarding Israel’s Combined 10th, 11th, 12th and 13th Periodic Reports to the UN Committee on The Elimination of All Forms of Racial Discrimination* (2005).

34. See Nurit Peled-Elhanan, *Palestine in Israeli School Books: Ideology and Propaganda in Education* (London, 2010).

transact personal status matters for Jewish citizens. Palestinian citizens transact personal status matters through their own religious institutions, but, unlike Orthodox Judaism, both Christianity and Islam permit their adherents to marry outside their faith communities.

The Natives (Urban Areas) Consolidation Act of 1945 and the Black (Native) Amendment Act of 1952 that required black South Africans to carry passes and regulated their access to urban areas have equivalents in the various Israeli laws regulating and controlling the movement of indigent Palestinians—but not Jewish settlers—within the West Bank and between and among the territories occupied in 1967 and those occupied in 1948. (As I write in April 2017, the Israeli army has imposed a total ban on Palestinian movement around the West Bank for the week of Passover, closing all checkpoints and sealing Palestinians in their towns and villages for seven days while maintaining freedom of movement for Jews. Thus, Palestinian Muslims are denied access to the great mosques of Jerusalem, and Palestinian Christians from around the West Bank are barred from accessing the Church of the Nativity in Bethlehem and the Church of the Holy Sepulchre in Jerusalem on Good Friday and Easter Sunday, but Jews can come and go to their Passover seders just as they please).

The Public Safety Act of 1953 has an equivalent in the Israeli military regulations permitting the long-term detention without trial of Palestinians (but not Jewish settlers) in the occupied territories. Indeed, the two populations of the West Bank, Palestinian and Jewish, are subject to two entirely different legal systems in the same territory: Jews enjoy the protections of Israeli civil law, which Israel has selectively projected along racial lines beyond its own borders, while Palestinians are subject to the much harsher provisions of military law.

The Promotion of Bantu Self-Government Act of 1952, which mandated greater official recognition of Bantustans like Transkei, and the Bantu Homelands Constitution Act of 1971, have an equivalent in the Oslo Accords' creation of a so-called Palestinian Authority to partially manage the affairs of Palestinian (but not Jewish) residents of the occupied territories. Indeed, just as South Africa created Transkei, Ciskei, and Bophuthatswana in order to artificially delete as many blacks as possible from South Africa's own population registry, Israel maintains pockets of the West Bank and all of Gaza as holding pens for the land's non-Jewish population, while settling the rest of the territory with its own population in order to be able to have its cake and eat it too: to absorb the land (settling it) but not the people, and to maintain the claim that it is a Jewish state while keeping to a bare minimum the number of non-Jews who officially live within the state—and hence to perpetuate the fiction that it

does not disenfranchise the majority of the land's population that is Palestinian.

For it is often said that one of the differences between apartheid-era South Africa and present-day Israel is that the former involved a minority oppressing a majority whereas the latter does not. This is simply not true. Of course Israel disenfranchises the land's Palestinian majority. There are today approximately 12.5 million Palestinians and six million Israeli Jews.³⁵ Israel's manipulation of populations and territories, however, obscures as much as possible these material circumstances: 1.5 million Palestinians are citizens of Israel and linguistically disappeared into the category of Israeli Arabs, so they don't count; seven million Palestinians live in the exile that was violently forced on them in 1948 by Israel, which continues to deny their legal and moral right of return; and so they don't count. That leaves only the four million or so Palestinians in the occupied territories. At face value, the situation may not look like a minority oppressing a majority, but that is exactly what is going on. Indeed, a report recently published by a United Nations agency (the UN Economic and Social Commission for Western Asia) insists that the different domains—second-class citizenship, occupation, or enforced exile—into which Israel has restricted the Palestinian people “constitute one comprehensive regime developed for the purpose of ensuring the enduring domination over non-Jews in all land exclusively under Israeli control.” The report states that “the strategic fragmentation of the Palestinian people is the principal method by which Israel imposes an apartheid regime.”³⁶

As Dugard and Reynolds as well as this new UN report remind us, it is vital to take heed of the fact that *apartheid* is not a slang term or an emotional claim; it is a concept very clearly articulated (and prohibited) in international law, notably the Apartheid Convention of 1973. Article 2 of the convention specifies the crime of apartheid as constituting “the inhuman acts committed for the purposes of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them.”³⁷ Most of the acts specified in

35. See Palestinian Central Bureau of Statistics (PCBS), “Special Statistical Bulletin on the 68th Anniversary of the Palestinian Nakba,” www.pcbs.gov.ps/post.aspx?lang=en&ItemID=1661, and Central Intelligence Agency, “Middle East: Israel,” www.cia.gov/library/publications/the-world-factbook/geos/is.html

36. United Nations, *Israeli Practices towards the Palestinian People and the Question of Apartheid* (Beirut, 2017), pp. 3, 6.

