

Notes on Zionism in the African Charter on Human and Peoples' Rights

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A) Introduction:

For the purpose of this lecture, permit me to borrow this definition of Africa from Prof Ali Masrui in his preface to the book, *The Curse of Berlin: Africa After the Cold War*, by Adekeye Adebajo (Hurst & Company, London 2010):

Africa overlaps with the Muslim world and both are affected by the United Nations. But we cannot talk about war and peace under the umbrella of the UN without discussing the role of the UN in matters affecting Africa. The conclusion which has already been drawn from experience is that the universalism of states ostensibly achieved by the UN is still a creature of the Western World.

Permit me also to draw your attention to the fact that the Jewish people have lived in Africa peacefully with other African communities for centuries without suffering any form of antisemitism. Example: Ethiopian Jews. African leaders therefore knew the difference between Zionism as political ideology and the harm and prejudice it cost in the continent and Antisemitism.

African leaders did not at any time in history conflate Jewish identity with Zionism.

Where however, the Organization for African Unity (OAU), which was founded on May 25 1963 in Addis Ababa, Ethiopia, and transformed to African Union (AU) on July 9 2002 in Durban, South Africa, identified policies of Israel which were driven by Zionist political ideology, such as its support of apartheid, colonialism and aggression which are contradictory to the Charter of the OAU (now AU,) the

said policies were clearly identified as coming within policies outlawed by the African Charter on Human and Peoples' Rights (ACHPR - Banjul Charter - adopted in 1981) which entered into force in 1986 and vehemently condemned.

B) African Charter on Human and Peoples' Rights (1981) (ACHPR-1986)

In the Banjul Charter, African leaders expressed their resolve to achieve total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence;

They aimed at achieving this objective by eliminating colonialism, neo-colonialism, apartheid, Zionism and aggressive foreign military bases.

African leaders pledged to eliminate all forms of discrimination, particularly those based on race, ethnic group, color, sex, language, religion or political opinions.

And reaffirmed their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instruments adopted by the Organization of African Unity.

Zionism is linked to historical and political contexts of colonialism and atrocity crimes against Africa - particularly during the Cold War - apartheid, and wars of aggression on the continent of Africa, such as the six-day war against Egypt (5 June - 10 June 1967), which is a founding member of the OAU and the occupation of Palestine.

These provisions of the African Charter are consistent with the Charter of the OAU and Article 3 (h) of the Constitutive Act of the African Union (AU), which pledges to promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments.

The Banjul Charter reflects the current state of contemporary international human rights. Its provisions on the rights of peoples not only contain established collective rights such as the right to self-determination; they also include a number of solidarity rights.

Commentary

The African Charter is a significant legal framework for the struggle against colonialism, apartheid, racism, oppression, all forms of discrimination and Zionism.

Zionism was included due to its perceived association with colonialism and apartheid.

C) Zionism, Apartheid and Colonialism

Apartheid and Zionism are violent and extreme in nature.

Apartheid has been used to justify segregation and discrimination.

Apartheid is an institutionalized segregationist racial discrimination.

It is a violent exclusionary oppressive system.

Like apartheid, Zionism is a political movement known for its violent, oppressive, genocidal and exclusionary policies against Palestinians and Arab minority nationalities of Israel.

African leaders considered the apartheid ideology and Zionist political movement, which is masked in some cases as religion, as launchpads of violent suppression, mass displacement and deportation of persons.

Zionists supported apartheid and Bantustans in South Africa under the Botha apartheid system.

Ronnie Kasrill, a Jewish South African dissident, who served as minister of intelligence in the African National Congress between 2004 and 2008, decried Zionism as a political system which is premised on Zionist exclusivity.

The relationship between Israel and South Africa historically involved a strong political and military alliance during the apartheid era. They had a vital defense industry cooperation and ignored UN-imposed embargo on the supply of arms to the apartheid regime.

They shared a nuclear capability cooperation. On attaining majority black African majority rule under Nelson Mandela, apartheid South African nuclear capability disappeared, while that of Israel remains.

The nuclear capability of Libya was taken away and Moammar Gaddafi was eventually killed. Libya was handed over to international networks of terror and a transatlantic gateway for the recolonization of Africa through neocolonialism enabled terror, tacitly eviscerating the promise of the African Charter framework

to free the continent from colonialism, Zionism and all forms of discrimination, and military bases.

Afrikaners apartheid ideologues, whose descendants have recently been sanitized as white genocide survivors by the US and given a free immigration pass to the US, propagated a biblical notion similar to that of Zionists in Palestine that the land in South Africa was given by God to them when they arrived in the 17th century.

The reality is that they used violence, conquest, terror and bloody wars to occupy and control 70% of the land in South Africa. Similarly, Zionists claim that in the 1940s, Palestine was a land without people or a people without land.

D) Christian Zionism

During the apartheid regime in South Africa, Israel and the apartheid regime had a shared aversion for a hostile world of “dark people.”

Zionists use racist biblical interpretation to justify their religious belief that Israel is a land of a chosen people elected by God.

Apartheid had a strong religious element under the African Zionist Christian Church. Christian Zionism influences political discourse and frames support for Israel in terms of religious obligation, equating opposition to its extreme fundamentalist political ideology with antisemitism.

