

Religious Freedom Report

by
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Executive Summary

Freedom of religion is an international norm recognized as a universal, basic human right that has been supported by myriad of international organizations and treaties. This is a right, that when honored, produces economic and societal prosperity along with political stability. Unfortunately, the right for an individual to practice, or choose not to practice, a particular religion has not been fully realized in many countries around the globe. In fact, almost 70 percent of the world's population lives in a country where freedom of religion is limited. The West Bank and the Gaza Strip, which make up the Palestinian Territories, is one place where it can be said that this right is not currently being upheld according to international standards.

Reports and international organizations approaching civil rights issues in the West Bank and Gaza Strip tend to limit their focus of observation on violations carried out by Israel's military apparatus against Palestinians, and vice versa, by Palestinian factions' violations targeting Israelis. Attention must be drawn to internal parties and factors contributing to the infringement of Palestinian human rights. Allowing such transgressions to continue unattended only empowers the perpetrating parties to continue implementing injustices.

Thus, the Jerusalem Institute of Justice has taken on the task to compile this report which seeks to address the right of freedom of religion as it exists under Palestinian Authority rule in the West Bank and under the de facto authority in the Gaza Strip, Hamas. The report consists of thorough research and personal interviews evaluating infractions on civil rights pertaining to the freedom of religion. As seen in the report, there is a primary focus on the Christian sector of Palestinian society due to the fact that Christians make up its largest religious minority.

While Christians constitute the greatest minority, they represent a variety of Christian traditions; among them Greek Orthodox, Syrian Orthodox, Roman Catholic, Coptic, and Evangelical. It is not merely religious adherence that divides this community but political views as well account for their differences. As opposed to the Christian population, the Muslim community, which composes the majority of Palestinian society, is much more homogeneous in nature. The majority of Muslims in the West Bank and Gaza Strip adhere to the Sunni tradition of Islam as opposed to the Shi'ite or Alawite traditions which are also prevalent in the region.

The question being raised in this report is "To what extent is there freedom of religion in the Palestinian Territories?" as it applies to religious entities such as the

aforementioned. Such an embarkment demands the examination of both international and Palestinian law and how each defines this right.

According to the International Covenant on Civil and Political Rights (ICCPR), the individual is guaranteed the freedom to choose, change, adapt, or withdrawal from a particular religion. This means that one not only may choose to leave his/her religion of birth for another, but one also has the freedom from religion, identifying oneself as an adherent of no religion. The freedom from religion protects the individual from the possibility of indictment on account of apostasy.

The Palestinian Authority (PA), established as the interim self-governing body as a result of the signing of the Oslo Accords in 1993, officially ratified the aforementioned UN treaty (ICCPR) on April 2, 2014, therefore obliging itself to honor the freedom of religion and other basic individual rights included in the treaty as to ensure the quality of life for the Palestinian people. But does Palestinian law protect such freedoms? This essential inquiry is examined at length in the report.

The PA has no official constitution, thus, Palestinian law comprises a mixture of Jordanian, Egyptian, Palestinian, Ottoman, British Mandate, and Israeli military law. This labyrinth set of laws makes up the entire body of legislation applied in the Palestinian Territories under the auspices of the Palestinian Authority. Of course, due to a lack of unity in the Palestinian Authority, laws can be applied differently whether you are in the West Bank or in Hamas-controlled Gaza Strip. This produces a legal quagmire in the Palestinian Territories as Palestinians are subject to different applications of laws.

Palestinian law, also referred to as Palestinian Authority Basic Law (PABL), affirms the freedom of religion by stating that there shall be no discrimination based on religion. Also maintained is the freedom of belief, worship, and performance of religious functions so long as public order and public morals are not violated. Additionally, Shari'a Law, the Islamic code of law, it is stated, is to function as a principle source of legislation. Personal status cases are also to be handled by the religious courts in agreement with Jordan's penal code and Egyptian law.

This is highly problematic. Establishing Shar'ia law as a source of inspiration and bestowing upon religious courts the authority to decide personal status cases cannot honor citizen's civil rights. Under the current system of law, intermarriage between a Muslim woman and a non-muslim is forbidden. The children of this marriage would then be considered born out of wedlock and, therefore, would not be granted a personal status as this is not recognized by religious authorities.

In addition to marriage laws, the freedom from religion can scarcely be guaranteed if personal status issues are placed in the hands of religious authorities. According to Islamic law it is forbidden to leave one's religion. This means that a Muslim with the desire to convert to Christianity, or simply become an Atheist, will forever be recognized as a Muslim in society, as one's religion is registered with the government and is indicated on personal identification documents. Having a particular religion's legal

corpus serve as a source of state law automatically discriminates against those who do not belong to that religion. Moreover, it constitutes an overt violation of international law according to the ICCPR.

Only the personal testimonies of individuals actually living in the West Bank and Gaza can adequately provide a broader understanding of religious freedom under the Palestinian Authority. Numerous interviews were conducted painting a clearer picture of the human rights violations taking place in the Palestinian territories. The infringements range from social to institutional discrimination based on religious identity, in which many cases have struggled to attract governmental involvement on behalf of the victims.

In both the West Bank and Gaza converting from Islam to Christianity risks many consequences. According to one Palestinian pastor interviewed, converts to Christianity have to publicly display two identities, hiding their adopted faith and outwardly living as a Muslim. In an interview with another pastor, it was revealed that some converts continue to attend their local mosque, to show their respective community their religious adherence for fear of societal persecution. But persecution is not exclusively limited societal but institutional as well, regarding personal status concerns such as marriage mentioned previously.

Evangelical Christians are a religious minority within the Christian tradition that suffers from various elements of persecution. Firstly, they are not officially recognized by the governmental authorities and, thereby, are not state sponsored as are the other Christian sects such as the Orthodox and Roman Catholic Church. One individual, whose name was requested to remain anonymous, asserted that Evangelicals experience persecution because many of them are suspected as holding favorable political stances towards Israel. Specifically in Gaza, Evangelicals have been accused of being Zionists although many in fact are not.

In Bethlehem, a Christian is quoted as saying that their religious leadership presents to the media the false impression that the current situation for Christians is positive, where in reality, there is fear of donning a cross in public. Another individual is recorded as saying that the majority of PA officials are Muslims, and thus, Christians are placed in powerful positions to show an illusion of diversity in order to gain support from the West. In Gaza, Christian institutions and community centers have been violently attacked, civil marriage is not available, meaning that a Muslim woman is legally unable to marry a non-Muslim man, and in the words of a Gazan pastor, the Christians of Gaza are treated as second class citizens.

Of course, the actual report provides in acute detail dozens of personal accounts similar to those mentioned here. The eyewitnesses' personal experiences living under the ruling Palestinian authorities leaves the reader asking one question: "Is the world supporting the establishment of a state built on values of injustice?" This report shows that injustices are indeed carried out under the auspices of the Palestinian Authority on its own citizens. The conspicuous absence of focus on injustices invoked by the

Palestinian government on the Palestinian people has led this institute to produce this report for the purpose of raising public awareness of the reality of living under the PA. Additionally, is of extreme importance that these voices are heard as they will be the ones living in these conditions permanently if a future Palestinian state is established.