37. United Nations, “International Convention on the Suppression and Punishment of the Crime of Apartheid,” treaties.un.org/doc/publication/unt/volume%201015/volume-1015-i-14861-english.pdf. The convention invokes ICERD (see footnotes above) in its use of the term “racial groups.”

article 2 clearly apply to Israel's practices in the territories it has occupied since 1967, leading major international legal scholars and researchers to conclude that—as an exhaustive 2009 study published by the South Africa Human Sciences Research Council states—Israel's practices in the occupied territories “are integrated and complementary elements of an institutionalized and oppressive system of Israeli domination and oppression over Palestinians as a group; that is, a system of apartheid.”³⁸ Dugard and Reynolds, among others, concur in their assessment that Israeli practices in the occupied territories “are in breach of the legal prohibition of apartheid” (“A,” p. 912).

Several elements of article 2 of the Apartheid Convention are also clearly applicable, however, to Israel within its pre-1967 borders. Article 2 (c) refers to “legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country” by denying to members of a racial group “the right to leave and return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association.” Article 2 (d) refers to “any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof.” And article 2 (e) refers to “persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid.”

As the preceding pages show, Israel is in violation of these stipulations within its pre-1967 borders, let alone the territories it occupied in 1967. This led the Russell Tribunal meeting in Cape Town in 2011 to determine that “Israel's rule over the Palestinian people, wherever they reside, collectively amounts to a single integrated regime of apartheid.”³⁹ And it led the new UN report to conclude that “Israel is guilty of policies and practices that constitute the crime of apartheid as legally defined in instruments of international law” and, indeed, that “Israel has established an apartheid regime that dominates the Palestinian people as a whole.”⁴⁰

38. Human Sciences Research Council, *Occupation, Colonialism, Apartheid? A Re-Assessment of Israel's Practices in the Occupied Palestinian Territories Under International Law* (Cape Town, 2009), p. 22.

39. Russell Tribunal on Palestine, “Findings of the South African Session,” p. 21.

40. See United Nations, preface to *Israeli Practices towards the Palestinian People and the Question of Apartheid*, p. 1.

There are of course differences between the racial regimes in South Africa and Israel. The system of apartheid inside South Africa, for all its violence and viciousness, was—of economic necessity—not quite as relentless as the system that obtains inside Israel and the territories occupied in 1967. The movement of blacks in South Africa was controlled, not banned altogether, as is the case, for example, with the movement of Palestinians in and out of Gaza, which Israel has largely sealed off from the world for over a decade. The South African government dispatched Caspar armored cars and soldiers with rifles into Soweto—not main battle tanks, Apache helicopters firing Hellfire missiles, heavy artillery discharging white phosphorous, and F-16s indiscriminately dropping one-ton bombs on defenseless, literally shelterless people. For all its horror, the Sharpeville Massacre was an exceptional event in South Africa. For Palestinians, it would—though this is of course not to diminish it or the human suffering that it represents—hardly stand out in a list of Israeli massacres extending from Deir Yassin and Tantoura in the 1940s to Kufr Qassem, Rafah, and Khan Younis in the 1950s to Sabra and Shatila in the 1980s, to Nablus and Jenin in the 2000s, to Gaza in 2008–2009 and 2014. Indeed, there is nothing even remotely resembling a precedent for Israel's 2008–2009 or 2014 assaults on Gaza in the entire history of apartheid in South Africa: the murder of one out of every thousand people; the destruction of tens of thousands of homes at one go; the cutting off of vital supplies of food, medicine, fuel, construction materials, and even schoolbooks to a population composed—as Gaza's is—largely of children, condemning them to malnourishment.⁴¹

The apartheid regime in South Africa wanted blacks to work; killing or starving the labor force in this way would have been unthinkable. Indeed, for all the comparisons to South Africa, it is also often noted that that Israeli practices are worse than apartheid “as it existed in South Africa” (“A,” p. 912). Veterans of the antiapartheid struggle in South Africa who visit Israel and the occupied territories consistently say the same thing.