E) The Big Lie Conflating Zionism with Antisemitism

The lie equating anti-Zionism with Antisemitism is challenged by repeated requests by Israel to obtain observer status in the African Union despite the

African Charter equating Zionism with colonialism, apartheid and aggressive political ideology enabling oppression, racism, apartheid and many forms of discrimination and violence in Africa and against the people of Palestine.

Despite the foreign policies of Israel against Palestinians, which Africa vehemently condemns, Israel has not interpreted African opposition to Zionism and its aggressive policies with antisemitism. Israel knows that antisemitism is different from the African Charter.

Israel has over the two decades struggled to obtain observers status of the Organization for African Unity (and its predecessor the African Union). Israel previously obtained observer status of OAU and lost it in 2002.

Israel made attempts in 2013 and 2016, and finally succeeded in July 22, 2021 in acquiring observer status. The observer status was revoked and in February 2024, and its delegation was blocked entry to African Union meetings in Addis Abeba due to the war on Gaza.

Israel did not fulfill the criteria for observer status because of the war and genocide in Gaza and the occupied territories of Palestine; its system of persecution and apartheid; its illegal settlements and forcible transfers of Palestinians; the blockade against Gaza; and the indiscriminate and disproportionate attacks on Palestinians throughout the history of its occupation of Palestine, which AU decided are in contradiction of the AU Constitutive ACT.

F) Is Zionism an Expression of Self-Determination for Israel and the Jewish People?

The African Charter aims to promote human rights and dignity, and the anti-Zionism provisions are seen as part of the struggle against colonialism and oppression.

These provisions align with the principles of *jus cogens*, which are norms considered fundamental to international law, and which emphasize the right of peoples to self-determination.

The right to self-determination is not a license to commit systematic racial discrimination or systemic violation of international human rights of other people, particularly the rights which are protected by the African Charter, by the UN international human rights frameworks, and particularly the rights of Palestinians and intergenerational victims of apartheid. These violate the International Convention on the Elimination of All Forms of Racial Discrimination.

Zionists and apologists of Zionism have argued that Zionism is being vilified for leading the struggle for Israel's right to self-determination. They fail to consider the context in which the African Charter equated Zionism with colonialism and the harm it caused to the right of self-determination in Africa.

On 29 November 1947, the UN General Assembly adopted Resolution 181 (II) to partition Palestine and provide a homeland for Israel and Israel was admitted as a member of the UN on 11 May 1949.

G) Zionism is Against the Right of Africa to Self-Determination

The African Charter was adopted in 1981, during a period when many African nations were grappling with the legacies of colonialism and apartheid.

The comparison of Zionism to colonialism was made to highlight the struggles against oppression faced by African nations.

Support for apartheid and colonialism in Africa was not in furtherance of the right of Israel to self-determination; it was a violation of the right of colonized people in Africa and victims of apartheid to self-determination.

The Banjul Charter does not have an antisemitism provision and expresses no prejudice, discrimination, or hostility directed specifically at Jewish people. It does not conflict with *jus cogens* norms. Zionism is not an expression of Jewish self-determination.

It is fallacious to equate the political and ideological motivations of Zionism with self-determination for the statehood of the Jewish people in their ancestral homeland, the modern State of Israel.

H) Characterization of Zionism in African Charter is Consistent with

International Law

UN Resolution 1904 of 20 November 1963 proclaimed UN Declaration on the Elimination of All Forms of Racial Discrimination and disaffirmed any doctrine of racial differentiation or superiority.

Resolution 3379, adopted on 10 November 1975, officially determined that Zionism is a form of racism and racial discrimination. But the resolution was later repealed by Resolution 46/86 of December 16 1991.

In Resolution 3151 XXVIII [G] of 14 December 1973, the General Assembly condemned the unholy alliance between South African racism and Zionism and affirmed that Zionism is a form of racial discrimination.

The 2001 World Conference Against Racism in Durban, South Africa featured a new draft resolution equating Zionism with Racism.

I) ICJ Judgment on the Legality of the Construction of the Wall and the Rights of Palestinians to Self-Determination (Advisory Opinion)

The Court went on to consider the consequences of these violations, recalling Israel's obligation to respect the right of the Palestinian people to self-determination and its obligations under humanitarian and human rights law.

The Court stated that Israel must put an immediate end to the violation of its international obligations by ceasing the works of construction of the wall and dismantling those parts of that structure situated within Occupied Palestinian Territory and repealing or rendering ineffective all legislative and regulatory acts adopted with a view to construction of the wall and establishment of its associated régime.

The Court further made it clear that Israel must make reparation for all damage suffered by all natural or legal persons affected by the wall's construction.

As regards the legal consequences for other States, the Court held that all States were under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction.

It further stated that it was for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination, be brought to an end.

In addition, the Court pointed out that all States parties to the Fourth Geneva Convention were under an obligation, while respecting the Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention.

J) The Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem (Advisory Opinion)

The ICJ's landmark ruling of 19 July 2024 declared that Israel's occupation of the Gaza strip and the West Bank, including East Jerusalem, is unlawful, along with the associated settlement regime, annexation and use of natural resources. The Court added that Israel's legislation and measures violate the international prohibition on racial segregation and apartheid.

Commentary

The African Charter aligns with ICJ Advisory opinions which found that the actions of Israel in the occupied territory of Palestine violate the international prohibition on racial segregation and apartheid. The African Union revoked the observer status it granted Israel in 2024 for this same reason which is consistent with the African Charter.