41. On the 2014 Gaza war, see United Nations Office for the Coordination of Humanitarian Affairs, *Gaza: Two Years After*, 26 Aug. 2016, www.ochaopt.org/content/gaza-two-years-after; on the 2008–2009 Gaza war, see United Nations Human rights Council, *Report of the United Nations Fact-Finding Mission on the Gaza Conflict*, 25 Sept. 2009, www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf: “While the Israeli Government has sought to portray its operations as essentially a response to rocket attacks in the exercise of its right to self-defence, the Mission considers the plan to have been directed, at least in part, at a different target: the people of Gaza as a whole,” the latter report concluded, finding the Israeli assault on Gaza “a deliberately disproportionate attack designed to punish, humiliate and terrorize a civilian population, radically diminish its local economic capacity both to work and to provide for itself, and to force upon it an ever increasing sense of dependency and vulnerability” (pp. 406, 408).

"It is worse, worse, worse than everything we endured," noted Mondli Makhanya, editor-in-chief of the *Sunday Times* of South Africa, after a visit to Palestine. "The level of the apartheid, the racism and the brutality are worse than the worst period of apartheid. The apartheid regime viewed the blacks as inferior; I do not think the Israelis see the Palestinians as human beings at all."⁴²

And that of course is the major material difference between South African apartheid and Israeli apartheid. The difference between inferiority and dehumanization is the difference between exploitation and annihilation. In South Africa the system was designed to enable the exploitation of black labor, to use black people's labor power to work in houses, offices, and gold mines, but to deny them equal rights. The Israeli system is not about exploitation of Palestinian labor: labor from the occupied territories is almost totally irrelevant to the Israeli economy, having been made up for by recent immigrants from the former Soviet Union and the supply of cheap labor from southeast Asia enabled by global circuits of exchange. It is, as it has always been, about the removal of one population and its replacement by another. "Invasion is a structure not an event,"⁴³ as Wolfe once brilliantly put it, and the Zionist project in Palestine set in play a process that began but did not end in 1948, which continues to this day every time a Palestinian home is demolished in Jerusalem; every time a Palestinian family is expelled from the ghost town that is central Hebron; every time a Palestinian Jerusalemite is stripped of her residency papers and expelled from the city of her birth; every time a Palestinian family is shattered and broken because of an Israeli law that was instituted in 2003 that prevents a Palestinian in Israel or Jerusalem from marrying and living with a spouse from the occupied territories, even though of course a Jewish Israeli can marry a Jewish colonist from the West Bank and they can live together wherever they please. (When a similar law was proposed at the peak of apartheid in South Africa in 1980, it was summarily dismissed by that country's white high court as an unacceptable violation of black people's right to family; Israel's high court upheld that country's new law in 2006 and repeatedly in the years since.)

In a word, as I have put this in other contexts: South African apartheid was biopolitical in nature—concerned with the management and administration of living black labor. Israel's is, to borrow the phrase that Achille

42. Quoted in Gideon Levy, "Twilight Zone / 'Worse Than Apartheid,'" *Ha'aretz*, 10 July 2008, www.haaretz.com/twilight-zone-worse-than-apartheid-1.249503

43. Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8 (Dec. 2006): 388.

Mbembe has elaborated so effectively, necropolitical—concerned with the destruction and erasure of Palestinians, something that every Palestinian resists every single day, if only by the sheer act of stubbornly continuing to exist.⁴⁴

This necropolitics depends absolutely, however, on the system of inscrutability and invisibility that allows Israelis and the supporters of Israel to go on practicing or endorsing a vulgar and violent form of racism without having to reckon with and acknowledge the fact that that is precisely what they are doing. It is unthinkable that most American supporters of Israel—especially in liberal sectors such as the academy—would continue to endorse its racism and apartheid if they saw them (or were forced to see them) for what they are.

And this brings us back to the major difference between the racial regimes of South Africa and Israel with which we began: the legibility of South African apartheid and the relative illegibility—inscrutability—of Israeli apartheid. Nowhere in Israel or the occupied territories is there a sign, equivalent to those in South Africa, that baldly says “Jews only.” But there also doesn’t need to be; the racism is enacted in practice rather than in language. Whereas South African apartheid insisted on giving itself a name and drawing attention to itself through the endless verbal and visual cues that caught Derrida’s attention, Israeli apartheid seeks whenever possible to elide and cover over the forms of racism that it embodies just as fully. It is a perfect example of what David Theo Goldberg has recently theorized as “racism without racism.”⁴⁵

Admirers of Israel can say that it treats all its citizens equally, not because they do not realize that discrimination operates at the level of race and “nationality” rather than at the secondary level of citizenship (who can be bothered with such technical subtleties?), but rather because Israelis and their supporters, unlike white South Africans, are spared from being forced to reckon with that realization. They are allowed—and they allow themselves—to see right through it, to parrot the slogans that come easily to the tongue, to indulge in the misrecognition of an ugly reality that is actually staring them in the face, to continuously misrecognize the facts when someone else insists on tabulating, documenting, and presenting them, and to erupt in blind resentful fury if the facts are pushed at them even a little bit too insistently.

44. See Achille Mbembe, “Necropolitics,” trans. Libby Meintjes, *Public Culture* 15 (Winter 2003): 11–40.

45. See David Theo Goldberg, “Racisms without Racism,” *PMLA* 123 (Oct. 2008): 1712–16.

What's in play here, then, is a form of denial that can't bring itself to acknowledge itself for what it is. It is by staring so obsessively at language, not seeing the absent meanings because they are not conveyed in language—"where does it say 'Jews only'?"—that supporters of Israel allow themselves to avoid recognizing the material reality. There does not have to be a sign saying "Jews only" in language in order for Jews only to use a road in the West Bank or to attend a certain school or to live in a certain town in Israel; there doesn't have to be a law saying Jews and non-Jews *cannot marry* for Jews and non-Jews *not to be able to marry* in Israel. Unlike apartheid in South Africa, where all these kinds of proscriptions were bluntly spelled out, what we see in Israel is racism that avoids or distorts language. That doesn't make it any less racist, however. Derrida was right to say that what distinguished South African apartheid was its brandishing of the word; what helps distinguish Israeli apartheid, by contrast, is the disavowal of the word.⁴⁶ For this is a racism that denies its proper name, a racism of erasure that places its own name under erasure. Not apartheid, not even ~~apartheid~~, but rather simply [].

The inability to see Israel's racial regime for what it is—to see right through the blank of its own erasure—is abundantly evident in the ongoing debate over the move to boycott Israeli academic institutions, which led to the Modern Language Association's extraordinary passage in June 2017 of a resolution not simply not to endorse but to actively refrain from endorsing the academic boycott that has emerged from the growing global boycott, divestments, and sanctions (BDS) movement.⁴⁷ The BDS movement has become so mainstream in other parts of the world that the band Radiohead found themselves in the news and isolated as outliers as they prepared to break the boycott and play in Tel Aviv in summer 2017, unlike the countless artists, writers, musicians, and filmmakers who now refuse to play or talk there, dozens of whom—including Ken Loach, Mike Leigh, China Miéville, and Roger Waters among others—appealed to the band to

46. From an American perspective, what makes Israeli apartheid even more special is the fact that, uniquely, Israel is supported by the US government and taxpayers to the tune of billions of dollars a year while being given the nearly total cover of the US veto in the UN Security Council. There may be other unpleasant regimes in the world—this has become one of the Zionist attempts to deflect criticism of Israel—but none enjoys virtually unlimited US support and protection.

47. Despite protestations to the contrary, the academic boycott is not in fact directed against individual Israeli scholars, who would still be free to come and go and to collaborate with foreign scholars, but against Israeli academic institutions, which are deeply integrated in that country's racial regime and play an active role in its maintenance and elaboration. In fact, it is far more permissive than the academic boycott directed against apartheid South Africa, with which many current opponents of BDS had no problem.

respect the boycott.⁴⁸ It's now news when cultural figures break the boycott of Israel, in other words, not when they observe it.

The US still lags a little behind the times, however, and the question of apartheid and the comparison between Israel and South Africa—where an international boycott and sanctions movement on which BDS is modeled had proved so successful in bringing about the demise of apartheid and a transition to democratic government—continues to play a prominent role in the boycott discussion here, with opponents still, despite all the evidence, trying to make the case that Israel is not an apartheid state and using that claim to defuse, suppress, and even render illegal the call for boycott.⁴⁹

Consider, for instance, the position of Russell Berman, whom I single out here because he is the most thoughtful and articulate of the anti-boycott activists within the Modern Language Association (MLA), so that his argument makes the best possible case for the defense of Israel. The denial that Israel is a settler-colonial and apartheid state is central to his position against boycott, and the way he articulates his argument is a perfect example of the larger syndrome I have been discussing in this essay and so worth considering at some length.

Berman's contention is that the charge of apartheid is a "slur" and a "falsehood."⁵⁰ Unlike an apartheid regime, he argues, "Israel provides for equality before the law." His evidence for this, however, is not actually Israeli law but rather that country's declaration of independence, which, like all such declarations, is aspirational rather than legally binding (the affirmation that "all men are created equal" in the US Declaration of Independence did not, after all, prevent formal and legal inequality for over a century). And yet Berman specifically insists that "Israeli law recognizes the fact that the population includes distinct ethnic groups, but it declares them equal, a bedrock principle of the Jewish state" ("G"). Why, if he is convinced that Israel guarantees equality before the law, does Berman not actually cite the law providing this bedrock declaration of equality? Because *not one single Israeli law—above all none of Israel's Basic Laws, which form its ad hoc constitution—affirms the principle of equality or the formal equality of Jewish and non-Jewish citizens*. There is therefore literally noth-

48. See Hannah Ellis-Petersen, "Leading Arts World Figures Urge Radiohead to Cancel Israel Gig," *Guardian*, 24 Apr. 2017, www.theguardian.com/music/2017/apr/24/artists-urge-radiohead-to-cancel-gig-in-israel

49. See for example David Cole and Faiz Shakir, "This Piece of pro-Israel Legislation is a Serious Threat to Free Speech," *Washington Post*, 24 July 2017.

50. Russell A. Berman, "The Goal of the Boycott," *Los Angeles Review of Books*, 16 Mar. 2014, lareviewofbooks.org/article/goal-boycott/#!; hereafter abbreviated "G."

ing for him to cite.⁵¹ Actually the legal plight of equality in Israel is even worse than just this; when an equality bill *was* proposed in the Israeli parliament in 2016—seven decades after the state’s founding—it was soundly defeated on its preliminary reading and consigned to the dustbin.⁵² So much for the “bedrock principle” that Berman has taken to heart (“G”).

Berman then goes on to assert that “Israeli law prohibits discrimination in education.” Not only does he also offer no evidence for this claim, he immediately contradicts it in any case by admitting that “the bilingual character of the society” means that there are “separate Hebrew and Arab [presumably he means Arabic] schooling options.” In other words, there *is* discrimination after all. Yes, he adds, but “Arab [that is, Palestinian] parents can choose to send their children to Hebrew-language schools” (“G”). It’s hard to know how seriously to take this argument, which is a bit like Betsy De Vos’s recent suggestion that historically black colleges in the US “are real pioneers when it comes to school choice” or like arguing that the biracial character of 1960s America meant there were separate white and black schooling systems, but black parents could choose to send their kids to white schools.⁵³ Really? Even if it were technically true, are there no other cultural or political considerations worth mentioning in confronting such a “choice”? Palestinian parents sending their children to a Hebrew-language school—where profound hostility to Palestinian culture and the erasure and denial of Palestinian history are institutionally entrenched—would be condemning them to an even greater sense of social and cultural alienation than they already experience surrounded by fellow Palestinian classmates, where at least they’re not alone in being reduced against their will to the status of a reviled minority in another people’s state.⁵⁴ Anyway, why should they even have to face such a choice? There are plenty of bi- or multilingual countries that educate their citizens in several languages at once within a unified system precisely in order to overcome differences and integrate the citizenry. That Israel lacks a unified educational system and so many other mechanisms to help

51. There is, however, plenty of evidence for the legality of discrimination, which Berman also does not address; see above.

52. See “Knesset Rejects Bill for Equality for All Citizens,” *Middle East Monitor*, 28 Jan. 2016, www.middleeastmonitor.com/20160128-knesset-rejects-bill-for-equality-for-all-citizens/, and Natasha Roth, “When Equality is the Biggest Existential Threat of All,” *972 Magazine*, 31 Jan. 2016, 972mag.com/when-equality-is-the-biggest-existential-threat-of-all/116427/

53. Joy Resmovits, “Betsy DeVos Slammed for Calling Historically Black Colleges School Choice Pioneers,” *Los Angeles Times*, 28 Feb. 2017, www.latimes.com/local/california/la-essen-tial-education-updates-southern-betsy-devos-slammed-for-calling-1488305405-htmlstory.html

54. See Peled-Elhanan, *Palestine in Israeli School Books*.

unify the population is further proof that the unity and equality of its citizenry is hardly the bedrock value that Berman claims it is.

But Berman is adamant. “Arab [that is, Palestinian—a designation he avoids] students study in the same university classrooms and reside in the same dormitories as Jewish Israelis,” he goes on to say, although even minimal research beyond Israel’s reassuring slogans reveals that this faint veneer of equality is belied by the deliberately crafted structural mechanisms—including the segregated and unequal school system—that make it immensely more difficult for Palestinian citizens than Jewish ones to even gain acceptance into Israeli universities, let alone prosper there (“G”). “Discrimination at every level of the education system winnows out a progressively larger proportion of Palestinian Arab children as they progress through the school system—or channels those who persevere away from the opportunities of higher education,” Human Rights Watch points out in its investigation of the Israeli education system (which is readily available online for anyone who bothers to look).

The hurdles Palestinian Arab students face from kindergarten to university function like a series of sieves with sequentially finer holes. At each stage, the education system filters out a higher proportion of Palestinian Arab students than Jewish students. Children denied access to kindergarten do less well in primary school. Children in dilapidated, distant, under-resourced schools have a far higher drop-out rate. Children who opt for vocational programs are often limited to preparation for work as “carpenters, machinists, or mechanics in a garage,” as one school director told Human Rights Watch.⁵⁵

And the discrimination continues all the way through the university system, where even dormitory assignments are hardly as equal as Berman claims—universities reserve dorm space, for instance, not for Jews as such but for Israeli army veterans, which excludes almost all Palestinians, albeit, cleverly, without technically saying so.⁵⁶ Nor is it a surprise that there are rapidly falling off percentages of Palestinian participation at each successive

55. Human Rights Watch, “Second Class: Discrimination Against Palestinian Arab Children in Israel’s Schools,” Sept. 2001, p. 3, www.hrw.org/reports/2001/israel2/ISRAEL0901.pdf. Also see the recent report by the Israeli Association for the Advancement for Civic Equality, *Representation of Arab Citizens in the Institutions of Higher Education in Israel*, ed. Nohad Ali (Haifa, 2013); www.sikkuy.org.il/wp-content/uploads/2013/11/English_final-2014_representation_higher_education1.pdf

56. See Tamara Traubmann, “Court Allows Haifa University to Continue Contentious Dorm Policy,” *Ha’aretz*, 11 Apr. 2007, www.haaretz.com/news/court-allows-haifa-university-to-continue-contentious-dorm-policy-1.217810, and Khoury, “No Place in University Dorms

rung of the Israeli university system: Palestinians constitute a quarter of the state's population but only 10 percent of its recent BAs, 6 percent of its MAs, 3 percent of its PhDs, and fewer than 2 percent of its lecturers, despite the well-known Palestinian commitment to education.⁵⁷ None of this highly integrated and structural inequality registers in Berman's glib assessment that the system treats all students equally, a claim based on nothing more than casually taking the system at its word without actually looking too deeply into the matter.

Similarly, on the question of housing rights, Berman predictably cites the 2000 Ka'adan case (see above) that, despite all its limitations, is the solitary example of the supposed equality of housing rights in Israel routinely trotted out by Israel's well-drilled overseas defenders. And, equally predictably, he fails to mention the 2011 law (see above) that essentially invalidated the Ka'adan ruling, such as it is, and yet was upheld by the very same High Court (which is no surprise given that the court has given its approval to almost all of Israel's routine violations of international law).

I could go on and on. Berman affirms the value of "interracial contact" but makes no mention of the laws that prevent Jews from marrying non-Jews in Israel: why can Jews not marry non-Jews in Israel if interracial contact and integration is such a "bedrock value" of the Jewish state? He says several times that South Africa didn't allow blacks to vote while Israel lets its "Arabs" (that is, Palestinians) vote, but he has little to say about the four million Palestinians in the West Bank and Gaza who have lived under Israeli rule for fifty years—almost three quarters of Israel's existence as a state—and have no right to vote in Israeli elections, which looks a lot more like South Africa after all. Berman goes on about the affirmation of difference but systematically elides the word *Palestinian* in discussing the Palestinians in Israel (he uses the official and deliberately mystifying Israeli designation "Arab" to refer to them instead) ("G").

The end result is that Berman is able to look right at a state that openly and officially declares itself to be the state of one people ("there is no Israeli nation separate from the Jewish People") and say, no, really, it's the state of all its people. On the one hand, he admits, the state has "a specifically Jewish character"; on the other hand, he says, it treats non-Jews equally. That this is a self-evidently illogical proposition surely requires no substantiation: the slogan that Israel is a "Jewish and democratic state"

for Arabs Who Didn't Serve in IDF," *Ha'aretz*, 12 Aug. 2010, www.haaretz.com/no-place-in-university-dorms-for-arabs-who-didn-t-serve-in-idf-1.307448

57. See Israeli Association for the Advancement for Civic Equality, *Representation of Arab Citizens in the Institutions of Higher Education in Israel*, pp. 20–21.

may be deeply and reassuringly satisfying to those who find comfort in such slogans, but anyone thinking about it for even a few minutes will recognize the oxymoronic nature of the expression. A state can be either devoted specifically to one part of its population or devoted equally to all who live there; the idea that it can be both simultaneously is absurd. And in any case, in making an official distinction between nationality and citizenship (a technicality Berman seems unaware of), Israel formally identifies itself as the state of the Jewish people—including those in Europe and the US—and *not* the state of its citizens or of those over whom it rules.

The point I am trying to make here is that even as technically capable a reader of texts as Berman can look Israeli apartheid in the face and declare that it is not apartheid because of the forms of linguistic evasion built into the system, which readily facilitate the forms of equivocation or simply the uncritical reiteration of official claims and slogans on which his argument depends for its very existence. I believe Berman to be sincere in his protestations; in other words, he's not being disingenuous. Since the Israeli system of apartheid doesn't force him, the way the South African system did its defenders, to acknowledge it for what it is—and, on the contrary, opens up the many rhetorical avenues we see Berman pursuing, and offers endless comforting sound-bites affirming the many wonderful values for which the state claims to stand—it is easy to look right through its deeply institutionalized and legalized racism without seeing it for what it is. And so he, like countless others, does just that: he takes the path of least resistance, which the state opens up for him by its own rhetorical posture, and he chooses not to see it for what it is, ignoring the vast accumulation of evidence to the contrary that is easily available with only a few minutes of looking.

None of the evidence I cite here involved particularly onerous research, for instance; but one has to *want* to undertake that research to find it; one has to consciously decide to test the state's proclamations, to read them against the grain the way we are trained to do as scholars, rather than simply taking them for granted and uncritically reiterating them at face value. The key condition of possibility for a position like Berman's, in other words, is the ability to cherry-pick what one wants to see and to steer well clear of inconvenient data, the actual sordid details of Israeli legislation, the instruments of international law and the published reports of countless international investigations, and the work of Palestinian or for that matter critical Israeli authors (such as Ilan Pappé, Ariella Azoulay, Eyal Weizman, Ella Shohat, Yiftachel, to name but a few, in addition to Said, Nur Masalha, Walid Khalidi, Ghada Karmi, Naseer

Aruri, Nadera Shalhoub-Kevorkian, and so on). The question is what would happen if Berman were presented a dossier of evidence that contradicts his position and invited to present a counterargument that—even if only as an academic exercise—isn’t allowed to ignore or sidestep the presented evidence but actually has to take it on, even if only in an attempt to refute it. I’m happy for this essay to serve as such a challenge.

To return to the debate over BDS—the biopolitical form of apartheid in South Africa came to an end because the white elite there eventually realized (thanks to local resistance and global boycotts and sanctions) that it was ultimately untenable and needed to be dismantled and replaced with a more democratic system of government and representation, and, indeed, a mechanism of truth and reconciliation was seen to be integral to the process of transition from apartheid to afterwards. But the very transparency of the system in South Africa ultimately facilitated the white government’s own capacity for political calculation. The problem with Israeli [] is that it is premised on avoidance, evasion, equivocation; it is positioned out of view; it is unavailable for interrogation, reconsideration, dismantling. As far as its own practitioners and overseas supporters are concerned, it doesn’t even exist in the first place. What, then, can there be to reconsider or dismantle? What is there to interrupt its necropolitical logic and the ultimate horizon of that logic which can be carried on—all the way to the last act of erasure—in the name of “mutual respect, pluralism, and openness,” “tolerance,” and “democracy?” The answer is certainly not the creation of a Palestinian state, which is now a geographical impossibility given that the land for such a state has been entirely colonized by Jewish settlers, but rather increasing isolation and boycotts until Israel accepts the inevitable and a genuine democracy for Israeli Jews and Palestinians (those who are today second-class citizens, those who are under occupation, and those who are in exile who want to return) comes into being.⁵⁸ The only alternative—and only for the short term at that—is the deepening entrenchment of apartheid that we are presently witnessing.

It’s worth remembering that Derrida, with whom this essay opened, was committed to the boycott and sanctions campaign directed against

58. I argue this point at much greater length in Makdisi, *Palestine Inside Out*. And as for the inevitable retort that the Israelis will never accept a one-state solution: it’s not a matter of what they want. The white establishment in South Africa did not *want* to end apartheid; white plantation owners in the US did not *want* to end slavery; the French monarchy did not *want* democracy; the British aristocracy did not *want* to grant voting rights to the “swinish multitude.” No privileged group in the history of the world has ever given up its privileges because it *wanted* to but because it was *compelled* to do so. And so, surely, it will ultimately be in this case too.

apartheid-era South Africa. His *Critical Inquiry* piece originally appeared, after all, in the catalogue of an art exhibition against apartheid, one that Derrida himself hoped would help consign apartheid to memory as “the last state racism on the entire planet.” His position on the question of Palestine was, by contrast, much more circumspect; he certainly never identified the Zionist project in Palestine as state racism (which is why South African apartheid could be in, his view, “the last”). In a lecture given in Jerusalem at the height of the first Palestinian intifada in 1988, Derrida aligned himself with a blandly run-of-the-mill liberal position, calling for “an end to violence” and condemning in equal terms “the crimes of terrorism [the standard-issue Israeli term for all forms of Palestinian resistance] and of military and police repression.” He called for the withdrawal of Israeli troops from the territories occupied in 1967 and for the recognition of the Palestinians’ right to choose their own representatives, and for peace negotiations—but he also affirmed the Israeli state, “whose existence, it goes without saying, must henceforth be recognized by all and definitively guaranteed.” More interestingly, while avowing his friendship for all sides, he also committed himself to an “expression of respect for a certain image of Israel and as an expression of hope for its future.”⁵⁹

The image of Israel is what this essay has been exploring all along, but it is obviously not the same “certain image” as Derrida had in mind. In fact, the point is that there is nothing certain at all about the image of Israel, except for the certainty by which a certain image has long been held forth not simply to cover over other images but to stand in for them, to displace them; an image of tolerance, pluralism, and democracy that has for so long rendered Zionism’s stark racial regime essentially inscrutable to those who are its most ardent supporters, especially those in the academy who, like Derrida, pride themselves on their commitment to liberal values.

I don’t expect this essay to change their minds. I write, rather, for the historical record, about a situation that is already passing and fading away. For we stand today at a moment when Israel’s regime of racist segregation is not only increasingly isolated as the global BDS campaign begins to bite, but also as—under pressure—it psychotically and self-destructively strips away one layer of rhetorical cover after another, abandoning the carefully calculated equivocation of the past, electing ever more openly racist governments, passing ever more explicitly spelled out racist laws, and declaring ever more bluntly its racist intentions. It used to be easy, in other words,

59. Derrida, “Interpretations at War: Kant, the Jew, the German,” trans. Moshe Ron, *New Literary History* 22 (Winter, 1991): 39, 40.

to look at Israel and misrecognize its profoundly institutionalized racism in the way this essay has been describing, but it is more and more difficult to do so. This makes the deeply entrenched insistence in certain quarters of the United States that Israel is not what it increasingly obviously appears to be all the more extraordinary. The only question is how much longer Israel's American admirers can persist in their self-congratulatory but also almost hypnotic self-delusion—and at what cost to others.